

Employer and Occupational Health Clinics:

Resources Governing Occupational and Employee Health Records

Employers play a unique and important role in maintaining, supporting and enhancing the health and wellbeing of their workforce. This unique role requires employers to understand the complex overlay of state and federal laws governing occupational health records. In addition, for those employers that provide primary care, employee assistance programs and other non-occupational health services to their workforce, the employers face an even more complex analysis due to the potential overlay of laws governing patient privacy, security and access to records.

This resource is a compendium of the **various statutes, regulations and guidance** that U.S. employers should review when understanding their role in providing and maintaining both occupational health records as well as other health related records. In addition to the laws below, employers should also consult with applicable state laws and regulators that govern the privacy, security and retention of health records for employees. Should you have questions about the steps employers should take to analyze the applicability of these or questions related to the creation of policies and procedures to operationalize these requirements, please contact **Stephanie Eckerle** at seckerle@kdlegal.com or **Jeff Donnell** at jdonnell@enterprisehealth.com.



OSHA: Occupational Health Records

[Access to Employee Exposure and Medical Records](#), 29 CFR 1910.1020

[Access to Medical and Exposure Records Publication, OSHA 3110, 2020 \[Revised\]](#)

[Clinicians Resources](#) [Includes Medical Records — Laws and Confidentiality]

[OSHA Letter regarding Access to employee exposure and medical records, April 15, 1999](#)

[Work-Related Stress and Recordable Events](#)

DOL: FMLA Confidentiality Requirements and Cybersecurity Guidance

[Fact Sheet #28G: Medical Certification under the Family and Medical Leave Act](#)

[Cybersecurity Guidance Update](#)

EEOC: ADA and GINA Implications of Accessing Employee Health Records

[Information Discussion Letter, ADA & GINA: Confidentiality Requirements, May 31, 2011](#)

[EEOC Recordkeeping Requirements](#)

[Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the ADA](#)

[Genetic Information Discrimination](#)

[Employer Wellness Programs](#)

SAMHSA: Confidentiality of Substance Use Disorder Records and EAP Implications

[SAMHSA, Substances Abuse Confidentiality Regulations](#) [Includes Laws, Commentary, and FAQ's]

[Applicability of Part 2 Regulations, 45 CFR 2.12](#) [Inclusion of EAP Programs in 45 CFR 2.12(e)(1)]

[Confidentiality of Substance Use Disorder \[SUD\] Records, Final Rule](#), April 16, 2024

[Fact Sheet 42 CFR Part 2 Final Rule](#), February 8, 2024

HHS: HIPAA/HITECH Application to On-site Primary and Non-Occupational Health Records

[HITECH Act](#) [Title XIII of the American Recovery and Reinvestment Act of 2009, pg. 112]

HIPAA Regulations: [45 CFR 160](#); [45 CFR 164](#)

[HIPAA Regulations, Employer Access to Workforce Health Records](#), 45 CFR 164.512(b)(v)

[HIPAA Privacy Rule Final Rule to Support Reproductive Health Care Privacy: Fact Sheet](#)

[HHS Materials on Patient Right of Access Under HIPAA](#) [Includes Summary and FAQ's]

[HHS Materials on Employers and Health Information in the Workplace](#)

[HHS Materials on Disclosures for Workers' Compensation Purposes](#)

ONC: Application of Information Blocking Rules

[ONC's Information Blocking Web Page](#)

[ONC's Information Blocking Exceptions Fact Sheet](#)

[Interoperability and Information Blocking Final Rule](#)

[21st Century Cures Act](#) (2016) [see § 4004, pg. 144]

[Information Blocking Regulations](#), 45 CFR 170

[Interoperability Regulations](#), 45 CFR 171

GDPR: Application of the General Data Protection Regulation

[What is GDPR, the EU's new data protection law?](#)

SEC: Cybersecurity

[SEC Cybersecurity](#)

FTC: Cybersecurity

[FTC Cybersecurity for Small Business](#)

NIST: Cybersecurity Framework

[NIST Cybersecurity Framework](#)



Questions?

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