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Persons with Mental Illness and the Americans With Disabilities Act: Implications for the Social Work Profession

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ABSTRACT. Although persons who are diagnosed with a mental illness are potentially protected from employment discrimination by the Americans With Disabilities Act (ADA) of 1990, a rather perplexing set of questions arises when attempting to delineate exactly which such workers are accorded protection against discrimination. This article considers the status of persons with mental illness within the context of the ADA, drawing heavily from court cases that have involved such individuals.

KEYWORDS. Employment discrimination, disabilities, mental illness

When the Americans With Disabilities Act (ADA) was passed in 1990, one of the central concerns of legislators was defining who would be included under its auspices as a "disabled person." Many of those who originally perceived the policy as helping wheelchair users and persons with sensory impairments were frequently uncomfortable with the extent to which they were forced to expand their image of a disabled person, especially when it came to including persons with HIV and other highly

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stigmatized and misunderstood conditions. Some of the most acrimonious discussion in this regard surrounded persons with mental illness. This was due to several circumstances, including; (a) the lack of awareness that many persons have of mental illness, (b) concerns surrounding the social construction of many forms of psychiatric disorders, and thus the potential for some persons to exploit the policy by feigning a mental illness, and (c) unfounded fears related to the perceived harm that such persons are thought to pose.

For the most part, psychiatric conditions are much more heavily stigmatized than physical disabilities (Marti & Blanck, 2000). Especially in the work place, employers may be afraid that an employee who displays certain symptoms of mental illness may adversely affect the morale of the business, will "crumble" under the stress of the job, become an unproductive worker, or even pose a physical threat to others (Mechanic, 1998; Pardeck, 1999). The "invisible" nature of most mental illnesses also lends itself to the widespread misunderstanding of these diagnoses. Others are less likely to empathize with those having such conditions as easily as they might with a person having a visible disability, and they may even question whether the person is simply "emotionally weak" or using the condition as an excuse. Additionally, while employers can readily think of potential accommodations for most physical impairments, it is more difficult to envision or develop accommodations for mental illness.

The fact that many forms of mental illness are, to a degree, at least, socially constructed, also plays into employers' concerns. These concerns are summed up well by Zuriff (1996), who notes that some diagnoses that are included within the *Diagnostic and Statistical Manual of Mental Disorders* (American Psychiatric Association, 2000), particularly the various personality disorders, grade over at some rather arbitrary point into simply being discomfiting, threatening, or overly eccentric behaviors. As Zuriff notes, "[t]he irony here is that an employee who is simply a nuisance and doing a moderately poor job can be fired while another employee who is a major problem for the company (i.e., showing the requisite dysfunctional qualities to an 'excessive' degree) must be legally protected and even given special accommodation" (p. 99). It should be noted, though, that Zuriff's contention here is predicated on the person's ability to adequately perform the essential functions of the job given the proper accommodations. How will co-workers, he continues, accept "sensitivity-training sessions that encourage them to tolerate, and even empathize with, a co-worker who is rude or lacks self-control," if those behaviors are characteristics of a mental illness diagnosis (p. 97)?

On the other side of the issue, proponents of ADA coverage for persons with mental illness argue that the etiology of most psychiatric conditions is medical rather than a matter of social construction. This is evidenced, for example, by the efficacy of drug treatment for such conditions. As alluded to earlier, the stigma and false presumptions that relate to mental illness also necessitate a proactive approach to supporting the occupational and educational opportunities of persons with such conditions. This is especially true because the unemployment rate of persons with mental illness is very high (Dalgin & Gilbride, 2003). According to Akabas and Gates (2000), most counseling professionals who work with this population fail to discuss occupation issues in any depth, based on the assumption that persons with longstanding mental illness will not be capable of attaining a paid job. This is especially troubling, they note, because work activity is, for many persons, conducive to increased mental health. As Campbell (1994) added, supporting the employment of persons with mental illness also may move them from being beneficiaries of public support, such as Supplemental Security Income, to being tax-paying citizens.

ANALYSIS OF ADA ISSUES RELATED TO EMPLOYEES WITH MENTAL ILLNESS

The following section considers important aspects of the Americans with Disabilities Act as they pertain to the employment of persons with mental illness. In general these elements follow a chronological sequence in regard to the issues considered by the Equal Employment Opportunity Commission (EEOC) and the justice system relative to the merits of an ADA claim. This decision tree was detailed in O'Brien and Ellegood (2005).

The Disability Status of Persons with Mental Illness

Simply being diagnosed with a mental disability does not guarantee a person coverage under the ADA. An individual is only covered by the Act if it is found that his or her disability presents a substantial limitation of a major life activity. According to the ADA, major life activities include "caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working" (cited in Parry, 1993, p. 60). In *Humphrey vs. Memorial Hospital Association* (2001), for example, the court found that the former employee, a transcriptionist with obsessive

compulsive disorder, was substantially limited in the major life activities of dressing and washing herself, because she took significantly longer than the average person to complete these tasks, causing her to be late for work.

Evaluation of whether a disability substantially limits a major life activity requires consideration of the expected duration and severity of the impairment, along with its implications (Gostin & Beyer, 1993). The EEOC is aware that the list of major life activities is quite large, which makes it fairly easy for claimants to contend that their disability limits them in a number of activities, although many such contentions are unsupported by judges (Mechanic, 1998). It is also important to note that the line between those behaviors that substantially limit the person and those that are simply uncomfortable or create an inconvenience is quite vague, and frequently a principal source of contention.

Another important issue related to mental illness is whether a person is covered even if medication "corrects" the condition so that the adverse impact on a major life activity is no longer an issue. In other words, if a person who is clinically depressed has trouble sleeping or eating, but the use of antidepressant medication improves functioning in these areas, is the person still "disabled" according to the ADA? The Supreme Court considered this issue in a trio of related legal cases considered together in 1999, called the *Sutton* trilogy, after one of the cases. Here the court decided that accommodations such as medications and eyeglasses could remove otherwise qualified persons from protection under the ADA, if they, by employing such accommodations, were no longer limited in an area of life functioning (Blanck, 2007; Mezey, 2005; O'Brien & Brown, 2008; Petrila & Brink, 2001). These cases were part of a much larger trend during the 1990s whereby the state and federal courts frequently sided with employers in disability cases, severely limiting the scope of the ADA.

The ADA recognizes most disorders in the *Diagnostic and Statistical Manual of Mental Disorders* as mental impairments that could potentially interfere with an individual's work performance. The ADA expanded the criterion that was originally laid out by the Rehabilitation Act of 1973 to include coverage for individuals substantially limited by a physical or mental impairment, individuals regarded as having an impairment, and those who have a record of such an impairment (Mechanic, 1998; Wasserbauer, 1997). This includes individuals "with a history of an illness, those who have been considered (possibly erroneously) to have had an illness, or those who have been treated as if they had a disabling illness" (Wasserbauer, 1997, p.23).

The “regarded as disabled” prong of the ADA definition relates to persons with mental illness if specific characteristics of their condition are observable, but they have not disclosed the condition to their employer. As will be further discussed, however, if they are subject to adverse actions because of their behaviors rather than a known disability diagnosis, they will likely have trouble substantiating their claim. The “record of a disability” primarily pertains to medical record-keeping and the need for confidentiality related to patient information, especially in regard to medical files. According to the ADA, worker medical files are to be provided a higher degree of privacy than other personnel information, and should only be available to those in the organization who have a need to know the content of such files, which normally will not include one’s superiors.

Employer Knowledge of Disability

As with many other disability conditions such as certain seizure disorders, diabetes, heart disease, and some types of orthopedic impairments, mental illness, especially in its milder forms, is often characterized as an “invisible” disability. Although the condition may have a substantive physiological and/or emotional impact on the individual, she or he can generally pass within most social settings as non-disabled. This poses a number of difficult questions for such individuals in regard to obtaining and holding a job, especially because persons with a disability are not required to disclose their disability unless it would prevent them from adequately performing essential components of the job.

Most importantly, persons with a mental illness whose conditions are not easily observable may experience a high degree of stress attempting to decide whether or not to disclose their condition to a potential or current employer, which may exacerbate their condition. On the one hand, the high degree of stigma that is attached to mental illness may lead many persons with such a label to believe that their situation will be misunderstood by others, or that employers will have an overly pessimistic view of the impact of the disability on the person’s ability to do the job, thus precluding disclosure. As Dalgin and Gilbride (2003) write, some applicants fear disclosure would result in closer observation from employers, “isolation from coworkers; termination; not being hired at all; lack of opportunity for advancement; and a need to work harder than others to prove one’s worth” (p. 308). Applicant apprehension regarding disclosure is especially significant, Mechanic (1998) notes, in those cases where the individual

needs to share his or her disability status in order to receive accommodations. Here it is often recommended that the employee disclose the condition only after a preliminary offer of employment has been made. Many persons who, as a result of their mental illness, display characteristics that may be discomfiting to others will often decide to disclose in order to provide an explanation for these behaviors. In either case the choice to disclose is a gamble.

Importantly, if the employee or applicant has not disclosed the disability to the employer, the former will generally not be covered under the ADA (the exceptions are cases where the "regarded as disabled" or "record of disability" prong of the definition applies). According to O'Brien and Ellegood (2005), persons with mental illness who are subject to adverse action because of what are viewed by others to be disconcerting or eccentric behaviors are not likely to be covered under the ADA, unless they can provide evidence that the employer or supervisor knew that the behaviors were likely to be indicators of an underlying mental illness. One might assume, therefore, that social service professionals, especially those with a clinical background, might be held to a higher degree of circumspection than other employers in regard to this. In other words, professionals who have the expertise to diagnose mental illness would presumably be more aware of what characteristics are indicators of such conditions, and therefore would be more capable of identifying mental illness in their employees, which thus could be construed as regarding the employee as a disabled person, whether disclosure has occurred or not. Even in these cases, however, claimants will normally have difficulty proving that they were regarded as disabled unless they can point to specific communications from superiors that support such a contention.

Employee as "Otherwise Qualified"

In order to qualify for ADA protection, an employer must be otherwise qualified for the job in question. At its most basic level, this relates to the necessity of having the requisite qualifications for the job. For example, a social worker without LCSW status would not be an appropriate applicant for a position that required such a credential, regardless of the person's disability status. The most important and confusing element within this component of the ADA is the nature of essential job functions, and how one is to accurately measure the applicant or employee's ability to adequately fulfill them (O'Brien & Leneave, 2008).

Essential job functions are set out as those aspects of a particular job that are most important for the person to be able to adequately engage in, either with or without supporting accommodations. Employers are to delineate which tasks are essential and which are tangential to particular jobs, and they may only discriminate against persons with disabilities if they cannot perform the former tasks. Although those tasks that are delineated as “essential” are normally the tasks that are most frequently undertaken, less frequent tasks may fall under the definition. This especially applies to elements of the job that pertain to health or safety. In the *Emerson v. Northern States Power Co.* (2001) case, for example, an employee with mental problems related to a head injury was discharged for her inability to adequately handle phone calls that related to safety concerns, even though there were few such calls. The court noted that the employees’ difficulties responding to incoming calls might be reasonably accommodated if she was not required to take calls that pertained to safety concerns.

Which job functions qualify as essential depends in large part on the specific employment context. Consider the Humphrey case described earlier, where an employee with obsessive-compulsive disorder had difficulty arriving on time for work on a regular basis because of lengthy morning rituals. In a case where the person had a job where she or he could simply work longer on days when punctuality was a problem, chronic lateness might be accommodated in this way. In a similar case where an employee of a convenience store had to prepare an area of the store for the day’s business, such an accommodation was not deemed reasonable because of this important feature of the job, which could not be performed at a later time (*Earl v. Mernyns Inc.*, 2000).

As alluded to earlier, perhaps the most problematic area related to persons with mental illness and essential job functions pertains to disconcerting interpersonal behaviors. As Mechanic (1998) noted;

Psychiatric conditions pose additional challenges because they can be difficult to distinguish from the cognitive and behavioral performance intrinsic to many jobs. The abilities to work effectively in work teams, to interact sensitively and responsively with customers and the public, to contribute to a cooperative and harmonious work environment, to maintain appropriate concentration on work tasks, . . . may be part of an employer’s expectations, but they constitute a repertoire of skills that can be diminished by a psychiatric disorder. (p. 7)

Direct Threat Concerns

One of the more controversial aspects of the ADA is its definition of and approach to potential threats in the work environment that may arise from a person's disability. As noted previously, the public (including many employers and co-workers) often perceives psychiatric disabilities to be especially dangerous or threatening (Campbell, 1994). Those opposed to the ADA's coverage for people with mental disabilities frequently described individuals with psychiatric disabilities as "time bombs in the workplace" and "menaces" to other workers (as cited in Campbell, 1994, p. 137). Moreover, the ADA was passed during a time of increased media attention to work place violence, especially in "high pressure" occupations such as the postal service.

In response to employers' fears of being forced to hire or retain an individual who poses a threat to the safety of others because of his or her disability, Congress added the direct threat standard to the ADA. As defined by the EEOC, direct threat is "a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation" (as cited in Rubenstein, 1993, p. 212). This standard allows employers to discriminate against a person who threatens the safety of superiors, co-workers, or customers. For example, in the case of *Borgialli v. Thunder Basin Coal Co.* (2000), Bogialli, a coal mine blaster who had been diagnosed with multiple mental disorders, was discharged because his warnings about potentially injuring himself and co-workers were considered a direct threat to safety in the workplace. These threats were especially disconcerting because he worked with and thus had ready access to high-powered explosives. Particularly important for the social work profession was the case of *Palmer v. Circuit Court, Cook County* (1997), wherein an employee in a social service agency was discharged after making threats to co-workers and her supervisor. Even though the employee contended that her inappropriate behaviors were directly related to a paranoid disorder, both the District and Appeals Courts allowed the discharge, noting that because of the threatening behavior the worker was no longer a "qualified employee," and thus not covered by the ADA.

Due to the stigma and misconceptions many have about mental illness, it is often difficult to fairly impose the direct threat standard. The determination of significant risk cannot be determined by the employer solely based on the diagnosis or his or her presumptions about the disability. Instead, determination of risk must rely on "evidence from the person's behavior that the person has a recent history of committing overt acts or making

threats which cause harm or which directly threatened harm” (as cited in Rubenstein, 1993, pp. 212–213). How the disability manifests itself in the particular case is more important, therefore, than the disability itself, and application of the direct threat standard requires an objective assessment of the situation that employs accepted medical or psychiatric standards (O’Brien & Maue, 2002).

“Reasonable” Accommodations and Undue Hardship

If the employee is not able to perform prescribed essential job functions, she and he may request an accommodation by the employer. Once the request has been made, the employer has the responsibility to work with the employee to identify the appropriate accommodation that will allow the person to perform the essential functions of the job. Reasonable accommodations for people with psychiatric disabilities are frequently less expensive to manage than accommodations for people with physical disabilities, but they may be more problematic in other ways. Instead of requiring the purchase of equipment or alterations of a building or room to make it more accessible, accommodations for individuals with mental disabilities often require adjustments such as more flexible work hours, additional training, leaves of absence for counseling or treatment, or job shifting to avoid a potential upsetting or stressful environment (Parry, 1993). However, some employers find it can be difficult to identify the appropriate accommodation for an individual with a psychiatric disability due to the behavioral nature of the symptoms (Campbell, 1994).

If the only reasonable accommodation is a job shift (e.g., to a less stressful job environment), the new job must be equivalent in compensation and physical demands, unless the employee chooses a less attractive alternative, or this is simply the only viable accommodation option. In the case of *Skerski v. Time Warner Cable Co.* (2001), a cable television installer requested a different job after the employer felt the employee’s panic attacks made him unable to climb. The court believed that the job offered to the employee was not a reasonable accommodation, because it paid less and was more physically demanding than his previous job. In such cases, especially within a large organization with a wide range of jobs, the courts may presume that the unattractive offer is a “backdoor” method of getting rid of the person.

The reasonable accommodations that are provided must be the result of a good faith negotiation process, and the employer is not required to provide any requested accommodation. For example, in the case of an employee

with depression who wanted to take an extra half-hour for lunch breaks in order to take an aerobics class (which would presumably mitigate the adverse effects of her condition), the business allowed her to take the class, but said she needed to make up the extra time at the end of the work day. The Appeals Court accepted that this constituted a reasonable accommodation, and thus found in favor of the employer (*McGill v. Munoz*, 2000).

Importantly, accommodations can often be perceived by co-workers as a form of special treatment. According to the ADA, employers are not permitted, without the employee's consent, to discuss his or her psychiatric disability with other employees. This may prevent supervisors from offering co-workers an acceptable explanation for an accommodation that may be provided to only one employee. Co-workers may become jealous, upset, or simply curious as to the reasons for the differences in treatment by employers, and tensions can build up in the workplace (Mechanic, 1998).

As noted earlier, due to the stigma associated with mental illness, applicants or employees are often hesitant to divulge their diagnosis to employers. Without knowledge of a psychiatric disability, employers may remain unaware of the need for an accommodation. If the disability is not discussed with the employer, a request for an accommodation without an explanation for its need can be denied. As noted earlier, disclosure of a disability condition is particularly recommended, following a provisional offer of employment, in cases where accommodations are needed to allow the person to successfully complete the job.

Employers are only required to provide reasonable accommodations for an individual with a psychiatric disability as long as it does not place an undue hardship on the business. An undue hardship is defined as an accommodation involving "extremely costly, extensive, or disruptive changes, or those that would change the nature of the business fundamentally" (Wasserbauer, 1997, pp. 23–24). One major determinant in whether a particular accommodation is an undue hardship is the size and available resources of the business. Large national companies, for example, would be required to make substantive accommodations whereas "Mom and Pop" businesses might not (Feldman & Brandt, 1994).

Relationship Between the Adverse Action and the Disability

For many ADA claims, the most difficult barrier for plaintiffs to overcome is providing evidence that the adverse action (discharge, failure to hire, refusal to provide accommodations, etc.) that occurred took place

largely because of the disability. Three distinct possibilities arise here. First, the action was directly related to the disability, and was not accompanied by an “acceptable” rationale, such as undue hardship or direct threat. Second, the action was directly related to the disability, but undue hardship or direct threat could be shown to be a pertinent issue. Third, the action was unrelated to the disability, and motivated by business necessity (need to lay off personnel) or other valid personality or productivity factors. Only in the first instance would ADA protection be provided.

Of course, the primary problem here is that it is often very difficult to distinguish between the first and third of these rationales for adverse action. Employers may provide a “pretextual” excuse for acting against the person, even when the disability was the major motivating factor. This is especially true at the hiring stage, where successful claims are particularly difficult to prove. There are several key issues to consider that may suggest a pretextual rationale. These include the timing of the action (was the person fired shortly after disclosing a disability or requesting additional accommodations?) and whether or not other employees experienced similar adverse actions from the employer. Evidence for pretext must result in a connection being made between the adverse action and the disability. For example, in the *Devine v. Minnesota Mining and Manufacturing Co.* case (2001), factual evidence was presented by the plaintiff in an effort to demonstrate that her discharge was the direct result of her disability. The court found that her “employer essentially set her up to fail by assigning her significantly more work than even more advanced employees” (2001, p. 436). This, together with positive job performance reviews, led the court to accept the plaintiff’s argument that the adverse action taken against the employee was based on a pretext.

RELEVANCE TO THE SOCIAL WORK PROFESSION

The issues discussed in this article are obviously directly relevant to social work and related professions. They may have relevance for supervisors who either directly employ or oversee social workers who have a history of mental illness, or who work with such clients, especially when job-related considerations are a central topic of concern. Social work education programs too, in both developing students for future work within the field as well as their important gatekeeping role within the profession, need to be aware of the limits of ADA coverage, and of the important questions that pertain to the qualification of persons with a diagnosis of

mental illness for work within social work. Following are specific aspects of this topic that pertain to individuals who are engaged in social work practice. These implications have been separated based on level of practice.

Implications for Social Work Practitioners

Social workers who are involved with persons who have a history of mental illness should first consider their own personal biases related to the extent to which they believe such a diagnosis negatively impacts the person's ability to adequately perform the specific tasks related to a job, their assumptions surrounding the presumed violent tendencies or "fragility" of such persons, and how they view the person's presumptive interactive capabilities within a general work setting. Social workers should focus on specific behaviors exhibited by the person, and the degree to which these behaviors impinge on abilities, as opposed to the larger diagnosis. As with other disabilities, the impact of a particular condition on different individuals can vary widely, based on a host of biological, psychological, and social elements. Thus it is imperative that social workers not make blanket assumptions based on the diagnosis itself.

A worker's assumption that an individual with mental illness cannot be gainfully employed may prove to be a self-fulfilling prophecy, as such a message can simply augment a defeatist attitude, depressed state, or feeling of learned helplessness. There is not always a very close connection between the social work and rehabilitation systems, and social workers may focus more on the provision of government or other benefits for the individual as opposed to job training possibilities. On the other hand, however, social workers need to be aware of the governmental benefits the individual receives, and the potential adverse impact of gainful employment on those benefits. Need-based provisions such as food stamps or Supplemental Security Income could be diminished or removed entirely should individuals find employment.

Social workers should also be prepared to assist their clients in working through disclosure issues. This is especially important in regard to the employment arena, but arises in other areas too (e.g., dating). Clients need to be aware of the positive and negative aspects of disclosure, when and how they might disclose, and the legal issues involved. They also should be able to self-assess the degree to which the behaviors that may be indicators of their condition impact their jobs or the perception others may have of them. They should also assist the person to develop a clear understanding of what particular accommodations they may require, how to engage

in a negotiation process with employers vis-à-vis accommodation requests, and how the limitations posed by their condition may serve to direct their search for a job that is a good fit for them.

These issues may all arise with social workers who themselves have a mental illness diagnosis, in their efforts to gain employment and to self-advocate for their rights under the ADA, but also in maintaining the proper boundaries with clients, and ensuring that self-disclosure is beneficial to client treatment goals. Professionals in the field must be aware of the impact of the mental illness or of psychoactive medication on their client treatment capabilities (O'Brien & Leneave, 2008).

Employee Assistance Professionals and other social workers involved in occupational social work may frequently find themselves in a position where they need to assess the capability of persons with psychiatric disorders to adequately complete the functions of a job. They also may be called on to act as a source of information for businesses with employees who have a mental illness or engage in discomforting behaviors, and may be asked to help develop reasonable accommodations for such individuals. Thus the issues described here are particularly important to them.

Implications for Supervisors and Administrators

Social workers who fulfill supervisory or administrative duties need to be mindful of the anti-discrimination aspects of all relevant employment legislation, and should understand when their concerns about the problematic behaviors of employers overlap with the ADA. Perhaps the best way social work professionals can properly advocate for persons with mental illness, as well as other disabilities, is to keep an open mind when hiring or employing such persons. On the other hand, administrators need to ensure that their workers are competent at their jobs, and there may be times when the disconcerting or even harmful behaviors of a worker are detrimental to the helping process. Employers should move beyond "practice wisdom" in making assumptions about the deleterious impact of specific worker behaviors on client engagement and progress, but seek out professional articles that provide some empirical evidence of such a relationship.

Apart from employee issues, administrators in the field also need to understand ADA elements that impact the provision of services to clients with disabilities. In other words, Title III of the policy, which pertains to access to community services, requires social work agencies to not discriminate against clients because of their disabilities, including mental illness.

Agencies should maintain specific policies that balance non-discriminatory service provision with the need to protect persons in the work place from harm. They also should be aware of the necessity of providing reasonable accommodations to clients in order to properly provide services.

Implications for Social Work Education Programs

Lastly, social work education programs must be prepared to face issues regarding the potential acceptance or continuation of students with mental illness within their programs. As principle gatekeepers for the profession, schools of social work perform a necessary but very difficult role. They must delineate policies that serve to screen out students who might be harmful to clients, but at the same time be aware that students are “green” and still need to hone their professional behaviors and skills. Additionally, the field is extremely broad, and certain characteristics that constitute problematic behaviors in some areas of the profession might be inconsequential in other jobs. Importantly, those who make admission decisions for social work education programs must be very careful when making assumptions about potential future problems based on a student’s current behavior, especially if the student is disabled, and thus covered under the ADA or the non-discrimination component of the 1973 Rehabilitation Act. As Cole and Lewis (1993) noted, for example, programs cannot employ “any test or criterion that has a disproportionate, adverse effect on disabled persons,” especially in admitting students, unless the program can show a sound research-based rationale for the requirement (p. 158).

Additionally, the ADA provides a degree of protection to persons with disabilities in regard to speculation that their conditions will have specific adverse consequences in their future professional careers (Cole, Christ, & Light, 1995). Indeed, one of the benefits of field experiences is that it allows social work education programs’ gatekeeping policies vis-à-vis student behaviors to be based on actual behavior in a professional social work agency, rather than potentially fallacious assumptions based on how the student responds in a classroom or similar environment.

CONCLUSION

There are a wide variety of questions that surround the status of persons with mental illness under the Americans with Disabilities Act. It is crucial for social workers in all areas of the profession to be able to properly balance

our role as advocates of such persons with our duty to ensure competent treatment and the maintenance of a facilitative work environment. Recent court decisions such as the Sutton trilogy have placed additional barriers in the path of those seeking a successful ADA claim, especially for persons with mental illness. Indeed, the occupational opportunities that are afforded to such individuals may be more limited than before the law was passed. This is in part due to the fact that employers may fear that they are “stuck” with an employee who displays disconcerting behaviors because of the threat of a claim.

Many of the goals that may be developed in relation to persons with diagnosed mental illnesses (e.g., economic self-sufficiency, increased socialization opportunities, augmented sense of self-satisfaction, and development of personal strengths) are directly related to a successful occupational outcome. For this reason, professionals who have only a superficial awareness of the ADA will be in a disadvantageous position when it comes to providing services to persons with such a diagnosis.

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