

New Mental Disorders Mean ADA Headaches For Employers

News

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Irvine Managing Partner James McDonald was quoted in two separate articles about the latest version of the official manual used to diagnose mental disorders. The long-awaited revised American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders was recently released and it could result in more people being classified as having conditions such as post-traumatic stress disorder and social communication disorder. For employers this could lead to demands for "reasonable accommodation" and potential lawsuits. In the article "[Discrimination Suits For Disabilities Could Rise With New List Of Psychiatric Disorders](#)" in the May 19 edition of *The Washington Times*, Jim said: "It's going to result in more employees going to their employers and saying 'I have this diagnosis from my doctor and I need reasonable accommodation.' It's one thing to say 'I need an adjusted work schedule because I take medication,' another to say 'I can't communicate effectively with my co-workers' or 'I have neurocognitive disorders and can't remember things.' Those are going to pose challenges to employers."

In the article "[New Mental Disorders Mean ADA Headaches For Employers](#)" on *Employment Law360*, Jim noted that one new diagnosis that could prove troublesome when it comes to ADA compliance is mild neurocognitive disorder — described as a modest decline in learning or memory. He said that under the law, employers don't have a duty to accommodate the cognitive effects of aging in older workers, but an older worker might present a diagnosis of mild neurocognitive disorder as an excuse for forgetfulness or difficulty learning new tasks, which could trigger accommodation obligations under the ADA. The disorder could also be invoked to account for lapses in work performance and this underscores the importance of laying out all a position's essential tasks in its job description. If a worker can't perform essential tasks even with the help of reasonable accommodations under the ADA, the employer can let the worker go.

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James J. McDonald, Jr.

Partner

949.851.2424

Email