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MedWise Occupational Health Data Protection Statement

Business details

Data Protection Officer (DPO) Details

Data Protection Officer	Dan MacCarthy
Practice Address	Medwise Naas Unit 32 Naas Town Centre Dublin Road Naas Co Kildare
Phone Number	045 854022
e-mail	info@medwise.ie

MedWise Occupational Health Data Protection Statement

Reasons for collecting your health information

MedWise provide occupational health services to employers and insurance companies.

MedWise carry out medical assessments on patients to determine their medical fitness for work. The employer / insurance company need to know the effect of the employee's medical condition on their ability to attend work and perform their role reliably, safely and effectively.

Medical Assessment Category	Data Controller	Uses to which the data will be put
OH Medical Assessment	Employer who commissioned the Report	To access fitness for work
Income Protection medical assessment (Independent Medical Report)	Insurance Company who commissioned the Report	To access eligibility for income protection benefit
Pre-Employment Medical	MedWise, (only a fitness for work certificate is disclosed to employer)	To access fitness for work for proposed role
Health Surveillance Medical Exam	MedWise, (only a health surveillance certificate is disclosed to employer)	To verify that subject's health is not being impacted by work hazards (noise, dust, fumes etc.)

MedWise provide the following medical assessments

MedWise OH Practice Privacy Statement

MedWise is registered with the Office of the Data Protection Commissioner (DPC) as a data controller and processor and complies with the requirements of the (1998, 2003) Data Protection Acts, Freedom of Information Acts (1997, 2003) and GDPR (2018)

MedWise respect the patient's right to privacy and dignity, this ethos guides all our interactions with the patient. Our approach is consistent with the Medical Council guidelines, the Faculty of Occupational Medicine (RCPI) guidelines on ethical practice and the privacy principles of the data protection regulations.

With the patient's consent, MedWise can disclose his medical information to the 3rd party that initiated the assessment (usually Employer / Insurance co.) The patient has the right to refuse to allow any details of their medical condition be disclosed to their employer or any other 3rd party. Medical details cannot be disclosed to the employer prior to the employee written consent. If the employee chooses not to allow disclosure of medical details to their employer the term "medical condition" is used in the report. However, even with consent, only sufficient medical details are disclosed to facilitate understanding and accommodation of health needs in the workplace. General terms are used rather than specific diagnosis.

The focus of OH advice is on functional capacity and work ability rather than precise medical diagnosis. The employer needs to know the implication of the employee's health problems on their ability to attend work and perform their role reliably, safely and effectively. The employer needs sufficient information to protect health and safety and comply with disability obligations.

Legal Basis for Processing Patient Health Data

The legal basis is the consent of the data subject (the patient)

With the patient's consent, MedWise will compile and record personal health information concerning the patient's medical condition. The purpose of compiling a medical record is to enable the occupational health clinician to determine the patient's fitness for work, their ability to attend work and perform their role reliably, safely and effectively. This is done on behalf of the patient's employer or insurance company.

It is not possible to carry out this determination without collecting and processing the patient's personal data and personal health data.

Consent must be obtained in writing before any assessment is carried out on a patient. This is to protect the person's right to autonomy and self-determination.

The patient requires sufficient knowledge and information to consider all the options and make a reasonable decision.

The clinician must obtain consent in writing before disclosing any medical details to a 3rd party (employer, insurer, solicitor).

Consent must be obtained from the patient to allow the occupational health doctor to communicate with the treating doctors and or to allow release of his medical records to MedWise

Additional Legal Basis for processing patient health data

An occupational health medical assessment may be necessary for the performance of a contract to which the patient (data subject) is a party

In some cases the patient may be contractually obligated to attend MedWise for a medical assessment, such as an employment contract with such a stipulation or an income protection insurance policy with such a stipulation.

Regardless of such a basis, MedWise will always seek informed consent from the patient for all stages of the assessment process.

To whom the data will be disclosed

Medical Assessment Category	Data Form	Disclosed to
OH Medical Assessment	OH Medical Assessment Report	Employer
Income Protection medical assessment (Independent Medical Report)	Income Protection Independent Medical Report (IMR)	Insurance Company
Pre-Employment Medical	Certificate of fitness for work	Employer
Health Surveillance Medical Exam	Health Surveillance Certificate Spreadsheet with name, dob, length of service, outcomes of the various health surveillance exams (Audiometry, spirometry, vision , etc.)	Employer

Retention Period of the Medical Record

There are several regulations and guidelines from several medical organisations, that outline the legal requirements and standards for good healthcare records management.

Medical Assessment Category	
OH Medical Assessment	30 years after last contact
Income Protection medical assessment (Independent Medical Report)	20 years after last contact
Pre-Employment Medical	20 years
Health Surveillance Medical Exam	Audiometry – 15 years Chemical – 40 years (carcinogens, lead) Ionising Radiation – 50 years Biological: 40 years

Will your information be transferred outside the EU?

Your information will not be transferred outside the EU by MedWise as all of our customers are based in the Republic of Ireland.

Your right of Access to your health information

Under the Data Protection Acts 1988 to 2003, and GDPR, patients attending MedWise have the right of access to medical records and to the medical report furnished to the insurer, employer or other 3rd party.

There are specific rules surrounding 3rd party reports, which we must take into consideration when processing requests. Third party reports include occupational health reports, legal reports and insurance reports. The 3rd party who commissions and pays for the report is the data controller and responsible for processing the request. MedWise is the data controller for handwritten medical notes, consents, results of investigations and other doctor's letters.

The request must be put in writing and MedWise must comply within 30 days.

Data controller or data processor?

A report prepared for an employer or insurer belongs to them. They commissioned and paid for the report and are the data controller. MedWise is the data processor of the report. Therefore, any request for the report will be forwarded to the employer / insurer to process.

The employer / insurance company has responsibility as a Data Controller under GDPR to release the report within 30 days of receiving the request in writing, at no cost.

You should put your request in writing to the individual who commissioned MedWise to prepare the report. This is normally the HR Manager in a workplace or the Health Claims Assessor in an insurance company.

Right to Rectification

Under Article 16 of GDPR, the patient has the right to obtain rectification of inaccurate patient data which is factually inaccurate. However, this is not an unqualified right and depends on the circumstances of each case. The inaccuracy may be resolved by the addition of a supplementary statement in the patient record. Inaccurate patient data should be noted as such. The patient has the right for a supplementary note to be inserted in their clinical record that they disagree with the OHP's opinion and determination, but the contemporaneous record and determination by the OHP does not have to be deleted or erased.

Right to Erasure

Article 17 of GDPR deals with the right to erasure. Because the OHP has a requirement (Section 33 of Guide to Professional Conduct and Ethics for Registered Medical Practitioners, 8th Edition 2016) under Medical Council rules to keep medical records and also has a right to defend medico-legal claims, under Article 23.1(g) the right to erasure of medical records is not an absolute right and restrictions may apply. Also the material output from the OH medical assessment is the medical report which is sent to the employer / insurance company. The recipient of this report is the data controller. Due to the complexities involved, erasure requests would need to be examined on a case-by-case basis.

Right to Restriction of Processing / Withdrawal of Consent to disclose

Article 18 of GDPR deals with the right to restriction of processing. Where a patient is in dispute with the OHP, they may request that their medical record be locked or archived so that further processing of, or changes to, the record do not occur. The patient needs to be made aware that OH medical assessment cannot take place while the medical record is locked, and that this action may be in breach of their contract with the employer or insurance company. Requests from patients to restrict processing should be in writing and signed.

Right to Data portability - This right is tempered by competing rights, such as the contract for OH service is between MedWise and a 3rd party (employer / insurance company)

Right to Object – the patient has the right to object to processing of personal data for direct marketing purposes. MedWise do not use personal information for direct marketing. Nor does Medwise use personal data for automated individual decision making including profiling

Questions

We hope this leaflet has explained any issues that may arise. If you have any questions, please speak to the OHP doctor or the MedWise Data protection officer