



**Berry Bros. General Contractors, Inc.
Corporate Policy Procedure**

Issue Date: 02-04-08

Section # 01

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**(HSE) Health, Safety & Environmental
Policies and Procedures Manual**

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Access to Employee Medical and Exposure Records

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SUBPART A - GENERAL INFORMATION

The purpose of this program is to provide employees and OSHA representatives the right of access to relevant exposure and medical records, of which may directly contribute to the improvement of detection, treatment, education and prevention of occupational illnesses. Although this rule directly addresses employers, it may also include and/or involve health care and medical professionals that act on behalf of the employer. It should be noted in that this section is not intended to affect the medical-care relationship with the employee or affect situations that may reveal trade secrets.

The standard requires documentation of employee exposure to toxic substances and harmful physical agents including:

- Relevant listing found on the latest edition of the National Institute for Occupational Safety and Health (NIOSH) *NIOSH Registry of Toxic Effects of Chemical Substances*.
- The subject of a material safety data sheet (MSDS) kept by the employer and indicates that the material might pose a health hazard.



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- Yields positive evidence of acute or chronic health hazard in testing conducted by or known to the employer

Examples of toxic substance and harmful physical agents may include the following:

- Biological agents (bacteria, viruses, fungi, etc.)
- Metals and dusts (lead, cadmium, silica, etc.)
- Physical Stress (noise, heat, cold, vibration, repetitive motion, ionizing radiation, etc.)

SUBPART B - DEFINITIONS

- **“Employee medical record”** means a record containing the health status of an employee which is made or maintained by physician, nurse, or other health care personnel including medical questionnaires, results of medical examinations, medical opinions, first aid records, description of treatments, employee medical complaints, etc.
- **“Employee exposure record”** means a record containing any of the following kinds of information: environmental workplace monitoring information, biological monitoring information, an MSDS or chemical inventory, etc. that is used to make the employee medical record.

SUBPART C - HEALTH INFORMATION RIGHTS

Although your health record is the physical property of the facility providing treatment, the information belongs to you. You have the right to:

- Obtain a paper copy of their notice of information practices upon request.
- Inspect and copy your health record as provided for in 45 CFR 164.524.
- Amend your health record as provided in 45 CFR 164.528.
- Obtain an accounting of disclosures of your health information as provided in 45 CFR 164.528.



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- Request communications of your health information by alternative means or at alternative locations.
- Request a restriction on certain uses and disclosures of your information as provided by 45 CFR 164.522.
- Revoke your authorization to use or disclose health information except to the extent that action has already been taken.

The employee has the right to obtain this information in a reasonable time, place, and manner; within 15 working days. In addition, this information will be provided to the employee free of charge.

Whenever access is requested to analysis which reports the contents of employee medical records by either direct identifier (name, address, social security number, payroll number, etc.) or by information which could reasonably be used under the circumstances indirectly to identify specific employees (exact age, height, weight, race, sex, date of initial employment, job title, etc) personal identifiers must be removed before access is provided.

SUBPART D - MEDICAL TREATMENT FACILITY RESPONSIBILITIES

The medical facility is required to:

- Maintain the privacy of your health information.
- Provide you with a notice as to their legal duties and privacy practices with prospect to information they collect and maintain about you.
- Abide by the terms of their provided notice.
- Notify you if they are unable to agree to a requested restriction.
- Accommodate reasonable request you may have to communicate health information by alternative means or at alternative locations.

Medical providers reserve the right to change their practices and to make the new provisions effective for all protected health information they maintain. Should their information practices change, they are required to mail a revised notice to the address that you or Berry Bros. has supplied them with, or if you agree, they will e-mail the revised notice to you.

The Medical provider(s) will not use or disclose your health information without your authorization, except as described in their provided notice. They will also



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discontinue using or disclosing your health information after they have received a written revocation of the authorization according to the procedures included in the authorization.

SUBPART E - ACCESSING RECORDS

Employees may gain access to medical records by utilizing the following methods:

- The employer may give the employee a copy of the document
- The employer may provide facilities for the employee to copy the document
- The employer may loan the document to the employee in order to copy it elsewhere

In the event where the employer does not possess an employee's exposure records, the employee may access the exposure records of other employees that engage in similar activities, work in similar locations, or may have similar exposures. The examples below may include the following:

- Biological monitoring results.
- Monitoring of workplace air or measurements of toxic substance or harmful physical agents in the workplace.
- Material data safety sheets (MSDS) containing relevant information regarding a substance's affect on health.

Employee medical records that may be accessed by the employee include the following:

- Results of medical exams and laboratory tests.
- Medical and employment questionnaires/history.
- First Aid Records.
- Descriptions of treatment and prescriptions.
- Medical opinions, progress notes, diagnoses, and recommendations.
- Employee medical complaints.

Employees may also access any analyses of employee medical and exposure records that are relevant to the working conditions of the workplace. Identifiers may be removed from these records prior to employee access, such as name, social security number, address, and job title.



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SUBPART F - EMPLOYER RESPONSIBILITIES

Employers must do or provide the following:

- Maintain and preserve accurate medical and exposure records for each employee
- Give employees any information and materials regarding this standard
- Inform workers of the existence, location and availability of medical and exposure records
- Make records available to employees and OSHA representatives as required

It should be noted that employers are not required to submit the following records under this standard:

- Physical specimens, such as urine and blood samples
- Records concerning separate health insurance claims
- Privileged records created for litigation purposes
- Employee Assistance Program (EAP) or similar program records
- Trade secret information must meet the requirements of 29 CFR 1910.1020 (f) (8).

SUBPART G - RECORDS MAINTENANCE

Employers must maintain employee records according to the following standards:

- Employee Medical Records for the employee's employment duration of employment plus 30 years, except for:
 - Separate health insurance claims.
 - On-site first aid reports for minor injuries/illnesses.
 - Employees who have worked less than one year if records are offered upon termination of employment.
- Employee Exposure Records are maintained for the employee's employment duration plus 30 years.
- Analyses utilizing medical or exposure records are maintained for at least 30 years too.



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SUBPART H - TRANSFERRING OF RECORDS

Whenever an employer is ceasing to do business, the employer shall transfer all records subject to this section to the successor employer. Whenever an employer either is ceasing to do business and there is no successor employer to receive and maintain the records, or intends to dispose of any records required to be preserved for at least thirty (30) years, the employer shall transfer the records to the Director of the National Institute for Occupational Safety and Health (NIOSH) if so required by a specific occupational safety and health standard.

SUBPART I - TRAINING

Upon an employee's first entering into employment, and at least annually thereafter, each employer shall inform current employees of the existence, location, and availability of any records covered by this section; the person responsible for maintaining and providing access to records; and each employee's rights of access to these records.

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