

Disclosure of Personal Health Information to WCB

This notice is to clarify WCB's authority under the *Workers' Compensation Act* (WCA) to collect personal health information from a custodian subject to the *Health Information Act* (HIA), and a public body under the *Freedom of Information and Protection of Privacy* (FOIP) Act, without the consent of the individual.

The HIA and the FOIP Act do not require consent to provide personal/health information to WCB.

Section 35(1) of the *HIA* sets out certain circumstances that allow custodians (1) to disclose diagnostic, treatment and care information without consent of the individual; section 40 of the *FOIP Act* outlines those circumstances when a public body may disclose personal information, including those circumstances when consent is not required.

1. Continuing Treatment and Care

- S. 35(1)(b) of the *HIA* states that a custodian may disclose personal information to a person who is responsible for providing continuing treatment and care to an individual.

Under section 80 of the *WCA* WCB is required to determine all questions in respect of any medical aid provided to a worker who suffers an accident. WCB is responsible for providing continuing treatment and care in the event of a work related injury and requires health information to fulfill that responsibility

2. Authorized or Required by an Enactment

- S.35(1)(p) of the *HIA* authorizes a custodian to disclose personal information if the disclosure is authorized or required by an enactment of Alberta or Canada, and
- S.40(1)(e) of the *FOIP Act* permits a public body to disclose personal information where disclosure is authorized or required by an enactment of Alberta or Canada.

The *WC Act* is an enactment of Alberta and authorizes the Workers' Compensation Board to collect an injured worker's personal/health information. Sections 17 and 34 empower WCB to require the disclosure of workers' personal/health information.

- Section 17(1) states: "...the Board has exclusive jurisdiction to examine, inquire into, hear and determine all matters and questions arising under this Act or the regulations..."
- Section 34(1) states: "A physician who attends an injured worker shall
 - a) Forward a report to the Board
 - i. Within 2 days after the date of the physician's first attendance on the worker if the physician considers that the injury to the worker will or is likely to disable the worker for more than the day of the accident or that it may cause complications that may contribute to disablement in the future, and
 - ii. at any time when requested by the Board to do so,

- Section 34(3) states: "Notwithstanding subsection (1), where an injured worker is attended to in a hospital or other treating agency, the Board may request the hospital or treating agency to furnish it with a report and, on receiving such a request, the administrator or person in charge of the hospital or treating agency shall ensure that the request is forthwith complied with."

For the reasons noted above, a worker's consent is not required in order for WCB to collect their personal/health information.

WCB's authority to collect personal/health information without consent was supported by the Information and Privacy Commissioner in Investigation Report 98-IR-001, issued in June of 1998, and in Order F2013-52 [para 7 to 25] issued in January 2014. These reports are available at:

www.oipc.ab.ca/media/127521/98-001IR.pdf
www.oipc.ab.ca/media/376928/F2013-052Order.pdf

If you require further information about WCB's authority to collect personal health information, please call WCB's FOIP office at (780) 498-3876.

(1) Custodians: Are health services providers or organizations that are in the health sector [defined in section 1(1)(f)], who have "health information" [defined in section 1(1)(k)] in their custody or under their control.