

2015

Anti-Discrimination in the Workplace: The Intersection of Mental Health and the Americans with Disabilities Act

Maureen L. Mackenzie Ph.D.
Molloy College, mmackenzie@molloy.edu

Megan M. Mackenzie JD
mmackenzie1@molloy.edu

Follow this and additional works at: https://digitalcommons.molloy.edu/bus_fac
DigitalCommons@Molloy Feedback

Recommended Citation

Mackenzie, Maureen L. Ph.D. and Mackenzie, Megan M. JD, "Anti-Discrimination in the Workplace: The Intersection of Mental Health and the Americans with Disabilities Act" (2015). *Faculty Works: Business*. 16.
https://digitalcommons.molloy.edu/bus_fac/16

This Conference Presentation is brought to you for free and open access by DigitalCommons@Molloy. It has been accepted for inclusion in Faculty Works: Business by an authorized administrator of DigitalCommons@Molloy. For more information, please contact tochter@molloy.edu, thasin@molloy.edu.

ANTI-DISCRIMINATION IN THE WORKPLACE:

THE INTERSECTION OF MENTAL HEALTH AND THE AMERICANS WITH DISABILITIES ACT

Megan. M. Mackenzie, JD.

Maureen L. Mackenzie, Ph.D.

2015 Northeast Business & Economics Association
York College, City University of New York
November 6, 2015

Deinstitutionalization

“We can say with some assurance that, although children may be the victims of fate, they will not be the victims of our neglect.”

- John F. Kennedy 1963 -

“In short, a State cannot constitutionally confine, without more, a non-dangerous individual who is capable of surviving safely in freedom by himself or with the help of willing and responsible family members or friends.”

-O'Connor v. Donaldson 1975-

Advocacy For Legislation





Americans with Disabilities Act



مهروا... لنا الطريق

“Disability” (ADA):

- (1) a physical or mental impairment that substantially limits one or more major life activities of such individual;
- (2) a record of such an impairment;
- or (3) being regarded as having such an impairment.

Americans with Disabilities Act



“Major life activity” means...

... caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Americans with Disabilities Act

- Episodic impairment = disability:
'substantially limit a major life activity.'



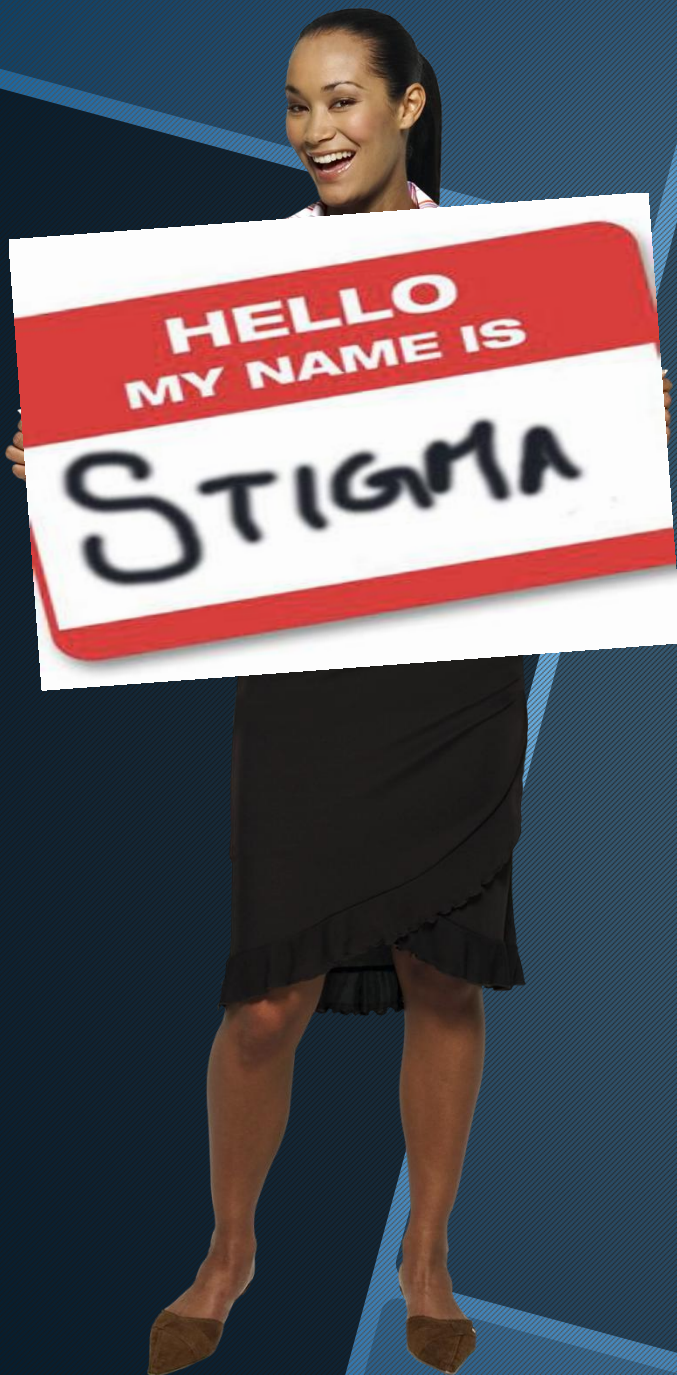
AMERICANS LIVING WITH A SERIOUS MENTAL ILLNESS

14
MILLION

ONE
IN
17



Mental Illness In The Workplace



not every disability
is visible

Intersection with the ADA

- An employer cannot discriminate against persons with a qualified disability at any time during the employment process.
- The employer is required to make reasonable accommodations that will allow the affected employee to perform the main functions of the job.
- A mental impairment is defined as any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- An individual with a mental impairment must also be considered a qualified individual who is substantially limited in at least one major life activity.

Intersection with the ADA

- A “qualified individual” is someone who “with or without reasonable accommodation, can perform the essential function of the employment position that such individual holds or desires.”
- Once an individual is deemed qualified and disabled, an employer must make a reasonable accommodation barring an undue hardship.
- Employers are only required to create an accommodation for individuals who make their disabilities known, and in most cases, specifically request the accommodation that is necessary.

DISCUSSION

- Behavior issue or symptom of a mental disorder?
- Is getting along with co-workers an essential function of any job?
- Is regular and punctual attendance an essential function?
- What do the courts say?
- Assessing what appropriate and effective accommodation can be established.

Questions to Consider:

1. What limitations is the employee with a mental health impairment experiencing?
2. How do these limitations affect the employee and the employee's job performance?
3. What specific job tasks are problematic as a result of these limitations?
4. What accommodations are available to reduce or eliminate these problems? Are all possible resources being used to determine possible accommodations?
5. Has the employee with a mental health impairment been consulted regarding possible accommodations?
6. Once accommodations are in place, would it be useful to meet with the employee with a mental health impairment to evaluate the effectiveness of the accommodations and to determine whether additional accommodations are needed?
7. Do supervisory personnel and employees need training regarding mental health impairments?

Conclusion

