



What medical information is the employer entitled to?

In 2010, Fanshawe College changed the contract company they use to handle Short Term Disability and Return to Work issues. Individuals whose cases have been handled by the new provider Morneau Shepell (formerly known as Shepell-fgi) have been alarmed by the threats to their wages and benefits if they refuse to release private medical information. You will be relieved to know that grievance arbitrators have been very careful not to allow employers access to private medical information.

Simply put, the employer is entitled to information from your family physician supporting an absence. At Fanshawe, the policy specifies that medical documentation must be provided when absent for 5 consecutive days or more.

The general rules regarding access to medical information are:

- It is limited to information certifying that you must be absent for medical reasons; it does not include the diagnosis. A document from a qualified medical doctor that an employee is away and unable to work due to illness or injury is legally considered to be sufficient proof to justify the absence.
- Employees must have their doctor provide functional information (i.e. what they are able to do or not do) to ensure a safe return to work.
- Depending on the condition, the functional ability form may be limited to physical information or sometimes, depending on the case the physician may also provide psychological factors, such as your ability to concentrate if that ensures safe accommodation.
- The College can request prognosis. A prognosis is a professional estimate of if and when you might be able to return. This allows the employer to plan for a replacement worker if the absence is lengthy.
- Information about diagnosis, treatment and medications should not be collected by the College or an agent of the College (Morneau Shepell). An employer's concern for an employee or their desire to assist the employee does not trump your privacy rights. If they ask for private information, they must make it clear that you are not being ordered or threatened to provide it.

Just because Morneau Shepell has nurses on their staff, it does not mean that they have greater rights to access and use your private information than the College. They are agents of the College.

The balance is that the employer gets enough information to run their business and operation (when will you return and what accommodation do you need for a safe and successful return) and you get to keep your private medical information private.

There are some instances when the employer can ask for more information such as a situation when there is reason to doubt that your medical certificate is legitimate. If that is what you are facing, then call for help from your union. If the College is asking you for a broad consent for access to medical information you should contact the union for assistance and advice.

We are here to help. Local 110 can be reached at (519) 452-4205 and at union@opseu110.ca. Please also feel free to drop by our office in D2018 and make an appointment to meet with a representative of the Local.