Dedication	iii
Preface	V
Introduction	хi
PART I: IMPLEMENTING AND MANAGING THE DUTY	
TO ACCOMMODATE	
Chapter 1–Duty to Accommodate: Impact on the Workplace	3
and Employment Relationship	3
What is the Duty to Accommodate?	3
Impact on Workplace and Employment Policies and	4
Practices	6
Who is Affected by the Duty?	_
Employer	6
Bargaining Agent	7
Accommodee	8
Respect for Dignity	8
Individualization	8
Accommodde's Role	8
Workplace Community	9
Securing Broad-Based Organizational Support and	
Commitment	10
Managing the Duty to Accommodate	11
Chapter 2–Defining the Duty to Accommodate	13
Introduction	13
To Whom is the Obligation Owed?	14
What is to be Adjusted or Modified?	14
That is to be ridgested of Modified.	1

Active Employment versus Absenteeism	14
General Principles	15
Principle 1: Respect for Dignity	15
Principle 2: Individualization	16
Principle 3: Proportionality	16
Principle 4: Provide Most Appropriate	
Accommodation	18
Principle 5: Integration and Full Participation	19
Summary	19
What is Required?	20
Appropriate Initiatives	20
Essential Duty Requirement	21
Impact of Meiorin Principles	22
Assume Burdens	22
Use More than Negligible Effort	23
Scope of Jobs to be Considered	24
Right to be Accommodated in Own Job	24
Consider and Assess Other Job Opportunities	25
Existing Jobs	25
Available Jobs	26
Accommodee's Qualifications	27
Other Employer Considerations	28
Wages and Benefits	28
Accommodation in a Unionized Setting	29
Seniority	30
Cross-Bargaining-Unit Accommodation	31
Right to Job Posting	32
Disability-Related Absenteeism	32
Persisting Total Withdrawals	33
Long Period of Persisting Absence	34
Unsuccessful Accommodation Initiatives	34
Pessimistic Future Prognosis	35
Patterns of Persisting Intermittent Absenteeism	36
Attendance Management Policies	37
Last Chance Agreements	38

Substance Abuse	39
Post-Meiorin Accommodation	40
Impact of Meiorin	41
Chapter 3–Undue Hardship	43
Introduction	43
What are the Limits?	44
Striking a Balance Between Competing Interests	45
Practical Strategies to Support Successful Approaches to	
Undue Hardship	48
Key Elements of Evaluative Processes for Undue	
Hardship	49
Shaping the Undue Hardship Limit	49
Cost	50
Quantifiable and Related to Accommodation	50
Affecting the Nature or Viability of the	
Organization	50
Outside Sources of Funding	51
Health and Safety	52
Risk versus Accommodation	52
Factors Outside Undue Hardship Limits	54
Floodgates Argument	54
Current Abilities and Risks	55
Business Inconvenience	55
Employee Morale	56
Third Party Preferences	56
Contractual Arrangements	57
Sliding Scale of the Undue Hardship Limit	57
Chapter 4–Specific Accommodation Challenges	59
Introduction	59
Family Status	61
Scope of the Duty to Accommodate Family Status	61
Context of Potential Discrimination Attending	
Accommodation Needs Regarding Family Status	63

Absenteeism and Leave of Absence	63
Scheduling and Hours of Work	64
Travel or Work Location	64
Procedures to Ensure Supportable Responses to Family	
Status Accommodation Issues	64
Synopsis: Key Elements of Successful Responses to	. .
Family Status Accommodation	65
Age	66
Preparing to Respond to Accommodation Needs	
Attending Age	67
Disability	68
Statutory Approach	69
Physical Conditions	69
Non-Physical Conditions	70
Workplace Safety and Insurance Board	
Matters	70
Broader Approach to Disability	71
Non- Evident Disabilities	71
Psychological and Psychiatric Disabilities	72
Context of Accommodation	74
Functional Limitations	75
Right to Own Job	76
Modified Duties	76
Other Workplace Opportunities	77
Scope of Accommodation Search	78
Undue Hardship	78
Disability-Related Absenteeism	79
Attendance Management Policies	79
Persisting Continuous Absence	81
Intermittent Absences	81
Essential Duty Criteria	82
The Pregnant Employee	82
Accommodation on the Basis of Disability or Sex	83
Accommodation Needs	84
Accommodation in Other Position	85

Undue Hardship Limit	85
Religious Observance Accommodation	86
Religious Observance	86
Definition	87
Employer's Role	88
Scheduling Conflicts	89
Strategies for Accommodation	90
Substance Abuse	91
Substance Abuse as Disability	92
Taking Action	93
Scope of Duty	93
Management of Substance Abuse Issues in the Context	
of Equality Rights Obligations	94
Absenteeism	94
Employee Denial	95
Treatment Program	96
Synopsis: Key Points	97
Chapter 5–Multi-Party Responsibilities	99
Introduction	99
Process	99
Substantive Outcome	99
Successful Management of Multi-Party	
Responsibilities	100
Accommodee	101
Obligation to Communicate Need	102
Psychological Disabilities	103
Obligation to Cooperate	105
Managing Information Needs	106
Impediments to Information Access	107
Letter to Employee	108
Letter to Medical Advisor	109
Medical Information Request Form/Questionnaire	110
Job Descriptions and Physical Demands Analysis	111
Obligation to Facilitate Reasonable Accommodation	

Initiatives	112
The Employer	115
Required Assessments	116
Step 1: Secure Relevant Information	117
Step 2: Investigate All Options	118
Step 3: Consultation with Relevant Parties	120
Step 4: Implementation of Initiative	121
Bargaining Agent	122
Source of Role and Responsibilities	122
Scope of Role and Responsibilities	122
Facilitate Accommodation Assessment Activity	124
Support for Implementation of Initiative	125
Implications for Employer	126
Managing Accommodation with a Bargaining Agent	127
Communication	127
Consensual Process	128
Failure to Comply with Joint Responsibilities	131
Post-Implementation Issues	132
Workplace Community	134
Role and Responsibilities	135
Assume Burdens	135
Support and Facilitate Reasonable Initiatives	136
Implications for the Employer	137
Contributing to Successful Accommodation	
Activity	138
Step 1: Education	138
Step 2: Workplace Accommodation Policy	139
Chapter 6-Implementing The Duty To Accommodate	141
Introduction	141
Defining Successful Accommodation Management	142
Process Requirements	143
General Obligations	144
Linking Process and Substance	145

Tools and Strategies	146
Workplace Accommodation Policy	146
Accommodation Process Protocol	148
Establish an Accommodation Committee	148
Expert Input	149
Scope of ACT's Review	149
Step 1: Review Current Job	150
Step 2: Review Individual's Own Job	150
Step 3: Evaluate Other Jobs	150
Step 4: Prepare Assessment Rresults	150
Step 5: Evaluate and Select	150
Accommodation Recommendations	151
Step 6: Secure Input on	131
Recommendation	151
Step 7: Finalize and Implement	101
Initiative	152
Step 8: Maintain Documentation by	102
ACT	153
Disability-Related Absenteeism	153
Medical Assessment and Documentation	154
Lack of Useful Information	155
Conflicting Medical Documentation	155
Organizational Commitment and Knowledge	157
Education Challenge	159
Securing Organizational Commitment	159
Required Knowledge	160
Employers	161
Managers and Supervisors	163
Managing the Accommodee	164
Changing Needs of the Accommodee	164
Accommodation Managers	166
Substantive Knowledge	167
Multi-Party Rights and Responsibilities	168
Process	168
Bargaining Agent	169

DUTT TO ACCOMMODATE & DISABILITY MANAGEMENT	
Conclusions	172
PART II — DISABILITY MANAGEMENT: SUCCESSFUL STRATEGIES	
Chapter 7–Disability Management — Overview of the	
Challenges and Solutions	175 175
Disability Management and the Duty to Accommodate —	
The Link	176
Successful Disability Management — The Starting Point	176
Why? Challenges to Successful Disability Management	176
"The Elephants in the Room"	176
Inaccurate or Inadequate Understanding of the Scope and Sources of Absenteeism in Canadian Workplaces	177
Impact of the Duty to Accommodate	177
Inadequate Strategies; Ineffective Tools	178
The Medical Documentation Challenge	179
Chapter 8–Positioning Stakeholders For Successful	
Disability Management	181
Introduction	181
Key Elements of Effective Disability Management	
Programs and Culture	181
The Cultural Requirement: A Supportive Climate	182
Building a Supportive Climate for Disability Management	185
Required Cultural Elements	185
Steps to Pursue and Achieve the Organizational Culture	
Supportive of Disability Management	186
Organizational Commitment	186
Means	186
Employee with a Disability Issue	188
Medical Advisors	190
The Solution	191
The Workplace Community	192

Culture Supportive of Disability Management and	
, and the second	194
Synopsis: Developing an organizational Culture that	
Supports Effective Disability Management	194
Chapter 9–Tackling the Causes of Absenteeism	197
Introduction	197
Duty to Accommodate Curtails Substantive use of	
Historical Attendance Management Programs	197
Absenteeism Rates and Costs are on the Rise in	
Canadian Workplaces	198
Canadian Absenteeism Rates on the Rise!	199
Source of Rising Absenteeism Rates	199
Significance	200
The Solution	200
Tackling the Causes of Absenteeism	201
Step 1: Pursue Internal Audit to Identify Causes	201
Step 2: Identification And Analysis Of Key	
Factors Contributing to Absenteeism	202
Step 3: Assess and Identify the Resources and	
Initiatives to be Pursued	203
Health and Wellness Initiatives	203
Employer Success in Directing Resources to Tackle the	
Causes of Absenteeism	204
How Costly is Absenteeism for Canadian Workplaces? 2	205
Synopsis: Tackling the Causes of Disability Related	
Absenteeism	206
Chapter 10–Successfully Managing the Medical Component	
of Disability Management	209
Introduction	209
Defining Successful Disability Management	210
Understanding the Employer's Primary Obligation to	
Initiate and Manage Medical Input Needs	211

Steps to Position Employers to Successfully Respond to Their Obligations and Interests in Managing Access to	
Medical Input	212
Benefits of the Foregoing Process	213
Observation	213
Synopsis: Successfully Responding to Employer's Process	
and Initiative Obligations	215
The Scope of the Employer's Right to Medical Information	
The Employee's Obligation to Provide Medical	
Information	215
Context in Which Conflict Arises	216
Sources of the Conflict	216
The Employer's Right to Medical Information Relevant	
to Disability Management	216
Balance of Competing Interests: Key to the	
Medical Input Framework	217
Balancing the Employer and Employee	
Interests	218
Useful Guideline — Parameter	218
General Guidelines Applicable to Striking	
the Right Balance	219
Managing Absenteeism	219
General Rules	219
Scope of Information Deemed Responsive to Employer	
Interest in the Context of Initial Medical Certificate	220
Synopsis: What the Employer is Entitled to in the Initial	
Medical Certification Supporting Absence	221
Employer Interests	222
Medical Input — Initial Certification — What is	
Generally Beyond the Employer's Reach and Right?	222
Circumstances When Access to "Diagnosis" or	
"Course of Treatment" may be Permissible	222
Employer's Right of Access to Medical Input Beyond	
Initial Cartification	222

Employer has Objective Grounds to Question the Completeness or Accuracy of the Medical	
Certificate	223
Passage of Time and/or Evidence of Changing	
Circumstances	224
Interval for Requests for Updated Medical Input	224
Scope of Employer Right to Require Independent	
Medical Examination (IME)	225
Expectation of Inclusive Approach to IME	226
Policy on Access to IME	227
Employer Interest in Providing Effective Direction	
to IME Provider	228
Psychological Ailments: Stress and the IME	228
Medical Documentation Challenges in Return-to-	
Work Context	228
Employer's Interest/Right and Employee's	
Interest/Right	228
Employer Rights/Obligations	229
Employee Rights/Obligations	229
Context of Return — to-Work Issues	229
Documentation Right/Interest of the Employer	229
Medical Documentation Interest	230
Contents of Communications to Employee	231
Contents of Communication to Physician	231
Employers Interest and Right to Restrain the	
Physician's Role in the Return-to-Work Process	232
Medical Input Relevant to Psychological	
Disability	232
The Challenge	233
Recommendation	233
Summary: Successful Disability Management	235

PART III — TOOLKIT	
Introduction to Resources in Toolkit	239
1 Introduction	239
1.1 Overview of Tools	239
2 Policy Statements	241
2.1 List of Policy Statements	241
2.2 Introduction	241
2.3 Commitment Statement: Accommodation and	
Accessibility	245
2.4 Accommodation Policy	246
2.5 Policy: Attendance Management	253
2.6 Policy: Informational Brochure on Duty to	
Accommodate	265
3 Guidelines	269
	269
3.2 Roles and Responsibilities of Participants in	
	270
3.3 Communication and Identification of Accommodation	
	286
3.4 Accommodation in a Unionized Workplace	292
3.5 Working with the Substantive Standard for	205
	297
3.6 Accessing and managing Medical Input Relevant to	222
Accommodation and Disability Management	322
•	336
	339
C	342
3.10 Compensation Attending Accommodation	
1	346
3	

4 Managers Guide: Q&A Guide to the Duty to

4.1 Q & A Guide to the Duty to Accommodate	349
5 Process Protocols	375
5.1 List of Process Protocols	375
5.2 Accommodating Disability Issues	375
(Religious Observance, Age, Family Status, Pregnancy) 5.4 Employer and Bargaining Agent Joint	394
Accommodation	399
6 Precedents and Templates to Support Management of	
Accommodation and Disability Management Activity	405
6.1 List of Precedents and Templates	406
6.2 Documents to Support Return to Work Activity	407
6.2.1 Letter to Employee Raising Accommodation	
Issue to Encourage Delivery of Medical Input	407
6.2.2 Letter to Attending Medical Advisor to	
Encourage Completion of Medical	
Questionnaire	408
6.2.3 Medical Input Questionnaire	409
6.2.4 Letter to Workers Compensation Board	411
6.2.5 Letter to Employee to Manage Return to Work	
Process	412
6.2.6 Letter to Employee Who Refuses to	
Participate in Return to Work Initiative	413
6.2.7 Summary: Assessment of Other Available	
Position	414
6.2.8 Summary: Assessment of Accommodation	
Options	416
6.2.9 Letter to Employee to Confirm Employee	
Obligations in Accommodation Initiative)	419
6.2.10 Summary of Accommodation	
Activity/Initiative	420
6.2.11 Letter to Bargaining Agent to Confirm	
Accommodation Initiative	421

Documents to Address Potential Termination Issues 6.3.1 Letter to Employee to Confirm Termination Where Permanent Restrictions Preclude Viable	422
	422
Termination Where Permanent, Serious	
Restrictions Preclude Viable Accommodation	
	423
6.3.3 Letter to Employee with Persisting	
Absenteeism Due to Disability (Over Two	
Years)	424
6.3.4 Letter to Attending Physician to Cover	
Medical Input Request in Connection with	
Persisting Absenteeism	425
6.3.5 Medical Input Questionnaire	425
6.3.6 Letter to Employee Confirming Termination	
Where Disability Frustrates Employment	
Contract	426
Documents to Manage Access to Medical	
Information and Manage Absenteeism	
6.4.1 Medical Information Request Consent	428
6.4.2 Letter to Employee to Manage	
Absenteeism	428
6.4.3 Letter to Attending Physician to Identify and	
Assess Potential Accommodation Issues	429
6.4.4 Medical Questionnaire	430
6.4.5 Letter to Employee to Manage Potential	
Intermingling of Accommodation and	
Performance Management Issues	431
6.4.6 Letter to Employee to Manage Potential	
Intermingling of Accommodation and	
Performance Management Issues	432
	6.3.1 Letter to Employee to Confirm Termination Where Permanent Restrictions Preclude Viable Accommodation in the Relevant Workplace

	6.4.7 Letter to Attending Physician to Manage	
	Potential Intermingling of Accommodation and	
	Performance Management Issues	433
Index		435