

17th Annual Event!

Managing Your Duty to Accommodate

*Mitigating the Increasing Expense to Organizations for
Failing to Accommodate Employees*

March 27 - 28, 2018 · Ottawa, Ontario

Legal Guidance and Best Practices for Current Accommodation Issues

- Learn about how to address the work-life balance of employees in accommodation
- Adopt best practices from recent case studies
- Investigate return-to-work research; practical strategies from the latest in academia
- Plan for mental health accommodations in employment
- Support employees in workplace harassment conflict
- Contribute to a proactive policy in accommodation
- Deal with conflicting human rights disputes
- Dealing with addictions in the workplace
- Empathize with employees with non-evident cognitive issues of accommodation

Day One Program Agenda: Tuesday, March 27, 2018

7:30 - 8:30 Registration and Continental Breakfast

8:30 - 8:40

Welcome and Opening Remarks from the Chair

Kristi Reilly, Human Resources Advisor, Correctional Service Canada

8:40 - 9:40

Lessons from a Duty-to-Accommodate Implementation Plan

Kristi Reilly, Human Resources Advisor, Correctional Service Canada

- Brief introduction of CSC
- Foundational information on the duty to accommodate
- CSC's DTA Program
- Resources/tools, best practices of CSC DTA program

9:40 - 10:40

Anticipating Addiction: Discipline from a Recent Case Analysis

Kevin MacNeill, Partner, Norton Rose Fulbright

- Understanding SCC upholding self-reporting drug policy of employer
- *Stewart v. Elk Valley Coal Corporation*: case analysis
- Practicing good policy to support organizational needs
- Fostering a workplace culture of compliance, not intrusive rules

10:40 - 11:00 Networking Break

11:00 - 12:30

Family Status Accommodation and Work-Life Balance: How Far Does the Scale Tip in Favour of Family Responsibilities?

Caroline Richard, Partner, Bird Richard

- Aftermath of Johnstone: what is the legal test?
- Accommodation process:
- Is the employee required to self-accommodate?
- What information can an employer require the employee to disclose?
- Establishment of an accommodation plan:
- What should be included?
- How often should be it reviewed and revised?
- The costs of getting it wrong: damages for breach of the duty to accommodate family status

12:30 - 1:30 Luncheon Break

1:30 - 2:30

Return to Work and the Job Accommodation Scale: Practical Research on Accommodation in the Workplace

Vicki Kristman, Associate Professor, Department of Health Sciences, Lakehead University

- How stakeholders can identify or develop accommodations for workers trying to return to the labour force
- How workplaces and employers can support the use of workplace accommodations
- Measuring and demonstrating the health and economic impacts of workplace accommodation for all stakeholders
- Providing supervisors with tools to improve their response and ability to accommodate musculoskeletal and other workplace injuries may improve worker health and disability outcomes

2:30 - 2:45 Networking Break

2:45 - 3:45

Workplace Harassment and Its Intersection with Accommodation

Julia Williams, Associate, Raven, Cameron, Ballantyne & Yazbeck LLP

- Incorporating bullying and personal harassment into existing policies
- Implementing investigation protocols and complaint procedures
- Establishing duties of managers, human resources, and employees
- Addressing the root causes and organizational triggers of workplace aggression
- Fostering an environment of respect and setting standards of behaviour

3:45 - 5:00

Recommended Practices in Understanding Mental Health Accommodations

Sean Ross, Senior Director, Wellness Policies and Programs, Office of the Chief Human Resources Officer, Treasury Board of Canada Secretariat

Denis St-Jean, National Health and Safety Officer, Public Service Alliance of Canada

- Provide an update on the recent work of the Joint Task Force on Mental Health

- Explore the recommendations in the Joint Task Force's latest Report – "Building Success"
- Overview of tools and supports available to employees, managers and organizations via the Center of Expertise for Mental Health in the Workplace
- Q&A period: Get guidance on implementing a Psychological Health and Safety Management System in your workplace.

5:00 End of Day One

Day Two Program Agenda: Wednesday, March 28, 2018

7:30 - 8:30 Continental Breakfast

8:30 - 8:40

Opening Remarks from the Chair

Kristi Reilly, Human Resources Advisor, Correctional Service Canada

8:40 - 9:40

Medical Marijuana in the Workplace: A Duty to Accommodate

Martin Thompson, Partner, McMillan LLP

- Review and update on medical cannabis legislation
- What are your accommodation obligations when performance is affected and/or there are safety considerations?
- When failure to accommodate amounts to discrimination
- Duty to accommodate: What is it in practical terms?
- Incorporating useful policies to address medical cannabis in the workplace

9:40-10:40

Screening for Potential Workplace Violence

Glenn French, President and CEO, Canadian Initiative on Workplace Violence

The field of "Threat Assessment", as a structured process to evaluate the risk of violence, continues to expand at an astonishing rate, given new found concerns about workplace safety. As a discipline, practitioners no longer focus solely on the assessment of those with a criminal or psychiatric past. Threats, whether actual or perceived, are now linked to schools, health care facilities and workplaces we once thought safe. As safety concerns increase, so too must the knowledge and skill of those who, up until now, were not tasked with making judgements about an individual's return to the workplace.

This session will focus on the workplace and specifically the skills needed by both occupational health nurses and human resources professionals, who are frequently called upon to make judgments about whether a more comprehensive threat assessment is required within the context of return to work accommodations.

- Learn about the role of “Perceived Personal Control” in screening potentially aggressive employees
- Learn about a screening guide which can help in making decisions about need

10:40 - 11:00 Networking Break

11:00 - 12:00

Practical Strategies for Dealing with Addiction and Substance Abuse in the Workplace

Brittany Taylor, Associate, Rudner Law

- Understanding the legal duty to accommodate addiction in the workplace.
- Challenges for workplace leaders
- Effective and comprehensive approaches
- Assessing the vulnerability of disciplinary action
- Determining when immediate discharge may be appropriate

12:00 - 1:30 Luncheon Break

1:30 - 2:30

Non-Evident Disabilities and the Duty to Accommodate: Cognitive Disabilities

Cristina Myers, Director, Communications and Resource Development, TRAC Group

Samantha McIntosh, Manager of Employer, Career and Vocational Services, TRAC Group

- What cognitive skills does a particular position demand of the employee
- Understanding the employee's cognitive problems
- Determining accommodation needs based on demands and abilities
- Obtaining and responding to medical information
- Accommodation issues that require alternative work with respect to disabilities
- Developing a successful return-to-work plan for non-evident disabilities

2:30 - 2:45 Networking Break

3:00 - 4:00

Having Difficult Conversations about Accommodation

Marie-Claude Gagnon, Accessibility Policy Officer, Human Rights Office, University of Ottawa

- Authenticity in communication
- Engaging in a meaningful collaborative way: the key to success
- Broaching the subject when you think someone may have a problem
- Strengthening rather than undermining the relationship(s)

4:00 - 5:00

A Toolkit for Addressing Conflicting or Competing Human Rights in the Workplace

Andrew Reinholdt, Lawyer, Nelligan O'Brien Payne LLP

- Reducing potential for negative conflict
- Proactive policy for recognizing differences as positive diversity
- Overview of the Human Rights Code

5:00 End of Day Two

Featuring These Industry Experts

Glenn French, President, Canadian Initiative on Workplace Violence

Mr. French is the President and CEO of the Canadian Initiative on Workplace Violence, based in Toronto, Canada. Within the mental health field, Mr. French has held many senior administrative and clinical positions within both the private and public sectors. Many of Canada's leading organizations interested in the safety and wellbeing of their employees have retained him.

Established in 1998, the Canadian Initiative is a consultancy that studies trends in workplace conduct within Canada. In addition, they research and catalogue the practices, which organizations and unions are employing to reduce the risk of workplace aggression. The Canadian Initiative is committed to the sharing of this information with others who are interested in arriving at a better understanding of violence from a Canadian perspective and what we can do to prevent it. In addition, the Canadian Initiative works with employers to set policies and procedures, conduct organizational risk assessments, as well as, provide a wide range of educational programs for both employees and management.

Vicki Kristman, Associate Professor, Department of Health Sciences, Lakehead University

Vicki Kristman, PhD, is an Associate Professor in the Department of Health Sciences at Lakehead University, an Associate Scientist at the Institute for Work & Health, and also holds an appointment in the Dalla Lana School of Public Health at the University of Toronto. She is also an editorial board member of the Journal of Occupational Rehabilitation. Kristman earned a master's at Queen's University and a PhD in public health at the University of Toronto. She held a CIHR post-doctoral fellowship in work disability prevention and epidemiology at the Toronto Western Research Institute, University Health Network. Her research interests include understanding the influence of workplace factors on work disability, specifically the influence of supervisors and workplace accommodation. She focuses mainly on musculoskeletal and brain injuries. She takes an epidemiological approach, specializing in cohort studies, randomized trials and systematic reviews of observational studies.

Kevin MacNeill, Partner, Norton Rose Fulbright

Being a seasoned litigator, Mr. MacNeill brings employers added value in the context of proactive strategic advice and collective bargaining. He has negotiated collective agreements, and advised in sale of business, workforce restructuring and reduction of force situations. He also has extensive experience in the areas of human rights, accommodation, workers compensation and disability management. He is the author of *The Duty to Accommodate in Employment*, the leading text on the subject, published by Thomson Reuters, which has been cited in several arbitration and court decisions across Canada.

Samantha McIntosh, Manager of Employer, Career and Vocational Services, TRAC Group

Samantha McIntosh is experienced in the field of vocational rehabilitation including considerable experience providing vocational rehabilitation services within the Auto Insurance, Short/Long-Term Disability Insurance, Work Safe Insurance Board (WSIB) Ontario sector, and the Ontario Disability Support Program (ODSP). She possesses nine years of expertise in the conduct and interpretation of vocational evaluations and assessments; as well as in the implementation of vocational rehabilitation recommendations and accommodations. Samantha is also experienced in return-to-work coordination, case management, employer services and disability management services.

Kristi Reilly, Correctional Services Canada

Kristi Reilly works for the Correctional Service of Canada (CSC) where she is the HR Advisor responsible for the Duty to Accommodate (DTA) and National Attendance Management Programs for the Ontario Region as well as Manitoba and Saskatchewan. Kristi has been with CSC for seven years and in her current role since May 2012. She is a senior member of the DTA team and acts as a mentor to many of her colleagues. Prior to working with CSC, Kristi worked for the Algonquin and Lakeshore Catholic District School Board as a HR Officer responsible for Disability Management and Attendance Support.

Kristi has a Masters of Industrial Relations and Honours BA in Political Science from Queen's University.

Andrew Reinholdt, Lawyer, Nelligan O'Brien Payne LLP

Andrew Reinholdt is an associate lawyer with Nelligan O'Brien Payne LLP, and a member of our Employment and Labour Law practice groups. Andrew received his J.D. from the University of Ottawa. During law school, Andrew was a member of the top ranking Canadian team in the American Bar Association Negotiation Competition, and represented the University of Ottawa in the Labour Law Moot. He also won the Dean's Award for academic performance and contributions to the law school community, and the SGM Prize for overall performance in Labour Law, Employment Law and Human Rights courses. Andrew was drawn to law because he had a keen interest in working with clients to help them through difficult times. He practises employment and labour law because of his desire to help people navigate their employment, which is one of the most important parts of a person's life. Andrew is passionate about advocacy and takes a collaborative approach to try and find creative solutions to his clients' legal problems.

Caroline Richard, Partner, Bird Richard

Caroline Richard has practiced with Bird Richard since her call to the Bar in September 2002. She provides legal representation and advice to employers in both official languages with respect to all labour and employment matters, including wrongful dismissal actions, human rights complaints, collective bargaining, workers' compensation claims and workplace harassment investigations. Caroline has appeared before the Federal Courts, the Ontario Divisional Court, the Ontario and Canadian Human Rights Tribunal, the Public Service Labour

Relations Board, the Workplace Safety and Insurance Appeals Tribunal and labour arbitrators in Ontario and Quebec. Caroline is a member of the Law Society of Upper Canada and the Bar of Nunavut.

Sean Ross, Senior Director, Wellness Policies and Programs, Office of the Chief Human Resources Officer, Treasury Board of Canada Secretariat

Mr. Sean Ross is Senior Director, Wellness Policies and Programs in the Pensions and Benefits sector at the Treasury Board Secretariat. In this capacity, he is responsible for supporting organizations with the implementation of the Federal Public Service Mental Health Strategy. Mr. Ross is also the co-chairperson of the Center of Expertise for Mental Health in the workplace. Prior to this, Mr. Ross was Director of Human Resources Policies at Indigenous and Northern Affairs Canada (INAC). During his tenure with INAC, Mr. Ross was responsible for implementing various recruitment and retention strategies targeted to Indigenous peoples. In 2016, Mr. Ross received the Deputy Ministers' Recognition Award for Exceptional Employee Management.

Throughout his career, Mr. Ross has worked closely with senior representatives of labour on various issues in relation to the Terms and Conditions of Employment for public service employees. Mr. Ross was previously Director of Outreach and Employment Equity with the Public Service Commission and worked closely with partners on reducing the barriers faced by the employment equity groups in accessing positions with the Federal Public Service. He has chaired a variety of interdepartmental committees over the span of his career and he is currently the Chair of the Foreign Service Directive Committee at the National Joint Council (NJC) of the public service.

Denis St-Jean, National Health and Safety Officer, Public Service Alliance of Canada

Denis is the PSAC National Health and Safety Officer. In that role, he coordinates the PSAC national health and safety programs while advising the PSAC on many issues pertaining to health, safety and workers' compensation.

He sits on many tripartite consultative committees including the working group that drafted the Violence Prevention Regulations.

He also represents the PSAC on numerous Joint Employer/Union Committees including the National Joint Council Service-Wide Occupational Health and Safety Committee.

He represents labour on various technical committees drafting national standards including the CSA National Standard on Psychological Health and Safety. He was a driving force behind the establishment of the Joint Task Force on Mental Health. He is the Co-chair of the Centre of Expertise on Mental Health in the Workplace.

He has been appointed by the Governor in Council as a worker representative to the Council of Governors of the Canadian Centre for Occupational Health and Safety.

Brittany Taylor, Associate, Rudner Law

Since being called to the Ontario Bar in 2013, Brittany Taylors practice has been dedicated to assisting both employers and employees to manage their workplaces. With approach to workplace issues is one that is proactive and preventative. She discovered her interest in law when hired as a legal assistant for an in-house corporate law department following graduation. After a few years in the workforce, Taylor returned to Western to obtain a Juris Doctor, with distinction in 2012. Spending her first few years of practice at a leading Toronto law firm working on a broad range of practice areas before becoming focused in the area of employment law.

Martin Thompson, Partner, McMillan LLP

Martin Thompson advises domestic and international clients on all aspects of provincial and federal employment legislation. He advises and represents management on various labour relations matters, including drafting employment agreements, policies and compensation, workplace harassment and discrimination, employee discipline, wrongful dismissal litigation, employee termination and severance packages, workplace health and safety, human rights and grievance arbitrations.

Julia Williams, Lawyer, Raven, Cameron, Ballantyne & Yazbeck LLP

Julia Williams completed her articles with Raven Law, before serving as a law clerk to the Honourable Justice Catherine Kane at the Federal Court. She currently practices in the areas of labour and employment law, human rights, and administrative law. Prior to law school, Julia worked as a human rights officer for a national civil liberties group advocating on behalf of Canadian Muslims. Julia continued to pursue her interests in social justice and human rights while in law school through her work at the University of Ottawa Community Legal Clinic and South Ottawa Community Legal Services. Julia has represented low-income clients on Ontario Disability Support Program support appeals before the Social Benefits Tribunal, and argued compensation claims for victims of violence before the Criminal Injuries Compensation Board.