



Legal Issues Affect Hiring, Health Costs

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As health-care costs continue to rise, growing numbers of employers are focusing on hiring healthy employees. The two primary indicators that an applicant may contribute to an increase in health-care costs are obesity and smoking. But careful consideration of the law is important in minimizing the risk that such hiring practices will result in federal or state claims against employers or their health-care plans.

Deciding not to hire an individual based on weight presents minimal risk under the Americans with Disabilities Act and state laws that have similar definitions of disability. And although the ADA permits an employer to ask whether an applicant smokes, North and South Carolina prohibit employment discrimination against individuals who use tobacco products. That illustrates the impact of state law on health-related practices. Not all states' statutes are identical to the ADA's definition of disability. That raises your potential liability if you reject an applicant based on weight or tobacco use in those states.

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