

**Workers' Compensation Board of Nova Scotia**

**Issues Clarification Paper:**

**Employer Access to Injured Worker Claim File Information**

**March 23, 2007**

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## INTRODUCTION

In general, on an annual basis, the *Workers' Compensation Board* (WCB) adjudicates approximately 34,000 claims. Of these 34,000 claims, approximately 25,000 result in no time-loss from work and only 2% are appealed. The remaining 9,000 workers with time loss claims receive short-term benefits and of these approximately 1,300 go on to receive long-term benefits (including Permanent Impairment Benefits and/or Extended Earnings Replacement Benefits).

To adjudicate this large volume of claims, the WCB relies on the framework provided by the *Workers' Compensation Act* (the *Act*) for determining coverage and entitlement to benefits. While the *Act* provides broad direction, the WCB Board of Directors may also approve policies to provide more detailed adjudicative criteria to guide decision-making. To access copies of the *Act* and WCB policies, go to [www.wcb.ns.ca](http://www.wcb.ns.ca) under Policy & Legislation.

At various points in the policy development process, the Board of Directors consults with stakeholders to seek their input on a particular policy issue. The Board of Directors has determined that Employer Access to Claim File Information is a major policy issue and as such the WCB will use a two-staged policy consultation approach. The first stage will provide stakeholders with an opportunity to identify issues related to this subject. The second stage will provide stakeholders with an opportunity to comment on draft revisions to the WCB's policy on claim file release. For details on the WCB's policy consultation strategy, go to [www.wcb.ns.ca](http://www.wcb.ns.ca) under Policy & Legislation.

This issues identification paper is the beginning of the policy consultation process. It is intended to help readers understand the current legal and policy environment related to employer access to claim file information. This will help the WCB clarify areas of concern, understand the scope of the issue, and ensure all issues are considered. The WCB requires a comprehensive understanding of both employer and worker concerns around information access and privacy in order to develop responsive and appropriate solutions. We encourage all Nova Scotians to provide comments. You are encouraged to consider the material in this paper and provide your comments in writing by May 11, 2007 to:

Nancy Stacey  
Policy Analyst  
Workers' Compensation Board of Nova Scotia  
PO Box 1150  
Halifax NS B3J 2Y2  
E-mail: [nancy.stacey@wcb.gov.ns.ca](mailto:nancy.stacey@wcb.gov.ns.ca)

The comments we hear from Nova Scotians will be considered as we further analyze the issue of employer access to claim file information.

## 1. BACKGROUND

The WCB collects information from both workers and employers to carry out its legislated responsibilities related to claims adjudication and safe and timely return to work. The WCB recognizes the importance of protecting the information it maintains and ensuring that it is used and released in accordance with the applicable legislation. In determining the type and level of information to be released to employers, the WCB must strike a balance between the worker's right to privacy and employer's need for information.

Injured workers have the right to request a copy of their claim file at any time. In 2006 the WCB received approximately 2000 requests (3100 files) from workers for copies of their claim files. Employer access to claim file information depends on whether an employer is requesting information 1) outside the appeal process or 2) during an appeal:

1) Outside the appeal process, the WCB may grant employers access to claim file information where it supports claims adjudication and safe and timely return to work. This information may include:

- claim status
- functional abilities of their workers (ie. details on the worker's injury, treatment plans, limitations)
- estimated time of return-to-work (may include any limits on the number of hours the worker can work, and types of work they may perform)
- key decisions in the claims adjudication process through copies of decisions and correspondence (from initial claim acceptance to benefits decisions)

See Section 4 for more details on current information release practices at the WCB.

The WCB currently does not have a policy that deals specifically with the release of claim file information to employers outside the appeal process.

2) Under Section 193 of the *Act* and Policy 10.3.5 : Access by Employers to Information Contained in Clients' Claim Files an employer may request a copy of any document that is relevant to an appeal once an appealable decision has been made by the WCB. In 2006 the WCB received 62 requests from employers for copies of claim file information.

Without involving the WCB, an employer may choose to seek access to an injured worker's medical information related to a workplace injury by obtaining the worker's consent. The WCB would not be involved in the release of information if the employer takes this approach. The scope of the authorization

of the release of medical information would be dependent on the nature of the consent provided by the worker. For example, an injured worker could consent in writing to their physician sending a copy of medical reports related to the workplace injury to the employer or employer's company physician in order to manage safe and timely return-to-work. The conditions placed on the release would be negotiated between the employer, the worker, and the worker's physician.

## **Why is the WCB reviewing this policy issue?**

On November 29<sup>th</sup>, 2006 the WCB Board of Directors hosted a consultation session to provide stakeholders with an opportunity to share their issues, concerns and feedback on policy priorities. During this session employers indicated that access to claim file information was one of their highest priorities. As a result, the Board of Directors agreed to review this issue as part of the 2007 Policy Agenda. Outlined below are some of the issues identified to date.

## **2. THE ISSUES**

### **1. Some employers feel they need access to relevant claim file information outside the appeal system to support return to work**

At the November 29, 2006 Stakeholder Consultation Session some employers indicated they are not getting the claim file information they need to effectively participate and support workers in their safe and timely return to work. They believe that access to this type of information will also help them plan for a worker's return and any special workplace accommodations that may be required to support successful return to work.

### **2. Some employers believe they require more information than they are currently receiving in order to understand why/how the WCB arrived at its decision to accept a claim for compensation**

Some employers do not believe they are able to access an appropriate level of information during the life of the claim to determine whether or not they should object to the acceptance of a claim or appeal a benefit entitlement decision. For example, some employers want better access to information that was gathered and/or used by the WCB to establish whether or not an injury is work related, or is a re-occurrence of a previous workplace injury. Some employers indicated that this information gap forces them to appeal a decision to obtain more information – therefore creating an adversarial relationship between injured workers and employers.

### **3. Some employers believe providing them more access to claim file information will add balance to the claims adjudication and return-to-work process**

Some employers believe that increased access to claim file information will allow them to more fully participate in claims adjudication and safe and timely return to work. Employers feel increasing the amount of information available will allow them to provide more input into decision making, resulting in better decision making and improved return-to-work results.

#### **4. Injured workers feel the current policy on employer access to claim file information is adequate**

At the November 29, 2006 Stakeholder Consultation Session some injured workers' representatives acknowledged the need for clarity regarding the types of information available to employers. At the January 10<sup>th</sup>, 2007 Stakeholder Consultation Session the Injured Worker Associations indicated this was a low priority policy issue and that the current policy is sufficient.

#### **5. The WCB must comply with the Nova Scotia Freedom of Information and Protection of Privacy Act (FOIPOP) and the Act when releasing personally identifying information (ie. injured worker claim file information)**

The WCB has a duty to ensure that any claim file information it releases to a third party is done so in accordance with FOIPOP and the Act. The WCB recognizes that employers have legitimate information needs and injured workers have a right to the protection of their personal information. In reviewing this issue a balance must be struck between relevant access and the right to privacy of claim file information.

### **3. LEGISLATION AND POLICY IN NOVA SCOTIA**

Section 192 of the Act directs that FOIPOP applies as the legal framework for the protection, disclosure, and access to information collected and held by the WCB. FOIPOP provides for the release of otherwise confidential/personal information where the release meets the criteria in FOIPOP or where another act – like the *Ombudsmen's Act* – specifically authorizes the information release. Sections 192 and 193 of the Act specify the requirements for the release of personal information held by the WCB to third parties – including employers.

#### *FOIPOP*

The purpose of FOIPOP is to:

- Hold public bodies accountable for the information they collect and use; and
- Protect the privacy of individuals with respect to personal information about themselves held by public bodies and to provide individuals with a right of access to that information.

Public bodies like the WCB must ensure a number of criteria are met before personal information can be released to a third party. The following questions must be considered by the WCB in determining whether or not information is releasable:

- Has consent been provided? FOIPOP permits the release of worker claim file information if the injured worker's written consent is obtained.
- Would the disclosure be an unreasonable invasion of the worker's personal privacy?
- Does the legislation allow the release? Personal information can be released where another act specifically addresses the release.
- Are there exemptions to the release of personal information that apply? Public bodies can release personal information if the release has a reasonable and direct connection to the purpose for which it was collected and the release is necessary to operate a program.

### *Workers Compensation Act*

As noted above, FOIPOP establishes the broad access and privacy framework for public bodies in Nova Scotia. The provisions in Sections 192 and 193 of the *Act* deal specifically with the release of personal information held by the WCB. Section 192 directs that WCB staff can only release personal information in accordance with FOIPOP unless the exemptions specified in (e) (f) or (g) apply. Section 192 states:

**192 No person who is**

**(a) a member of the Board of Directors;**

**(b) an officer or employee of the Board;**

**(c) a member or employee of the Appeals Tribunal; or**

**(d) a member of a Medical Review Commission panel,**

**shall release any information obtained by virtue of the person's office or employment except in accordance with the *Freedom of Information and Protection of Privacy Act*, unless the information is released**

**(e) in the performance of the person's office or employment;**

**(f) with the approval of the Board of Directors or the Chief Appeal Commissioner; or**

**(g) pursuant to this Part. 1994-95, c. 10, s. 192.**

The WCB is a public body. Therefore, as a public body, it must comply with FOIPOP requirements for the release of personal information. Additionally, as noted above in Section 192, the *Act* specifically states that WCB employees must not release information except in accordance with FOIPOP. Sections 192(e),(f), and (g) provide limited exceptions to the requirement to release information only in accordance with FOIPOP. It would not be a logical interpretation of Section 192(e),(f) and (g), given the WCB's status as a public body and the explicit adoption of FOIPOP in the *Act*, as providing WCB staff broad latitude to release claim file information at will. In addition, such a broad interpretation is inconsistent with Section 167 of the *Act* that protects WCB staff from being sued for mistakes or omissions made in the good faith performance of their duties. Therefore Section 192 (e)(f) and (g) are interpreted as permitting the release of information under the following circumstances:

- The Act already permits the release of information. Examples include during appeals (Section 193), as part of an information sharing agreement, such as agreements the WCB has entered into with the Canada Revenue Agency (Section 194) or the sharing of information with the Occupational Health and Safety Division of the NS Department of Environment and Labour (S. 165).
- The release of the information is in accordance with WCB/Board of Director corporately approved rules, policies, procedures, or agreements. Examples may include the WCB's agreement with Corporate Research Associates to carry out worker and employer surveying for the WCB.

Section 193 provides the WCB the authority to release a worker's claim file information to them at any time. It also allows the WCB to release relevant claim file information to employers who are participants in an appeal - subject to any procedure adopted by the WCB. There are no specific sections in the *Act* that address the release of claim file information during claims adjudication or safe and timely return-to-work processes. Section 193 states:

**193 (1) Any worker may receive a copy of any document or record in the Board's possession respecting the claim of the worker .....**

**(3) An employer, who is a participant in**

**(a) *repealed 1999, c. 1, s. 23.***

**(b) an appeal to a hearing officer,**



**may, subject to any procedure that may be adopted by the Board, receive a copy of any document or record in the Board's possession that the Board considers relevant to the appeal.**

In order to add clarity to Section 193 of the *Act*, the WCB has implemented Policy 10.3.5 : Access by Employers to Information Contained in Clients' Claim Files. Policy 10.3.5 outlines the process that employers must follow when requesting copies of claim file information. The key points in the policy are:

- Employers may request access, in writing, to a claim file after an appealable decision has been made.
- Employers must provide a reason for requesting access.
- Workers will be advised when information is released to the employer.
- Only information relevant to the appealable decision may be released to the employer by the WCB.

There is no charge to workers for the first copy of their claim file. The WCB may charge employer's for a copy of an injured workers claim file. However, current practice (for approximately the last 1.5 years) has been to not charge employers for the first copy of a file. Updates to a claim file are copied and sent to the worker or employer free of charge. A \$25.00 fee may be charged to workers and employers for additional copies of the same claim file depending on the length of time that has passed since the first request.

Once a request for a copy of claim file information has been received by the WCB, the file is moved to the Internal Appeals Unit. Staff of the unit review the file to remove any information that is not relevant to the decision under appeal. The file is then copied and sent to the employer.

Employers are notified if their worker appeals a decision of the WCB and are advised that they may make submissions.

The federal *Personal Information Protection and Electronic Documents Act* (PIPEDA) does not apply to the WCB but it does apply to WCB service providers like physiotherapists. As part of the WCB's safe and timely return-to-work process, physiotherapists are able to provide copies of functional abilities information about injured workers directly to employers. They can do this because they obtain the written consent of the injured worker before they send it to the worker's employer.

#### *Implications for Employers*

In practical terms, the legislation and WCB policy permit the WCB to release to employers claim file information that:

- is relevant to an appealable decision made by the WCB; and/or

- has a direct connection to and is necessary to facilitate claims adjudication or safe and timely return-to-work.

Section 4 provides more detail on the type of information that is provided to employers.

#### **4. CURRENT PRACTICE: CLAIM INFORMATION RELEASE AT THE WCB**

An injured worker’s claim file contains records, documents, and reports relating to a work-related injury. Most of the information collected about a worker in relation to a WCB claim for compensation is “personal information” according to FOIPOP. Files contain various types of information including: correspondence, decisions, and medical reports – such as the results of examinations and tests by physicians, psychiatrists, and other health professionals.

As discussed earlier in this paper the WCB is able to release claim file information to employers 1) that is necessary for the delivery of a program and 2) upon request once an appealable decision has been made.

1) From a day-to-day perspective – outside the appeal process - this means employers are provided or may request the following types of information:

- Decisions (including decisions on initial claim acceptance, benefits, permanent impairment decisions). These may be in one of two forms:
  - WCB standard letters that are automatically generated by the claims database; or
  - “Reasoned Decisions” that include a claim summary with a description of the injury, general diagnosis information, and factors for and against the decision.
- Copies of functional abilities information from physiotherapists. This information is provided in different forms and includes:
  - detail regarding the worker’s injury,
  - findings of the musculoskeletal examination,
  - physiotherapist’s diagnosis,
  - where treatment is appropriate, the treatment plan and goals, and
  - worker’s functional abilities to allow identification of suitable transitional work .
- Return–to-work plans which include:
  - return dates,
  - limits on the number of hours the worker can work, and
  - types of work they may perform.

Information related to claims adjudication or safe and timely return-to-work may also be provided through verbal updates from WCB staff at case meetings. Case meetings are attended by the WCB case worker, injured worker, and employer. Healthcare providers may also attend. The injured worker's progress and any return –to-work barriers may be discussed.

2) As discussed earlier, employers may also request a copy of the claim file after an appealable decision has been made. During this stage, the WCB will release any information in the claim file that is relevant to the appealable decision. Information is considered relevant if it is directly related to the decision under appeal.

The WCB may release medical information directly to an employer's company physician with the worker's consent. The WCB requires the company physician and the employer to confirm in writing that the information will only be used for worker's compensation purposes, that it will not be released to any third party, and that the employer and the physician will comply with the requirements of FOIPOP.

## **5. JURISDICTIONAL INFORMATION**

All Canadian WCBs are subject to provincial privacy and access legislation (similar to FOIPOP) and all have provisions in their own legislation that address the release of information. The jurisdictions must consider two pieces of legislation – their own *Act* and privacy legislation - when considering release and access to claim file information. All WCBs, with the exception of the Yukon, have a section in their legislation similar to Nova Scotia's Section 192 that limits the release of information by WCB staff unless it is in the performance of their duties.

### **What are the key differences in the legislation of other jurisdictions?**

Three jurisdictions (Alberta, NWT/Nunavut, and the Yukon) have specific sections in their Acts that entitle the employer to a progress report on the worker. The Acts of several jurisdictions (Alberta, British Columbia, New Brunswick, Newfoundland, Ontario and the Yukon) state the employer is entitled to copies of decisions.

### **Which jurisdictions have policies addressing the release of information outside the appeal process?**

All jurisdictions, with the exception of Nova Scotia, PEI, and Saskatchewan, have policies that address the release of claim file information to employers outside the appeal process. These policies range from highly detailed policies (like Ontario) that include criteria for the release of claim file information under specific

circumstances – to those that are more general (like BC) that indicate information will be released on a “need to know” basis.

### **How do other jurisdictions deal with the release of medical information?**

Most jurisdictions, with the exception of New Brunswick and NWT/Nunavut, do not typically release medical reports outside of the appeal process. New Brunswick and NWT/Nunavut may release medical reports – but any personal information that is not relevant to the claim is removed. During the appeal process all jurisdictions, except PEI, will release medical reports that are relevant to the appeal. During the appeal process Alberta and BC tend to provide employers the same access to the claim file as is provided to workers.

### **Can workers appeal the release of information?**

In Saskatchewan, the Yukon, and NWT/Nunavut injured workers may appeal the release of claim file information both during the claims adjudication/return-to-work stage and the appeal process. In Ontario and Manitoba injured workers have the right to appeal the release of information during the appeal process only. In these jurisdictions claim file information is not released to the employer until after the appeal period has ended or the WCB has considered the appeal and made a decision on the release. Nova Scotia does not have specific appeal provisions related to the release of claim file information. Injured workers are notified when information has been released to the employer.

## 6. PROVIDING YOUR COMMENTS

We are interested to hear your comments on the information presented in this paper. In preparing your submission, we encourage you to consider the following questions:

- **Are there any additional issues you would like to see addressed as the WCB considers the policy issue of employer access to claim file information?**
- **What do you consider to be “relevant” claim file information?**
- **Are there any specific points during the claims management process where relevant information is not currently being provided?**

Please provide your comments in writing by May 11, 2007 to:

Nancy Stacey  
Policy Analyst  
Workers' Compensation Board of Nova Scotia  
PO Box 1150  
Halifax NS B3J 2Y2  
Phone: (902) 491-8346  
E-mail: [nancy.stacey@wcb.gov.ns.ca](mailto:nancy.stacey@wcb.gov.ns.ca)

## **Appendix A – Relevant Sections of the *Freedom of Information and Protection of Privacy Act of Nova Scotia***

### **Interpretation**

3 (i) "personal information" means recorded information about an identifiable individual, including

- (i) the individual's name, address or telephone number,
- (ii) the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations,
- (iii) the individual's age, sex, sexual orientation, marital status or family status,
- (iv) an identifying number, symbol or other particular assigned to the individual,
- (v) the individual's fingerprints, blood type or inheritable characteristics,
- (vi) information about the individual's health-care history, including a physical or mental disability,
- (vii) information about the individual's educational, financial, criminal or employment history,
- (viii) anyone else's opinions about the individual, and
- (ix) the individual's personal views or opinions, except if they are about someone else;

### **Right of access**

5 (1) A person has a right of access to any record in the custody or under the control of a public body upon complying with Section 6.

(2) The right of access to a record does not extend to information exempted from disclosure pursuant to this Act, but if that information can reasonably be severed from the record an applicant has the right of access to the remainder of the record.

## **Personal information**

20 (1) The head of a public body shall refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) In determining pursuant to subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body shall consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Nova Scotia or a public body to public scrutiny;

(b) the disclosure is likely to promote public health and safety or to promote the protection of the environment;

(c) the personal information is relevant to a fair determination of the applicant's rights;

(d) the disclosure will assist in researching the claims, disputes or grievances of aboriginal people;

(e) the third party will be exposed unfairly to financial or other harm;

(f) the personal information has been supplied in confidence;

(g) the personal information is likely to be inaccurate or unreliable; and

(h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant.

(3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if

(a) the personal information relates to a medical, dental, psychiatric, psychological or other health-care history, diagnosis, condition, treatment or evaluation;

(b) the personal information was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

(c) the personal information relates to eligibility for income assistance or social-service benefits or to the determination of benefit levels;

- (d) the personal information relates to employment or educational history;
  - (e) the personal information was obtained on a tax return or gathered for the purpose of collecting a tax;
  - (f) the personal information describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
  - (g) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;
  - (h) the personal information indicates the third party's racial or ethnic origin, sexual orientation or religious or political beliefs or associations; or
  - (i) the personal information consists of the third party's name together with the third party's address or telephone number and is to be used for mailing lists or solicitations by telephone or other means.
- (4) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if
- (a) the third party has, in writing, consented to or requested the disclosure;
  - (b) there are compelling circumstances affecting anyone's health or safety;
  - (c) an enactment authorizes the disclosure;
  - (d) the disclosure is for a research or statistical purpose and is in accordance with Section 29 or 30;
  - (e) the information is about the third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff;
  - (f) the disclosure reveals financial and other similar details of a contract to supply goods or services to a public body;
  - (g) the information is about expenses incurred by the third party while travelling at the expense of a public body;
  - (h) the disclosure reveals details of a licence, permit or other similar discretionary benefit granted to the third party by a public body, not including personal information supplied in support of the request for the benefit; or



(i) the disclosure reveals details of a discretionary benefit of a financial nature granted to the third party by a public body, not including personal information that is supplied in support of the request for the benefit or is referred to in clause (c) of subsection (3).

(5) On refusing, pursuant to this Section, to disclose personal information supplied in confidence about an applicant, the head of the public body shall give the applicant a summary of the information unless the summary cannot be prepared without disclosing the identity of a third party who supplied the personal information.

(6) The head of the public body may allow the third party to prepare the summary of personal information pursuant to subsection (5). *1993, c. 5, s. 20.*

### **Confidential information**

21 (1) The head of a public body shall refuse to disclose to an applicant information

(a) that would reveal

(i) trade secrets of a third party, or

(ii) commercial, financial, labour relations, scientific or technical information of a third party;

(b) that is supplied, implicitly or explicitly, in confidence; and

(c) the disclosure of which could reasonably be expected to

(i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party,

(ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,

(iii) result in undue financial loss or gain to any person or organization, or

(iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour-relations dispute.

(2) The head of a public body shall refuse to disclose to an applicant information that was obtained on a tax return or gathered for the purpose of determining tax liability or collecting a tax.

(3) The head of a public body shall disclose to an applicant a report prepared in the course of routine inspections by an agency that is authorized to enforce compliance with an enactment.

(4) Subsections (1) and (2) do not apply if the third party consents to the disclosure. *1993, c. 5, s. 21 .*

### **Use of personal information**

26 A public body may use personal information only

(a) for the purpose for which that information was obtained or compiled, or for a use compatible with that purpose;

(b) if the individual the information is about has identified the information and has consented, in the prescribed manner, to the use; or

(c) for a purpose for which that information may be disclosed to that public body pursuant to Sections 27 to 30. *1993, c. 5, s. 26 .*

### **Disclosure of personal information**

27 A public body may disclose personal information only

(a) in accordance with this Act or as provided pursuant to any other enactment;

(b) if the individual the information is about has identified the information and consented in writing to its disclosure;

(c) for the purpose for which it was obtained or compiled, or a use compatible with that purpose;

(d) for the purpose of complying with an enactment or with a treaty, arrangement or agreement made pursuant to an enactment;

(e) for the purpose of complying with a subpoena, warrant, summons or order issued or made by a court, person or body with jurisdiction to compel the production of information;

(f) to an officer or employee of a public body or to a minister, if the information is necessary for the performance of the duties of, or for the protection of the health or safety of, the officer, employee or minister;

(g) to a public body to meet the necessary requirements of government operation;

(h) for the purpose of

(i) collecting a debt or fine owing by an individual to Her Majesty in right of the Province or to a public body, or

(ii) making a payment owing by Her Majesty in right of the Province or by a public body to an individual;

(i) to the Auditor General or any other prescribed person or body for audit purposes;

(j) to a member of the House of Assembly who has been requested by the individual, whom the information is about, to assist in resolving a problem;

(k) to a representative of the bargaining agent who has been authorized in writing by the employee, whom the information is about, to make an inquiry;

(l) to the Public Archives of Nova Scotia, or the archives of a public body, for archival purposes;

(m) to a public body or a law-enforcement agency in Canada to assist in an investigation

(i) undertaken with a view to a law-enforcement proceeding, or

(ii) from which a law-enforcement proceeding is likely to result;

(n) if the public body is a law-enforcement agency and the information is disclosed

(i) to another law-enforcement agency in Canada, or

(ii) to a law-enforcement agency in a foreign country under an arrangement, written agreement, treaty or legislative authority;

(o) if the head of the public body determines that compelling circumstances exist that affect anyone's health or safety;

(p) so that the next of kin or a friend of an injured, ill or deceased individual may be contacted; or

(q) in accordance with Section 29 or 30. 1993, c. 5, s. 27.

### **Use compatible for purpose information obtained**

28 A use of personal information is a use compatible with the purpose for which the information was obtained within the meaning of Section 26 or 27 if the use

(a) has a reasonable and direct connection to that purpose; and

(b) is necessary for performing the statutory duties of, or for operating a legally authorized program of, the public body that uses the information or to which the information is disclosed. *1993, c. 5, s. 28 .*

## **Appendix B – Policy 10.3.5 Access by Employers to Information Contained in Clients' Claim Files**

Effective Date: February 1, 1996

Date Issued: December 1, 1995

Date Approved by Board of Directors: October 4, 1995

Topic: Access by Employers to Information Contained in Clients' Claim Files

Section: General Policies

Subsection: Administration

### **Policy Statement**

1. A worker's employer is entitled to request access to information in the worker's claim file after an appealable has been made.
2. Only the information in the worker's claim file which is relevant to the appealable decision may be released to the worker's employer. Board staff will have the responsibility of reviewing claim files to determine which information is relevant.
3. Information from a claim file will only be released if the employer submits a written request for access to such information and states a reason for requesting access. The reason should make reference to concerns with material either contained in or which the employer has reason to believe was omitted from, the appealable decision.
4. The worker will be advised whenever information is being released to the employer.
5. The employer will be charged a fee related to the cost of staff salaries for reviewing files.

### **Guidelines**

1. A worker who has received a decision on a claim from the Board is entitled, upon written request, to receive a copy of all the information in his/her file.
2. A worker's employer has the right to participate after an appealable decision has been made. The employer can:
  - a) file an internal appeal of the decision; and/or

b) submit written arguments and/or oral evidence regarding an appeal launched either by itself (the employer) or the worker.

3. The Board, in developing its policy on access by employers to claim file information, has sought to strike an equitable balance between (a) protecting workers' privacy; and (b) providing employers with access to the information the Board used in making its decision(s) regarding claims.

In so doing, the Board has tried to make its appeal processes fair to all concerned.

### **Application**

This Policy applies to all decisions made on or after February 1, 1996.

### **References**

Workers' Compensation Act (Chapter 10, Acts of 1994 - 95), Section [193](#).