



Disclosure of Personal Health Information to WCB: A Guide for Physiotherapists

This notice is to clarify WCB's authority under the *Workers' Compensation Act* (WCA) to collect personal information from physiotherapists without consent from injured workers (your patients).

1. WCB Reporting Requirements

Section 1 (1)(v) of the WCA defines "physician" as a person licensed or authorized under the *Health Professions Act* to practice any of the healing arts in Alberta, which includes physiotherapists.

Section 17(5) gives WCB the same power as the Court of Queen's Bench to compel the production of documents, which includes physiotherapists' files.

Section 34 (1) of the WCA sets out that any physician, including a physiotherapist, who attends an injured worker must forward a report to WCB within two days after first attending the injured worker.

The requirement to report to WCB applies to all physiotherapists treating a worker, including those working in a hospital and those not formally contracted with WCB.

2. Informed Consent

Section 20 of the *Personal Information Protection Act* (PIPA) allows for disclosure without consent where the disclosure is required or authorized pursuant to a statute or enactment.

The WCA is a statute that permits WCB to mandate and compel reporting, and it is the applicable legislation related to disclosure of information for workers. This means production of information is required by law without the consent of a worker and a worker cannot direct the physiotherapist to not disclose required information to WCB.

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

3. Third Party Requests

Pursuant to the WCB Physiotherapy Agreement, the worker's file is the property of, and under the control of, the physiotherapist. As such, the release of information to any third party other than WCB is governed by the physiotherapist's obligations under the common law, the Physical Therapists Profession Regulation, and applicable privacy legislation; such as PIPA, the *Health Information Act* (HIA) and the *Freedom of Information and Protection of Privacy* (FOIP) Act.

Provided that the physiotherapist adheres to those applicable obligations, which could include informed consent from the patient, additional permission from WCB to release this information to a third party is not required. This includes file copies of WCB report forms.

4. Informing Injured Workers of Obligation to Report

It is strongly recommended that the worker be advised prior to treatment that personal and medical information must be shared with WCB throughout the treatment process and that a statement to that effect be included in the clinic consent form.

If a worker does not want information shared with WCB when the treatment is for a work injury, they may refuse treatment. If this occurs, encourage the worker to contact WCB immediately.

Further information

Questions relating to disclosure of medical information to the WCB may be addressed to WCB Health Care Strategy at 780-498-3219.

