On July 27, one day after the 10th anniversary of the Americans with Disabilities Act, the Equal Employment Opportunity Commission issued new guidance on what employers can and cannot ask current employees about physical or mental impairments and about the conditions under which employees can be asked to submit to medical examinations. The Commission also issued guidance on the use of genetic information by federal government employers.

In the new guidance for inquiries and medical exams, the EEOC has taken the position that all employees, not just those with disabilities, need protection when an employer seeks to gather information about an employee. This is the first time the EEOC has expanded its interpretation of the ADA beyond the scope of individuals with disabilities. For more information on the new guidance and the ADA, please visit our website.

Since the employment provisions of the ADA became effective in 1992, the EEOC has received more than 126,000 charges of violations. However, the track record on ADA lawsuits is a “no contest,” with employers prevailing in nearly all such cases (according to American Bar Association statistics, 98% in 1999).

This is not to say that the ADA has not affected personnel policies and procedures. A 1998 survey by the Society for Human Resource Management found that a majority of employers had made changes to their existing recruitment, pre-employment screening, testing and orientation procedures to comply with the ADA. Eighty percent reported changing interview questions and 79% have made interview locations more accessible to disabled individuals. In accommodating disabilities, 82% reported making existing facilities more accessible, 79% had been more flexible in applying human resource policies, and 67% had restructured jobs or modified working hours.
New Jersey Amends Medical Marijuana Law to Provide Job Protections, Include Drug Testing Procedures

New Jersey has provided job protections to medical marijuana users and created new drug testing procedures under new law signed by Governor Phil Murphy on July 2, 2019, that took effect upon signing. The new law also changes the name of the New Jersey Compassionate Use Medical Marijuana Act (N.J.S.A. 24:61-2 et seq.) to the "Jake..."

Oregon Passes Paid Family and Medical Leave Law

Oregon has joined a growing number of states to require employers to provide their workers paid family and medical leave. Employers in Oregon must provide up to 12 weeks of such paid leave to eligible employees beginning January 1, 2023, under the bill (HB 2005) passed by the state legislature. Governor Kate Brown has said she intends...

2019: The Mid-Year Outlook for Employers

The first six months of 2019 have proven to be busy, challenging professionals in the labor and employment communities to keep up with a number of newly enacted laws and regulations. In the 2019: Mid-Year Outlook for Employers, Jackson Lewis attorneys provide a snapshot of activity from the first half of the year as well as a preview of...