



Josh Dobson
Commissioner

Occupational Safety and Health Division

July 25, 2019

CONTACT NAME
BUSINESS NAME
ADDRESS
CITY, STATE ZIP

Re: Release of Medical Records
Employer Name – ABC COMPANY

Dear CONTACT NAME:

The N.C. Department of Labor (“NCDOL”), through its Occupational Safety and Health Division, enforces the occupational safety and health regulations for North Carolina employers. As such, OSHNC conducts investigations of employers in our state for violations of the Occupational Safety and Health Act of North Carolina (Chapter 95, Article 16 of the N.C. General Statutes), and state and federal OSHA regulations (Title 13, Chapter 7 of the N.C. Administrative Code and Title 29, Parts 1910 and 1926 of the Code of Federal Regulations).

The Occupational Safety and Health Act of North Carolina authorizes the NCDOL OSH Division to access records, including employee medical records, during the course of inspections and investigations conducted under the Act. In accordance with this authority, OSHNC would like to examine the medical records listed in the attached document. The examination of this medical information is in connection with the OSH Division’s inspection at the above-referenced facility.

In order to safeguard the employees’ interest in the privacy of the medical records that are to be examined and copied (if necessary), OSHNC has prescribed detailed rules of practice and procedure in Title 13, Chapter 7A, Section .0900 of the N.C. Administrative Code to govern the OSH Division’s handling of personally identifiable employee medical information. A principal OSH Division Investigator has been designated to be primarily responsible for assuring that the examination and use of medical information obtained during this investigation is in accordance with applicable regulations.

Because we understand the apprehensions that employers and medical providers have about running afoul of the Health Insurance Portability and Accountability Act (“HIPAA”), we have put together this letter to assure both groups that the disclosure of medical records in this situation is within the confines of HIPAA. HIPAA was created for the purpose of securing the transfer of patient information to various covered entities, i.e., health plans, health care clearinghouses, and health care providers. However, under HIPAA, a covered entity may disclose protected health information (“PHI”) to third parties without first obtaining the patient’s consent, authorization or allowing the patient an opportunity to agree or object to such disclosure, in a few limited situations.

These exceptions include releasing such information without individual authorization to “public health authorities” and to “health oversight agencies.” See 45 CFR 164.512(b) and (d). The preamble to the HIPAA privacy regulation specifically mentions OSHA, and by extension OSHNC, as an example of both. See 65 Fed. Reg. 82492, 82526. Furthermore, a separate set of exemptions generally allows

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covered entities to disclose PHI as required by law and as necessary for law enforcement and judicial and administrative purposes. *See* 45 CFR 164.512(a), (e) and (f). As a result, it is clear that the release of employee medical records to OSHNC does not require the prior authorization of the individual patients.

I appreciate your attention to this matter, and please let me know if you have any questions or concerns about this request. **Prior to fulfilling this medical request, please notify the requestor in writing if there are any associated fees.** If you have any questions about the authority to release this information under HIPAA, contact our NCDOL Legal Affairs Division at (919) 707-7713.

Sincerely,

NAME

TITLE