

WHAT EMPLOYERS / EMPLOYEES NEED TO KNOW

> Working with Diabetes

by Aaron J. Fischer, Esq.

Do laws banning disability discrimination apply to workers with diabetes? What does the smart business need to know when it comes to hiring and managing employees with diabetes?

Almost all of us have a personal connection to at least one of the 26 million Americans with diabetes. Despite the challenges of the disease, diabetes should not keep anyone from achieving his or her goals. People with diabetes have succeeded in nearly every profession, among them Chicago Bears quarterback Jay Cutler, news anchor Chris Matthews, and Supreme Court Justice Sonia Sotomayor.

A smart business will ensure that employees with diabetes have an equal opportunity to work and can take care of their health. Doing so ensures a safe and productive workplace, helps a business hire and retain the most qualified employees, and – importantly – is required by law.

First, Diabetes 101 – Diabetes is a disease in which blood glucose levels are higher than normal. Most of

the food we eat is turned into glucose, or sugar, for our bodies to use for energy. The hormone insulin helps glucose get to our bodies' cells. For a person with diabetes, the body either does not make enough insulin (Type 1) or cannot use its own insulin effectively (Type 2). This causes sugar to build up in the blood, and can over time cause serious health complications, including heart disease, blindness, kidney failure, and nerve problems.

Thanks to medical science, diabetes can be managed and the risk of complica-

tions greatly reduced. People with diabetes often require a personalized schedule for eating, taking insulin or oral medications, testing blood sugar, and exercising to help keep blood glucose levels normal.

Second, Disability Law 101 – The federal Americans with Disabilities Act and California's Fair Employment and Housing Act prohibit discrimination based on an employee's disability, including diabetes. Too many employers have faced costly litigation for refusing to hire qualified applicants solely because they have diabetes or use insulin. Such "blanket bans" are almost always illegal.

The law requires employers to provide "reasonable accommodations" to employees with diabetes. A reasonable accommodation is a modification to the work environment or the ways a job should be performed to allow a disabled employee to have the same opportunities as other employees. The law requires employers to work with the employee to figure out what accommodations can be provided.

In my experience, an employee with diabetes can often succeed with simple accommodations that cost employers little or nothing at all, such as:

- A place to keep diabetes supplies at or near the employee's work area.
- Breaks to eat, check blood glucose, take insulin, or recover from a high or low blood sugar episode.
- A container for safe disposal of insulin injection needles.
- Medical leave if necessary for the employee to take care of his or her diabetes or diabetes complications.

Once a reasonable accommodation is agreed on, it's important for the right people to know about it. I recently represented a cashier with diabetes who, despite being a model employee, was fired for purchasing a small sugary snack at her cashier station to treat a low blood sugar. Some supervisors knew she needed an accommodation, but other supervisors did not "get the memo." The case resulted in a federal administrative complaint and a monetary settlement. This unfortunate story could have been avoided if the business informed all supervisors about the employee's situation and right to accommodations.

People with diabetes can be as successful as anyone at their jobs, and it's in everyone's interest to make sure they have a fair shot. ■

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