

Chapter: General and Administrative

Legislative authority: section 180

Prevention statement

Preventing injuries is one of the most important responsibilities in the workplace. The Workers' Safety and Compensation Act (the 'Act') establishes the responsibilities of all workplace parties to work together to ensure the physical and psychological health and safety of workers. When injuries do occur, workers and employers must continue to work together to facilitate an injured worker's early and safe return to health and work.

Purpose

This policy provides the guiding principles for the controls and procedures on the collection, use and disclosure of personal information.

Definitions

board means the Workers' Safety and Compensation Board

employer means every association, corporation, individual, partnership, person, society or unincorporated organization or other body having in their service one or more workers in an industry and as further defined in section 77 of the Act

health information has the same meaning as in the *Health Information Privacy and Management Act* (HIPMA)

personal information has the same meaning as in the *Access to Information and Protection of Privacy Act* (ATIPP Act)

worker means a person who performs work or services for an employer under a contract of service or apprenticeship, written, or oral, express or implied and as further defined in section 77 of the Act

Policy statement

1. General

The board is governed by the ATIPP Act and the Act in the collection, use, and disclosure of health and personal information.

Effective date: July 1, 2022

The Act provides that the board may collect, use, manage and disclose any information, including health information and personal information, that the board considers necessary for the administration and enforcement of the Act and regulations.

The board may disclose any information to a worker's employer about the worker that relates to a claim for compensation, including the worker's functional abilities, that the board considers necessary for the administration of this Act and regulations.

The board may disclose any information to a health care provider that the board considers necessary for the administration of this Act and the regulations.

The Act also provides that a person or body must not use or disclose any information that they obtain from the board except in the performance of their duties under the Act or regulations, or as authorized by the board.

The Act further provides that board may set fees for providing copies of records.

2. Privacy principles for the protection of personal information

This policy is based on ATIPP Act and the Canadian Standards Association's Model Code for the Protection of Personal Information.

2.1 Accountability

The board of directors, president and staff of the board are accountable to protect the privacy of those individuals whose personal information is collected, used or disclosed.

Persons who enter into contracts to perform services for the board are bound by the provisions of the ATIPP Act.

2.2 Identifying purpose of collection

The board collects only that personal information necessary to administer and interpret its governing legislation. The board states the reason at the time of collection. The board collects personal information, in a responsible and accountable manner, to:

- a. promote and enforce health and safety in the workplace;
- b. prevent and reduce workplace injuries;
- c. help injured workers return to work;
- d. assist with accommodation and recovery of injured workers; and

- e. provide compensation and other benefits to injured workers and dependants of deceased workers.

2.3 Consent

The board obtains consent, when required to do so by legislation, to collect, use or disclose personal information.

2.4 Limiting collection

The board limits the collection of personal information to that necessary to administer and interpret its governing legislation.

2.5 Limiting use and disclosure

The board uses or discloses personal information only for the purpose for which it was collected, or for a consistent purpose.

For example, when the board collects information about a worker's functional abilities, it discloses to the employer only that information required to support the worker's return to work.

As another example, when the board discloses personal information about a worker to an employer, it discloses only that personal information relevant to the claim.

The Act authorizes the board to disclose information to other governments and workers' compensation boards but the board will advise the affected workers or employers when it does so.

2.6 Accuracy

The board is responsible for making reasonable efforts to ensure the accuracy of personal information collected, used or disclosed.

2.7 Safeguards

The board is responsible for making reasonable security arrangements to protect against loss, theft, unauthorized access, disclosure, use or modification of personal information.

The board determines when it is appropriate to verify personal information through identification measures. The board is responsible for retaining, transferring and disposing of personal information in a secure manner.

The board is responsible for making reasonable efforts to ensure board staff, injured workers, employers, and other stakeholders are aware of the legislation, this policy and procedures that provide the foundation for protecting personal information.

2.8 Openness

The board provides public access to information about its policies and practices on the management of personal information. The board maintains statements on privacy and on the terms of use for electronic communications. These statements are accessible to the public through the board's website.

2.9 Individual access

Individuals may request access to their personal information at any time to review the contents and accuracy. Individuals may request amendments to their personal information as appropriate. Under the ATIPP Act, an individual has the right to request access to government records and to their own personal information.

2.10 Challenging compliance

The board responds to all questions and concerns regarding the collection, use or disclosure of personal information.

3. Disclosure of claim file information

Outlined below are situations where the board can disclose claim file information. Except where permitted by law, consented to in the *Application for Compensation Benefits* form, or provided for in this policy, the board does not disclose information concerning an injured worker without the written authorization of the worker or dependant of a deceased worker.

3.1 Worker and authorized representative access

An injured worker or dependant of a deceased worker, or their authorized representative, will be provided with a copy of their claim file upon written request. A *Request for Disclosure* form must be submitted to the board to request a copy of the claim file. The *Request for Disclosure* form must be accompanied by a signed *Authorization for Representation* form if the claim file is to be released to anyone other than the worker. If a copy of the file has been previously disclosed, only updates added to the file from the date of the last request will be provided.

One copy of the claim file is provided free of charge to an injured worker or their authorized representative.

Subsequent copies are subject to a fee.

3.2 Employer and authorized representative access

The board may disclose any information to a worker's employer about the worker that relates to a claim for compensation, including the worker's functional abilities, that the board considers necessary for the administration of the Act.

The board discloses to employers copies of all return-to-work plans and functional abilities forms. Modified decision letters are sent to employers and they receive appeal letters associated with their workers' claim files.

Employers may also receive information on employer claim costs, as requested by the employer, and any other relevant information necessary to fulfill the board's obligations under the Act.

In some cases, the board may require the written consent of the worker to release information to an employer.

In all cases when information is released to an employer, the employer must provide in writing, the name of an individual to whom the board may release the information. Employers are expected to hold this information in the strictest confidence and to limit access to those individuals who need the information for a purpose under the Act.

When a worker, dependant of a deceased worker or employer requests a reconsideration or appeals a decision to the Appeal Tribunal on a claim, the employer or authorized representative will be granted, upon written request, access to all relevant information on the claim file. A *Request for Disclosure* form must be submitted. The board will determine relevance in terms of information which relates to, or which is necessary to address, the disputed issues. The procedures and appeal processes related to disclosures to employers for the purposes of a reconsideration or appeal to the Appeal Tribunal are found in policy 6.2 Employer Access to Claim Information.

3.3 Disclosure to health care providers

The board discloses health care information regarding the injury, treatments, examinations, diagnoses, or investigation to health care providers, hospitals, and vocational assessment services. The amount and type of information disclosed is limited to that information the board deems necessary for the adjudication and management of a claim. Generally the worker is not notified each time this type of information is released as the worker consents to the disclosure of this information when they sign an *Application for Compensation Benefits* form.

3.4 Disclosure to third parties

Written authorization from the worker or dependant of a deceased worker must be received by the board before information will be disclosed to a third party, such as a private insurance company, lawyer or other government agency, except where the board is authorized by law or is in the course of pursuing an action in the name of the worker or the board.

Fees will be charged for disclosure to third parties, except if the disclosure is made to an authorized representative and is related to a reconsideration or appeal under the Act.

4. Disclosure of employer file information

Outlined below are situations where the board can disclose employer file information. Except where permitted by law or provided for in this policy, the board does not disclose information concerning an employer without the written authorization of the employer or the employer's authorized representative.

4.1 Employer and authorized representative

The employer or employer's authorized representative will be provided with a copy of the employer file upon written request. If the employer has previously received a copy, only updates that have been added to the file from the date of the last request will be provided.

One copy of the employer file is provided free of charge. Subsequent copies will be subject to a fee.

4.2 Employer account status - clearance letters

Other employers or their legal counsel may request information regarding an employer's account status. The board may release account status information, including disclosure of unpaid assessment amounts an employer may be liable to pay on behalf of its contractors and subcontractors under the Act.

5. Disclosure of information under legislation, written agreement and court orders

The board may also be bound by or under the authority of other provincial, territorial and federal legislation or agreements with other governments or departments to disclose information as required. This applies to, but is not limited to, disclosing information to officers in the Workplace Health and Safety Branch of the board, Canada Revenue Agency, the Appeal Tribunal and other

Canadian commissions or boards in accordance with the Interjurisdictional Agreement on Workers' Compensation.

The board may enter into written information sharing agreements which are advisable for carrying out the Act.

Information will be disclosed to law enforcement agencies as required by law.

6. Disclosure of records under the ATIPP Act

Under the ATIPP Act, individuals have the right to request access to records of a public body and their own personal information or request correction of incorrect information. The processes and fees under the ATIPP Act apply.

It is advisable to contact the board to determine what records are publicly available. This may be a more efficient and a formal ATIPP Act request may not be required. Fees may be charged for providing these records.

7. Unauthorized access or disclosure

In the event of an unauthorized access or disclosure of confidential or personal information, the board will investigate and take steps to contain the unauthorized access or disclosure and to recover the information. The individuals affected will be notified as appropriate. The board will take all reasonable steps to prevent similar occurrences in the future.

The board will follow its internal "Privacy Breach and Complaint Protocol" Directive in the event of an unauthorized access or disclosure.

8. Challenging compliance and requesting correction

The board will investigate all challenges regarding the collection, use or disclosure of personal information. Concerns over the accuracy of records or other concerns regarding compliance should be directed to the board's Privacy Officer.

Concerns may also be addressed to the Office of the Privacy Commissioner of Yukon.

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History

- GN-01 Information Access and Privacy, effective July 1, 2016, revoked July 1, 2022
- GN-01 Information Access and Privacy, effective July 1, 2013, revoked July 1, 2016
- GN-01 Release of Information, effective July 1, 2008, revoked January 19, 2010 (replaced by ATIPP)
- GC-13 Release of Information, effective April 26, 2005, revoked July 1, 2008
- GC-13 Access to Information, effective February 17, 2004, amended April 26, 2005