

(5) THE HEALTH PROFESSIONAL, AND THE EMPLOYER OR CONTRACTOR OF THE HEALTH PROFESSIONAL'S SERVICES SUCH AS DOWNSTREAM EMPLOYER, LABOR ORGANIZATION, OR INDIVIDUAL EMPLOYER, AGREE IN A WRITTEN CONFIDENTIALITY AGREEMENT THAT THE HEALTH PROFESSIONAL WILL NOT USE THE TRADE SECRET INFORMATION FOR ANY PURPOSE OTHER THAN THE HEALTH NEED ASSERTED AND AGREED NOT TO RELEASE THE INFORMATION UNDER ANY CIRCUMSTANCES OTHER THAN TO THE UNITED STATES OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, EXCEPT AS AUTHORIZED BY THE TERMS OF THE AGREEMENT OR BY THE CHEMICAL MANUFACTURER OR EMPLOYER.

(E) THE CONFIDENTIALITY AGREEMENT AUTHORIZED BY SUBSECTION (D) OF THIS SECTION:

(1) MAY RESTRICT THE USE OF THE INFORMATION TO THE HEALTH PURPOSES INDICATED IN THE WRITTEN STATEMENT OF NEED;

(2) MAY PROVIDE FOR APPROPRIATE LEGAL REMEDIES IN THE EVENT OF A BREACH OF THE AGREEMENT, INCLUDING STIPULATION OF A REASONABLE PRE-ESTIMATE OF LIKELY DAMAGES; AND

(3) MAY NOT INCLUDE REQUIREMENTS FOR A POSTING OF A PENALTY BOND.

(F) NOTHING IN THIS STANDARD IS MEANT TO PRECLUDE THE PARTIES FROM PURSUING NONCONTRACTUAL REMEDIES TO THE EXTENT PERMITTED BY LAW.

(G) IF THE HEALTH PROFESSIONAL RECEIVING THE TRADE SECRET INFORMATION DECIDES THAT THERE IS A NEED TO DISCLOSE IT TO THE UNITED STATES OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, THE MANUFACTURER OR EMPLOYER WHO PROVIDED THE INFORMATION SHALL BE INFORMED BY THE HEALTH PROFESSIONAL PRIOR TO ~~OR AT THE SAME TIME AS~~ THE DISCLOSURE TO THE UNITED STATES OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION.

(H) IF THE CHEMICAL MANUFACTURER OR EMPLOYER DENIES A WRITTEN REQUEST FOR DISCLOSURE OF A SPECIFIC CHEMICAL IDENTITY, THE DENIAL MUST:

(1) BE PROVIDED TO THE HEALTH PROFESSIONAL WITHIN 30 DAYS OF THE REQUEST;

(2) BE IN WRITING;

(3) INCLUDE EVIDENCE TO SUPPORT THE CLAIM THAT THE SPECIFIC CHEMICAL IDENTITY IS A TRADE SECRET;

(4) STATE THE SPECIFIC REASONS WHY THE REQUEST IS BEING DENIED; AND

(5) EXPLAIN IN DETAIL HOW ALTERNATIVE INFORMATION MAY SATISFY THE SPECIFIC MEDICAL OR OCCUPATIONAL HEALTH NEED WITHOUT REVEALING THE SPECIFIC CHEMICAL IDENTITY.