



## REQUESTS FOR MEDICAL INFORMATION ADVICE FOR MEMBERS

### **So you have been asked to provide medical information...**

Your health and medical circumstances are your personal information. Your doctor is often privy to very personal details about you, your work, your spouse, your children or your family history. Your doctor may be aware of a range of medical conditions you have, much of which has nothing to do with your work or your ability to teach. So when you are asked by your employer to provide medical information, stop to consider what is being asked and why. While you may be obliged to provide some information and you may choose to provide other information, do not inadvertently open the door to exposing more of your personal medical and other information to your employer than is necessary.

### **What should I do if I am asked to provide medical information?**

Contact your ETFO local president or staff in PRS with any concerns about any request for medical information. Your ETFO representative will be able to clarify whether the request raises concerns from a collective agreement or other perspective. They can assist you in thinking of how to approach your doctor and how to respond to the school board.

### **Isn't my medical information private? Can I refuse to share this with my employer?**

Just because you are sick, injured or need accommodation does not mean that your employer is entitled to all details of your medical circumstances. However, your employer will be entitled to some information in certain circumstances. Sometimes refusing to provide some or all medical information is entirely within your rights. However, refusing to provide medical information in response to a reasonable request could jeopardize your claim for sick pay, undermine a request for accommodation, delay or prevent a return to work or have other job consequences.

### **When might I expect my employer to ask for medical information?**

There are many occasions when a school board might request medical information from an employee. Examples of when boards are entitled to obtain some medical information include the following: to explain an absence, to justify a claim for sick pay, to support a request for accommodation and to confirm fitness to return to work after a period of absence. This is not a complete list. There are other instances where such a request may be reasonably required of you. However, sometimes school boards request medical information when they are not entitled to it and sometimes the request is for more information than they are reasonably entitled to request.

### **What kind of information may reasonably be requested?**

Sometimes the specific information a board is entitled to request is set out in a collective agreement. More generally, what information a board may reasonably request depends on the reason the information is sought and the particular facts leading up to the request. If you are absent from work for medical reasons or if you are seeking sick pay, a board may be entitled to confirmation from a doctor that you have a medical condition, that it prevents you from working and that you are under a doctor's care. The board will also be able to request the nature of the restrictions and limitations of your medical condition so that it can explore return to work possibilities. If you are seeking accommodation, a board will often be entitled to all of the information just mentioned. They may also be entitled to know how long the restrictions and limitations will be in place. If you are returning to work from an absence, a board will be reasonably entitled to medical confirmation that you are fit to return to work and whether you have any restrictions or limitations that impact your return to work, affect your ability to carry out your duties or require accommodation.

### **When does a request for medical information go too far?**

The reasonableness of a request for medical information will depend on the particular circumstances. You should be concerned if your employer is requesting information such as the diagnosis of your condition, treatment details including medications or other forms of therapy or information about causes of the condition.

### **How is medical information sought?**

Some boards will ask you to bring in a note. This can seem like the least intrusive way for a board to request medical information. However, without specific parameters, some doctors share more information than is actually necessary. It is important that you understand why the note is being requested so that you can discuss with your doctor what will be included in the note. Your doctor cannot disclose your personal health information without your consent. You should see the note before it goes to the board and, if you have any concerns, discuss it with your ETFO representative.



Some boards have a standard set of forms they ask doctors to fill out. ETFO works hard to be aware of what forms the board is sending out and to object when the forms request more information than a board may be reasonably entitled to know. Even where a form is regularly used without objection, it still may not properly apply to your circumstances. Even if the form is acceptable, you need to understand what is being sought by the questions so that you can discuss this with your doctor and ensure that your privacy interests are protected even though some information is being disclosed. You should also make sure you review the completed form before it is sent to your board.

Some boards will send a list of questions to your doctor, either directly, or through you. Whether a board is entitled to make such a request will depend on the terms of your collective agreement and your particular circumstances. Review the questions asked with your ETFO representative to ensure that they do not invite the doctor to provide more information than the board is reasonably entitled to have. Discuss each of the questions with your doctor before any report is prepared for the board so that your doctor has your input, understands the questions from your perspective, and has the most up-to-date information.

Some boards will ask you to sign a consent so that someone from the board, either a disability manager, or a human resources person can contact your doctor in writing or by phone to discuss your case. This may seem like the easiest way for information to be shared. However, this method of obtaining information is often the most intrusive, and the most exposing with the least involvement and knowledge of the patient. ETFO strongly advises members not to sign general releases or to allow direct communications between boards and members' doctors.

Some boards begin their process for gathering medical information by contacting you for the details before requesting something from your doctor. Medical details are personal information warranting privacy protection whether they come from you or your doctor. If you would not want your doctor exposing certain personal information then be careful not to feel pressured into sharing it yourself in a call from a disability manager or board representative.

If a disability manager or board representative learns that you have seen a specialist, they might ask you to provide a copy of the consultation notes from the specialist. Consultation notes often contain a range of information including personal and medical histories, discussions about other medical conditions and the doctor's personal impression of you or your condition. ETFO strongly advises against handing over any medical records: it is extremely rare that a board will be entitled to such information. Contact your ETFO representative immediately if this is asked of you.

#### **How often can I be asked to provide medical information?**

Even if you previously provided medical information, a board may ask for a further update if the absence, sick claim or accommodation is protracted. If there are circumstances that suggest the prior medical information may no longer be correct, the board may be able to request an update.

However, if you have just provided medical information, the board should be identifying why what you provided was not enough before it might reasonably request more. There are times where efforts to obtain medical information from members is so frequent, intrusive, and aggressive that it amounts to harassment.

#### **I don't want to make waves or be seen as difficult**

You do not have the right to refuse all requests for medical information regardless of the circumstances. But there are limits on what you can be required to provide. Asserting rights which limit the amount of personal information that is shared with your employer is not being uncooperative. Often, the request for medical information comes when you feel unwell and vulnerable. This is all the more reason to seek assistance from your Federation representative or staff in PRS.

**For more information, contact Professional Relations Staff at 416-962-3836 or 1-888-838-3836 at the provincial office.**

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