

# 4<sup>th</sup> Employer's Duty to Accommodate

*"This course gave me more insight into the accommodation segment - and I now understand the various things that can be done - even if the employer really has their hands tied."*

*"Definitely benefited. Enjoyed it very much."*

*"Gave me a better understanding of my responsibilities with respect to legislation and policy."*

## *Workshop Included: Developing and Implementing an Accommodation Strategy*

### participating organizations

Credit Union Central of Nova Scotia and League Savings and Mortgage Company  
McInnes Cooper  
Nova Scotia Human Rights Commission  
Nova Scotia Nurses Union

Office of the Employer Advisor  
Patterson Law  
Ritch Durnford  
TD Canada Trust

### who should attend

In-house/Corporate Counsel  
Labour Relations Professionals  
Employment and Labour Lawyers  
Union Counsel and Representatives  
Arbitrators and Mediators

Human Resource Executives, Managers and Consultants  
Disability Managers and Consultants  
Wellness Coordinators  
Occupational Health Workers

### course highlights

- Legal developments in the field
- Accommodating older workers
- Dealing with disability, sickness and addiction
- Working with organized labour
- Return-to-work programs
- Sensitive approaches to helping employees cope and manage
- Real-world examples of accommodation policies



**Course Leader**  
Dennis J. James,  
Patterson Law



Anne Bedard,  
Credit Union  
Central of Nova  
Scotia and  
League Savings  
and Mortgage  
Company



Krista Daley,  
Nova Scotia  
Human Rights  
Commission



Jack Graham,  
Q.C., McInnes  
Cooper



Eric Durnford,  
Q.C., Ritch  
Durnford



Mary Morris,  
Office of the  
Employer  
Advisor



Carol O'Neill,  
Nova Scotia  
Nurses Union



Sherry L. Ryan,  
TD Canada  
Trust

## FACULTY

### COURSE LEADER

#### DENNIS JAMES

Dennis James is the managing partner of **Patterson Law** and provides leadership in the areas of commercial litigation, municipal law and employment law. He provides management counsel on a wide spectrum of employment and labour matters. In his 22 years of providing practical legal counsel, he has conducted and assisted in trials at all levels of court in Nova Scotia.

### CO-LECTURERS

#### ANNE BEDARD

Anne Bedard is Vice President, Human Resources at **Credit Union Central of Nova Scotia** and **League Savings and Mortgage Company**. With over two decades of senior level experience in the credit union system in British Columbia and Nova Scotia, she leads a strategic HR team focused on delivery of comprehensive HR programs based on business needs.

#### KRISTA DALEY

Krista Daley was appointed to the position of Director and Chief Executive Officer of the **Nova Scotia Human Rights Commission** in 2008.

She has worked in the field of human rights since 1990. Krista has worked at the Immigration and Refugee Board of Canada where she has held numerous positions such as, adjudicator, special advisor to the Chairperson, Senior General Counsel and Director General, Operations. In addition, she worked with the United Nations High Commissioner for Refugees in Geneva, Switzerland in 2005-2006.

#### JACK GRAHAM

Jack Graham is a Partner at **McInnes Cooper** practising labour and employment law, with a focus on employment litigation, arbitrations, collective bargaining, labour relations, human rights, workers compensation and occupation. He has represented many employers in union organizing campaigns and has successfully defended employers against wrongful dismissal claims in the Supreme Court of Nova Scotia.

#### ERIC DURNFORD

Eric Durnford is a Partner at **Ritch Durnford**. His practice covers a diverse range of labour and employment law issues, including human rights, industrial relations, occupational health and safety, judicial review, administrative law, workers' compensation and wrongful dismissal litigation. He acts as principal legal advisor to organizations as well as to governments and financial, educational and health care institutions.

#### MARY MORRIS

Mary Morris, COHN(C), COHN, CRSP, CHRP, is Nova Scotia's first Employer Advisor with the newly formed **Office of the Employer Advisor (OEA)**. She has extensive senior leadership experience in Occupational Health and Safety and Human Resources Management in manufacturing, transportation, hospitality and tourism at the federal and provincial level, in unionized and non-unionized settings.

#### CAROL O'NEILL

Carol O'Neill is the Labour Relations Representative of the **Nova Scotia Nurses Union**. She has held this position since April 1998, handling grievance processing, conflict resolution, contract negotiation and all aspects of union/management consultation. Carol has 30 years of experience working in healthcare, with 10 years as Senior Technologist in Microbiology.

#### SHERRY L. RYAN

Sherry L. Ryan, Manager, Human Resources/Learning and Development with **TD Canada Trust**, leads a team of HR Professionals and provides HR leadership and counsel to the retail branches within Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island. She is currently on the Board of Directors for Human Resources Association of Nova Scotia and a member of Human Resources Professional Association.

## COURSE PROGRAM

### LATEST LEGAL DEVELOPMENTS IMPACTING THE DUTY TO ACCOMMODATE

Although only the federal, Manitoba and Ontario human rights codes make specific reference to a legislative obligation around the duty to accommodate, case law clearly indicates that the duty to accommodate is implied to the point of undue hardship everywhere in Canada. This session will provide the latest developments regarding federal and provincial legislation impacting the duty to accommodate as well as all recent relevant case law.

- Legislative developments impacting the duty to accommodate
- Recent case law implications
- The process of litigating accommodation disputes

### BEYOND THE LEGAL DUTY TO ACCOMMODATE: WHEN HAS ENOUGH BEEN DONE?

Courts and tribunals have established that the duty to accommodate employees with disabilities means that accommodation has to be provided so long as doing so does not create undue hardship. This undue hardship standard implies the excessive disruption or interference with the employer's operation. So, in terms of undue hardship, how much accommodation is enough and what happens when the request for accommodation exceeds the burden that an employer can be expected to bear? This session will examine the issue of demands that go beyond the duty to accommodate and the doctrine of frustration.

- Main considerations in assessing whether an accommodation would cause undue hardship: cost, outside sources of funding and health and safety requirements
- Determining when undue hardship has been reached
- Elements of the undue hardship defence
- Determining cost of accommodation
- Exceeding undue burden and the doctrine of frustration
- The proof required to establish frustration of contract

## MENTAL HEALTH ACCOMMODATIONS

There has been a dramatic rise in the number of requests for accommodation of mental health, stress-related and psychological disabilities in recent years. This is significant seeing that mental health issues, while often a non-evident and episodic disability, have the ability to totally undermine workplace performance therefore demanding that such issues be addressed in a timely and effective manner. This session will look at managing the accommodation of mental health issues in the workplace.

- Mental health accommodation case law
- Defining “disability” and “impairment” in the context of mental illness
- Proactive tools for accommodating mental health issues
- Potential difficulties in obtaining information about an employee’s mental health issues
- Best practices for returning to work from mental health leave
- Accommodation issues for employees who deny having a mental disability

## DUTY TO ACCOMMODATE IN A UNIONIZED ENVIRONMENT

What impact does a unionized environment have on accommodation and what role does the union play? This session will look to address these issues, highlighting the responsibilities of the union and strategies for resolving accommodation-related grievances.

- Working with the union as a partner with respect to accommodation
- Balancing the interests of the disabled employee and the rest of the workforce
- Process concerns when working in a unionized environment
- Impact of the duty to accommodate on the collective agreement

## PREVENTATIVE STRATEGIES: IMPLEMENTING WELLNESS PROGRAMS

Companies with health programs have discovered that when employees feel good about their health, they work better, don’t take as much time off for sick leave and choose to stay with the company longer. This session will explore the fundamentals of creating and sustaining successful wellness programs.

- Creating a wellness strategy aligned with your corporate culture
- Integrating a variety of wellness components into your program
- Developing an action plan and communicating goals and incentives
- Building program sustainability through measurement and employee involvement

## DESIGNING AND IMPLEMENTING AN EFFECTIVE RETURN-TO-WORK PROGRAM

Workers who return to work after an absence related to a disability generally have the right to return to their “pre-disability job.” This session will look at leading strategies for developing and implementing a winning return-to-work program.

- Key components of a successful return-to-work program
- Coordinating efforts with physicians and occupational health professionals
- Reintegrating workers back into the workplace with transitional or modified duties/hours
- Ensuring managers support the return-to-work program

## RELIGIOUS ACCOMMODATION IN THE WORKPLACE: EMPLOYER OBLIGATIONS AND STRATEGIES

Religious belief is recognized as a protected ground under human rights legislation. Accordingly, employers have a responsibility to ensure they are being respectful of their employees’ religious beliefs and practices, and creating workplaces that are free of harassment and discrimination. This session will examine the latest developments in religious accommodations.

- Legal requirements on providing time off for religious holidays
- Distinction between observances of “religious” and “cultural” significance
- “Quiet Rooms” as accommodation for personal observances

## IDENTIFYING & MANAGING ADDICTION IN THE WORKPLACE

Absenteeism, excessive use of sick days, long unexplained absences and improbable excuses may indicate an employee has an addiction. What is an employer’s duty to accommodate an employee with an addiction and how far does it go? This discussion details how to manage employees with addictions.

- When does substance-dependency constitute a disability?
- Identifying the addicted employee?
- The latest on testing: is it allowed?
- What to include in your workplace policy
- Employers’ involvement in the rehabilitation and reintegration process
- When to institute discipline or performance procedures

## KEYNOTE PRESENTATION: IF ACCOMMODATION IS THE LAW, WHY AREN’T WE THERE YET?

A successful accommodation strategy must encompass both legal compliance and innovative programs to work successfully. In this presentation, Krista Daley, Director and CEO of the Nova Scotia Human Rights Commission, will explore techniques for targeting and dealing with the barriers to accommodation.

- Developing policies and procedures to meet your obligation to accommodate
- Dealing successfully with specific accommodation challenges
- Evaluating your accommodation strategy
- Cascading accommodation policies throughout your organization

## WORKSHOP

### DEVELOPING AND IMPLEMENTING AN ACCOMMODATION STRATEGY

This workshop will bring together the crucial elements of an accommodation strategy explored throughout the course, considering legal requirements, corporate culture and the needs of changing workforce demographics, to generate a step-by-step implementation plan for your organization. Learn how to develop implement an accommodation strategy that works for your organization.

- Creating a process for assessing the need for accommodation in your organization
- Using outside expert advice to develop policy and programs
- Establishing policy for dealing with false claims
- Identifying the barriers that prevent people with disabilities from fully integrating into your organization
- What to do when things don’t go as planned

# MULTIMEDIA PRESENTATIONS

Register for Employer's Duty to Accommodate and we will give you free of charge a CD-ROM comprising the following virtual presentations from recent Federated Press courses and conferences. Presented in their entirety with complete audio and accompanying PowerPoint slides totaling 602 minutes of expert learning, these presentations are an added bonus to this year's course. Bear in mind that these presenters are not necessarily those that you will see and hear at this year's course.

## Accommodation & Undue Hardship

Peter V. Clancy,  
Lakebridge Health Corporation;  
Karen Clark,  
Rouge Valley Health System  
Time: 62

## Developing & Creating a Culture of Inclusion

Dennis Fong,  
Toronto Central Community  
Care Access Centre  
Time: 24

## Developing Employee Resource Groups

Sandy A. Jones,  
EDS Canada Inc.  
Time: 29

## Breaking the Law: Going Beyond What is Legally Required

Elizabeth J. Reynolds,  
KPMG LLP  
Time: 26

## Case Study: Using a Third Party to Manage a Sickness Disability Program at RBC Financial Group

Scott Waterhouse,  
RBC Financial Group  
Time: 40

## Taking on Rising Mental Health Issues in Today's Workplace

Dara Taylor,  
RTW Integrated Health Management Inc.  
Time: 54

## Revamping a Disability Management Program

Gregory Durant & Glenn Carmen,  
Watson Wyatt Worldwide  
Time: 43

## Best Practices for Evaluating a Diversity Talent Pool at Manitoba Hydro

Carol Thiessen,  
Manitoba Hydro  
Time: 35

## Employee Data Collection & Analysis

Kristine Amaral,  
Pelmorex Media Inc./The Weather Network  
Time: 32

## Accommodating Employees with Substance Abuse Problems

Ailsa Wiggins,  
Gowling Lafleur Henderson LLP  
Time: 62

## Designing and Implementing an Effective Return-To-Work Program

David A. Marchione,  
Gowling Lafleur Henderson LLP  
Time: 47

## Accommodation and Attendance Management

Peter V. Clancy, Lakebridge Health Corporation;  
Karen Clark, Centenary Health Centre  
Time: 54

## Accommodating The Older Worker

Christine Thomlinson,  
Rubin Thomlinson LLP  
Time: 66

## Duty to Accommodate in a Unionized Environment

Kelly Corp,  
TELUS  
Time: 28



**Registration:** To reserve your place, call Federated Press toll-free at 1-800-363-0722. In Toronto, call (416) 665-6868 or fax to (416) 665-7733. Then mail your payment along with the registration form. Places are limited. Your reservation will be confirmed before the course.

**Location:** Delta Barrington & Halifax, 1875 Barrington Street, Halifax, Nova Scotia, B3J 3L6

**Cost:** The attendance fee for the course is \$1825 per person and covers attendance for one person and the lecturers' presentation material. The fee further includes lunch on both days, morning coffee on both days and refreshments during all breaks. You may purchase a Proceedings CD-ROM containing edited actual proceedings and materials from the course.

**Time:** This course is a two-day event. Registration begins at 8:00 a.m. The morning sessions start promptly at 9:00. The second day ends at 4:00 p.m.

**Cancellation:** Please note that non-attendance at the course does not entitle the registrant to a refund. In the event that a registrant becomes unable to attend following the deadline for cancellation, a substitute attendee may be delegated. Please notify Federated Press of any changes as soon as possible. Federated Press assumes no liability for changes in program content or speakers. A full refund of the attendance fee will be provided upon cancellation in writing received prior to March 17, 2010. No refunds will be issued after this date. Please note that a 15% service charge will be held in case of a cancellation.

**Discounts:** Federated Press has **special team discounts**. Groups of 3 or more from the same organization receive a **10%** discount. Groups of 7 or more from the same organization receive a **15%** discount.

Payment must be received prior to March 23, 2010

Phone: 1-800-363-0722 Toronto: (416) 665-6868 Fax: (416) 665-7733

### TO REGISTER FOR EMPLOYER'S DUTY TO ACCOMMODATE

Name \_\_\_\_\_  
 Title \_\_\_\_\_ Department \_\_\_\_\_  
 Approving Manager Name \_\_\_\_\_  
 Approving Manager Title \_\_\_\_\_  
 Organization \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_  
 Telephone \_\_\_\_\_ Fax \_\_\_\_\_ e-mail \_\_\_\_\_  
 Please bill my credit card:  AMEX  VISA  Mastercard  
 # \_\_\_\_\_ Expiration date: \_\_\_\_ / \_\_\_\_  
 Signature : \_\_\_\_\_  
 Payment enclosed:  Please invoice. PO Number: \_\_\_\_\_

WHEN CALLING, PLEASE MENTION PRIORITY CODE: MAIL COMPLETED FORM WITH PAYMENT TO:  
 Federated Press P.O. Box 4005, Station "A"  
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### REGISTRATION COSTS

NUMBER OF PARTICIPANTS:   
 COURSE: \$1825  
 COURSE + PROCEEDINGS CD-ROM:  
 \$1825 + \$125 = \$1950  
 PROCEEDINGS CD-ROM: \$499  
 NOTE: Please add 5% GST to all prices.  
 Proceedings CD-ROM will be available 60 days after the course takes place  
 Enclose your cheque payable to Federated Press in the amount of:  
  
 GST Reg. # R101755163  
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 For additional delegates please duplicate this form and follow the normal registration process