Disclosing health information about WorkCover patients
A guide for healthcare professionals

This fact sheet is designed to assist healthcare professionals understand the law regarding disclosure of health information to the Victorian WorkCover Authority (VWA) or its WorkCover Agents about a patient’s work related injury for the purposes of the assessment and management of the patient’s WorkCover claim under the Accident Compensation Act 1985 (the Act).

The Health Records Act and patient confidentiality

• The Health Records Act 2001 (Vic) (HRA) allows the VWA to collect health information from a healthcare professional about a patient’s work related injury in a number of circumstances.

• Under the HRA, healthcare professionals may disclose health information about a patient to the VWA or its Agents if they have the consent of the patient. A patient consents to such disclosure when they sign the ‘Authority to Release Medical Information’ on the ‘Worker’s Claim Form’.

• Under the HRA a healthcare professional may also disclose health information about a patient’s work related injury to the VWA or its Agents without their consent in a number of circumstances relevant to the assessment and management of the patient’s WorkCover claim, including where:

  a. the purpose of disclosing the health information is directly related to the primary purpose for which information was collected and the worker would reasonably expect the information to be disclosed for that purpose.

    Healthcare professionals collect health information about a patient for the primary purpose of treating and managing their injury. The key reasons for disclosing a patient’s health information to the VWA or its Agents are to:

    • provide relevant medical or treatment information about the patient’s work related injury
    • assist in the assessment and management of the patient’s WorkCover claim, and
    • facilitate the patient’s rehabilitation and return to work.

    The VWA considers these to be directly related to the primary purpose.

    It is the VWA’s view that a patient would objectively expect such a disclosure when they make a claim for compensation.
Disclosing health information about WorkCover patients

The disclosure of health information about a patient’s work related injury, to the VWA or its Agent, as part of the assessment and management of the patient’s WorkCover claim is necessary to achieve the objectives and functions of the Act, which include promoting the effective occupational rehabilitation of injured workers and their return to work while managing the compensation scheme effectively, efficiently and economically. As such, the VWA considers that the Act authorises or permits healthcare professionals to disclose this information.

Health practitioner concerns about disclosure

- It is considered lawful under the HRA for healthcare professionals to disclose health information about a patient’s work related injury to the VWA or its Agent with the consent granted in their claim form. Notwithstanding this, if a healthcare professional has concerns regarding a patient’s consent for them to discuss their claim with the VWA or its Agent, they are encouraged to obtain consent through their normal processes from the patient before discussing their claim.

Professional Code of Ethics and the law

- Healthcare professionals have a duty under their professional code of ethics to maintain the confidentiality of their professional–patient relationship. However, this duty is not absolute and there are some important exceptions, including where another law permits the disclosure, such as under the HRA.
- It is the VWA’s view that healthcare professionals are not in breach of the law if they provide health information about a patient to the VWA or its Agents as part of the assessment and management of the patient’s WorkCover claim in the circumstances outlined above.
- The VWA and its Agents seek only to collect health information about a patient that relates to the management of the patient’s work related injury.