

CMA submission:

MAINTAINING ONTARIO'S LEADERSHIP ON PROHIBITING THE USE OF SICK NOTES FOR SHORT MEDICAL LEAVES

Submission to the Standing
Committee on Finance and
Economic Affairs

November 15, 2018

The Canadian Medical Association (CMA) unites physicians on national health and medical matters. Formed in Quebec City in 1867, the CMA's rich history of advocacy led to some of Canada's most important health policy changes. As we look to the future, the CMA will focus on advocating for a healthy population and a vibrant profession.

Introduction

The Canadian Medical Association (CMA) submits this brief to the Standing Committee on Finance and Economic Affairs for consideration as part of its study on Bill 47, *Making Ontario Open for Business Act, 2018*.

The CMA unites physicians on national, pan-Canadian health and medical matters. As the national advocacy organization representing physicians and the medical profession, the CMA engages with provincial/territorial governments on pan-Canadian health and health care priorities.

As outlined in this submission, the CMA supports the position of the Ontario Medical Association (OMA) in recommending that Schedule 1 of Bill 47 be amended to strike down the proposed new Section 50(6) of the *Employment Standards Act, 2000*. This section proposes to reinstate an employer's ability to require an employee to provide a sick note for short leaves of absence because of personal illness, injury or medical emergency.

Ontario is currently a national leader on sick notes

In 2018, Ontario became the first jurisdiction in Canada to withdraw the ability of employers to require employees to provide sick notes for short medical leaves because of illnesses such as a cold or flu. This legislative change aligned with the CMA's policy position¹ and was strongly supported by the medical and health policy community.

An emerging pan-Canadian concern about the use of sick notes

As health systems across Canada continue to grapple with the need to be more efficient, the use of sick notes for short leaves as a human resources tool to manage employee absenteeism has drawn increasing criticism in recent years. In addition to Ontario's leadership, here are a few recent cases that demonstrate the emerging concern about the use of sick notes for short leaves:

- In 2016, proposed legislation to end the practice was tabled in the Manitoba legislature.²
- The Newfoundland and Labrador Medical Association and Doctors Nova Scotia have been vocal opponents of sick notes for short leaves, characterizing them as a strain on the health care system.^{3,4}
- The University of Alberta and Queen's University have both formally adopted "no sick note" policies for exams.^{5,6}
- The report of Ontario's Changing Workplaces Review summarized stakeholder comments about sick notes, describing them as "costly, very often result from a telephone consultation and repeat what the physician is told by the patient, and which are of very little value to the employer."⁷

Ontario's action in 2018 to remove the ability of employers to require sick notes, in response to the real challenges posed by this practice, was meaningful and demonstrated leadership in the national context.

The requirement to obtain sick notes negatively affects patients and the public

By walking back this advancement, Ontario risks reintroducing a needless inefficiency and strain on the health system, health care providers, their patients and families. For patients, having to produce a sick note for an

employer following a short illness-related leave could represent an unfair economic impact. Individuals who do not receive paid sick days may face the added burden of covering the cost of obtaining a sick note as well as related transportation fees in addition to losing their daily wage. This scenario illustrates an unfair socioeconomic impact of the proposal to reinstate employers' ability to require sick notes.

In representing the voice of Canada's doctors, the CMA would be remiss not to mention the need for individuals who are ill to stay home, rest and recover. In addition to adding a physical strain on patients who are ill, the requirement for employees who are ill to get a sick note, may also contribute to the spread of viruses and infection. Allowing employers to require sick notes may also contribute to the spread of illness as employees may choose to forego the personal financial impact, and difficulty to secure an appointment, and simply go to work sick.

Reinstating sick notes contradicts the government's commitment to end hallway medicine

It is important to consider these potential negative consequences in the context of the government's commitment to "end hallway medicine." If the proposal to reintroduce the ability of employers to require sick notes for short medical leaves is adopted, the government will be introducing an impediment to meeting its core health care commitment.

Reinstating sick notes would increase the administrative burden on physicians

Finally, as the national organization representing the medical profession in Canada, the CMA is concerned about how this proposal, if implemented, may negatively affect physician health and wellness. The CMA recently released a new baseline survey, *CMA National Physician Health Survey: A National Snapshot*, that reveals physician health is a growing concern.⁸ While the survey found that 82% of physicians and residents reported high resilience, a concerning one in four respondents reported experiencing high levels of burnout.

How are these findings relevant to the proposed new Section 50(6) of the *Employment Standards Act, 2000*? Paperwork and administrative burden are routinely found to rank as a key contributor to physician burnout.⁹ While a certain level of paperwork and administrative responsibility is to be expected, health system and policy decision-makers must avoid introducing an unnecessary burden in our health care system.

Conclusion: Remove Section 50(6) from Schedule 1 of Bill 47

The CMA appreciates the opportunity to provide this submission for consideration by the committee in its study of Bill 47. The committee has an important opportunity to respond to the real challenges associated with sick notes for short medical leaves by ensuring that Section 50(6) in Schedule 1 is not implemented as part of Bill 47.

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- ¹ Canadian Medical Association (CMA). *Third-Party Forms (Update 2017)*. Ottawa: The Association; 2017. Available: <http://policybase.cma.ca/dbtw-wpd/Policypdf/PD17-02.pdf> (accessed 2019 Nov 13).
- ² *Bill 202. The Employment Standards Code Amendment Act (Sick Notes)*. Winnipeg: Queen's Printer for the Province of Manitoba; 2016. Available: <https://web2.gov.mb.ca/bills/40-5/pdf/b202.pdf> (accessed 2019 Nov 13).
- ³ CBC News. *Sick notes required by employers a strain on system, says NLMA*. 2018 May 30. Available: www.cbc.ca/news/canada/newfoundland-labrador/employer-required-sick-notes-unnecessary-says-nlma-1.4682899
- ⁴ CBC News. *No more sick notes from workers, pleads Doctors Nova Scotia*. 2014 Jan 10. Available: www.cbc.ca/news/canada/nova-scotia/no-more-sick-notes-from-workers-pleads-doctors-nova-scotia-1.2491526 (accessed 2019 Nov 13).
- ⁵ University of Alberta University Health Centre. *Exam deferrals*. Edmonton: University of Alberta; 2018. Available: www.ualberta.ca/services/health-centre/exam-deferrals (accessed 2019 Nov 13).
- ⁶ Queen's University Student Wellness Services. *Sick notes*. Kingston: Queen's University; 2018. Available: www.queensu.ca/studentwellness/health-services/services-offered/sick-notes (accessed 2019 Nov 13).
- ⁷ Ministry of Labour. *The Changing Workplaces Review: An Agenda for Workplace Rights. Final Report*. Toronto: Ministry of Labour; 2017 May. Available: https://files.ontario.ca/books/mol_changing_workplace_report_eng_2_0.pdf (accessed 2019 Nov 13).
- ⁸ Canadian Medical Association (CMA). *One in four Canadian physicians report burnout* [media release]. Ottawa: The Association; 2018 Oct 10. Available: www.cma.ca/En/Pages/One-in-four-Canadian-physicians-report-burnout.aspx (accessed 2019 Nov 13).
- ⁹ Leslie C. The burden of paperwork. *Med Post* 2018 Apr.