Understanding HR Policies

Why do employees misuse sick days and what can your organization do about it?
Abusing Sick Leave
How to manage it effectively

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What Constitutes Misuse of Sick Time?

Chart: Days Lost Due to Illness or Disability

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Steps to Address Excessive Sick Leave
Abusing Sick Leave
How to manage it effectively

Many surveys and reports inform us that today’s employees struggle increasingly with feeling overwhelmed, stressed, or burnt out. Consequently, these employees experience increased mental health concerns. Sometimes these employees are coming to work and other times calling in ‘sick’. It can be difficult for an organization to manage employee health and wellness needs while acknowledging that some employees abuse sick leave privileges. Both absenteeism and presenteeism are problems in the workplace. There is no quick fix for either issue.

Is Impracticality the Defining Issue?
The question of what constitutes a legitimate reason to call in sick is not always easy to answer. Does an employee need to have specific physical symptoms that make coming to work impractical? Is solely feeling overwhelmed (short of depression) enough to warrant an employee calling in ‘sick’?

A survey by Kronos that found 54% of Canadians have called in sick when they were not ‘sick’. Does that mean they were all faking, or could it be sometimes these were sound decisions to mitigate future health problems?
Most Outrageous Excuses
For perspective we have gathered some of the more outrageous ‘what were they thinking’ excuses employees offered for taking a sick day from a variety of sources (including CareerBuilder, Worlopolis, a Harris Interactive survey):
- Employee's favorite football team lost on Sunday so needed Monday to recover
- Employee got sick from reading too much
- Employee was upset after watching ‘Hunger Games’
- Employee was suffering from a broken heart
- Employee caught a cold from his puppy
- Employee hurt his back chasing a beaver
- Employee wasn't feeling so clever that day
- Employee said she burnt her mouth on a piece of pumpkin pie
- Employee feel asleep at his desk, hit his head and got a neck injury
- Employee stubbed his toe and thinks it is broken

It is humorous to read these. It helps keep things in perspective when your employees call in sick and you question their illness. Other “outrageous” excuses have a ring of truth, but may still raise the ire of an employer. These include:
- I need to catch up on my sleep
- I do not feel like working today
- I need a day to relax
- My muscles are sore from exercising

You Don’t Ask and They Don’t Tell
When an employee calls in sick for a day, the best policy is not to ask for any details and to advise your employee not to give any. If your organization does not offer sick leave, the reasons will not matter. If you do offer sick leave you should have a policy that spells out how many days an employee can take without a note from a doctor. No policy should try to spell out what ailments and reasons are legitimate because that would be unmanageable and not to mention unenforceable.

Until such time as you feel an employee is taking advantage of sick time by taking excessive amounts of time off or you have tangible information that an employee is abusing the privilege it is best to trust your employees. Consider the quality of their work and their contributions and trust that they know when they need a break.

SICK DAYS CAN BECOME HEALTH DAYS
Instead of focusing on sick days and trying to catch an employee who ‘just needs a day off’ vs. someone who is recovering from an ailment, consider offering a combination of sick days and wellness days and calling them ‘Health Days’. These are differentiated from personal days and compassionate care leave, and are simply days to ‘promote’ better health. This does not excuse employees who abuse these days by taking off 5 days in a row. You can still require verification such as a doctor’s note after 2 days, and limit the total number of days per year available to the employee. ‘Health Days’ can be a more positive way to look at the situation.

Checking Up on Sick Employees
There are times when you do have reason to verify that an employee is not abusing sick time. In a survey conducted by Career Builder, 33% of employers said they checked in on employees who called in sick to make sure the excuse was legitimate. Their methods of checking included: 64% required a doctor’s note, 48% called the employee, 19% checked the employee’s social media posts, 17% had another employee call the sick employee, and 15% drove past the employee’s house.

Taking Actions to Address Misuses of ‘Health Days’
If an employee is chronically taking multiple sick days, or frequently takes sick days in a pattern such as every Friday, you should investigate. Your investigation may include trying to determine if there is a reason for their routine absence, such as disability (which can include physical, medical, psychological and even substance abuse). If the employee does not disclose a reasonable explanation, you may have to proceed with disciplinary steps.

If you do discover that an employee is misusing ‘health days’, address this abuse with a policy that lays out progressive discipline in response. Your policy could include:
- Specific performance and attendance expectations including no absences in the future without a doctor’s note
There are times when you do have reason to verify that an employee is not abusing sick time.
Sick Leave

What Constitutes Misuse of Sick Time?

According to a recently published survey by Angus Reid, on behalf of Kronos, 54% of Canadians admit to faking sick time. 65% of those who admitted to faking sick time, indicated they did so because they were feeling stressed, while 35% did so to take care of a sick child, 13% faked illness due to overwork, and 12% claimed to do so because they did not enough vacation time.

If an employee is ill and cannot perform well at work, or could be a distraction to others, his presence is not desirable. If an employee with temporary or chronic health issues feels unwell, you probably recognize the importance of allowing him to use 'sick' time to manage his health. The questions of what constitutes "legitimate sick time" and how to prevent a misuse of sick time are important for many employers.

Days Lost To Illness in Canada

According to stats Canada, Canadians who work full-time lose on average between 5.6 and 12.2 days of work in 2012 due to illness or disability.

Generally, Canadians do not take a lot of sick days, ranging between ½ and 1 day per month per full time non-government employee. Given these statistics, when an employee calls in sick, they are probably making a good choice. The cost of presenteeism in Canada is estimated to cost more than the cost of absenteeism.

2 Tips for Reducing Inappropriate Use of Sick Time

1. Examine Your Workplace culture: One of the best ways to reduce misuse of sick time is to create a workplace that encourages a healthy, balanced approach to work. Consider initiating workplace health and wellness programs that encourage healthy lifestyles. Furthermore, introducing flex-time may reduce pressure on employees. Flex hours may also encourage employees to show up and work hard.

2. Explore Personal Issues: If you suspect an individual is abusing sick time, probe the individual. You may discover he or she has reasons for taking sick time that include physical or mental health concerns, family or personal problems, and workplace issues. You may address the issue making changes to help this employee manage his or her workload. You might change their work schedule or job duties. The final (unpleasant) option is deciding if this employee is the best fit their role or for the organization.

ADDRESSING EMPLOYEES WHO YOU SUSPECT ARE ABUSING SICK TIME

It is difficult to obtain proof that a person is misusing sick time. Without proof, address performance issues. An employee who misuses sick time puts an extra burden on co-workers who have to take on his or her workload. This is a performance issue and you may choose to address it as such instead of trying to prove misuse of sick time.

Most employees do not have malicious intent. It is very rare that someone simply calls in sick because they are truly a slacker, most people have what they believe is a genuine need to miss work.

By examining your organization’s role in creating a workplace that encourages health, wellness and flexibility, create an atmosphere where employees genuinely want to come to work.
Days Lost Due to Illness or Disability

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Excessive employee absence costs the Canadian economy about $16.6 billion, based on salary costs for days lost - based on a report from the Conference Board of Canada.

Only 46% of employers admitted to any kind of tracking of the significant costs of absenteeism.
Ask the Expert
Can you fire an employee for missing too much work?

It depends. The rules are complicated but let’s see if we can simplify them for you.

**Step 1: Determine If the Absence Is “Culpable”**
Culpable absences include things like deliberately missing work when there’s nothing physically or mentally wrong. Such absences are subject to discipline like any other form of misconduct.

But if the absence is non–culpable, e.g., absences due to illness or injury, discipline is much trickier.

**2. If Absence Is Non-Culpable, Does It Frustrate the Employee’s Contract?**
There are situations when it is appropriate to impose discipline for non–culpable absences. One of these is when you can prove that the absence “frustrated” the employee’s contract and made it impossible to do the job you hired her to do.

Proving frustration of contract is hard. Here’s what you must do to prove frustration, click here.

**3. Does Discipline Constitute Disability Discrimination?**
Because the injuries and illnesses that cause employees to miss a lot of work are often considered “disabilities” under human rights laws, discipline for absenteeism may be considered a form of discrimination. In such cases, liability typically turns on whether the employer made reasonable accommodations for the employee or, conversely, whether putting up with the employee’s continued absences constitutes undue hardship.

**WHAT THE LAW REQUIRES**
Employers may terminate employees who have been absent for extended periods and have no reasonable expectation of coming back to work. This is true even if the absence is unpaid, non–culpable and the employee has an excuse. The theory: The absence defeats or frustrates the employment contract and makes it impossible for the employee to do the job.

But there are laws that employers must consider. For example, human rights laws ban employers from discriminating by disability. More often than not, the mental or physical condition that forces an employee to go on LTD leave is considered a disability under human rights laws. Part of an employer’s duty to refrain from discrimination is to make accommodations necessary to afford disabled employees the same opportunities as other persons. Accommodation often involves letting employees return to work in the same or similar position even if their absence drags on for an extended period.

But employers aren’t required to make accommodations that constitute an undue hardship. When waiting for an employee on LTD to return to work becomes an undue hardship, you know your duty to accommodate has come to an end and you can terminate the employee. The problem, of course, is figuring out just how long it takes for an employee’s absence to reach that point.
Doctor’s Note
Can Employers Ask Sick Employees for a Doctor’s Note?

Asking a sick employee for a doctor’s note is a venerable tradition that enables employers to verify that absences are medically-related, make necessary staffing arrangements to replace them and perform other legitimate HR functions. But recent headlines from Ontario would have you believe that the Ontario Medical Association (OMA) thinks employers should stop asking for them. This is not true at all.

Here’s a look at the doctor’s note controversy, what the law says about the issue and the parameters employers should use to judge when and how to ask patients for a doctor’s note.

OMA Hammers Doctor’s Notes—Or Does It?
On Jan. 7, 2014, the OMA issued what looked like a pretty innocuous press release about why people should stay home when they get the flu. The part of the release that has gotten all the attention is the second paragraph, which addresses employers. Here’s how the remarks were summarized in the headlines:

- “Ontario Medical Group Calls for No More Sick Notes from Doctors”—Ottawa Citizen, Jan. 9, 2014
- “Bosses Shouldn’t Ask Sick Workers for Doctor’s Notes: OMA”—The Star.com, Jan. 10, 2014
- “Stop Asking Employees for Sick Notes, OMA Head Urges”—The Globe and Mail, Jan. 8, 2014
- “Employers Shouldn’t Demand Sick Notes, OMA Says”—CTVnews.ca, Jan. 8, 2014

The headlines make it sound like the OMA thinks doctors’ notes are a bad idea that should never be used. But this is far from the mark. Here’s what the press actually said:

“The flu is highly contagious. Most cold and flu viruses are spread because people touch surfaces and then touch their faces, other objects and other people. Employers should encourage workers to stay home when sick – not require sick notes which has a discouraging effect and forces patients into the doctor’s office when they are sick, which only encourages the spread of germs to those in the waiting room, who in some cases are more vulnerable.”

Notice that the release is not talking about all illnesses but one specific kind: “the flu.” There are 3 important characteristics about the flu:

1. It usually only lasts a few days;
2. It’s best treated by staying in bed; and
3. It’s highly contagious.

For illnesses like these, going to the doctor does more harm than good. So asking for a doctor’s note is a bad idea. The problem, of course, is that not all illnesses are like the flu. The other thing that makes the OMA’s no-doctors’-note-for-the-flu prescription hard for employers to apply is the fact that employers don’t actually know what illness an employee has when he first calls in sick.

What Should Employers Do about Doctor’s Notes?
The OMA is 100% right about one thing: Asking employees for a doctor’s note when they get sick is a big deal and something that you shouldn’t do as a matter of routine. In addition to the medical damage cited by the OMA notice, such a policy can also violate the employee’s privacy rights.

Explanation: The medical information about the employee that the doctor puts in the note may be considered personal information protected by privacy laws. By the same token, employers may legitimately need this information to carry
out important employment-related and business functions. The good news is that privacy commissioners and courts have struck a balance between these competing interests. The rule of thumb:

You can only ask an employee for a doctor's note when you need it to perform a legitimate employment function.

**When You Can and Can’t Ask for a Doctor’s Note**

The most common reason to ask employees for a doctor’s note is to make sure that they’re really sick. Verifying that employees who call in sick are really ill and not playing hookey is generally considered a legitimate employment function. Other examples of legitimate reasons to ask employees for a doctor’s note:

- To enforce an attendance management or other probationary arrangement requiring employees to improve their attendance;
- To confirm if employees qualify for sick pay, workers’ comp, disability, and other employment-related benefits;
- To determine what staffing arrangements you need to make to cover for the absent employee; and
- To gather the medical information about an ill or injured employee’s capabilities you need to make reasonable accommodations so he can return to work.

What you can’t do is ask for a doctor’s note:

- Automatically and immediately any time an employee calls in sick as a matter of principle;
- To harass or dig up dirt on the employee; and
- To find out about suspected illnesses or injuries that have no impact on their job duties, e.g., whether an office receptionist at a church has HIV.

**What Information You Can & Can’t Ask for**

Once you establish that the purpose of requesting the doctor’s note is legitimate, you must clear another hurdle. The rule: You’re only allowed to ask the doctor for the information you need to carry out that purpose.

**Explanation:** Employers don’t generally need to know what illnesses an employee has, what drugs they’re taking, or other personal details about the employee’s medical case. What the employer is really interested in is how the medical situation affects the employee’s ability to do the job, when he/she can return, what his/her capabilities he/she will have upon returning, etc. So be careful to phrase your requests to the doctor so that you ask only for the latter and not the former kind of information.

**EXAMPLE 1:** TO VERIFY EMPLOYEE IS REALLY SICK

Information You Need: Is the employee ill or just playing hookey?

**WHAT YOU CAN’T ASK**

“What’s wrong with the employee?”

“What illness does the employee have?”

**WHAT YOU CAN ASK**

“What’s the employee’s prognosis?”

**EXAMPLE 2:** TO FIND OUT HOW LONG EMPLOYEE WILL BE OUT

Information You Need: The duration of the absence so you can make alternative staffing arrangements.

**WHAT YOU CAN’T ASK**

“What’s the employee’s diagnosis?”

**WHAT YOU CAN ASK**

“What’s the employee’s prognosis?”

**EXAMPLE 3:** TO FIND OUT IF EMPLOYEE WILL BE CONTAGIOUS UPON RETURNING TO WORK

Information You Need: Will the employee pose a danger to others when he returns and if so, what precautions are necessary.

**WHAT YOU CAN’T ASK**

“Does the employee have a contagious illness?”

“Is he/she contagious?”

**WHAT YOU CAN ASK**

“Does the employee’s condition pose a hazard to others at the workplace?”

“What measures are appropriate to protect the employee’s co-workers from contracting what the employee has?”
BOTTOM LINE: BACK OFF ON DOCTOR’S NOTES ON DAY 1
While the press might have overstated it, the OMA message to employers to give employees some slack on doctors’ notes is sound both as a matter of medicine and privacy law. Stated differently, requiring any and all absent employees to get a doctor’s note on day one may aggravate and prolong their illness and subject you to liability for a privacy violation. And don’t forget the burden it imposes on the doctor. So, unless you’re dealing with chronic fakers or otherwise have reason to suspect hookie, give employees a day or two to rest up before badgering them for a doctor’s note.
Having said that, if and when you need to know what’s going on to run your business, you have every right to ask for a doctor’s note, provided that you ask only for the information you need to carry out the particular function.

Workers aged 55 to 64 took an average of 13.2 sick days in 2011, compared with 5.9 days for workers 20-24
Forgery
Firing an Employee for Altering a Doctor’s Note

Employers generally require employees who leave work sick or call in sick to provide a doctor’s note excusing their absence. But what if you discover that an employee has doctored the doctor’s note? For example, the doctor writes that the employee needs a day or two to recover; but she changes the “day or two” to “two or three.” Can you fire the employee? It depends, in part, on whether the deceit irrevocably broke the bonds of trust on which the employment relationship is based. Here are two cases (interestingly, involving the same union) in which arbitrators confronted with an employee-altered doctor’s note reached different conclusions.

ALTERATION ≠ JUST CAUSE

Facts
On Sept. 17, a slot attendant at a casino went to the doctor complaining of back pain and stiffness. The doctor prescribed medication and gave the attendant a note saying she was unfit for work on Sept. 17-18. The attendant called in sick to work on Sept. 19. When she returned, she turned in the doctor’s note, which she’d altered to read Sept. 17-19. The attendant’s supervisor noticed that the note had been changed and contacted the doctor, who confirmed that the dates on the note had been altered. The next day, the attendant was called into a meeting, where she was shown the altered note, told that there had been a miscommunication between her and the doctor regarding the days for which she was requesting the note. She said that changing the dates merely corrected that error. But the arbitrator didn’t buy that argument, noting that the doctor said there had been no miscommunication. So the attendant’s action was “certainly deceitful.” And she didn’t show remorse. In fact, she asked the doctor after she was fired to say that he was one who’d changed the note! The casino must rely on the “dependable honesty” of employees, such as the attendant, who have access to money and valuables. The attendant irrevocably broke that bond of trust when she altered the note and then tried to cover up what she’d done, the arbitrator concluded. So her termination was warranted.


ALTERATION ≠ JUST CAUSE

Facts
On April 4, an automobile systems plant employee awoke with a headache and nausea. Even though she recognized these symptoms as signs of a migraine, she decided to go to work anyway. An hour into her shift, her nausea got worse. So she left work sick and went to her doctor, who gave her a note excusing her absence for that day. The employee called in sick to work the next day. She returned to work on April 6 and turned in the doctor’s note, which she’d altered by adding a “5” so it appeared the doctor was excusing her absence for both April 4 and 5. The supervisor turned the note over to the HR manager because he thought it was questionable. The HR manager confronted
A teacher requested unpaid compassionate care leave to care for his father suffering from Lou Gehrig’s disease. He then said he was suffering from stress and asked for paid sick leave for himself instead. His request was granted. He returned to teach but the next semester requested another paid medical leave for stress. Before the request was granted, he took off for England to be with his father. Unfortunately, the employer denied the request. The arbitrator ruled that the employer’s denial was unjustified. Even though it had doubts about the legitimacy of the employee’s stress claim, it should have gotten more information before denying leave [British Columbia Public School Employers’ Assn. v. British Columbia Teachers’ Federation (Law Grievance), [2008] B.C.C.A.A.A.

The Ontario Medical Association wants employers to stop asking their employees for sick notes because it overloads doctors who should be focused on treating people. But employers say sick notes are necessary, providing a disincentive for employees to fake sick. Suspicion among many employers is that their workers have their own ruses when it comes to taking off sick days so they want doctors’ sick notes. But the Ontario Medical Association says doctors are being forced to police absenteeism, collectively losing time by writing tens-of-thousands of sick notes. Critics say when it comes to sick days employers and employees need a prescription for trust.
Model Policy
Asking for a Doctor’s Note

All ABC Company employees are required to meet the company’s attendance standards and submit a doctor’s note when they miss work due to an illness or other medical condition in accordance with the following requirements.

**WHEN DOCTORS’ NOTES ARE REQUIRED**

In most circumstances, employees will not be asked to submit a doctor’s note unless and until they miss three (3) consecutive days of work with a medical absence. Where possible, ABC Company will ask employees for doctors’ notes after they return to work so they can rest and do not have to leave their sick bed when they are ailing.

**PURPOSES JUSTIFYING REQUESTS FOR DOCTORS’ NOTES**

ABC Company will only ask employees for a note from their doctor for the purposes of:

1. Enforcing its attendance requirements;
2. Verifying whether employees are complying with the terms of their attendance management program;
3. Determining whether employees are eligible for sick leave, sick pay, short-term disability, and other employment benefits;
4. Evaluating employees’ capacities to perform job functions as part of the process to provide reasonable accommodations under provincial human rights laws;
5. Determining whether employees pose any health hazards to co-workers or others at the workplace; and
6. Carrying out other legitimate employment-related functions.

**INFORMATION ABC COMPANY WILL REQUEST FROM DOCTOR**

When asking for a doctor’s note to carry out one of the above purposes, ABC Company will ask the employee’s doctor to provide only the information it needs to carry out the particular purpose and will refrain from asking for personal health information protected by privacy laws and/or information that reveals whether the employee has a mental or physical disability under human rights laws (except where the purpose of the request is to determine how to make reasonable accommodations for such a disability).

**DETECTING PATTERNS OF SICK LEAVE ABUSE**

Ask yourself if sick leave is constantly taken:

- On the same day of the week such as Monday or Friday
- The day before or after a holiday
- The same time of year, for a period of years
- After specific shifts or on specific shifts (such as weekends or evenings)
- When assigned specific work tasks (such as working at a specific location, with a specific client)
- After a vacation request was denied
- When difficult assignments or projects are scheduled or due
- After discipline for a performance matter is issued
- When supervisor is on vacation
Model Process
Steps to Address Excessive Sick Leave

The following model process provide steps to address and manage employees who take excessive sick leave or taking sick leave under false premises.

Develop a policy regarding sick leave and/or unexplained absences:
If you do not offer sick leave, you are still required to have a policy for addressing, requesting, and managing absences. You may also include information about work absence expectations in an employment contract. Include process for requesting sick leave or leave, how much sick leave/leave is available and within what time frames, when medical notes are required to support sick leave and consequences for employees for abusing sick leave privileges (including failure to provide medical certification when requested) or who take excessive absences.

Establish leave thresholds that trigger review and actions
To ensure policies are applied consistently, it is important to identify thresholds that automatically trigger investigation. For example, an employee taking 24 hours worth of sick time/leave in 7 or 10 days and/or within 6 months.

A progressive threshold may include an employee taking 48 hours over 6 or 9 months including, or regardless of, whether doctors notes were provided
Note: Excessive sick time does not necessarily mean the employee is abusing sick leave. There may be legitimate reasons for absences. Consider if the absences impact the employee’s performance, the performance of their team or department, or if the absences are a sign of other issues such as health or personal problems.

Investigate and document reasons for suspecting abuse of sick leave or excessive leave
Triggered by thresholds; observing a pattern of suspicious sick leave/leave such as missing every Monday after a holiday (strategies to identify patterns of abuse appear later in this document); suspected falsified medical notes; reports or observations of an employee engaged in other activities during sick leave.

Meet with the employees supervisor
Ask the supervisor for any information on the employee’s workplace performance and patterns of behavior.

Review and understand your policy for sick leave before meeting employee

Request a meeting with the employee to discuss your observations/concerns and organizational policies regarding absences.
Do not accuse employee of lying or be confrontational. Ask questions to determine if there are reasons or mitigating factors for the employee’s absences that you might not be aware of such as illness, disability, family status, personal problems that may require accommodation or intervention.

Discuss your organization’s sick leave policy with your employee.
Explain the consequences of abusing the privilege of sick leave or excessive leave without explanation. Note your observations including patterns, how much sick leave remains available and how much has been consumed.
Discuss the impact of absences and performance expectations, team or department performance and organizational performance.
Ask if accommodations are needed to help manage related health and wellness concerns or family obligations
Provide your employee with the opportunity to disclose any underlying reasons for excessive sick leave.

If accommodation is appropriate, discuss options for modifying the employee’s job (if relevant and applicable: review your accommodation policies before moving forward)
Accommodation may be relevant for issues tied to protected human rights such as disability, family status, and religion.

If employee cannot provide adequate explanation for excessive absences or does not require accommodation follow your organizations progressive discipline steps
This may include providing your employee with a warning regarding future sick leave abuse, and, clarifying expectations for future attendance. Follow your organizations progressive disciplinary steps and/or sick leave policy (see sample progressive discipline steps below)

Monitor and document employee’s ongoing absences
Communicate with employee regularly (monthly) to discuss progress for the next 6-12 months. Place a note in the employee’s file outlining details and outcomes of this process.

PROGRESSIVE DISCIPLINE FOR EXCESSIVE ABSENCES
Consider these steps when you have identified a suspected pattern of absences and/or when the number of absences are approaching to or have exceeded allotment and/or when absences are having a negative impact on performance

Step 1:
Information gathering and counseling meeting
(Between employee and supervisor or HR to discuss absences)
This should occur when you first suspect or have evidence of abuse of sick leave or absences including: when thresholds (such as 24 hours sick leave within 10 days) have been exceeded; failure to produce a medical note when required.
Note that excessive absences do not mean the employee is abusing sick leave intentionally. However, the situation may still require intervention that follows a progressive disciplinary process.
Track and record meetings and outcome of these steps in the employees file.

Step 1.1:
Identify mitigating circumstances
In this meeting, ask employee about the absences (not about specific health or medical concerns as these remain confidential). Ask if the employee requires accommodations at this time.

Step 1.2:
Determine if accommodations are required and make accommodations if possible
Address any required accommodations as part of this process. You may have to make accommodations before proceeding with any discipline.
Once accommodations are in place if continued absences continue to impact the workplace you may have to determine if the employee is a fit for this role.
Note: if the employee is unable to perform the job as a result of ongoing and continued absences and accommodation is not possible you may be able to proceed through progressive discipline to termination.

Step 2:
Give a verbal warning and written warning
(This may occur during or shortly after the step 1, the information gathering meeting).
If there are no legitimate mitigating circumstances or accommodations, or, if accommodations do not mitigate absences, provide the employee with verbal and written warning that any future absences will trigger further actions.
Provide employee with the policy outlining progressive discipline for future attendance issues.
Document your meeting (sample meeting documentation record is provide below) and have employee sign a letter stipulating they have been informed of the policy and next steps.
Step 2.1: 
Establish attendance requirements 
Indicate to the employee attendance requirements such as no absences without a doctor’s note or medical certificate over the next 6 months. Any absences without medical certification will be considered unpaid leave.

Step 3: 
Deduct wages for unpaid leave, in response to undocumented absences 
If attendance problems persist treat undocumented leave as unpaid leave and dock the employee corresponding wages for undocumented absences.

Step 4: 
Probation (3 or 6 months) 
If the problem of additional absences persists put the employee on probation. In relation to any problems not only absences, but also discipline, behavior or performance, could result in demotion, suspension or termination.

Step 5: 
Suspend of employee 
Further unexplained or undocumented absences result in suspension for x days (a short duration). Generally you cannot suspend an employee without pay unless it is agreed to as part of the employment contract and/or the employee agrees as part of the disciplinary process.

Step 6: 
Demote employee 
If possible with continued problems including absences demote employee. This could include reducing any seniority accrued. Note that cutting pay to a lower level based on pay grade steps may be seen as cause for constructive dismissal and as such must be considered well before actions taken.

Step 7: 
Terminate employee 
With continued unexplained absences or other behavior or performance issues you have the opportunity to terminate the employee.

Interestingly, on average, women take 4 more sick days than men/year and public-sector employees take 5 more sick days than private-sector employees.
Model Letter
Steps to Address Excessive Sick Leave

Dear [Employee Name],

On December 1st, 2013, we met to discuss the fact that your sick leave usage had exceeded the established threshold of X hours within a rolling 12-month period, in violation of our attendance policy. At that time, you were provided with a copy of our sick leave/leave attendance policy. During that meeting or subsequently, you provided no information to mitigate your excessive sick leave/absences and requested no accommodations relevant to this situation.

During our first meeting on December 1st, 2013, we were pleased to conclude that because you agreed to reduce future sick leave absences, we would take no further actions beyond ongoing monitoring of your sick leave usage or absences.

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Upon review of your ‘Sick Leave Report’ on [Date] we have identified that you have failed to reduce your sick leave usage or unexplained absences. No mitigating circumstances or reasons have been provided to explain these absences. Specifically, our records indicate you have been absent with or without medical notes on the following dates:

You were previously advised that excessive absences have a negative impact on the organization’s productivity and advised that if you had exceeded a second threshold, as identified in the sick leave/attendance policy, that appropriate disciplinary action would be taken.

From this point forward and until and unless your sick leave usage levels fall below 36 hours (based on the allotment of 1.5 days per month) within a 3 month period, you will be required to furnish a signed statement from your physician for any absence, including routine and recurring medical appointments. This statement is not to provide any details regarding your specific injury/illness, but rather, will need to reflect only the following:

For personal illness/injury:
- Date you first saw or spoke with the physician for the injury/illness
- Period of absence caused by the period of injury/illness
- Ability of the employee to return to work for full duty

Note: Furnishing Physician’s Statements does not remove you from the obligation to reduce your sick leave usage to appropriate levels.

If your absences are a result of a serious medical condition, disability, or other mitigating factors, please inform us immediately. Until or unless this information is received in the next 72 hours (3 business days) we will initiate the first step of progressive discipline, as outlined to you in our previous. Specifically:

**Progressive Discipline Phase 1**

As outlined in our conversation on progressive discipline your absences will be treated as unpaid leave and your wages will be docked as such. The following absences will require a physician’s note or your next pay-check will reflect garnishment for the following dates:

**Progressive Discipline Phase 2 - Probation**

Future absences, with or without a doctor’s note including sick leave and personal leave (except where mandated by the Employment Standards Act for example ‘Compassionate Care Leave’), will continue to be treated as unpaid absences and additionally, you will be placed on probation. Subsequent attendance issues will have the following consequences including suspension without pay, demotion and termination.
It is our intent to have this Written Reprimand serve as an opportunity for you to begin to meet our sick leave usage expectations. To support you in this effort, we will provide you with ongoing, regular updates regarding the status of your sick leave usage. While I am confident that this Written Reprimand and my continued discussions with you on this issue will be sufficient to conclude this matter, please be advised that failure to meet the conditions will lead to further disciplinary action being taken, up to and including termination.

You have the right to appeal this action by providing written notice of appeal to the Human Resources Manager.

Please advise us if you require accommodation to understand the information we have provided related to this disciplinary action.

Sincerely,

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Canadian absentee rates are 2x that of the UK and almost 3x the US.