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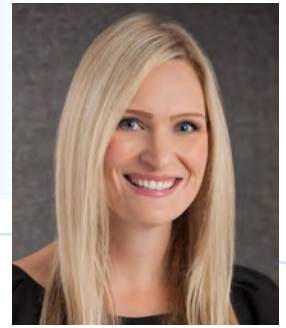
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Workplace Mental Health

Inside This Issue:

- Pharmacogenetics Provide IAM Innovations
- Refuting Psychological "Junk Science" in Court



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Psychological Disabilities, the ADA, and the Stressed-Out Worker: Part 1

Work is stressful, but how do you know if mental illness is at the root of your employee's stressful feelings, and what you can do about it? Do your employees need a reasonable accommodation or simply support to learn coping mechanisms to manage their life and work stressors?

Mental disabilities are legitimate and very real. You will have employees with mental illness who need the support of reasonable accommodations to fully and safely do their jobs. Other employees may be managing common life and work stressors and could greatly benefit from a referral to your employee assistance program (EAP). And unfortunately, some employees may claim a mental disability to ease a performance issue.

All three scenarios can be managed using the same key: a process that treats all employees the same to identify the right solution that will mitigate the impact on the work and work environment. So, how do you sort this all out?

Because almost all mental disabilities are covered under the Americans with Disabilities Act (ADA), your organization must engage in an interactive process with the employee to determine if reasonable accommodations are available that, if implemented, would help the employee fully and safely perform their job.

An employer is alerted to start a timely, good-faith interactive process in three ways:

- 1) Request for accommodation
- 2) Perception that an employee has a disability impacting their successful or safe performance of the job
- 3) Knowledge of the disability as evidenced by a healthcare provider note

Once alerted, I employ a process I describe as a hallway. It's a metaphorical hallway with four doors or key process steps, leading to a justifiable decision and best possible outcome for an employee who may or may not need workplace accommodations. Each door serves as a step along the path of ADA compliance:

Door 1: Medical documentation

Door 2: Exploration of accommodation ideas

Door 3: Scheduling and holding a reasonable accommodations meeting

Door 4: Closing the process properly

The process is essentially the same whether a physical or psychological disability is involved, but some variations occur, especially due to the rise of stress-related disabilities.

Employers need to know some basics when engaging with employees who trigger the ADA. First, be quick to refer the employee to your EAP. Second, know that psychological disabilities that

affect an employee's ability to work with a certain person or supervisor are typically not reasonable to accommodate (*Adams v. Alderson*, 723 F. Spp. 1531 [D.D.C. 1989]). Third, accept that these matters will always be complicated; patience will serve you well.

When alerted, get into the hallway and follow due process. You don't always know where the hallway will lead you, but a structured and consistently applied process will ensure you don't under-accommodate those in need or over-accommodate those who may be seeking to misuse ADA protections.

Start by talking with your employee. If the employee is asking for a workplace accommodation due to a disability, go to Door 1 and request more detailed information from a healthcare provider on the employee's psychological limitations at work. That data will then guide you down the hallway to consider accommodations (Door 2) and/or other appropriate next steps: an EAP referral, a leave of absence to support treatment, performance improvement support. When the steps are completed, or if they are not necessary, you may be ready to meet with the employee to develop and implement a reasonable accommodation (Doors 3 and 4).