



Fermilab
ES&H Section

July 2, 2004

TO: Jed Brown
FROM: Bill Griffing *Bill*
SUBJECT: New FESHM Chapter 5330 – Occupational Medicine – Information Practices

Enclosed you will find new FESHM Chapter 5330 – Occupational Medicine Information Practices. This chapter was written to describe Fermilab's program for managing its occupational medicine information.

After final approval, please return this approval page to Liz May at MS119 for posting on the web.

Encl.

Recommended for Approval:

Jed Brown

Jed Brown

7/2/2004

Date

Approved:

Mike Witherell

Mike Witherell

7/2/2004

Date

Database login _____
Sent for posting on web _____
Date posted _____
E-mail sent _____

Occupational Medicine – Information Practices

INTRODUCTION

The candid exchange of medical information between patients and their health care providers is critical to the effective management of health and the prevention of harm to others. Since many people have a natural desire for privacy, as well as a fear of embarrassment and discrimination, confidentiality is an essential ingredient in medical practice. This chapter describes Fermilab's program for managing its occupational medicine information.

DEFINITIONS

Health Insurance Portability and Accountability Act of 1996 (HIPAA). A law that helps to assure health insurance coverage after leaving a job, standardizes electronic transactions to help control health care costs, and imposes strict controls on how electronic data must be managed.

Individually identifiable medical information – Information that meets all three of the following criteria:

- Created by or received from a health care provider, health plan, employer, or health care clearinghouse,
- Relates to the health status, the provision of health care, or the payment for health care, and
- Identifies the individual or there is a reasonable basis to believe that the information can be used to identify the individual.

SPECIAL RESPONSIBILITIES

Site Occupational Medicine Director – This individual has the primary responsibility for assuring implementation of this chapter.

Computing Division – This organization has primary responsibility for providing technical expertise in the design, operation and maintenance of secure electronic data management system(s) for Fermilab's occupational medicine records.

PROGRAM

1. Privacy of individually identifiable medical information is of paramount concern to Fermilab. Individual medical records are generally not released, except upon the express written permission of the individual, as required by law, or by legal order from Courts of competent jurisdiction.
2. Fermilab's Medical Department (FMD) adheres to the medical confidentiality requirements established by the American College of Occupational and Environmental Medicine (ACOEM) in their *Code of Ethical Conduct*. In particular, communications with managers may include issues that relate to job limitations, work restrictions, absences, fitness for duty, disability or other general information; but will not include personal medical information.
3. HIPAA does not apply to the activities conducted by the FMD. Further, this exclusion extends to workers' compensation. In general, HIPAA does not apply to information created or received by Fermilab in its capacity as an employer. In particular, the FMD is exempt from the requirements of HIPAA because it does not transmit data electronically in a "standard transaction," does not submit claims for payment, does not seek authorization from an insurer for the performance of services, and does not engage in other activities that would be regarded by HIPAA as "covered transactions." The exemption from HIPAA also applies to implementation of the Family Medical Leave Act (FMLA) and the American with Disabilities Act (ADA), as well as programs for drug testing, workplace surveillance and fitness for duty.

PROCEDURES

The FMD adheres to the following practices for individually identifiable medical information.

1. Notice

The FMD collects individually identifiable medical information through a variety of mechanisms including worker-completed forms (paper and electronic), interviews, examinations, tests, investigations, and reports. These data are used to help identify and manage health problems, as well as to comply with occupational monitoring requirements.

Members of the FMD who have signed a confidentiality agreement are granted unlimited access to these medical records. The confidentiality agreement states that signers are subject to discipline, up to and including termination, should they reveal individually identifiable medical information beyond that described in this notice.

The workers' compensation law in Illinois allows for the transfer of individually identifiable medical information without the prior approval of the injured person. Because of this, members of the FMD share workers' compensation records with organizations and persons involved in the associated processes (medical providers, insurers, lawyers). This includes information pertaining to workers' compensation cases, as well as information associated with potentially-related prior injuries and pre-existing medical conditions.

The site occupational medicine director is authorized to grant limited access of individually identifiable medical information to ES&H personnel and other management representatives, as needed, to maintain compliance with occupational monitoring requirements (e.g., occupational injuries, hearing tests) and to support the investigation of work-related incidents (e.g., identify work-related contributing factors, assess corrective actions in ergonomic injuries). In such circumstances, access is restricted to that necessary to address assigned responsibilities.

Members of the FMD are authorized to communicate the following kinds of functional information to managers: job limitations, work restrictions, absences, fitness for duty, and disabilities. However, information regarding the medical bases for these functional factors is not revealed.

Members of the FMD are authorized to communicate individually identifiable medical information to organizations and persons, as necessary, to implement FMLA and ADA, as well as to manage programs for drug testing and fitness for duty. However, due to HIPAA, prior approval from the worker is typically required to obtain FMLA- and ADA-related information from offsite health care providers.

Members of the FMD will release individually identifiable medical information as required by law or as specified in court orders or subpoenas.

The site occupational medicine director is authorized to share congregate and summary medical information that cannot be individually identifiable. This information is used to identify trends to focus health promotion programs and to address incipient health and safety problems.

2. Choice

Copies of individually identifiable medical records are not released to any other organizations or persons without the prior written consent of the worker. The FMD has a form that can be used for this purpose.

3. Access

Employees may review their medical records that are maintained by the FMD and have the opportunity to add notations regarding perceived inaccuracies. Please contact the FMD by phone (X3232) or e-mail (medical@fnal.gov) to set up an appointment for this purpose.

4. Security

The FMD protects individually identifiable medical information from unauthorized use in the following ways:

- a. Paper records – Records for active employees are kept within the FMD. They are protected by locked physical barrier(s) when not in use and are monitored by FMD employees during periods of use. Reasonable care is exercised during use to prevent inadvertent and/or unauthorized viewing. Records for inactive employees are stored in a secure offsite location in accordance with DOE requirements. [See also Fermilab's records management program and the FMD's records inventory and disposition schedule.]
- b. Electronic records – Records are maintained on a server located within the FMD. When the office is closed for operations, this computer is kept behind locked physical barrier(s). At other times, its status is monitored by FMD employees. A small number of client computers can connect with the server and these are all kept behind locked physical barrier(s) when not in use by authorized personnel. Electronic access to the records is controlled through multiple independent techniques that involve both physical and digital barriers. Electronic records are backed up to tape using standard Fermilab rotation cycles. Back up tapes are stored behind locked physical barrier(s) at a location that is separate from both the FMD and the Lab's general back up media storage location(s).