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Instructions For Requesting Confidential Treatment of Documents Filed With the Bureau of Insurance

A. Electronic Documents.

If there are electronic documents you submit to the Bureau for which you would like to assert confidentiality, please:

1. Include a **statement** specifically identifying the parts of the document(s) for which confidentiality is asserted and describe the specific basis under the law upon which the assertion is being made.
2. Unless you are asserting confidentiality for the entire document, indicate the parts that are confidential by shading or other means. Include “confidential” in the document name.
3. Unless you are asserting confidentiality for the entire document, provide a second version of the document with the confidential portions redacted or omitted. Include “nonconfidential” in the document name.

Should the Bureau disagree with an assertion of confidentiality, you will be notified and given an opportunity to request a hearing on the issue. To guide you in preparing a request for confidentiality letter, please review the discussion of the “Freedom of Access” law (see Section C below) regarding records in the possession of state agencies.

Should a third party seek access to a document that is subject to your assertion of confidentiality, you will be provided an opportunity to present argument in support of the validity of your assertion as of that time. The requesting party will also be provided an opportunity to present argument in support of the requested access. The Bureau will review the arguments and make a determination as to whether or not it believes the document is available to the third party. Should that determination be adverse to you, you will be provided an opportunity to seek judicial relief before the document is released.

B. Paper Documents

If there are paper documents you submit to the Bureau and which you would like held as confidential, please:

1. Include a letter specifically identifying the documents or portions thereof for which confidentiality is being asserted and describe the specific basis under the law upon which the assertion is being made.
2. Stamp each page for which confidentiality is asserted “confidential”.

CONSUMER TOOLS

- [Consumer information](#)
- [Home Inventory Tool](#)
- [Compare Individual and Small Group Health Insurance Policies](#)
- [Compare Homeowners and Auto Insurance Policies](#)
- [Brochures](#)
- [Bureau Reports](#)
- [File a complaint](#)
- [Glossary of terms](#)
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- [ACA Filings/Rate increases](#)
- [Long Term Care Partnership](#)

INDUSTRY TOOLS

- [Physician Tiering Program Reporting](#)
- [Online Data Reporting System](#)
- [Company forms and information](#)
- [Producer and Business Entity forms and information](#)
- [Address change forms](#)
- [Fees](#)
- [Hearing Schedule](#)
- [Request for proposal](#)
- [Domestic Insurance Company Annual Statements](#)

EMPLOYER TOOLS

- [Workers compensation insurance](#)
- [Health insurance information](#)

3. Segregate these materials from those for which no confidentiality is being asserted, preferably submitting confidential materials separately in a red binder, folder or envelope. If only a portion of an otherwise public document is included in the request for confidentiality, the relevant portion need not be removed from the document of which it is a part, but:

- a) a second, redacted version of the document should be provided; and
- b) the page or pages of the confidential version should be stamped “confidential”.

Should the Bureau disagree with an assertion of confidentiality, you will be so notified and given an opportunity to request a hearing on the issue. To guide you in preparing a request for confidentiality letter, please review the following discussion (in Section C below) of the law regarding records in the possession of state agencies.

Should a third party seek access to a document that is subject to your assertion of confidentiality, you will be provided an opportunity to present argument in support of the validity of your assertion as of that time. The requesting party will also be provided an opportunity to present argument in support of the requested access. The Bureau will review the arguments and make a determination as to whether or not it believes the document is available to the third party. Should that determination be adverse to you, you will be provided an opportunity to seek judicial relief before the document is released.

C. Maine’s Freedom of Access Law

As a general proposition, the presumption regarding State Agency records is that they are available for public scrutiny pursuant to the requirements of Maine’s Freedom of Access Law. Exceptions to this presumption will be reviewed below. Maine’s [Freedom of Access Law](#) can be found at Title 1 M.R.S.A. §§ 401–412. The law’s declaration of public policy states that:

public proceedings exist to aid in the conduct of the people’s business...actions are to be taken openly, records of action open to public inspection and deliberations conducted openly

[Section 408](#) of the law states that:

except as otherwise provided by statute, every person shall have the right to inspect and copy any public record during the regular business hours of the custodian or location of such record

“Public records” are defined in [section 402\(3\)](#) to include:

any written, printed or graphic matter or any mechanical or electronic data compilation ... that is in the possession or custody of an agency or public official of this State...and has been received or prepared for use in connection with the with the transaction of public or governmental business

[Rural Medical Access Program](#)

HEALTH CARE PROVIDER TOOLS

[Any Willing Pharmacy Requirements](#)

The general statement of public access to Bureau of Insurance records appears in 24-A M.R.S.A. [§ 216\(2\)](#), which states (excerpt):

All records of the Bureau shall be subject to public inspection, except as otherwise expressly provided by law as to particular matters and except that records, correspondence and reports of investigation in connection with actual or claimed violations of this Title or prosecution or disciplinary action therefor shall be confidential.

Exceptions To The General Rule Of Public Access

[Section 402\(3\)](#) of Maine's Freedom of Access Law excepts from the definition of public records: 1) records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding; and, 2) records that have been designated confidential by statute. **Note: The first exception and the remainder of this Section C do not apply to rate filings for individual health insurance and small group health plans. See Section D below for details.**

Records That Would Be Within The Scope Of A Privilege Against Discovery Or Use As Evidence

Privileges recognized by the Courts of this State are set forth in Article V of the Maine Rules of Evidence, which may be located at http://www.courts.state.me.us/rules_adminorders/rules/index.shtml under the heading "ALL OTHER COURT RULES". With respect to Rule 507, Trade Secrets, Maine's [Uniform Trade Secrets Act](#), 10 M.R.S.A. §§1541-1548, defines a trade secret at 10 M.R.S.A. [§1542\(4\)](#).

D. Rate Filings for Individual Health Insurance and Small Group Health Plans.

Rate filings and all supporting documentation subject to 24-A M.R.S.A. § 2736, sub-§ 2, and § 2808-B, sub-§ 2. A (B) must be publicly available except for protected health information required to be kept confidential by state or federal statute, and except for descriptions of the amount and terms or conditions or reimbursement in a contract between an insurer and a third party.

If you have any questions, you may contact the Bureau's Legal Division.

Last Updated: **September 9, 2016**