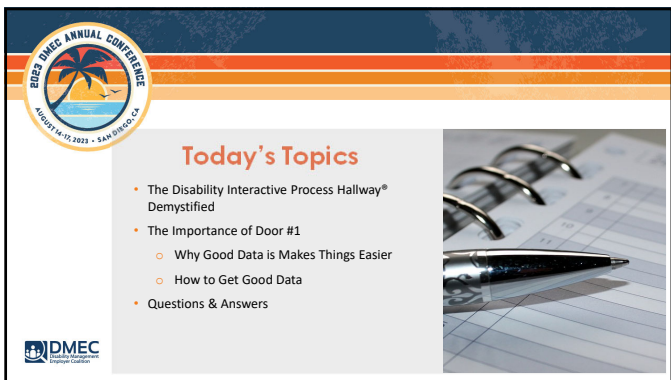


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1



2




3




General Information on Session

- I have not read your Personnel Rules or Collective Bargaining Agreements and best practices may conflict with your organization's rules or policies, so
- Before changing any practices, you are encouraged to consult with your legal counsel to determine if there are any meet and confer obligations and/or regulations that must be taken into consideration before changes are made.
- I am not an attorney.
- I knowingly violate every PowerPoint rule – so that you have a tool and resource that you can reference in the future.
- Enjoy!



4




ADA Obligations


Mandates of the Employer:

1. Employers must engage in a timely good faith interactive process, and
2. Employers must provide reasonable accommodation

Each is a stand-alone statutory obligation




5



Too Often:

You are making reasonable accommodation decisions based on:

- ✓ **Accommodation suggestions** and not functional limitations / work restrictions
- ✓ No overtime, weekends, etc.
- ✓ Work from Home
- ✓ Needs an office
- ✓ No working with Rachel Shaw



6




Too Often:

You are making reasonable accommodation decisions based on:

- ✓ **Unclear Restrictions** such as
 - ✓ No heavy lifting
 - ✓ No repetitive computer use
 - ✓ No prolonged standing
 - ✓ No repetitive bending




7



**What a Difference Clear Work Restrictions Make:
What you need is...**

- "heavy lifting" vs. "no lifting over 10 pounds with right hand/arm left hand/arm unrestricted, when using both hands/arms 30 pounds"
- "prolonged standing" vs. "weightbearing up to 10 minutes at one time, 20 minutes per hour and 3 hours per 8-hour day"
- "prolonged computer use" vs. "no more than 50 minutes per hour typing and mouse use; and up to 6 hours per day total typing or mouse use. Must have 10 minutes per hour where hands are not using keyboard or mouse and no more than 6 total hours of mouse and keyboard use per day."



8



**How Do You Get Clear Work Restrictions?
(...and when do you need them.)**



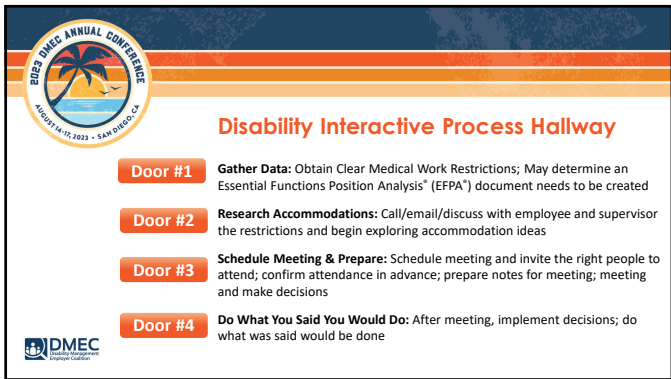
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10



11



12



**All the Doors Are Important
But...**




13



**Door #1 is the Key to
Being Confident in Your
Decisions**




14




Temporary vs. Long-Term Accommodations

- When restriction are **temporary in nature**, you often will just evaluate if what you have is "**clear enough**" to support with:
 - Light Duty / Transitional Duty
 - Temporary Modified Duty
 - Leave of Absence




15





Temporary vs. Long-Term Accommodations

- When restrictions are **permanent or long-term** (exceeding 6 to 12 months), you need **clear work restrictions and/or leave needs** before making decisions on:
 - Modified Work
 - Alternative Work Placement
 - Medical Separation



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The Hallway: Door #1



Obtain Necessary Documentation/Information

Medical report with:

- ✓ Covered Disability - Yes/No answer
- ✓ Clear work restrictions & duration
- ✓ Clear leave needs & duration




17



The Hallway: Door #1

Don't Cut Corners... Prepare and Send a Questionnaire for Health Care Provider to Complete:

- ✓ Sample Questionnaires for Leave and Restrictions:
 - ✓ Generic / orthopedic (**sample 1**)
 - ✓ Sample questions (**sample 2**)
 - ✓ TTD (**sample 3**)
 - ✓ Long-term intermittent leave (**sample 4**)
 - ✓ Psychological condition (**sample 5**)
 - ✓ Discipline or disability (**sample 6**)
 - ✓ Fragrance Sensitivity (**sample 7**)
 - ✓ Dog Accommodation (**sample 8**)
 - ✓ Body Odor / Hygiene (**sample 9**)



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The Hallway: Door #1

Sample #1 - Generic / Orthopedic

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19

1. WEIGHT BEARING RESTRICTION: In your report dated _____ you indicate the following permanent/temporary work restriction: **"No prolonged standing."** Please clarify as follows:

In performing this work, the employee will stand and walk intermittently while performing weight bearing activities. Mr./Ms. Name is not specifically just standing or just walking when doing this work. Therefore, can you please provide the following clarification as to any limits Mr./Ms. Name has in regards to his/her ability to be on his/her feet and performing walking or standing duties that are weight bearing:

- Mr./Ms. Name may perform WEIGHT BEARING ACTIVITIES (standing, walking) for _____ minutes at one time before requiring a break from WEIGHT BEARING (standing, walking) for _____ minutes
- Mr./Ms. Name may perform WEIGHT BEARING ACTIVITIES (standing, walking) for a total of _____ minutes per hour
- Mr./Ms. Name may perform WEIGHT BEARING ACTIVITIES (standing, walking) for a total of _____ minutes per 8 hour workday
- Other / Additional Clarification: _____

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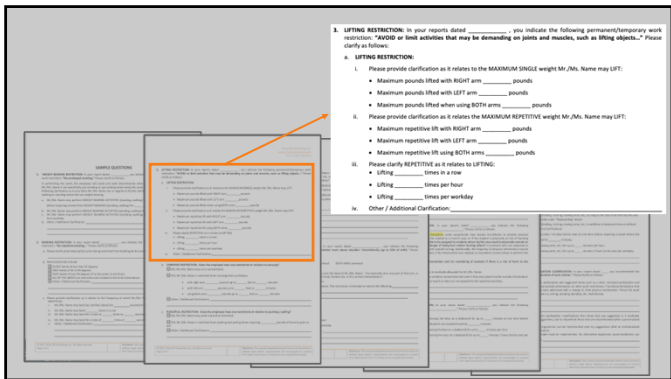
2. BENDING RESTRICTION: In your report dated _____ you indicate the following permanent/temporary work restriction: **"No repetitive bending."** Please clarify as follows:

- Please clarify what body part(s) is/are being restricted from bending (at the waist, arms, neck, knees, etc.): _____
- Restricted bends include:
 - SLIGHT bends of less than 45 degrees
 - HALF bends of 45 to 90 degrees
 - DEEP bends of over 90 degrees (if at the waist, to the floor)
 - ALL OF THE ABOVE are restricted and included in the limits listed above
 - Other / Additional Clarification: _____
- Please provide clarification as it relates to the frequency at which Mr./Ms. Name may BEND and/or please define REPETITIVE:
 - Mr./Ms. Name may bend (as clarified above) for _____ seconds/minutes (circle one) at one time
 - Mr./Ms. Name may bend _____ times in a row
 - Mr./Ms. Name may bend for a total of _____ times or _____ seconds/minutes (circle one) per hour
 - Mr./Ms. Name may bend for a total of _____ times or _____ seconds/minutes (circle one) per workday
 - Other / Additional Clarification: _____

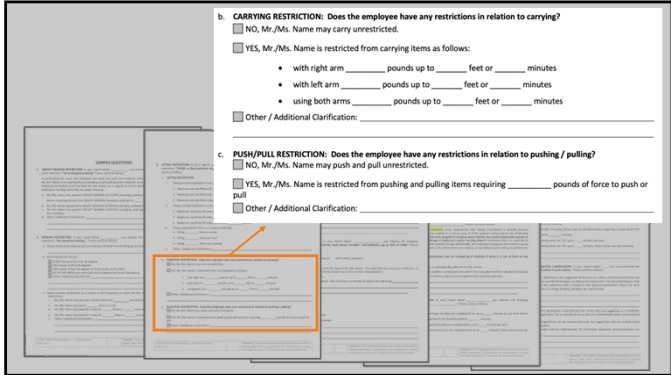
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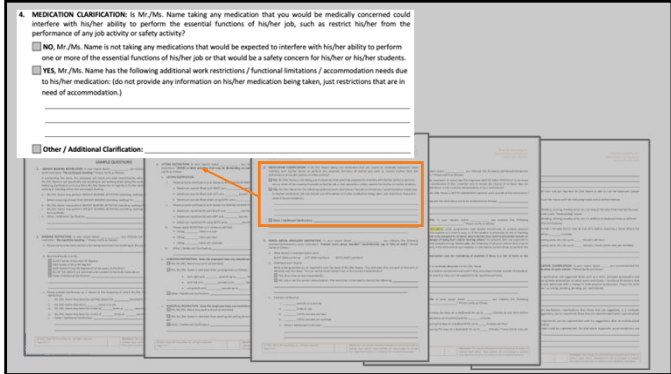
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23



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6. PROPHYLACTIC RESTRICTION: In your report dated _____ you indicate the following permanent/temporary work restriction: "Prophylactic restriction." Please clarify as follows:

Prophylactic restrictions are understood by employers to mean that the employee **MAY BE ABLE PHYSICALLY** to do more than the restrictions, but to maintain the stabilization of their condition and to reduce the chance of re-injury they are **NOT TO PERFORM WORK** outside of the restriction. Is this a correct interpretation of your restrictions?

YES, this is the correct restriction that Mr./Ms. Name is **NOT TO KNOWINGLY** perform work outside of the restrictions I have provided.

NO, I use prophylactic restrictions to indicate the restrictions are to be understood as follows: _____

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8. TYPING / COMPUTER USE RESTRICTION: In your report dated _____ you indicate the following permanent/temporary work restriction: "_____." Please clarify as follows:

a. **Keyboard Use – Typing:**

- Mr./Ms. Name may type (depressing the keys on a keyboard) for up to _____ minutes at one time before requiring a break where the keyboard is not touched/used for _____ minutes.
- Mr./Ms. Name may type (depressing the keys on a keyboard) for up to _____ minutes per hour
- Mr./Ms. Name may type (depressing the keys on a keyboard) for up to _____ minutes / hours (circle one) per workday.
- Other / Additional clarification: _____

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b. **Mouse Use:** In addition to the time per hour and per day that Mr./Ms. Name is able to use the keyboard, please clarify mouse use:

Mr./Ms. Name is restricted **ABLE TO** use the mouse with the following hands and as defined below:
 RIGHT, LEFT, BOTH

Mr./Ms. Name may use the mouse (holding, clicking, moving wrist, etc.) as long as the total time that he/she uses it does not exceed the limitations allowable under "keyboarding" above.

Mr./Ms. Name may use the mouse (holding, clicking, moving wrist, etc.) in addition to keyboard time as defined above, and within the following additional clarifications:

- May mouse for up to _____ seconds / minutes (circle one) at one time before requiring a break where the mouse is not used with that hand for _____ minutes.
- May mouse (holding, clicking, moving wrist, etc.) for up to _____ minutes per hour.
- May mouse (holding, clicking, moving wrist, etc.) for up to _____ minutes / hours (circle one) per workday.
- Other / Additional Clarification: _____

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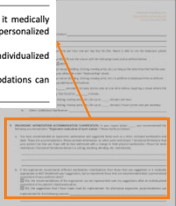
9. ERGONOMIC WORKSTATION ACCOMMODATION CLARIFICATION: In your report dated _____ you recommended the following accommodation: "Ergonomic evaluation of work station." Please clarify as follows:

a. You have recommended an ergonomic workstation and suggested items such as a chair, sit/stand workstation and desk. These are accommodations. Please provide information on what work restrictions / functional limitations that your patient has that you hope will be best addressed with a change in their physical workstation. Please list work restrictions / functional limitations below (i.e. sitting, standing, bending, etc. restrictions):

b. If the ergonomist recommends different workstation modifications than those that you suggested, is it medically appropriate to NOT implement your suggestions, but to implement those that are recommended after a personalized assessment of your patient's desk?

YES, the recommendations of the ergonomist can be implemented over my suggestions after an individualized assessment of my patient's desk/workstation.

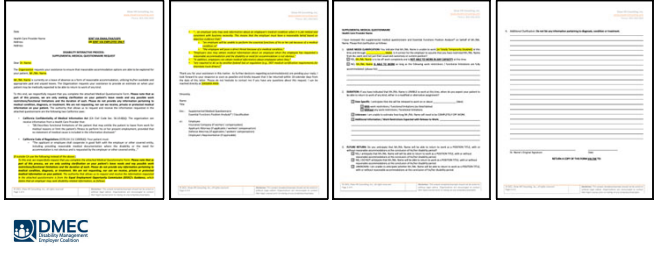
NO, the suggestions that I have made must be implemented. No alternative ergonomic accommodations can be implemented for the following reasons:



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The Hallway: Door #1

Sample #3 - TTD



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1. LEAVE NEED CLARIFICATION: You indicate that Mr./Ms. Name is unable to work (see **Temporary Disability**) at the time and through _____ (date). Is it correct for the employer to assume you have restricted Mr./Ms. Name from full work and are just their usual and customary or current position?

YES, Mr./Ms. Name is to be off work completely and is **NOT ABLE TO WORK IN ANY CAPACITY** at this time.

NO, Mr./Ms. Name is **ABLE TO WORK** as long as the following work restrictions / functional limitations are fully accommodated: (please list)

2. DURATION: If you have indicated that Mr./Ms. Name is **UNABLE** to work at this time, when do you expect your patient to be able to return to work of any kind, either in a modified or alternative assignment? _____ (date)

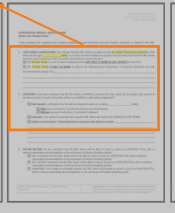
Non-Specific: I anticipate that she will be released to work on or about _____ (date)

With work restrictions / functional limitations (as listed below)

Without any work restrictions / functional limitations

Unknown: I am unable to estimate how long Mr./Ms. Name will need to be **COMPLETELY OFF WORK.**

Additional information / Work Restrictions Expected with Release to Work:



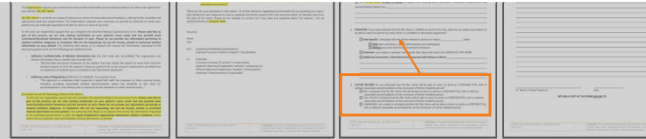
30

3. **FUTURE RETURN:** Do you anticipate that Mr./Ms. Name will be able to return to work as a POSITION TITLE, with or without reasonable accommodations at the conclusion of his/her disability period?

YES, I anticipate that Mr./Ms. Name will be able to return to work as a POSITION TITLE, with or without reasonable accommodations at the conclusion of his/her disability period.

NO, I DO NOT anticipate that Mr./Ms. Name will be able to return to work as a POSITION TITLE, with or without reasonable accommodations at the conclusion of his/her disability period.

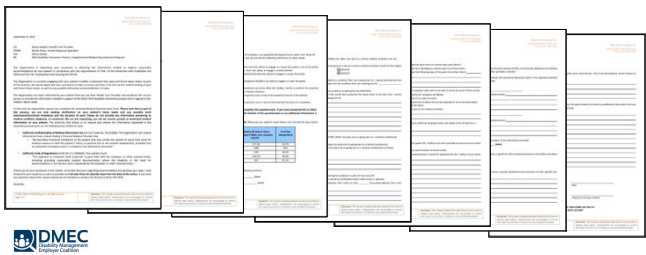
UNKNOWN: I am unable to anticipate whether Mr./Ms. Name will be able to return to work as a POSITION TITLE, with or without reasonable accommodations at the conclusion of his/her disability period.



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The Hallway: Door #1

Long-Term Intermittent Leave Template (Sample #4)



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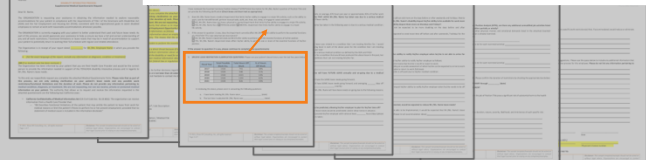
3. **SPECIFIC LEAVE RESTRICTION CLARIFICATION QUESTIONS:** Please see your patient's leave history over the last few years below:

Fiscal Year	Total Possible Work Hrs.	Total Hours Off Work	% of Hours Off Work
2019	1928	741	38%
2020	1928	598	31%
2021	1928	1023	53%
2022	1928	1194	62%
2023	964	414	43%

In reviewing the above, please assist in answering the following questions:

a. I have been treating Mr./Ms. Name since _____ (date)

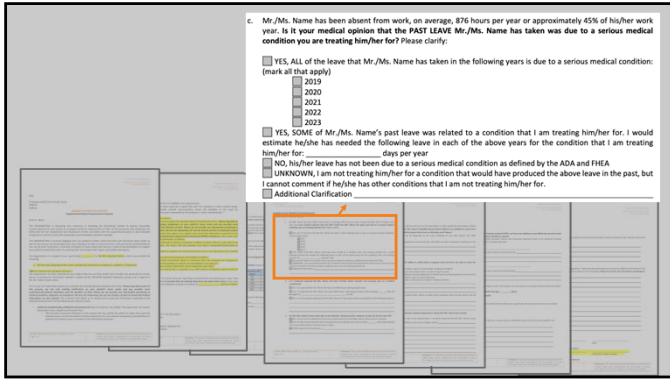
b. The last time I evaluated Mr./Ms. Name was _____ (date)



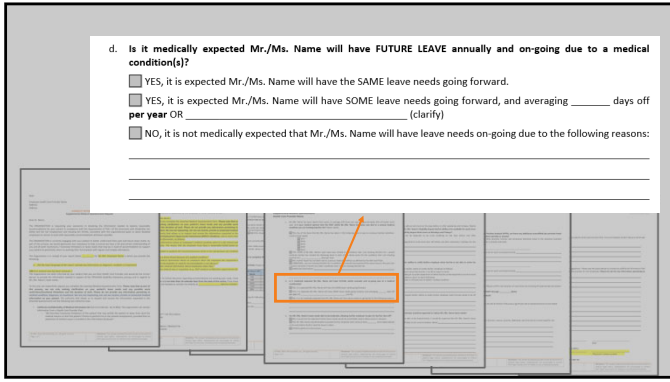
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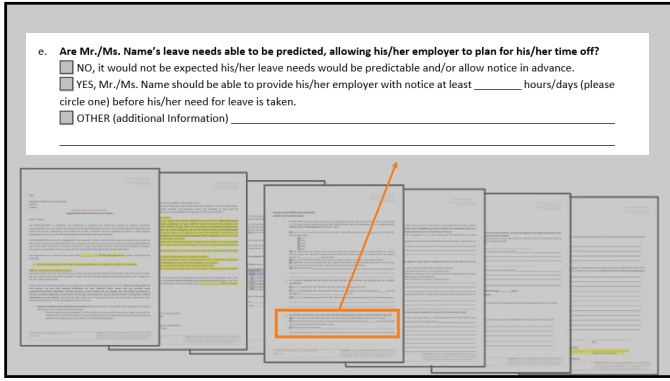
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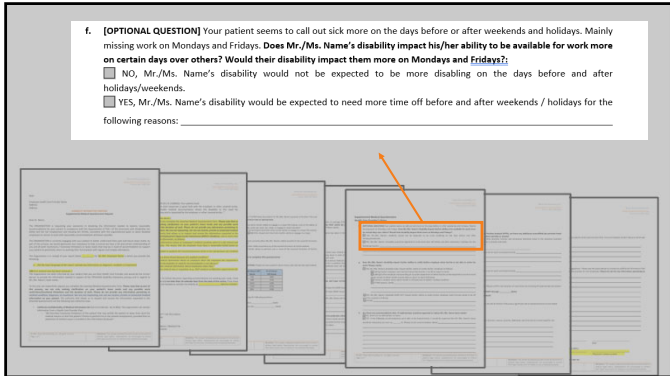


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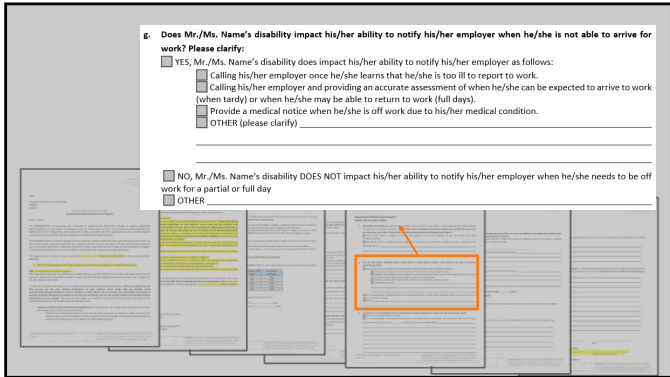


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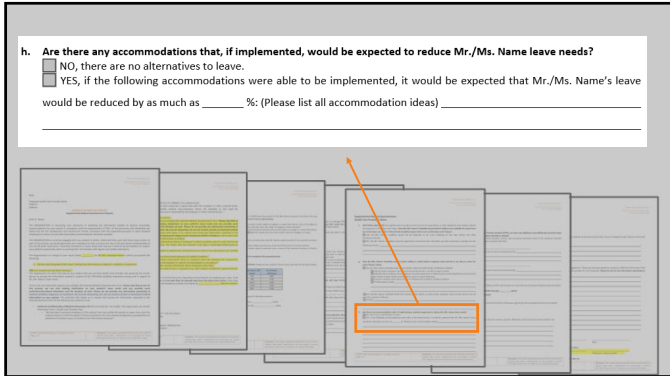
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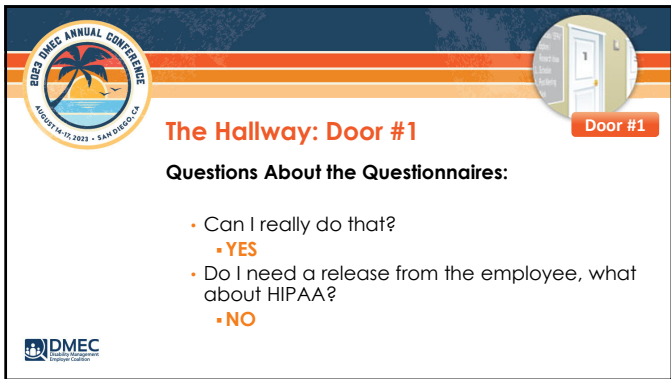
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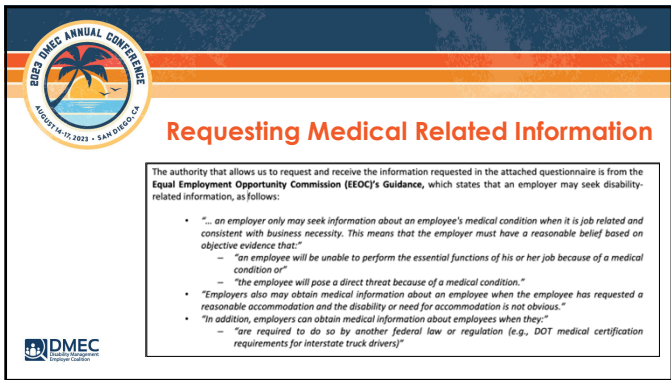
The Hallway: Door #1

Questions About the Questionnaires:

- Can I really do that?
 - YES
- Do I need a release from the employee, what about HIPAA?
 - NO

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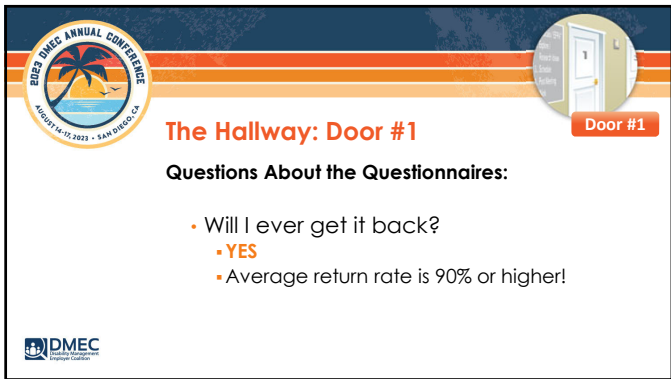
Requesting Medical Related Information

The authority that allows us to request and receive the information requested in the attached questionnaire is from the Equal Employment Opportunity Commission (EEOC)'s Guidance, which states that an employer may seek disability-related information, as follows:

- "... an employer only may seek information about an employee's medical condition when it is job related and consistent with business necessity. This means that the employer must have a reasonable belief based on objective evidence that:"
 - "an employee will be unable to perform the essential functions of his or her job because of a medical condition or"
 - "the employee will pose a direct threat because of a medical condition."
- "Employers also may obtain medical information about an employee when the employee has requested a reasonable accommodation and the disability or need for accommodation is not obvious."
- "In addition, employers can obtain medical information about employees when they:"
 - "are required to do so by another federal law or regulation [e.g., DOT medical certification requirements for interstate truck drivers]"

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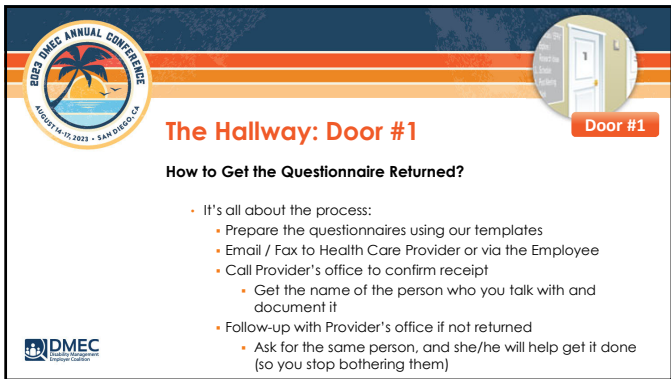
The Hallway: Door #1

Questions About the Questionnaires:

- Will I ever get it back?
 - YES
 - Average return rate is 90% or higher!

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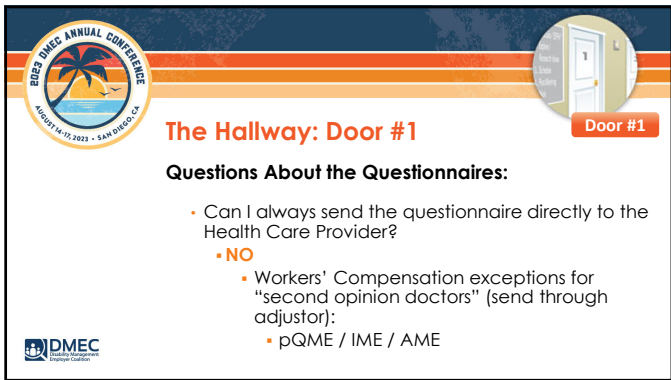
The Hallway: Door #1

How to Get the Questionnaire Returned?

- It's all about the process:
 - Prepare the questionnaires using our templates
 - Email / Fax to Health Care Provider or via the Employee
 - Call Provider's office to confirm receipt
 - Get the name of the person who you talk with and document it
 - Follow-up with Provider's office if not returned
 - Ask for the same person, and she/he will help get it done (so you stop bothering them)

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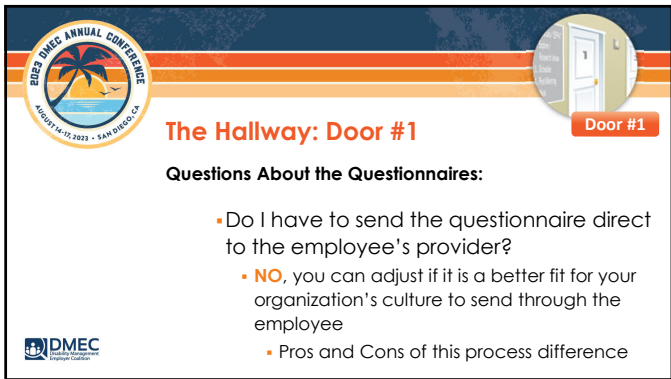
The Hallway: Door #1

Questions About the Questionnaires:

- Can I always send the questionnaire directly to the Health Care Provider?
 - NO**
 - Workers' Compensation exceptions for "second opinion doctors" (send through adjustor):
 - pQME / IME / AME

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Questions About the Questionnaires:

- Do I have to send the questionnaire direct to the employee's provider?
 - NO**, you can adjust if it is a better fit for your organization's culture to send through the employee
 - Pros and Cons of this process difference


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Disability Interactive Process Hallway

- Door #1** Gather Data: Obtain clear medical information on past and future leave expectations using a questionnaire
- Door #2** **Research Accommodations:** Call/email/discuss with employee and supervisor the leave needs and begin exploring accommodation ideas and/or preparing employee for possible outcome of Hallway
- Door #3** **Schedule Meeting & Prepare:** Schedule meeting and invite the right people to attend; confirm attendance in advance; prepare notes for meeting; meeting and make decisions (**Samples 10 – Meeting Invitation and 11 – Meeting Notes**)
- Door #4** **Do What You Said You Would Do:** After meeting, implement decisions; do what was said would be done




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The Goal of the Disability Interactive Process & Doing Door # 1 Well

- Be in Good Faith**
 - Make data-based decisions – not emotional ones
 - Find a YES if a YES exists...
 - ...and when a YES does not exist, your process will support understanding or even acceptance



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In Closing...

- Develop it:** Continue to revise and retool your comprehensive Disability Management program to ensure that you have the level of information needed to know you are making the right decisions.
- Staff it:** Have the RIGHT people in your organization knowledgeable enough to manage your program and willing to do the hard work to get the data needed to FIND a YES when a YES exists
- Consistently Apply it:** Be disciplined in consistently applying your program across your organization
- Document it:** Document everything and use your strategic documentation to increase understanding and acceptance



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