



# *Training Bulletin*

## **Release of Medical Records and Patient Privacy** From the Office of Medical/Rehabilitation Services Maine Workers' Compensation Board

Workers' Compensation Laws of the State of Maine (39-A M.R.S.A. § 208) allow for the release of medical information by health care providers without authorization if the information pertains to treatment of an injury or disease that is claimed to be compensable under the Act.

**Disclosures Without Individual Authorization.** The HIPAA Privacy Rule permits covered entities to disclose protected health information to workers' compensation insurers, State administrators, employers, and other persons or entities involved in workers' compensation systems, without the individual's authorization:

- As authorized by and to the extent necessary to comply with laws relating to workers' compensation or similar programs established by law that provide benefits for work-related injuries or illness without regard to fault. This includes programs established by the Black Lung Benefits Act, the Federal Employees' Compensation Act, the Longshore and Harbor Workers' Compensation Act, and the Energy Employees' Occupational Illness Compensation Program Act.
- To the extent the disclosure is required by State or other law. The disclosure must comply with and be limited to what the law requires.
- For purposes of obtaining payment for any health care provided to the injured or ill worker.

Protected health information may be shared for such purposes to the full extent authorized by State law.

Without individual authorization, the Maine Workers' Compensation Act § 208 allows ONLY for the release of information that pertains to the treatment of an injury or disease that is claimed to be compensable under the Act. **INFORMATION UNRELATED TO THE TREATMENT OF THE CLAIMED INJURY OR DISEASE CANNOT BE RELEASED WITHOUT THE INDIVIDUAL'S AUTHORIZATION.**

**Disclosures With Individual Authorization.** Covered entities may disclose protected health information to workers' compensation insurers and others involved in workers' compensation systems where the individual has provided his or her authorization for the release of the information to the entity.

**Note: The ONLY forms that allow for the release of protected health information in a workers' compensation case are Board Forms WCB-220, WCB-220A, WCB-220B, and/or WCB-220C.** All parties, including health care providers, shall only use forms set forth in Appendix V of Board Rules Chapter 5. The use of forms other than the ones set forth in Appendix V and/or requiring additional forms is prohibited.

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**Billing for Copies of Medical Records.** Health care providers may charge for copies of health care records or other written information. The charge for health care records required to accompany the bill must be identified on the bill itself using CPT® Code S9981 (units equal total number of pages). Copies released pursuant to a written request must be accompanied by an itemized invoice. The copying charge must be paid by the requesting party.

For copies of health care records or other written information, including, but not limited to, billing records furnished in paper form, the maximum fee is \$5 for the first page and 45¢ for each additional page, up to a maximum of \$250.00. If the requested information exists in a digital or electronic format, the health care provider shall provide an electronic copy of the requested information, if an electronic copy is requested and it is reasonably possible to provide it. The health care provider may charge reasonable actual costs of staff time to create the electronic information and the costs of necessary supplies, up to a maximum of \$150.00.

Health care providers shall not require payment prior to responding to a request unless the requesting party has an unpaid balance for previously requested information from the health care provider. In this event, a health care provider may require payment of the past due balance in addition to pre-payment of the current request prior to responding to the request. Health care providers shall not charge a fee for postage/shipping, sales tax, or a fee for researching a request that results in no records.

### **Resources:**

Workers' Compensation Laws of the State of Maine (39-A M.R.S.A.) and Board Rules Chapter 5.

	<b>Federal</b>	<b>State</b>
<b>Medical Records</b>	45 CFR § 164, <i>et seq.</i> (HIPAA)	22 M.R.S.A. § 1711-C
<b>Mental health records</b>	45 CFR § 164 (other than psychotherapy notes, same as medical records)	Title 34-B ch. and 14 CMR 93 ch. 1
<b>Substance abuse records</b>	42 CFR Pt. 2	5 M.R.S.A. § 20047
<b>HIV/AIDS</b>	No separate law	5 M.R.S.A. § 19203
<b>Sexually transmitted diseases</b>	No separate law	No separate law

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