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Course Set-Up and Preparation

Supplies & Equipment (usually)

- Lap-top, LCD projector, screen, wireless or dial-up to have access to OPSEU website
- Power point on lap-top or memory stick (optional)
- Large stickies in at least two colours
- Lots of non-toxic markers (mostly blue and black)
- Two flip chart stands and lots of paper
- Masking tape
- Music (optional)
- Facilitator props and visual aids (flipchart headings, AMP quiz answer sheet, Dr Notes, evaluation)
- PowerPoint presentation (optional)

Facilitator Note: Flip chart headings for each of the sessions are located in the facilitator props and visual aids package.

Room Preparation

- Room set up (4 tables, preferably round, in semi-circle so participants can see each other as well as facilitators)
- Prepare flip charts (see below)
- On each table: Large post-it notes, felt markers on each table
- In front of each chair: Participant Materials

Preparation for Session 1

- Flipchart: Who's in the room questions:
 - *Your Name*
 - *Where you are from (local, sector, workplace)*
 - *One or two words about your workplace's attendance management program (If your workplace has a program)*
- Flipchart: Guidelines
- Flipchart: What it should be
- Flipchart: How it is implemented
- Flipchart: Case Law comparison

For Session 2:

- Post Dr Notes: from visual aids/props materials
- Flipchart: Independent Medical Exam, Non-disciplinary Dismissal, Last Chance Agreements
- Flipchart: Documentation Before Meeting, During Meeting, After Meeting
- AMP quiz answer sheet handout (from visual aids/props materials)

For Session 3:

- Headings
 - General membership meeting
 - Newsletter
 - Face to face (one on one) meetings
 - Union bulletin board
 - Lunch and learn
 - Other
- Flipchart: Success
- Have evaluation forms ready to distribute

Course at a Glance

Session 1	Session 3
<p>60 minutes AMP's what they are/what they are supposed to be</p> <ul style="list-style-type: none"> • Intros to participants, the issues, the course • Identify common issues • Contrast common issues with what AMP is supposed to be • Review case law for attendance management programs 	<p>60 minutes Strategies to inform the membership and build the local</p> <ul style="list-style-type: none"> • Get the membership's cooperation/support • Rate your locals readiness and next steps
<p>15 Minute Break</p>	
<p>60 minutes What Employers Are Entitled To</p> <ul style="list-style-type: none"> • What do the members need to know • Employer terms and strategies: independent medical exams, non-disciplinary dismissal, and last chance agreements • Documentation: what we need to document and why 	

AMP's: What they are / What they're supposed to be

Session 1 at a Glance

Total Time: 60 minutes

Time	Activities	Materials
20 minutes	Intro to people and themes <ul style="list-style-type: none"> • Welcome • Statement of respect • Who is in the room • Course objectives and guidelines • Guidelines for participation 	- Statement of respect, p3 - Who's in the room questions on flip chart or PPT
20 minutes	AMP in the workplace <ul style="list-style-type: none"> • AMP intent vs. reality • Small group work • Large group discussion 	- Task Sheet 1 p6 - Generic AMP p7
20 minutes	Contrasting your workplace AMP <ul style="list-style-type: none"> • Setting the stage • Case law principles comparison • Wrap up 	- Task Sheet 2 p8 - Task Sheet 3 p9

Detailed facilitator notes for Session 1

1. INTROS TO THE PEOPLE AND THE THEMES 60 minutes

1.1 *Welcome and introduce facilitators.* 5 minutes

Introduce yourselves as facilitators: say your names, where you work and your interest in this course. Say that we'll be looking at the course in more detail after we get to know each other.

1.2 *Statement of Respect.*

Ask a volunteer at each of the tables to read a piece of the OPSEU's Statement of Respect (p 3). Ask participants why we read the Statement of Respect. Say that reading the statement is more than just a formality. A harassment free climate is essential for people to learn and work together. (PowerPoint (PPT) slide 2)

OPSEU Statement of Respect

Harassment or discrimination of any kind will not be tolerated at OPSEU functions.

Whenever OPSEU members gather, we welcome all peoples of the world. We will not accept any unwelcoming words, actions or behaviours against our sisters and brothers.

We accord respect to all persons, regardless of political affiliation, including people of colour, women, men, First Nations men and women, Metis or other Aboriginal peoples, members of ethno-racial groups, people with disabilities, gays, lesbians, bisexual and transgendered/ transsexual peoples, francophones and all persons whose first language is not English.

In our diversity we will build solidarity as union sisters and brothers.

If you believe that you are being harassed or discriminated against, let one of us know and we will deal with it on the spot. If an instructor is the problem contact _____ here at the conference and you can contact the person for immediate assistance.

1.3 *Who's in the Room* 15 minutes

Facilitator note: depending on who you are running the course for you may want to alter the "who's in the room" segment to save time. For example if you are

*running the course for a local and all the participants already know each other you may shorten this section. **However**, you should make certain that all the participants know each other before altering the introductions section*

- Refer to the prepared flip chart or PowerPoint slide at the front of the room. *(Facilitator please use PowerPoint slide 3 or prepare a flipchart using the heading “Who is In the Room” found in visual aids/props.)*

*Your name
Where you are from (local, sector, workplace)
One or two words about your workplaces attendance management program (If your workplace has a program)*

Facilitator Note: we want this portion to go fairly quickly so enforce the one or two words. Give an example such as “frustrating, harassing, ...”

- Ask participants to write the answers to the flip charted questions (PPT slide3) on a large “stickie” with the marker provided. (Stickies and markers are found on each table)
- Ask participants to come to the front of the room and place their “stickie” on the prepared flipchart and introduce themselves to the group. (Facilitator should do this first)

Who is in the Room?

- Thank the participants for sharing. Highlight any commonalities or patterns in the participant’s answers and post the flip chart on the wall.

1.4 Review and Discuss Course Objectives and Outline

- Review the course objectives and outline (on pages 4 and 5 of the participant materials, PPT slides 4 and 5)

- Ask participants if there are any other objectives that they wish to add.
- If there are additional objectives explain where they might be addressed in the course.

i.e. the objective of getting the membership to use union representation will be touched on in session 3

- Identify any goals that may not be met and explain that if there is time we will try and address these issues. If they cannot be dealt with at this session we can take them away and try to answer them by email.

1.5 Review how course materials are organized.

- Table of contents
- Materials in front follow the order of the course.
- Materials at the back are helpful resources you can use starting on page 17.

1.6 Guidelines for participation

- Briefly review your request for creating a good learning environment. i.e. sound off on electronic devices, limit side conversations, allow others to speak...
- Ask participants if they have any further guidelines to add.
- Flip chart and post guidelines

2.0 AMP INTENT AND REALITY 20 minutes

2.1 AMP Intent vs. Reality Introduction

- Tell participants that the next **10 minutes** will be spent looking at what AMP's are supposed to be used for and how they are implemented.
- Say that we will be continuing with the word theme that we started with in the introductions when we were describing their AMP.
- Inform participants that they will be working in their table groups for this session.

2.2 **Small Group Activity**

10 minutes

- Ask the members of each table group to turn to Task Sheet #1 in their participant materials (p6) (PPT slide 6).
- If the words used when introducing themselves were all negative place their sticky notes on "How it is Implemented" flipchart.
- Encourage participants to try and think of words that describe how an attendance management program should be run. Not just how it is being implemented.
- Stress that the goal of each group is to get one word for each letter in the alphabet which accurately describes how they feel about the program, aspects of the policy or procedure, or how it is implemented.

Facilitator note: Examples are provided on the Task Sheet for clarification

- Tell table groups that there will be prizes for the table that can complete all 26 in 5 minutes. (omit this if you do not have prizes)

What it should be

How it is implemented

Task Sheet 1

Words to Describe AMP's

As a table group, in the spaces below please write a word or two, describing your workplaces attendance management program or your feelings towards the program, which starts with the corresponding letter next to it. (I.e. A = appropriate, D = disciplinary)

A		N	
B		O	
C		P	
D		Q	
E		R	
F		S	
G		T	
H		U	
I		V	
J		W	
K		X	
L		Y	
M		Z	

2.3 Large Group Discussion

7 minutes

- Ask each table in turn for one of their words beginning with a different letter and flipchart the response on one of two flipcharts.

Facilitator note: Place two flipcharts side by side (as below) and write the responses on either flip chart based on how AMP programs are meant to be run versus the reality of how employers run their AMP. Use the "suggested answer" sheet provided below.

- Rotate through each group until you have gone through the complete alphabet.

- Once through the alphabet ask for one or two additional words (depending on time) that correspond with each letter.
- Say that we now have two lists of words. Ask “What do the words on each list have in common with each other?”
Possible answers could include, fair and unfair words, helpful and non-helpful, supportive and disciplinary...

Facilitator note: use the chart below to help guide which flipchart the answers would go on. Please forward any answers that could improve this list to the Training and Development Unit.

Intent vs Reality

	What it should be	How it is implemented
A	▪ Awareness	▪ Arbitrary
B	▪ Benefit (supports the worker)	▪ Bad
C	▪ Cooperative ▪ Consistent	▪ Caustic
D	▪ Duty to accommodate ▪ Discretion	▪ Disciplinary ▪ Dismissal
E	▪ Evenhanded	▪ Excessive
F	▪ Flexible ▪ Fair	▪ Fail (to account for disability)
G	▪ Guidelines	▪ Galling
H	▪ Human Rights Code	▪ Harassment
I	▪ Impartial	▪ Intimidating
J	▪ Just	▪ Jaw dropping
K	▪ Knowledge (of principles)	▪ Kick (employees that are down)
L	▪ Legitimate	▪ Lip service (to policy)
M	▪ Morale	▪ Mandatory
N	▪ Non-punitive	▪ Nerve racking
O	▪ Occupational norms (to set thresholds)	▪ Onerous
P	▪ Problem solving	▪ Penalizing
Q	▪ Questions (asks questions to assess DTA requirements)	▪ Quit (makes employees want to)
R	▪ Reasonable	▪ Rigid
S	▪ Supportive	▪ Selectively applied
T	▪ Thresholds	▪ Termination
U	▪ Undue hardship	▪ Unreasonable
V	▪ Valid	▪ Violate C.A.
W	▪ WSIB ▪ Warning	▪ Wasteful

X	▪ Xerography (of medical information)	▪ xenomorphic (having a form not of its own)
Y	▪ Yard marker	▪ Yakety Yak
Z	▪ Zero in on why attendance issues exist	▪ Zero tolerance

2.4 Wrap up *3 minutes*

- Conclude the large group discussion by stating that arbitrators have ruled that employers have the right to use these types of programs but that they are to be used in a specific way.
- Tell participants that a chart of words similar to the flip charts you have just created can be found in the helpful resources section of their participant materials (p19).
- Say that “next we will address how attendance management programs are supposed to work.
- Ask participants for any additional comments.

3.0 CONTRASTING YOUR WORKPLACE AMP **20 minutes**

3.1 Setting the stage

- Direct participants to the typical AMP (p7) in their participant materials. (PPT slide 7)
- Review the general structure and set up of attendance management programs using the notes below:

Flow Chart: *This is just an example. Steps, thresholds and time frames may vary*
 Top left box: - The employee exceeds an initial threshold that draws them into the program.

Left Side: - The employee is subject to several levels of meetings of progressing seriousness. At each level meetings occur to discuss how to improve attendance, reasons for absenteeism, possible ramifications.

Middle Boxes: - Decisions are made about moving up or down in program levels depending on number of absences over a predetermined period of time. This is usually the same as the threshold and time period to enter the program.

Right Side: – Decisions are made to further lower or return the employee to the previous level of the program.

Bottom Right: - Employer may make a decision to terminate the employee due to innocent absenteeism.

3.2 Introduce task sheet 2

- Inform participants that we will spend the next few minutes looking at the AMP in our work places and how they stack up to what arbitrators have allowed (i.e. the “what attendance management should be” list of words we created).

- Refer participants to the Case Law fact sheet (p21) in the resource section of their participant materials and briefly review it with them.

- Ask participants to turn to task sheet 2 (p8) in their participant materials. (PPT slide 8)

- Review Task Sheet 2 with the large group.

- Emphasize that they are to answer the questions on Task Sheet 2 from the perspective of their own workplace.

- Inform the participants that, if they do not know their workplace’s policy they can just use column 2. (how attendance management is implemented in their workplace)

3.3 Individual exercise

5 minutes

- Tell participants that they have the next **5 minutes** to fill in the task sheet.

- State, if their workplace has no formal AMP to fill in the sheet based on how short term sick absences are currently handled in their workplace.

Task Sheet 2

AMP Case Law comparison/checklist

Below is a list of AMP components of what an AMP program is supposed to be. Please check consistency with your workplace policy and how they implement the program. Place a checkmark in middle-column boxes if the AMP policy at your workplace follows the case law principles and in right-hand-column boxes if implementation is consistent with principles. Use the Case Law Fact Sheet as a reference when completing this list.

What Case Law Says About Attendance Management Programs	Workplace Policy/Procedure	Implementation
Must provide a notice or warning that the present level of absenteeism is unacceptable		
Must provide an opportunity for the employee to effect improvement		
If using thresholds, WSIB and culpable absences cannot be factored into dismissal decisions		
Thresholds must be a reasonable indicator of a problem existing (i.e. workplace averages or sector norms)		
Must take into account the employer's duty to accommodate		
The program cannot be applied mechanically		
Counseling letters are allowable but the tone must not appear punitive or disciplinary		
AMP's cannot violate the collective agreement		
Program must be communicated to the employees.		

3.4 Work with a partner

10 minutes

Facilitator note: if your participants are all from one local you can skip to 3.5

- Ask participants to find a partner, preferably someone from a different workplace.
- Instruct participants to compare their answers from task sheet 2 and discuss the questions on page 9 (Task Sheet 3) in relation to what they said on task sheet 2. (PPT slide 9)

Task Sheet 3

Contrast Your Workplace AMP

Use your answers on Task Sheet 2 and the questions below to have a conversation with your partner. Be prepared to share the answers from your conversation with the larger group.

- Does the employer's AMP policy incorporate the case law principles outlined on Task Sheet 2?
- Is there a difference between your employer's AMP policy and its implementation? If so, what are they?
- Which of the case law principles does the employer do a poor job of adhering to?
- If the employer is not following the case law principles, why do you think that is?

3.5 Large group discussion

5 minutes

- Bring the participants back together as a large group.
- Ask the participants to comment on their workplace policy or how the AMP is being implemented with respect to each of the areas on Task Sheet 2.
- Tabulate the results of their responses from Task Sheet 3 on the flip chart you have prepared (as below)
 - Does your workplace policy comply with case law guidelines?
 - Is your Manager's implementation of AMP consistent with case law guidelines?

Case Law Comparison Check List			
<u>Policy</u>		<u>Implementation</u>	
<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>

- Ask the participants to note any patterns to their answers and summarize their findings

Possible answers could include:

- *The policy complies with case law but this is not how the program is implemented.*
- *The employer does not follow its own policy.*

4 SESSION 1 SUMMARY

2 minutes

4.1 Wrap up

- Conclude this section by stating that arbitrators have allowed employers to address attendance issues through attendance management programs but have placed some guidelines on how these programs are to be run.
- Say that we have quickly looked at some of these guidelines in relation to AMP programs but we need to have a full understanding of how programs are being implemented.
- Knowing where the employer is not properly implementing their AMP has implications for the type of union response to the employer. i.e. individual vs. policy grievance.
- Tell participants that we have included a case law resource on page 23-26 of their participant manuals.

What Employers Are Entitled To Session 2 at a Glance

Total Time: 60 minutes

Time	Activities	Materials
5 minutes	Getting Started <ul style="list-style-type: none">• Quiz	- AMP quiz p10
30 minutes	Medical Documentation <ul style="list-style-type: none">• Critiquing a doctors note• Assessing doctors notes	- Task sheet 4 p11 - Dr notes to post around the room
20 minutes	Definitions <ul style="list-style-type: none">• In your workplace• Defining Independent Medical Examinations, Non-disciplinary dismissal, and Last Chance Agreements	- Flip charts (IME, NDD, LCA) - Task sheet 5 p13
5 minutes	Documentation <ul style="list-style-type: none">• Why documentation is important• Brainstorming strategies (before, during, and after meetings)	- Documentation work sheet p14

Detailed facilitator notes for Session 2

1.0 GETTING STARTED

5 minutes

1.1 *Introduce Session 2*

- Introduce this next session by stating that, in the last section we looked at what AMP's are supposed to be and how they are being implemented. In this session we will look at what the employer can ask for and why they may be implementing the program the way that they are.
- Emphasize that the duty to accommodate, WSIB and attendance management programs require that the employee also participates and provides sufficient information.
- Say that there is a Workplace Safety and Insurance fact sheet, produced by OPSEU, located on pages 42-43 in their participant materials for their reference.

1.2 *AMP true or false quiz*

- Ask the participants to turn to the AMP true or false quiz on page 10 of their participant materials. (PPT slide 10)
- Ask participants to spend the next 5 minutes filling out the quiz.
- The quiz is a list of statements that they can rank as true, false or possibly.

1.3 *Large group take up of quiz*

- Take up the quiz with the large group using the answer sheet provided below.
- Ask for a volunteer from each table to provide an answer. Rotate from table to table until all of the questions have been answered.

Employer rights Quiz Answer Sheet

Identify the statements below as true or false

<p>Attendance management programs are just meant to harass me. <i>Possibly</i>, but that is not the reason arbitrators view AMP's as legitimate. Arbitrators view AMP's as falling under the right that employers have to manage their workplaces. If focused on non-culpable absenteeism the program should not be disciplinary in nature, be supportive and encourage good attendance.</p>
<p>My medical information is none of the employers business. Yes and No. Privacy legislation protects your right to control access to who can view your medical information. Arbitrators have ruled that employers have a limited right to ensure sick leave benefits are used appropriately. The employee is not required to share any of their medical information with the employer, but the employer may have a right to deny benefits, accommodation, or a return to work.</p>
<p>The employer cannot fire me if I am legitimately sick. False Arbitrators have allowed employees to be discharged for non-culpable absenteeism. <i>but</i> To do this the employer must show that they have followed a number of steps.</p>
<p>Last chance agreements are not worth the paper they are written on. Yes and no. Last chance agreements are seen, by arbitrators, as a way to give the employee a "last chance". Arbitrators are reluctant to interfere with these agreements especially when the union has been involved. Despite this reluctance, the duty to accommodate still applies and must be considered prior to dismissal.</p>
<p>The employer cannot tell me which doctor to see. Usually true but in rare circumstances arbitrators have allowed employers to name a doctor of the employer's choosing. This is seen as a last resort when the employer has compelling reasons for making this intrusive request.</p>
<p>The employer cannot challenge my doctor's note. Possibly on first instances of sickness employers are entitled to know that you have seen a doctor and that you are able to return to work. Depending on the circumstance the employer is allowed to ask for information such as nature of the illness, restrictions, prognosis...</p>
<p>A doctor's note needs to only say that I was sick and if I can come back to work. Depends. See above</p>
<p>Attendance letters are meant to discipline me. False Arbitrators have ruled that letters that are a part of AMP may not be disciplinary in tone as the program should be supportive in nature and promote improved attendance for non-culpable absenteeism</p>
<p>If I sign a last chance agreement I forfeit my right to grieve dismissal. False. Although arbitrators are reluctant to interfere with agreements made between the employer and employee there have been occasions when grievances have been successful.</p>
<p>If I sign a "Waiver of Representation" I'm not entitled to union representation. False. Wavers of representation are a tool for the employers to prove that the employee</p>

was aware that they had the right for union representation. Arbitrators have reinstated employees because it was unclear if they knew they were entitled to representation.

If I am only off for a few days here and there I am safer than if I am off for long chunks of time. *False* Employees enjoy less protection from dismissal when their absences are of the short term and intermittent type. Dismissals are, most often, upheld when the employer can show that the absences are excessive and that there is no foreseeable improvement. Intermittent absences are hard to predict improvement.

The employer does not have to accommodate an employee if they do not know the employee has a disability. *True and False* Employers have successfully argued that they cannot accommodate what they are not aware of. **BC Teachers Federation v. Kamloops Thompson School District No. 73, 2005.** However, where there are signs of a disability or the employer is aware or ought to reasonably be aware, the employer has a duty to make further inquiries. **Fendick v. Lakes District Maintenance Ltd, 2006.**

1.4 Quiz summary

- Summarize this activity by saying that the rules around duty to accommodate attendance management programs are often not clear.
- Provide the participants the quiz “answer sheet” (found in the facilitator props)
- The quiz highlights this lack of clarity but also gives some general guidance.
- Explain that arbitrator’s rulings and changing legislation often add to this lack of clarity and contributes to confusion in the workplace. As an example of this, direct the participants to the recent WSIB changes reference on page 40 of their participant materials and the case law resources pgs 23-26.
- Say that, next we will look at some of the information from the quiz in more detail.

2.0 MEDICAL DOCUMENTATION

30 minutes

2.1 Getting started

2 minutes

- Say that the issue of medical information is a sensitive one for many of our members.

- Say that we will be spending the next **30 minutes** exploring what should go into a doctors note and when.

2.2 Critiquing doctor's notes (small group work) 10 minutes

- Tell participants that they will be working in their table groups to critique doctor's notes from a variety of contexts.
- Assign each table one of the notes and provide the tables with the scenarios (found in facilitator props / visual aids).
- Ask participants to turn to Task Sheet 4 (p11) (PPT slide 11) in their participant materials and review the task sheet with them.

Task Sheet 4 Critiquing Dr Notes

Review together, Talking to Your Doctor, page 12. Use it as a resource to assess your assigned Dr's note and scenario. As a group, answer the following questions:

- What you liked about the note
- What you would add (if anything)
- What you might remove (if anything)
- Your groups reasons for your decisions

Be prepared to share your answers with the larger group

- Inform the participants that they have the next **10 minutes** to review their assigned doctor's notes.
- Inform groups that they may wish to also review the "Talking to Your Doctor" resource (p12) and the Medical Information Fact Sheet (p27) in their participant materials.

Facilitator note: You may wish to review the above resource material with the large group prior to having them answer the questions.

- Have the table group review their assigned note and answer the questions on Task Sheet 4 page 11.

- Ask table groups to flipchart their answers and post them on the wall with their Dr's note.
- Participants should be prepared to share their findings with the rest of the group.

Medical Note 1:

Scenario:

Joan has been off for four days. These are the only sick days she has been off for this year. Her collective agreement states that an employee off work for three consecutive days must provide the employer with a medical note.

Doctors Note:

Dr J Erving, MD.

June 7, 2011

To Whom It May Concern: Joan is a patient under my care. She was off work due to illness May 17-20. At present Joan can return to full duties.

Dr Erving

Possible responses: The note is fine the way it is as this is an initial occasion. The employer might be entitled to some more specifics as to "nature of illness" but little else

Medical Note 2:

Renaldo has been off work due to illness for the last three days bringing his total number of sick days for this year to 10. This sick incident has put Renaldo over the workplace Attendance Management Program threshold of nine days for this calendar year. His manager has asked that he bring in a medical note explaining his most recent illness.

Doctors Note:

Dr J. Rochette, MD.

June 7, 2011

To Whom It May Concern: Renaldo is a patient under my care. He was off work due to illness May 17-20. At present Renaldo can return to full duties.

Dr Rochette

Possible responses: Employer may be entitled to nature of illness and any restrictions or limitations. This is not an initial occurrence so more information can be asked for

Medical Note 3:

Perdita has been off work for the last two weeks. It is known that she has been in poor health over the last several months. Perdita is at stage two of the workplace Attendance Management Program. Her supervisor has asked her to submit a medical note prior to returning to work.

Doctors Note:

Dr D. Igali, MD.

June 7, 2011

To Whom It May Concern: Perdita is a patient under my care. She was off work due to a cardio respiratory illness since May 24th. At present Perdita can return to full duties with the following restrictions:

- Frequent rest breaks (10 minutes every hour)
- No heavy lifting (weights over 10kg)

I plan to reassess Perdita in two weeks time (June 21st) to determine any change in restrictions.

Dr D. Igali

Possible responses: Good that the note gives “nature of illness” and some restrictions. Unsure of if the doctor knows what Perdita’s work situation is like. Does not specify length of work day.

Medical Note 4:

Daniel has been off work due to illness for the last three weeks bringing his total number of sick days for this year to 35. This sick incident has put Daniel into level three of the workplace Attendance Management Program. His manager has asked that he bring in a medical note explaining his most recent illness, prognosis, functional limitations and expected return to work date.

Doctors Note:

Dr C. Petitclerc, MD.

June 7, 2011

To Whom It May Concern: Daniel is a patient under my care. He has been off work due to complications from his diabetes. He is currently undergoing insulin treatments and should be able to gradually return to work June 13th. Currently he has limited mobility and cardiovascular reserve. I expect that this will improve as his condition improves. I have included a return to work plan below.

Return to work plan:

Week 1: 4 hour shifts

Week 2: 6 hour shifts

Week 3: Full days

General restrictions:

- Limited walking
- No heavy lifting
- Frequent breaks

Dr Peticlerc

Possible responses: Good that it has general restrictions and return to work plan, but should not give diagnosis.

Facilitator note: Participants may become focused on the dates on each note. This should not be seen as an issue when responding to the Task Sheet.

2.3 Large group discussion **10 minutes**

- Reconvene the participants as a large group

- Ask each table to report on their Dr's note using their answers on Task Sheet 4. (PPT slide 12-15). Participants should read their scenario and doctors note to the rest of the class before reporting.

- Ask the larger group for comments on each table's findings.

Facilitator note: review Medical information fact sheet (below) to assist with facilitating this portion of the course:

Medical Information Fact Sheet pg 27

The general consensus among arbitrators is that when assessing a request for short term disability or illness:

Employer is entitled to:

- General information as to the nature of the illness or disability
- General description of the work the employee can or cannot do.
- The expected date of return of the employee.

In Ontario Nurses Association v. Hamilton Health Sciences (2008) the arbitrator stated that the employer is entitled to the reason for the incapacity in the form of a "general statement" of the nature of the ... illness or injury, that the employee has and is following a treatment plan (but not the plan itself), the expected return to work date, and what work the employee can or cannot do

Employer is NOT entitled to:

- Specific diagnosis
- Symptoms
- Treatment plan
- Medical history
- Prospective consent to contact the employee's doctor

In one case an Arbitrator went as far as to rule that medical information request forms supplied by the employer must make clear that diagnosis and symptoms are not to be provided. *Ontario Nurses Association v. Brant Community Healthcare System (2008)*

For more lengthy or complicated medical leaves some arbitrators have supported employer's requests for additional medical information such as:

- Information about prognosis
- Functional limitations
- Medical follow-up
- Expected return to work date
- General course of treatment

CUPE, Local 728 v. Surrey School District No. 36 (2006)

2.4 Wrap up**3 minutes**

- Conclude this exercise by reviewing the medical information fact sheet located on page 27 of their participant manual. The sample doctor's notes (p12) are also located in the Helpful Resources section page 28-31.
- Emphasize that members are often concerned about their personal medical information. Being able to help and support members with this concern may build the union.

**3.0 INDEPENDENT MEDICAL EXAMINATIONS (IME),
NON DISCIPLINARY DISMISSAL,
LAST CHANCE AGREEMENTS**

If time is tight you may want to cover this material by briefly highlighting this information and referring participants to the reference material in the helpful resources section (p__) instead of completing the entire exercise

3.1 In your workplaces**3 minutes**

- Begin this next activity by getting an indication of what is taking place in the workplace of your participants.

- Post 3 pieces of flip chart paper around the room with the titles (in facilitator props folder) Independent Medical Exam, Non-disciplinary Dismissal, and Last Chance Agreements.
- Ask participants:
 - Who has heard of each of these terms?
 - Who has experienced this in their workplace?
 - For those who have experienced this in their workplace, ask a few people to talk about their experience
- Say that we will now be exploring these terms and how they may impact our workplaces

3.2 Definitions (small group work)

- Ask the participants to get into groups of 2. If an odd number of participants, make one group of three.
- Assign each pair a number (1, 2, 3)
- Instruct all of the pairs with the number one that they will be discussing Independent Medical Exams in the next exercise. Groups assigned the number two will be using Non-disciplinary Dismissal and threes will have Last Chance Agreements.
- Ask all of the pairs to define their term using the instructions on page 13 (Task Sheet 5). (PPT slide 16)

Task Sheet 5

Common Employer Terms

Answer the following questions using your past experiences, knowledge of your collective agreement, or workplace policies. If you are unsure about the term assigned to your group, answer the questions from the perspective of what seems reasonable.

Insert the term you have been assigned into the blanks below and answer the questions.

What is _____?

When is _____ deemed appropriate?

What are the limitations on the employer when pursuing _____?

What are the employee's responsibilities when facing _____?

- Each pair has **10 minutes** to complete this task.

3.3 Large Group Discussion

7 minutes

- Starting with one of the terms, ask if one of the pairs assigned to the term would volunteer to provide the large group their definition. Record the definition on the flip chart prepared previously.
- Ask the other groups assigned that term if they have additional points to contribute.
- Ask the larger group if they have additional points they would like to include in the definition.
- Repeat with the other two terms.

Facilitator Note: Use the fact sheets in the Helpful Resources section of the Participant manual to help guide this conversation (pages 32-34)

3.4 Summary

- Once finished direct the participants to the glossary located in the resource materials at the back of their participant materials.

- Review the Fact Sheets (p 32-34) in the participant materials and contrast them with the flipcharts we have just developed.
- Ask the participants:
 - What if anything needs to be added to either the glossary or class developed definition?
 - Why is it important we know what these terms mean?
Possible answer: it is important we know these terms as the AMP may be an employer strategy to discipline or dismiss an employee

4.0 DOCUMENTATION

5 minutes

4.1 Introduction

- Now that we have looked at some of the consequences of attendance management programs (IME, dismissal, last chance agreements, and privacy of medical information) we can see the importance of defending our members against improper implementation of AMP's.
- Say that the next section looks at the importance of documentation in protecting members.

4.2 Why is documentation important?

- Say that documentation is important in the areas of duty to accommodate, WSIB, and attendance management programs. PPT slide 17
- Ask if everyone agrees with this statement? If so why? Flipchart their responses. (*i.e. protects the membership, holds the employer accountable, valuable if grievance is filed ...*)

4.3 Brain storming session

- Say that since documentation is important, who can tell us what documentation we need.

Facilitator Note: Link the need for documentation to the meetings highlighted in the generic AMP flow chart and the path to discipline or dismissal (p6)
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- Ask the participants to think of this question in three parts; before meeting the employer, while meeting the employer, after meeting the employer (potentially preparing a grievance).
- Start with before meeting the employer and flip chart their responses to this question.
- Tell the participants that there is a worksheet in their participant materials where they can record the answers if they feel this would be helpful (p14). (PPT slide 18)
- Repeat the brainstorming with “while meeting the employer” and “after meeting the employer (potentially preparing a grievance)”.

Possible answers include:

Documentation

Before the Meeting	During	After
Medical information	Employers position	Grievance form
Correspondence from employer	Employer documentation	All previous notes
Workplace policy and procedure	Employee’s position	Unequal treatment from the employer
Waiver of Representation	Any new medical information	Any new medical information
Last change agreement		
Any other forms the employee has signed		

4.4 Wrap up

- Conclude this session by reviewing the resource materials related to documentation located on pages 35 to 38 in their participants manual.

- Refer participants to the reintegration tip sheet found on page 41 of their participant materials.

Strategies to Inform the Membership & Build the Local

Session 3 at a Glance

Total Time: 60 minutes

Time	Activities	Materials
40 minutes	Getting the members cooperation <ul style="list-style-type: none">• Getting started• Developing strategies• Sharing strategies	- Headings for groups - Task sheet 6 p15
10 minutes	Local readiness, next steps <ul style="list-style-type: none">• What's next• Taking it back to the local	- Task sheet 7 p16
10 minutes	Wrap up <ul style="list-style-type: none">• Summary and course evaluation	

Detailed facilitator notes for Session 3

1.0 GET THE MEMBERSHIP'S COOPERATION

60 minutes

1.1 *Getting started*

- Begin this session by highlighting the importance of membership cooperation.
- Say that in the previous session we concluded the session by talking about documentation and protecting the membership. To challenge the employer and protect the membership, we need the membership's support and cooperation.
- This next session will focus on developing membership awareness and cooperation.
- Ask participants to think about various ways that you can raise the awareness of unfair attendance management practices in the local.

1.2 *Developing strategies (Small group)* **10 minutes**

- Tell participants that you have placed several headings around the room. These headings represent forums to raise the awareness of attendance management among your Local membership.

Headings:

- General membership meeting
 - Newsletter
 - Face to face (one on one) meetings
 - Union bulletin board
 - Lunch and learn
 - Other
- Ask participants to review the headings and choose one they would use to raise the topic of attendance management with their local's membership

- Ask the participants at each heading to, as a group, create a strategy to promote membership awareness of the employer's AMP using the heading that you have chosen and the instructions found on Task Sheet 6 on page 15 of their participant manuals. (PPT slide 19)

Possible strategy for a newsletter could include comments about what topics would be included and a strategy for distribution.

- Review Task Sheet 6 (p15) with the group.

Task Sheet 6

Strategies for Member Cooperation

In your group create a strategy to build membership support and cooperation using the heading that your group has chosen. Your strategy could include:

- Who you are going to target your message to
- How you are going to achieve your goals
- What your message will be (Write out your message in detail in a way that will hook to the interests of your members)
- What you will need for success

Be prepared to share your strategy with the group

- Tell participants that each group will have **no more than 5** minutes to present their strategy to the larger group.

1.3 Strategy presentations **25 minutes**

- Reconvene the participants as a large group.
- Ask for a group to volunteer to go first.
- Encourage participants to write down strategies they hear that might be useful back in their own locals.
- Once the group has presented their strategy ask them:
 - What they liked about the strategy?

- What they felt might be difficult to implement?
- Ask the larger group for:
 - What they liked about the strategy presented?
 - What they might have changed or added?
- Repeat the above process for each group.

1.4 Summary 5 minutes

- Summarize the activity by saying the situations we just discussed give us some ideas where we can engage our membership to help combat unfair AMP implementation.
- Say that we will now look at successes we can underscore to our members in these situations.

2.0 LOCAL READINESS, NEXT STEPS 10 minutes

2.1 What's next

- Say that we have looked at a number of different areas associated with AMP's and now its time to look at what we can do back at our local.

2.2 Taking it back to the local

- Say that while each local is different there are some general strategies that may be applicable to your local.
- Ask participants to refer back to the presentations made during the previous exercise (Task Sheet 6) and complete Task Sheet 7 on page 16 of their participant materials.

- Participants may also refer to any additional information they heard today, to fill out Task Sheet 7.

<p style="text-align: center;">Task Sheet 7</p> <p style="text-align: center;">Taking it back to the Local</p> <p>When I first get back to the local I would like to _____ _____</p> <p>Within one month I would like to _____ _____</p> <p>In six months I would like to _____ _____</p> <p>Possible actions to take over these time frames include:</p> <ul style="list-style-type: none"><input type="checkbox"/> Develop AMP specialists in the local<input type="checkbox"/> Host lunch and learn<input type="checkbox"/> GMM agenda item<input type="checkbox"/> LMM/ERC agenda item<input type="checkbox"/> Review workplace policy and procedure
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2.3 Large group discussion

- If time permits have a large group discussion with the participants around the task sheet and the following questions.
 - Ask if the task sheet is helpful for them.
 - Ask for volunteers to share what they are planning to do when they return to their locals.

3.0 COURSE SUMMARY

10 minutes

- Give participants an opportunity to comment on the course. What was helpful? What was missing?
- Ask each participant what they are taking away from the course.

- Confirm any follow up that the participants are expecting from you or you have offered.

- Thank participants for their time and energy and pass out the course evaluations.

Facilitator Note: Please forward any comments that would improve the course to the Training and Development Unit