

EDO Principal Correspondence Control

FROM: DUE: 01/29/01 EDO CONTROL: G20010003  
DOC DT: 01/03/01  
FINAL REPLY:

John Hisle  
Department of Health & Human Services (HHS)

TO:  
Chairman Meserve

FOR SIGNATURE OF : \*\* GRN \*\* CRC NO: 01-0013

Bird, HR

DESC: ROUTING:

Employee Medical File System Manager for the NRC

Travers  
Paperiello  
Miraglia  
Norry  
Craig  
Burns/Cyr

DATE: 01/05/01

ASSIGNED TO: CONTACT:  
HR Bird

SPECIAL INSTRUCTIONS OR REMARKS:





**DEPARTMENT OF HEALTH & HUMAN SERVICES**  
Health Resources and Services Administration

Public Health Service

Bureau of Primary Health Care

Federal Occupational Health

January 3, 2001

Richard A. Musgrave, Chairman  
Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852-2738

Dear: Mr. Musgrave

Federal Occupational Health (FOH), a division in the Health Resources and Services Administration of the Department of Health and Human Services (DHHS) provides occupational health services for many employees within your department or agency. In order for FOH to provide these services in a manner consistent with regulations regarding the management of employee occupational medical files, I am asking for your assistance. FOH needs to determine the name, title, address, and phone number for the designated Employee Medical File System Manager (EMFSM) for your organization or agency. This letter explains the reason for this request and why it has emerged as an important issue at this time.

In consultation with the DHHS Office of General Counsel, FOH recently reviewed and revised its policies and practices regarding occupational medical records. FOH serves as a custodian of its customer-agencies' medical records under the authority of the interagency agreement to provide occupational health services. As a custodian of records for an agency, FOH is obligated to adhere to statutes and regulations that apply to those records. Those statutes and regulations include Office of Personnel Management (OPM) regulations (5 CFR Parts 293 and 297), the OPM Employee Medical File System (EMFS) Notice (OPM/GOVT-10), and the Privacy Act of 1974 and its subsequent amendments.

5 CFR Part 293.506 states that an employee's medical folder "*is part of the records of the Office [of Personnel Management]*" and section 507 of Part 293 states that the head of an employing agency "*must maintain all appropriate employee occupational medical records in the [Employee Medical File System].*" As a custodian of occupational medical records on behalf of an agency, however, FOH does not have authority to determine for an agency how those records are to be disclosed or managed on the agency's behalf. According to 5 CFR 293.503, an agency must designate "*the agency official who will be responsible for overall [employee medical file] system management.*" This agency official "*may then designate others within the agency to handle the day-to-day management of the records....*" Section 503 of the OPM regulations further provides

other specific implementing instructions for an agency's employee medical file system, including issues of disclosure of records and preservation of confidentiality.

Because FOH has no authority to make decisions for you regarding the use or release of information from your employees' occupational medical files, FOH must be very careful about the circumstances under which it can release information from those files. With very limited exceptions (e.g., public health emergencies), FOH may release employee-identifiable information only with the signed consent of the subject employee(s). Other releases must be with the authority or under the guidance of the agency's EMFSM or, in the case of requests from non-governmental entities, the agency's Freedom of Information Act officer.

For the above reasons, I am asking for the name, address, and phone number of your agency's EMFSM (or others officially designated by him/her who have the authority to make occupational medical file decisions for your agency). With the knowledge and consent of your agency's EMFSM, FOH will be able to refer questions (or the files themselves) to the individual(s) authorized by your agency to manage the occupational medical files of its employees. This will serve both your agency's and FOH's needs to operate within the applicable legal requirements, and to maintain appropriate confidentiality and security for the agency's employees.

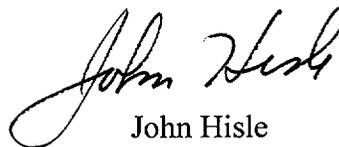
Please provide this information to the FOH physician who is coordinating this process:

Dr. Jay Paulsen  
Federal Occupational Health  
U.S. Public Health Service  
2201 Sixth Avenue, MS RX-21  
Seattle, WA 98121

Fax: 206-615-2446  
E-mail: [jpaulsen@email.foh.dhhs.gov](mailto:jpaulsen@email.foh.dhhs.gov)

Thank you for your assistance as we serve your occupational health needs.

Sincerely,

A handwritten signature in black ink, appearing to read "John Hisle". The signature is fluid and cursive, with a large initial "J".

John Hisle  
Director