

FINISHED TRANSCRIPT

AMERICAN DIABETES ASSOCIATION
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STOPPING DIABETES DISCRIMINATION WEBINAR

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>> TARYN EGELANIAN: Welcome everybody who is continuing to join use for Stopping Diabetes Discrimination 101 for Attorneys. We will be starting in about five minutes. Let me welcome you again to Stopping Diabetes Discrimination 101 for Attorneys. We will be starting in about two minutes.

At that time I will be muting all telephone lines except for those of the presenters. We are going to start in about one minute.

I see it is about 2:00 o'clock ET. We will start. I want to welcome everyone to Stopping Diabetes Discrimination 101 for Attorneys.

A few general announcements. All phone lines will be muted except for those of the presenters. The webinar is being recorded and will be posted online within a couple weeks of this live session, and we will let you know when that happens. You will be able to access it again if you like, and to let others know about that too.

Also you will be able to download a pdf of today's slides. As you exit the webinar, there will be a short survey. As you take the short survey, you will have access to that download.

You may submit questions during the webinar at any time via the chat box on the bottom left hand portion of the screen. If we have time at the end. We will take additional questions that can't be answered touring the webinar.

The first thing I want to do, I am Taryn Egelanian, the legal advocacy outreach manager for the American diabetes Association. We want to find out who is on today's webinar.

Please check all the categories that apply to you. I see a lot of attorneys are on the webinar today, which is great. We see that over 80% of those on the webinar are attorneys. We really appreciate everybody who is on, but especially the attorneys.

Before we actually star the program, I want to thank all of today's excellent presenters. Most of them are volunteers.

I want to tell you just a brief bit of information about each one of them before we start. You will first hear from Alan Yatvin, an attorney from Philadelphia. His many accomplishments include work in police misconduct and criminal defense. Additionally, he is the current chair of our American Diabetes Association Legal Advocacy Subcommittee.

Then you will hear from Greg Paul, an attorney. Mr. Paul practices disability employment injury and law and is also a member of our legal advocacy subcommittee.

Then we will hear from Ho Luang Tran, a doctor of medicine specializing in pediatrics, CEO of the council of Asian Pacific Physicians Association, and also a member of the Association of Asian Pacific American Diabetes Action Council.

To close you will hear from Katharine Gordon, director of the legal advocate program. I turn it over to Alan Yatvin.

>> ALAN YATVIN: Good afternoon everyone. The many diabetes Association receives about 250 calls a month related to diabetes discrimination.

The center receives the calls and directs people to the staff who can help them. We rely on our volunteer attorneys, like some of you out there every day. We seek to combine the association's expert knowledge of diabetes with our volunteer's legal skills in order to win victories for people with diabetes.

The more than 26 million people living with diabetes and their loved ones. We are only able to do this because we count on healthcare professional from all health disciplines, physicians, nurses, diabetes educators, medical researchers, social workers, psychologists and more to provide support to our legal advocacy efforts.

Let me give you some examples of some of the things that the legal advocacy team members have done. Jared Miligan was a kindergarten student unable to attend unless a family member came every day to give him insulin.

Working with the Association, his mom led efforts to pass Florida state law education prohibiting so-called diabetes schools where students from all over a school district with diabetes were concentrated into a single school.

Steven Orr, a pharmacist in the Midwest, was denied a break and fired when he needed to treat his diabetes. Working with the association, Steven testified before Congress and helped change the law so that people with diabetes would be clearly covered under the Americans With Disabilities Act.

John Stegoth is a UPS mechanic, required to meet all medical guidelines for commercial drivers in interstate commerce, even though they rarely if ever drove commercially.

In Steven's case, he rarely drove more than across the parking lot with a UPS vehicle. He sued claiming medical certification was not an essential job function and UPS failed to accommodate his disability. UPS resolved the case with him and his lawyers, who received support from the many diabetes Association, ADA volunteers themselves.

In Philadelphia, Steve Rosen was arrested and denied medical care for almost a full day. Eventually lack of insulin, access to food and fluids resulted in him being transferred to an emergency room.

Working with the association, I filed a class action lawsuit

to present similar incident in the future. Procedures were established to make sure people with diabetes have access to medication, food and medical personnel and that police officers receive training about diabetes symptoms and care.

We would like to get a sense of the problems and issues you see in your practice every day. If you can answer question No. 2, if you have ever helped with a diabetes discrimination situation? I am glad to see 60% of you have, and I know the other 40% are just waiting for the right opportunity.

Let's move to question No. 2. If you helped with diabetes discrimination situations, please indicate the types and check all that apply.

As you can see from the categories, discrimination occurs in a variety of situations, from their jobs to their school to their driving to work or driving at work to their interactions with police to their flying on a plane, to taking their kids to school or to camp.

I am glad to see so many of you have been involved in these situations and have helped people facing discrimination in those settings.

In this webinar we will focus on three main issues. I will first provide an introduction to our Safe at School campaign and provide a update on a victory for California students with diabetes which we believe will help students around the country.

Attorney Greg Paul will provide an overall review of the litigation. He is also a member of the subcommittee. Next Ho Tran will provide information about how attorneys and healthcare professionals can work together to effectively end discrimination in all areas.

Finally, Katharine Gordon will provide a few more details about how you can get involved. The Association's Safe at School campaign has led to important legal protections for children. You can find more information on the Safe at School web became.

While we recognize the key role of school nurses in diabetes care, we also know the reality that in many school districts, nurses are simply not available to meet all the needs of children with diabetes.

Even where there are nurses in every school building, which a few errand fewer districts every year, those nurses can't be every place at the same time. They get stuck in traffic, their children get sick, they go to off-campus meetings, they are helping a child at the other end of a large school campus; they just can't be everywhere that students with diabetes need them to be.

Therefore, we advocate for trained school personnel to be authorized to provide for the daily needs of children with

diabetes shall including the administration of insulin and to respond to emergencies, including if necessary glycogen administration.

This is important because without this ability to provide care by personnel, sometimes districts forcibly transfer a student to a school where nurses are available, the "diabetes" schools I spoke of earlier.

Students also need to be able to transition to self-care if and when they are capable in order to begin taking over some and eventually all of their diabetes care tasks.

Some schools don't allow that kind of self-care, and that is one of the things that Safe at School has been working on. When supports are missing in the school system, discrimination results. These are unfortunate real-life occurrences that have actually happened to students with diabetes.

As I go through and tell you about each one, I am sure you will feel the same sense of outrage I did when I heard first the stories. ADA Safe at School campaign works hard to help people avoid situations like no staff trained to provide care, a student who was at school had insulin at the school but was denied access to that insulin.

A student was forced to leave the classroom, travel across the campus to a nurse's office in order to test their blood sugar and missed out from that class time. Some students were unable to go on field trips or attend extracurricular activities like the school soccer team because no one was available to make sure that they were safe in the event of problems with their diabetes.

Parents were forced to come to school to administer insulin because no one was available at school, and as I said diabetes schools where young children were forced to transfer from their school maybe a block or two from home with their siblings and friends to be bussed to schools across town because of district policies consolidating these children to one school because of lack of nursing resources.

When discrimination like this occurs, passionate volunteer attorneys working with parents and healthcare professionals and legal advocacy staff members fight to make sure children are treated fairly.

The key federal law that supports these children's fed's rights is Section 504 of the rehabilitation act of 1973, the Americans With Disabilities Act also known as the ADA, and the Individual's with Disabilities in Education Act.

Most school setting children with diabetes will be covered by all three of these or of the first two, and some may also be covered by the IDEA.

There is no reason why every child with diabetes is not given

a Section 504 service agreement or plan in order to ensure that they are safe and secure and have equal opportunity and access to all the program in school.

To be covered by Section 504, students must have a disability and they are entitled to have their care needs met in order to be able to participate in school activities.

For example, if nobody provides a child with insulin during the day, the child will become hyperglycemic, unable to learn. Or an athlete can't play if nobody is available to respond to this type of emergency.

Section 504 applies to all public and private and religious schools receiving federal funding. Schools must identify children with diabetes under Section 504, provide a free, appropriate public education which means that the child need to be able to participate to the fullest extent they are able to with available supports.

They must educate other children as much as possible, allow parents to participate in the educational and care decisions and provide equal opportunity to participate in nonacademic and extracurricular activities.

The Americans With Disabilities Act is similar to section 504 with the same definition of disability, schools are prevented from discrimination, they must make reasonable modifications, and there may not be any blanket policies regarding children with diabetes or disabilities.

Every child is entitled to an individual assessment and to be provided with the care they need. So some ten-year-olds may be completely self-managing, while others may not.

Some may have other disabilities that require attention and services, and some may not. Every child has to be treated and evaluated independently and reviewed for their individual needs.

The ADA covers all schools. You don't need to receive federal funding to be covered by the ADA, except schools run by religious institutions.

However, as I said, even schools run by religious institutions may or are covered by Section 504 if they receive federal funds. For example in a school lunch program or a federally-funded technology program or federally-funded athletic program.

So just because it is a religious institution or privately-run school doesn't mean the child with diabetes doesn't have rights.

Individuals with disabilities in education act requires that a child have a disability that requires special education and related services. The child qualifies under IDEA, if they also could have had by ADA and a Section 504, but not all children

with diabetes will qualify under IDEA.

Frequently if they have other conditions, for example ADHD or a learning disability. The IDEA will include not just special education services, but will also include services for their diabetes, and some children maybe for short or longer periods may also qualify under the IDEA simply because of their diabetes if their diabetes affects their ability to benefit from their education.

For example, a child who is having trouble with their blood sugar to the point where they are missing school and fall behind in their school work, or because their glucose swings are so severe, they end up spending out of class time managing their diabetes.

Then those children may also be entitled to an IEP, individual education plan under the IDEA which provides greater rights and protections than 504 or the ADA.

Additionally, many states have their own laws and regulations that cover students with disabilities. Over 30 state have specific laws that protect students with diabetes. In some states, all of our Safe at School principles are in place, while in other states, there is still work to do.

As part of our strategic plan, we fight to make sure states guarantee the rights of children with diabetes to participate fully and safely in all school has to offer.

Recently we helped put in place laws and regulations in Arizona and Alaska, Georgia, Louisiana and most recently, Missouri. Please contact legal advocacy staff at diabetes.org for information on individual states.

Important thing to keep in mind, even if your state does not have laws related to children with diabetes they must comply with the federal laws. That is the situation we faced in California.

Over eight years ago, there were particularly severe problems with lab of access to diabetes care in California schools. Often children who were unable to self-manage the diabetes had no access to insulin during the day.

The State of California said that only nurses could provide insulin care. However, there simply were not and are still not enough nurses to care for every student with diabetes.

Currently in California there is one school nurse for every 2,200 school children. The combination of these policies caused extreme hardship to California families and compromised the safety and medical care of countless children with diabetes.

In 2005, the Association and four children with diabetes brought a case against the California Department of Education and two school districts.

In 2007 the case settled with an agreement that school staff

who were not licensed nurses would be allowed to administer insulin; however, nursing groups sued the California Department of Education alleging California law didn't allow these personnel to administer insulin.

From 2007 until this summer, the lower courts sided with nursing organizations against the American Diabetes Association and the Department of Education in California ruling only nurses could administer insulin to children at school.

However, on August 12th of 2013, the California Supreme Court ruled unanimously in favor of students with diabetes. That court held California law permits school staff to administer insulin, that is an exception to the nurse practice act, permitting school staff to carry out the orders of the child's physician by administering insulin, and that the California Education Code allows school staff to give insulin because it allows them to assist with medication administration, which includes insulin.

The impact is beyond California. Quoted above is some helpful language that you should consider referring to if you are dealing with a school district and you are in a state where there is no specific legislation, in addition, of course to the federal law, the California decision gives you some powerful arguments that you can rely on to try to persuade your school district.

At this point I would like to turn the discussion over to Greg Paul to talk about some of the discrimination issues people with diabetes face in the employment situation.

>> GREG PAUL: I thank the American Diabetes Association for putting this webinar together, and there are a tremendous amount of materials on the website related to employment and the laws that govern this area.

The key areas we will talk about today are establishing diabetes as a disability, and those rules changed effective January 1st of two thousand nine. So it is much easier to establish coverage under the law to prevent the type of discrimination that we see.

Second, there is a host of reasonable accommodations, and a lot of time it starts with trying to accommodate somebody in their specific job. Other accommodations include reassignment to other jobs, as well as a medical leave of absence that is different and can be in addition to leave under the family medical leave act.

Third, safety assessments seem to appear time and time again which are often regarded as disability cases where there is a perception or speculation that somebody is going to have an issue related to diabetes at work.

Last, commercial driving, which is the federal motor carrier

safety act, there are separate regulations for drivers that work or use insulin and those that work without the use of insulin. We will get into that detail.

Before that, I just want to share my connection with diabetes. I was diagnosed in law school. And after passing the bar I started volunteering at the ADA's expo events and walks.

It is a great opportunity to meet people who are discriminated against, and as a volunteer or otherwise, you can help them. Our attorney network has grown over the years, and I am sure that many are current members of that organization, but that is also a great resource so we're not fighting this alone.

Starting with the means with disabilities act, the amendments that became effective January 1st of 2009 recognized diabetes and other diseases related to the internal body function to be covered as a disability under the law.

So prior to 2009 we had to establish, in order to get over summary judgment, that an individual was substantially limited in the major life activity of eating or other types of activities that didn't all fit.

Sometimes it was difficult to do, and as a result, the percentages of getting kicked out on summary judgment were well over 50%. The ADA was very effective in passing those amendments, and as is a result we really have a chance to get to the meat of the discrimination rather than fighting technicalities on summary judgment.

The Americans With Disabilities Act does apply with employers with 15 or more employees, and depending on the state you practice, there may be a state law that would cover less than 15. The rehabilitation Act, the way we have used it against companies receiving federal assistance, can be valuable. It doesn't provide for punitive damages but provides for uncapped emotional distress damages.

Also the key difference is the statute of limitations of the up like the ADA which is 300 days to file a claim with the EEOC is a similar agency, the rehabilitation Act borrows the most analogous state statute, usually the tort law.

Also there is case law with respect to reassignment cases providing for is a statute of limitations up to four years under the residual federal state youth of limitations.

If you understand yourself with is a client that has passed the 300 day mark and the employers receives federal financial assess taps, there may be another option to get relief.

It just occurred to me that I need to advance the slides. I apologize for that. The EEOC has published regulations that are available and cited here issued on March 25th of 2011 that clearly identify diabetes has substantially limiting endocrine function, the starting point for coverage.

Again, this won't typically be the issue in litigation after January of 2009. Getting to the really accommodations that often affect individuals with diabetes can be breaks at work, necessary to test blood glucose, can be necessary to have a snack, necessary to administer insulin.

These are very important and often overlooked by employers as being burdensome when in fact there is great case law that provides for those types of breaks.

Additionally, getting to a reasonable accommodation in the form of a leave of absence, particularly if someone is initially diagnosed and needs some time off work, if they haven't worked long enough or if the employer is not big enough to be covered by the family medical leave, it is usually a reasonable accommodation to provide for a medical leave of absence.

The trick with the medical leave of absence is it is not reasonable -- courts find it is not reasonable to have an indefinite leave of absence. It has to be either for a specified time by date or an event like your next doctor's visit or another type of event that can be clearly identified.

So it is simply not unknown to the employer. The family medical leave act itself, as it says, applies to employ employers are 50 or more employees. The key here is you have to have worked a year and 1,250 hours.

So some part-time workers will be left out of coverage under the FMLA, and the certification form that is available through the Department of Labor website and some employers do use their own, but it provides for basic information that has to be completed by the healthcare provider that would justify the leave of absence.

The FMLA leave of absence is unpaid, but some employers may have short-term disability or other program that are separate from the FMLA to cover that period of time off.

The critical part, if an employee uses the FMLA leave and it is getting to the end of the 12 weeks, before that expiration it is essential to request -- it is better to do in writing, but doesn't have to be, a medical leave of absence under the ADA to extend that time so a person is not terminated or otherwise disciplined for being away.

It is true that this request for leave does not have to be made by the individual employee; it can be by a healthcare provider or family member as well. The Americans With Disabilities Act can run also concurrently with the FMLA, and in fact can be most valuable when it extends beyond the FMLA as well.

Turning to safety assessments, kind of is a starting point, there are send jobs defined by the employer to be safety sensitive, and those that are not.

And these are slightly department approaches to these problems, but it often comes up where an employer or the employer's medical department or consultant maybe has a misperception about a side effect of a medication with respect to diabetes.

There could be a perception of a hypoglycemic event. In my experience, employers confuse sue hypoglycemia with hyperglycemia, and that can lead to issues that aren't legitimate.

Working with the ADA against the person Penn State police, it was a timeline of getting ticked out on summary judgment, appealing ultimately resolving the case in a favorable way.

But on the note of safety assessments, the court has clearly knocked down the defendant's argument of what could possibly happen if the plaintiff had an episode of hypoglycemia. There was absolutely zero evidence of past hypoglycemic events, let alone any concern that the applicant would have had any hypoglycemia episodes in the future.

We were ultimately able to get to the issue of the direct threat that the employer was trying to put together to disqualify the person based simply upon the history of particular disability.

There is a great paper on the website about these factors which include the duration of risk, nature and severity of the harm and likelihood of the potential harm. Again with the safety sensitive positions, that is the go-to place for the employer.

But courts are really getting this message, particularly under the amended Americans With Disabilities Act that an employer has to actually pinpoint and specify and not rely upon speculation any safety concerns that it has.

Some courts have even gone so far as to require or recommend that the employer actually puts the employee in the work environment and to see if they have any problems, which can be the case for applicants and current employees.

A lot of times, particularly before litigation, there is a real opportunity to work with healthcare providers and the employer directly, more of an educational-type opportunity to explain the misunderstandings about either a particular medication, including various pills that are thought to cause hypoglycemia, when they in fact don't.

Also insulin and other misunderstandings about diabetes can be clarified with a phone call or a doctor's note to avoid jumping right into the EEOC waiting time and ultimately into contract.

So that is a real opportunity to resolve the case without litigation. But when that doesn't work, obviously we have to go

to the EEOC and go to the courts.

There appear to be a lot of cases, including the Kapache cases involving law enforcement. Often times there are real blanket disqualifications of individuals with diabetes. Even if they are sort of de facto disqualifications based on diabetes or using insulin, great work has been done and there are published cases in the 5th Circuit that have been successful. Mr. Kapache is one of them.

The next slide talks about the qualification standards. You cannot have an arbitrary cutoff, and employers seem to like to use A1-C. That test is essentially a three-month average of the blood glucose taken through a blood draw.

There is a scale, and starting with the U.S. marshals and many private employers and transportation companies will use these cutoffs to disqualify people or not hire them.

At the very heart of the ADA is an individualized assessment. So any type of cutoff, A1C or otherwise, should certainly be challenged as not providing an individualized assessment.

In looking at the comparison between the ADA and FMLA, when someone requests leave under the FMLA, the employer is not entitled to medical records themselves.

Under the ADA, an employer, particularly in litigation, would be entitled to get those relevant medical records to the condition.

So that often leads to some evidence of poorly-controlled diabetes, and that can be an issue that needs to be addressed either with a client or healthcare provider before you know what we're getting into.

With commercial driving with the insulin-dependent you need an exemption from the department of transportation. The default is that you are not able to drive right away; you have to go through the program to get certified.

However, the program does not apply to drives that do not use insulin to treat diabetes. Here is a slide of the A1C cutoff. If you aren't familiar with it, the "A" correlates to glucose of 183, and most people won't have symptoms at those levels. In fact, symptoms are really primarily correlated with hypoglycemia, if at all.

I think we talked about this. The employers will often try to point the disqualification or even after the fact substantiate their employment decision with arguing that the employee has poorly-controlled diabetes.

Here is the example of what the DOT will get into with their certifications, in particular the exception program. The department of transportation itself, the regulations require a certification every two years through an examination of certain paperwork.

Some employers might require that more often than two years, but there is a change in those regulations coming up, so it will be important to check with the DOT website or the ADA to get further information on that.

I think that concludes my part. I will turn it over to Dr. Tran.

>> HO LUONG TRAN: Good afternoon. I also want to thank the ADA for this webinar, especially for Greg and Alan for their presentations.

They talked a bit about what diabetes discrimination can look like and the strategies for fighting it. About healthcare professionals, we can help in a major way to make a difference in the lives of people who might be affected, especially the ways attorneys and healthcare professionals can partner with each other.

What is a bad collaboration? At the Association, collaboration is essential for every step of the way. Let's begin to address discrimination long before litigation is even contemplated, using the educate, negotiate, litigate and legislate approach.

It means we seek to solve the problem as close to the roots as possible, and much of the discrimination we see based on the presentations so far is based on ignorance of diabetes, so our first step is education.

Many times a problem can be resolved through basic negotiation through employee and employer. However, sometimes it is not enough. For example, if an individual has been fired or not hired because of the fact that they have diabetes, and using the courts often does become necessary.

Finally, sometimes a law itself stands in the way of ending discrimination, and we will need to change it based on the two presentations that you just heard.

What is it about educate? Educate employers, the schools, the institutions approximate diabetes, about current methods of diabetes management and how the disease affects the individual patient.

It is to educate people with diabetes and employers, the schools, the institutions about the legal rights of people with the disease. Also, especially with reasonable accommodations of employment, like Greg was saying, or 504 compliance at school, education may be the only step needed.

Again on educate, the leading diabetes healthcare professionals work with the American Diabetes Association to make sure we provide the highest quality scientific information.

Each year as part of the Association's standards of care, physician's statements on medical issues surrounding diabetes discrimination are published.

These physician statements along with other Association publication allow attorneys to gain a strange familiarity with the scientific issues that may be involved in a discrimination situation. Long before education is contemplated, these can be essential tools in convincing school or employers to voluntarily change policy and practices.

A less formal matter, the volunteers of the health advocacy network can provide expert witnesses on a wide range of issues regarding how diabetes impact all areas of the tail end life of the patient.

Negotiation. Healthcare professionals are in a unique position to advocate for patients through litigation or complaint process is undesirable. Also valuable members on a working group to create policies and standards that impact people with diabetes

For example, the professionals, they have worked with the American College of occupational and environmental medicine and the U.S. Department of Transportation, and they also can advocate for fair evaluation protocols for individuals with diabetes from a safe incentive position.

Negotiating. Like Greg talked about a reasonable accommodation. His book is in the employment context, when attorneys at the beginning staple of assisting an employee, working with the client's healthcare providers can be the most effective way to obtain reasonable accommodations.

When an individual's request for reasonable accommodations is ignored, a healthcare professional details of a professional opinion can convince an employer to provide those very same accommodations.

Maybe employers and schools are willing to negotiate with healthcare professionals more than they are willing to negotiate or to look for mutually-agreeable solutions with attorneys.

Going into the healthcare professionals in litigation, while lawyers obviously have experience with the law, no denying that. But in order to help an individual with diabetes fight discrimination, they also need to know the science and the medicine of diabetes.

Volunteer and staff attorneys may consult with healthcare professionals if they have a specific question related to the critical management of diabetes. For example, do the medical records of a potential client raise any red flags? Is medical science consistent with the individual's account?

Once a case is undertaken, volunteer healthcare professional can serve a key role as expert witnesses in litigation. The testimony of those expert witnesses is sometimes often the key to victory.

Greg talked about the case in Philadelphia about litigation.

Philadelphia police department, an Alan spoke about this case too. Steve Rosen was arrested and denied medical care for almost one full day. He had to be transferred to the ER. Alan through the participation of the ADA sued to prevent a similar situation from happening in the future.

The police then established procedures to make sure that people with diabetes have access to medication, food and medical personnel, and that police officers receive the information and the knowledge of the disease themselves.

To give an update of the case, today the Philadelphia Police Department is a national model in how it treats people with diabetes. Their officers now know how to recognize the signs and symptom of the disease, and to ensure people in their custody receive appropriate care.

This allows all people with diabetes to be much more secure in Philadelphia and allows for police officers to focus on their primary function, which is public safety, not getting sidetracked or caught up because of the ignorance with regard to diabetes.

Over the past year, volunteers with the ADA helped the Philadelphia Police Department update their access of office quick reference guide.

With the help of across the country volunteers, we were able to distribute to information to over a hundred public safety departments, but we still need help. Please contact Katharine at the website on your screen to educate your local police or fire department, very, very important.

About the healthcare professionals, how our role in legislation regulation, what we can do is testify before legislatures and regulatory boards, very important. They do listen to us.

We can lobby, contact representatives, and we can also review proposed regulations and legislation. To talk about legislation, it is the case of Mr. Stephen Orr who was fired because of taking a break to care for his diabetes.

His firing was upheld by the Court because the court found he did not have a disability, talked about by Greg. It was such a dramatic example of how the law regarding what was considered a disability was broken, and the Association legal advocacy department used the case of Mr. Orr as an example to help argue to Congress that the law needed to be fixed.

We hope that we have provided a good sense of the way in which healthcare providers can work hand in hand with attorneys to fight for the rights of our constituents, which means all people who live with diabetes and their families, including myself.

So what is needed? More healthcare professionals are needed

the around the country for the same reason, to be available when help is required in a particular part of the country.

If you know anyone who is interested, please let that person know that people who join this network can really help make a difference. How about attorneys?

As mentioned earlier, there is a network of attorneys who help on a local level. In fact, over 750 attorneys are currently on that network, but more are needed. Why? For any given case, there may not be an attorney available to help, so the more attorneys who join, the more will be available to get involved when help is needed at the local level.

Experience with discrimination law is appreciated, but not necessary. The association legal advocate can offer support to attorney members. So the attorneys should feel free to contact any of the legal attorney's staff or e-mail legal advocate at diabetes.org and they will be happy to assist.

So if you know of any attorney, and I know one now who might be interested, let him or her know about this opportunity to help and to be involved in is a meaningful way.

Finally, Katharine will provide a bit more information about how individuals experiencing diabetes discrimination can obtain help.

>> KATHARINE GORDON: Thanks again to all of our presenters. I wanted to talk a bit more about the information that we have, how we can put a little bit of this information into practice.

One of the areas in which we can do more is to really help get people to know about diabetes discrimination. A lot of times people may not be aware they are being discriminated against, and we can get out the message if there is any concern about them not being treated fairly in any part of their daily life, they can call 1-800-DIABETES to find help.

To speak more about how the process works about how attorneys can work with us, basically a person may call that 800 number because their child is having a problem at school, or they need reasonable accommodations.

They call the 800 number and that will be transferred to us so that he myself or one of the other legal advocates here can speak with the individual.

If we think the individual may need more legal help, that is where you come in, and where he we may contact you to see whether or not there is a way that you can help a situation.

Sometimes the way that you can help would be writing a letter; sometimes the way that you would help would be having a free consultation. Sometimes it might mean going to a mediation. Sometimes it might mean going through litigation.

But it would be a way in which you can help many, many people who contact us each day and each month.

The other thing we also do, we want to make sure that you have all the resources that you need to help you in your case. You are the ones who are the experts in your local court systems and you know the dynamics you are working with, and we are the ones who can provide you the on-point case information or strategy advice or looking over a brief.

Anything you think that would be helpful for you so that you can be more effective in your case or at your workplace, we are here to help you and you can always contact us at the website on the screen.

That is the primary message I wanted to get across. Finally, we want to just thank you for participating today and acknowledging the activities that nordisk helps us with.

We can open it up to some questions, if you would like. Feel free to put any information or questions in the chat box, and I may just start to ask some of our presenters to respond to some questions.

Greg, I wanted to see he whether you might be able to talk a bit about some changes you have seen in employment litigation and what are some of the ways that it is easier or harder to do than it was before.

>> GREG PAUL: Certainly before the amendments, it was really necessary to try to get a narrative report from a healthcare provider, identifying how this person was limited, which automatically set up a fine line and even a Catch 22 to prove somebody disabled enough to be covered by the law, but not so limit they couldn't do their job.

That was the type line that the amendments significantly changed. We now can almost just pass over prong one on whether it is a disability and get right to either an accommodation question he or discipline question he, medical leave question.

And the other thing that I think can be important is temporary leave, whether under the family medical leave act, you don't need to take all the leave at once, it can be intermittent. It can allow people the opportunity to go to a doctor's visit, or if they are having an episode, to be protected without being disciplined at work.

In my opinion, these certifications should be done in advance so when an episode happens, they are covered. You can do it after an episode for coverage, but I have seen a lot of people disciplined and even terminated that way.

>> KATHARINE GORDON: What would you say about -- one other question we got was about people who have FMLA leave already established, but are continuing to go to the doctor each time or to provide new information every time that they are even late for work.

>> GREG PAUL: The FMLA allows recertification. There is a

very specific process that if an employer wants to question the use of the leave, they can do that, but they need to reason.

They can't continually request like every month if someone is off or every week to substantiate their leave. This is where again working closely with the healthcare provider can make all the difference.

The scope of the FMLA leave will be determined in that certification. So if the answered need for the leave is once a week or something like that, they might put a range of episodes; that will define the use of the leave.

The employer cannot harass which could even lead to a separate retaliation claim or violation of the FMLA itself. A related issue, we see he employers asking for all medical records for the past five years, for the past ten years.

That is generally going to be far too broad under the Americans With Disabilities Act. There has to be a specific need related to the medical condition at issue in order for them to get those records.

>> KATHARINE GORDON: I also had one question based on education where we wondered about the utility of contacting the office for civil rights of the Department of Education.

I think in each case there may be many different options, but one of our experiences has been the office for civil rights in many situations can actually be very helpful in solving problems and resolving school discrimination issues.

That may not be the only avenue because you may proceed directly to litigation in certain situations, but it is something to definitely consider.

In our attorney materials website we actually have some very extensive information going through the office for civil rights opinions and decisions regarding diabetes so that you can get a good sense of the kinds of ways that OCR may be able to help you. So that is definitely a resource that you should definitely consider in appropriate circumstances.

Now we have a question for Dr. Tran. The question is: How would you like to be approached by an attorney if the attorney feels they need your help? What are some good ways of working with you?

>> HO LUONG TRAN: The way that you have been working with me is through e-mail, and phone, and so I would be available by either way, the e-mail address or phone number.

But at the same time, I have to thank you so much for this webinar because I realize this part of the discrimination perspective is very much unknown to all physicians and healthcare professional and community-generated population. So after this, I will recruit more for you with regard to healthcare professionals.

>> KATHARINE GORDON: I think we are about done with our time. I just wanted to thank everybody for your participation today. After the webinar ends, you will have the opportunity to fill out a basic evaluation.

And, feel free to contact us with any questions that you may have on anything you have heard in the presentation, or any follow-up questions you may have. We are excited to continue working with all of you.

>> HO LUONG TRAN: Thank you.

(Concluded at 1:59 p.m. CT)

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