

Health & Safety Improvements
Health Information Program

Health Information Program Manual



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Health & Safety Improvements

Health Information Program

Health & Safety Improvements Health Information Program

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Chapter 1: OVERVIEW

1.1 WHAT IS THE HEALTH INFORMATION PROGRAM?

The Health Information Program (HIP) is an Ontario Public Service-wide process to systematically collect occupational and non-occupational injury or illness information to help manage return-to-work, employment accommodation, and work performance issues suspected to be attributed to health conditions.

This manual outlines the processes, roles and responsibilities when the employer needs health information about an employee.

1.2 WHAT IS HEALTH INFORMATION?

In the context of this program, health information includes information about a medical condition related to prognosis (e.g. expected recovery time), capabilities, restrictions, limitations, symptoms that may affect an employee's ability to perform job functions and verification of medical absences for payment of income benefit purposes (e.g. Short Term Sickness Plan).

1.3 WHY DOES THE EMPLOYER NEED HEALTH INFORMATION?

- To administer relevant articles under OPS agreements negotiated with bargaining agents, other applicable legislation/statutes and OPS policies and programs such as the Attendance Support, and Return-to-Work and Employment Accommodation Programs.

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- To confirm if ongoing absences are medically justified. Confirmation of injury or illness (without diagnosis) is needed to approve benefits payment (e.g. STSP) and/or authorize a leave of absence.
- To provide the manager relevant information to determine continuation of benefits or future operational planning (e.g. backfilling).
- To offer assistance where work performance issues may be suspected to be attributed to underlying health conditions.
- To help the employer and employee make appropriate employment-related decisions about return to work and employment accommodation planning.

1.4 OPERATING REQUIREMENTS

The Ontario Public Service (OPS), as employer, is committed to providing employees timely and effective return to work after injury or illness and employment accommodation. This commitment relies on the cooperation of the employee and his or her medical practitioner/health care provider to supply sufficient health-related information so that employment-related decisions can be made.

Employee consent will be obtained for the employer to receive health information from the medical practitioner/health care provider (unless otherwise required by court order or other tribunal to comply with another statute or under the exceptions noted in Chapter 5).

When health information is required, an employee's manager will request it directly through him or her (see Chapter 5 for exceptions). Employees are encouraged to participate in the health information program.

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The employer respects the privacy and dignity of the person on whose behalf the information is provided, and in doing so will ensure measures are in place to protect the confidentiality and security of employee health information.

Employees have a right to access their health information on file (as identified in ministry specific procedures).

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CHAPTER 2: ROLES AND RESPONSIBILITIES

2.1 DEPUTY HEAD

The deputy head is responsible for:

- ensuring that employees and managers are informed of their respective rights, roles and responsibilities in providing and collecting health information as outlined in the health information program
- providing the resources needed by line management to implement and comply with requirements of the health information program and relevant OPS collective agreement provisions, legislation/statutes and OPS policies and programs
- ensuring the confidentiality and security of health information by developing and implementing ministry-specific written procedures which address:
 - collection/authority
 - storage
 - security and access
 - disclosure
 - retention
 - transfer
 - accountability
 - other issues relevant to specific ministry operations

2.2 MANAGER

The manager is responsible for:

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- using the health information program in accordance with relevant OPS agreements negotiated with bargaining agents, legislation/statutes and relevant OPS policies and programs such as the Attendance Support, Return to work and Employment Accommodation Programs
- confirming that absences are medically justified to administer benefits (e.g. STSP, leaves of absence) in accordance with relevant OPS agreements negotiated with bargaining agents, legislation/statutes, and to facilitate Attendance Support, and Return to Work and Employment Accommodation Programs
- documenting and coordinating events in accordance with the health information program and ensuring employees are informed of relevant policies and procedures
- maintaining confidentiality and respect for the employee on whose behalf the health information is requested
- ensuring the employee is clear about performance expectations, and offering assistance through the health information program where work performance issues are suspected to be attributed to health conditions
- with the employee, developing a shared understanding of the employment accommodation objectives and criteria by which the employment accommodation options will be explored and evaluated
- proactively offering and providing timely and cost-effective employment accommodation (interim and longer term) to employee where appropriate
- developing and implementing a return to work and employment accommodation plan, with the employee, where appropriate. (See also the *Accommodation in Employment for Persons with Disabilities Directive and Guideline*.)

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- consulting available internal or external resources when unsure of the interpretation of health information and/or application of the health information program

2.3 EMPLOYEE

The employee is responsible for:

- promptly notifying his/her manager when unable to be at work because of injury or illness
- providing timely health information to the manager as specified in the health information program, relevant OPS agreements negotiated with bargaining agents, legislation/statutes and OPS policies and programs
- participating with his/her manager in developing timely return to work and employment accommodation plans, where appropriate
- cooperating in his/her treatment plan established by his/her medical practitioner/health care provider and returning to work in accordance with timelines outlined in the return-to-work plan
- identifying accommodation needs (not necessarily solutions), using the health information program, where appropriate

2.4 HUMAN RESOURCES ADVISER

The human resources adviser is a role/responsibility that could be shared by a variety of positions in the ministry human resources branch. The adviser is intended to be available for advice/resource information on the health information program.

The human resources adviser function is responsible for:

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- providing direction and assistance to managers about the Health information program and relevant OPS agreements negotiated with bargaining agents, legislation/statutes and OPS policies and programs
- assisting managers in interpreting and applying health information obtained through the Health information program and relevant OPS agreements negotiated with bargaining agents, legislation/statutes and OPS policies and programs
- identifying and using other relevant resources including both internal (e.g. listings of local health care providers, employee assistance programs) and external services (e.g. rehabilitative and medical support assistance available through insurance providers)

See also the attendance support program and return-to-work and employment accommodation program manuals.

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Chapter 3: PROCESS

3.1 APPLICATION

The health information program applies to

- all OPS employees
- occupational and non-occupational injury or illness
- return to work and employment accommodation
- managing work performance issues suspected to be attributed to health conditions

3.2. PROGRAM STEPS

Step One: Certificate from Qualified Medical Practitioner (Doctor's Note)

Step Two: Request for Employee Health Information Form

Step Three: Request for Medical Examination

3.3 STEP ONE: CERTIFICATE FROM QUALIFIED MEDICAL PRACTITIONER (DOCTOR'S NOTE)

No leave with pay is allowed unless verified in a certificate from a legally qualified medical practitioner (e.g. medical physician or dentist).

Exceptions to this requirement must be approved by your deputy minister. (See Appendix 2 for summary listing of authority for requiring a certificate).

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When to request

- for short term sickness absences after five or seven days (depending on the employee's bargaining group/association — please see Appendix 2 for more information)
- for frequent short term sickness absences less than five or seven days

Process

1. Employee must submit a certificate from a legally qualified medical practitioner to his or her manager within three working days after the request (and/or as otherwise agreed upon by manager).
2. When the manager receives the certificate, if applicable, he or she should discuss a suitable return-to-work plan (see Return-to-work Program Manual) with the employee.

WHAT SHOULD THE CERTIFICATE INCLUDE?

At a **minimum**, the certificate must indicate:

- confirmation that employee was unable to be at work because of injury or illness for the period of absence covered on the certificate
- an expected return to work date
- if there is an employment accommodation need

If the medical practitioner indicates that the employee has a condition requiring employment accommodation, the following must be included:

- specific and time-limited medical (physical or psychological) restrictions (but not diagnosis)
- a follow-up assessment date

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3.4 STEP TWO: REQUEST FOR EMPLOYEE HEALTH INFORMATION FORM (SEE APPENDIX 1)

Note: Either the employee or manager can initiate step two. Typically, the employee would initiate for employment accommodation needs.

When to request

- if there is insufficient information on the medical certificate(s) or a prolonged absence is anticipated and more details are needed to assist the employer's return to work efforts and/or employment accommodation
- if an employee needs temporary or permanent employment accommodation (not every employment accommodation planning situation requires a form to be completed)
- work performance issues are first suspected to be attributed to a health condition (i.e. physical, psychological, behavioural problems) including
 - health and safety concerns
 - substance abuse
 - frequent ongoing/intermittent STSP absences
- there is a workplace insurance (workers' compensation) injury or illness (e.g. there are employment accommodation requirements or information on the employee's ability to do the are needed to develop and implement return to work and employment accommodation)

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Process

Note: The manager should follow whichever steps fit the situation.

1. Manager tells the employee why health information is needed and communicates his/her and the employer's commitment to timely and effective return to work planning with consideration for employment accommodation.

The following applies *only* when work performance issues are attributed to suspected health conditions:

- manager should meet with employee to discuss concerns and explore possible causes (i.e. skills deficiency). If they choose the employee may self-disclose any personal or health conditions (but not diagnosis)
- if employee self-discloses he or she can either:
 - self refer for assistance; or,
 - accept manager's offer of assistance

For **self-referral**:

- manager communicates the employer's willingness to provide support, assistance and employment accommodation
- where work performance is unsatisfactory, manager explains verbally (and confirms in writing) that if this continues following assistance/treatment, and despite being provided appropriate employment accommodation and exploring any further options, the employer may take further action including terminating employment
- manager should only expect follow-up information where:
 - the employee will be absent from work (e.g. treatment) in which a medical certificate is required for authorization of income/benefits, and/or
 - there are issues around ability to do the job restrictions, and/or employment accommodation

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If employee accepts manager's **offer of assistance**:

- manager communicates the employer's willingness to provide support, assistance and employment accommodation
- manager explains the attendance support program requirements if employee has entered (or is about to enter) it
- where work performance is unsatisfactory, manager explains verbally (and confirms in writing) that if this continues following assistance/treatment and despite being provided appropriate employment accommodation, and exploring any further options, the employer may take further action including terminating employment
- manager identifies internal and external resources available (e.g. ministry employee assistance program, rehabilitative and medical supports from insurance providers)

2. Manager gives employee Request for Employee Health Information Form (see Appendix 2) and supporting letter where appropriate to take to medical practitioner/health care provider of their choice for completion.
3. Manager tells employee that any charges by health care provider for providing this information should be invoiced to the employee's manager for direct payment.
4. Manager asks employee to provide a copy of the completed form within **two weeks** (unless otherwise agreed to by manager) from the date of discussion.

There is a consent section at the bottom of the form for the employee to sign before submitting it to the manager. Tell the employee that by signing the consent section, they are consenting to the employer having the health information to make employment-related decisions about their specific needs. The written consent enables the manager to share the health information with appropriate ministry staff on a need-to-

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know basis only to make appropriate employment-related decisions and implement return to work and employment accommodation as required. The return to work and employment accommodation will be developed in consultation with the employee.

5. When the manager receives the completed form, it is reviewed.
 - If response indicates a *medical condition* (note: diagnosis is **not** requested from health care provider), manager and employee follow the Attendance Support, and Return to work and Employment Accommodation Programs. Process the health care provider's invoice for payment.

or

- If response indicates *no medical/health condition* to account for the identified work performance problem, manager advises employee of expected work performance outcomes and consequences if work performance does not improve.
6. If , despite the above, the employee still does not return or there is no agreed upon return to work and employment accommodation plan, manager writes letter to employee (seek direction of human resources adviser if necessary) which includes:
 - a summary of the proposed return to work plan and employment accommodation plan and a copy of the completed form
 - a request to take the letter and the form back to their medical practitioner/health care provider for additional detailed information on functional abilities and restrictions as they directly relate to the return to work and employment accommodation plan being offered
 - a request that the medical practitioner/health care provider respond in writing, through the employee, outlining: the

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specific restrictions which are keeping the employee from returning under the proposed return to work and employment accommodation plan, an expected return date and date of next assessment.

7. Manager provides two copies of the letter and completed form to the employee. One copy is for the employee's own records, the other copy is to give to the health care provider.
8. Repeat number 4 above, as required
9. Employee returns to medical practitioner/health care provider.
10. Employee provides medical practitioner/health care provider's written response to manager within the required **two week time period**.
11. Manager reviews information from medical practitioner/health care provider:

Repeat options in number 5 above,

or

- if employee does not return to work at this time because of a vocational/medical rehabilitation prescribed by the medical practitioner/health care provider, manager still develops a return-to-work plan in anticipation of the expected return to work date. Follow the attendance support or return-to-work program.
 - if a lengthy absence is expected, at the end of each month (or as otherwise agreed upon by manager and employee), verification from the employee's medical practitioner/health care provider is required to validate the absence for income maintenance purposes. **Note: manager may use discretion if, for example, the illness is terminal.**
 - manager arranges payment of health care provider's invoice

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12. If employee still does not return and there is no agreed return to work plan, or employee resists providing health information, the manager's next step is to initiate a "Request for Medical Examination" (see Step Three below).

3.5 STEP THREE: REQUEST FOR MEDICAL EXAMINATION

By the time a situation reaches the point where a Request for Medical Examination is required, the manager will have already discussed with the employee the need for health information. See Appendix 2 for authority to request medical examination for occupational and non-occupational injury or illness.

When to request

- if step two has been followed but the information is still insufficient/unclear to enable the manager to undertake return to work and employment accommodation planning
- if there is conflicting information that warrants another opinion
- if work performance issues are still suspected to be attributed to health conditions, and information is still insufficient

Process

1. Manager tells employee their concern(s) and outlines appropriate attendance support, return-to-work and employment accommodation policy and program requirements.
2. Manager reviews the documentation received to date with the employee.
3. Manager explains the consequences of continued unsatisfactory work performance (e.g. may result in disciplinary action up to and including termination).
4. Manager writes letter (talk to your human resources adviser if needed)

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to employee requesting medical examination. The letter should outline:

- the purpose of request and authority
- the specific concerns and issues about work performance (if appropriate)
- the proposed return to work and employment accommodation plan (if developed based on previous information received through first two steps)
- the employer's offer of assistance
- the consequences if the employee chooses not to accept the employer's offer of assistance
- time line to comply with the request

5. Manager advises employee that they should have the Request for Employee Health Information Form completed by a medical practitioner. Manager should explain to the employee that in signing the consent portion of the form, they are providing written consent and authorization for the employer to have the information.

Mutual agreement between the manager and employee on an appropriate medical practitioner must be established **before** the employee goes for the medical examination.

6. Manager advises employee that there is a **two week** time frame (and/or as otherwise agreed to by manager) from date of discussion to submit completed form.
7. Manager tells employee that any charges by the health care provider for providing the above information should be invoiced to the manager for direct payment.
8. Repeat options under number 5 in Step Two.
9. If the employee still does not return to work, or is unwilling to provide health information, the manager should consult with the ministry's human resources branch, human resources adviser or other available resources (internal and external) for appropriate next steps.

Chapter 4: MANAGING HEALTH INFORMATION

4.1 CONSENT — EMPLOYER’S RECEIPT OF INFORMATION

The *Occupational Health and Safety Act*, Section 63(2) states:

“No employer shall seek to gain access, except by an order of the court or other tribunal or in order to comply with another statute, to a health record concerning a worker without the worker’s written consent.”

For Step One:

Where certificates by qualified medical practitioners (i.e. doctor’s notes) are required, the employee’s action of freely giving the employer a medical certificate indicates consent to the employer having the health information contained in the certificate. (*Confidentiality of Worker Health Records*, Ministry of Labour, January 1996, p.6)

For Steps Two and Three:

Where the Request for Employee Health Information Form is required by the health information program:

- a sign off section (Part C) for the employee’s signature is included on the form. By signing the form and returning it to his/her manager, an employee is providing **written** consent and authorization for the employer to have the information for the purposes listed on the form
- when the employer has the signed form, they have the employee’s consent to use the information for the intended purposes. This consent entitles the manager and/or other ministry resource staff, on a need-to-know basis only, to use the information to help develop return to work and employment accommodation plan and/or administration of articles relevant to the applicable OPS

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agreements negotiated with bargaining agents, other legislation/statutes, policies and programs (e.g. Attendance Support, Return-to-Work and Employment Accommodation).

Those parties involved in assisting the employee's return to work/employment **are responsible for maintaining the confidentiality of the information and the respect and privacy of the individual on whose behalf the information is requested.**

4.2 DOCUMENT MANAGEMENT

Health information is among the most sensitive kinds of personal information. Therefore, it is vital that the employer ensure that ministry-specific written procedures are developed and implemented to protect the confidentiality of employee health information. (Although the *Freedom of Information and Protection of Privacy Act* excludes employment records, continue to ensure the confidentiality and privacy of health information.)

The health information program allows ministries to establish and customize specific document management procedures based on organizational needs. At a **minimum** the following must be developed:

- specific written procedures which address:
 - security and confidentiality of health information (including both written and electronic records)
 - collection, use, disclosure, access, retention, maintenance, disposal, transfer of information, and accountability of health information as required by the health information program
- a process to review and revise these procedures as necessary
- a process to make procedures available to employees

An employee's health information should be kept **separate** from other general human resources information.

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4.3 BEST PRACTICES

We encourage ministries to introduce a health information envelope for employees. All health information obtained through the health information program should be stored in them. Corporate branch/unit human resources file would include the envelope. The envelope should be sealed and access to it is restricted through a designated “custodian”. The person seeking access would be required to sign the envelope stating why and what they are accessing.

Here are some examples which ministries may adopt.

Corporate Human Resources File

- If the ministry practice is to retain health information on the corporate personnel file, keep it separate from other personnel information, preferably in a separate sealed health information envelope in the overall file. If a copy is retained by the manager, or human resources adviser, for ongoing return to work and employment accommodation, attendance support, he/she must keep the information in a secure location and share the information only on a “need to know” basis.

Workplace Insurance Management File

- If the health information relates to workplace insurance management, it may be retained in the employee’s workplace insurance claim file, but must then be retained for a minimum of 40 years given the potential life of a claim.

Branch/Section Human Resources File(s)

- If the ministry practice is to retain health information in a branch/section human resources file(s), it must be maintained in a separate sealed health information envelope. If a copy is retained by the manager, or human resources adviser, ongoing return to work and employment accommodation, attendance support, he/she must keep the information in a secure location and share the information only on a need-to-know basis.

If ministry operations change such that a branch/section is dissolved or

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employee is transferred either through recruitment or redeployment, appropriate procedures need to include where the employee's health information is transferred (e.g., either to employee's new branch/section or employee corporate file or onsite health centre).

Onsite Health Centre File

- If the ministry practice is to retain health information at an onsite health centre (e.g., psychiatric facility) the occupational health nurse will be responsible for providing the manager necessary information to facilitate return to work and employment accommodation planning, and/or other attendance support.
- If the health information relates to workplace insurance management the information may be retained in the employee's workplace insurance claim file, but must be retained indefinitely (e.g., 40 years plus) given the potential life of a claim. For example, the nurse may provide the manager with a summary of the contents of a medical certificate (excluding diagnosis if inadvertently provided by the health care provider) related to return to work and employment accommodation.

“unique identifier” (a code to replace identifying information)

- ministries may wish to assign a confidential code number to an employee when health information is required under the Health Information Program. If ministries want to use this method, include a line in the letter accompanying the Request for Employee Health Information Form as follows: “Please advise your medical practitioner/health care provider to refer to the number when submitting their invoice for direct payment”.

Chapter 5: EXCEPTIONS

5.1 DIAGNOSIS

The employer seeks access to health information (e.g. prognosis) on an employee's ability to perform their job (capabilities and restrictions) to make employment-related decisions about accommodation, return to work planning and/or other issues related to attendance support or performance management.

In limited circumstances where a **medical diagnosis** is required, it is not obtained through the process in this program manual. The limited circumstances may include the following:

- Medical diagnosis may be obtained for a workplace insurance claim (WCB); e.g., the appeals process, including entitlement issues. In these circumstances, the information can only be maintained and used for the purposes of workplace insurance claims management, by designated staff responsible for workplace insurance management.
- Medical diagnosis, with employee consent, may be needed to ensure comprehensive employment accommodation planning for employees who are considered persons with disabilities as defined by the Ontario *Human Rights Code*. The Human Rights Commission allows employers to seek medical evidence on the disabling condition of employees to verify their disability status and identify functional limitations which require accommodation. In the majority of instances information on functional impacts of employees' condition in the workplace is sufficient. If a manager identifies a need for medical diagnosis information, i.e. functional limitation is perceived as insufficient, get advice/support from the human resources adviser and/or other appropriate ministry human resources staff.

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- Grievance Settlement Board arbitrators have considered a medical diagnosis with employee consent to be relevant in reviewing and resolving a wrongful dismissal or innocent absenteeism complaint.
- If an employee is appealing the insurance carrier's LTIP decision, medical diagnosis may be used with the employee's consent by the Insurance Benefits Review Committee in their review of the specific issue(s) under appeal.
- If there is suspected fraudulent short term sickness use the employer may require the diagnosis.

5.2. MEDICAL CLEARANCE/FIT-FOR-WORK

Some very specific jobs may require medical clearance/fit-for-work certification (e.g. a scuba diver may have to be re-certified to resume scuba diving). In these instances, ministry specific operating procedures should be developed/tailored to meet the individual circumstances of these specific requirements.

5.3 EMPLOYEE'S CAPACITY TO MAKE DECISIONS

If there is concern about an employee's judgement (e.g. capacity to make informed consent), contact the human resources adviser, your legal services branch, or other resources as appropriate, for information and guidance.

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APPENDIXES

1. Request for Employee Health Information Form
2. Source of Authority re: relevant OPS agreements negotiated with bargaining agents, applicable legislation/statutes
3. Application of *Occupational Health and Safety Act* and *Human Rights Code*

**Ontario Public Service
REQUEST FOR EMPLOYEE HEALTH INFORMATION FORM**

The Ontario Public Service (OPS) as employer is committed to helping its employees return to work after injury or illness and to providing employment accommodation. This commitment relies on the employee's cooperation and his or her medical practitioner/health care provider to provide sufficient health-related information. The personal information on this form is collected and used to:

- administer provisions under relevant OPS agreements negotiated with bargaining agents, provincial legislation/statutes and OPS policies and programs;
- ensure sick leave absences are medically authorized;
- confirm anticipated duration of sick leave absences to allow the employer to make employment-related decisions;
- develop and implement return to work plans and supporting employment accommodation.

All information provided in this form is confidential and will be used only by the employer for the purposes stated above. Please contact the appropriate ministry's human resources branch for clarification on the collection and/or use of this information.

Instructions:

- i) Please print.
- ii) Parts A and C to be completed by employee.
- iii) Part B to be completed by employee's medical practitioner/health care provider.
- iv) Employee to return completed form to manager.

Part A: to be completed by employee	
Name:	Work/Home telephone:
Ministry/Branch:	Work Address:
I have been absent from work because of illness or injury from (start date) _____ to (end date, if known) _____.	
Part B: to be completed by employee's medical practitioner/health care provider — DO NOT INCLUDE DIAGNOSIS	
1. Are there medical/health conditions that account for absence(s) from the workplace or would affect the employee's ability to perform his/her duties? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe the employee's specific work-related limitations and/or restrictions. Attach a separate sheet if needed.	
2. Indicate duration of limitation(s) and/or restriction(s) identified above. <input type="checkbox"/> Permanent <input type="checkbox"/> Temporary If temporary, what is expected duration _____	
3. Is employee involved in treatment and/or taking medication that may affect his or her ability to work, including regular attendance, and/or performing certain duties? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe the impact (e.g. medication may cause drowsiness, safety risk related to treatment, treatment requires intermittent absences from work.) Attach a separate sheet if needed.	
4. Are any further absences from work (e.g. vocational rehabilitation, surgery) anticipated at this time? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please specify: _____	
5. In the event of a continuing absence, what is the date of your next assessment?	
Name and address of medical practitioner/health care provider completing this form: _____	
Signature	Date
Part C: to be completed by employee	
I consent to releasing the above information to my employer in accordance with provisions of OPS agreements negotiated with bargaining agents, provincial legislation/statutes and OPS policies and programs. _____	
Employee Signature	Date

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APPENDIX 2: SOURCE OF AUTHORITY

REQUESTS FOR MEDICAL EXAMINATIONS

A. Non-Occupational Illness or Injury

- The authority under which a manager can make a Request for Medical Examination, for non-occupational injury or illness, is in relevant provisions negotiated with bargaining agents (see attached chart for more information) and provincial legislation/statutes [i.e. *Public Service Act*, Regulation 977, Section 63(3)] which state:

“Where, for reasons of health, an employee is frequently absent or unable to perform his duties the employer may require him to submit to a medical examination at the expense of the employer”.
- Because of the above wording, a medical examination and completion of the Request For Employee Health Information Form should be done by a medical practitioner.
- However, ministries have discretion as to identifying and selecting appropriate medical practitioner(s). Thereafter, mutual agreement between the manager and employee about an appropriate medical practitioner (or alternative) must be established **before** the employee goes for the medical examination.
- The manager can help by providing some local medical practitioner names for the employee to choose from, and identify other available resources (internal and external).
- An employee **cannot be forced** to get a medical examination or supply health information. A responsible manager can emphasize the importance of having the employee seek assistance through a Request for Medical Examination.

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- Consent for release of information should be obtained prior to the medical examination.

B. Occupational Injury or Illness

- Provisions in the *Workers' Compensation Act* allow the employer to request a medical examination.

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C. Summary of relevant provisions negotiated with bargaining agents and applicable legislation/statutes (as of August, 1997)¹

Provision	OPSEU Collective Agreement	Management/ Excluded Employees	PEGO	OPPA	AMAPCEO	ALOC/OCAA	OPDPS
requirement for certificate (i.e. Doctor's Note) from legally qualified medical practitioner for STSP absences after 5 or 7 days (depending on employee's bargaining group/association)	Article 44.10 (full-time) Article 71.10 (part-time) 5 working days	<i>Public Service Act (PSA),</i> Regulation 977, Section 63(1) 7 calendar days	Article 42.8 7 calendar days	Article 7.09 (a) 5 working days	PSA, Regulation 977, Section 63(1) applies until negotiations are complete 7 calendar days	PSA, Regulation 977, Section 63(1) applies until negotiations are complete 7 calendar days	PSA, Regulation 977, Section 63(1) applies to only classified and unclassified OPS physicians and dentists 7 calendar days
requirement for certificate (i.e. doctor's note) from legally qualified medical practitioner for STSP absences less than 5 or 7 days (as noted above)	Article 44.10 (full-time) Article 71.10 (part-time)	PSA, Reg 977 Section 63(2)	Article 42.9	Article 7.09 (b)	PSA, Regulation 977, Section 63(2) applies until negotiations are complete	PSA, Regulation 977, Section 63(2) applies until negotiations are complete	PSA, Regulation 977, Section 63(2) applies to only classified and unclassified OPS physicians and dentists

¹Teachers at provincially-run schools are represented by FOBSAT and are not OPS employees.

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Provision	OPSEU Collective Agreement	Management/ Excluded Employees	PEGO	OPPA	AMAPCEO	ALOC/OCAA	OPDPS
payment of STSP benefit entitlement. After 5 or 7 days absence caused by sickness, no leave with pay shall be allowed unless a certificate of a legally qualified health care provider is given.	as above	as above	as above	as above	as above	as above	as above
request for medical examination for non-occupational injury or illness	Article 44.9 (full-time) Article 71.9 (part-time)	PSA, Reg 977 Section 63(3)	- management right	- management right	PSA, Regulation 977, 63(3) applies until negotiations are complete	PSA, Regulation 977, 63(3) applies until negotiations are complete	PSA, Regulation 977, 63(3) applies to only classified and unclassified OPS physicians and dentists
request for medical examination for occupational injury or illness	<i>see Workers' Compensation Act Section 23 (1)</i>						

Health & Safety Improvements Health Information Program

APPENDIX 3:

APPLICATION OF *OCCUPATIONAL HEALTH AND SAFETY ACT*

Employers are responsible for ensuring a safe working environment for all employees. The presence of a health condition (e.g. suspected substance abuse) may threaten the safety of both the employee and their co-workers.

Under the *Occupational Health and Safety Act*, Section 27(c), supervisors must take every reasonable precaution to protect a worker. To ensure the safety of the worker and co-workers, the supervisor has a responsibility to intervene when necessary to take every precaution reasonable in the circumstance for the protection of the workers.