

32K.

(c) Any independent contractor or employer to whom information is not supplied under subsections (a) and (b) of this section may obtain a chemical information list or material safety data sheet from the Department of Health and Mental Hygiene, pursuant to § 32H[(c)](B) of this subtitle.

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(d) In nonemergency situations, a manufacturer or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under this section, to a physician, registered nurse, physician's assistant, industrial hygienist, toxicologist, or epidemiologist providing medical or other occupational health services to an exposed employee if:

(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] AGREE not to release the information under any circumstances other than to the [United States] MARYLAND 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.

(f) Nothing in this [standard] SUBTITLE 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] MARYLAND Occupational Safety and Health Administration, the manufacturer or employer who provided the information shall be informed by the health professional prior to the disclosure to the [United States] MARYLAND Occupational Safety and Health Administration.

(j) (1) After an employer or manufacturer claims a trade secret under subsection (b) of this section or when a health professional refers a denial to the Commissioner under subsection (i) of this section, the Commissioner shall consider the evidence to determine if:

(i) The manufacturer or employer has carried the burden of [providing] PROVING that the claim that the specific chemical identity is a trade secret; AND

(ii) WHEN APPROPRIATE, [The] THE health professional: