

EDEX SUBSCRIBER APPLICATION

SUBSCRIBER ACCOUNT No. _____ [DWC USE ONLY]

A. INFORMATION

Labor Code Section 138.7 limits access to “individually identifiable information” in the Division’s records that would otherwise be a matter of public record. Labor Code section 138.7(b)(5) provides as follows:

This section shall not operate to exempt from disclosure any information that is considered to be a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) contained in an individual's file once an application for adjudication has been filed pursuant to Section 5501.5.

However, individually identifiable information shall not be provided to any person or public or private entity who is not a party to the claim unless that person identifies himself or herself or that public or private entity identifies itself and states the reason for making the request. The administrative director may require the person or public or private entity making the request to produce information to verify that the name and address of the requester is valid and correct. If the purpose of the request is related to pre-employment screening, the administrative director shall notify the person about whom the information is requested that the information was provided and shall include the following in 12-point type:

IT MAY BE A VIOLATION OF FEDERAL AND STATE LAW TO DISCRIMINATE AGAINST A JOB APPLICANT BECAUSE THE APPLICANT HAS FILED A CLAIM FOR WORKERS' COMPENSATION BENEFITS.

Any residence address is confidential and shall not be disclosed to any person or public or private entity except to a party to the claim, a law enforcement agency, an office of a district attorney, any person for a journalistic purpose, or other governmental agency. Nothing in this paragraph shall be construed to prohibit the use of individually identifiable information for purposes of identifying bona fide lien claimants.

In compliance with Labor Code section 138.7, the will redact residence addresses from any WCAB case information provided to individuals or entities that are not:

- a party to the case concerning which information is requested;
- a bona fide lien claimant or potential lien claimant;
- a law enforcement agency;
- a district attorneys office;
- any person with a journalistic purpose;
- a government agency.

EDEX will automatically identify transactions where redaction of residence address information is required. Additionally, any transaction that appears to involve pre-employment screening will be flagged so that the Division can generate the required notice to the injured worker. EDEX Release II will be configured to automatically produce a data-mailer containing the required notice. Cases in which the notice is required will be identified based on the Inquiry Reason Code provided as part of the EDEX transaction.

The Subscriber and the Subscriber's clients should be aware that the fact that a Subscriber has submitted an EDEX inquiry and/or received EDEX information is, in itself, a matter of public record. The Division reserves to itself the right to notify any individual about whom an EDEX inquiry is made of the nature and source of that inquiry, including the identity of the Subscriber's client, and to provide the individual with a copy of the request and any information provided in response thereto.

The Division reserves the right to verify information contained on this application and/or the Subscriber's client list. False or misleading statements on either the application or client list shall be cause for denial of the application or termination of EDEX access privileges. The Division also reserves the right to audit the use made of any EDEX information obtained by or for the Subscriber and/or its clients.

B. INSTRUCTIONS FOR EDEX SUBSCRIBERS

Information for Persons Requesting EDEX Access:

This application to become an EDEX subscriber is a request pursuant to the California Public Records Act (Government Code section 6250 et seq.) for access to public records of the WCAB. The Public Records Act encourages public access to information in the possession of public agencies. However, Government Code section 6255 authorizes denial of access to public records if the public agency determines by the facts of a particular case that the ultimate use of the information does not serve a legitimate purpose. Therefore, in making application for access to the public records available through EDEX, the subscriber shall certify by signing this application that it will not seek or use information contrary to state or federal law. In addition, prior to making an EDEX inquiry on behalf of a client who is neither a party nor a lien claimant in the case subject to the inquiry, subscriber shall submit to DWC an "EDEX Client Acknowledgment of Legal Constraints on Access to Information and Use of Information" signed by the client.

Instructions:

A person wishing to establish an electronic mailbox in order to file notices of lien electronically or gain electronic access to public records of the WCAB shall complete this form as Subscriber. In order to process your request, we need to know the names and addresses of each of your clients (those filing liens or inquiries via this EDEX account) as well as the name(s) and address(es) of those who may represent the client. A unique identification number will be assigned to each client and to each representative for use in the EDEX process. Complete and attach the following documents as part of this Application:

3. PHYSICAL ADDRESS: _____

4. MAILING/BILLING ADDRESS: _____

5. NOTICE/CORRESPONDENCE ADDRESS: _____

6. PRIMARY CONTACT: _____

Name _____ Title/Position _____

Phone Number: (____) _____ **FAX:** (____) _____

7. BACKUP CONTACT: _____

Name _____ Title/Position _____

Phone Number: (____) _____ **FAX:** (____) _____

8. OWNER(s), PARTNER(s), CORPORATE OFFICERS/TITLE:

9. If Subscriber is licensed by the State of California, or if subscriber holds a license issued under the Business and Professions Code (such as a license issued by the Medical Board, or the State Board of Chiropractic Examiners), or the State Bar of California, provide the name of the agency issuing the license, type of license, license number and date license expires.

10. Provide the following regarding the Subscriber:

a. Federal Identification Number: _____

b. If subscriber does not have such number, explain why: _____

c. Corporation Number and the State which issued the number: _____

11. What type of business is subscriber engaged in? _____

D. CONDITIONS OF ELECTRONIC ACCESS TO RECORDS AND RESTRICTION ON DISSEMINATION OF INFORMATION

In order to ensure that the disclosure of the electronic data is not contrary to the public interest, the DWC places the following conditions on EDEX access. Subscriber acknowledges these conditions by its signature below.

1. False or misleading representations are cause for denial of an application, termination of electronic access and revocation of the EDEX account. Any person or entity holding a subscriber account number and/or client identification number who directly or indirectly obtains information from DWC using false representations, or who distributes restricted or confidential information to any person, or who uses the information for an unlawful purpose, shall have its electronic access account privileges suspended or revoked. Misrepresentation of client identification number will be considered by DWC as misuse, and may result in both revocation of the account and refusal of subsequent applications.

2. Subscriber shall disclose in the EDEX Client list any individuals to whom Subscriber intends to provide information obtained from the EDEX system, hereafter referred to as "clients" of Subscriber. Subscriber shall not furnish information to any client until Subscriber notifies DWC in writing of the identity of such client and DWC issues a client identification number and, for a non-party or non-lien claimant, Subscribers submits to DWC an EDEX Client Acknowledgment form signed by the client. Any client of Subscriber shall not provide the information it receives through EDEX to others.

3. All electronic transmissions must identify the "client" on whose behalf the transmission is performed. Subscriber must use the proper identification number in all transmissions. Subscriber may disseminate information obtained by an electronic transmission only to the person or entity whose client identification number was listed in that transmission. The client whose identification number is listed in the transmission must be the end user of the information obtained.

4. Information obtained through EDEX shall be used for lawful purposes only, and shall not be sold or otherwise made available to anyone other than the client whose client identification number was used in the transmission soliciting the information.

5. Before making inquiries on behalf of a non-party or non-lien claimant, the subscriber must submit to DWC an "EDEX Client Acknowledgment of Legal Constraints On Access to Information and Use of Information" form signed by the Client.

6. Information shall not be requested or used in violation of any provisions of the federal Americans With Disabilities Act, the Equal Employment Opportunity Act, the federal Fair Credit Reporting Act, the California Fair Employment and Housing Act, or any privacy or confidentiality laws, now in existence or hereafter adopted.

7. In regard to information sought for employment screening purposes:
 - a. Information will not be sought through EDEX unless and until there has been a conditional offer of employment to the subject of the information;
 - b. The information obtained through EDEX will only be used in a manner consistent with the Americans with Disabilities Act, for example to: determine the truthfulness of information on the related job application, determine whether the prospective employee is capable of performing the essential functions of the job with or without reasonable accommodations, and/or, determine if the prospective employee would create a significant risk of substantial harm to the health or safety of himself or others in the workplace setting, which risk could not be reduced or eliminated with reasonable accommodation;
 - c. If the information obtained through EDEX results in a rescission of the conditional offer of employment, the subject of the information shall be notified of such and given free access (such as a toll free number to call) to request and obtain a free copy of the information.
 8. Subscriber shall maintain, for two (2) years from the date of each electronic inquiry, records of the inquiries, which records must include Subscriber's account number, the client's identification number, representative's identification number (if applicable), date of inquiry, type of information requested, and the business reason for the inquiry.
 9. Subscriber shall accommodate electronic or manual audits of Subscriber at the discretion of DWC and on one (1) business day's notice. Subscriber agrees to allow on-site audits by DWC during regular business hours. Subscriber's information request records shall be subject to inspection, copying and audit by DWC for a period of two (2) years.
 10. Subscriber shall maintain the security and integrity of the information which it receives. Violation of any of the Conditions of Electronic Access to Records, whether by omission or commission, shall be grounds for action by DWC and may result in termination of service to Subscriber. DWC may pursue any appropriate legal remedy.
- Civil Code section 1798.81.5 (b) provides that "A business that owns or licenses personal information about a California resident shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure." A violation of Civil Code section 1798.81.5 (b) may lead to civil liability for damages and/or imposition of a civil penalty. These provisions apply to any business that maintains, transfers or stores personal information subject to section 1798.81.5 (b).
- In addition, Labor Code section 138.7(d) provides that: "It shall be unlawful for any person who has received individually identifiable information from the division pursuant to this section to provide that information to any person who is not entitled to it under this section."
11. Subscriber shall comply with any copyright notices that may be included in any record description format and all other materials provided by DWC through the EDEX system.

E. FEES AND BILLING

1. Subscriber shall pay the appropriate fees pursuant to section 9990 of Title 8, California Code of Regulations. If the fees provided under Title 8, CCR section 9990 are changed by amendment, subscriber understands that the fees billed shall be governed by the regulation in effect at the time of the electronic transmission.

2. Subscriber shall be billed quarterly. The bill shall be payable, in full, upon receipt. If any amount remains unpaid thirty (30) days after the invoice date, the Subscriber's account, client identification numbers, and representative numbers may be suspended or revoked at the discretion of DWC. If Subscriber disputes the amount of the bill in writing within thirty (30) days of the invoice date, the account and related identification numbers shall not be revoked, until thirty (30) days after DWC confirms the amount of the disputed bill and rebills Subscriber.

F. DISCLAIMER OF WARRANTY:

Subscriber hereby acknowledges that the use of the EDEX system and the information contained therein is at the Subscriber's sole risk. The information provided from the EDEX system is provided "as is" and without warranty of any kind. The Division believes that the information contained in the EDEX system is accurate, and will use its best efforts to correct any errors in this information that are brought to its attention.

The Division does not warrant that the functioning of the EDEX system will meet your data requirements or that the operation of the system will be uninterrupted or error free.

The Division expressly disclaims any and all warranties, express or implied, including, but not limited to, the implied warranties of merchantability or fitness for a particular purpose.

SUBSCRIBER ACKNOWLEDGMENT AND ACCEPTANCE OF TERMS:

I, the undersigned, declare under penalty of perjury under the laws of the State of California, that:

- A) I will abide by the Conditions of Electronic Access set forth above.
- B) I will not seek, use, or disseminate information received for illegal or unlawful purposes. In compliance with Civil Code section 1798.81.5 (b), I will implement and maintain reasonable security procedures and practices to protect the personal information obtained from the Division from unauthorized access, use, modification, or disclosure. In compliance with Labor Code section 138.7(d) I will not disclose any individually identifiable information obtained from the division to any person who is not lawfully entitled to receive it.
- C) The representations made in this application are true and correct.

Executed under penalty of perjury at:

County of _____, City of _____,

State of _____, on _____, 20__.

SUBSCRIBER

Authorized signature

Title

Subscriber hereby authorizes the Division to return this application to the address below after assignment of a Subscriber number:

