

# TABLE OF CONTENTS

<i>Acknowledgement</i> .....	iii
<i>Preface</i> .....	v

## CHAPTER 1: DISABILITY MANAGEMENT IN CANADA

1.1	Introduction to Managing Disability in the Workplace .....	1
a)	Defining Disability.....	1
1.2	Rationale and Objectives for Managing Disability in the Workplace.....	2
1.3	Principles of Effective Disability Management Programs .....	3
1.4	The Economic and Social Benefits of Managing Disability in the Workplace .....	3
1.5	The Prevalence of Disability in the Workplace.....	10
a)	Prevalence of Disability for Adults by Age Group, Canada, 2012.....	12
1.6	Employment and Disability Myths and Facts.....	12
1.7	Defining Workplace Programs that Manage Disability .....	14
1.8	Key Components of Effective Disability Management.....	15
a)	Best Practices for Managing Disability.....	17
1.9	Levels of Disability Management .....	18

## CHAPTER 2: LEGAL ISSUES ACROSS CANADA

2.1	Employment and Disability Legislation and Regulations .....	19
a)	International Legislation: Bill of Human Rights and Declaration of Disabled Persons .....	19
b)	National Legislation: The Canadian Charter of Rights and Freedoms and Human Rights Legislation.....	20
c)	Human Rights.....	20
d)	Workers' Compensation .....	21
e)	Provincial Occupational Health and Safety Acts .....	23
f)	Canada Labour Code .....	24

## Table of Contents

g)	Employment Standards Act .....	24
h)	Employment Equity Act.....	25
i)	Accessibility for Ontarians with Disabilities Act, 2005 .....	25
j)	The Accessibility for Manitobans Act (AMA).....	26
k)	Accessibility 2024 .....	26
2.2	Benefit and Compensation Systems Related to Managing Disability .....	27
a)	Workers' Compensation .....	27
b)	Employment Insurance Sickness Benefits .....	28
c)	Canada Pension Plan (CPP) .....	28
d)	Disability Tax Credit and Medical Expenses Tax Credit .....	29
e)	Employment Assistance for Persons with Disabilities (EAPD).....	29
f)	Opportunities Fund .....	30
g)	Social Assistance .....	30
h)	Short-Term Disability (STD) and Long-Term Disability (LTD).....	30
i)	Auto Insurance.....	31
j)	Canada Revenue Agency.....	32
k)	Industry Canada .....	32
l)	Collective Agreements .....	32
2.3	Application of Policy and Legislation in Arriving at Decisions.....	33

### **CHAPTER 3: HUMAN RIGHTS AND YOUR DUTY TO ACCOMMODATE**

3.1	Human Rights Legislation .....	35
3.2	Canadian Human Rights Code.....	35
3.3	Ontario Human Rights Code, 1990.....	37
3.4	Satisfying the Duty to Accommodate to Undue Hardship .....	41
a)	What is Undue Hardship?.....	43
b)	Accommodation Attempts .....	46
c)	The Duty to Accommodate . . . and the Employment Contract.....	47
d)	Consistent Standards and Policies .....	50
e)	Who Does the Duty to Accommodate Apply To?.....	50
f)	The Roles in the Duty to Accommodate.....	51
3.5	Summary of Legal Issues Surrounding Accommodation Programs.....	51

Table of Contents

**CHAPTER 4: WORKERS' COMPENSATION ACTS**

4.1 Introduction.....53

4.2 Ontario Workplace Safety and Insurance Act.....54

    a) Employer's Obligations .....54

4.3 Entitlement .....55

4.4 WSIB Reporting Requirement.....59

    a) Notification of Claim .....59

        i) Employer Form 7 .....59

        ii) Health Care Practitioners Report Form 8 .....60

        iii) Employee Form 6.....61

4.5 Benefits Levels.....62

    a) Employer Requested Health Examination.....63

        i) Definition of a Worker .....63

        ii) Worker's Obligations .....71

4.6 Health Care .....72

    a) Reemployment Obligations .....74

    b) Termination after Reemployment.....75

4.7 Return to Work .....75

    a) Policy on Work Reintegration (2012) .....75

    b) Work Reintegration Goal .....76

        i) Accommodation .....76

        ii) Suitable Work.....77

        iii) Safe.....77

        iv) Productive.....77

        v) Consistent with the Worker's Functional Abilities .....78

    c) What are the Penalties for Non-Compliance in Return to Work?.....78

4.8 Workwell Audits .....79

4.9 Payments by Employers .....79

    a) Accurately Reporting Payroll .....79

    b) Paying Premiums on Time .....80

    c) Prevent Claims and Facilitate Early and Safe Return to Work .....80

4.10 Human Resources Professional Role .....80

**CHAPTER 5: ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES**

5.1 Introduction.....83

5.2 Accessibility of the Built Environment.....83

5.3 Accessibility for Ontarians with Disabilities Act, 2005.....84

## Table of Contents

5.4	Accessibility Directorate of Ontario .....	85
	a) Customer Service .....	86
	b) General Accessibility.....	87
	c) Information and Communication.....	87
	d) Employment .....	87
	e) Transportation .....	88
	f) Public Spaces.....	88
	g) Built Environment.....	88
5.5	The Accessibility for Manitobans Act (AMA).....	88
5.6	Accessibility 2024.....	88
5.7	The Steps to Accessibility.....	89
	a) Policy and Procedure Development.....	89
	b) Training of Board, Staff, Volunteers and Contractors	90
	c) Marketing and Communications .....	91
	d) Coordination of Resources .....	91
	e) Feedback Database.....	91
5.8	Overall Accessibility Plan.....	92
	a) Information and Communication Standards.....	92
	b) Employment Standards .....	93
	c) Transportation Standards .....	93
	d) Public Spaces and Built Environment.....	94
	e) Role of Accessibility Consultants .....	94
5.9	Human Resource Professionals' Role .....	94

## **CHAPTER 6: RECRUITMENT PRACTICES FOR INDIVIDUALS WITH DISABILITIES**

6.1	Introduction.....	97
6.2	The Posting.....	97
6.3	Application Process .....	97
6.4	The Interview .....	98
	a) Interview Notes .....	98
	b) Possible Interview Accommodations .....	101
6.5	Placement.....	102
6.6	Employment Contract .....	102
6.7	Orientation and On-boarding .....	103

## **CHAPTER 7: PREVENTING DISABILITY IN THE WORKPLACE**

7.1	Introduction.....	105
7.2	The Organizational Impact of Health.....	105
7.3	Roles .....	110

## Table of Contents

	a)	What can a Front-Line Employee do to Manage These Issues? .....	110
	b)	What can a Supervisor do to Manage These Issues? .....	111
	c)	What can a CEO and Board do to Manage These Issues? .....	111
	d)	Management Don'ts .....	111
	e)	What can a Human Resources Professionals do to Manage These Issues? .....	112
7.4		Accident Prevention Processes and Practices .....	113
7.5		Health and Safety Regulations .....	114
	a)	Canada Labour Code .....	115
	b)	Provincial Occupational Health and Safety Acts .....	115
	c)	Occupational Health and Safety Act .....	116
	d)	Evolution of the Internal Responsibility System .....	117
	e)	Health and Safety Checklist .....	118
7.6		Job Hazard Analysis .....	120
	a)	Steps in Performing a Job Hazard Analysis .....	121
	b)	Methods of Conducting Job Hazard Analyses .....	121
	c)	Identifying the Hazards and Potential Accidents .....	121
	d)	Develop Solutions .....	122
	e)	Selecting Jobs to be Analyzed .....	122
	f)	Job Observation .....	123
	g)	Writing Instructions .....	123
7.7		Fines and Convictions .....	124
	a)	Occupational Health and Safety Changes .....	125
	i)	Musculoskeletal Disorder (MSD) Prevention Program .....	125
	ii)	The Sitting Disease .....	127
	b)	Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace), 2009 — Bill 168 .....	128
	i)	Definitions .....	128
	c)	Bill 132, An Act to Amend Various Statutes with Respect to Sexual Violence, Sexual Harassment, Domestic Violence and Related Matters .....	129
	i)	What Employers Need to Know .....	130
	d)	CSA National Psychological Health and Safety in the Workplace Standard .....	131
	e)	The Psychological Health and Safety Risk Factors ...	134
	i)	What Employers Need to Do .....	142
	f)	Aging in the Workplace .....	143
	i)	What Should an Employer Do .....	143
	g)	Workplace Wellness Programs .....	144

## Table of Contents

h)	Why Develop an Integrated Health, Safety and Productivity Management Program .....	146
i)	Care Management .....	147
ii)	Health Promotion and Disease Prevention (Health Management) .....	148
iii)	Workplace Environment.....	149
iv)	Corporate Culture and Organizational Health .....	149
i)	Main Premises of Benchmarking Organizations When Integrating Health Management.....	149
7.8	Health Resources Professional Role.....	150

### **CHAPTER 8: HOW TO DEVELOP A DISABILITY MANAGEMENT PROGRAM**

8.1	Getting Senior Management Commitment .....	151
8.2	Strategic Planning Approaches to Managing Disability .....	152
a)	Mission Statement.....	154
b)	Goals and Objectives .....	154
8.3	The Service Delivery Process for Large and Small Worksites .....	156
8.4	Steps to Implement a Disability Management Program.....	157
8.5	Developing Policy and Procedures .....	161
a)	Promote Equitable Access to Services.....	161
b)	Human Resources Professional's Role.....	162
c)	Sample Policy and Procedures.....	162
i)	Injured/Ill Worker's Early and Safe Return-to-Work Policy .....	162
ii)	Philosophy .....	162
iii)	Roles and Responsibilities .....	163
iv)	Accommodations .....	164

### **CHAPTER 9: ROLES AND RESPONSIBILITIES IN MANAGING DISABILITY**

9.1	The Roles and Functions of Stakeholders Involved in Disability Management.....	167
a)	Return-to-Work Coordinator/Disability Management Professional .....	167
b)	Primary Care Physician .....	168
i)	Physician Role in Timely Return to Work .....	170
ii)	CPSO Obligations .....	173
c)	Timely Return to Work Services .....	174
d)	Occupational Health Nurse.....	176
e)	Insurance Providers .....	176

## Table of Contents

f)	Occupational Therapist .....	177
g)	Ergonomist .....	177
h)	Physiotherapist .....	177
i)	Health and Safety Professionals .....	178
j)	Human Resources Professionals .....	178
k)	Union/Workers Representatives .....	179
9.2	The Scope of a Human Resources Professional's Caseload .....	180

### **CHAPTER 10: COMMUNICATIONS**

10.1	Marketing Your Disability Management Program .....	181
	Information Sheet for Employees with Injuries or Illnesses .....	185
	It's ALL About Your Health . . . Information for Employees on MSD and RTW .....	187
	Information Sheet for Treating Health Professionals	189
	Physician Information Sheet on MSD and RTW .....	191
	Physician Information Sheet on Mental Health and RTW .....	193
10.2	Training Program for Managers .....	195
	Sample Manager's Checklist .....	197
	A Guide to Completing the Loss Control Report .....	199

### **CHAPTER 11: STAY AT WORK AND ATTENDANCE SUPPORT PROGRAMS**

11.1	Introduction .....	201
11.2	Recognizing Distress .....	201
11.3	The Crucial Conversation .....	202
	a) Prepare for the Conversation .....	202
	b) Respond to the Distress .....	203
	c) Confidentiality .....	203
	d) Offer Support and Assistance .....	204
	e) Identify Possible Risks of Suicide or Harm .....	204
	f) Actions and Follow Up .....	204
11.4	Innocent Absenteeism and Disability .....	205
11.5	Attendance Support .....	208
	a) Definitions .....	209
	b) Program Goals and Objectives .....	212
	c) Program Focus .....	212
	d) Key Program Elements .....	213
	e) Intended Purposes of Sick Leave Benefits .....	213

## Table of Contents

f)	Not Intended Purposes of Sick Leave Benefits (but not limited to) .....	214
g)	Program Roles and Responsibilities .....	214
i)	Employee Responsibilities .....	214
ii)	Supervisor’s Responsibilities.....	215
iii)	Administrative Coordinator’s Responsibilities..	216
iv)	Coordinator, Employment Services’ Responsibilities .....	216
v)	Coordinator, Benefit Services’ Responsibilities.	217
11.6	Criteria for Medical Certificates .....	217
a)	Health Review .....	217
b)	Proof of Disability .....	218
c)	Confidentiality.....	219
d)	Steps of the Attendance Support Program .....	219
e)	Supervisor Attendance Awareness Stage.....	220
f)	Movement into Stage 1 .....	221
g)	Movement Through the Stages.....	221
h)	Movement Back to the “Supervisor Attendance Awareness” Stage.....	221
i)	Health Review .....	222
j)	Involvement of Union Representatives .....	223
k)	Recognition of Exemplary Attendance .....	223
l)	The Human Resources Professional Role.....	223

## CHAPTER 12: STEP BY STEP RETURN TO WORK

12.1	Introduction.....	225
12.2	Principles of Return to Work .....	225
12.3	Hierarchy of Return to Work.....	226
12.4	Steps for Employers.....	227
12.5	Seven “Principles” for Successful Return to Work .....	230
12.6	Roles and Responsibilities in the Return-to-Work Process.....	232
a)	Employee .....	232
b)	Employer .....	232
c)	Manager.....	233
d)	Union Representative .....	233
e)	Company Supported Disability Management Team..	234
12.7	Elements of a Return-to-Work Program .....	234
12.8	Return-to-Work Support Tools .....	237
12.9	Disability Management and Return-to-Work Tips for Managers .....	238



## Table of Contents

### CHAPTER 13: COMMUNICATION IN MANAGING DISABILITY

13.1	Introduction.....	241
13.2	Contact Tips.....	241
	a) What Can an Employer Ask? .....	243
13.3	Communication with Workers.....	244
	a) Employer Communication with Workers .....	245
	b) Communication Strategies: Using Motivational Interviewing (MI).....	246
	i) Using OARS to Move Your Motivational Boat Forward .....	246
	ii) Open-ended Questions .....	247
	iii) Affirmations.....	247
	iv) Reflective Listening .....	248
	v) Summaries.....	249
	c) How to Handle Worker Resistance.....	250
	d) Core Questions in Discussion for RTW .....	250
13.4	The Employer's Right to Information .....	251
	a) What Does the Law Suggest? .....	252
	b) The Stages of Questioning .....	252
	i) Application and Interviewing Employment Candidates .....	252
	ii) Determining the Eligibility for Absences.....	253
	iii) Determining the Eligibility for Benefits.....	254
	iv) Determining Safe Return-to-Work Processes.....	254
	v) Determining Duty to Accommodate.....	255
	c) Is There a Difference in what we are able to ask with Physical vs. Mental Health Disabilities? .....	257
	i) Steps When Challenging Medical Information .....	257
	ii) Key Guiding Principles When Requesting Information.....	258
13.5	Confidentiality Issues.....	258
	a) Respect Confidentiality of Information Under the Guidelines of Ethical Code, Laws and Regulations...258	
13.6	Gaining Consent for Communication with the Team .....	260
	a) Communication with Physicians/Treaters.....	261
	b) Formulation of Health Care Provider Questions.....	263
	c) Use of Independent Medical Examinations.....	265
13.7	Functional Assessments – Are They Really Worth the Money? .....	266
	a) Why Not just ask the Doctor or the Employee?.....	266
	b) What is the Purpose of a Functional Assessment?.....	267
	c) When Should you use a Functional Assessment? .....	267

## Table of Contents

d)	How to make sure the FA is Valuable .....	267
e)	What Should you look for in a Functional Assessor?.....	268
f)	How Much will a Functional Assessment Cost? .....	268
g)	Determining Job Demands.....	269
13.8	How to Perform a Job Analysis .....	269
a)	Purpose .....	269
b)	Essential Function.....	269
c)	Job Setting.....	270
d)	Worker Qualifications .....	270
e)	How to use Job Analysis Information .....	271
13.9	Physical Demands Analysis (PDA) .....	271
13.10	Cognitive Demands Analysis (CDA) .....	272
a)	Impact of Cognitive Disabilities in the Workplace ....	272
13.11	Understanding Cognitive and Behavioural Work Demands ...	273
a)	Cognitive Demands of Work .....	273
b)	Cognitive Requirements of Job Tasks.....	273
c)	Cognitive Resources.....	274
d)	Behavioural Demands of Work .....	274
e)	Contextual Influences on Cognitive/Behavioural Work Demands and Worker Performance .....	276
13.12	Measuring the Cognitive/Behavioural Demands of Work .....	277
a)	Document Review.....	277
b)	Observation .....	277
c)	Worker Interviews.....	277
d)	Supervisor Interviews.....	277
e)	Rating Systems.....	278
13.13	Cognitive Demands Analysis (CDA) .....	278
a)	Why Would you want to use a CDA? .....	282
b)	Who Would Prepare a CDA?.....	283
c)	When Would you use a CDA? .....	283
d)	Process for using a CDA in Developing a RTW Program .....	284
e)	Comparing Work Demands to Employee Functional Abilities.....	285
f)	Visual Demands Analysis (VDA).....	287
13.14	Determining the Job Match and Gaps.....	287
13.15	Purchasing Assistive Devices or Ergonomic Equipment .....	288
13.16	Pitfall Prevention .....	292
13.17	Documentation Principles .....	292
13.18	Qualities of a Return-to-Work Plan.....	293
13.19	The Return-to-Work Meeting.....	295
a)	Return-to-Work Meeting Agenda .....	295

## Table of Contents

13.20	Monitoring a Return-to-Work Program.....	302
a)	Who Should Monitor the Program?.....	302
b)	How Should the Monitoring Occur?.....	302
c)	When Should the Monitoring Occur? .....	302
13.21	Return-to-Work Planning and Performance Management.....	303
a)	When Pre-Injury or Illness Performance Issues are Identified.....	303
b)	When Performance Issues are Identified Prior to the Return to Work .....	304
c)	When Performance Issues Arise During the Return to Work .....	305
d)	Additional Considerations.....	306

### **CHAPTER 14: MANAGING COMPLEX RETURN-TO-WORK ISSUES**

14.1	Introduction.....	307
14.2	Five Strategies to Manage Complex Cases.....	307
a)	When to Refer for Case Management?.....	308
b)	Pitfalls of Improper Case Management .....	308
14.3	Definitions of Flags .....	309
14.4	Complex Non-Medical Barriers to Return to Work.....	312
14.5	Complex Medical Barriers to Return to Work .....	314
14.6	Reintegration.....	316
14.7	Supporting the Employee who is in a Return-to-Work Plan..	318
a)	Focus on Employee's Strengths.....	318
b)	Be Clear about Concerns and Expectations .....	318
c)	Giving Feedback .....	319
d)	Continue to Offer Support.....	319
e)	Collaborate on Goals .....	320
f)	Follow Up .....	320
g)	Agree on Next Steps.....	321
h)	Benefits to Collaboration .....	321
14.8	Preparing for a Difficult Management Discussion.....	321
14.9	Guidelines for an Effective Discussion.....	322

### **CHAPTER 15: ACCOMMODATION FOR SPECIFIC DISABILITIES**

15.1	Disability Terminology and Tips.....	325
a)	Mobility Impairments.....	325
b)	Blind/Low Vision .....	326
c)	Deaf/Hard of Hearing .....	327

## Table of Contents

d)	Speech Impairments.....	327
e)	Mental Health Disabilities .....	328
f)	Intellectual Disabilities .....	328
g)	Learning Disabilities .....	329
h)	Environmental Sensitivities .....	329
i)	Alcohol and Drug Addiction .....	330
15.2	Accommodations .....	330
a)	Definition of Workplace Accommodation.....	330
15.3	Managing Mental Health Return-to-Work Issues .....	332
a)	What is Mental Illness? .....	332
b)	Non-Evident Disabilities .....	333
c)	Mental Disability .....	334
d)	Responding to Distress.....	335
i)	Prepare for the Conversation .....	335
ii)	Respond to the Distress.....	336
iii)	Confidentiality .....	336
iv)	Offer Support and Assistance.....	336
v)	Identify Possible Risks of Suicide or Harm .....	337
vi)	Actions and Follow-up .....	337
e)	Return to Work and Mental Health Conditions.....	338
15.4	Managing Chronic Pain .....	341
a)	Definition of Pain .....	341
b)	Classification by Duration .....	341
i)	Acute Pain .....	341
ii)	Chronic Pain.....	342
c)	Chronic Pain as a Disease in its Own Right .....	342
i)	Treatment for Chronic Pain .....	343
d)	Managing Chronic Pain in the Workplace .....	344
e)	What is a Bio-Psycho-Social Rehabilitation Program for Chronic Pain?.....	344
f)	Accommodations for Chronic Pain .....	347
15.5	Managing Addictions and Dependencies .....	348
a)	Definition of Substance Abuse .....	348
b)	Return to Work and Addictions .....	349
15.6	Accommodation for Deaf, Deafened and Hard of Hearing Person .....	350
15.7	Accommodation and Blind/Low Vision.....	351
a)	Common Visual Impairments .....	351
b)	What is a Visual Demands Analysis?.....	353
c)	Accommodations .....	354
d)	Devices.....	355
15.8	Accommodation and Learning Disabilities.....	357
a)	A Definition of Learning Disabilities.....	357

## Table of Contents

b)	Accommodation Strategies.....	358
i)	Reading Strategies.....	358
ii)	Writing Strategies.....	360
iii)	Calculation Strategies.....	361
iv)	Reasoning Strategies.....	362
v)	Organizational Skills Strategies.....	363
15.9	Accommodations for Cognitive Difficulties.....	364
a)	What is the Functional Cognitive Work Assessment? .....	364
b)	Areas of Cognition and Possible Accommodations...	364

### CHAPTER 16: EVALUTION OF DISABILITY PROGRAMS

16.1	Perform Evaluations to Measure Disability Management Program Outcomes .....	369
a)	Track Costs of Disability Management Programs.....	370
b)	What are Costs?.....	370
c)	What are Benefits?.....	370
d)	Calculating the Cost Benefit .....	371
16.2	The Cost Benefit of Individual Accommodation .....	371
a)	The Costs to be Considered.....	371
b)	The Savings to be Considered.....	372
c)	Identify and Implement Realistic Cost Containment Strategies.....	374
d)	Conduct Qualitative Evaluations.....	374
e)	Conduct Quantitative Evaluations .....	375
f)	Evaluate Worker/Supervisor Satisfaction with Program .....	375
g)	Consider Audits for Benchmarking.....	376

### CHAPTER 17: OUTSOURCING TO CONTRACTORS

17.1	Introduction.....	377
17.2	External Consultants or Outsourced Programs.....	378
a)	Legal Firms .....	378
b)	Third Party Adjudication Services.....	378
c)	Disability Management Consultants .....	379
d)	Case Management Firms.....	379
e)	Carriers/Insurance Companies.....	380
f)	Independent Assessment and Evaluation Firms.....	380
g)	Occupational Health Physician Consultants.....	380
h)	Occupational Health Nurses .....	381
i)	Accommodation Experts .....	381

## Table of Contents

j)	Health Care Organizations.....	381
k)	Mediation Services.....	382
17.3	Steps to Choose an External Consultant .....	382
	<i>Glossary of Terms</i> .....	385
	<i>Bibliography</i> .....	391
	<i>Index</i> .....	403