The Release of Information (ROI) in California is a series of 12 E-books that will help you navigate and understand the complex state and federal laws, as well as best practices related to managing and releasing protected health information. The ROI E-book series contains content that falls under HIPAA, federal regulations, and is specific to California state laws.
Release of Information in California: E-book Series is published by California Health Information Association (CHIA), an American Health Information Management Association (AHIMA) affiliate

Printed in the United States of America

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For more information, visit www.CaliforniaHIA.org
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Acknowledgements

The California Health Information Association (CHIA) Board of Directors extends its appreciation for the development of this E-book to:

Instructor

Michele D. Kirby, RHIA, CHPS, has over 25 years’ experience working in the field of health information management. Michelle became a Registered Health Information Technician (1994) and now is a Registered Health Information Administrator. Michele is also certified in health care privacy. Michelle is the Dignity Health North State’s Facility Privacy Official.

The CHIA Board of Directors also extends their appreciate to the CHIA Publications Committee who has secured and reviewed these e-books over the years, volunteering their time, effort and input as they reviewed drafts of the e-books as an editorial board. And special thanks to Gayle Old-Smith, RHIA, CHIA Copy Editor, who spent many hours diligently reviewing this e-book.
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Each ROI E-book includes an overview of the topic and extensive references. Self Assessment Quizzes are designed in multiple-choice and true/false format, and assess your understanding of the subject matter. A link to the Quiz is provided with each purchased E-book, and corrected answers will be displayed so you can receive automatic feedback.

Upon completion of the Self Assessment Quiz, a Certificate of Completion (CEU) will be made available to download and print. You will not be able to access the Certificate after exiting the Quiz, so be sure to download it immediately and retain as evidence of the earned continuing education.

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** CHIA recommends you read the Release of Information in California: Introduction E-book first. This E-book is offered at no charge and includes the “Glossary of Terms” that is used in all subsequent ROI E-books.

Additional CHIA Resources

To view sample pages or purchase these E-books, or to view more details about CHIA’s publications and Webinar Replays, visit [www.CaliforniaHIA.org/Resources](http://www.CaliforniaHIA.org/Resources)
Forward

The purpose of this E-book is to provide accurate and authoritative information on proper and adequate disclosure of health information. The California Health Information Association (CHIA) is not engaged in rendering legal services, and providing legal advice is beyond the scope and intent of the E-books.

Release of Information in California: Workers’ Compensation

Medical records play a very important part in lawsuits; health information staff and custodians of records need to understand what is required when medical records are sought as evidence. Medical records can play a part in a malpractice lawsuit, an injury lawsuit, or a variety of other types of lawsuits.

This E-book will provide the student with basic information about how court systems work and the important role for the medical record plays within the courts.

Student Learning Outcomes and Objectives

Upon completion of the Release of Information in California: Workers’ Compensation E-book, students will be able to understand what roles medical records play within the legal system and what legal processes should be followed. These are important issues and the health information staff and custodians of records must understand the legal requirements in order to comply with the various types of requests for medical records that may be received by a health care provider:

- Understand the role of medical record documents in a Workers’ Compensation case.
- Reference federal and state laws that pertain to workers’ compensation issues.
- Recognize the benefits to which an employee is entitled under workers’ compensation insurance and employer requirements.
- Understand release of patient information for a workers’ compensation claim.
- Understand how the Workers’ Compensation Appeals Board is structured and its function.
- Understand the components of a valid subpoena and how to comply in a workers’ compensation case.
Release of Information in California: Workers’ Compensation Subpoenas

Introduction

Each year in California, there is approximately three-quarters\(^1\) of a million work-related injuries and illnesses reported to the California Division of Labor Statistics and Research, Department of Industrial Relations.\(^2\) California workers’ compensation laws were designed to ensure that prompt and appropriate medical care is provided to workers who have suffered from a work-related injury or an illness. Payment for treatment and care of such injuries or illnesses is provided through workers’ compensation insurance without deductibles, co-payments, or premium payments by the injured or ill worker. In California employers are required to have workers’ compensation insurance for their employees.\(^3\)

The majority of workers’ compensation claims are resolved without any problems. However, at times there may be a disagreement between the claims adjuster and the worker regarding whether the injury or illness was sustained while working on the job or how much in benefits the worker is entitled to receive. Disputes may lead to litigation in order to resolve the issue(s) in question. This module will provide the student with basic information related to claims brought before the Workers’ Compensation Appeals Board and the role of Health Information Management staff in complying with requests for information for workers’ compensation cases.

History of workers’ compensation

Workers' compensation is the oldest social insurance program. It was adopted in most states, including California, during the 1910s. It is a “no fault” system, meaning that injured employees need not prove the injury was someone else's fault in order to receive workers' compensation benefits for an on-the-job injury.\(^4\)

Workers' compensation laws are designed to ensure that employees who are injured or disabled on the job are provided with fixed monetary awards, eliminating the need for litigation. These laws also provide benefits for dependents of those workers who are killed because of work-related accidents or illnesses. Some laws also protect employers and fellow workers by limiting the amount an injured employee can recover from an employer and by eliminating the liability of coworkers in most accidents.

The workers' compensation system is based on a trade-off system between employees and employers. Employees are supposed to receive the limited statutory workers' compensation benefits promptly for on-the-job injuries or illnesses, and in return, the limited workers'

\(^1\) California Division of Labor Statistics and Research, Department of Industrial Relations. *Occupations Injuries and Illnesses, 2001 Data.* 2003. Available at [www.dir.ca.gov/dlsr](http://www.dir.ca.gov/dlsr)

\(^2\) Commission on Health and Safety, Workers’ Compensation Medical Care in California: System Overview, August 2003.

\(^3\) Id.

\(^4\) [http://www.dir.ca.gov/DWC/Employer.htm](http://www.dir.ca.gov/DWC/Employer.htm) 10/27/11
compensation benefits are the exclusive remedy for injured or ill employees against their employer, even when the employer negligently caused the injury or illness.5

This no-fault structure was designed to--and in fact did--eliminate the then prevalent litigation over whether employers were negligent in causing workers' injuries. Litigation is now over other issues, such as whether the injury or illness was sustained on-the-job or how much an injured or ill worker is entitled to receive in benefits.

The role of the Workers’ Compensation Appeals Board is to exercise all judicial powers vested under the Labor Code. Despite the name, all workers’ compensation matters (not just appeals) are handled by the Workers’ Compensation Appeals Board. The Workers’ Compensation Appeals Board also functions to review petitions for reconsideration of decisions by workers’ compensation administrative law judges and regulation of the adjudication process.

Sources of law

To understand the role that medical record documents play in regard to workers’ compensation, it is important to understand some of the sources from which federal and state law come.

- 45 CFR 164.512(l) – A covered entity may disclose protected health information as authorized by and to the extent necessary to comply with laws relating to workers’ compensation or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.

- 29 CFR Parts 1904-1928 – The purpose of this rule is to require employers to record and report work-related fatalities, injuries, and illnesses. Recording or reporting a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that an Occupational Safety and Health Administration rule has been violated, or that the employee is eligible for workers' compensation or other benefits. The rest of the parts speak to the roles and responsibilities of the Occupational Safety and Health Administration.

- California Civil Code § 56.10(c)(8)-(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that:
  
  • Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding.
  
  • Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her

5 Ibid.
present employment, provided that no statement of medical cause is included in the information disclosed.


- California Labor Code §110-138.2 – The Workers’ Compensation Appeals Board exercises all judicial powers vested in it under the Labor Code and consists of seven members appointed by the Governor with the advice and consent of the [state] Senate. The term of office is six years. Five of the seven members must be attorneys admitted to practice in California. A chairman is designated by the Governor and the chairman may appoint a secretary. The professional staff of the Appeals Board consists of three deputies, one workers’ compensation judge, and 12 attorneys.

- California Labor Code §5400 – No claim to recover compensation under this division shall be maintained unless within thirty days after the occurrence of the injury, which is claimed to have caused the disability or death, there is served upon the employer notice in writing, signed by the person injured or someone in his behalf, or in case of the death of the person injured, by a dependent or someone in the dependent's behalf.

- California Labor Code §4906(G) – The employee, the insurer, the employer, and the attorneys for each party shall sign and file with the Board a statement, with the application or answer, under penalty of perjury that they have not violated Section 139.3 and that they have not offered, delivered, received, or accepted any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for any referred examination or evaluation.

When cases are presented before the Workers’ Compensation Appeals Board, the rulings are based on the laws that have been set forth from the sources mentioned above as well as other regulations.

**Workers’ compensation benefits**

**Employee injury**

When an employee is injured or develops an illness due to work, the employer is required by law to pay for workers’ compensation benefits. Workers’ compensation insurance provides six basic benefits which are:

- **Medical care** which is paid for by the employer to assist in recovery from an injury or illness caused by work;

- **Temporary disability benefits** which are payments if wages are lost because of an injury that prevents the employee from doing her or his usual job while recovering;
• **Permanent disability benefits** which are payments to an employee who does not recover completely;

• **Supplemental job displacement benefits** which provide vouchers to an employee to help pay for retraining or skill enhancement if the employee does not recover completely and does not return to work for the employer;

• **Vocational rehabilitation** which provides counseling and possibly retraining if the employee is unable to return to her or his old job and the employer does not offer other work;

• **Death benefits** which are provided to a spouse, children, or other dependents if an employee dies as the result of a job injury or illness.

The employee must notify his or her employer immediately upon injury or illness (See attached Exhibit A – claims process flow chart). The employer must file an Employer’s Report of Occupational Injury or Illness within five days of knowledge of an occupational injury or illness that results in lost time beyond the date of the incident or requires medical treatment beyond first aid (see attached Exhibit B). If an employee subsequently dies as a result of a previously reported injury or illness, the employer must file within five days of knowledge an amended report indicating death. In addition, every serious injury, illness, or death must be reported immediately by telephone or fax to the nearest office of the California Division of Occupational Safety and Health.

A physician is required to prepare a standard report within five days of the initial examination of an injured employee. The standard report, which is called the Doctor’s First Report of Occupational Injury, sets forth each treated occupational injury or illness (see Exhibit C.) This is true for one-time treatments as well as emergency room treatments. The first report is submitted to the insurance company or to the employer if self-insured, who will rely on it heavily when initially determining whether to accept or deny an employee’s claim.

The employer has the responsibility of providing the Workers’ Compensation Claim Form & Notice of Potential Eligibility (DWC 1) form to an injured or ill employee within one working day of learning of the injury or illness, regardless of how the employer learns of the injury or illness if the employee loses work time beyond the date of the injury or illness or if medical treatment goes beyond first aid. The employee is responsible for completing the employee section of the Workers’ Compensation Claim Form & Notice of Potential Eligibility (DWC 1) and presenting a copy to his or her employer within three days of the injury or illness (see attached Exhibit D). The employer will complete the employer section and provide a copy to the claims administer (insurance company) who will authorize medical treatment under industrial guidelines up to a maximum of $10,000 while investigating the claim. Within fourteen (14) days,

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6 Workers’ Compensation Forms may be found at: [http://www.dir.ca.gov/dwc/forms.html](http://www.dir.ca.gov/dwc/forms.html)

7 California Code of Regulations, Title 8 § 342(a)

8 Labor Code Section 6409

9 California Code of Regulations §10119, Labor code §5401
the insurance company should provide the employee one of three notices stating the status of the claim. The three notices are:

- Notice of acceptance of claim;
- Delay of the claim for further review; or
- Denial of claim.

The Workers’ Compensation Claim Form (DWC 1) documents the date the employee was injured or became ill and provides details about the injury or illness. In conjunction with completing the DWC 1 form, the employee must also complete the Application for Adjudication of Claim DWC-WCAB – 1A) to open a case or to have disputes resolved by the Workers’ Compensation Appeals Board, (see Section Four – Workers’ Compensation Appeals Board).

An insurance company may take up to 90 days to investigate a claim. If the insurance company accepts the claim, the employee will receive benefits and services. If the insurance company denies the claim, the employee may appeal the denial to the Workers’ Compensation Appeals Board.

**Disclosures of protected health information for Workers’ compensation purposes**

The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule does not apply to entities that are either workers’ compensation insurers, workers’ compensation administrative agencies, or employers, except to the extent they may otherwise be covered entities. However, these entities need access to the health information of individuals who are injured on the job or who have a work-related illness to process or adjudicate claims, or to coordinate care under workers’ compensation systems. Generally, this health information is obtained from health care providers who treat these individuals and who may be covered by the Privacy Rule. The Privacy Rule recognizes the legitimate need of insurers and other entities involved in the workers’ compensation systems to have access to individuals’ health information as authorized by State or other law. Due to the significant variability among such laws, the Privacy Rule permits disclosures of health information for workers’ compensation purpose in different ways.  

- **Disclosures without individual authorization**
  - As authorized by and to the extent necessary to comply with laws relating to workers’ compensation or similar programs established by law that provide benefits for work-related injuries or illness without regard to fault. This includes programs established by the Black Lung Benefits Act, the Federal Employees’ Compensation Act, the Longshore and Harbor Workers’ Compensation Act, and the Energy Employees’ Occupational Illness Compensation Program Act.  

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10 OCR HIPAA Privacy, Frequently Asked Questions, April 3, 2003  
11 45 C.F.R. §164.512(l)
• To the extent the disclosure is required by State or other law. The disclosure must comply with and be limited to what the law requires.12

• For purposes of obtaining payment for any health care provided to the injured or ill worker.13

• Disclosures with individual authorization
  
  • Covered entities may disclose protected health information to workers’ compensation insurers and others involved in workers’ compensation systems where the individual has provided his or her signed California and HIPAA valid authorization for the release of information to the entity14 (see Exhibit E – Authorization to Use/Disclose Protected Health Information).

• Minimum necessary
  
  • Under HIPAA, covered entities are required to reasonably limit the amount of protected health information disclosed to the minimum necessary 15 to accomplish the workers’ compensation purpose. Under this requirement protected health information may be shared for such purposes to the full extent authorized by State or other law.16

Additionally, covered entities or health care providers are required to reasonably limit the amount of protected health information disclosed for payment purposes to the minimum necessary. Covered entities are permitted to disclose the amount and types of protected health information that are necessary to obtain payment for health care provided to an injured or ill worker.17

Where a covered entity routinely makes disclosures for workers’ compensation purposes under 45 C.F.R. §164.512(l) or for payment purposes, the covered entity may develop standard protocols as part of its minimum necessary policies and procedures that address the type and amount of protected health information to be disclosed for such purposes.18

Where protected health information is requested by a state workers’ compensation or other public official, covered entities are permitted to reasonably rely on the official’s representation that the information requested is the minimum necessary for the intended purpose.19

12 45 C.F.R. §164.512(a)
13 45 C.F.R. §164.502(a)(1)(ii) and 45 C.F.R. §164.501
14 45 C.F.R. §164.508
15 45 C.F.R. §164.512(1)
16 OCR HIPAA Privacy, Frequently Asked Questions, April 3, 2003
17 Ibid
18 Ibid
19 Ibid
Covered entities are not required to make a minimum necessary determination when disclosing protected health information as required by State or other law, or pursuant to the individual’s authorization.\textsuperscript{20}

\section*{Workers’ Compensation Appeals Board}

\subsection*{Organization of California Workers’ Compensation Appeals Board}

The Workers’ Compensation Appeals Board is a seven member judicial body appointed by the governor and confirmed by the state Senate. The term for each member is six years. Five of the seven members must be attorneys licensed to practice in California. The mission of the Workers’ Compensation Appeals Board is to provide guidance and leadership to the workers’ compensation community through case opinions and regulations.

The Workers’ Compensation Appeals Board’s major functions include review of petitions for reconsideration of decisions by workers' compensation administrative law judges of the Division of Workers' Compensation, and regulation of the adjudication process by adopting rules of practice and procedure.

The Workers’ Compensation Appeals Board has full subpoena powers and jurisdiction to carry out its mission. Failure to respond to a subpoena issued by the Workers’ Compensation Appeals Board could result in a contempt of court order being issued.

\section*{Appeal to Workers’ Compensation Appeals Board}

In California, there is twenty-four Divisions of Workers’ Compensation district offices located throughout the state. Judicial services are provided through the district offices to employers and injured/ill employees in order to assist in the prompt and fair resolution of disputes that

\textsuperscript{20} 45 C.F.R. §164.502(b)
sometimes arise from workers’ compensation claims. District offices are a key component in the workers’ compensation court system, where judges make decisions about cases. Although many cases settle and never actually go to trial the employer and employee should begin to prepare their case as if it were going to result in a contested trial. Claims may take years to resolve and because there is a one-year time limit for filing a Workers’ Compensation Claim and an Application for Adjudication of Claim both should be completed immediately upon injury or illness.

When an employee does have a disagreement with his or her employer or the employer’s insurance company about their particular case, the employee may appeal to the Workers’ Compensation Appeals Board for resolution. In order to open a case with Worker’s Compensation Board the employee must complete and submit an Application for Adjudication of Claim form (DWC-WCAB – 1A, see attached Exhibit F). The employee may request a hearing (either expedited or regular) before the Workers’ Compensation Appeals Board to resolve virtually any disputed issue. Examples of problems that may necessitate a hearing are:

- **Refusal to authorize medical treatment**
  - The employer or the employer’s insurance company may refuse to pay for medical treatment of an injured or ill employee.

- **Refusal to authorize surgery or tests**
  - The treating physician may request authorization to perform surgery or to conduct certain diagnostic tests that the insurance company refuses to authorize.

- **Refusal to provide benefits**
  - The treating physician may support the employee’s claim, but the insurance company may disagree and refuse to provide benefits.

- **Insufficient benefits**
  - The insurance company may pay temporary disability benefits at a lower rate than earnings justify.

- **Inadequate medical care**
  - The employee may believe the quality of medical treatment or care is inadequate and the insurance company refuses to send the employee to another physician, the employee may take the issue before the Appeals Board.

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21 Division of Workers’ Compensation at [http://www.dir.ca.gov/dwc/elmadj.html](http://www.dir.ca.gov/dwc/elmadj.html) - 10.27.11
If the employee and the insurance company cannot agree to a settlement, either side may file appropriate documents, such as the Readiness to Proceed document (see Exhibit G), with the Workers’ Compensation Appeals Board to set the case for trial. The Declaration of Readiness to Proceed document must include a copy of the claim for workers’ compensation benefits form (DWC1) and a declaration required by law. In addition, a proof of service-by-mail must be included (discussed in section five).

The Workers’ Compensation Appeals Board has power to hear cases in the first instance and to remove cases from a workers’ compensation judge to itself, but it normally acts only after a final decision of a workers’ compensation judge. The latter procedure is called reconsideration. Reconsideration may come into effect only after a final order has been given. The Workers’ Compensation Appeals Board has power to grant reconsideration on its own motion at any time within 60 days after filing of a final decision, but it most frequently acts upon the petition of a party. Any party aggrieved by a final decision of the Appeals Board or a workers’ compensation judge may petition within 20 days of the decision to the court of appeal for reconsideration.

The grounds for reconsideration are:

- The Appeals Board or workers’ compensation judge acted in excess of its power.
- The decision was procured by fraud.
- The decision is not justified by the evidence.
- There is newly discovered evidence which could not have been produced at the hearing,
- The findings of fact do not support the decision.

If a workers’ compensation claim does go to trial the insurance company and the affected employee will appear before the Workers’ Compensation Appeals Board judge. These hearings are generally informal and the judge will walk an employee through the process if the employee presents without a lawyer.

**Depositions and subpoenas for medical records**

**Definitions related to the Workers’ Compensation Appeals Board**

- Hearing – Refers to any time a claim is set before the Workers’ Compensation Appeals Board for any reason. A hearing would include a pre-trial conference or mandatory settlement conference to try to settle a case, a “lien conference” to deal with the payment

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22 Labor Code section 4906(g)
23 Department of Industrial Relations – Workers’ Compensation Appeals Board Organization and Functions at [http://www.dir.ca.gov/wcab/about_wcabf.htm](http://www.dir.ca.gov/wcab/about_wcabf.htm) - 10/31/11
24 Ibid.
of medical bills, or a hearing in which a judge orders a party to do something prior to trial (such as to attend a medical appointment or pay benefits), as well as an actual trial.25

• Trial – A trial by definition is also a hearing. A trial refers to a proceeding heard before a workers’ compensation judge where both sides offer evidence and put on witnesses trying to prove or disprove issues regarding a workers’ compensation claim. More than one trial may be necessary in the course of a case.26

If a workers’ compensation case goes to trial, which may occur at any time during the workers’ compensation process, the employee, employer, and/or the insurance company will appear before a Workers’ Compensation Appeals Board judge. Appeals Board trials (called hearings) are relatively informal and are similar to civil cases held without a jury. During the trial, evidence will be presented from both sides. Evidence may come in many forms including oral testimony, testimony of witnesses, and the presentation of documents including medical records.

The health information management professional or custodian of records may be served with a subpoena requesting the disclosure of patient information and/or requesting a personal appearance to testify to the authenticity of patient information to the Workers’ Compensation Appeals Board. Subpoenas for the production of medical records are divided into two categories, deposition subpoenas and non-deposition subpoenas, depending on whether the subpoena:27

• Requires the production of records for a deposition or
• Requires the delivery of records to court.

Deposition subpoena

The Workers’ Compensation Appeals Board is authorized by law to issue subpoenas for the attendance of witnesses and/or the production of records in any workers’ compensation inquiry, investigation, hearing, or proceeding in California28. Deposition subpoenas may be initiated by the insurance company and/or the ill or injured employee. There are two types of deposition subpoenas that may be issued:

• Deposition Subpoena for Personal Appearance and Production of Documents and Things. This subpoena is issued for a personal attendance at a deposition29; and
• Deposition Subpoena for Production of Business Records. This subpoena requires that copies of records be made available pre-trial either by delivery of records to a deposition officer or elsewhere30.

25 California Workers’ Compensation: How to Take Charge When You’re Injured on the Job, 8th Edition, Christopher Ball – May 2010
26 Ibid
28 Labor Code Section 130
29 Code of Civil Procedure §§2020, 2025
Depositions are often conducted where a party or a witness is asked to answer questions orally under oath so that the other side may determine what is known before being called to testify at a trial. A request from either party may be made requiring specific documents to be presented at the deposition. This request is made by either a Notice to Produce records or a Deposition Subpoena for Personal Appearance and Production of Documents and Things (see Exhibit H). Depositions take place at a location away from the court, often at a lawyer’s office or may take place at a physician’s office. Questions are usually asked by the lawyer for each side or by the employee if representing him or her. A court reporter will record the testimony and will prepare a transcript (the making of a permanent record by an electronic device) of the entire proceeding.

The custodian of medical records may be served with a deposition subpoena to bring records (either the original or copy form) to testify concerning their authenticity. The deposition subpoena must specifically describe each item to be produced or reasonably particularize each category of documents. The deposition subpoena will provide the place, date, and time to appear or when to provide copies of medical records.

There are contradictions in the law as to whether an affidavit showing good cause for deposition subpoenas for personal appearance and the production of records is required or not:

- California Code of Civil Procedure §1987.5 states, “a subpoena shall not be valid unless a copy of the affidavit upon which the subpoena is based and the designation of the materials to be produced, as set forth in the subpoena, is attached to the notice …”

However the following two Codes indicate:

- California Code of Civil Procedure §2020.410 (c) states “a deposition subpoena that commands only the production of business records for copy need not be accompanied by an affidavit or declaration showing good cause for the production of the business records designated in it.

- California Code for Civil Procedure §2020.510 (b) states “ a deposition subpoena that commands the attendance and the testimony of the deponent, as well as the production of business records, documents, and tangible things, shall: need not be accompanied by an affidavit or declaration showing good cause for the production of the documents and things designated.

Therefore, the health information management custodian of records may want to seek guidance from the facility legal advisor as to whether or not the inclusion of an affidavit showing good cause and materiality for either a Deposition Subpoena for Personal Appearance and Production of Documents and Things or the Deposition Subpoena for Production of Business Records is required.

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30 Code of Civil Procedure §§2020, 2025, Evidence Code §§1560(e), 1563(b)(1)
31 California Code of Civil Procedure §2020 (c),(e).
NOTE: The description of the records to be produced, which would otherwise be found in the affidavit, may be described in the subpoena itself.

At a deposition, it is always a good idea to abide by the following general rules:

- **Tell the truth.**
- **Be polite and courteous.** It is not a good idea to argue with the person who is asking questions or to answer questions rudely.
- **Make sure you understand the question.** If the question is unclear it is appropriate to ask that the question be repeated or explained.
- **Answer only the question that is asked.** Basic answers such as “yes” or “no” are preferred or if the answer is unknown it is appropriate to answer with “I don’t know” or “I don’t remember.”
- **Do not guess.** It is better to answer with “I don’t know” than to guess at what the answer is.
- **Take a break when needed.** From time to time breaks are needed in order to regain composure.

**Investigatory subpoena (non-deposition subpoena)**

Administrative agencies such as the Workers’ Compensation Appeals Board have statutory authority to issue a subpoena to obtain access to information for use in an investigation. An investigatory subpoena may be served to the custodian of records for the purpose of obtaining evidentiary patient information related to the case.

An affidavit or declaration explaining the purpose for which the records are sought should be indicated on the subpoena, although not statutorily required. The health care provider may wish to consult legal counsel if it receives an investigatory subpoena for records to determine whether the requirements have been met and the subpoena should be honored.

California law does not require certification of notice to a patient for response to an investigative subpoena. However, there is an obligation for the administrative agency to meet the HIPAA notice or protective order requirement (explained below under Qualified Protective Order).

Investigative subpoenas by an administrative agency must show justification as to why the request for patient information is necessary to resolve the question under investigation. The custodian of records should review investigative subpoenas carefully to ensure that only the

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32 Government Code Section 11181(e)  
33 California Hospital Association Consent Manual, 2011 Page 16.35  
34 California Code of Civil Procedure Section 1985.3 (a)(3)  
35 CFR §164.512(e)(1)(ii)(A), (iii)
information actually described is released.\textsuperscript{36}

Note: The California Court of Appeals has held that the court does not have authority to issue a court order for the production of psychiatric records in response to an investigative subpoena\textsuperscript{37}. On this basis the custodian of records should request assistance from the facility’s legal counsel because the court order cannot be ignored.

Investigative subpoena’s requesting the release of alcohol and drug abuse records must contain a court order covering such a disclosure.\textsuperscript{38}

\textbf{Subpoena duces tecum (non-deposition subpoena)}

Administrative agencies such as the Workers’ Compensation Appeals Board have statutory authority to issue a subpoena duces tecum, which is the basic form that is used for an actual trial. It is not used for pre-trial discovery phases of a case.

A subpoena duces tecum is a powerful tool. A subpoena duces tecum requires a person or business to produce books, accounts, papers, and other documents relevant to a workers’ compensation case (see Exhibit I) at a specific time and place. To require someone’s personal appearance and the production of documents, both a subpoena and subpoena duces tecum are required.

Once served, the person or business has 15 days to comply with the subpoena duces tecum. The subpoena provides a court order requiring the witness’s presence, which ensures that witnesses will attend the hearing or deposition. Under California Code of Civil Procedure §1985 (described in the next section) an affidavit or declaration regarding the relevance of the testimony or records is required.

To be a valid subpoena duces tecum, the following elements are required:

\begin{itemize}
  \item Personally served (for administrative hearing subpoenas also may, by statute, be delivered by certified mail, return receipt requested, or by messenger).
  \item Affidavit or Declaration
  \item Issuing authority (e.g., Workers’ Compensation Appeals Board)
  \item Type of proceeding (e.g., Administrative hearing or investigative).
  \item Request for specific medical records (all or partial), x-ray films, billing records, etc.
\end{itemize}

\textsuperscript{36} Subpoena Compliance, Releasing Protected Health Information California Health Information Association – Sept. 2004 10\textsuperscript{th} Edition, Page 36.

\textsuperscript{37} County of Riverside v. Superior Court, 42 Cal. App. 3d 478 (1974)

\textsuperscript{38} Subpoena Compliance, Releasing Protected Health Information, California Health Information Association – Sept. 2004 10\textsuperscript{th} Edition, Page 37.
• Type of response requested (e.g., make records available for copying, personal appearance with original records, or mailing of copies to the court.

• Date and time for response (i.e., adequate time allowed for preparation of response)

• Location for production of records

• Signature of judge or court clerk, or official of administrative agency

• Notice to Patient or Qualified Protective Order.

• Fee, one day’s witness fee and mileage when personal attendance is required at trial.

Affidavit/declaration

There are two types of affidavits/declarations associated with subpoenas:

• Affidavit/Declaration of Authenticity – (see Exhibit J)
  
  • The affiant is the duly authorized custodian of the records or other qualified witness and has authority to certify the records.

  • The copy is a true copy of all the records described in the subpoena duces tecum, or pursuant to subdivision (e) of Section 1560 of the California Evidence Code, the records were delivered to the attorney, the attorney’s representative, or deposition officer for copying at the custodian’s or witness’ place of business, as the case may be.

  • The records were prepared by the personnel of the business in the ordinary course of business at or near the time of the act, condition, or event.

  • The identity of the records.

  • A description of the mode of preparation of the records.

  • If business has none of the records described, or only part thereof, the custodian or other qualified witness shall so state in the affidavit, and deliver the affidavit and those records that are available in one of the manners provided in Evidence Code Section 1560.

  • Where the records described in the subpoena were delivered to the attorney or his or her representative or deposition officer for copying at the custodian's or witness' place of business, in addition to the affidavit required by subdivision (a), the records shall be accompanied by an affidavit by the attorney or his or her representative or
deposition officer stating that the copy is a true copy of all the records delivered to the attorney or his or her representative or deposition officer for copying39

- Affidavit/Declaration Showing Good Cause. Workers’ Compensation is an administrative agency. The issuance of a subpoena duces tecum for records for an administrative agency hearing must include an affidavit, or as it is sometimes called a declaration, as required under the Code of Civil Procedure Section 1985 in a civil action (see Exhibit K). The affidavit or declaration describes the reasons for the production of medical records or documents that are under the health care providers’ control and are required to be produced as evidence.

A copy of the affidavit is to be served with the subpoena duces tecum before the trial, showing good cause for the production of the matters and things described in the subpoena, specifying the exact matters or things desired to be produced40.

If the records contain privileged information, such as physician-patient privilege, the affidavit or declaration must show good cause for disclosure by stating the relevancy and materiality of the records to the investigation. It should either assure adequate protection of the patient’s right of privacy or alternatively, demonstrate that the patient waived his or her privacy rights.

Service

Ordinarily an administrative subpoena must be served in the same manner as a summons in a civil action, which means that the subpoena must be personally served. However, administrative hearing subpoenas also may, by statute, be delivered by certified mail, return receipt requested, or by messenger. Service by messenger is affected when the witness acknowledges receipt of the subpoena to the sender, by telephone, mail, or in person, and identifies himself by some identifying information such as a date of birth or driver’s license number (see Exhibit L – Proof of Service).41

Notice to consumer

Normally, a civil subpoena should comply with the consumer notice requirements of the Code of Civil Procedure Section 1985.3 in that the subpoenaing party (not the health care provider) gives notice of the subpoena to the individual whose records are being sought by sending to the patient (or by sending to the patient’s attorney of record) a copy of the subpoena and, where applicable, the supporting affidavit or declaration (see Exhibit M).

However, subpoenas issued in California Workers’ Compensation Appeals Board proceedings are exempt from the California Notice to Patient requirements42. Nevertheless, there is an obligation for the administrative agency to meet the HIPAA notice or protective order requirement.

39 California Evidence Code Section 1560; California Code of Civil Procedure Section 1985
40 California Code of Civil Procedure Section 1985
41 Government Code Section 11450.20
42 California Code of Civil Procedure §1985.3 (j); 45 CFR §1614.512 (1)
HIPAA – Satisfactory assurance/qualified protective order

Qualified Protective Order -- with respect to requested protected health information (PHI), a qualified protective order is an order of a court or a stipulation by the parties to the litigation that: (1) prohibits the parties from using or disclosing the PHI for any purpose other than the litigation for which such information was requested; and (2) requires the return of the PHI to the facility or destruction of the PHI (including all copies made) at the end of the litigation.43

Therefore, if a Notice to Consumer is not provided, protected health information may be disclosed if one of the following applies:

- Satisfactory assurances from the subpoenaing party that reasonable efforts have been made by such party to ensure that notice of the request has been given to the individual (or attorney for the individual) who is the subject of the protected health information that has been requested; or

- Satisfactory assurances from the subpoenaing party that reasonable efforts have been made by such party to secure a qualified protective order.

- Satisfactory assurances of notice – the facility receives satisfactory assurances from the subpoenaing party if the facility receives a written statement and accompanying documentation demonstrating:
  - The subpoenaing party has made a good faith attempt to provide written notice to the individual who is the subject of the protected health information (or, if the individual’s location is unknown, to mail a notice to the individual’s last known address);
  - The notice includes sufficient information about the litigation or proceedings in which the protected health information is requested to permit the individual to raise an objection to the court; and the time for the individual to raise objections to the court has elapsed; and either no objections were filed, or all objections filed by the individual have been resolved by the court and the disclosures being sought are consistent with such resolution.

- Satisfactory assurances of qualified protective order – The facility receives satisfactory assurances from the subpoenaing party if the facility receives a written statement and accompanying documentation demonstrating that the parties to the dispute have agreed to a qualified protective order and have presented it to the court with jurisdiction over the dispute; or the subpoenaing party has requested a qualified protective order from such court.44

43 45 C.F.R. §164.512 (e)(1)(v)
44 45 C.F.R. §164.512(e)
Witness fees

Witness fees are the same for administrative agency proceedings as they are for civil actions in state courts. State subpoenaed witnesses may receive $35.00 for a day’s appearance, plus mileage from the witness’s home to the place of the hearing.

If an expert witness, such as a treating physician, is subpoenaed, the expert must receive an expert witness fee. Expert witness fees easily can total hundreds of dollars and must be agreed upon in advance. That is why physicians’ medical reports are routinely admitted into evidence in workers’ compensation cases without the necessity of having a physician appear at the hearing.

If the records are delivered to the attorney, the attorney’s representative, or the deposition officer for inspection or photocopying at the witness’s place of business, the fee for complying with the subpoena must not exceed $15.00 plus actual costs, if any, charged to the witness by a third person for retrieval and return of records held offsite by the third person. If the records are retrieved from microfilm, the reasonable cost, as defined above, shall also apply.

Accepting subpoena

The custodian of records is the person responsible for keeping records in the ordinary course of business. In litigation, business records, such as hospital charts, are often allowed into evidence with a certificate signed by the records custodian responsible for the records, verifying the completeness and accuracy of the records.

The custodian of records must first find the response time indicated in the subpoena. Then it should be determined whether the subpoena was properly served and contains all components of a valid subpoena. A valid subpoena must:

- Be served personally or by certified mail
- Include an Affidavit or Declaration (if required, see details above)
- Specify:
  - The issuing authority (i.e., Workers’ Compensation Appeals Board)
  - Type of proceeding (e.g., either administrative hearing or investigation)

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45 Government Code Sections 11450.40 and 11191
46 California Evidence Code §1563 (c); California Code of Civil Procedure §1986.5; California Government Code §68093; and the Department of Personnel Administration regulations, which establishes the rate payable for mileage reimbursement for medical and medical-legal expenses and ties it to the Internal Revenue Service. See current mileage fees at published mileage reimbursement rate at: [http://www.irs.gov/newsroom/article/0,,id=250882,00.html](http://www.irs.gov/newsroom/article/0,,id=250882,00.html) – 2012
47 Government Code Section 68092.5
48 Evidence Code Section 1563(b)(6)
Documents requested (e.g., medical records, all or partial, or other documents such as x-ray films, billing record, etc.)

Type of response requested (i.e., making records available for copying, personal appearance, mailing of copies)

Date and time for response

Location for production of records (or appearance)

- Include the signature of the Workers’ Compensation Secretary, Assistant Secretary, or Judge
- Include a Notice to Patient or Satisfactory Assurance/Qualified Protective Order
- Include the fee – one day’s witness fee and mileage for personal appearance

If the subpoena has been improperly served, the health care provider must notify the subpoenaing party that the subpoena is defective and that it cannot be complied with or the health care provider may bring a motion to quash or modify the subpoena. Legal counsel should be contacted for guidance.

If the subpoena has been properly served and contains all components required to be deemed valid, the health care provider may comply by either personally appearing as stated in the subpoena or the health care provider may mail copies of the medical/health record to the Workers’ Compensation Appeals Board as directed in the subpoena.

**Mailing of records**

California Evidence Code §1560 provides that mailed records must be placed within a sealed inner envelope or wrapper with the title of the action, number of the action, the witness name (health care provider/custodian of records), and the date of the subpoena. The sealed inner envelope is then to be placed within an outer envelope addressed to the attendant of the court, court clerk, or judge. It must also contain the Workers’ Compensation Appeals Board address\(^5^0\).

If the subpoena directs both attendance and the production of specific documents at a deposition or an administrative proceeding, the name of the officer before whom the deposition is to be taken or the tribunal conducting the hearing should be listed on the outer envelope containing the documents (i.e., medical records) along with the address of the place designated in the subpoena for the taking of the deposition or the address of the place of business of the officer\(^5^1\).

**Conclusion**

\(^5^0\) California Evidence Code 1560(c)
\(^5^1\) California Evidence Code 1560(c)(2)
The custodian of records may be presented with a Workers’ Compensation Appeals Board subpoena at any time. In order to respond to these requests, the custodian of records must possess knowledge of the similarities to and differences from other types of subpoenas (e.g., civil subpoena), and the role that medical records play. Equipped with this knowledge, the custodian of records can assure that policies and procedures are in place to protect the health care provider and can comply with applicable legal requirements.

**Resources**

*Subpoena COMPLIANCE, Releasing Protected Health Information*, California Health Information Association – 2012.

California Department of Industrial Relations - [www.dir.ca.gov](http://www.dir.ca.gov)

California Labor Codes - [www.leginfo.ca.gov](http://www.leginfo.ca.gov)


California Hospital Association *Consent Manual* – 2011

*California Workers’ Compensation: How to Take Charge When You’re Injured on the Job*, 8th Edition, Christopher Ball – May 2010

California Workers’ Compensation forms - [http://www.dir.ca.gov/dwc/forms.html](http://www.dir.ca.gov/dwc/forms.html)

Exhibit A
Claims Flow Chart
Simplified flow chart for claims process

Injury or illness occurs at work

Immediately notify your supervisor

Employer gives you a claim form. You complete the employee section and return it to your employer. Keep the bottom copy for your records

If your employer does not give you the claim form, contact an information and assistance officer

Your employer completes the claim form and sends a copy to you and the insurance company

Within one day after you deliver the claim form, your employer must authorize medical treatment under industrial guidelines, to a maximum of $10,000, while investigating your claim. If authorization is not provided, contact an information and assistance officer

Within 14 days, the insurance company should send you one of three notices letting you know the status of your claim. The notice will tell you if the insurance company accepts, denies or will delay your claim for review

If the insurance company accepts your claim, you will receive benefits and services

If the insurance company delays your claim, an investigation can take up to 90 days. During investigation, no benefits other than medical treatment will usually be provided. You may be able to collect state disability payments during this period, and must apply separately at the Employment Development Department (EDD) office. If you do not receive a final notice either accepting or denying your claim within 90 days, your claim will be presumed accepted. Contact an information and assistance officer

If the insurance company denies your claim, contact an information and assistance officer
Exhibit B – Employer’s Report of Occupational Injury or Illness

**Release of Information in California: Worker’s Compensation**

**Copyright © California Health Information Association**

**AHIMA Affiliate**

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### Exhibit B – Employer’s Report of Occupational Injury or Illness

**Description:** This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible. All information is used for occupational safety and health purposes. See CCR Title 8 14503.10(3)(b) and 14509.32(b)(3)(b). Confidential information may be shared only with the employer, the employee, or their personal representative (CCR Title 8 14503.30). To obtain information regarding medical treatment received by the employee, the employer must request it from the employee's health provider.

#### Form 2050 (Rev. 6-2013)

**FILING OF THIS FORM IS NOT AN ADMISSION OF LIABILITY**

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<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>01.</td>
<td>Former Name</td>
</tr>
<tr>
<td>02.</td>
<td>Social Security Number</td>
</tr>
<tr>
<td>03.</td>
<td>Date of Birth (mm/dd/yy)</td>
</tr>
<tr>
<td>04.</td>
<td>Race and Sex: Male/Female</td>
</tr>
<tr>
<td>05.</td>
<td>Date of Injury (mm/dd/yy)</td>
</tr>
<tr>
<td>06.</td>
<td>Date of Death (mm/dd/yy)</td>
</tr>
<tr>
<td>07.</td>
<td>Date of Injury Occurred (mm/dd/yy)</td>
</tr>
<tr>
<td>08.</td>
<td>Date of Death Occurred (mm/dd/yy)</td>
</tr>
<tr>
<td>09.</td>
<td>Nature of Injury</td>
</tr>
<tr>
<td>10.</td>
<td>Part of Body</td>
</tr>
<tr>
<td>11.</td>
<td>Employer Name</td>
</tr>
<tr>
<td>12.</td>
<td>Employer Address (Number, Street, City, Zip)</td>
</tr>
<tr>
<td>13.</td>
<td>Occupation (Regular Job Title, Hours, Earnings, or Other)</td>
</tr>
<tr>
<td>14.</td>
<td>Employer’s Name</td>
</tr>
<tr>
<td>15.</td>
<td>Employer’s Address (Number, Street, City, Zip)</td>
</tr>
<tr>
<td>16.</td>
<td>Signature &amp; Title</td>
</tr>
</tbody>
</table>

---

**Note:** This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible. All information is used for occupational safety and health purposes. See CCR Title 8 14503.10(3)(b) and 14509.32(b)(3)(b). Confidential information may be shared only with the employer, the employee, or their personal representative (CCR Title 8 14503.30). To obtain information regarding medical treatment received by the employee, the employer must request it from the employee’s health provider.
**Exhibit C**

**DOCTOR'S FIRST REPORT OF OCCUPATIONAL INJURY OR ILLNESS**

<table>
<thead>
<tr>
<th>Field</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. INSURER NAME AND ADDRESS</td>
<td></td>
</tr>
<tr>
<td>2. EMPLOYER NAME</td>
<td></td>
</tr>
<tr>
<td>3. Address</td>
<td></td>
</tr>
<tr>
<td>4. Nature of business (e.g., food manufacturing, building construction, retailer of women’s clothes.)</td>
<td></td>
</tr>
<tr>
<td>5. PATIENT NAME (first name, middle initial, last name)</td>
<td></td>
</tr>
<tr>
<td>6. Sex</td>
<td>Female</td>
</tr>
<tr>
<td>7. Date of Birth</td>
<td></td>
</tr>
<tr>
<td>8. Address</td>
<td></td>
</tr>
<tr>
<td>9. Telephone number</td>
<td></td>
</tr>
<tr>
<td>10. Occupation (Specific job title)</td>
<td></td>
</tr>
<tr>
<td>11. Social Security Number</td>
<td></td>
</tr>
<tr>
<td>12. Injured at.</td>
<td></td>
</tr>
<tr>
<td>13. Date and hour of injury</td>
<td></td>
</tr>
<tr>
<td>14. Date last worked</td>
<td></td>
</tr>
<tr>
<td>15. Date and hour of first examination or treatment</td>
<td></td>
</tr>
<tr>
<td>16. Have you (or your office) previously treated patient?</td>
<td>Yes</td>
</tr>
<tr>
<td>17. DESCRIBE HOW THE ACCIDENT OR EXPOSURE HAPPENED. (Give specific object, machinery or chemical. Use reverse side if more space is required.)</td>
<td></td>
</tr>
<tr>
<td>18. SUBJECTIVE COMPLAINTS (Describe fully. Use reverse side if more space is required.)</td>
<td></td>
</tr>
<tr>
<td>19. OBJECTIVE FINDINGS (Use reverse side if more space is required.)</td>
<td></td>
</tr>
<tr>
<td>20. DIAGNOSIS (If occupational illness specify etiologic agent and duration of exposure.) Chemical or toxic compounds involved?</td>
<td>Yes</td>
</tr>
<tr>
<td>21. Are your findings and diagnosis consistent with patient’s account of injury or onset of illness?</td>
<td>Yes</td>
</tr>
<tr>
<td>22. Is there any other current condition that will impede or delay patient’s recovery?</td>
<td>Yes</td>
</tr>
<tr>
<td>23. TREATMENT RENDERED (Use reverse side if more space is required.)</td>
<td></td>
</tr>
<tr>
<td>24. If further treatment required, specify treatment plan/estimated duration.</td>
<td></td>
</tr>
<tr>
<td>25. If hospitalized as inpatient, give hospital name and location</td>
<td></td>
</tr>
<tr>
<td>26. WORK STATUS – Is patient able to perform usual work?</td>
<td>Yes</td>
</tr>
<tr>
<td>27. Doctor’s Signature</td>
<td></td>
</tr>
<tr>
<td>28. CA License Number</td>
<td></td>
</tr>
<tr>
<td>29. Doctor Name and Degree (please type)</td>
<td></td>
</tr>
<tr>
<td>30. IRS Number</td>
<td></td>
</tr>
<tr>
<td>31. Address</td>
<td></td>
</tr>
<tr>
<td>32. Telephone Number</td>
<td></td>
</tr>
</tbody>
</table>

*Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or delaying workers’ compensation benefits or payments is guilty of a felony.*
Exhibit D (DWC-1) – Workers’ Compensation Claim Form and Notice of Potential Eligibility

State of California
Department of Industrial Relations
DIVISION OF WORKERS’ COMPENSATION

WORKERS’ COMPENSATION CLAIM FORM (DWC 1)

Employee: Complete the “Employee” section and give the form to your employer. Keep a copy and mark it “Employee’s Temporary Receipt” until you receive the signed and dated copy from your employer. You may call the Division of Workers’ Compensation and hear recorded information at (800) 736-7401. An explanation of workers’ compensation benefits is included as the cover sheet of this form.

You should also receive a pamphlet from your employer describing workers’ compensation benefits and the procedures to obtain them.

Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers’ compensation benefits or payments is guilty of a felony.

Employee—complete this section and see note above

1. Name: ___________________________  Today’s Date: ___________________________
2. Home Address: ___________________________  State: ___________________________
3. City: ___________________________  Zip: ___________________________
4. Date of Injury: ___________________________  Time of Injury: ___________________________
5. Address and description of where injury happened: ___________________________
6. Describe injury and part of body affected: ___________________________
7. Social Security Number: ___________________________
8. Signature of employee: ___________________________

Employer—complete this section and see note above

9. Name of employer: ___________________________
10. Address: ___________________________
11. Date employer first knew of injury: ___________________________
12. Date claim form was provided to employee: ___________________________
13. Date employer received claim form: ___________________________
14. Name and address of insurance carrier or adjusting agency: ___________________________
15. Insurance Policy Number: ___________________________
16. Signature of employer representative: ___________________________
17. Title: ___________________________  Telephone: ___________________________

Employee: You are required to date this form and provide copies to your insurer or claims administrator and to the employer, dependent on representative who filed the claim within 5 working days of receipt of the form from the employee.

SIGNING THIS FORM IS NOT AN ADMISSION OF LIABILITY

☐ Employer copy/Copia del Empleado  ☐ Claims Administrator/Administrador de Reclamos
☐ Employee copy/Copia del Empleado  ☐ Temporary Receipt/Recibo del Empleado

6/10 Rev.
EXHIBIT E
AUTHORIZATION TO USE / DISCLOSE PROTECTED HEALTH INFORMATION

Completion of this document authorizes use and/or disclosure of health information about you. Failure to provide all information requested may invalidate this authorization.

Name of Patient: __________________________

Use and Disclosure of Health Information:

I hereby authorize: _____________ (Name of Facility) ______ to release to:

______________________________ (Name of Person or Organization authorized to receive the information)

______________________________ (Address – street, city, state, zip code)

The following information:

a. ☐ All health information pertaining to my medical history, mental or physical condition, and treatment received; OR
   ☐ Only the following records or types of health information (including any dates):
   ______________________________________________________________

b. I specifically authorize release of the following information (check if appropriate):
   ☐ Mental health treatment information
   HIV test results
   Alcohol/drug treatment information

A separate authorization is required to authorize the disclosure or use of psychotherapy notes.

Purpose:

Purpose of requested use or disclosure: ☐ Patient request; OR ☐ Other:

____________________________________________________________

Expiration:

This authorization expires on (date): _________________________________________

My Rights:

I may refuse to sign this authorization. My refusal will not affect my ability to obtain treatment or payment or eligibility for benefits.

I may inspect or obtain a copy of the health information that I am being asked to allow the use or disclosure of.

I may revoke this authorization at any time, but I must do so in writing and submit it to the following address: ____________________________________________________________
My revocation will take effect upon receipt, except to the extent that others have acted in reliance upon this authorization.

I have a right to receive a copy of this authorization.

Information disclosed pursuant to this authorization could be redisclosed by the recipient. Such redisclosure is in some cases not prohibited by California law and may no longer be protected by federal confidentiality law (HIPAA). However, California law prohibits the person receiving my health information from making further disclosure of it unless another authorization for such disclosure is obtained from me or unless such disclosure is specifically required or permitted by law.

If this box ☐ is checked, the Requestor will receive compensation for the use or disclosure of my information.

**Signature:**

Signature: __________________________________________________________

Date: _______________ Time: ________________________ AM / PM

If signed by other than patient, indicate relationship: _________________________

Print Name: __________________________________________________________
Exhibit F – Form DWC-WCAB – 1A - Application for Adjudication

STATE OF CALIFORNIA
DIVISION OF WORKERS’ COMPENSATION
WORKERS’ COMPENSATION APPEALS BOARD
APPLICATION FOR ADJUDICATION OF CLAIM

Case No.

☐ Amended Application

SSN (Numbers Only)

Venue choice is based upon (Completion of this section is required)
☐ County of residence of employee (Labor Code section 5501.5(a)(1) or (d).)
☐ County where injury occurred (Labor Code section 5501.5(a)(2) or (d).)
☐ County of principal place of business of employee’s attorney (Labor Code section 5501.5(a)(3) or (d).)

Select 3 - Letter Office Code For Place/Venue of Hearing (From the Document Cover Sheet)

Injured Worker (Completion of this section is required)

First Name

MI

Last Name

Street Address/PO Box (Please leave blank spaces between numbers, names or words)

Street Address2/PO Box (Please leave blank spaces between numbers, names or words)

International Address (Please leave blank spaces between numbers, names or words)

City

State

Zip Code

Applicant (If other than Injured Worker)

☐ Insurance Carrier

☐ Employer

☐ Lien Claimant

Name (Please leave blank spaces between numbers, names or words)

Street Address/PO Box (Please leave blank spaces between numbers, names or words)

Street Address2/PO Box (Please leave blank spaces between numbers, names or words)

City

State

Zip Code

DWC/WCAB Form 1A (11/2008) - (Page 1)
Employer Information (Completion of this section is required)

☐ Insured  ☐ Self-Insured  ☐ Legally Uninsured  ☐ Uninsured

Employer Name (Please leave blank spaces between numbers, names or words)

Employer Street Address/PO Box (Please leave blank spaces between numbers, names or words)

City ___________________________ State __________ Zip Code __________

Insurance Carrier Information (If known and if applicable - include even if carrier is adjusted by claims administrator)

Insurance Carrier Name (Please leave blank spaces between numbers, names or words)

Insurance Carrier Street Address/PO Box (Please leave blank spaces between numbers, names or words)

City ___________________________ State __________ Zip Code __________

Claims Administrator Information (If known and If applicable)

Name (Please leave blank spaces between numbers, names or words)

Street Address/PO Box (Please leave blank spaces between numbers, names or words)

City ___________________________ State __________ Zip Code __________

IT IS CLAIMED THAT (Complete all relevant information):

1. The injured worker, (DATE OF BIRTH: MM/DD/YYYY), while employed as a(n) (OCCUPATION AT THE TIME OF INJURY)

   (Choose only one)

   ☐ single injury  (Date of injury: MM/DD/YYYY)

   ☐ cumulative injury which began on (Start Date: MM/DD/YYYY) and ended on (End Date: MM/DD/YYYY)

   The injury occurred at ___________________________ Street Address/PO Box - Please leave blank spaces between numbers, names or words

City ___________________________ State __________ Zip Code __________

DWC/WCAB Form 1A (11/2008) - (Page 2)  WCAB1
Body Part 1: 

Body Part 2: 

Body Part 3: 

Body Part 4: 

Other Body Parts: 

2. The injury occurred as follows:  
(EXPLAIN WHAT THE WORKER WAS DOING AT THE TIME OF INJURY AND HOW THE INJURY OCCURRED) 

3. Actual earnings at the time of injury:  
Rate of Pay $  
☐ Monthly  
☐ Weekly  
☐ Hourly  
State value of tips, meals, lodging, or other advantages, regularly received $  
☐ Monthly  
☐ Weekly  
☐ Hourly  
Number of hours worked per week 

4. The injury caused disability as follows:  
Last day off work due to injury: 

First Period of Disability:  
Start Date  
End Date  

Second Period of Disability:  
Start Date  
End Date  

5. Compensation:  
Compensation was paid:  
☐ Yes  
☐ No  
Total paid:  

Weekly rate(s):  

Date of last payment: 

6. Has the worker received any unemployment insurance benefits and/or any unemployment compensation disability benefits (state disability) since the date of injury?  
☐ Yes  
☐ No  

DWC/WCAB Form 1A (11/2008) - (Page 3)
7. Medical treatment:
Medical treatment was received: □ Yes □ No
All treatment was furnished by the Employer or Insurance Carrier: □ Yes □ No
Date of last treatment: __________
Other treatment was provided/paid by: ______________________
(NAME OF PERSON OR AGENCY PROVIDING OR PAYING FOR MEDICAL CARE)

Did Medi-Cal pay for any health care related to this claim? □ Yes □ No

Names and addresses of doctor(s)/hospital(s)/clinic(s) that treated or examined for this injury, but that were not provided or paid for by the employer or insurance carrier:

Name of Doctor/Hospital/Clinic 1 (Please leave blank spaces between numbers, names or words)

Name of Doctor/Hospital/Clinic 2 (Please leave blank spaces between numbers, names or words)

8. Other cases have been filed for industrial injuries by this worker as follows:

Case Number 1

Case Number 2

Case Number 3

Case Number 4

9. This application is filed because of a disagreement regarding liability for:

□ Temporary disability indemnity
□ Reimbursement for medical expense
□ Medical treatment
□ Compensation at proper rate
□ Permanent disability indemnity
□ Rehabilitation
□ Supplemental Job Displacement/Return to Work
□ Other (Specify) ________________________________
Is the Applicant Represented?  □ Yes  □ No  If "No", applicant is to sign and date below. If "Yes", applicant's representative is to complete the following and is to sign and date below.

Law Firm/Attorney  □  Non-Attorney Representative

Law Firm or Company Name (If Applicable)

Law Firm Number (If Applicable)

Attorney/Representative First Name

Attorney/Representative Last Name

Street Address/PO Box (Please leave blank spaces between numbers, names or words)

City

State

Zip Code

Applicant Attorney/Representative Signature

Applicant Signature

Dated at __________________________, California

City

Date __________________________

MM/DD/YYYY

DWC/WCAB Form 1A (11/2008) - (Page 5)
Exhibit G – Readiness to Proceed

STATE OF CALIFORNIA
DIVISION OF WORKERS’ COMPENSATION
WORKERS’ COMPENSATION APPEALS BOARD
DECLARATION OF READINESS TO PROCEED

NOTICE: Any objection to the proceedings requested by a Declaration of Readiness to proceed shall be filed and served within ten (10) days after service of the Declaration.

Case No. ____________________________

Applicant ____________________________

First Name ___________ MI ___________ Last Name ___________ VS ___________

Employer Information

Employer Name (Please leave blank spaces between numbers, names or words)

Employer Street Address/PO Box (Please leave blank spaces between numbers, names or words)

City ___________________________ State ___________ Zip Code ___________

Declarants: Please designate your role (Please Select Only One)

[ ] Employee [ ] Applicant [ ] Defendant [ ] Lien Claimant

Declarant requests: (Please Select Only One)

[ ] Mandatory Settlement Conference [ ] Status Conference [ ] Rating MSC* [ ] Priority Conference
[ ] Lien Conference

At the present time the principal issues are: (Check all that apply)

[ ] Compensation Rate [ ] Rehabilitation/SJDB [ ] Temporary Disability [ ] Self-Procured Medical Treatment
[ ] Permanent Disability [ ] Future Medical Treatment [ ] AOE/COE [ ] Discovery
[ ] Employment [ ] Other ___________

Declarant relies on the report(s) of:

Doctors (s) ___________________________ date ___________________________

*For a Rating MSC, all ratable medical reports, including treating physician, QME and AME reports, must be filed with this Declaration of Readiness, unless they have been previously filed. A Rating MSC will be act only where the issues are limited to permanent disability and the need for future medical treatment.

DWC-CA form 10250.1 Page 1 (Rev. 6/2011)
Declarant states under penalty of perjury that he or she is presently ready to proceed to hearing on the issues below and has made the following specific, genuine, good faith efforts to resolve the dispute(s) listed below:

Unless a status or priority conference is requested, I have completed discovery on the issues listed above, and that all medical reports in my possession or control have been filed and served as required by the rules promulgated by the Court Administrator.

Copies of this Declaration have been served this date as shown on the attached proof of service.

Declarant’s Signature ____________________________________________

Name of declarant or name of the law firm of the declarant (Print or Type) ____________________________________________

Address (Please leave blank spaces between numbers, names or words) ____________________________________________

Date: ___________ MM/DD/YYYY

Phone Number ____________________________________________
Exhibit H - Deposition Subpoena
For Personal Appearance and Production of Documents and Things

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS’ COMPENSATION
WORKERS’ COMPENSATION APPEALS BOARD
San Francisco, CA
Case No. XX XXXX

(IF APPLICATION HAS BEEN FILED,
CASE NUMBER MUST BE INDICATED
REGARDLESS OF DATE OF INJURY)

_________________________________                  _________________________________
Claimant / Applicant                     vs.                          Employer/Insurance Carrier/ Defendant

SUBPOENA

The People of the State of California Send Greetings to:

 Individual or Entity Name

YOU ARE HEREBY COMMANDED to appear before a Workers’ Compensation Judge of the WORKERS’ COMPENSATION
APPEALS BOARD OF THE STATE OF CALIFORNIA at Workers’ Compensation Appeals Board, Address, City, CA, Zip Code

On the _______________ date of _______________, 20xx, at ______ o’clock A.M. to testify in the above entitled
action.

For failure to attend as required, you may be deemed guilty of contempt and liable to pay to the parties aggrieved all losses and
damages sustained thereby and forfeit one hundred dollars in addition thereto. This subpoena is issued at request of
_________________________________, Telephone No. xxx-xxx-xxxx

WORKERS’ COMPENSATION APPEALS BOARD
OF THE STATE OF CALIFORNIA

___________________________________________________
Secretary / Assistant Secretary / Workers’ Compensation Judge

Date ___________________________, 20__

This subpoena does not apply to any member of the Highway Patrol, Sheriff’s Office or city Police Department unless accompanied
by notice from the Board that deposit of the witness fee has been made in accordance with Government Code 68097.2, et. seq.

FOR INJURIES OCCURRING ON OR AFTER JANUARY 1, 1990 AND BEFORE JANUARY 1, 1994:

If no Application for Adjudication of Claim has been filed, a declaration under penalty of perjury that the Employee’s Claim for
Workers’ Compensation Benefits (Form DWC-1) has been filed pursuant to Labor Code Section 5401 must be executed properly.

(SUBPOENA INVALID WITHOUT DECLARATION)
## Exhibit I – Subpoena Ducas Tecum

<table>
<thead>
<tr>
<th>Name of Claimant / Applicant</th>
<th>vs.</th>
<th>Name of Employer / Insurance Carrier / Defendant</th>
</tr>
</thead>
</table>

**STATE OF CALIFORNIA**

**DEPARTMENT OF INDUSTRIAL RELATIONS**

**DIVISION OF WORKERS’ COMPENSATION**

**WORKERS’ COMPENSATION APPEALS BOARD**

San Francisco, CA

Case No. XX XXXX

(If application has been filed, case number must be indicated regardless of date of injury)

**SUBPOENA DUCES TECUM**

(When records are mailed, identify them by using above case number or attaching a copy of subpoena).

Where no application has been filed for injuries on or after January 1, 1990 and before January 1, 1994, subpoena will be valid without a case number, but subpoena must be served on claimant and employer and/or insurance carrier.

---

**The People of the State of California Send Greetings to:**

WE COMMAND YOU to appear before the WORKERS’ COMPENSATION APPEALS BOARD OF THE STATE OF CALIFORNIA at Address, City, CA, Zip Code on the ________ date of ____________, 20xx, at _________ o’clock A.M. / P.M., to testify in the above entitled matter and to bring with you and produce the following described documents, papers, books and records. Medical Records of __________________________________, SS # _____________________.

(Do not produce X-rays unless specifically mentioned above.)

For failure to attend as required, you may be deemed guilty of contempt and liable to pay to the parties aggrieved all losses and damages sustained thereby and forfeit one hundred dollars in addition thereto.

This subpoena is issued at request of ________________________, Telephone No. xxx-xxx-xxxx

Date ________________, 20__

WORKERS’ COMPENSATION APPEALS BOARD OF THE STATE OF CALIFORNIA

__________________________________________________

Secretary / Assistant Secretary / Workers’ Compensation Judge

This subpoena does not apply to any member of the Highway Patrol, Sheriff’s Office or city Police Department unless accompanied by notice from the Board that deposit of the witness fee has been made in accordance with Government Code 68097.2, et. Seq.

FOR INJURIES OCCURRING ON OR AFTER JANUARY 1, 1990 AND BEFORE JANUARY 1, 1994:

If no Application for Adjudication of Claim has been filed, a declaration under penalty of perjury that the Employee’s Claim for Workers’ Compensation Benefits (Form DWC-1) has been filed pursuant to Labor Code Section 5401 must be executed properly.

(SUBPOENA INVALID WITHOUT DECLARATION)
Exhibit J

Sample Affidavit / Declaration of Authenticity or Declaration of Custodian of Records

AFFIDAVIT
(Pursuant to California Evidence Codes 1560, 1561, 1562, and 1271)

Facility Name
Facility Address

Case Name:  xxx vs. xxx

The Custodian of Records or other qualified witness for _Name of Facility_, regarding to: Any and all medical records, industrial & non-industrial, including and not limited to physician/nurses notes, lab & radiology reports, physical therapy, allergy, In/Out/Clinic/ER patient treatment, concerning: _Name of Patient_.

1. [ ] Certification of Records [ ] Certification of x-rays
   [ ] Certification of Bills & Statements
   A. I am the duly authorized Custodian of Records, or other qualified witness for the above named business. As such, I have the authority to certify these records.
   B. The duplicated or photocopied records described in the Subpoena Duces Tecum / Authorization. Or pursuant to subdivision (c) of Section 1560 of the California Evidence Code, the records were delivered to the attorney or the attorney’s representative for copying at the custodian’s place of business, as the case may be.
   C. To the best of my knowledge, all such records were prepared or compiled by the personnel of the above named business in the ordinary course of business at or near the time of the acts, conditions or events recorded. The sources of information and method and time of preparation were such as to indicate its trustworthiness.
   D. No documents have been withheld in order to avoid their being copies. If we have only part of the records described in the Subpoena Duces Tecum such records as are now available, have been provided.
   E. The mode of preparation is that our paper and computer records were searched, and copies were made.

2. [ ] Certification of Records [ ] Certification of x-rays
   [ ] Certification of Bills & Statements
   A. I am the duly authorized Custodian of Records, or other qualified witness for the above named business. As such, I have the authority to certify these records.
   B. A thorough search has been made for the documents described in the Subpoena Duces Tecum and based on the information provided to use for identification, no such records were found.
   C. No copies or records are transmitted because we do not have said records. The records are located or may be found at: __________________________________________________________________________
   D. Only partial records are provided.
      REASON: ___________________________________________________________________

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on ____________________ at __________________________________________

Date                                                                    (City and State)
_________________________________________________________________________

_________________________    _________________________
CUSTODIAN NAME (PLEASE PRINT)     DEPARTMENT

_________________________    _________________________
SIGNATURE OF CUSTODIAN      DATE
DECLARATION OF SUBPOENA DUCE TECUM

Case No. _________________

STATE OF CALIFORNIA, County of _________________
The undersigned states: That ______________________ has been authorized to obtain records by ______________________ (name of attorney(s)).

That he/she is (one of) the attorney(s) of record/representative(s) for the applicant/defendant in the action captioned on the reverse thereof. That _________________(name of person, hospital or entity) has in his/her possession or under his/her control the documents described on the reverse hereof. That said documents are material to the issues involved in the case for the following reasons:

(List reasons such as “to resolve issues of compensability and amount of compensation due under the Labor Code”.)

Declaration regarding Jurisdiction of the Workers’ Compensation Appeals Board

☐ That an Application for Adjudication has been filed with the Workers’ Compensation Appeals Board. Pursuant to Regulation 10530 jurisdiction has been established once an Application for Adjudication has been filed with the Workers’ Compensation Appeals Board. Case Number pending WCAB backlog.

Declaration for Injuries on or After January 1, 1990 and Before January 1, 1994

☐ That an Employee’s Claim for Workers’ Compensation Benefits (DWC-1) has been filed in accordance with Labor Code Section 5401 by the alleged injured worker whose records are sought, or if the worker is deceased, by the Dependant(s) of the decedent, and that a true copy of the form file is attached hereto. (Check box if applicable and part of declaration below. See instructions on front of subpoena.)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on __________, at ______________________, California.

Signature of Attorney Representative _________________ Address _________________ Telephone _________________
Exhibit L
Proof of Service for Service by Mail or Personal Service

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
WORKERS’ COMPENSATION APPEALS BOARD

Case No. XX XXXX

Name of Claimant / Applicant

vs.

Name of Employer / Insurance Carrier / Defendant

PROOF OF SERVICE

I declare that:

1. At the time of service I was at least 18 years of age.

2. My business or residence address is: ______________________________
   ______________________________________________________________

3. If service is by mail, I am a resident of or employed in the county where the mailing occurred.

4. I served copies of the following papers (list exact titles of papers served):
   ______________________________________________________________
   ______________________________________________________________
   ______________________________________________________________

5. Manner of service (check one box):
   □ a. By placing true copies in a sealed envelope with postage fully prepaid and depositing the envelope in the United States Mail on ________, 20__, at (city and state): ___________________.
   □ b. (If deposited at a business): By placing true copies for collection and mailing following ordinary business practices. I am readily familiar with the business’s practice for collection and processing of correspondence for mailing with the United States Post Office. The correspondence is/was scheduled to be deposited with the United States Post Office in the ordinary course of business on __________, 20__, at (business address, city and state:)
   □ c. By personally delivering true copies on ______________, 20___, at (time) __________.

6. Name and address of each party/person served:
   ______________________________________________________________
   ______________________________________________________________
   ______________________________________________________________

7. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: __________________ Signature: ____________________________

Printed Name: ______________________________________________

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AHIMA Affiliate
**Exhibit M – Notice to Consumer or Employee**

<table>
<thead>
<tr>
<th>ATTORNEY OR PARTY WITHOUT ATTORNEY (name, state bar number, and address)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Attorney Name</strong></td>
</tr>
<tr>
<td><strong>Address</strong></td>
</tr>
<tr>
<td><strong>City, State, Zip</strong></td>
</tr>
<tr>
<td><strong>Telephone Number:</strong></td>
</tr>
<tr>
<td><strong>ATTORNEY FOR:</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NAME OF COURT:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>STREET ADDRESS:</strong></td>
</tr>
<tr>
<td><strong>MAILING ADDRESS:</strong></td>
</tr>
<tr>
<td><strong>CITY AND ZIP CODE:</strong></td>
</tr>
<tr>
<td><strong>BRANCH NAME:</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PLAINTIFF / PETITIONER:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DEFENDANT / RESPONDENT:</strong></td>
</tr>
<tr>
<td><strong>CASE NUMBER:</strong></td>
</tr>
</tbody>
</table>

### NOTICE TO CONSUMER OR EMPLOYEE

**NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION**  

**To:** (name) _________________________________  

1. **PLEASE TAKE NOTICE THAT REQUESTING PARTY** (name): ___________________________ SEEKS YOUR RECORDS FOR EXAMINATION by parties to this action on (specify date): ____________________  

   The records are described in the subpoena directed to witness (specify name and address of person or entity from whom records are sought): ____________________________________________________

2. IF YOU OBJECT to the production of these records YOU MUST DO ONE OF THE FOLLOWING BEFORE THE DATE SPECIFIED IN ITEM a. OR b. BELOW:

   a. If you are a party to the above-entitled action, you must file a motion pursuant to Code of Civil Procedure section 1987.1 to quash or modify the subpoena and give notice of that motion to the witness and the deposition officer named in the subpoena at least five days before the date set for production of records.

   b. If you are not a party to this action, you must serve on the requesting party and on the witness, before the date set for production of records, a written objection that states the specific grounds on which production of such records should be prohibited. You may use the form below to object and state the grounds for your objection. You must complete the Proof of Service on the reverse side indicating whether you personally served or mailed the objection. The objection should not be filed with the court. **WARNING:** IF YOUR OBJECTION IS NOT RECEIVED BEFORE THE DATE SPECIFIED IN ITEM 1, YOUR RECORDS MAY BE PRODUCED AND MAY BE AVAILABLE TO ALL PARTIES.

3. YOU OR YOUR ATTORNEY MAY CONTACT THE UNDERSIGNED to determine whether an agreement can be reached in writing to cancel or limit the scope of the subpoena. If no such agreement is reached, and if you are not otherwise represented by an attorney in this action, YOU SHOULD CONSULT AN ATTORNEY TO ADVISE YOU OF YOUR RIGHTS TO PRIVACY.

Date: ______________

Prepared by: ____________________________   ____________________________

Signature of □ Requesting Party □ Attorney

---

### OBJECTION BY NON-PARTY TO PRODUCTION OF RECORDS

1. □ I object to the production of all my records specified in the subpoena.

2. □ I object only to the production of the following specified records:

3. The specific grounds for my objection are as follows:

Date: ______________  

(Type of Print Name)   (Signature)
Self Assessment Quiz

Upon completion of the Self Assessment Quiz, a Certificate of Completion (CEU form) will be made available to download and print. You will not be able to access the Certificate after exiting the Quiz, so be sure to download it immediately and retain as evidence of the earned continuing education.

To complete the Self Assessment Quiz, go to:
http://www.classmarker.com/online-test/start/?quiz=3yr53f67ed11d7e3

Below are the questions that make up the Self Assessment Quiz. Correct answers will be provided upon completion.

1. Workers’ compensation laws are designed to penalize employers.
   - A. True.
   - B. False.

2. Employers are required to record and report work related:
   - A. Fatalities.
   - B. Injuries.
   - C. Illnesses.
   - D. All of the above.

3. Under California Civil Code a health care provider can disclose to an employer:
   - A. A statement of medical cause.
   - B. A description of functional limitation.
   - C. Any medical history the health care provider may have obtained over the past ten years.
   - D. None of the above.

4. The members of the Workers’ Compensation Appeals Board are appointed by:
   - A. District Court Judge.
   - B. Department of Health and Human Resources.
   - C. The Governor.
   - D. Legislators.

5. California Workers’ Compensation was adopted by California in:
   - A. 1910s.
   - B. 1920s.
   - C. 1960s.
   - D. 2000s.
6. All of the following are benefits an employee may receive under Workers’ Compensation except:
   A. Permanent disability.
   B. Vocational rehabilitation.
   C. Wage increase.
   D. Medical care.

7. Once an employee is evaluated by a physician for a work-related illness or injury, the physician must complete within five days:
   A. The Doctor’s Opinion Report.
   C. The Employer’s Report of Occupational Injury or Illness.
   D. None of the above.

8. Once a workers’ compensation claim is filed and provided to the insurance company, within 14 days the insurance company may:
   A. Provide a notice to the employee that the claim is accepted.
   B. Delay the claim for further review.
   C. Deny the claim.
   D. All of the above.

9. If a workers’ compensation claim is filed with an insurance company and the claim is delayed due to an investigation, the investigation may take up to:
   A. 90 days.
   B. 30 days.
   C. 120 days.
   D. One year.

10. If an insurance company denies a workers’ compensation claim, the employee may:
    A. Appeal to Office of Civil Rights.
    B. Workers’ Compensation Appeals Board.
    C. California State Governor’s Office.
    D. Occupational Safety Board.

11. Workers’ Compensation claims do not require access to a patient’s health information.
    A. True.
    B. False.

12. All of the following allow the disclosure of information about a patient to Workers’ Compensation except:
    A. With a valid signed authorization from the patient/patient representative.
    B. When an employee has a common cold.
    C. For the purpose of payment.
    D. In compliance with established programs such as the Black Lung Benefits Act.
13. Minimum necessary is required to accomplish:

   A. Minimum treatment.
   B. Necessary lab tests.
   C. Denial of a workers’ compensation claim.
   D. Workers’ Compensation purpose of obtaining payment or providing health care.

14. The Workers’ Compensation Appeals Board consists of:

   A. 7 judicial members.
   B. 9 judicial members.
   C. 5 judicial members.
   D. 3 judicial members.

15. If an employee feels that the quality of care he or she received was inadequate, the employee may:

   A. Refer the issue to the employer’s Human Resource Department.
   B. Appeal to the Workers’ Compensation Appeals Board.
   C. Diagnose self and receive benefits of their choice.
   D. Refuse to return to work.

16. The Workers’ Compensation Appeals Board’s major functions include:

   A. Review of petitions for reconsideration of administrative law judge decisions.
   B. Regulation of the adjudication process by adopting rules of practice and procedure.
   C. Both A and B.
   D. Neither A or B.

17. Issues that an employee may bring to the Workers’ Compensation Appeals Board include all except:

   A. Refusal to authorize medical treatment.
   B. Refusal to provide benefits.
   C. Hourly wage disputes.
   D. Inadequate medical care.

18. A party aggrieved by a final decision of the Workers’ Compensation Appeals Board may petition for reconsideration for which of the following reasons:

   A. The decision is not justified by the evidence.
   B. The findings of fact do not support the decision.
   C. The decision was procured by fraud.
   D. All of the above.

19. When appearing at a deposition, it is a good idea to:

   A. Say what you think the questioning attorney would like to hear.
   B. Answer only the questions you want to answer.
   C. Give the longest explanation possible.
   D. Be truthful.
20. Depositions usually take place in the court or in the judge’s chamber.
   A. True.
   B. False.

21. Evidence presented at a Workers’ Compensation trial includes all the following except:
   A. Oral testimony.
   B. Testimony of witnesses.
   C. Cost of parking at the court house.
   D. Presentation of documents including medical records.

22. Workers’ Compensation subpoena may be served:
   A. By personal service or certified mail.
   B. By personal service only.
   C. Certified mail only.
   D. None of the above.

23. A valid subpoena consists of:
   A. Notice to Patient.
   B. Affidavit or Declaration.
   C. Documents requests.
   D. All of the above.

24. Notice to Consumer is required.
   A. By the health care provider.
   B. To inform the individual whose records are sought.
   C. At the discretion of the attorney.
   D. To locate medical records.

25. Witness fees are the same for administrative agency proceedings as they are for civil action in state courts.
   A. True.
   B. False.