

DOS & DON'TS: Keep Workers' Medical Information Private



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Employers may have a right to a worker's personal medical information under certain circumstances. For example, if an injured worker is ready to return to work, you'll need to know if he has any limitations based on his medical condition that would warrant modified duties, such as no lifting of heavy objects or standing for extended periods of time. In addition, if a worker is disabled, you may need certain medical information about the disability in order to properly accommodate the worker. But just because *an employer* may have the right to this medical information doesn't mean *everyone* in the workplace should have access to it. You must maintain the worker's right to privacy by not disclosing this information or even discussing it in front of other workers. And

you must ensure that all staff—including supervisors—understand the need to maintain such privacy.

A car manufacturer and supervisor in Ontario just learned this lesson. After a worker injured her arm, she was assigned to sort parts as a modified duty. She claimed that this assignment was disability discrimination and harassment as it was intended to humiliate her. In addition, she argued that a supervisor harassed her by discussing her disability and requesting medical information about it in front of others. For example, he asked her multiple times in front of her co-workers for verification that she'd gotten an MRI. The Human Rights Tribunal rejected the worker's claims about the job assignment. But it did rule that although the supervisor was justified in asking the worker for medical information about her injury, he shouldn't have asked for such information or discussed her injury in front of other workers. The Tribunal concluded that his public requests for medical documentation constituted harassment and ordered the employer to pay the worker \$1,500 in damages [*McNeil v. Toyota Motor Manufacturing Canada Inc.*, [2013] HRT0 2111 (CanLII), Dec. 20, 2013].