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3 Americans With Disabilities Act Myths

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Although the Americans with Disabilities Act ("ADA") was enacted in 1990, employers and employees still hold certain misconceptions about the law and its requirements. Here are three common myths surrounding the ADA:

MYTH #1 - The company can condition an employee's return to work on the employee providing a "full medical release" without restrictions.

REALITY: The company can require a medical release before an employee can return from a medical leave. But, it cannot demand that the release be "restriction free." Rather, if the employee presents restrictions with the release, the company must determine if it is able to provide a reasonable accommodation to the employee to enable the employee to perform the job's "essential functions."

MYTH #2 - If an employee's disability is controlled by medication(s), the employee is not disabled.

REALITY: The amendments to the ADA make clear that an employer cannot take into account the mitigating effects of medication or equipment on the employee's medical condition in assessing whether the employee has a disability. The employee can still be considered disabled even if the medication or device adequately controls the employee's symptoms.

MYTH #3 - A company can enforce a leave of absence policy that provides an employee will be terminated if unable to return from a medical leave after a specific number of weeks or months.

REALITY: Although a "leave of absence" can be a reasonable accommodation, the *Equal Employment Opportunity Commission* ("EEOC") takes the position that an employer cannot "automatically" terminate an employee if the employee is unable to return to work after a specific period of time (e.g. 6 months or a year). Rather, the EEOC views such "blanket" policies as violating the ADA's requirement that the employer treat each accommodation situation on an individual basis. Instead, the employer would have to establish that no other reasonable accommodation exists before terminating the employee.

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