



DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

OCCUPATIONAL HEALTH STANDARDS

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(as amended January 10, 2014)

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306.

Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 14 and 24 of 1974 PA 154, MCL 408.4014 and MCL 408.4024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 325.3452, R 325.3453, R 325.3457, R 325.3466, R 325.3472, R 325.3472a, and R 325.3475 of the Michigan Administrative Code are amended, and R 325.3451a is added, and R 325.3476 is rescinded, to read as follows:

PART 470. EMPLOYEE MEDICAL RECORDS AND TRADE SECRETS

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R 325.3451 Applicability.

Rule 1. (1) These rules apply to all employers covered in the act who make, maintain, contract for, or have access to, employee exposure or medical records, or analyses thereof, pertaining to employees exposed to toxic substances or harmful physical agents.

(2) These rules apply to all employee exposure and medical records, and analyses thereof, of employees exposed to toxic substances or harmful physical agents, whether or not the records are related to specific occupational safety or health rules.

(3) These rules apply to all employee exposure and medical records, and analyses thereof, made or maintained in any manner, including on an in-house, contractual, or fee-for-service basis. An employer shall assure that the preservation and access requirements of these rules are complied with, regardless of the manner in which records are made or maintained.

R 325.3451a Referenced standard and appendices.

Rule 1a. (1) The Occupational Health Standard Part 430 "Hazard Communication," R 325.77001 to R 325.77003, is referenced in this standard. Up to 5 copies of this standard may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan 48909-8143, or via the internet at: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, at the time of adoption of these rules, is 4 cents per page.

(2) The standard referenced in subrule (1) of this rule is also available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(3) Copies of the standard referenced in subrule (1) of this rule may be obtained from the publisher or may also be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost charged in this rule, plus \$20.00 for shipping and handling.

(4) The information contained in the appendices to these rules is informational and is not intended, by itself, to create any additional obligations not otherwise imposed by these rules, nor to detract from any existing obligations.

R 325.3452 Definitions; A to E.

Rule 2. As used in these rules:

(a) "Access" means the right and opportunity to examine and copy.

(b) "Act" means the Michigan occupational safety and health act (MIOSHA), 1974 PA 154, MCL 408.1001 to 408.1094.

(c) "Analysis using exposure or medical records" means any compilation of data or any research, statistical, or other study based, at least in part, on information collected from individual employee exposure or medical records or information collected from health insurance claim records, if either the analysis has been reported to an employer or no further work is currently being done by the person who is responsible for preparing the analysis.

(d) "Department" means the department of licensing and regulatory affairs.

(e) "Designated representative" means an individual or organization to whom or to which an employee gives written authorization to exercise a right of access. For purposes of access to employee exposure records and analyses using exposure or medical records, a recognized or certified collective bargaining agent shall be treated automatically as a designated representative.

(f) "Director" means the director of the department.

(g) "Employee" means a current employee, a former employee, or an employee who is being assigned or transferred to work where there will be exposure to toxic substances or harmful physical agents. In the case of a deceased or legally incapacitated employee, the employee's legal representative may directly exercise all of the employee's rights under these rules.

(h) "Employee exposure record" means a record that contains any of the following kinds of information concerning employee exposure to toxic substances or harmful physical agents:

(i) Workplace environmental monitoring or measuring, including personal, area, grab, wipe, or other forms of sampling, and related collection and analytical methodologies, calculations, and other background data relevant to the interpretation of the results obtained.

(ii) Biological monitoring results that directly assess the absorption of a substance or agent by body systems, such as the level of a chemical in the blood, urine, breath, hair, or fingernails, but not including results that assess the biological effect of a substance or agent or which assess an employee's use of alcohol or drugs.

(iii) Material safety data sheets or safety data sheets indicating that the material may pose a hazard to human health.

(iv) In the absence of the information identified in subdivision (h)(i) to (iii) of this rule, any other record, such as chemical, common, or trade name, that reveals the identity of a toxic substance or harmful physical agent.

(i) "Employee medical record" means a record concerning any medical tests, examinations, or health status of an employee that is made or maintained by a physician, nurse, technician, or other health care personnel, including the items listed in subdivision (i)(i) to (vi) of this rule, but does not include the items listed in subdivision (i)(vii) to (x) of this rule:

(i) Medical and employment questionnaires or histories, including job descriptions and occupational exposures.

(ii) The results of preplacement, periodic, or episodic medical examinations and laboratory tests, including x-ray examinations and all biological monitoring.

(iii) Medical opinions, diagnoses, progress notes, and recommendations.

(iv) Descriptions of treatments and prescriptions, including first aid records.

(v) Employee medical complaints.

(vi) Death certificates.
(vii) Physical specimens, such as blood or urine samples, which are routinely discarded as a part of normal medical practice and which are not required to be maintained by other legal requirements.

(viii) Records concerning health insurance claims which are maintained separately from an employer's medical program and its records and which are not accessible to the employer by employee name or other direct personal identifier, such as a social security number or payroll number.

(ix) Records concerning voluntary employee assistance programs, such as alcohol, drug abuse, or personal counseling programs, if maintained separately from an employer's medical program and its records.

(x) Records which are created solely in preparation for litigation and which are privileged from discovery under the applicable rules of procedure or evidence.

(j) "Employer" means a current employer, a former employer, or a successor employer.

(k) "Exposure" or "exposed" means subjection of an employee to a toxic substance or harmful physical agent in the course of employment through any route of entry, including inhalation, ingestion, skin contact, or absorption, and includes past and potential exposure. "Exposure" or "exposed" does not include situations where an employer can demonstrate that a toxic substance or harmful physical agent is not used, handled, stored, generated, or present in the workplace in any manner different from typical non-occupational situations.

(l) "Health professional" means any of the following persons who provide medical or other occupational health services to exposed employees:

- (i) A physician.
- (ii) A nurse.
- (iii) An industrial hygienist.
- (iv) A toxicologist.
- (v) An epidemiologist.

R 325.3453 Definitions; R to T.

Rule 3. As used in these rules:

(a) "Record" means an item, a collection, or a grouping of information, regardless of the form or process by which it is maintained, including paper documents, microfilm, microfiche, x-ray film, or automated data processing.

(b) "Specific chemical identity" means the chemical name, chemical abstract service (CAS) registry number, or any other information that reveals the precise chemical designation of the substance.

(c) "Specific written consent" means a written authorization that contains all of the following information:

- (i) The name and signature of the employee who authorized the release of medical information.
- (ii) The date of written authorization.
- (iii) The name of the individual or organization that is authorized to release the medical information.

(iv) The name of the designated representative, either an individual or an organization, that is authorized to receive the released information.

(v) A general description of the medical information that is authorized to be released.

(vi) A general description of the purpose for the release of the medical information.

(vii) A date or condition upon which the written authorization shall expire, if less than 1 year. A written authorization does not operate to authorize the release of medical information that is not in existence on the date of written authorization, unless expressly authorized, and does not operate for more than 1 year from the date of written authorization. A written authorization may be revoked, in writing, prospectively at any time.

(d) "Toxic substance or harmful physical agent" means a chemical substance, a biological agent, or physical stress, such as noise, heat, cold, vibration, repetitive motion, ionizing and nonionizing radiation, hypobaric or hyperbaric pressure, or other commonly recognized environmental stress, to which any of the following provisions apply:

(i) Is regulated by a federal or state law or rule due to a health hazard.

(ii) Is listed in the latest printed edition of the national institute for occupational safety and health (NIOSH) registry of toxic effects of chemical substances. Appendix B to these rules describes the availability of the NIOSH registry of toxic effects of chemical substances.

(iii) Has yielded positive evidence of an acute or chronic health hazard in human, animal, or other biological testing that is conducted by, or known to, an employer.

(iv) Has a material safety data sheet or safety data sheet which is available to an employer and which indicates that the material may pose a hazard to human health.

(e) "Trade secret" means any confidential formula, pattern, process, device, or information or compilation of information that is used in an employer's business and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it.

R 325.3454 Compliance with rules.

Rule 4. An employer is responsible for assuring compliance with these rules, except that the activities involved in complying with the access to medical records provisions of these rules may be carried out, on behalf of the employer, by a physician or other health care personnel in charge of employee medical records.

R 325.3455 Preservation of records generally.

Rule 5. Unless a specific occupational safety or health rule provides a different period of time, an employer shall assure the preservation and retention of records in accordance with R 325.3456 to R 325.3459.

R 325.3456 Preservation of employee medical records.

Rule 6. Each employee medical record shall be preserved and maintained by an employer for not less than the duration of employment plus 30 years, except in any of the following situations:

(a) Health insurance claim records that are maintained separately from an employer's medical program and its records are not required to be maintained for any specific period of time.

(b) First aid records, not including medical histories, of one-time treatment and subsequent observations of minor scratches, cuts, burns, splinters, and similar injuries that do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job if made on-site by a nonphysician and if maintained separately from the employer's medical program and its records need not be retained for any specific period.

(c) The medical records of employees who have worked for less than 1 year for the employer need not be retained beyond the term of employment if the records are provided to the employee upon the termination of employment.

R 325.3457 Preservation of employee exposure records.

Rule 7. (1) Each employee exposure record shall be preserved and maintained for not less than 30 years, except as follows:

(a) Background data that is relative to workplace environmental monitoring or measuring, such as laboratory reports and worksheets, shall be required to be retained only for 1 year if the sampling results, the collection methodology, a description of the analytical and mathematical methods used, and a summary of other background data relevant to interpretation of the results obtained are retained for not less than 30 years.

(b) Material safety data sheets, safety data sheets, and records that are identified in R 325.3452(h)(iv) concerning the identity of a substance or agent shall not be required for any specified period of time if some record of the identity of the substance or agent, such as the chemical name if known, where it was used, and when it was used is retained for not less than 30 years.

(c) Records may be transferred or disposed of pursuant to the provisions of R 325.3475.

(2) Biological monitoring results that are designated as exposure records by specific occupational health rules promulgated pursuant to the act shall be preserved and maintained as required by such specific rules.

(3) Safety data sheets shall be kept for those chemicals currently in use in accordance with Occupational Health Standard Part 430 "Hazard Communication," as referenced in R 325.3451a.

R 325.3458 Preservation of analyses using exposure or medical records.

Rule 8. Each analysis using exposure or medical records shall be preserved and maintained for not less than 30 years, except for the transfer or disposal of records pursuant to R 325.3475.

R 325.3459 Record retention; x-rays.

Rule 9. Nothing in these rules shall be intended to mandate the form, manner, or process by which an employer preserves a record if the information contained in the record is preserved and retrievable, except that chest x-ray films shall be preserved in their original form.

R 325.3460 Access to records generally.

Rule 10. (1) If an employee or designated representative requests access to a record, an employer shall assure that access to the record is provided in a reasonable time, place, and manner, but not later than 15 working days after the request is made by the employee or designated representative.

(2) If an employer cannot provide access to the requested record within 15 working days, the employer shall notify the employee or designated representative within 15 working days of the original request of the reasons for the delay and the earliest date when the record can be provided.

(3) An employer may require, of the requester, only such information which should be readily known to the requester and which may be necessary to locate or identify the requested records.

R 325.3461 Access to records; copying and loaning.

Rule 11. (1) If an employee or a designated representative requests a copy of a record, an employer shall, within the period of time specified in R 325.3460, do 1 of the following:

(a) Provide a copy of the record, without cost, to the employee or the designated representative.

(b) Make available the necessary mechanical copying facilities, without cost, to the employee or the designated representative for copying the record.

(c) Loan the record to the employee or the designated representative for a reasonable time to enable a copy to be made.

(2) An employer may restrict access to an original x-ray film to an on-site examination or may make appropriate arrangements for the temporary loan of the x-ray.

R 325.3462 Access to records; charges; exceptions.

Rule 12. If a record has been previously provided without cost to an employee or a designated representative, an employer may charge for reasonable, nondiscriminatory administrative costs, such as search and copying expenses, not including overhead expenses, for a request by an employee or a designated representative for additional copies of the record, except in either of the following circumstances:

(a) An employer shall not charge for an initial request for a copy of new information that has been added to a record which was previously provided.

(b) An employer shall not charge for an initial request by a recognized or certified collective bargaining agent for a copy of an employee exposure record or an analysis using exposure or medical records.

R 325.3463 Access to information; collective bargaining.

Rule 13. Nothing in these rules shall be intended to preclude employees and collective bargaining agents from collectively bargaining to obtain access to information in addition to that available pursuant to these rules.

R 325.3464 Employee exposure records; employee and designated representative access.

Rule 14. (1) Except as limited pursuant to the provisions of R 325.3472, upon request, an employer shall assure each employee and designated representative access to employee exposure records relevant to that employee. For the purpose of these rules, exposure records that are relevant to the employee shall consist of all of the following:

(a) Records of the employee's past or present exposure to toxic substances or harmful physical agents.

(b) In the absence of exposure records that pertain to the requesting employee, records of other employees with past or present job duties or working conditions that are related to or similar to those of the employee to the extent necessary to reasonably indicate the amount and nature of the toxic substances or harmful physical agents to which the employee is or has been subjected.

(c) Exposure records to the extent necessary to reasonably indicate the amount and nature of the toxic substance or harmful physical agents at workplaces or under working conditions to which the employee is being assigned or transferred.

(2) Requests by designated representatives for access to employee exposure records in the absence of a specific designation by an employee shall be in writing and shall specify, with reasonable particularity, both of the following:

(a) The specific records to be disclosed.

(b) The occupational health need for access to the records.

R 325.3465 Employee medical record access.

Rule 15. An employer shall, upon request, assure the access to each employee to employee medical records of which the employee is the subject, except as provided in R 325.3468.

R 325.3466 Employee medical records; access by employee-designated representative.

Rule 16. An employer shall, upon request, assure the access of each designated representative to employee medical records of an employee who has given the designated representative specific written consent, except that death certificates shall be made available to the designated representative without specific written consent. Appendix A to these rules contains a sample form which may be used to establish specific written consent for access to employee medical records.

R 325.3467 Access to employee medical records; recommendations by physicians.

Rule 17. If access to employee medical records is requested, a physician who represents an employer may recommend that an employee or a designated representative do any of the following:

(a) Consult with the physician for the purposes of reviewing and discussing the records requested.

(b) Accept a summary of material facts and opinions in place of the records requested.

(c) Accept release of the requested records only to a physician or other designated representative.

R 325.3468 Access to medical records; terminal illness; psychiatric condition.

Rule 18. (1) If an employee requests access to his or her employee medical records, and if a physician representing an employer believes that direct employee access to information contained in the records regarding a specific diagnosis of a terminal illness or a psychiatric condition might be detrimental to the employee's health, the employer may inform the employee that access will only be provided to a designated representative of the employee having specific written consent and may deny the employee's request for direct access only to this information.

(2) If a designated representative of an employee with specific written consent requests access to information withheld pursuant to subrule (1) of this rule, the employer shall assure the access of the designated representative to the information, even when it is known that the designated representative will provide the information to the employee.

R 325.3469 Access to medical records; deletions.

Rule 19. Nothing in these rules shall preclude a physician, nurse, or other responsible health care personnel maintaining employee medical information from deleting from requested medical records the identity of a family member, personal friend, or fellow employee who has provided confidential information concerning an employee's health status.

R 325.3470 Access to analyses using exposure or medical records.

Rule 20. (1) An employer shall, upon request, assure the access of each employee and designated representative to each analysis using exposure or medical records concerning the employee's working conditions or workplace.

(2) If access is requested to an analysis which reports the contents of employee medical records by either a direct identifier, such as name, address, social security number, or payroll number, or by information which could, under the circumstances, reasonably be indirectly used to identify specific employees, such as exact age, height, weight, race, sex, date of initial employment, or job title, the employer shall assure that personal identifiers are removed before access is provided. If the employer can demonstrate that removal of personal identifiers from an analysis is not feasible, access to the personally identifiable portions of the analysis need not be provided.

R 325.3471 Access to records by the department.

Rule 21. (1) An employer shall, upon request, and without derogation of any rights under the constitution and the act that the employer chooses to exercise, assure the prompt access of representatives of the department to employee exposure and medical records and to analyses based on exposure or medical records.

(2) If a representative of the department seeks access to personally identifiable employee medical information to presenting to the employer a written access order signed by the director, the employer shall prominently post a copy of the written access order for not less than 15 working days.

R 325.3472 Trade secrets; employee requests, procedures; discrimination complaints.

Rule 22. (1) Except as provided in subrule (3) of this rule, an employer may delete, from records that are requested by a health professional, employee, or designated representative, a trade secret, as defined by section 6(7) of the act, which discloses manufacturing processes or which discloses the percentage of a chemical substance in a mixture, if the employer notifies the health professional, employee, or designated representative, in writing, that the trade secret information has been deleted.

(2) If deletion of trade secret information by an employer pursuant to the provisions of subrule (1) of this rule substantially impairs the evaluation of a place where, or a time when, exposure of an employee to a toxic substance or harmful physical agent occurred, the employer shall provide alternative information that is sufficient to permit the employee or designated representative to identify where and when exposure occurred.

(3) An employer may withhold a specific chemical name and identity, the exact percentage (concentration) of the substance in a mixture, and other specific identification of a toxic substance from a disclosable record if all of the following provisions are satisfied:

(a) The claim that the information withheld is a trade secret can be supported pursuant to the provisions of section 14d of the act.

(b) All other available information on the properties and toxic effects of the substances is disclosed.

(c) The employer informs the requesting party that the specific chemical identity and percentage composition are withheld as a trade secret.

(d) The specific chemical identity and percentage composition are made available, upon request, to health professionals, employees, and designated representatives pursuant to the applicable provisions of R 325.3472a.

R 325.3472a Trade secrets; disclosure in medical emergency and nonemergency.

Rule 22a. (1) If a treating physician or nurse determines that a medical emergency exists and the specific chemical identity or specific percentage of composition of a toxic substance is necessary for emergency or first aid treatment, an employer shall immediately disclose the specific chemical identity or percentage composition of a trade secret chemical to the treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement. The employer may require a written statement of need and confidentiality agreement, pursuant to the provisions of subrules (2) and (3) of this rule, as soon as circumstances permit.

(2) In nonemergency situations, an employer shall, upon request, disclose a specific chemical identity or percentage composition, otherwise permitted to be withheld pursuant to the provisions of R 325.3472(4), to a health professional, employee, or designated representative if all of the following provisions are met:

(a) The request is in writing.

(b) The request describes, with reasonable detail, 1 or more of the following occupational health needs for the information:

(i) To assess the hazards of the chemicals to which employees will be exposed.

(ii) To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels.

(iii) To conduct preassignment or periodic medical surveillance of exposed employees.

(iv) To provide medical treatment to exposed employees.

(v) To select or assess appropriate personal protective equipment for exposed employees.

(vi) To design or assess engineering controls or other protective measures for exposed employees.

(vii) To conduct studies to determine the health effects of exposure.

(c) The request explains, in detail, why the disclosure of the specific chemical identity or percentage composition is essential and why the disclosure of the following information would not enable the health professional, employee, or designated representative to provide the occupational health services described in subrule (2)(b) of this rule:

- (i) The properties and effects of the chemical.
- (ii) Measures for controlling workers' exposure to the chemical.
- (iii) Methods of monitoring and analyzing worker exposure to the chemical.
- (iv) Methods of diagnosing and treating harmful exposures to the chemical.

(d) The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information.

(e) The health professional, employee, or designated representative and the employer or contractor of the services of the health professional or designated representative agree, in a written confidentiality agreement, that the health professional, employee, or designated representative will not use the trade secret information for any purpose other than the health need asserted and agree not to release the information under any circumstances other than to the department, as provided in subrule (7) of this rule, except as authorized by the terms of the agreement or by the employer.

(3) The confidentiality agreement that is authorized by subrule (2) of this rule may do either of the following:

(a) Restrict the use of the information to the health purposes indicated in the written statement of need.

(b) Provide for appropriate legal remedies for a breach of the agreement, including stipulation of a reasonable estimate of likely damages. The agreement shall not include requirements for the posting of a penalty bond.

(4) Nothing in these rules is meant to preclude the parties from pursuing non-contractual remedies to the extent permitted by law.

(5) If the health professional, employee, or designated representative who receives the trade secret information decides that there is a need to disclose it to the department, then the employer who provided the information shall be informed by the health professional before, or at the same time as, the disclosure.

(6) If an employer denies a written request for disclosure of a specific chemical identity or percentage composition, then the denial shall be in compliance with all of the following provisions:

(a) Be provided to the health professional, employee, or designated representative within 30 days of the request.

(b) Be in writing.

(c) Include evidence to support the claim that the specific chemical identity or percentage composition is a trade secret according to the provisions of section 14d of the act.

(d) State the specific reasons why the request is being denied.

(e) Explain in detail how alternative information may satisfy the specific medical or occupational health need without revealing the specific chemical identity or percentage composition.

(7) The health professional, employee, or designated representative whose request for information is denied pursuant to the provisions of subrule (2) of this rule, may refer the request and the written denial of the request to the department for consideration.

(8) If a health professional, employee, or designated representative refers a denial to the department pursuant to subrule (2) of this rule, the department shall consider the evidence to determine which of the following are true:

(a) The employer has supported the claim that the specific chemical identity or percentage composition is a trade secret.

(b) The health professional, employee, or designated representative has supported the claim that there is a medical or occupational health need for the information.

(c) The health professional, employee, or designated representative has demonstrated adequate means to maintain confidentiality.

(9) With regard to an investigation, both of the following provisions apply:

(a) If the department determines that the specific chemical identity or percentage composition requested pursuant to the provisions of subrule (2) of this rule is not a bona fide trade secret, or that it is a trade secret, but the requesting health professional, employee, or designated representative has a legitimate medical or occupational health need for the information, has executed a written confidentiality agreement, and has shown adequate means for complying with the terms of such agreement, then the employer will be subject to citation by the department.

(b) If an employer demonstrates to the department that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the authorized disclosure of a trade secret specific chemical identity or percentage composition, then the department may issue such orders or impose such additional limitations or conditions upon the disclosure of the requested chemical information as may be appropriate to assure that the occupational health needs are met without an undue risk of harm to the employer.

(10) Notwithstanding the existence of a trade secret claim, an employer shall, upon request, disclose to the director any information that these rules require the employer to make available. If there is a trade secret claim, the claim shall be made not later than at the time the information is provided to the director so that suitable determinations of trade secret status can be made and the necessary protections can be implemented.

(11) Nothing in these rules shall be construed as requiring, under any circumstances, the disclosure of process or percentage of mixture information that is a trade secret.

R 325.3473 Notification of employee exposure information by employer.

Rule 23. Upon an employee's first entering into employment, and at least annually thereafter, an employer shall inform employees who are exposed to toxic substances or harmful physical agents of all of the following:

- (a) The existence, location, and availability of any record to which these rules apply.
- (b) The person who is responsible for maintaining and providing access to records.
- (c) The employee's right of access to the records.

R 325.3474 Availability of rules and appendices to employees.

Rule 24. An employer shall make readily available to employees a copy of these rules and their appendices and shall distribute to employees any other informational materials concerning these rules which are made available to the employer by the department or the director.

R 325.3475 Transfer of records.

Rule 25. (1) If an employer ceases to do business, the employer shall transfer all records subject to these rules to a successor employer. The successor employer shall receive and maintain the records.

(2) If an employer ceases to do business and there is no successor employer to receive and maintain the records subject to these rules, the employer shall notify affected employees of their right of access to the records not less than 3 months prior to the cessation of the employer's business.

R 325.3476 Rescinded.

APPENDIX A
SAMPLE AUTHORIZATION LETTER FOR THE RELEASE OF MEDICAL RECORD INFORMATION
TO A DESIGNATED REPRESENTATIVE

I, (full name of worker/patient) hereby authorize (individual or organization holding the medical records) to release to (individual or organization authorized to receive the medical information), the following medical information from my personal medical records:

(Describe generally the information desired to be released).

I give my permission for this medical information to be used for the following purpose:

but I do not give permission for any other use or re-disclosure of this information.

(Note: Several extra lines are provided below so that you can place additional restrictions on this authorization letter if you want to. You may, however, leave these lines blank. On the other hand, you may want to (1) specify a particular expiration date for this letter (if less than one year); (2) describe medical information to be created in the future that you intend to be covered by this authorization letter; or (3) describe portions of the medical information in your records which you do not intend to be released as a result of this letter.)

Full name of employee or Legal Representative:

Signature of Employee or Legal Representative:

Date of Signature:

APPENDIX B

INFORMATION ABOUT REGISTRY OF TOXIC EFFECTS OF CHEMICAL SUBSTANCES (RTECS)

These rules apply to all employee exposure and medical records, and analyses thereof, of employees exposed to toxic substances or harmful physical agents. The term "toxic substance or harmful physical agent" is designed to encompass chemical substances, biological agents, and physical stresses for which there is evidence of harmful health effects. The rules use the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) as one of the chief sources of information as to whether evidence of harmful health effects exists. If a substance is listed in the latest printed RTECS, the standard applies to exposure and medical records (and analyses of these records) relevant to employees exposed to the substance. RTECS entries include nearly every chemical substance known to man.

It is appropriate to note that the rules do not require that employers purchase a copy of RTECS, and many employers need not consult RTECS to ascertain whether their employee exposure or medical records are subject to the standard. Employers who do not currently have the latest edition of the NIOSH RTECS, may desire to obtain a copy. The last printed edition of RTECS is the 1981-1982 Edition, Volumes I, II, and III. This is supplemented by the 1983-1984 Cumulative Supplement. There are more recent supplements available in microfiche and computer software form.

Excerpts from the Introduction to the 1981-1982 edition of RTECS follows. "This publication is the 1981-1982 edition of the NIOSH Registry of Toxic Effects of Chemical Substances (RTECS). The Registry is a compendium of toxicity data extracted from the literature and is prepared in compliance with the Occupational Safety and Health Act of 1970. In this edition of the Registry, the editors intend to continue identifying 'all known toxic substances' which may exist in the environment and to provide pertinent data on the toxic effects from known doses entering an organism by any route described. The data have been assembled in accordance with the definitions and criteria presented below."

"This edition contains 59,224 substance entries. The current estimate of the number of unique substances for which toxicity data may be available remains at approximately 100,000. The number of substances and types of toxicity information will be increased in subsequent revisions of the Registry."

"The Registry's purposes are many, and it serves a variety of users. It is a single source document for basic toxicity information and for other data, such as chemical identifiers and information necessary for the preparation of safety directives and hazard evaluations for chemical substances. The various types of toxic effects linked to literature citations provide researchers and occupational health scientists with an introduction to the toxicological literature, making their own review of the toxic hazards of a given substance easier. By presenting data on the lowest reported doses that produce effects by several routes of entry in various species, the Registry furnishes valuable information to those responsible for preparing safety data sheets for chemical substances in the workplace. Chemical and production engineers can use the Registry to identify the hazards which may be associated with chemical intermediates in the development of final products, and thus can more readily select substitutes or alternate processes which may be less hazardous. Some organizations including health agencies and chemical companies, have included the NIOSH registry accession numbers with the list of chemicals in their files to reference toxicity information associated with those chemicals. By including foreign language chemical names, a start has been made toward providing rapid identification of substances produced in other countries."

"It must be emphasized that the entry of a substance in the Registry does not automatically mean that it must be avoided. A listing does mean, however, that the substance has the documented potential of being harmful if misused, and care must be exercised to prevent tragic consequences. Thus, the Registry lists many substances that are common in everyday life and are in nearly every household in the United States. One can name a variety of such dangerous substances: prescription and non-prescription drugs; food additives; pesticide concentrates, sprays, and dusts; fungicides; herbicides; paints, glazes; dyes; bleaches and other household cleaning agents; alkalis; and various solvents and diluents. The list is extensive because chemicals have become an integral part of our existence.

"It is not the purpose of the Registry to quantitate a hazard through the use of the toxic concentration or dose data that are presented with each substance. UNDER NO CIRCUMSTANCE CAN THE TOXIC DOSE VALUES PRESENTED WITH THESE CHEMICAL SUBSTANCES BE CONSIDERED DEFINITIVE VALUES FOR DESCRIBING SAFE VERSUS TOXIC DOSES FOR HUMAN EXPOSURE. Concentrations of chemical substances in the work environment which may be safely tolerated can be determined only by a critical evaluation of all available pertinent data be experienced investigators, data that include but are not limited to that listed in this Registry."

“A critical evaluation of the hazard of a chemical in the workplace or environment involves much more than a determination of its toxic potency, no matter how complex that determination may be. A hazard evaluation must include such a determination, of course, but toxic potency and degree of hazard are not synonymous. Identifying and defining the hazard of a chemical must also include, among other factors, the evaluation of the amount and duration of exposure, the physical characteristics of the substance, the physical conditions under which exposure occurs, and the evaluation of interactions with other substances that may be present. All of these factors may significantly alter the toxic potency of a substance which, in turn, may alter the health of the person exposed.”

The RTECS printed edition may be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, D.C. 20402 telephone (202) 783-3238. Some employer may desire to subscribe to the quarterly update to the RTECS which is published in a microfiche edition. An annual subscription to the quarterly microfiche may be purchased from the GPO (Order the “Microfiche Edition, Registry of Toxic Effects of Chemical Substances”). Both the printed edition and the microfiche edition of RTECS are available for review at many university and public libraries throughout the state.



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