

Employers face rising mental health accommodation requests under ADA

■ CAURIE PUTNAM

According to the National Alliance on Mental Illness' 2025 Workplace Mental Health Poll, with one in four employees considering leaving a job because of mental health concerns, employers face growing pressure to create workplaces that are both supportive and legally compliant.

"Requests for mental health-related accommodations are on the rise," said Jim O'Connor, a partner and member of the Labor and Employment team at the law firm Phillips Lytle. "There is an increase in employer awareness of mental health, and many employers are taking proactive steps to encourage employees to take care of their mental health and to communicate about their potential needs for accommodations."

To create a workplace culture that is both supportive and legally compliant when it comes to employee mental health, O'Connor says it starts with good management and proper training.

"Showing an interest in your employees' physical and mental wellness is important, but employers should work closely



James O'Connor

with counsel to avoid unintentional violations of anti-discrimination and privacy laws," he said.

When an employee discloses a mental health condition, employers may also have obligations under the Americans with Disabilities Act (ADA), the federal law that prohibits disability discrimination in the workplace and requires reasonable accommodations for qualifying employees.

O'Connor noted that not every employee with a mental health condition will need an accommodation. However, employers are generally required to engage in the ADA's "interactive process" when it is reasonable to believe an accommodation may be needed.

"The interactive process is an ongoing, good-faith conversation between an employer and an employee to identify reasonable workplace accommodations that would allow the employee to perform the essential

functions of their job," he said. "It is intended to be a collaborative effort."

O'Connor emphasized that employees are not required to specifically mention the ADA or formally request a "reasonable accommodation" to trigger that process. Comments that may appear casual or indirect can still carry legal significance.

"If an employee says, for example, 'I'm having trouble getting to work on time because of the medication I'm taking,' this could very well trigger the interactive process under the ADA," he said. "Managers often miss or dismiss such comments."

He added that mental health disabilities can sometimes be more difficult for employers to recognize because they are not always outwardly apparent. Still, employers are expected to evaluate mental health-related accommodation requests the same way they would any other disability-related request.

O'Connor also noted that temporary unpaid leave can, in some situations, qualify as a reasonable accommodation for an employee experiencing

mental health challenges, provided it does not create an undue hardship for the employer. Because those determinations can be complex, he recommends employers consult legal counsel before making decisions related to accommodations or potential hardship exemptions.



Jennifer A. Shoemaker

Jennifer A. Shoemaker, a partner at the law firm Underberg & Kessler whose practice areas include labor and employment law, family law and litigation, said employers need to understand that mental health conditions can qualify as disabilities under the ADA and trigger legal obligations related to accommodations and workplace protections.

“Under the Americans with Disabilities Act, employers with 15 or more employees have an obligation to make reasonable accommodations for employees who have qualifying disabilities, including mental health disabilities,” Shoemaker said. “This means that employers must engage in an interactive process with the employee about limitations caused by the condition and possible accommodations that would allow the employee to perform their essential job duties.”

Possible accommodations

may include modified schedules, remote work arrangements, or allowing employees time away for medical appointments, she said, noting that employers must also carefully protect employee privacy when handling mental health-related disclosures and accommodation requests.

“Employers must maintain confidentiality and keep employee medical information separate from ordinary personnel files,” she said. “Typically, employers may only share necessary work restrictions or accommodations, but not the diagnosis itself.”

At the same time, employers must avoid discriminatory treatment toward employees who disclose mental health conditions. Shoemaker said employers cannot demote, discipline, terminate, refuse to hire or promote, harass, or retaliate against employees because of a disability. She added that New York state law often provides even broader protections than federal law in this area.

Like O’Connor, Shoemaker said one of the most common mistakes employers make is failing to recognize when an employee’s comments may constitute a request for accommodation, even if the employee never specifically references the ADA.

“Informal statements can trigger employer obligations, so

employers must be careful not to ignore or dismiss comments that could reasonably be understood as a request for help related to a mental health condition,” she said. “Statements such as ‘my depression is affecting my attendance’ may be enough to place the employer on notice of a need for accommodation.”

Shoemaker added that employers can also create legal risk by requesting excessive medical information or making changes to an employee’s job duties or conditions shortly after a mental health disclosure.

“Medical leave itself can be a reasonable accommodation if the employee is expected to return and perform the essential functions of their job upon return,” she said.

To create workplaces that are both supportive and compliant, Shoemaker recommends employers maintain clear written policies addressing disability accommodations, leave procedures, anti-discrimination and anti-retaliation protections, confidentiality obligations, and reporting procedures for workplace concerns.

“Supervisors and managers should also receive training on recognizing potential accommodation requests, maintaining appropriate confidentiality, and responding to such requests in a lawful and consistent manner,” she added.