

ADA requires focusing on ability, not diagnosis

The ADA protects disabled employees from discrimination. At the core of the ADA is a philosophy that disabled workers must be judged by their actual ability to perform the job they seek or hold, with or without a reasonable accommodation.

That assessment must be done on an individualized basis. It cannot rely on a diagnosis and assumptions about the work-readiness of people who have that medical condition. Never decide that an applicant or employee cannot do a job just because they have been diagnosed with a specific condition such as depression, cancer or epilepsy. The EEOC is aggressively pursuing litigation against employers that do.

Just last month, the EEOC filed suit against a construction firm over its treatment of a worker after she revealed she has epilepsy. It's the latest in a series of lawsuits and settlements revolving around an employer's use of a diagnosis to make an employment decision.

In this case, the EEOC alleges that Angela, a qualified pipefitter and certified rigger, was sent by her union to work on a reconstruction project at an oil refinery near Seattle. Angela obtained the certification specifically required for this assignment, showing she was qualified to calculate loads and safely attach heavy equipment and large components to cranes for lifting. The contractor on the project, Diamond B, oversaw her work.

Angela told her direct supervisor on the job that she has epilepsy. Her condition, according to the EEOC lawsuit, is well controlled with medication. She neither requested nor was offered any accommodations. Her doctors had imposed no restrictions on her ability to work.

Diamond B's supervisors decided Angela could not work safely at heights and terminated her immediately without finding out more about her condition and her ability to work.

The lawsuit seeks monetary damages. It also seeks mandated training for Diamond B's supervisors and managers that will emphasize that each disabled person's ability must be assessed individually and not based simply on a diagnosis.

Online resource ADA compliance problems like this can be avoided. Download our white paper [“What Managers Need to Know About the ADA.”](#)