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## **EEOC Finalizes Updates To Disability Regulations In Response to ADA Amendments Act *Employers Should Tighten Disability Related Discrimination Risk Management***

Employers should review and update their existing employment and employee benefit practices in response to updated regulations (Final Regulations) governing the disability discrimination rules of the Americans With Disabilities Act as amended by the ADA Amendments Act (ADAAA) that the Equal Employment Opportunity Commission (EEOC) will publish in the Friday, March 25, 2011 Federal Register.

On Thursday, March 24, 2011, the EEOC released an advance copy of the Final Regulations along with two Question-and-Answer documents about the Final Regulations to aid the public and employers – including small business – in understanding the law and new regulations. The Final Regulations, accompanying Question and Answer documents and a fact sheet are available on the EEOC website [here](#).

The changes contained in the updated Final Regulations update the EEOC's disability regulations in response to amendments made to the ADA by Congress as part of the ADAAA. Like the ADAAA they implement, the Final regulations are designed to simplify the determination of who has a "disability" and make it easier for people to establish that they are protected by the Americans with Disabilities Act (ADA).

The Final Regulations and the ADAAA amendments they implement make it likely that businesses generally will face more disability claims from a broader range of employees and will possess fewer legal shields to defend themselves against these claims. Since these changes make it easier for certain employees to qualify as disabled under the ADA, businesses should act strategically to mitigate their ADA exposures in response to the Final Regulations.

Because of the potentially significant liability exposure, employers generally will want to consult with qualified legal counsel prior to the commencement of their assessment and to conduct the assessment within the scope of attorney-client privilege to minimize risks that might arise out of communications made in the course of conducting this sensitive investigation.

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### **For Help With Investigations, Policy Updates Or Other Needs**

If you have any questions or need help reviewing and updating your organization's employment and/or employee practices in response to the ADAAA, GINA or other applicable laws, or if we may be of assistance with regard to any other workforce management, employee benefits, compensation or other internal control concerns, please do not hesitate to contact the author of this update, Board Certified Labor and Employment attorney and management consultant Cynthia Marcotte Stamer [here](#) or at (469)767-8872.

Ms. Stamer helps businesses, employee benefit plans and other organizations solve problems, develop and implement strategies to manage people, processes, and regulatory exposures to achieve their business and operational objectives and manage legal, operational and other risks. Board certified in labor and employment law by the Texas Board of Legal Specialization, with more than 23 years management-focused human resource and employee benefits experience, Ms. Stamer helps businesses manage their people-related risks and the performance of their internal and external workforce through appropriate human resources, employee benefit, worker's compensation, insurance, outsourcing and risk management strategies domestically and internationally.

Recognized in the International Who's Who of Professionals and bearing the Martindale Hubble AV-Rating, Ms. Stamer also is a highly regarded author and speaker, who regularly conducts management and other training on a wide range of

labor and employment, employee benefit, human resources, internal controls and other related risk management matters. Her writings frequently are published by the American Bar Association (ABA), Aspen Publishers, Bureau of National Affairs, the American Health Lawyers Association, SHRM, World At Work, Government Institutes, Inc., Atlantic Information Services, Employee Benefit News, and many others. For a listing of some of these publications and programs, see here. Her insights on human resources risk management matters also have been quoted in The Wall Street Journal, various publications of The Bureau of National Affairs and Aspen Publishing, the Dallas Morning News, Spencer Publications, Health Leaders, Business Insurance, the Dallas and Houston Business Journals and a host of other publications. Chair of the ABA RPTE Employee Benefit and Other Compensation Committee, a council member of the ABA Joint Committee on Employee Benefits, and the Legislative Chair of the Dallas Human Resources Management Association Government Affairs Committee, she also serves in leadership positions in numerous human resources, corporate compliance, and other professional and civic organizations. Her insights on these and other matters appear in the Bureau of National Affairs, Spencer Publications, the Wall Street Journal, the Dallas Business Journal, the Houston Business Journal, World At Work, the ICEBS, SHRM and many other national and local publications. For additional information about Ms. Stamer and her experience or to access other publications by Ms. Stamer see [here](#) or contact Ms. Stamer directly.

### **Other Helpful Resources & Information**

If you found this article of interest, you also may be interested in reviewing other Breaking News, articles and other resources available [here](#) including:

- **[Stamer Speaks 4/29 On "Welcome to the Jungle - Health Care Reform Bootcamp" At ABA RPTE](#)**
- **[Stamer Speaks 4/28 On "Lean On Me" - Group Health and Disability Claims and Appeals At ABA RPTE](#)**
- **[3/7/2011 Speak Up On The 1st Anniversary of Health Care Reform](#)**
- **[Employer Pays \\$754,578 To Settle Charges Workers Misclassified & Underpaid In Violation of FLSA](#)**
- **[Avoiding Liability For Another's Health Plan Fraud](#)**
- **[\\$1 Million + FLSA Overtime Settlement Shows Employers Should Tighten On-Call, Other Wage & Hour Practices](#)**
- **[CMS Publishes Proposed Consumer Disclosure Notices Detailing Required Health Insurer Rate Increase Justification Disclosures](#)**
- **[\\$4.3 Million HIPAA Penalty Signals Health Plans, Sponsors & Service Providers](#)**
- **[HHS Imposes 1st HIPAA Privacy Civil Penalty of \\$4.3 Million](#)**
- **[NLRB Settlement Shows Care Necessary When Employers Use Social Networking & Other Policies Restricting Employee Communications](#)**
- **[Attorney Cynthia Stamer Shares Best Practices for Protecting Plan Participant & Other Employee Information At SBWA/IRS Plan Administrator Skills Workshops](#)**
- **[Supreme Court Medical Resident Stipend Ruling Highlights Advisability of Worker Classification & Payroll Practice Review Advisable For Health Care, Other Employers](#)**
- **[IRS, HHS & DOL To Delay Enforcement of New Insured Group Health Plan Non-Discrimination Rules Pending Guidance; Seek Public Input on Rules](#)**
- **[IRS Expands When HFSAs & HRAS May Allow Over-The-Counter Drug Purchases With Drug Cards](#)**
- **[Holiday Season Celebration Reminder To Manage Intoxication Risks](#)**
- **[Avoiding Post-Holiday Season HR Liability Hangover](#)**
- **[2011 Standard Mileage Rates Announced](#)**
- **[Proposed New DOL Defined Benefit Plan Annual Funding Notice Rule](#)**
- **[Affordable Care Act Grandfathered Plan Rules Loosened To Allow Insured Plans Making Some Insurance Changes To Qualify](#)**
- **[Managed Care Executive Quotes Stamer On Implications Of Affordable Care Act Claims & Appeals Rules](#)**
- **[DOL Proposes To Expand Investment Related Services Giving Rise to ERISA](#)**
- **[EEOC Charges Employers With Violating ADA By Denying Medical Leave](#)**
- **[Annual Benefit Limitation Waiver & Anticipated HHS Medical Loss Ratio Guidance Offer Quick Acting Employers, Insurers New Mini-Med, Health Plan Design Options](#)**
- **[New Insured Group Health Plan Non-Discrimination Rules Create Significant Liability For Employers & Insurers; Prompt IRS Also To Review Self-Insured Group Health Plan Rules](#)**
- **[Tighten & Update of Health & Other Plan Claims & Appeals Procedures & Documentation In Response To New Regulations, Tightening Court Review](#)**
- **[Small Employers Sponsoring Health Coverage May Qualify For New Tax Credit, Must Act Quickly To Comply With Other New Federal Health Plan Mandates](#)**

- **Rite Aid Agrees to Pay \$1 Million to Settle HIPAA Privacy Case As Office of Civil Rights Proposes Tighter HIPAA Privacy & Security Regulations**
- **New Affordable Care Act Mandated High Risk Pre-Existing Condition Insurance Pool Program Regulations Prohibit Plan Dumping of High Risk Members, Set Other Rules**
- **Review Of Worker Classifications Needed As Classification Scrutiny Rises**
- **Businesses Employing Children Should Review & Tighten Practices in Light of Tightened Rules & Increased Penalties**
- **Labor Department FMLA Guidance Adopts Broad Interpretation, Employer Care Needed Determining Who Qualifies As Child**
- **Agencies Release Regulations Implementing Affordable Care Act Health Plan Preventative Care Mandates**
- **Office of Civil Rights Proposes Changes To HIPAA Privacy, Security & Civil Sanctions Rules**

If you or someone else you know would like to receive future updates about developments on these and other concerns, please be sure that we have your current contact information – including your preferred e-mail – by creating or updating your profile [here](#). For important information concerning this communication click [here](#). If you do not wish to receive these updates in the future, unsubscribe by updating your profile [here](#).

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