

Expanding the Universe of the Disabled

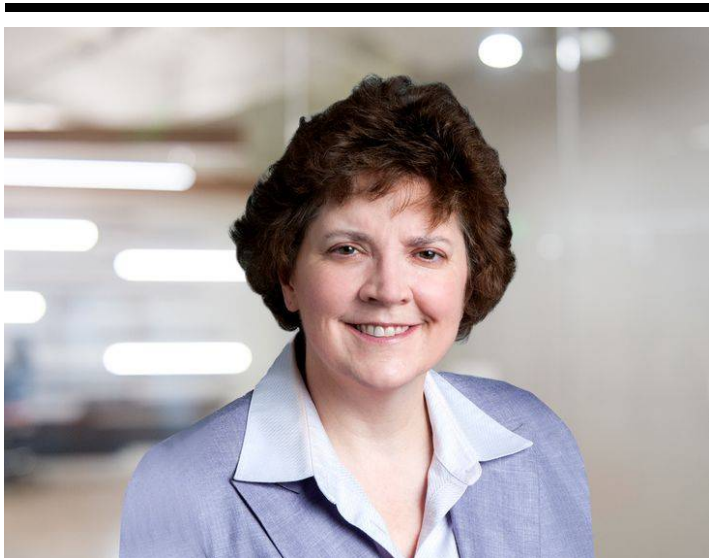
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Hospitals probably can expect to see more requests for accommodation from employees and potentially will have to provide more accommodations starting on January 1, 2009. On that day the amendments to the Americans With Disabilities Act ("ADA") become effective. While the amendments change a hospital's obligation with respect to reasonable accommodation in only one respect, there are significant changes to the definition of disability indicating that a far broader spectrum of impairments will constitute disabilities. Consequently, when faced with accommodation requests, hospitals need to analyze the impairment in a different manner. In sum, more employees will be able to establish that they are disabled under the new law. Furthermore, although hospitals may not take mitigating measures into account when determining whether or not an employee is disabled, the mitigating measures most likely will be relevant in the analysis of whether or not the employee actually needs an accommodation. For example, an employee with a hearing impairment who wears a hearing aid that allows the employee to hear perfectly well, hardly needs a sign language interpreter for a mandatory training. Ultimately, because of those aspects of the new law that require speculation as to the individual's impairment, hospitals will need to work more closely with the employee's physician in making a determination of whether or not the individual is disabled.

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