

For many people, a cancer diagnosis does not mean they need to stop working. Nonetheless, coordinating a busy work schedule with doctor visits, treatments, or time off when feeling ill can be daunting. Employers can be understanding, but not every worker coping with cancer receives the support he or she may need from the workplace.

It is vital to understand the laws that protect people who have serious illnesses in the workplace. With this knowledge, you can take steps to prevent most workplace problems and focus on doing the best job you can while maintaining your health.

Disclosure of your cancer diagnosis to your employer is an important and very personal decision for people with a serious medical issue, whether it is cancer or any other chronic illness. In general, you are under no legal obligation to disclose your health status to your employer or prospective employer. However, there are exceptions. Disclosure is required if you need to take a leave of absence under the Family and Medical Leave Act (FMLA) or if you require an accommodation under the Americans with Disabilities Act (ADA).

Family and Medical Leave Act

FMLA, which applies to employers with fifty or more employees, provides 12 weeks of job-protected leave to qualified employees. Many people take a single extended leave of absence for up to 12 weeks. However, FMLA also

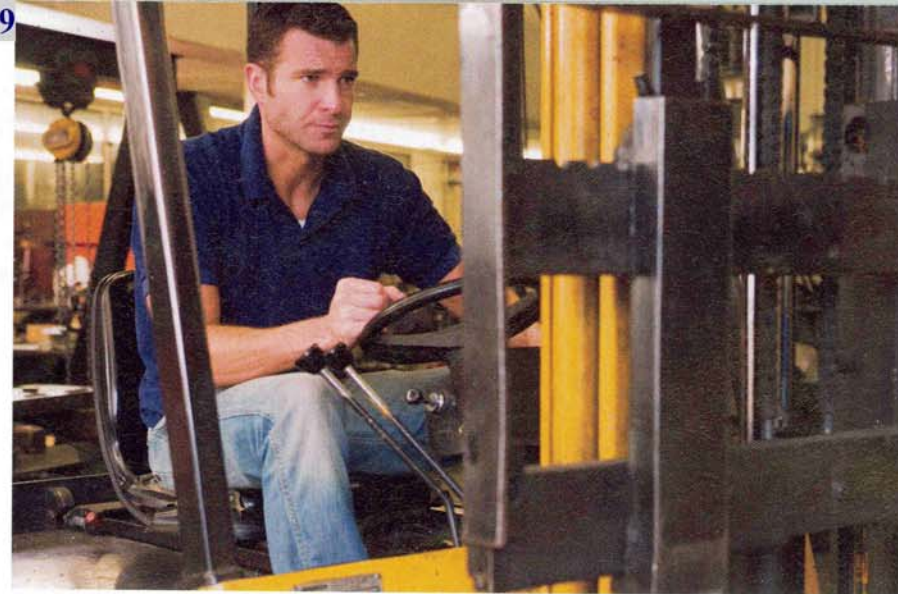


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allows for intermittent leave for planned medical appointments or treatment. Even if you have used all your sick days, intermittent FMLA

allows additional time off without having to worry about losing your job. Your benefits and insurance will continue.

A certification from a physician stating that an employee has a serious health condition is required to apply for FMLA leave. FMLA leave is unpaid, but you can supplement your income through any unused sick time, accrued vacation time, or short-term disability if it is offered by your employer or required by your



Know Your Legal Rights in the Workplace

by Debra J. Wolf, Esq

state laws. For specific FMLA requirements, go to DOL.gov/esa/whd/fmla.

Americans with Disabilities Act

The ADA, which applies to employers with 15 or more employees, prohibits disability-based discrimination in the workplace. The ADA also allows an employee who can perform the essential functions of his or her job the right to request a reasonable accommodation. For example, an office worker who experiences nausea in the morning due to side effects of medication may request to modify his or her work hours for a later start in the morning. Other possible accommodations include an extra break to rest when experiencing fatigue, an ergonomically correct chair, or depending on your job duties, even working from home if you are able to perform your essential job functions from home.

When requesting an accommodation, be specific about what modifications will help you perform your job. An employee should apply to Human Resources in writing with a supporting letter from his or her treating doctor stating he or she can perform the essential functions of the job and that the accommodation is medically necessary. For specific ADA requirements, go to ADA.gov. You should also check your state laws, as many states offer broader protection than the ADA.

Dealing with Discrimination Even with these legal protections, discrimination does occur. If you feel you are being discriminated against, document all examples of discriminatory

behavior. If your company has an HR Department, request a meeting to discuss your concerns. If there is no HR, ask to meet with someone in a senior position. Often, supervisors and managers do not understand these laws, and it is the role of HR to educate employees and prevent further discrimination. If your concerns are not resolved and you are considering filing a complaint or lawsuit, it is important to discuss this with an attorney, as these cases can be complicated and have strict time limits.

If you and your physician decide that an accommodation will not meet your needs and a medical leave is required, make sure you understand what benefits are available. These may include short- or long-term disability, Social Security Disability, and COBRA for the continuation of your health insurance. Some states also require that an employee with group life insurance be allowed to convert this policy to an individual policy if the employee leaves work.

It's important to understand the laws that offer protection and the benefits that are available to you. With this knowledge, you can avoid workplace problems and the accompanying stress while you focus on your health.

Editor's Note: *Debra Wolf, an attorney, works for LegalHealth, a collaboration among legal and medical professionals to improve the lives of children and adults with serious health concerns. Debra works primarily with clients with cancer. ■*