

SECTION .0900 – ACCESS TO EMPLOYEE MEDICAL RECORDS

13 NCAC 07A .0901 SCOPE AND APPLICATION

- (a) The provisions of 29 CFR 1913.10 concerning OSH Division access to employee medical records do not apply. Rather, the rules in this Section apply to all requests by OSH Division personnel to obtain access to employee medical records in order to examine or copy personally identifiable medical information.
- (b) For the purposes of the rules in this Section, “personally identifiable medical information” means employee medical information accompanied by either direct identifiers (name, address, social security number, payroll number) or by information which could reasonably be used in the particular circumstances indirectly to identify specific employees (exact age, height, weight, race, sex, date of initial employment, job title).
- (c) The examination of personally identifiable medical information shall, to the extent practicable, be performed on-site. OSH Division personnel shall only take medical information in a personally identifiable form off-site if such information is necessary for the investigation.
- (d) The rules in this Section do not apply to access to, or the use of, aggregate employee medical information or medical records on individual employees by OSH Division personnel which is not in a personally identifiable form.
- (e) The rules in this Section do not apply to records required by 29 CFR 1904, to death certificates, or to employee exposure records, including biological monitoring records treated by 29 CFR 1910.1020(c)(5) or by specific occupational safety and health standards as exposure records.
- (f) The rules in this Section do not apply where OSH Division personnel conduct an examination of employee medical records solely to verify employer compliance with the medical surveillance recordkeeping requirements of an occupational safety and health standard or with the employee exposure and medical record requirements of 29 CFR 1910.1020. An examination of this nature shall be conducted onsite and, if requested, shall be conducted under the observation of the record holder and the OSH Division personnel shall not record and take offsite any information from these medical records other than documentation of the fact of compliance or non-compliance.
- (g) The rules in this Section do not apply to access to, or the use of, personally identifiable medical information obtained in the course of litigation.

*History Note: Authority G.S. 95-133;
Eff. March 1, 2010;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.*