Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne

Policy on drug and alcohol testing

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Purpose of OHRC Policies

Section 30 of the Ontario *Human Rights Code (Code)* authorizes the Ontario Human Rights Commission (OHRC) to prepare, approve and publish human rights policies to provide guidance on interpreting provisions of the *Code*.[*] The OHRC's policies and guidelines set standards for how individuals, employers, service providers and policy-makers should act to ensure compliance with the *Code*. They are important because they represent the OHRC's interpretation of the *Code* at the time of publication.[**] Also, they advance a progressive understanding of the rights set out in the *Code.*

Section 45.5 of the *Code* states that the Human Rights Tribunal of Ontario (the Tribunal) may consider policies approved by the OHRC in a human rights proceeding before the Tribunal. Where a party or an intervenor in a proceeding requests it, the Tribunal *shall* consider an OHRC policy. Where an OHRC policy is relevant to the subject-matter of a human rights application, parties and intervenors are encouraged to bring the policy to the Tribunal's attention for consideration.

Section 45.6 of the *Code* states that if a final decision or order of the Tribunal is not consistent with an OHRC policy, in a case where the OHRC was either a party or an intervenor, the OHRC may apply to the Tribunal to have the Tribunal state a case to the Divisional Court to address this inconsistency.

OHRC policies are subject to decisions of the Superior Courts interpreting the *Code*. OHRC policies have been given great deference by the courts and Tribunal,[***] applied to the facts of the case before the court or Tribunal, and quoted in the decisions of these bodies.[****]

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[*] The OHRC's power under section 30 of the *Code* to develop policies is part of its broader responsibility under section 29 to promote, protect and advance respect for human rights in Ontario, to protect the public interest, and to eliminate discriminatory practices.

[**] Note that case law developments, legislative amendments, and/or changes in the OHRC's own policy positions that took place after a document's publication date will not be reflected in that document. For more information, please contact the OHRC.

[***] In *Quesnel* v. *London Educational Health Centre* (1995), 28 C.H.R.R. D/474 at para. 53 (Ont. Bd. Inq.), the tribunal applied the United States Supreme Court's decision in *Griggs* v. *Duke Power Co*., 401 U.S. 424 (4th Cir. 1971) to conclude that OHRC policy statements should be given "great deference" if they are consistent with *Code* values and are formed in a way that is consistent with the legislative history of the *Code* itself. This latter requirement was interpreted to mean that they were formed through a process of public consultation.

[****] Recently, the Ontario Superior Court of Justice quoted at length excerpts from the OHRC's published policy work in the area of mandatory retirement and stated that the OHRC's efforts led to a "sea change" in the attitude to mandatory retirement in Ontario. The OHRC's policy work on mandatory retirement heightened public awareness of this issue and was at least partially responsible for the Ontario government's decision to pass legislation amending the *Code* to prohibit age discrimination in employment after age 65, subject to limited exceptions. This amendment, which became effective December 2006, made mandatory retirement policies illegal for most employers in Ontario: *Assn. of Justices of the Peace of Ontario* v. *Ontario (Attorney General)* (2008), 92 O.R. (3d) 16 at para. 45. See also *Eagleson Co-Operative Homes, Inc.* v. *Théberge,* [2006] O.J. No. 4584 (Sup.Ct. (Div.Ct.)) in which the Court applied the OHRC's

Introduction

The *Code* states that it is public policy in Ontario to recognize the inherent dignity and worth of every person and to provide for equal rights and opportunities without discrimination. The provisions of the *Code* are aimed at creating a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and feels able to contribute to the community.

The OHRC recognizes that it is a legitimate goal for employers to have a safe workplace. One method sometimes used by employers to achieve that goal is drug and alcohol testing. However, such testing is controversial and, especially in the area of drug testing, of limited effectiveness as an indicator of impairment. It is not used to a significant degree anywhere in the world except in the United States (the "U.S.").[1]

It is the OHRC's view that such testing is *prima facie* discriminatory and can only be used in limited circumstances. The primary reason for conducting such testing should be to measure impairment.[2] Even testing that measures impairment can be justified only if it is demonstrably connected to the performance of the job; for example, if an employee occupies a safety-sensitive position, or after significant accidents or "near-misses," or if there is reasonable cause to believe that a person is abusing alcohol or drugs and only then as part of a larger assessment of drug and alcohol abuse. It is the OHRC's view that by focusing on testing that actually measures impairment, especially in jobs that are safety sensitive, an appropriate balance can be struck between human rights and safety requirements, both for employees and for the public.

Scope of this Policy

Persons with disabilities, who have had disabilities, or who are perceived to have or have had disabilities are protected against discrimination in all of the social areas of the *Code*.

Drug and alcohol testing are of particular concern in the workplace, notably for those Ontario employers that have safety sensitive operations, and/or that are subject to U.S. regulatory requirements (e.g. the trucking industry)[3] or to the policies of U.S. affiliates with "zero tolerance" for the consumption of drugs or alcohol. For this reason, this Policy focuses on the workplace. However, it applies to other social areas as well.[4] For example, the OHRC has taken the position that drug or alcohol testing as a prerequisite to eligibility for basic income support programs is also *prima facie* discriminatory.[5]

Policy and Guidelines on Disability and the Duty to Accommodate, available at: www.ohrc.on.ca/en/resources/Policies/PolicyDisAccom2

It should be noted that international and interprovincial transportation companies are under federal jurisdiction.[6] Thus airlines, interprovincial trucking and bus services are subject to the federal *Canadian Human Rights Act*[7] and not provincial human rights laws.

Drug or alcohol dependency and abuse as a disabiltiy[8]

Section 5(1) of the *Code* prohibits discrimination in employment on several grounds including "disability." The *Code* adopts an expansive definition of the term "disability" which encompasses physical, psychological and mental conditions. Severe substance abuse is classified as a form of substance dependence,[9] which has been recognized as a form of disability. Examples include alcoholism and the abuse of legal drugs (*e.g.* over the counter drugs) or illicit drugs. These types of abuse and dependence therefore constitute a disability within the meaning of the *Code*.

The following examples represent situations in which the use of legal or illicit drugs or alcohol may fall within the *Code*[10]:

a. Where an individual's use of drugs or alcohol has reached the stage that it constitutes severe substance abuse, addiction or dependency, *e.g.* maladaptive patterns of substance use leading to significant impairment or distress, including:
    i. recurrent substance abuse resulting in a failure to fulfil major obligations at work
    ii. recurrent substance abuse in situations which are physically hazardous
    iii. continued substance abuse despite persistent social, legal or interpersonal problems caused or aggravated by the effects of the substance.[11]
b. Where an individual is perceived as having an addiction or dependency due to drug or alcohol use, the Code will protect that individual.

    Example: An employer refuses to promote a particular employee because of the perception that the employee has an alcohol dependency. As a result of this perception and consequent action on the part of the employer, the individual's right to equal treatment under the *Code* may have been infringed.

c. An individual who has had a drug or alcohol dependency in the past, but who no longer suffers from an ongoing disability, is still protected by the *Code*.

Drug and alcohol testing: direct or constructive discrimination?

Although the *Code* distinguishes between direct and constructive discrimination,[12] the distinction is less important than it used to be, particularly in the area of disability. This is a result of the combined impact of two factors. First, the Supreme Court of Canada has blurred the distinction between the two for practical purposes and has developed a single three-step test.[13] The Ontario Court of Appeal has applied similar reasoning in the Ontario context, specifically in the area of disability and drug and alcohol testing.[14]

Second, Section 17 of the *Code* provides a defence where a person with a disability is unable to perform an essential requirement. However, the defence is only available if the requirement is *bona fide* and reasonable, and only after the person has been accommodated to the point of undue hardship. Since employers usually argue that the requirement for impairment-free performance is essential, s. 17 of the *Code* will be an important part of a respondent's defence.

In either event, the Ontario Court of Appeal has indicated that except in the most obvious cases of direct discrimination, the focus should be on determining whether the employer can justify the policy or standard using the new three-step test set out by the Supreme Court of Canada.[15] Applying this approach, company-wide policies such as drug and alcohol testing polices will attract the need to accommodate employees and, most importantly, on an individual basis.[16] The OHRC supports this position. Individualization is central to the notion of dignity for persons with disabilities and to the concept of accommodation on the ground of disability, regardless of whether a particular form of drug testing or alcohol testing is likely to be considered to be "direct" or "constructive."[17] "Blanket" rules that make no allowances for individual circumstances are necessarily unable to meet individual requirements and are therefore likely to be struck down.

Drug and alcohol testing: basic principles

Drug and alcohol testing is *prima facie* discriminatory under Canadian human rights law.

Employers can nevertheless justify discriminatory rules if they can meet a three-part test:[18]

- the employer has adopted the standard or test for a purpose that is rationally connected to the performance of the job
- the employer adopted the particular standard or test in an honest and good faith belief that it was necessary to the fulfilment of that legitimate work-related purpose
- the standard or test is reasonably necessary to accomplish that legitimate work-related purpose. To show that the standard is reasonably necessary, it must be demonstrated that it is impossible to accommodate individual

employees sharing the characteristics of the claimant without imposing undue hardship upon the employer.

Drug and alcohol testing policies are part of workplace rules and standards. Therefore, standards governing the performance of work should be inclusive. Employers must build conceptions of equality into workplace policies.

Drug and alcohol testing should be limited to determining actual impairment of an employee's ability to perform or fulfil the essential duties or requirements of the job. It should not be directed towards simply identifying the presence of drugs or alcohol in the body.

Drug and alcohol testing that has no demonstrable relationship to job safety and performance has been found to be a violation of employee rights.[19] A relationship or rational connection between drug or alcohol testing and job performance is an important component of any lawful drug or alcohol testing policy. In this regard, the policy must not be arbitrary in terms of which groups of employees are subject to testing. For example, to test only new or returning employees but not other employees may not be justifiable having regard to the stated objectives of a company's testing policy. At the same time, testing employees in safety sensitive positions only may be justifiable.

Applying the three-part test to drug and alcohol testing, the following questions should be considered by employers, where applicable:

1. Is there an objective basis for believing that job performance would be impaired by drug or alcohol dependency? In other words, is there a rational connection between testing and job performance?
2. In respect of a specific employee, is there an objective basis for believing that unscheduled or recurring absences from work, or habitual lateness to work, or inappropriate or erratic behaviour at work are related to alcoholism or drug addiction/dependency? These factors could demonstrate a basis for "for cause" or "post incident" testing provided there is a reasonable basis for the conclusions drawn.
3. Is there an objective basis to believe that the degree, nature, scope and probability of risk caused by alcohol or drug abuse or dependency will adversely affect the safety of co-workers or members of the public?

Pre-employment testing for drug and alcohol use as part of an employment-related medical examination

Testing for alcohol or drug use is a form of medical examination. Therefore, an employer considering such testing should be guided by the three-part test cited above, by the OHRC's *Policy on Employment-Related Medical Information*[20] and by the Ontario Court of Appeal's decision in the *Entrop* case. The following are the main principles that should be borne in mind:

i. Employment-related medical examinations or inquiries, conducted as part of the applicant screening process, are prohibited under Section 23(2) of the *Code*.
ii. Pre-employment medical examinations or inquiries at the interview stage should be limited to determining an individual's ability to perform the essential duties of a job.
iii. In order to implement a testing program prior to hiring, the employer must therefore be able to demonstrate that pre-employment testing provides an effective assessment of the applicant. Since drug testing cannot be shown to actually measure impairment, pre-employment drug testing should not be conducted. Although there has been no clear indication from the courts, it is the OHRC's view that, in the absence of clear medical research, pre-employment alcohol testing does not appear to predict an employee's ability to perform the essential requirements of a safety-sensitive position. All it can do is assess impairment **before** the person is actually on the job. It is therefore difficult to see how an employer could justify pre-employment alcohol testing.
iv. Medical examinations to determine an individual's ability to perform the essential duties of a job should only be administered after a conditional offer of employment has been made, preferably in writing.
v. Where drug or alcohol testing will be a valid requirement on the job, the employer should notify job applicants of the requirement at the time that an offer of employment is made. The circumstances under which such testing might be required should be made clear to the applicant.
vi. If the applicant or employee requests accommodation in order to enable him or her to perform the essential duties of the job, the employer is required to provide individual accommodation unless it is impossible to do so without causing undue hardship.

On-the-job testing

On-the-job testing should be administered only where a link has been established between impairment and performance of job functions, such as in the case of employees who are in safety-sensitive positions. Once again, because drug tests do not actually measure impairment, random drug testing is an unjustifiable intrusion into the rights of employees. With respect to random alcohol testing, the use of breathalysers is a minimally intrusive yet highly accurate measure of both consumption and actual impairment. Consequently, the OHRC supports the view that random alcohol testing is *acceptable in safety-sensitive positions, especially where the supervision of staff is minimal or non-existent, but only if the employer meets its duty to accommodate the needs of those who test positive* (see below).

"For cause" and "post incident" testing for either alcohol or drugs may be acceptable in specific circumstances. Following accidents or reports of dangerous behaviour, for example, an employer will have a legitimate interest in assessing whether the employee in question had consumed substances that are psychoactive and which may have contributed to the incident. The results of the assessment may provide

an explanation of the cause of the accident. Such testing should only be conducted as part of a larger assessment of drug or alcohol abuse. This larger assessment could include a broader medical assessment under a physician's care where there are reasonable grounds to believe that there is an underlying problem of substance abuse. Additional components of a larger assessment may include employee assistance programs ("EAPs"), peer reviews and supervisory reviews.

Employers should also have regard to the following criteria and considerations when developing on-the-job testing criteria:

Competent handling of test samples

Qualified professionals must perform drug and alcohol testing and the results must be analyzed in a competent laboratory. Further, it is the responsibility of the employer to ensure that the samples taken are properly labelled and protected at all times.

Confidentiality of test results

To protect the confidentiality of test results, all health assessment information should remain exclusively with the examining physician and away from the employee's personnel file.

Review of results with the employee

Procedures should be instituted for the physician to review the test results with the employee concerned.

Mandatory self-disclosure

Where mandatory self-disclosure is a part of a workplace drug or alcohol policy, there must be a reasonable time period within which previous substance abuse will be considered relevant to assessment of current ability to perform the essential duties. The reasonable time period is based on whether the risk of relapse or recurrence is greater than the risk that a member of the general population will suffer a substance abuse problem. Mandatory self-disclosure of all previous substance dependencies, without any reasonable limitation on how long ago these conditions occurred, has been found to be a *prima facie* violation of employee rights.[21]

Alternative methods

The OHRC supports the use of methods other than drug and alcohol testing (*e.g*. functional performance testing) where such methods exist, or the development of such tests, where feasible, to assess impairment. The OHRC also encourages the development and implementation of EAPs and peer monitoring.

Consequences of a positive test

Section 17 of the *Code* requires individualized or personalized accommodation measures. Therefore, policies that result in automatic loss of employment, reassignment or that impose inflexible reinstatement conditions, without regard for personal and individual circumstances, are unlikely to meet this requirement.[22]

Although the emphasis in the *Code* is on ensuring that persons with disabilities are not treated in a discriminatory manner because of their disability, it is recognized that in some circumstances, the nature and/or degree of a person's disability may preclude that individual from performing the essential duties of a job. Section 17(1) of the *Code* states that the right to equal treatment in respect of employment is not infringed where an individual is treated differently because she or he is incapable of performing or fulfilling the essential duties of the position because of a disability. Assessment of incapacity must be both fair and accurate.

Duty to accommodate

Section 17(2)

Section 17(2) provides that an employee shall not be found incapable of performing the essential duties of a job unless it would cause undue hardship to accommodate the individual employee's needs, taking into account the cost of the accommodation and health and safety concerns.

Sections 17(1) and 17(2) provide a two-stage test for the validity of a workplace drug and alcohol testing policy.

> ***Example:*** An employer is concerned about fairness and decides to extend an existing alcohol testing policy originally designed for employees in safety-sensitive positions to cover all other employees. Although the policy's generous rehabilitation programs may satisfy the accommodation requirement set out in Section 17(2), this defence is not available to the employer unless it can be shown that employees in non-safety-sensitive positions who fail the test are incapable of performing their essential duties.

Onus on the employee to co-operate with the employer

A person who requires accommodation in order to perform the essential duties of a job has a responsibility to communicate the need for accommodation in sufficient detail and to co-operate in consultations to enable the person responsible for accommodation to respond to the request. It should be noted that this obligation does not interfere with the employer's obligation to treat the person equally even if the employer believes or perceives (even with good reason) that the employee has substance abuse problem.

> ***Example***: An employee in a clerical position appears to be inebriated frequently during work hours, and the employer has a conversation to address the problem. The employee refuses to acknowledge the problem

or seek counselling at the employer's expense. Shortly after, the employee is fired without formal warning.

In this case, the employer clearly "perceived" the person to have a substance abuse problem and therefore the protection of the *Code* is engaged. The fact that a person refuses treatment or accommodation does not in and of itself justify immediate dismissal. The employer has to demonstrate, through progressive discipline, that the employee has been warned and is unable to perform the essential duties of the position. If the employee refuses offered accommodation and if progressive discipline and performance management have been implemented, then disciplinary steps can be taken.

If an employee's drug or alcohol addiction/dependency is interfering with that person's ability to perform the essential duties of the job, the employer must first provide the support necessary to enable that person to undertake a rehabilitation program unless it can be shown that such accommodation would cause undue hardship.

Undue hardship

The employer will be relieved of the duty to accommodate the individual needs of the alcohol or drug addicted/dependent employee if the employer can show, for example, that:

i. the cost of the accommodation would alter the nature or affect the viability of the enterprise; or
ii. notwithstanding accommodation efforts, health or safety risks to workers or members of the public are so serious that they outweigh the benefits of providing equal treatment to the worker with an addiction or dependency.

Alternative mechanisms

The OHRC supports the use of the least intrusive means of assessing impairment or fitness for work. All workplaces should consider using comprehensive workplace health policies that may include such programs as EAPs and drug education and health promotion programs.

When considering how best to address the needs of employees with substance dependencies, employers are encouraged to consider the establishment of alternatives such as EAPs. EAPs are personal assistance programs that help employees who have substance abuse or other problems. Such programs can assist not only individuals with a drug or alcohol addiction/dependency, but can also help workers deal with the stress which may lead to such an addiction or dependency. Off-site counselling and referral services are examples of EAPs that are used successfully in the workplace. In addition, health promotion and drug education programs can prevent problems before they start by getting at the causes. Other alternative mechanisms include performance tests for safety-sensitive positions, where physical and/or mental coordination are integral parts of the job, peer or supervisory monitoring.

Relevant *Ontario Human Rights Code* provisions

Employment

Section 5 (1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offenses, marital status, family status or disability.

Disability

Section 10 (1) "Disability" means,

a. any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
b. a condition of mental impairment or a developmental disability,
c. a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
d. a mental disorder, or
e. an injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act*, 1997; ("handicap")

(3) The right to equal treatment without discrimination because of disability includes the right to equal treatment without discrimination because a person has or has had a disability or is believed to have or to have had a disability.

Section 17 (1) A right of a person under this Act is not infringed for the reason only that the person is incapable of performing or fulfilling the essential duties or requirements attending the exercise of the right because of disability.

(2) No tribunal or court shall find a person incapable unless it is satisfied that the needs of the person cannot be accommodated without undue hardship on the person responsible for accommodating those needs, considering the cost, outside sources of funding, if any, and health and safety requirements, if any.

Application for employment

Section 23 (2) The right under s. 5 to equal treatment with respect to employment is infringed where a form of application for employment is used or a written or oral inquiry is made of an applicant that directly or indirectly classifies or indicates qualifications by a prohibited ground of discrimination.

Constructive discrimination

Section 11 (1) A right of a person under Part I is infringed where a requirement, qualification or factor exists that is not discrimination on a prohibited ground but that results in the exclusion, restriction or preference of a group of persons who are identified by a prohibited ground of discrimination and of whom the person is a member, except where,

a. the requirement, qualification or factor is reasonable and bona fide in the circumstances; or
b. it is declared in this Act, other than in section 17, that to discriminate because of such ground is not an infringement of a right.

(2) The Commission, the Tribunal or a court shall not find that a requirement, qualification or factor is reasonable and bona fide in the circumstances unless it is satisfied that the needs of the group of which the person is a member cannot be accommodated without undue hardship on the person responsible for accommodating those needs, considering the cost, outside sources of funding, if any, and health and safety requirements, if any.

For more information

For more information about the OHRC or this policy statement, please visit our website at www.ohrc.on.ca .

Please visit www.ontario.ca/humanrights for more information on the human rights system in Ontario.

The Human Rights System can also be accessed by telephone at:
Local: 416-326-9511
Toll Free: 1-800-387-9080
TTY (Local): 416-326 0603
TTY (Toll Free) 1-800-308-5561

To file a human rights claim, please contact the Human Rights Tribunal of Ontario at:
Toll Free: 1-866-598-0322
TTY: 416-326-2027 or Toll Free: 1-866-607-1240
Website: www.hrto.ca

To talk about your rights or if you need legal help with a human rights claim, contact the Human Rights Legal Support Centre at:
Toll Free: 1-866-625-5179
TTY: 416-314-6651 or Toll Free: 1-866-612-8627
Website: ww.hrlsc.on.ca

Endnotes

[1] See *Drug and Alcohol Testing in the Workplace*, Report of the ILO Tripartite Experts Meeting (May 1993, Oslo, Norway), cited in Butler *et al., The Drug Testing Controversy: Imperial Oil and Other Lessons* (Carswell, Toronto: 1997) at 5.
[2] As distinct from deterrent value, for which there is no reliable study showing successful outcomes, or for the purposes of monitoring moral values among employees.
[3] Most employers who are subject to U.S. commercial motor vehicle regulations are likely to be under federal jurisdiction under the *Canadian Human Rights Act*. However, even provincially regulated companies that may have only the occasional driver seeking to enter the U.S. are also subject to regulatory requirements for drug and alcohol testing in order to enter the U.S.
[4] There are five social areas covered in the *Code*. These are employment, accommodation (housing), goods services and facilities, membership in vocational associations and contracts.
[5] Letter from Chief Commissioner Keith C. Norton to the Hon. John Baird, Minister of Community and Social Services (unpublished, July 1999). The OHRC expressed concern about the Government's announced plans to test welfare recipients for drugs or alcohol.
[6] Section 91 of the Constitution Act, 1867.
[7] R.S.C. 1985, c. H-6.
[8] "Disability" is used in the *Code* and OHRC documents as the most appropriate term; however prior versions of the *Code* made reference to the word "handicap."
[9] "Drug abuse and drug dependence are diseases, illnesses, malfunctions and mental disorders, which can create mental impairment and result in mental disorder and physical disability". *Entrop v. Imperial Oil Ltd.,* Interim Decision #8 Sept. 12, 1996, Decision No. 96-030-I. This aspect of the ruling was not challenged on appeal to the Court of Appeal. See *Entrop, infra* at note 14.
[10] *Ibid.*
[11] Adapted from the definition of "substance abuse" in the *Diagnostics and Statistical Manual of Mental Disorders* (American Psychiatric Association, 4th ed., 1994) cited in *Entrop* #8, *supra* note 9.
[12] See, *e.g.* ss. 5 and 11 of the *Code*.
[13] *British Columbia (Public Service Employee Relations Commission) v. B.C.G.S.E.U.*, (1999) 176 D.L.R. (4th) 1 (S.C.C.) [hereinafter *Meiorin*].
[14] *Entrop v. Imperial Oil Ltd. (*unreported decision of the Ontario Court of Appeal, 21 July 2000).
[15] *Ibid.* at para. 79-82.
[16] *Ibid.*
[17] See generally the OHRC's *Policy and Guidelines on Disability and the Duty to Accommodate,* available at the OHRC website: www.ohrc.on.ca.
[18] See *Entrop, supra* note 14, citing *Meiorin, supra* note 13.
[19] See *Entrop*, *supra* note 14.
[20] A copy of the Ontario Human Rights OHRC *Policy on Employment-Related Medical Information* (1996) is available on the Web at www.ohrc.on.ca, through the OHRC offices and printed in *Human Rights Policy in Ontario, supra* note 17.
[21] *Entrop*, *supra* note 14.
[22] *Ibid*.