

No, you can't make staff divulge their meds

The EEOC has filed a lawsuit against a Texas employer that requires all its employees to report every medication they take, both prescription and over-the-counter drugs.

Oncor Electric Delivery Co. in Dallas made every employee agree in writing to abide by a medication disclosure policy requiring them to reveal "all medications" that could "affect job performance."

The EEOC's lawsuit alleges that the policy violates the ADA.

The EEOC began looking into Oncor's practices after it received a complaint from a secretary who said she was fired for refusing to disclose medications she takes. Dolores, who had been on medical leave for carpal tunnel syndrome, was presented with a "Return to Work Agreement" that demanded the medication disclosures.

She thought that violated her right to medical privacy.

Dolores was equally upset that all employees had to get their immediate supervisor's approval before taking any medication, even common over-the-counter drugs.

The EEOC's lawsuit alleges that the blanket policy violates the ADA because it requires even those employees who do not want to disclose a disability to essentially self-reveal medical problems that require pharmaceutical treatment, such as high blood pressure, diabetes and other disabling conditions. The theory is that the employer would be able to identify disabling conditions just by the medications employees take.

The ADA aims not just to provide accommodations and opportunities for workers with disclosed disabilities. It also protects those who want to keep their condition confidential from being forced to disclose a disability, thus risking potential discrimination and stigmatizing that might result from announcing their medications.

Final note: The EEOC has extensive employer guidance on medical privacy. For example, the agency has stated that merely storing medical information in a way that makes it accessible to a wide range of individuals may violate the ADA.

Online resource Additional information on what employers can and cannot request in the form of medical tests, results and treatment can be found at www.eeoc.gov/policy/docs/guidance-inquiries.html.