

Resources Governing Occupational and Employee Health Records

Employers play an important role in maintaining, supporting, and enhancing workforce health and wellbeing. This unique role requires employers to understand the complex layers of state and federal laws governing occupational health records. In addition, for employers that provide primary care, employee assistance programs, and other non-occupational health services, an even more detailed analysis is required to tease apart 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 U.S. employers should review when understanding their role in providing and maintaining both occupational health records and other health-related records. 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

- > [OSHA, Access to Employee Exposure and Medical Records](#), 29 CFR 1910.1020
- > [OSHA, Access to Medical and Exposure Records Publication, OSHA 3110, 2020 \(Revised\)](#)
- > [OSHA, Clinicians Resources](#) (Includes Medical Records — Laws and Confidentiality)

EEOC: ADA and GINA Implications of Accessing Employee Health Records

- > [EEOC, Information Discussion Letter, ADA & GINA: Confidentiality Requirements, May 31, 2011](#)
- > [EEOC, Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the ADA](#)
- > [EEOC, Genetic Information Discrimination](#)

SAMHSA: Confidentiality of Substance Use Disorder Records and EAP Implications

- > [SAMHSA, Substances Abuse Confidentiality Regulations](#) (Includes Laws, Commentary, and FAQs)
- > [Applicability of Part 2 Regulations](#), 45 CFR 2.12 (Inclusion of EAP Programs in 45 CFR 2.12(e)(1))

FMCSA: Medical Examination Recordkeeping

- > [FMCSA, DOT Medical Exam Recordkeeping](#)
- > [FMCSA, Will my employer have access to my medical evaluation?](#)

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)
- > [HHS Materials on Patient Right of Access Under HIPAA](#) (Includes Summary and FAQs)
- > [HHS Materials on Employers and Health Information in the Workplace](#)

ONC: Application of Information Blocking Rules

- > [ONC's Information Blocking Web Page](#)
- > [ONC's Information Blocking Exceptions Fact Sheet](#)
- > [Frequently Asked Questions \(and ONC's Answers\)](#)
- > [Information Blocking Applicability Dates](#)
- > [Interoperability and Information Blocking Final Rule](#) (with ONC's Preface and Commentary)
- > [ONC's Webinar Web Page](#)
- > [21st Century Cures Act](#) (2016) (see § 4004, pg. 144)
- > [Information Blocking Regulations](#), 45 CFR 170
- > [Interoperability Regulations](#), 45 CFR 171



Questions?

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