

Obtaining and responding to medical information in the workplace: A summary for doctors

Introduction

The Alberta Human Rights Commission offers a detailed interpretive bulletin called *Obtaining and responding to medical information in the workplace*, which provides comprehensive information for doctors, employees, unions and employers about the human rights aspects of this topic. This publication summarizes the key points for doctors from the interpretive bulletin. It discusses medical information as it relates to human rights issues in the area of employment only. It is for educational purposes and is not intended to be legal advice.

Questions about:

- privacy issues should be directed to the Office of the Information and Privacy Commissioner (www.oipc.ab.ca);
- injuries at work should be directed to the Workers' Compensation Board (WCB) (www.wcb.ab.ca); and
- human rights matters should be addressed to the Commission (www.albertahumanrights.ab.ca).

Employers request medical information to make decisions about accommodating an employee or potential employee or to confirm an employee's absence for medical reasons. Doctors, employers, employees and unions all play a role in gathering reasonable medical information on an employee's disability.

- **Doctors** are expected to respond to requests from patients for medical information by releasing the information to a third party in a reasonable time frame.¹
- **Employers** play a key role in requesting relevant medical information.
- **Employees and unions** have a duty to actively participate in supplying information to support a medical absence or request for accommodation and to respond to employer requests for medical information.

In this publication, doctors will find:

- information on the kind of medical documentation an employer can request from an employee;
- a *Sample Medical Absence Form* that may be used to provide the employee with the necessary information that they need to give to their employer to confirm that an absence from work is for medical reasons; and
- a *Sample Medical Ability to Work Form* that may be used to provide the employer with the information necessary to make decisions about accommodating the employee, providing disability leave, or assessing if the employee can return to work.

¹ The College of Physicians and Surgeons of Alberta's policy *Physicians' Office Medical Records* states that a response to a request for medical information "...should be timely, generally within one to two weeks unless needed more urgently." Online: College of Physicians and Surgeons of Alberta http://uat-cpsa.softworksgroup.com/Libraries/Policies_and_Guidelines/Physicians_Office_Medical_Records.sflb.ashx

What information should a doctor provide when asked for information related to a medical absence?

Generally, employees have a right to privacy regarding their medical information. When providing medical information for a medical absence, the doctor should ensure that the information only:

- relates to the operation of the workplace and the job duties of the employee, and
- is relevant to the time period of the absence.

The employer does not have an unconditional right to full disclosure of the employee's medical situation. Some disability-related absences may not require medical documentation. For instance, short or infrequent absences will likely only require minimal medical information, such as confirmation that the absence is directly related to the employee's health.

There are very limited circumstances when a doctor needs to disclose the diagnosis.

What information should a doctor provide when an employee wants to return to work or needs accommodation at work?

Accommodation means making changes to certain rules, standards, policies, workplace cultures and physical environments to ensure that they don't have a negative effect on a person because of the person's mental or physical disability or any other protected ground. For more information on accommodation, see the Commission interpretive bulletin *Duty to accommodate*.

When an employee is returning to work after a medical absence, the employer may request that the employee's doctor confirm in writing that the employee is fit to return to work.

When accommodation is necessary, the employer, the employee, and the union, if there is one, have a duty to cooperate in the accommodation process. The doctor may provide information such as the following to help the employer and employee determine what accommodations are necessary:

- whether the illness or injury is permanent or temporary;
- what functional restrictions and limitations an employee has; and
- whether a treatment or medication the employee is taking will affect the employee's ability to perform job duties in a satisfactory and safe manner.

The doctor should provide only the information that is necessary to help the employer make decisions about accommodating the employee, providing disability leave, or confirming the

employee's absence for medical reasons. If the employer is unsatisfied with the medical information that has been provided, they may ask for further information. However, the employer should use the least intrusive method possible to get only the information that is needed to assess the employee's situation. For instance, an employer must first try to get the medical information they require from the employee's doctor or specialist before requiring an independent medical examination.

In most cases, a doctor would **not provide**:

- *information to the employer over the phone.*
Even a confirmation that the doctor saw the employee should be made in writing. If the employee gives permission to contact the doctor directly, this contact should be made in writing. Talking to the doctor on the phone may result in a different understanding between the employer and the doctor as to what was said during the call, creating unnecessary and unhelpful conflict. The employee may feel that the call to the doctor is harassing and a potential invasion of privacy.
- *a definitive opinion that the employee will have no further medical problems.*
It is unreasonable to expect a doctor to guarantee that an employee's disability is completely resolved or that they will have no further medical issues. Such a demand would reasonably be considered harassing in the majority of situations.
- *medical information that is not employment-related.*
Only information that is related to the employee's functional ability to perform specific job duties is relevant to the analysis of an employer's needs. For instance, an employer does not need to know

information about an employee's restriction on lifting if their job or any modified work does not involve lifting.

- *the employee's diagnosis, except in very limited cases.*

To request a diagnosis, the employer must show that the information is necessary and that they have tried all other methods to assess the employee's functional ability to return to work or accommodation needs.

If the employer can satisfy the legal requirement to show it is reasonable to request the diagnosis, then the employer and the doctor must make sure the employee's privacy rights are protected. For example, when providing completed forms, it may be preferable for the doctor to give the form to the employee to give directly to the employer.

What if different doctors give conflicting medical information?

Conflicting medical opinions between a family doctor and a specialist, between two specialists, or between a WCB doctor and an independent doctor are common. Usually the opinion of an independent specialist who practises in the area of the employee's disability will be accepted over the opinion of a family doctor.

If two specialists give conflicting information on an issue, then the employer may try to:

- review the information to see if it is in conflict on the pertinent points;
- check with a general practitioner to find out if the specialists are reputable in their area of expertise; and
- check with a general practitioner to find out if each specialist's area of expertise matches the disability that is being assessed.

For more information

1. **The Commission interpretive bulletin *Obtaining and responding to medical information in the workplace*** offers a full discussion of this topic as it relates to doctors, employers, employees, and unions. It is available at www.albertahumanrights.ab.ca under the “interpretive bulletins” quick link.
2. **Doctors may want to adapt the attached *Sample Medical Absence Form* and *Sample Medical Ability to Work Form*** for use in their practices.
3. **The Commission’s interpretive bulletin *Duty to Accommodate*** provides more information on accommodation and undue hardship. It is available at www.albertahumanrights.ab.ca under the “interpretive bulletins” quick link.
4. **Contact the Alberta Medical Association (www.albertadoctors.org) or the College of Physicians and Surgeons (www.cpsa.ab.ca).** 

Contact us

The Alberta Human Rights Commission is an independent commission of the Government of Alberta. Our mandate is to foster equality and reduce discrimination. We provide public information and education programs, and help Albertans resolve human rights complaints.

For our **business office and mailing addresses**, please see the **Contact Us** page of our website (www.albertahumanrights.ab.ca), or phone or email us.

Hours of operation are 8:15 a.m. to 4:30 p.m.

Northern Regional Office (Edmonton)
780-427-7661 Confidential Inquiry Line
780-427-6013 Fax

Southern Regional Office (Calgary)
403-297-6571 Confidential Inquiry Line
403-297-6567 Fax

To call toll-free within Alberta, dial 310-0000 and then enter the area code and phone number.

For province-wide free access from a cellular phone, enter *310 (for Rogers Wireless) or #310 (for Telus and Bell), followed by the area code and phone number. Public and government callers can phone without paying long distance or airtime charges.

TTY service for persons who are deaf or hard of hearing

780-427-1597 Edmonton
403-297-5639 Calgary
1-800-232-7215 Toll-free within Alberta

Email humanrights@gov.ab.ca

Website www.albertahumanrights.ab.ca

Please note: A complaint must be made to the Alberta Human Rights Commission within one year after the alleged incident of discrimination. The one-year period starts the day after the date on which the incident occurred. For help calculating the one-year period, contact the Commission.

The Human Rights Education and Multiculturalism Fund has provided funding for this publication.

Upon request, the Commission will make this publication available in accessible multiple formats. Multiple formats provide access for people with disabilities who do not read conventional print.

Sample Medical Absence Form

(To be completed by attending physician)

ADR2013

The purpose of this form is to provide the patient with the necessary information that they need to give to their employer to confirm that an absence from work is for medical reasons.

Notes to physician

1. This form is not intended for Workers' Compensation Board (WCB) purposes. For a work-related injury or illness, the required WCB forms must be completed.
2. Where choices are indicated below, please mark your selection.
3. Please keep a copy of this form.

When completing this form, disclose only information necessary to meet the purpose of the form. Typically, it is not necessary to provide a diagnosis or treatment information.

Physician's name and address (typewritten or printed)

I saw _____ on _____ .
(Print patient's name) (Date)

I am satisfied that, for medical reasons, this patient **did not/will not** attend work,
starting on _____ .
(Date)

Given the health information before me (indicate all that apply):

- This patient may/did return to work with no limitations on _____ .
(Date)
- This patient needs further medical assessment before returning to work.
Date of next appointment is (indicate n/a if not applicable) _____ .
(Date)

My opinion is based on the factors indicated below:

- Information provided by the patient
- My examination of the patient and my assessment of the findings and health information

I have provided this form to the patient named above.

(Physician's signature) (Date)

NOTE: Completion of this form is an uninsured medical service. There may be a fee to the patient for completion of this form.

Alberta Human Rights Commission developed this form in consultation with the Alberta Federation of Labour, Alberta Medical Association, Alberta Workers' Health Centre, and the College of Physicians and Surgeons of Alberta. **This sample form is an appendix to the Commission interpretive bulletin *Obtaining and responding to medical information in the workplace*, which is available from the Commission or online at www.albertahumanrights.ab.ca.**

Sample Medical Ability to Work Form (Page 1 of 2)

(To be completed by attending physician)

ADR2013

The purpose of this form is to provide the patient with the necessary information that they need to give to their employer to help the employer make decisions about accommodating the patient, providing disability leave, or assessing if the patient can return to work.

Notes to physician

1. This form is not intended for Workers' Compensation Board (WCB) purposes. For a work-related injury or illness, the required WCB forms must be completed.
2. This form **does not replace** forms related to an employee's ability to work that are required by:
 - ◆ Workers' Compensation Board,
 - ◆ third-party insurers, or
 - ◆ employer-funded medical benefit plans.
3. Where choices are indicated below, please mark your selection.
4. Please sign and date both pages 1 and 2, and keep a copy of this form.

When completing this form, disclose only information necessary to meet the purpose of the form. Typically, it is not necessary to provide a diagnosis or treatment information.

Physician's name and address (typewritten or printed)

I saw _____ on _____.
(Print patient's name) (Date)

Date of injury or illness _____.
(Date)

This patient is medically able to work with limitations or restrictions as of _____.
(Date)

Restrictions or limitations (see page 2 for details)

In my opinion, these restrictions or limitations are:

- Temporary: _____ days 4 to 6 weeks
 less than 2 weeks 6 weeks to 3 months
 2 to 4 weeks more than 3 months

Permanent

Date of next appointment is (indicate n/a if not applicable) _____.
(Date)

My opinion is based on the factors indicated below:

- Information provided by the patient
 My examination of the patient and my assessment of the findings and health information

I have provided this form to the patient named above.

(Physician's signature)

(Date)

NOTE: Completion of this form is an uninsured medical service. There may be a fee to the patient for completion of this form.

Alberta Human Rights Commission developed this form in consultation with the Alberta Federation of Labour, Alberta Medical Association, Alberta Workers' Health Centre, and the College of Physicians and Surgeons of Alberta. **This sample form is an appendix to the Commission interpretive bulletin *Obtaining and responding to medical information in the workplace*, which is available from the Commission or online at www.albertahumanrights.ab.ca.**

Sample Medical Ability to Work Form (Page 2 of 2)

(To be completed by attending physician)

ADR2013

Specific functional restrictions and/or limitations

Patient's name _____

Check only those items that apply in Section A, and provide details in Section B.

Section A Restriction Limitation

Physical

	Restriction	Limitation
Sitting	<input type="checkbox"/>	<input type="checkbox"/>
Standing	<input type="checkbox"/>	<input type="checkbox"/>
Walking	<input type="checkbox"/>	<input type="checkbox"/>
Lifting	<input type="checkbox"/>	<input type="checkbox"/>
Carrying	<input type="checkbox"/>	<input type="checkbox"/>
Pushing/Pulling	<input type="checkbox"/>	<input type="checkbox"/>
Climbing stairs	<input type="checkbox"/>	<input type="checkbox"/>
Climbing ladders	<input type="checkbox"/>	<input type="checkbox"/>
Climbing scaffolding	<input type="checkbox"/>	<input type="checkbox"/>
Crouching	<input type="checkbox"/>	<input type="checkbox"/>
Crawling	<input type="checkbox"/>	<input type="checkbox"/>
Kneeling	<input type="checkbox"/>	<input type="checkbox"/>
Bending/Twisting/Turning	<input type="checkbox"/>	<input type="checkbox"/>
Repetitive activity	<input type="checkbox"/>	<input type="checkbox"/>
Sustained postures	<input type="checkbox"/>	<input type="checkbox"/>
Gripping	<input type="checkbox"/>	<input type="checkbox"/>
Reaching	<input type="checkbox"/>	<input type="checkbox"/>
Fine dexterity	<input type="checkbox"/>	<input type="checkbox"/>
Balance	<input type="checkbox"/>	<input type="checkbox"/>
Vision/Hearing/Speech	<input type="checkbox"/>	<input type="checkbox"/>
Other (specify in section B)	<input type="checkbox"/>	<input type="checkbox"/>

Does patient require medical aids (e.g. splint, brace) or personal protective equipment (e.g. gloves, mask)?

No Yes (specify in section B)

Section B

Please provide necessary details about any restrictions or limitations you have identified. Typically, it is not necessary to provide a diagnosis or treatment information.

I have provided this form to the patient named above.

(Physician's signature)

(Date)

Definitions

Restriction: This patient is advised not to perform this activity in any capacity.

Limitation: This patient is able to perform the activity in a reduced capacity. For example, the patient is not able to perform the job with the usual speed, strength or number of repetitions, or for the usual duration.

Restriction Limitation

Mental

	Restriction	Limitation
Thinking/Reasoning	<input type="checkbox"/>	<input type="checkbox"/>
Concentration	<input type="checkbox"/>	<input type="checkbox"/>
Memory	<input type="checkbox"/>	<input type="checkbox"/>
Critical decision-making	<input type="checkbox"/>	<input type="checkbox"/>
Interpersonal contact	<input type="checkbox"/>	<input type="checkbox"/>
Alertness	<input type="checkbox"/>	<input type="checkbox"/>
Other (specify in section B)	<input type="checkbox"/>	<input type="checkbox"/>

Environmental

Exposure to heat/cold	<input type="checkbox"/>	<input type="checkbox"/>
Exposure to dust/fumes/odors	<input type="checkbox"/>	<input type="checkbox"/>
Exposure to chemicals	<input type="checkbox"/>	<input type="checkbox"/>
Food handling	<input type="checkbox"/>	<input type="checkbox"/>
Other (specify in section B)	<input type="checkbox"/>	<input type="checkbox"/>

Other

Shift/attendance duration	<input type="checkbox"/>	<input type="checkbox"/>
Consecutive shift attendance	<input type="checkbox"/>	<input type="checkbox"/>
Shift work	<input type="checkbox"/>	<input type="checkbox"/>
Overtime	<input type="checkbox"/>	<input type="checkbox"/>
Operating vehicle	<input type="checkbox"/>	<input type="checkbox"/>
Operating equipment	<input type="checkbox"/>	<input type="checkbox"/>
Working at heights	<input type="checkbox"/>	<input type="checkbox"/>
Other (specify in section B)	<input type="checkbox"/>	<input type="checkbox"/>