

THE PHYSICIAN'S ROLE IN HELPING PATIENTS RETURN TO WORK AFTER AN ILLNESS OR INJURY (UPDATE 2000)

This policy addresses the role of attending physicians in assisting their patients to return to work after an illness or injury. The physician's role is to diagnose and treat the illness or injury, to advise and support the patient, to provide and communicate appropriate information to the patient and the employer and to work closely with other involved health care professionals to facilitate the patient's safe and timely return to the most productive employment possible. Carrying out this role requires physicians to understand the patient's roles in the family and the workplace. It requires physicians to recognize and support the employee-employer relationship and the primary importance of this relationship in the return to work. Finally, it requires physicians to have a good understanding of the potential roles of other health care professionals and employment personnel in assisting and promoting the return to work.

The CMA recognizes the importance of a patient returning to *all* possible functional activities relevant to his or her life as soon as possible after an injury or illness. The purpose of this statement, however, is to address the role of the attending physician in the patient's return to work. The CMA supports a shift away from complete reliance on physician certification for work absences (Certificate of Disability 1998) to cooperation between the employee and his or her employer with the use of medical input, advice and support from the employee's attending physician and other involved health care professionals (see also *Timely Return to Work*

Programs and the Role of the Primary Care Physician, by the Ontario Medical Association).

Prolonged absence from one's normal roles, including absence from the workplace, is detrimental to a person's mental, physical and social well-being. Physicians should therefore encourage a patient's return to function and work as soon as possible after an illness or injury, provided that return to work does not endanger the patient, his or her coworkers or society. A safe and timely return to work benefits the patient and his or her family by enhancing recovery and reducing disability. Through improvement of

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health outcomes, a safe and timely return to work also preserves a skilled and stable workforce for employers and society and reduces demands on health and social services as well as on disability plans.

The role of physicians is to incorporate a timely return to work into the care plan for their patients. The treatment or care plan should be evidence-based, when possible, and should identify the best sequence and timing of interventions for the patient. Unnecessary waiting periods and other obstacles in the care plan should be identified. Identified obstacles should be addressed and discussed, when relevant, by those involved in the patient's return to work.

Successful return to work involves primarily the employee and his or her employer and requires the assistance of the attending physician. When appropriate, patient care and outcomes may be improved through a coordinated multidisciplinary approach involving other health care professionals, including other physicians, rehabilitation specialists, nurses, physiotherapists, occupational therapists, psychologists, case managers, vocational specialists and personnel of employee assistance programs. When available, occupational health and safety services, which may involve physicians and other expert personnel, can be an invaluable resource for the attending physician and patient.

The employee and the employer generally have an established relationship that is central to the return to work. Therefore, in all cases of impairment or disability, a workplace supervisor, manager or employer representative must be closely involved and must be a partner in this process.

Employers increasingly recognize the value of changing the workplace to facilitate a safe and timely return to work. The employer's role is to ensure that the workplace culture supports a timely return to work, for example, by ensuring that flexible work is available. Flexible work can include modifying tasks, schedules and environmental conditions to meet the temporary or permanent needs of the patient. Employees are often unaware of their employer's ability to accommodate special needs. Direct communication by an employee with his or her employer after an illness or injury often increases the employee's perception of his or her ability to work. Therefore, with careful planning and appropriate physician input and advice to both the employee and the employer, in many cases an employee may successfully return to work before full recovery.

Return to work requires that the employee's capabilities match or exceed the physical, psychological and cognitive requirements of the work offered. In some cases, it may be appropriate for the physician to advise the patient that a timely return to work can facilitate his or her recovery by assisting in restoring or improving functional capabilities. A gradual increase in activity may hasten a patient's recovery and readiness to resume work at full capacity

Principles concerning the role of the physician in the return-to-work plan

- The physician should facilitate the patient's return to work by encouraging communication between the patient and his or her employer early in treatment or rehabilitation.
- The physician should be familiar with the family and community support systems

available to the patient. The physician should also be aware of the patient's general responsibilities at home and at work.

- Early in the course of treatment, the physician should discuss with the patient expected healing and recovery times as well as the positive role of an early, graduated increase in activity on physical and psychological healing.
- The physician should identify and address potential obstacles to the recovery of function and return to work as soon as possible.
- The physician should be knowledgeable about and use, when appropriate, the services of a multidisciplinary team of health care professionals, who can be helpful in facilitating the patient's safe and timely return to work.
- Ultimately, the employer determines the type of work available and whether a physician's recommendations concerning an employee's return to work can be accommodated. (Under provincial and territorial human rights laws, an employer may not discriminate on the basis of disability or other illness and has legal obligations with respect to the accommodation of employees. For details, refer to the Human Rights Code in the relevant jurisdiction). In recognition of the employee-employer relationship, physicians should encourage their patients to take an active role in and to take responsibility for the return to work and to communicate directly and regularly with their employers.
- In cases of employers with occupational medical departments, the attending physician may contact the occupational

physician or nurse to understand specific workplace policies, supportive in-house resources, essential job demands and possible health and safety hazards in the patient's workplace. Where occupational medical resources are available, the attending physician generally assumes a supportive or advisory medical role. For assistance with specific cases, provincial and territorial medical associations and the Occupational and Environmental Medical Association of Canada have information identifying physicians who specialize in assisting with the return to work.

- When requested by the employer, the physician, with the patient's consent (see Respecting Patient Confidentiality and Managing Medical Information), should be as specific as possible in describing the patient's work capabilities and any work accommodation required. In more complex cases, the physician should consider referring the patient to medical specialists and other appropriate health care professionals for a comprehensive, objective assessment of his or her functional capabilities and limitations and their relation to the demands of the patient's job.
- If the employer asks the physician to participate in developing a modified work plan, the physician should consider and make recommendations related to the following:
 - The employee's task limitations, e.g., no above-shoulder reaching with the right arm; alternating positions between sitting and standing or walking; and maximum lifting of 10 kg from

floor level or 20 kg from waist level. These should be specific and time-limited. When defining task limitations, the employee's functional capabilities and the demands of the job should be matched and considered.

- Schedule modifications, e.g., usual shift schedule at 4 hours per day; 1 day off, or lighter assignment in the middle of a set of shifts; and no night or rotating shifts. It should be noted when return to a normal schedule is medically appropriate.
- Environmental restrictions, e.g., avoidance of specific workplace substances or of cold environments; and no solo work in remote areas.
- Medical aids or personal protective equipment, e.g., use of a wrist strap; use of a chair with adjustable height and lumbar support; and use of a more efficient filtration mask.

Whenever possible, the physician should state whether restrictions are permanent or temporary and give an estimate of recovery time. Also, the physician should give the date when the patient's progress and his or her work restrictions will be reassessed.

- The employer and employee have a responsibility to provide the physician with any employment-related information that will assist him or her in giving medical advice and support. It is the employer's responsibility to provide the physician with a written job description, identifying

the job risks and available work modifications, upon request.

- The physician must be aware of the risks to the patient, his or her coworkers or the public that could arise from the patient condition or drug therapy. If the medical condition of the patient and the nature of the work performed are very likely to endanger the safety of others significantly, the physician must put the public interest before that of the patient. The CMA *Code of Ethics* (*Can Med Assoc J* 1996;155:1176A-B) states that physicians must respect the patient's right to confidentiality except when this right conflicts with your responsibility to the law, or when the maintenance of confidentiality would result in a significant risk of substantial harm to others or to the patient if the patient is incompetent; in such cases, take all reasonable steps to inform the patient that confidentiality will be breached.

The CMA holds that legislation should be enacted in all jurisdictions to protect physicians from liability associated with such decisions.

- If the employer and the employee cannot agree on a return-to-work plan, the employer should contact the physician and employee to identify the minimum level of capability that can be accommodated in the workplace.
- When conflict occurs between the employer and the employee, the attending physician may wish to use, where available, the skills of an occupational physician; if these services are unavailable, the attending physician may recommend or facilitate a resolution of

the conflict. The CMA recommends that conflict-resolution processes be put in place to address all participants' concerns if conflicts occur.

- A physician who sees a patient for the first time concerning a long-standing condition should obtain and consult medical records on previous care before offering advice on a safe and timely return to work.
- The physician should counsel the patient on preventive strategies, when appropriate.
- When the physician believes that the patient has recovered sufficiently and can return to work safely, the patient/employee should be clearly informed of this judgement.
- The patient is entitled to a copy of all return-to-work documentation that is prepared by his or her attending physician (see the next section).

Respecting patient confidentiality and managing medical information

Medical records are confidential. In general, physicians should not give information to anyone concerning the condition of a patient or any service rendered to a patient without the patient's consent. However, there are some exceptions to this rule. For example, in some cases, provincial or territorial legislation may require physicians to provide information to workers' compensation boards without prior patient approval. Physicians should be aware of the legal requirements in their province or territory.

Consistent with the general rule concerning a physician's duty to keep patient information confidential, the physician should not provide information about the patient to the patient's

employer without the patient's authorization. For instance, if an employer requests information about the patient's ability to return to work, prior patient consent should be obtained. Consent should be specific rather than general. Written authorization for such disclosure is desirable.

A physician's report concerning the patient's ability to return to work should be tailored to the intended audience. For example, a report directed to an employer should contain only information that the employer needs to know to assist the employee in his or her return to work (for example, the ability of the employee to perform pre-injury duties, the employee's capabilities and limitations and the extent to which the work or the workplace needs to be accommodated to meet the needs of the employee). To respect the privacy of the patient, the physician should be careful not to provide medical information that is not needed to facilitate his or her return to work.

The patient has the right to examine and copy medical records that pertain to him or her, according to a recent decision of the Supreme Court of Canada (*McInerney v. MacDonald* [1992] 2 SCR 138). Patient access to records may be denied only if the physician reasonably believes that the patient or others will suffer substantial physical, mental or emotional harm because of information contained in the records. A physician should be aware that, if access is denied and the patient challenges the physician's decision, the onus is on the physician to justify denial of access.

In regard to a patient's access to medical information obtained in an independent medical examination conducted by a physician on behalf of a third party, additional considerations may

apply. Physicians should consult appropriate statements from the relevant provincial or territorial licensing body and from the Canadian Medical Protective Association for additional information and guidance. Physicians should also be aware of any relevant legislation or other legal requirements in their jurisdictions.

Billing for return-to-work services

Preparation of reports and documents for employers primarily for the purpose of return to work is not generally publicly insured. The patient or third party requesting the service should be billed for it. Statements from each province's medical association concerning billing should be consulted. The physician should inform the patient that there will be a charge when medical reports are requested.

Conclusion

The CMA believes that physicians who follow the principles outlined in this policy will support their patients and their families, their communities, employers and society.

Wording and concepts in this statement were adapted from the Alberta Medical Association's statement *Early Return to Work After Illness or Injury*. Concepts were also taken from the Manitoba Medical Association's policy on an early return to work and the Ontario Medical Association's policy *Timely Return to Work Programs and the Role of the Primary Care Physician*.