



AUHR 1.06 EMPLOYEE MEDICAL FILES

Policy

It is the policy of the Auditor's Office to treat all medical information about employees as confidential in accordance with all applicable laws and regulations.

All Auditor's Office employees are obligated and responsible for protecting the confidentiality of medical records, medical conditions, and the privacy of employees. No employee shall disclose medical records or private health information to another employee or individual, except as specified under these administrative rules. Failure to comply with these rules shall be subject to discipline, up to and including discharge from employment.

Types of Medical Records

The Auditor's Office maintains the following medical records concerning its employees:

- **Employment Medical Records:** Medical records relating to an employee's ability to perform employment for the Auditor's Office of the health of a spouse, domestic partner, or dependent.

Other records maintained by Risk Management or the Bureau of Human Resources may include:

1. **Tort Medical Records** Medical records relating to an employee's litigation against the City, OSHA, Compliance, and Long-Term Disability.
2. **Workers' Compensation Medical Records:** Medical records relating to an employee's Workers' Compensation or disability claim.
3. **Employee Benefit Medical Record:** Medical information relating to an employee's participation in a City Sponsored Benefit Plan.
4. **Hazard Exposure Records:** Medial records related to a city employee's exposure to hazardous conditions, such as chemicals, toxic substances, bloodborne pathogens, biological agents, bacteria, virus, fungus, radiation, noise, dust, heat, cold, vibration, repetitive motion, or other dangerous work-related conditions.

Employment Medical Records Files and Storage

Employment Medical Records shall be filed and stored as follows:

1. All medical information and related information that describes the health, medical history, or condition of an employee or an employee's family member must be handled as confidential medical information.
2. It must be stored in a secure file physically separate from the personnel file.
3. Access to employee medical files is limited to designated staff in the Management Services division and the employee.

Access to Employee Medical Records

The City Auditor or a designee, the Division of Risk Management, and the City Attorney's Office may share information contained in Employee Medical Files with others as follows:

1. To assist supervisors and managers responsible for making decisions with respect to temporary or permanent accommodations related to medical condition(s);
2. Inform first aid and safety workers about a known condition that may require emergency treatment and about specific procedures that are needed if the workplace must be evacuated;
3. Grant access to government officials checking for ADA compliance reviews;
4. Grant access to a division manager or supervisor or designee, the City's Division of Risk Management and Office of the City Attorney as the situation requires.

Except for these reasons, medical information about employees should not be disclosed to anyone without an [City of Portland Authorization for Use or Disclosure of Health Information Form](#) or alternative form approved by the City Auditor in consultation with the City Attorneys' Office and signed by the employee.

What to Include in Employee Medical Record File

- Post-offer, pre-employment physical
- ADA Accommodation Requests and supporting medical documentation

- Fitness for duty exam
- Medical information related to sick, FMLA/OFLA or catastrophic leave management or medical layoff.
- Information from an employee's health care providers regarding the employee's medical condition, physical restrictions, or need for workplace modification.
- Employee requests for leave that identify the employee's illness or injury
- Emergency information forms that list the employee's medical condition(s), health care provider(s), and/or prescription medications; and
- Release/readiness to return to work after disability
- Information regarding the medical condition of an employee's family member.

NOTE: Any authorized workplace accommodation should be documented in an employee's personnel file but should not reference any medical information.

Employee Medical Records and the Health Insurance Portability and Accountability Act (HIPAA)

Federal Regulations explicitly exclude employment records from the HIPAA medical record requirements*.

Records that are exempt from the HIPAA requirements at the City of Portland include Worker's Compensation health records, FMLA/OFLA health information, ADA Accommodation Requests and supporting documentation, occupational injury, disability insurance eligibility, sick-leave requests, drug screenings, workplace medical surveillance, fitness-for-duty tests, injured worker return to work, medical layoff, & Catastrophic Leave.

*67 Fed. Reg. 53181, 53192 (August 14, 2002)

Tort Medical Files

The City investigates, gathers, and retains medical records of employees who are involved in OSHA investigations, have applied for Long-Term Disability, or have initiated a tort claim against the City.

1. **OSHA Matters:** 29 CFR 1910.1020 requires that these records be available to employees, their designated representatives and to OSHA investigators. These records are shared with the City Attorney if an OSHA matter is or is anticipated to be litigated.

2. **Long Term Disability Matters:** These records are shared with the City Attorney if a disability matter is or is anticipated to be litigated. They may also be provided to the employee or employee's representative with proper authorization as required by law.
3. **Tort Matters:** These records are shared with the City Attorney if a tort matter is anticipated to be litigated. They may also be provided to the employee or employee's representative with proper authorization as required by law.

Employee Benefit Files

See HRAR 1.06

Workers' Compensation Medical Records

See HRAR 1.06

Handling Medical Records Request

Records may not be released without authorization except as required by law. An employee must sign the [City of Portland Authorization For Use or Disclosure of Health Information Form](#). An alternative disclosure release form may be used for disclosure of employee records if that form has been approved by the City Attorney's Office

The form or alternative disclosure release signed by the employee shall be placed in the employee's appropriate file before medical records are released.

It is a violation of this policy to release information from employee medical records or to discuss or disseminate such information to individuals who have no legitimate need to know, who do not have proper authorization, or who are not entitled to the medical records by law.

Medical Records Request

All record requests shall be forwarded to Management Services for appropriate action and response. Employees receiving any subpoena or other request to appear, respond, answer questions, or provide information to an administrative agency or department, or other legal authority, must immediately notify and deliver the subpoena, document, or request to the City Attorney's Office. This is to protect the employee and the City and to ensure employee privacy and compliance with the law and this administrative rule.

Employee Drug & Alcohol Testing Results

See HRAR 1.06.

Electronic Communication and Employee Health Information

Discussions regarding specific health issues of employees shall be confidential and shall not be conducted over e-mail, except when deemed necessary by Risk Management and/or the City Attorney's Office for the City to effectively manage and administer claims and benefits, and when the communications are otherwise protected from disclosure. General information regarding employee absence because of a health issue is permissible via email to manage leave or benefit coverage.

Medical Record Retention

1. If an employee transfers to a bureau, their medical file (except Hazard Exposure Records) shall be forwarded in full to their new bureau.
2. Employee medical files are retained in accordance with state and federal record retention requirements. Once the applicable retention period has expired, the files will be disposed of in a confidential and secure manner.
3. Hazard Exposure Records are to be maintained for the entire retention period by the safety office of the bureau that employed the employee at the time the exposure occurred.

Human Resources Rule Information and History

Questions about this administrative rule may be directed to the [Management Services Division](#) of the Auditor's Office.

Adopted by the City Auditor December 11, 2017.

Adapted from City of Portland Human Resources Administrative Rule 1.06 Employee Medical Files.

Adopted by Chief Administrative Officer July 1, 2004.

Last revised April 17, 2009.