



## How Will ADA Affect Your Risk Management Program?

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**E**ffective July 26 of this year, all companies with more than 25 employees must comply with the provisions of the Americans with Disabilities Act (ADA). The full impact of this mandate on an organization's risk management philosophy is yet to be determined. It seems clear, however, that full compliance can only complement your risk management programs.

This optimism is founded in four factors associated with compliance. First, it behooves an organization to have detailed job descriptions for all positions within the organization. Detailed job descriptions are vital to defend against any alleged disability discrimination actions. If the description is truthful in design and nature and dictates certain individual characteristics that are necessary to perform the function safely, this will become the first line of defense in any discrimination problem.

To develop job descriptions, each position will have to be completely reviewed and documented. Through this review process, certain ergonomic and operational changes should become self-evident. In addition, for many in the organization, this review process will become the first and only time someone actually reviews the employee's responsibilities in detail. If an employee sustains an injury, these job descriptions can be provided to rehabilitation nurses and treating physicians to aid in the development of a prompt return-to-work plan. When an employee sustains an injury, a job description can also help determine (in some cases immediately) the likelihood of return to the position.

### Better Applicant Screening

The second positive effect of ADA is the anticipated improvement within the organization in screening appli-

cants. We have seen many organizations with poor work product issues that would never have materialized had more attention been paid to the screening process, accountability for performance within the human resources department will be greater than ever.

One tool that has proven extremely helpful in reducing losses, while complying with all Equal Employment Opportunities (EEO) requirements

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with ADA is personality testing. Individualized risk control profiles that reveal an individual's propensity to become involved in accidents, injury malingering, substance abuse, theft, and so on have been available for years. Perhaps now, as organizations must improve screening capabilities, these highly useful tools will become more commonplace. Clearly, knowing something about an individual's personality before hiring should assist the company greatly in the proper placement of that individual within the organization.

The third positive factor lies with ADA's requirement that the employer

make reasonable accommodations to permit the disabled to perform necessary tasks. Any time the job can be modified to accommodate an individual employee and permit the individual to work within his or her comfort zone, the risk of injury is minimized. Although ADA does not mandate that employers make reasonable accommodations for *all* employees, it is quite obvious how beneficial this process would be to non-disabled and non-restricted employees. Historically, any time positive adjustments are made to an employee's work environment, not only do accidents diminish, but increased production, improved quality, and greater job satisfaction occur.

### The Right to Ensure Safety

The fourth significant concept contained within ADA is the employer's right to refuse employment to those persons who present a serious safety hazard to themselves or others. Simply stated, if an applicant cannot perform the task safely, and presents an increased hazard to self or co-workers, you have the right not to hire that person. Before ADA, for some reason employers were reluctant to exercise that right. Perhaps now they will pursue that option with greater vigor.

Any time an organization is forced to examine itself—and, more than likely, change—the result is beneficial. The real challenge of ADA will lie not in your risk management program but in how the insurance industry will respond to the positive adjustments made within your organization.

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