



OMA Submission on Bill 47: Making Ontario Open for Business Act, 2018

November 2018



OMA Submission on Bill 47

The Ontario Medical Association (OMA) appreciates the opportunity to comment on the proposed regulations under the Making Ontario Open for Business Act, 2018 (Bill 47). It is important to emphasize that our comments focus exclusively on the reinstated option for employers to request sick notes for very short term illnesses.

In 2018, Ontario became the first jurisdiction in the country to remove the ability for employers to ask employees to provide sick notes for short medical leaves due to illnesses such as influenza or gastrointestinal viruses. This move was widely supported by the medical and health policy communities including the Canadian Medical Association.

Under Schedule 1, Section 50(6) of Bill 47 the current provincial government has proposed to reinstate an employer's ability to require an employee to provide a sick note^a from a qualified healthcare provider for leaves of absence due to personal illness, injury or medical emergency. We understand the reason for reinstating this specification is due to concerns about employee attendance and the subsequent challenges for employers. That said, there is concern that reinstating this specification may lead to unintended implications on the healthcare system.

As the representative of Ontario's physicians, the Ontario Medical Association (OMA) advocates for the health of Ontarians, and provides leadership for an accessible, sustainable, high quality health-care system. This work includes considering the best provision of care for individual patients, promoting public health, as well as ensuring that the limited resources in our publicly funded system are used effectively. Reinstating this requirement is counterintuitive from a public health perspective, represents an ineffective use of already limited healthcare resources, and is a barrier to ending hallway medicine, a key target that has been outlined by this government.

We provide one exception that should be considered in policy development. In a few cases, important information is sometimes shared between patients and their providers when visits for sick notes occur. A sick note 'visit' often acts as a proxy for other important visits between patients and their physicians. These are visits that might not otherwise occur without the seemingly forced visit by employers. Such visits often uncover issues such as mental illness, workplace stress, among many other concerns.

To this end, we would encourage the government, together with stakeholders including the OMA and employers to engage in dialogue to support employee visits to their physicians to share information. Visits for sick notes may not be the ideal solution, but we welcome the opportunity to collaborate on creative solutions so that the well being of all Ontarians is taken into account.

^a Sick note as defined by a short-term absence from work

Public Health & Individual Recovery Concerns

Public Health

Requiring individuals who are sick with an infectious virus to go to a healthcare provider's office poses a significant public health risk. Isolated illness such as influenza or gastrointestinal virus are common causes for short term absenteeism, particularly during the winter months. These viruses are highly contagious and spread when people come into contact with those who are infected (1, 2). Consequently, contagious individuals in waiting rooms will inadvertently expose others to the virus, most concerning of whom are seniors, those living with chronic disease, children, and others at high risk (1). We know that when individuals from these populations are exposed they are more likely to contract the virus and are thus at greater risk for hospitalisation, serious illness, and even death (1, 3).

Individual Recovery

Beyond the public health concerns, individual recovery for those who are sick should be considered. Evidence states that most people with influenza or gastrointestinal virus will not need medical care. Those who are sick with an infectious virus are advised to stay home and rest for best recovery (1, 2, 4, 5). Requiring patients with isolated illnesses to visit their healthcare provider may in fact delay their recovery by impeding their rest, and potentially expose them to additional contagious viruses.

Public Health & Productivity in the Workplace

Anecdotal reports suggest that eliminating sick notes over the past year have led to increased absenteeism in the workplace, implying that employees are abusing progressive sick leave policies when they are in place. Consideration should be given to a different explanation. It is conceivable that when the more restrictive sick leave policy was in place, sick employees either refrained from taking sick days, or returned to work prematurely.

Should a sick employee come to work while still contagious they risk exposing colleagues to the virus, who may also fall ill and require time off. Moreover, evidence suggests that when employees go to work while sick they are less productive and prone to mistakes (6).

Health Impact on Providers

Requiring sick and contagious patients to obtain a sick note introduces a risk of exposure to providers. Should healthcare providers fall ill, they would also require time away from work or otherwise risk exposing colleagues and patients to the illness. The provincial protocol for influenza management in Ontario hospitals states that if a healthcare worker is diagnosed with influenza, the employee must remain off work until the period of communicability and peak symptoms has passed, usually 5 days from onset (7). In this case, there would be a decrease in the number of healthcare providers able to care for patients, putting more strain on the healthcare system as a whole.

Ineffective Use of Limited Healthcare Resources

The government has stated that the rationale behind permitting employers to require sick notes from employees is due to concerns around absenteeism. Aside from the aforementioned unintended public health consequences, from a healthcare provider's perspective, sick notes are not the appropriate attendance monitoring tool.

While we maintain that useful information is often shared during the visits originally intended for sick notes, physicians should not be put in the position of having to approve a patient's return to work. For this reason, we believe that the value of visiting physicians should be supported and encouraged by employers in order to ensure employees are best cared for, without the specific need for a sick note.

Patient & Physician Relationship

The relationship between a patient and physician is largely built on trust, and often by the time the patient is seen by the doctor, the patient is well or on their way to recovery and therefore the physician is unable to assess the veracity of the patient's reported illness. Consequently, it is unlikely that a physician would deny a sick note for a patient.

Impact on Patient Care

Requests for sick notes create a significant burden on healthcare providers. These visits take providers away from provision of services to other patients requiring more urgent care adding additional expense to the health care system.

Ending Hallway Medicine

The OMA recognizes the significant access challenges and supports the government's focus on ending hallway medicine. As per the Premier's Council work "*The health care system is facing significant capacity challenges and unsustainable hospital occupancy levels contributing to the use of unconventional spaces for patient care. This significantly impedes patient access to quality, safe care. Without additional capacity and development of innovative solutions and approaches, current challenges facing the sector will be exacerbated.*"^b

Part of the Council's work includes the development of recommendations on strategic priorities and actions to improve Ontario's health outcomes and improve patient satisfaction, while making Ontario's health care system more efficient. We understand that there is no simple solution to hallway medicine, however, unnecessary visits to doctors' offices or the hospital for those seeking a sick note will inevitably lead to longer wait times and further delay of achieving the goals the government has set for hallway medicine.

^b Backgrounder: Premier's Council on Improving Health Care and Ending Hallway Medicine

Ontarians are proud of our healthcare system, but all involved in the system—patients, providers, and policy makers alike are aware of concerns around timely access to care which can be attributed to an overburdened system. All involved need to work together to look for creative solutions to minimize the burden and improve access wherever possible. This includes looking to unnecessary visits which inadvertently increase wait times. Visits for the purpose of obtaining a sick note only are one of these unnecessary visits. As such, reinstating permission for employers to require sick notes will pose an additional barrier to alleviating hallway medicine.

Finally, we want to reiterate that while short term absences should not require employer-mandated sick notes for a return to work, there would be tremendous value in stakeholders collaborating to encourage employers to support their employees health and well being. This includes regular and as needed visits to their physicians. This is in the best interest of all Ontarians—the physicians caring for patients and advocating for their health and well being, employers who undoubtedly benefit and want healthy employees, policy makers, and the patients of Ontario, to collaborate on this ultimate goal.

Recommendation:

That the government continues to use the existing wording under Section 50(13) of the Employment Standards Act:

- (13) An employer shall not require an employee to provide a certificate from a qualified health practitioner as evidence

We appreciate the opportunity to provide our perspective to this Bill 47. Should you have any questions, please contact Katherine Patterson, Senior Advisor, Health Policy & Promotion at Katherine.Patterson@oma.org.

References

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