

Requests For Medical Information Advice for Members

So, you've been asked to provide medical information ...

When your employer asks you to provide medical information, stop to consider what is being asked and why. Your health and medical circumstances are your personal information. In addition to your medical history, your doctor is often aware of private details about you, your work, your spouse, your children, and/or your family history, which may have little or nothing to do with your ability to work. While you may be obliged to provide some information under specific circumstances, and you may choose to provide other information, avoid inadvertently exposing more to your employer than necessary.

Frequently Asked Questions

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

Contact your ETFO local or staff in Professional Relations Services (PRS) with any concerns regarding requests for medical information. Your ETFO local will be able to clarify whether the request raises concerns from a collective agreement or other perspective. They can help you prepare for a conversation with your doctor and with responding 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 your medical details, though they will be entitled to some information under certain circumstances. Sometimes, withholding medical information is entirely within your rights, but refusing to disclose these details 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 may be entitled to obtain medical information from an employee. Some examples include: to explain an absence, to justify a claim for sick pay, to support an accommodation request, or to confirm fitness to return to work after a period of absence. There are other instances when such a request may be reasonable. However, sometimes school boards request medical information when they are not entitled to it or request more information than they are reasonably entitled to know.

What kind of information may reasonably be requested?

Specific information a board is entitled to request may be set out in a collective agreement. More generally, the entitlement may depend 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 might 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 return-to-work possibilities and workplace accommodations can be explored and/or implemented. 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, 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 will depend on the particular circumstances. You should be concerned if your employer is requesting information such as the diagnosis or cause of the condition, or specific treatment details including medications or other forms of therapy.

How is medical information sought?

Some boards begin their process of gathering medical information by contacting you for 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, do not share it yourself with 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 to the board. It is extremely rare for a board to be entitled to this level of complete medical information. Contact your ETFO local immediately if this is asked of you.

Some boards will ask you to sign a consent so that a board employee, 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 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 board employees and members' doctors.

The following are common types of medical information requests your board might use. In all cases, ETFO advises members to connect with your local to discuss the appropriateness of the requests, or if you have questions or concerns.

Notes and forms

You may be asked to provide a doctor's note, which may seem like the least intrusive way for a board to request medical information. However, without specific parameters, some doctors share more information than the board requires or is entitled to. It is important that you understand why the note is being requested so you can discuss with your doctor what to include and ask that you see the note before it goes to the board. Your doctor cannot disclose your personal health information without your consent.

Some boards have a standard set of forms they ask doctors to fill out. ETFO works hard to be aware of the forms being used by school boards and to raise objections when the forms request more information than a board may be reasonably entitled to know. Even when a form is regularly used without objection, it still may not properly apply to your circumstances. Make sure you review the completed form before it is sent to your board, and retain a copy for your records.

Medical questionnaires

Some boards will send a list of questions to your doctor to seek clarification about medical information you have provided. This contact should happen through you, because direct contact with your doctor requires your signed consent. Whether a board is entitled to make such a request will depend on the terms of your collective agreement and your circumstances. Review the questions with your ETFO local to ensure that they do not invite the doctor to provide more information than the board is reasonably entitled to. Discuss the questions with your doctor so they have your input, understand the questions from your perspective, and have the most up-to-date information.

Third-party medical – Doctor-to-doctor consultation

If the board feels you have provided insufficient or inconsistent medical information, they may request a doctor-to-doctor consultation. This is when the board hires a doctor to have a discussion with your doctor to understand your medical circumstances. The doctor hired by the board would then submit a report based on that consultation. The information in the report may be used to assess your disability status and/or provide restrictions/limitations for a safe return to work. The report should not share diagnosis, specific treatment details including medications or other forms of therapy, or information about the causes of the condition.

Third-party medical – Fitness to work (FTW) assessment

If you have been off work due to illness for an extended period, if the board has received insufficient or inconsistent medical information, and/or if there are questions about your ability to perform your duties, a board representative may request a fitness to work (FTW) assessment. This is a third-party medical evaluation used to determine an employee's ability to perform their duties safely and effectively.

During this process, the third-party provider may perform assessments focused on your functional abilities in relation to job demands and whether you can safely perform your duties. The third-party provider may request medical documentation, physician consultations, or an IME (see below).

Third-party medical – Independent medical examination (IME)

If a disability manager or board representative is seeking clarification about medical information that you have provided, they may request an independent medical examination (IME). An IME is an objective assessment of an individual performed by a health-care practitioner who does not have a prior treating relationship with the person being assessed.

The purpose of an IME is to provide an evidence-based picture of your condition or illness. This information may be used to assess your disability status and/or provide a plan for a safe return to work. A request for an IME should be a last resort if other attempts to seek clarification have not given enough information.

How often can I be asked to provide medical information?

Even if you previously provided medical information, a board may ask for an update if the absence, sick claim, or accommodation is lasting for an extended period/longer than expected, or if there are circumstances that suggest the prior medical information may no longer be correct.

However, if you have just provided medical information, the board should clearly identify why it was insufficient before it might reasonably request more. If you feel that the board's efforts to obtain medical information are too frequent, intrusive, and/or aggressive, contact your ETFO local.

I don't want to be seen as difficult

While the board is entitled to some medical information under particular circumstances, asserting your rights to limit what is shared with your employer is not being unco-operative. Often, the request for medical information comes when you feel unwell and vulnerable. This is even more reason to seek assistance from your ETFO local or staff in PRS.

For more information, contact Professional Relations Services at 416-962-3836 or 1-888-838-3836.

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