



# WORKSITE WELLNESS AND THE AMERICANS WITH DISABILITIES ACT

## REASONABLE ACCOMMODATION

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**M**INNESOTA employers who establish worksite wellness programs must comply with certain legal requirements. Important legal issues to consider are: the HIPAA nondiscrimination regulations, the HIPAA Privacy Rule, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), the Minnesota Consumable Products Act, federal and state nursing mothers laws and federal income tax law. Please refer to the corresponding fact sheet for a description of each legal requirement. This fact sheet provides an overview of the ADA's requirement that persons with disabilities be provided reasonable accommodations as it applies to worksite wellness programs. When setting up a worksite wellness program, it is important to consult with an attorney to make sure that the program meets all legal requirements.

### **Q** How does the ADA apply to worksite wellness programs?

**A** The ADA applies to worksite wellness programs in two ways:

- » An employer may not discriminate on the basis of disability in employment.
- » The ADA restricts requests for medical information. That issue is addressed in a separate fact sheet, *Worksite Wellness and the Americans with Disabilities Act Medical Information*.

*“If an employee with a disability requests a reasonable accommodation, the employer must provide the accommodation unless it would cause the employer undue hardship.”*

### **Q** What does the ADA do?

**A** The ADA prohibits employers with 15 or more employees from discriminating against applicants and employees on the basis of disability.<sup>1</sup>

### **Q** Who is an individual with a disability?

**A** An individual with a disability has a physical or mental impairment that substantially limits one or more major life activities. Examples of major life activities include caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.<sup>2</sup>

### **Q** What types of impairments are considered disabilities under the ADA?

**A** The following are examples of impairments that are considered disabilities under the ADA if they substantially limit a major life activity:

- » Deafness, blindness or use of wheelchair
- » Physical impairments such as epilepsy, diabetes, HIV infection or severe forms of arthritis
- » Mental illness such as major depression or bipolar (manic-depressive) disorder
- » Developmental impairments such as intellectual impairment or autism spectrum disorder
- » Severe obesity including related physical disorders, such as hypertension or a thyroid disorder.

**Q** What must a worksite wellness program do to avoid discriminating against persons with disabilities?

**A** If an employee with a disability requests a reasonable accommodation, the employer must provide the accommodation unless it would cause the employer undue hardship. “Reasonable accommodation” means a modification or adjustment that allows the employee to perform the job or enjoy equal benefits or privileges of employment as other employees. “Undue hardship” means significant difficulty or expense.

**Example:** An employer offers a reward to employees who climb the stairs instead of taking the elevator. An employee who uses a wheelchair asks to substitute a different activity to earn the reward. The employer must provide a reasonable accommodation, such as



a different exercise program, unless the employer can show that providing an accommodation would cause undue hardship.

**Q** Are there any Minnesota laws that prohibit discrimination on the basis of disability?

**A** The Minnesota Human Rights Act<sup>4</sup> also prohibits discrimination on the basis of disability. It is similar to the ADA but provides the following additional protections to persons with disabilities:

- » It applies to employers with one or more employees
- » It covers more conditions as disabilities.<sup>5</sup>

**Q** What issues should I discuss with my attorney?

**A**

- » What do I have to do if an employee requests a reasonable accommodation for a disability?
- » How do I determine what reasonable accommodation to provide?
- » If I cannot provide a reasonable accommodation, how do I demonstrate undue hardship?



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1 42 U.S.C. §§ 12111-12117; 29 C.F.R. § 1630.

2 U.S. Equal Employment Opportunity Commission, Executive Summary: Compliance Manual Section 902, Definition of the Term “Disability,” available at <http://www.eeoc.gov/policy/docs/902sum.html> (last visited Nov. 11, 2010).

3 42 U.S.C. §§ 12111-12117; 29 C.F.R. § 1630.

4 MINN. STAT. § 363A.08.

5 Minnesota Department of Human Rights, *The ADA vs. the Minnesota Human Rights Act*, available at [http://www.humanrights.state.mn.us/education/articles/rs06\\_4ada\\_mhra.html](http://www.humanrights.state.mn.us/education/articles/rs06_4ada_mhra.html) (last visited Nov. 16, 2010)