

# Navigating Employee Sick Leave And Medical Documentation



Employers often have questions about the information they can request from an employee who is taking sick leave or who requests accommodation related to a medical condition.

Recent legislative developments across several provinces reflect a shift away from requiring medical documentation (e.g., a doctor's note or medical certificate) for short-term absences. Below we summarize these changes and provide guidance regarding the information employers are entitled to receive from an employee who seeks accommodation related to a physical or mental disability.

## **Legislative reform: medical documentation**

Employers' rights to request medical documentation for short-term absences are increasingly being limited by legislation, including in Ontario, Québec, Saskatchewan and, most recently, British Columbia. These changes aim to reduce the administrative burden on the healthcare system and protect employee privacy, while preserving an employer's need for information to manage and fulfill workplace responsibilities.

Under Ontario's *Employment Standards Act, 2000*, as of October 28, 2024, employers can no longer require employees to provide a note or certificate from a qualified health practitioner for "sick leave" – the three days of unpaid job-protected leave that Ontario employees are entitled to each calendar year due to a personal illness, injury or medical emergency.

Québec's Bill 68 introduced changes to the *Act respecting labour standards*, effective January 1, 2025, whereby Québec employers may no longer ask employees to provide documentation attesting to their reason for absence from work for the first three periods of absence not exceeding three consecutive days taken each year.

Saskatchewan's Bill 5, if passed, will prohibit employers from requesting a medical note from an employee certifying the employee is incapable of work unless that employee has been absent for five or more consecutive working days or has been absent twice for two or more consecutive days in the preceding 12 months.

Alberta employment standards legislation currently has no such restrictions; employers may still request medical notes so long as such requests are reasonable. However, given the clear move amongst the provinces toward restricting employers'

ability to request sick notes, it is possible that Alberta may eventually follow suit.

The most recent example of this shift is British Columbia's Bill 11, the *Employment Standards Amendment Act, 2025*, introduced on April 15, 2025. Similar to Saskatchewan's Bill 5 and the changes already implemented in Ontario and Québec, Bill 11 introduces amendments which, if passed, would restrict the use of, and the requirement to obtain, sick notes from employees.

Currently, B.C.'s *Employment Standards Act* (the ESA) allows employers to request "reasonably sufficient proof" that an employee is sick. The proposed changes to the ESA would clarify that employers cannot request, and employees are not required to provide, a sick note written by a physician, nurse practitioner or registered nurse as evidence that the employee's short-term absence from work was related to illness.

Notwithstanding the above, employers in each province can generally request medical documentation for an employee's sick leave if the absence is for an extended period (i.e., long-term illness leave) or if the employee is seeking workplace accommodation due to illness or disability.

### **Duty to accommodate and employer requests**

Employers have a duty to accommodate employees due to physical or mental disability (among other protected grounds) up to the point of undue hardship. In the context of medical leaves, meeting this obligation may require employers to obtain certain medical information from employees to understand how best to support a safe and productive return to work.

Medical documentation is often necessary to verify that an employee legitimately requires time off or a workplace accommodation. When an employee requests accommodation due to a medical condition, the employer has a legal obligation to consider and, where appropriate, to provide that accommodation. To fulfill this responsibility, the employer is entitled to receive sufficient medical information to understand the nature and scope of the requested accommodation.

The extent of information which may be requested will depend on the length of the absence, the nature of the illness and whether accommodation is required. Requiring employees to provide medical diagnoses, symptoms or detailed medical histories is typically prohibited. Generally, employers may request the following information from employees:

- a doctor's note/medical certification confirming the employee's illness (subject to legislative restrictions)
- expected duration of absence
- confirmation of the need for accommodation and recommendations that would help the employee return to work safely
- any functional limitations or restrictions relevant to job duties (e.g., no lifting, reduced hours)
- clarification on whether the condition is temporary or permanent

Not all of the above information may be necessary or appropriate when an employee is on short-term sick leave. While employers have a legitimate interest in verifying such absences, their right to request medical information is not unlimited. Employers cannot demand irrelevant, excessive or overly intrusive details, and cannot create unnecessary barriers for employees. Any information requested must be directly related to the employee's job duties and proportionate to the duration of the absence.

Employees are expected to cooperate in the accommodation process. Where an absence is extended or the employee requests certain accommodations, the employer may be entitled to additional information, but must avoid overreaching requests and must safeguard personal health information.

## **Final thoughts**

Employers in the applicable provinces may need to review and update their policies and practices to comply with the updated legislation. Where the proposed amendments give more flexibility to employees, such as additional time to visit and obtain notes from their doctors, employers may also consider adapting applicable employment agreements and related policies accordingly.

*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.*

Authors: [Catherine Hamill](#), [Erika Romanow](#)

Osler, Hoskin, & Harcourt LLP