

It's Mental Health Awareness Month: How Can Your Organization Promote Mental Wellness?

Labor & Employment Law Update

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The CDC reports that half of all Americans will experience mental illness at some point in their lives. According to the National Alliance on Mental Illness, 46.6 million adults in the U.S., roughly 1 in 5, experience some form of mental illness in a given year, and for 11.2 million Americans each year, roughly 1 in 25, the condition is sufficiently severe and substantially limits major life activities. Yet, despite the wide prevalence of these conditions, our society continues to stigmatize mental illness. As a result, conditions often go untreated leading to reduced employee engagement, lost productivity, increased absenteeism and turnover.

The ADA and the FMLA apply in equal measure to mental health issues and physical health issues. Mental health issues, however, are more difficult to spot and, because of stigma, employees are less likely to proactively seek assistance. To complicate matters, mental health conditions sometimes present as declining work performance or other behaviors which are easily misinterpreted as strictly disciplinary issues.

Although employers need not tolerate performance deficiencies and employee misconduct, courts have found that an employee's unusual behavior, in certain circumstances, can be sufficient to put the employer on notice of the need for FMLA leave or reasonable accommodation. Bottom line, there are no "magic words" necessary to trigger coverage under the FMLA or the ADA. *Anything* that puts an employer on notice of the existence of a disability, the need for an accommodation, or the need for leave can trigger obligations under the ADA and FMLA.

What can your organization do to combat stigma, promote employees' mental wellness and legally protect itself?

1. Specifically address mental health issues in your employee policies and training. Openly discussing these issues not only reinforces to your employees that they can and should seek help when they face mental health issues, but also reduces stigma more generally.

2. Train supervisors to recognize the signs of mental illness. Though they vary, signs can include significant changes in mood, personality, demeanor or behavior; rapidly declining work performance; inability to concentrate; increased absenteeism; and overwhelming fear, worry or sadness.
3. Embrace a holistic approach to employee wellness. Monitor and proactively manage employee workloads and job-related stress. Encourage healthy stress management such as physical exercise. Promote your Employee Assistance Program (EAP) by reminding employees of the confidential nature of the program, and encourage employees to use it. If you don't have an EAP, consider implementing one.
4. Finally, never make light of mental health issues and do not tolerate remarks that disparage mental illness. Off handed remarks like "crazy," "psycho," or "nut job" may seem innocuous to some, but can be highly offensive and even damaging to an individual dealing with mental illness. The anti-discrimination provisions of the ADA, like Title VII, have been interpreted to prohibit harassment on the basis of disability. Off handed remarks can aggravate the situation even if the speaker did not intend harm.

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