

4167-10-02 Required disclosure of trade secrets and confidential information to health professionals.

(A) Definitions:

For purposes of this rule.

- (1) "Employer" means a public sector employer or any private sector employer who provides substances or chemicals claimed to be trade secret or confidential information to a public employer.
 - (2) "Health professional" means a treating physician or nurse, or a physician, toxicologist, or epidemiologist employed by or under contract with a public employer.
 - (3) "Written statement of need" means the request of a health professional for a specific chemical identity that describes, with reasonable detail, one or more of the following health needs for the information:
 - (a) To treat an individual that has been exposed to the chemical concerned, and knowledge of the specific chemical identity of the chemical is needed for diagnosis and treatment;
 - (b) To assess exposure of public employees to the hazard of the chemicals or substances concerned;
 - (c) To conduct or assess sampling to determine exposure levels of public employees exposed to the chemicals or substances concerned;
 - (d) To conduct periodic medical surveillance of public employees exposed to the chemical or substances concerned;
 - (e) To conduct studies to determine the health effects of exposure to the chemical or substances concerned;
 - (f) To conduct studies to aid in the identification of a chemical that may reasonably be anticipated to cause an observed health effect.
- (B) An employer may not withhold from the superintendent the specific chemical identity or other specific information needed to fulfill the purposes of the act.
- (C) The employer shall promptly provide the specific chemical identity of the substance or chemical to any health professional who submits to the employer a written statement of need for the specific chemical identity. The employer may require the confidentiality agreement specified in paragraph (E) of this rule as a precondition to providing the information.
- (D) The employer shall immediately provide a copy of the safety data sheet and provide the specific chemical identity of the substance or chemical, if known, to any health professional who requests that information if the health professional determines that all of the following conditions pertain to the request:
- (1) A medical emergency exists;
 - (2) The specific chemical identity of the chemical concerned is necessary for or will assist in emergency or first aid diagnosis or treatment; and
 - (3) The individual being diagnosed or treated has been exposed to the chemical concerned.
- (E) The employer shall not require any such health professional to provide a written confidentiality agreement or statement of need as a precondition for disclosure of a specific chemical identity under paragraph (D) of this

rule; however, the employer may require the health professional to provide a written statement of need and a written confidentiality agreement under paragraph (F) of this rule once circumstances permit.

- (F) Any health professional who obtains information under this rule shall enter into a written confidentiality agreement with the employer that the health professional will not use the information obtained for any purpose other than the safety and health needs asserted in the statement of need, except as otherwise may be authorized by the terms of the agreement.

Effective: 1/1/14