

Employer Obligations to Accommodate Workers With a History of Drug Addiction, Recovered Alcoholics and Even Active Alcoholics, Bloomberg Daily Labor Report

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Nov. 2 — The Americans with Disabilities Act of 1990, as amended (ADA), is the federal law that, among other things, prohibits employers from discriminating against disabled employees. The ADA also requires employers to provide reasonable accommodations to disabled workers, as long as the accommodation does not create an undue burden for the employer.

Workers who are alcoholics (active or recovered) and/or drug addicts (who are recovered), and whose alcoholism or addiction rises to the level of a disability under the ADA, are protected by the law. Many employers are unaware that the ADA protects alcoholics, whether or not they are still drinking, but that addicts are only protected if they are clean.

Importantly, the ADA protection afforded to alcoholics and recovered addicts does not require employers to tolerate misconduct from them. However, balancing the alcoholic and recovered addict employees' entitlements to reasonable accommodations with the employer's right to enforce workplace rules presents a challenge to judges and juries.

For example, if an alcoholic employee who is still drinking repeatedly comes to work late because he is hungover, can the employer fire him without violating the ADA? As set forth, the answer is a resounding "maybe." Or, if a worker is in recovery from drug addiction, does the ADA obligate her employer to alter her work schedule to allow her to attend Narcotics Anonymous meetings? Again, *maybe*. However, if that same employee is actively using drugs, she is not entitled to the accommodated work schedule to attend 12-step meetings.