



## **OHRC policy position on medical documentation to be provided when a disability-related accommodation request is made**

Under the Ontario *Human Rights Code* (*Code*), employers, unions, housing providers and service providers have a legal duty to accommodate the needs of people with disabilities who are adversely affected by a requirement, rule or standard at work, at school, in housing, or any of the other “social areas” covered by the *Code*.

The duty to accommodate exists to the point of “undue hardship.” The *Code* only allows for three considerations when assessing whether an accommodation would cause undue hardship; these are: cost, outside sources of funding (if any), and health and safety requirements (if any).

Accommodation may mean making rules, policies, practices or procedures more flexible to make sure that people with disabilities are able to participate. It may also mean making changes to the built environment to remove barriers for people with disabilities.

### **The role of medical professionals in the accommodation process**

Medical professionals have an important role to play when people with disabilities seek accommodation to allow them to benefit equally from and take part in services (such as education), housing or the workplace. To implement appropriate accommodations, schools, employers and other organizations covered by the *Code* often rely on the expertise of medical professionals to understand the functional limitations and needs associated with a disability. People seeking accommodations often rely on physicians or other medical professionals to provide clear, timely information about their disability-related needs, while still respecting their privacy interests.

### **The type and scope of medical information needed**

It has come to the OHRC’s attention that there may be some confusion about the type and scope of medical information that needs to be provided to support an accommodation request. In some cases, people with disabilities have been unable to gain equal access to services or employment because of ambiguous or vague medical notes that do not provide enough information to allow for appropriate accommodations to be meaningfully implemented.

There are also situations where employers and others have requested personal medical information that goes beyond what is required to support an accommodation request. Overbroad requests for private medical information – such as diagnostic information – undermine the dignity and privacy of people with disabilities. The ongoing stigma



associated with many disabilities, especially and including mental health disabilities, means that requests for diagnostic information may pose a barrier to a person with disabilities proceeding with their accommodation request.

In September 2016, the Ontario Human Rights Commission (OHRC) released its newly updated [Policy on ableism and discrimination based on disability](#). The new policy sets out important information about the role of medical documentation in the accommodation process.

[Section 8.7, “Medical information to be provided,”](#) sets out detailed guidance about the type and scope of medical information to be provided to support an accommodation request. This information should include:

- that the person has a disability<sup>[1]</sup>
- the limitations or needs associated with the disability
- whether the person can perform the essential duties or requirements of the job, of being a tenant, or of being a service user, 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, of being a tenant, or of being a service user, *etc.*
- in employment, regular updates about when the person expects to come back to work, if they are on leave.

Where more information about a person’s disability is needed, the information requested must be the least intrusive of the person’s privacy while still giving the organization enough information to make an informed decision about the accommodation.

To implement appropriate accommodations that respect the dignity and privacy interests of people with disabilities, the focus should always be on the functional limitations associated with the disability, rather than a person’s diagnosis.

Generally, the accommodation provider does not have the right to know a person’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 person’s needs are complex, challenging or unclear and more information is needed. For more detailed information, see the OHRC’s [Policy on ableism and discrimination based on disability](#).

---

<sup>[1]</sup> See section 2 of the policy, “What is disability?” for more detailed information about the legal definition of disability.