

FAQ SHORT TERM DISABILITY AND SICK LEAVE



? Where do i find information about sick leave?

- Your [collective agreement](#) will have information regarding your entitlement to sick leave/short term disability.

? Am I eligible for short-term disability/sick leave?

- Eligibility criteria will depend on the language in your collective agreement.
- If you need assistance finding the information you can reach out to a shop steward.
- If you do not know who your steward is, please [contact your local area office](#) for a list of stewards at your workplace.

? I am off work due to illness or non work-related injury, what should i do?

- Let your supervisor know you are ill/injured and unable to work as soon as possible.

? Do I have to provide medical evidence?

- It depends:
 - Each collective agreement has different rules about how long an employee needs to be absent before medical information may be required.
 - Generally, the employer does not ask for medical information if an employee is absent for a few days; however, there may be circumstances where the employer asks for medical information (i.e. if you are absent every payday Friday, or every Wednesday or the same Thursday every month, etc.).
 - **If you are asked to provide medical information and are unsure whether you are required to provide the information, check with your shop steward.**

? I don't like the questions the employer is asking the doctor.

- Sometimes the employer will provide you with a medical questionnaire to take to your doctor.
- The employer is not entitled to any information about your diagnosis.
- The employer is entitled to information about physical/cognitive limitations and restrictions and information about prognosis for returning to work.
- If you are unsure whether the questions the employer is asking your doctor are acceptable, please reach out to a shop steward to discuss further.

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? How much is sick pay?

- Your collective agreement will define how much an employee is paid for sick days.

? Employment standards act sick leave

- All employees (auxiliary/temporary or regular) who have been employed for ninety consecutive days are entitled to up to five days of paid illness and injury leave.
- **The legislation does not allow for partial days.** If you use one hour of sick time under this provision, it still counts as one day and you will have four remaining days available.
- This leave is paid at 100%.

? What about WCB?

- If you are injured at work, make sure you report your injury to your supervisor and [file a claim with WCB](#).
- The collective agreement will identify how WCB absences are paid and which benefits, if any, continue during the time of the claim.

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When can my employer legally require me to provide a sick note?

- The Employment Standards Regulation Part 7.02, Section 45.033 defines when a sick note CANNOT be requested. This regulation is connected to the sick leave information in the Employment Standards Act Section 49.1 and 49.2. If your collective agreement specifies information regarding sick notes, you may need to speak to a shop steward to determine which language applies to you. The collective agreement language may provide a greater benefit.
- A sick note cannot be required when:
 - The leave is for five days or less
 - The leave is the first or second health related leave in the calendar year
- Every leave taken is counted as a leave regardless of its length.
 - Example: If a worker takes multiple types of health-related leave in a calendar year, each leave is considered as a separate health-related leave for the purposes of determining whether a sick note may be requested. For example, if a worker takes four days off due to their own illness [under section 49.1](#) and immediately afterwards takes three days off because their child becomes sick and they request family responsibility leave under [section 52](#), each period is a separate leave. As each separate leave was less than five days in duration, an employer could not ask the worker for a sick note in this circumstance, as long as the worker has not taken any prior health-related leaves in that calendar year. If a health-related leave straddles the beginning of a new calendar year, the leave is deemed to have occurred in the year in which it began. On the third absence in a calendar year the employer can request “reasonably sufficient proof” of illness or injury.
- For more information on these sections of the Employment Standards Act and Regulations:
 - [Specified Circumstances in Which Sick Note Cannot Be Requested - Regulation Part 7.02, Section 45.033 - Province of British Columbia](#)
 - [Illness or Injury Leave - Act Part 6, Section 49.1 - Province of British Columbia](#)
 - [Sick Note Not Required - Act Part 6, Section 49.2 - Province of British Columbia](#)

THE COLLECTION OF MEDICAL EVIDENCE

1. The employer can only collect information that is reasonably necessary.

- The extent of what is reasonably necessary will depend on the situation - if an employee is requesting a medical accommodation, the employer may ask for more information than would be required for a return to work from a short-term leave.

2. The least intrusive method of obtaining the medical information must be the first.

- For example, a doctor's certificate or medical questionnaire should be requested and reviewed before an employee is asked to attend an independent medical examination, functional capacity evaluation, etc.

3. The employer is not entitled to know the employee's diagnosis.

4. The employer is entitled to know the functional physical or cognitive limitations and restrictions. Limitation and restrictions detail how the employee's medical conditions impact their ability to perform specific tasks or activities.

- A medical limitation indicates the employee is not capable of performing a specific task/activity.
- A medical restriction indicates the employee cannot perform the task/activity safely without causing harm to themselves or others.
 - Limitations and restrictions may be temporary or permanent.

5. Sometimes the employer will present the doctor with medical questionnaire that includes a table listing the tasks/activities of the job, and will ask the doctor to identify whether the employee can do each task and for how long.

- The employer should only ask about tasks/activities related to the role the employee is in, unless it is a request for an accommodation. In the case of an accommodation request the employer may need more information to determine how they can accommodate the employee.
- If an employee is requesting a medical accommodation the employer has a duty to inquire about the medical limitations.

THE COLLECTION OF MEDICAL EVIDENCE

6. If the employer has objective evidence that a medical condition may be impacting an employee's ability/function at work, they have a duty to inquire.

- Example: if an employee is slurring their words, stumbling, falling asleep at work, has increasing absenteeism/lateness, or is having dizzy spells, it is important that the employer inquire further, in order to understand what is causing the issues. This is relevant to ensure whether there is an underlying medical condition so that the employer can address the situation appropriately without negatively impacting the employment.

7. Any questions asked of the doctor must relate to functional ability - i.e. what the employee can or cannot safely do at work. The employer can ask whether the limitations/restrictions are temporary or permanent.

- Broad questions (e.g. What is the patient's medical status?) may be unreasonable, as the doctor may be inclined to provide more information than is necessary. Questions should be specific to the role and the medical limitations/restrictions.

8. The employer can ask about prognosis, but only as it pertains to any anticipated change in the condition and/or a return to work.

- The question should be specific and worded in a way to indicate that the employer is not entitled to information about diagnosis. Questions about prognosis are only relevant for prolonged leaves where there is an anticipated change/recovery or return to work.

9. Can my employer stop an employee from returning to work if I do not provide medical information?

- If the employee has been on short term leave for a period of time (i.e. more than a few weeks), and depending on the reason for their absence, the employer may require medical clearance to ensure the employee is safe to return to work.
- If the employee was on leave for two weeks (or less) with a cold or flu, then it would not be reasonable for the employer to require medical clearance to return to work.
 - If the employer does ask for medical information due to patterns of absence and the employee is unsure whether this is required, they should speak to a shop steward.

THE COLLECTION OF MEDICAL EVIDENCE

10. Safety-sensitive work: This is a term used to describe work where an employee's action or errors could lead to harm to themselves, coworkers, the public or the environment.

- These jobs may involve driving, operating heavy equipment, or making decisions that impact the well-being of others, etc.
- When a role is deemed by the employer to be safety-sensitive, they may explain this fact to the doctor through a medical questionnaire. However, this does not change the information they are entitled to receive from the doctor.
- If an employee is suffering from substance use challenges and is in a safety-sensitive role, the employer may request information from a provider trained in the area of substance use. If the employee is unsure about any requests of this nature, they should speak to their shop steward.

11. Employees are not required to provide their employer with personal information or information related to any diagnosis.

- If the employer invites the employee to a meeting to discuss their health, or if the employer provides the employee with a medical questionnaire, employees are encouraged to engage their shop steward to ensure their medical information is protected.