

Medical Certificates for Employee Absence Act

SCHEDULE B OF CHAPTER 3 OF THE ACTS OF 2023



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SCHEDULE B OF CHAPTER 3 OF THE ACTS OF 2023

**An Act Respecting
Medical Certificates for Employee Absences
Due to Sickness or Injury**

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Short title

1 This Act may be cited as the *Medical Certificates for Employee Absence Act*. 2023, c. 3, Sch. B, s. 1.

Interpretation

2 In this Act,

“Board” means the Labour Board established under the *Labour Board Act*;

“Director” has the same meaning as in the *Labour Standards Code*;

“employee” has the same meaning as in the *Labour Standards Code*;

“employer” has the same meaning as in the *Labour Standards Code*;

“individual scope of practice” means the services for which a member of a regulated health profession is educated, authorized and competent to perform;

“qualified health professional” means

(a) subject to the regulations, a person who holds a licence to practise in a regulated health profession in the Province;

(b) a physician or surgeon entitled to practise medicine in any other province of Canada; and

(c) a person or class of persons prescribed by the regulations;

“regulated health profession” means a health profession regulated by any of the organizations listed in the Schedule to the *Regulated Health Professions Network Act*;

“scope of practice of the profession” means the roles and functions authorized for a member of a regulated health profession by that profession’s governing statute. 2023, c. 3, Sch. B, s. 2.

Application

3 This Act applies to all matters within the legislative jurisdiction of the Province, including the Crown in right of the Province and the employees of the Crown except those exempted by the regulations made under the *Labour Standards Code*. 2023, c. 3, Sch. B, s. 3.

Supervision of Act

4 The Minister of Labour, Skills and Immigration has the general supervision and management of this Act. 2023, c. 3, Sch. B, s. 4.

Limitations on requiring certificate

5 (1) An employer may not require a certificate with respect to an employee’s absence from work due to the employee’s sickness or injury unless

(a) the absence continues for more than five consecutive working days; or

(b) the employee has had at least two non-consecutive absences of five or fewer working days due to sickness or injury in the preceding 12 months.

(2) A certificate permitted to be required under subsection (1) may be issued by a qualified health professional who is providing a diagnosis, treatment or care to the employee

(a) with respect to the sickness or injury that is causing the employee’s absence from work;

(b) that falls within the scope of practice of the profession of the qualified health professional; and

(c) that falls within the individual scope of practice of the qualified health professional. 2023, c. 3, Sch. B, s. 5.

Complaint to Director

6 (1) An employee may make a complaint to the Director alleging there has been a failure to comply with this Act and the Director shall inquire into the complaint, endeavour to effect a settlement and may make an order in accordance with Section 21 of the *Labour Standards Code* and the regulations under that Act.

(2) The Director may, with respect to the enforcement of this Act, exercise any of the powers the Director has with respect to enforcement under the *Labour Standards Code* with any necessary changes.

(3) An employee has, with respect to this Act, the same protections as under the *Labour Standards Code* with any necessary changes. 2023, c. 3, Sch. B, s. 6.

Appeal

7 An appeal to the Board under subsection 6(2) must be proceeded with in accordance with Sections 22 to 27 of the *Labour Standards Code* and the regulations under that Act. 2023, c. 3, Sch. B, s. 7.

Administrative penalty

8 (1) Subject to Section 9, where the Director is of the opinion that an employer has failed to comply with an order of the Director or the Board within the period specified in the order, the Director may issue a written notice requiring the employer to pay an administrative penalty in accordance with the regulations.

(2) Notice of an administrative penalty may only be issued after the period for appealing an order has expired or, where an appeal has been filed, after the decision has been made on the appeal.

(3) The notice of administrative penalty must be served on the employer required to pay the penalty. 2023, c. 3, Sch. B, s. 8.

Limitation period

9 No penalty may be issued by the Director more than three years after the act or omission that renders the employer liable to a penalty first came to the knowledge of the Director. 2023, c. 3, Sch. B, s. 9.

Regulations

- 10 (1) The Governor in Council may make regulations
- (a) excluding classes of persons for the purpose of the definition of “qualified health professional” in Section 2;
 - (b) prescribing classes of persons for the purpose of the definition of “qualified health professional” in Section 2;
 - (c) excluding persons or classes of persons from the application of this Act;
 - (d) for the purpose of Section 8, respecting administrative penalties for contraventions of this Act, including
 - (i) prescribing the form and content of the notice of an administrative penalty,
 - (ii) respecting the determination of amounts of administrative penalties, which may vary according to the nature or frequency of the contravention, and
 - (iii) respecting any other matter necessary for the administration of the system of administrative penalties provided for under this Act;

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(e) defining any word or expression used but not defined in this Act;

(f) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2023, c. 3, Sch. B, s. 10.

Effective date

11 This Act has effect on and after July 1, 2023. 2023, c. 3, Sch. B, s. 11.
