Canadian Trend Towards Elimination Of Employer Requirement For Medical Note For Short-Term Absences Continues



Recent legislative changes prohibit employers in several Canadian provinces from requesting a medical note to justify a short-term absence from the workplace.

Background

Historically, employees have been required to provide a medical note from a healthcare professional to justify absences from the workplace due to illness.

In October 2024, the Canadian Medical Association ("CMA") published a report recommending that provincial governments enact legislation to restrict employers and educational institutions from requiring medical notes for short-term minor illnesses. The report[1] argues that requiring medical notes for short-term minor illnesses which do not need medical intervention is an inefficient use of health care resources and "burdens physicians with unnecessary administrative tasks, detracts from patient care, exacerbates health care system inefficiencies and inequities, and may contribute to increased spread of viral illnesses."

Instead, the CMA recommends employers and educational institutions adopt alternatives to medical notes, such as signed declarations from employees ("self-certification") and flexible leave policies.

The CMA's recommendation comes amid recent legislative changes by provincial governments to prohibit employers from seeking medical notes for short-term absences.

Recent Legislative Changes

At present, employers in six provinces and the federal sector are restricted from requesting medical notes for short-term absences.

In Nova Scotia, as of July 1, 2023, employers can no longer request a medical note unless an employee is absent for more than five working days or has already had two absences of five or fewer working days in the previous 12-month period.

In Ontario, as of October 28, 2024, employers are prohibited from requesting a medical note from a health professional for employees who take up to three days off

per year due to personal illness, injury or medical emergency.

In Québec, as of January 1, 2025, employers are prohibited from requiring employees to provide a document attesting to the reasons for their absence due to illness (e.g. a medical note) for the first three periods of absence of three consecutive days or less taken annually.

The trend against medical notes is also evident in legislative changes in the one province that not only permitted medical notes but actually required employees to provide them. Newfoundland's provincial government passed a bill in December 2024 removing the requirement for employees to provide a medical note after three consecutive days of sick leave and this change is now in force.

Employers in Prince Edward Island, New Brunswick and the federal sector are prohibited from requesting a medical note for absences of less than three, four and five consecutive days, respectively.

Employers in other provinces can still request medical notes for short-term absences, but there are growing calls for similar legislative change and in some provinces, changes are imminent. For example, doctors in British Columbia[2] and Manitoba[3] have recently called on their provincial governments to prohibit medical notes for short-term absences. Corresponding legislation in British Columbia is underway, but as of the date of this bulletin is not in force.

Takeaways for Employers

Employers in Nova Scotia, Ontario, Québec and Newfoundland must ensure that their absence management practices comply with these new requirements, and employers in British Columbia will need to watch for upcoming changes.

Employers will need to consider alternatives to medical notes when managing short-term absences, including:

- a signed declarations from the employee ("self-certification"),
- employee check-ins or return-to-work interviews, and
- offering accrued sick leave days, flexible wellness days or personal leave days that do not require a medical note.

Employers in these provinces are still allowed to request medical notes for absences longer than the statutorily-limited periods. These changes also do not affect an employer's ability to request medical information to manage workplace accommodations and an employee's return to work.

In light of this legislative trend, employers in the rest of Canada should begin to consider alternative approaches for managing short-term absences.

Footnotes

1 Canadian Medical Association (CMA). [i]CMA calls for the elimination of sick notes for short-term minor illnesses[/i]. Ottawa: The Association; 2024 Oct 28.

2 "B.C. College of Family Physicians calls for an end to sick notes." [i]CBC News[/i]. Jan 30, 2025.

3 "Cutting need for sick notes would free up time for patient care, Manitoba task force says." [i]CBC News[/i]. Oct 07, 2024.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Author: Fabian Jankovic

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