

HUMAN RIGHTS COMMISSION CLARIFIES MEDICAL DOCUMENTATION NEEDED FOR DISABILITY-RELATED ACCOMMODATION REQUESTS

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On February 1, 2017, the Ontario Human Rights Commission released a [policy statement](#) that seeks to clarify the type and scope of the medical information that employees need to provide to their employers to support disability-related requests for accommodation.

The policy statement clarifies that employees will generally be expected to produce medical documentation that includes:

- confirmation that the person has a disability;
- the limitations or needs associated with the disability;
- whether the person can perform the essential duties or requirements of the job with or without accommodation;
- the type of accommodation(s) that may be needed to allow the person to fulfill the essential duties or requirements of the job; and
- regular updates about when the person expects to come back to work, if they are on leave.

The Commission confirmed that overbroad requests for private medical information – such as diagnostic information – undermine the dignity and privacy of employees with disabilities. Therefore, where more information about an employee's disability is needed, the information requested must be the least intrusive of the employee's privacy while still giving the employer enough information to make an informed decision about the accommodation.

The Commission also confirmed that generally employers do not have the right to know an employee's confidential medical information, such as the cause of the disability, diagnosis, symptoms or treatment, unless these clearly relate to the accommodation being sought, or the employee's needs are complex, challenging or unclear and more information is needed.

This policy supplements the [Policy on Ableism and Discrimination Based on Disability](#), which was released by

the Commission in September 2016. That policy replaced the Commission's 2001 policy on the duty to accommodate and is twice as long, including the case law on disability and accommodation over the past 15 years.

Prudent employers will read the Commission's new policies and review their internal accommodation policies and practices to ensure that they are in compliance.

by Stefanie Di Francesco

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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