The Americans With Disabilities Act of 1990 and Employees With Mental Impairments: Personal Efficacy and the Environment

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The Americans With Disabilities Act of 1990 (ADA) (Public Law 101-336) provides persons with mental health problems basic rights resulting in full access to community resources, especially the rights and privileges associated with the work role. This paper discusses the law, personal self-efficacy, and four environmental aspects as they relate to the employment of persons with mental impairments: (a) employer and co-worker attitudes, (b) essential job functions, (c) reasonable accommodations, and (d) community access. Areas of intervention for occupational therapists in mental health include attitude and advocacy training, assisting employers in providing reasonable accommodations, and preparing persons with mental impairments to be successful employees. Examples in occupational therapy are reviewed to illustrate the implementation of the ADA with persons with mental health problems.

The ADA provides a mechanism for occupational therapists to be the “instruments of change” in helping persons with mental health impairments realize their potential as employees and productive citizens. Because the environment influences job performance and personal competence (Christiansen, 1991), occupational therapists can adapt individual job skills or the work site or both.

The purpose of this paper is to describe the role of occupational therapy in implementing the ADA to enhance the employment of persons with mental health problems. To achieve this goal, aspects of the ADA necessitating special attention for psychosocial disabilities are reviewed, and the influence of personal competence (self-efficacy) and the environment on performance are discussed. For the purposes of this paper, the job environment consists of four environmental components:

1. Employer and co-worker attitudes toward persons with mental health impairments.
2. Definition of essential job functions related to mental health.
3. Reasonable accommodations for employment skills associated with dysfunctional employee behavior resulting from mental impairments.


Each of these components is necessary to fully comply with the ADA for employment processes (Lotito & Pimental, 1990).

The ADA and Mental Health

Under the ADA, mental or psychological disorders include mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities (National Mental Health Association, 1990). Excluded conditions include current illegal use of alcohol or drugs, homosexuality and bisexuality, sexual behavior disorders not resulting from physical impairments, compulsive gambling, kleptomania, and pyromania. Human immuno-deficiency virus, AIDS, and other communicable diseases are protected under the ADA.

Persons disabled by drug addiction or alcoholism are covered under the law as long as the person is not currently abusing drugs or alcohol. Persons entitled to protection in the workplace are those who are (a) former users who have successfully completed a supervised rehabilitation program and no longer use illegal substances, (b) participants in a supervised drug rehabilitation program who no longer use illegal substances, and (c) persons using alcohol or drugs who are erroneously regarded as engaging in illegal drug use (i.e., using a drug that is illegal unless prescribed by a physician) (ADA, Title I, § 104).

Legal drug use is that which occurs under the care of a licensed health care professional. A person who is currently abusing drugs is protected against discrimination under the ADA only if the present disability is not related to the illegal drug use. Protection is only for the defined disability and is not concurrent with drug- or alcohol-related disability problems. Employers may require a drug-free workplace and hold illegal drug users and alcoholics to the same performance standards as other employees, as established pursuant to the Drug-Free Workplace Act of 1988 (National Mental Health Association, 1990; Watson, 1990). Drug testing to identify illegal drugs during preemployment screenings is permitted, as are employment decisions made solely on drug test results. Termination and disciplinary actions can be taken, and no reasonable accommodations are required under the ADA for active drug and alcohol users.

Employers are not required to offer mental health coverage as part of their insurance benefits. An employer could not use the ADA to justify not employing a qualified applicant because the employer's current insurance plan does not cover the person's disability or because the cost of insurance benefits to the employer may increase. This is true for both health and liability insurance. Reasonable accommodation does not require that the employer provide alcohol or drug rehabilitation. A person with a drug addiction cannot be denied health and rehabilitation services if he or she was otherwise entitled to such coverage under the employer's medical plan.

The ADA protects persons with mental impairments from discrimination and supports inclusion in employment (Title I) as well as access to public accommodations and services (Title III) that enhance employability and employee's rights. For successful engagement in productive work roles, a person with mental health problems must experience personal competence or self-efficacy in performing employment-related tasks.

Personal Self-Efficacy and Employment Readiness

To be successfully employed, one must view oneself as employable. Employability is a match between work-related skill, one's judgments regarding work abilities, and the job itself. According to the ADA, skills required to perform a job are delineated in the job description and referred to as essential job functions. Work skill is the ability to do work tasks. However, one's judgment regarding one's ability to work may be an even more important contributor to employability than work skills themselves.

Bandura (1977) described this judgment about one's skills or competence as self-efficacy. Efficacy allows a person to competently engage with the environment using multiple subskills and to execute courses of action required to deal with situations. Bandura stated that perceived self-efficacy influences a person's choice of activities and environmental settings, the effort expended, and persistence. Through research, he demonstrated that perceived self-efficacy is a better predictor of subsequent behavior than are performance skills (Bandura, 1982). Success as an employee is the result of perceived self-efficacy. Because persons with mental impairments often have low self-esteem, Bandura's theory can be used to develop strategies for persons with mental health problems to acquire self-efficacy. The self-efficacy will then allow them to perform the essential functions of a job, with or without accommodation, as addressed in the ADA.

Bandura's (1977) theory is based on the assumption that psychological procedures create and strengthen expectations of personal efficacy. In this model, two personal efficacy expectations are differentiated—efficacy expectations and outcome expectations:

An efficacy expectation is the conviction that one can successfully execute the behavior required to produce the outcomes. An outcome expectation is defined as the person's estimate that a given behavior will lead to certain outcomes. Individuals can believe that a particular course of action will produce certain outcomes, but if they entertain serious doubts about whether they can perform the necessary activities, such information does not influence their
behavior. Expectations of personal mastery affect both initiation and persistence of coping behavior. (Bandura, 1977, p. 195)

For persons with mental impairments to successfully engage in employment, both components of self-efficacy need to be developed, reinforced, and maintained to achieve the desired outcome, which is appropriate work behaviors. Persons with mental impairments are unlikely to report self-efficacy beliefs. Despite possessing the skills to perform the essential functions of a job, a person will not succeed if he or she has poor self-efficacy beliefs. Thus, development of positive work-related self-efficacy judgments is critical for employability. Occupational therapists can assist with the development of positive self-efficacy beliefs. Employability of persons with mental health problems can be enhanced through an understanding of the criteria used to judge employability. Therapists can then implement activities that enhance the employee's self-efficacy.

Bandura (1977, 1986) identified four sources of judgments about one's self-efficacy and, ultimately, the ability to perform: (a) emotional arousal, (b) verbal or social persuasion, (c) vicarious experience, and (d) performance accomplishments. These are hierarchically ordered from least influential to most influential in the development and maintenance of competency behavior.

As stated by Bandura (1977), emotional arousal is a source of physiological information used to judge anxiety and vulnerability to stress. Experience with stressful situations enables the development of coping skills and competency to deal effectively with fearful situations. Verbal persuasion involves leading people to believe that they can cope successfully with what has overwhelmed them in the past. Verbal persuasion can contribute to the successes achieved through performance, because people can be socially persuaded that they possess the capabilities to master difficult situations. Social persuasion, without arrangements for conditions to facilitate effective performance, will most likely lead to failures that discredit the persuaders and further undermine self-efficacy. Vicarious experience involves seeing others perform difficult activities without adverse consequences. This experience can generate expectations of the observers that they too will improve if they persist in their efforts. Vicarious experience relies on inferences from social comparison used to model another person's behavior.Modeled behavior with clear outcomes conveys efficacy information. Observing another's performance, which results in repeated successes with evident consequences, enhances the observer's efficacy expectations. Performance accomplishments, the most influential and enduring sense of personal efficacy, involve personal mastery experiences. Successes raise mastery expectations; failures lower them. Mishaps that occur early in the course of events erode self-efficacy beliefs more than later failures during the development of self-efficacy. Repeated success lessens the negative effect of occasional failures, which in themselves can reinforce self-efficacy if failures are overcome. Performance exposure with a model present conveys powerful efficacy information, because verbal persuasion, vicarious experiences, and performance accomplishments are available to develop self-efficacy judgments. Opportunities to translate personal behavioral conceptions into appropriate successful actions and to make corrective refinements toward the perfection of skills are essential to the development of self-efficacy.

Psychological self-efficacy is probably acquired through more than one type of efficacy experience. Efficacy results from capability, which is the result of cognitive, social, and behavioral skill organization; but capability is only as good as its execution (Bandura, 1982). Once established, enhanced self-efficacy will generalize to other performance.

Bandura's (1977, 1982) self-efficacy model and occupational therapy are mutually supportive. Occupational therapists value all four types of efficacy experiences, and Bandura's emphasis on the importance of performance accomplishments is consistent with our focus on the doing process in treatment using purposeful activity. The importance of selected functional activities is to provide actual performance experience, the preferred facilitator for self-efficacy beliefs. Simulation, modeling, observation, and repeated movement exercises are only preliminary or underpinning experiences to the development of self-efficacy through actual performance. In occupational therapy, the value of actually performing the functional activity combined with using the three other forms of efficacy experiences is underscored.

Occupational therapists in mental health are aware of the importance of the emerging trend called supported and transitional employment in providing work-related efficacy expectations in their clients. Supported and transitional employment approaches assume that all people can do meaningful, productive work in competitive employment settings, if it is what people choose to do and if they are given necessary supports or accommodation appropriate for the setting (Anthony & Blanch, 1987). ADA outcomes will include the increased use of supported or transitional employment and opportunities to engage in regular work roles with reasonable accommodations. An example follows:

A 51-year-old woman with mental retardation who had never gone to school or worked lived at home with her 92-year-old mother until her mother’s increasing age required both of them to move to a nursing home together. The head nurse at the nursing home requested that this woman engage in more productive work than that offered by the activity specialist. Both the client and her mother did not believe that she was employable.

Initial observation by the occupational therapist during a 3-hr trial in the workshop revealed that the client was able to do the essential job functions for several tasks in the sheltered workshop with minimal support from a female staff member. However, when a male supervisor or male co-worker addressed her or stood nearby, she became angry, hostile, and unable to keep working. The issue of tolerance for the opposite sex was considered to be a marginal job function.
The treatment plan, which was also a reasonable accommodation for a marginal job function, was simply to place the client in a work room with other women only. As expected, her work skills developed. Modeling by peers and the therapist, verbal persuasion by the therapist and others, and practice facilitated the development of her self-efficacy as a worker.

The outcome of the treatment plan was to have this client successfully employed in nearby industry. The treatment program incorporated the behavioral approach of desensitization, so that she would be able to work alongside men and talk with them without it disrupting her work. This would be less isolating for the client in the workplace. A second alternative, if not successful, was to seek reasonable accommodation in the workplace.

A person’s perceived self-efficacy influences choice and structures needs for specific types of support and transition. Frequently, persons with mental health problems are not able to accurately report their job abilities. However, coupling one of the self-efficacy approaches with a person’s job expectations may reveal the person’s true abilities and decrease the influence of negative or limiting perceived expectations. The following case exemplifies the importance of self-efficacy experiences:

In the television show “L.A. Law,” the character named Benny has developmental disabilities and started working at the law firm by helping with mail delivery, performing relatively simple filing, and making deliveries. His view of his own skills was narrow, based on living in a loving home environment with his mother, who provided for all of Benny’s needs but not for the development of work attitudes or behaviors. The work environment was new to him. As Benny’s strengths were reinforced by performance experiences and accommodation, he got clear, strong, powerful feedback from his supervisors and other personnel as to the importance of the service he provided. His confidence in his skills increased to the point where when accused of losing a file, he would respond with “No, I know exactly where that file is” and would produce it. He demonstrated mastery and accompanying self-efficacy and participated in employee activities and work-related social events.

Important aspects of the work environments described in the above examples were the employers’ positive attitude regarding each person’s employability, accurate definitions of essential job functions, appropriate accommodations for both marginal and essential job functions, and full access to employee privileges. Each of these aspects is described below.

Attitudes Toward Mental Impairment

The ADA does not require a person to disclose a disability. Information regarding an identified disability must remain confidential, except in employment situations where supervisors and managers need to be informed regarding restrictions or accommodations. The greatest challenge for persons with mental impairments may be the decision to disclose a mental health impairment to a potential employer. On the one hand, disclosure can provide protection under the law; on the other hand, many psychosocial disabilities are invisible or just considered eccentric behaviors, making disclosure of mental impairment a matter of individual choice. The decision to report a mental impairment can be difficult because of the stigma associated with mental health problems:

The stigma associated with mental illness often results in attitudinal barriers that hinder a person’s ability to work or enjoy life. Concerns by employers regarding productivity, safety, insurance, liability, attendance, and acceptance by co-workers and customers have been identified as common barriers that frequently result in the exclusion of persons who have sought mental health care from the work force. (National Mental Health Association, 1990, p. 7)

A person cannot be rejected from a job because of stereotypes, stigma, myths, or fear associated with mental illness. Stigma and stereotypic expectations regarding the ability of persons with mental impairments to be suitable employees are often founded in bias and a lack of knowledge by both the public and employers (Combs & Omvig, 1986; Howard, 1975). Just as with attitudes about race, culture, and sex, assumptions and attitudes toward any minority group do not define our perceptions, but also direct our actions toward the group (Lotito & Pimental, 1990). Hartlage and Roland (1971) reported that employers viewed persons with mental health problems as less desirable employees and as having behavioral problems that lead to poor work abilities. Such negative attitudes are a serious impediment to the successful employment of many persons with psychiatric disabilities. These persons are being deprived of the opportunity to restore their mental health through engagement in productive work roles (Howard, 1975). These attitudes and perceptions are counterproductive to the intent of the ADA and are cause for action.

Persons with psychosocial disabilities can be educated to become self-advocates. Ultimately, the decision to disclose information about one’s mental impairment is the employee’s. Advocacy training may allow the person to disclose this information in order to assist with beneficial accommodations instead of continuing negative patterns of behavior, which might limit or prevent full participation in work roles. Personal advocacy training should begin before the need for job accommodation arises. Self-advocates are able to share concerns regarding their mental impairments with employers and suggest beneficial accommodations.

The reduction of stigma associated with mental illness will also require the education of people in the workplace and the community regarding appropriate attitudes and behaviors toward persons with mental impairments. Common strategies to use in assisting with attitude change include personnel training for managers and supervisors, advocacy training for staff and persons with mental health problems, visibility of successful employees with mental health impairments, employee counseling and consultation, and modeling of normal interactions between co-workers. Occupational therapists can provide information, encouragement, counseling, and suggestions to employers and co-workers regarding employment of persons with mental health problems. Training sessions that focus on capabilities, understanding, and acceptance of the employee with a mental impai-
ment can help create a work environment where reasonable accommodation is understood and the employee is able to work more effectively.

Occupational therapists might use the following formats for employer and co-worker training. This information could be included for self-advocacy training also.

1. Self-assessment of common myths and expectations regarding mental impairments.
2. Group discussion of self-assessment and information to dispel myths.
3. Information regarding mental impairments.
4. Discussion of the ADA regarding employment.
5. Presentation of successful employees with mental impairments either through personal testimony or audiovisual resources.
6. Identification of workers’ behaviors and related reasonable accommodations needed by persons with mental impairments.
7. Protection of confidential information and civil rights during preemployment interviewing and employment.

When this general foundation is in place in co-workers, employment practices can be reviewed and accommodations designed to meet the specific individualized needs of the employee with mental impairments.

The individual qualified for a job is not required to prove that the employer’s concerns regarding the influence of mental impairment on job performance are invalid. Under the ADA, a person’s employability is established through assessment of his or her fitness for duty using the essential functions of a job.

Essential Job Functions

Every job in society, regardless of skill level and perceived efficacy, can be described in great detail (Lotito & Pimental, 1990). The ADA stipulates that job functions can be divided into two categories: essential and marginal. These two categories become the basis for the job description, preemployment screening, medical examination, and employment processes. The focus during these activities is on the person’s abilities, not the disability. Job descriptions guide the other processes, because they provide a clear explanation of each job, its performance expectations, and its relation to other jobs.

The employer determines what needs to be done, what each job will look like, how jobs interrelate, and the employee qualifications needed in each job. The ADA mandates that hiring and employment policies not discriminate against qualified employees on the basis of their disability. These job descriptions must differentiate between essential and marginal performance requirements.

Essential job functions are work tasks that are critical, fundamental, indispensable, required, and necessary. A person who, through reasonable accommodation, can demonstrate the ability to perform essential job functions is considered to be qualified for the job. Marginal job functions are work tasks that are nonessential, peripheral, extra, or incidental; they cannot be used to disqualify an otherwise qualified person with mental health impairment. All marginal job functions require reasonable accommodation. The following is an example of mental impairment that requires accommodation of marginal, not essential, job functions:

A worker with a history of depression is employed as a cashier in a fast-food restaurant. Essential job functions include taking accurate orders, handling money, and providing change to customers with accuracy and in a timely manner. Marginal functions included smiling at each customer and making positive, energetic statements to customers when greeting them. The worker found that after 2 hr at the counter, he was unable to maintain accuracy and speed in the essential job functions as well as fulfill the marginal job functions. The worker’s self-esteem was affected, and he consulted with an occupational therapist. The therapist recognized this situation as contributing to low self-efficacy and discussed with the worker how to adapt the situation. Following a supervisory session between the worker and supervisor, reasonable accommodations were made by scheduling the worker for 1½ hr at the counter followed by 45 min of cleanup duties, a break, and then a repeat of that schedule. The worker was coached by the therapist to alert the supervisor to fatigue and to an increase in his negative thoughts that might precede a potential negative interaction with a customer. The supervisor also provided the worker with verbal praise at ½-hr intervals throughout the work shift.

The accommodations in the case above qualify as reasonable accommodations under the ADA.

Occupational therapists are familiar with job analysis in work settings that have physical, emotional, cognitive, or social requirements. A job analysis is unique to each work environment and job description. Occupational therapists can use their skills in job analysis to assist employers with defining job descriptions and potential reasonable accommodations. An important task will be defining essential job functions related to emotional and psychosocial performance and differentiating the essential ones from the marginal. In the process of developing job descriptions, therapists can identify attitudes needing to be changed.

In the following situation, Bowman (1991) demonstrated that mental or emotional health can be identified as an essential job function.

An occupational therapy position is available in a psychiatric treatment program that is behaviorally oriented. The therapist working in the program is expected to model appropriate social behavior when she is in stressful situations. The occupational therapist is terminated and files suit against the manager and facility for discrimination. The evidence used to determine if the therapist has been discriminated against is the job description. If the job description did not include “modeling appropriate social behavior” as an essential job function, the manager could not claim it was essential. Unwritten assumptions about what a job requires no longer apply. The performance skills required must be outlined in the job description, which must be shown to the applicant. (p. 2)
In this situation, two critical parts were present that are necessary under the ADA. First, the modeling of appropriate social behavior was defined as an essential function in the job description for this position, and, second, there was no suitable, reasonable accommodation that could substitute for this essential job requirement.

**Reasonable Accommodation**

There is pressing need for widespread education regarding reasonable accommodations within the mental health field (Mancuso, 1990). Reasonable accommodations reduce the gap between a worker's capabilities and job demands. In planning for employment, one must examine both elements. Occupational therapists can assist both the employee and employer with this planning, as demonstrated below:

A computer programmer with a mental disability and related problems with fatigue was seen by an occupational therapist during outpatient sessions. Assessment revealed that the fatigue increased in relation to the amount of stress associated with programming responsibilities and with the client's sleeping patterns. Recently, she had been working overtime for 2 weeks to solve problems in a new inventory system. She reported that the increased hours disrupted her normal sleep cycle and that previously discussed adaptations were not helping. An adaptation was planned to prevent this fatigue.

She requested from her supervisor 3 days of sick leave to work with her physician and to get the necessary rest to get back into a normal wake-sleep cycle. She informed the supervisor of the employer's policy for employees to use paid sick time to see their physician. The supervisor agreed to her sick leave. The supervisor will use two other programmers to solve any computer problems that occur during the client's 3-day absence. Upon her return, both parties agreed to discuss other job accommodations to prevent this level of fatigue from occurring in the future.

A person is qualified for accommodation whether the disability is a condition that exists prior to employment or develops during employment, as indicated in the following example:

An employee recovering from alcohol dependence (i.e., he has not had a drink for 1½ months) has been a sales and delivery person for 3 years with a company that sells and distributes snack products. Of the 100 customers in the employee's sales territory, 7 are liquor stores or taverns that the employee used to frequent. He reported to his occupational therapist how stressful it was to continue to serve these accounts.

The employee was a participant in an employer-sponsored alcohol rehabilitation program. The employer wanted the employee to return to work as soon as possible and asked for a planning meeting. The occupational therapist from the rehabilitation program was asked to assist in the decision-making process, and the problems with the assigned territory were discussed. A reasonable accommodation involved transferring these accounts to another salesperson in a nearby territory. In exchange, this employee would service appropriate accounts from the nearby territory. Thus, the employee was able to return to work sooner than expected, and the employer was able to continue business.

Accommodation must also reflect limitations that are static or changing. For example, job accommodation for people with personality disorder behaviors may need to be implemented only once and are predictable, whereas for people with bipolar disorders, accommodation may need to vary depending on the current behavior pattern.

Reasonable accommodation may include (a) making existing employment facilities accessible to and usable by persons with disabilities; (b) job restructuring; (c) part-time or modified work schedules; (d) reassignment to a vacant position; (e) acquisition or modification of equipment or devices; (f) appropriate adjustment or modification of examinations, training materials, or policies; and (g) provision of qualified readers or interpreters and other similar accommodations for persons with disabilities (ADA, Title I, §101.9(A)). Reasonable accommodation for persons with mental disabilities might include the following:

- Part-time or flexible work schedules to allow for medical appointments.
- Provision of unpaid leave days.
- Re-delegating assignments.
- Exchanging assignments with another employee.
- Reassignment to a vacant position if this would prevent the employee from being unemployed or the employer from losing a valuable employee.

Under the ADA, reasonable accommodation is expected of the employer; it is usual or typical and not an exception, as seen in the following situation.

A job is open for a purchasing clerk in a large, open work space that has 16 purchasing clerks. A person with an anxiety disorder is able to meet all the essential job functions for the clerk position except that she has difficulty concentrating on multiple tasks. The occupational therapist reviewed the situation and made suggestions.

Reasonable accommodations included placing the employee's desk within a three-sided portable wall system to decrease general office distractions and developing an in/out work basket system outside this immediate work area to decrease interruptions. Follow-up by the occupational therapist indicated that these accommodations supported satisfactory work behaviors.

These two accommodations are not exceptional because they are also appropriate for a nondisabled employee with poor concentration on the job (e.g., the office socializer). Implied is the fact that persons with disabilities cannot be disqualified because of their inability to perform nonessential, or marginal, functions of the job and that reasonable accommodation be made to help such persons meet legitimate criteria (National Mental Health Association, 1990). As of July 1, 1992, employers will have to defend discrimination charges related to their standards, selection criteria, tests, and refusal to accommodate in employment-related decisions (ADA, Title I, § 107).

According to the ADA, employers who interview a potential employee or consider an employee's continued employment are not allowed to focus on what a person cannot do or on the diagnosis itself. They must focus instead on essential job functions and the capability of the person in question to perform the job tasks. An occupa-
A certified public accountant for a medium-sized business, whose condition is diagnosed as bipolar affective disorder, appears agitated at tax time and highly sensitive to the supervisor’s questions about the time line for submitting tax documents. Instead of confronting the worker and requesting immediate documentation, the employer along with the occupational therapist could plan a reasonable accommodation that would entail asking the worker to meet the supervisor the next day with a time line and to be prepared to identify the need for additional help or personnel. Additionally, at the meeting, the supervisor could offer the employee support for his diligent efforts. The supervisor could also encourage the employee to take time to see a physician to make sure his medications are conducive to his work responsibilities. These actions demonstrate positive regard for the employee’s work and facilitate the employee’s performance and self-efficacy beliefs.

Occupational therapists can help the employer and employee identify desired work behaviors and plan reasonable accommodations to facilitate essential work behaviors. Psychiatric disabilities present functional limitations that recur and require adaptation during employment. Mancuso (1990) identified these limitations as (a) duration of concentration, (b) screening out environmental stimuli, (c) maintaining stamina throughout the workday, (d) managing time pressures and deadlines, (e) initiating interpersonal contact, (f) focusing on multiple tasks simultaneously, (g) responding to negative feedback, and (h) physical and emotional side effects of psychotropic medications. (See the Appendix for an expanded list and reasonable accommodations for work-related behavior associated with mental impairment. This list may be useful for employers who, in good faith, want to employ persons with mental impairments, for occupational therapists who will oversee the work site, and for persons with mental health problems to identify potentially beneficial accommodations that allow them to successfully engage in work.) The selection of accommodation must reflect the person’s functional abilities, his or her self-efficacy, and the work environment. For example, if a person cannot do word processing for more than 90 min, then the accommodation may be to require a 10-min break every 90 min, and the software package itself could notify the employee when it is time for a break.

Not providing reasonable accommodations to a qualified person with a disability is prohibited discrimination, unless the change would be unreasonably burdensome. The legal term for this employer burden is undue hardship. Undue hardship is an action requiring significant difficulty or expense when considered in light of the nature and cost of the accommodation needed and the overall operational, financial, and personnel resources of the facility. Accommodation is required unless it creates a significant difficulty or expense. Employers must provide evidence to support their undue hardship decisions when denying employment to a qualified individual with a mental impairment. If there is more than one way for an employer to provide accommodation, he or she may choose the easiest one to implement or the least expensive. The following example describes a potential undue hardship.

An aging day-care worker has shown signs of cognitive deterioration, forgetfulness, and shortened concentration. The day-care center meets the strict state-mandated standards for number of personnel assigned to care for the various age groups. The employee continues to be a warm, gentle person who wants to maintain her full-time job and denies any cognitive problems. Because she has developed such a good, long-standing relationship with the children and their parents, the supervisor consulted with an occupational therapist and decided to add part-time workers to assist the day-care worker in her assigned room.

The agency suffered a significant financial loss due to the increased personnel costs of providing for the safety of the children and the worker. During the consultation, the supervisor said that this increased financial burden could not be continued. The worker was aware of the change in her abilities and agreed to resign her position. Knowing that the worker enjoys children, the therapist helped her find a church-based nursery to volunteer her services.

In this case, the employer could claim undue hardship as long as access to adequate financial resources to cover the financial loss were not available. For example, a small, privately owned day-care center could claim undue hardship, whereas a facility owned by a large corporate entity would need to prove undue hardship based on total corporate assets.

Two related important factors influence decisions regarding reasonable accommodation for persons with mental impairment under this law—direct threat and fitness for duty. If direct threat or fitness for duty are used in employment decisions, either must be shown to be job related and consistent with business necessity. Mental illness is hard to define, and the stability of an emotionally disturbed person is difficult to assess and predict (Strasser, 1991). Strasser said that not only should a person be able to perform a job, but the person should perform it safely and, in doing so, not endanger himself or herself, his or her co-workers, or society.

Essential job functions regarding safety should be included in the job description, and occupational therapists, physicians, and job interviewers should be instructed to assess for this ability. According to Section 103 of Title I, employers may write and screen for job qualifications that exclude persons with mental health conditions from consideration if they pose a significant safety risk for other employees (Verville, 1990). A person with a history of aggressive, violent behavior in the work environment, for example, could be excluded from jobs where the behavior could create an unsafe working environment. The following example reviews such an instance.

A slaughterer from a local meat-packing company was hospitalized because he had been swinging meat cleavers at fellow workers, saying he was going to kill them. Clearly, this behavior is life threatening. The employer with a carefully constructed job description could justify excluding this person from this job and show that the company was not violating the employee’s civil rights by not providing reasonable accommodation. The occupational therapist could inform the worker and employer of their rights and return-to-work expectations.
Direct threat is defined in the law as a significant risk to health or safety of others that cannot be eliminated by reasonable accommodation. Direct threat can be used as a qualification standard when screening a person for a specific job. Regarding mental illness, this section of the law ensures that decisions pertaining to a person's qualifications for a job are based on current, objective evaluation rather than on misconceptions and stereotypes (National Mental Health Association, 1990). To disqualify a person for a job, an employer must obtain objective evidence that an applicant or employee has recently made threats that threatened injury or has committed overt, threatening, or harmful acts. The specific risk and behavior posed by the disability must be identified. The perceived threat of harmful actions in the future is not a factor. The following case exemplifies the direct-threat issue.

In the process of interviewing a person for hire as a bank clerk, the manager discovered that the applicant had been treated for cocaine addiction 2 years earlier. The applicant openly talked about his recovery and his current involvement in support groups. The manager's previous experience with cocaine addicts was negative and assumed that this employee could not be trusted with cash, would try to steal money for cocaine, or might have cocaine-addicted friends who would use the applicant to rob the bank in the future. The employer is considering not hiring him to work at the bank.

In the above example, the employer would be in conflict with the ADA, because these conclusions had no objective basis or no current behavioral indicators related to this employee's ability to perform the essential job functions; they were based on misconceptions or stereotypes. An occupational therapist who offered seminars for employers regarding cocaine addiction and rehabilitation could increase this employer's understanding and maybe his acceptance of addiction.

A second qualification standard related to direct threat is fitness for duty, which also requires individualized, objective assessment. In the ADA, fitness for duty is defined as the degree of risk justifying disqualification that demonstrates reasonable probability of serious or substantial harm. The likelihood, seriousness, and imminence of injury are factors that one would consider in determining the legality of exclusion. The recurrence of a clinical condition could be used to estimate this standard for each person in a specific job. Both individual factors and job-related factors should be considered (Maffeo, 1990). Additionally, established scientific bases for determining risk may contribute to fitness-for-duty decisions. For example, Maffeo (1990) stated that an employer who is concerned about an applicant who has threatened suicide in the past must assess (a) both the applicant and the requirements of the job, with attention to the applicant's current and past mental health problems; (b) the published data on suicide risk, general nature, and specific hazards in the target job; and (c) adequacy of the applicant's performance at previous jobs. The final decision must be based on information from objective data about known risk factors and possible accommodations to permit essential and marginal job functions.

Employers are reminded that concerns regarding direct threat and fitness for duty cannot circumvent the prohibition against preemployment inquiries into a person's disability (ADA, 1990). This includes generalized requests or inquiries related to medical records, mental health history, or mental disability under the guise of wanting to ascertain the possibility of direct threat posed by the applicant. Instead, employers must focus on the ability of the applicant or employee to perform the essential functions of a job with or without reasonable accommodation.

Access to Employee Functions

Employees with mental health disabilities are entitled to attend any function provided to any other employee. Any public accommodation or service provided to other employees must be accessible to them as well. Employees cannot be excluded from annual office retreats, use of the corporate condominium, or business trips, as shown in the example below:

The company holiday party for employees and their families has been announced and the personnel department is taking reservations. An employee who has a 14-year-old daughter with mental disabilities made her reservation. Personnel is aware that this daughter has been known to be loud and distracting in her speech, and they are concerned about her behavior being disruptive and inappropriate in the restaurant's elegant setting. The company is considering asking this employee not to bring her daughter.

Under ADA protection, the company cannot make such a request. The employee's right to equal access for her family to join the employer's holiday party is protected by Title III.

Employers must ensure that employees have access to employment-related activities that may occur off the job site. For example, a business with a total staff of 75 employees offers supported employment for 12 mentally retarded persons. A bowling league is being set up for interested employees, and 7 of the supported employees wish to join the bowling league. Under the ADA, it is discriminatory not to offer the persons with mental disabilities access to the integrated bowling league.

Clearly, Titles I and III work in concert with each other when addressing access to employment-related activities, whether these activities are at the work site or are related to employer-sponsored activities.

Implications for Occupational Therapy

The focus on employment and reasonable accommodations for clients with mental disabilities focuses more on abstract psychosocial components of employment, including interpersonal behaviors and personal beliefs, and
less on assistive technology. Occupational therapists can help persons with mental disabilities become a part of the work force by doing the following:

- Providing attitude and advocacy training for persons with disabilities as well as for employers and co-workers.
- Preparing persons with mental impairments to be successful employees through training programs to promote self-efficacy as a worker.
- Collaborating with employers who want to employ persons with mental impairments by helping them to identify the essential functions of jobs and determine reasonable accommodations for persons with mental disabilities.

If employment is a goal of any mental health rehabilitation program, then occupational therapists should plan meaningful treatment activities that simulate work and provide opportunity to acquire self-efficacy as a worker. Bandura’s (1977, 1982) model, which is consistent with occupational therapy philosophy, provides a mechanism for returning clients to work roles. This model also has implications for keeping persons with mental impairments on the job. Thus, the self-efficacy model provides a mechanism to ensure successful employability within the guidelines of the ADA.

Occupational therapists in mental health will see numerous related roles emerge as the ADA is implemented, including those of advocate, educator, designer, provider of reasonable accommodations, and, perhaps, liaison between employers and employees with disabilities. We hope that implementing the suggestions made in this paper will direct ADA-related decisions about those with mental disabilities toward access and participation in life roles, especially the most meaningful role—that of worker—for persons with mental impairments (Gonzalez & Gordon, 1990). Occupational therapists can facilitate the process of integrating Americans with mental disabilities into the mainstream of life and be instrumental in providing leadership to assist in the full implementation of this new civil rights legislation. As agents of both personal and environmental change, we as occupational therapists can demonstrate application of our knowledge in a timely way to help persons with mental disabilities attain their employment rights and support this declaration of independence.

Appendix

Reasonable Accommodations for Recurrent Functional Problems Among Persons With Psychiatric Disorders

<table>
<thead>
<tr>
<th>Personal self-efficacy</th>
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<tbody>
<tr>
<td>Reinforce or coach appropriate behaviors.</td>
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<tr>
<td>Test for job skills on the job and avoid self-report of abilities.</td>
</tr>
<tr>
<td>Place in job where there is a model to follow or imitate.</td>
</tr>
<tr>
<td>Teach self-advocacy skills.</td>
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<tr>
<td>Provide successful job experiences.</td>
</tr>
<tr>
<td>Use positive feedback.</td>
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<tr>
<td>Begin with close supervision and then cut back slowly as skills are maintained.</td>
</tr>
<tr>
<td>Maintain similarity or consistency in work tasks.</td>
</tr>
<tr>
<td>Encourage positive self-talk and eliminate negative self-talk.</td>
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<table>
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<tr>
<th>Duration of concentration*</th>
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<tbody>
<tr>
<td>Put each work request in writing and leave in “to do” box to avoid interruptions.</td>
</tr>
<tr>
<td>Provide ongoing consultation, mediation, problem solving and conflict resolution.</td>
</tr>
<tr>
<td>Provide good working conditions, such as adequate light, smoke-free environment, and reduced noise.</td>
</tr>
<tr>
<td>Provide directive commands on a regular basis.</td>
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<table>
<thead>
<tr>
<th>Screening out environmental stimuli*</th>
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<tbody>
<tr>
<td>Place in a separate office.</td>
</tr>
<tr>
<td>Provide opaque room dividers between workstations.</td>
</tr>
<tr>
<td>Allow person to work after hours or when others are not around.</td>
</tr>
<tr>
<td>Ensure that workstation facilitates work production and organization.</td>
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<table>
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<tr>
<th>Maintaining stamina throughout the workday*</th>
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<tbody>
<tr>
<td>Provide additional breaks or shortened workday.</td>
</tr>
<tr>
<td>Allow an extended day to allow for breaks or rest periods.</td>
</tr>
<tr>
<td>Avoid work during lunch, such as answering the phone; buy an answering machine instead.</td>
</tr>
<tr>
<td>Distribute tasks throughout the day according to energy level.</td>
</tr>
<tr>
<td>Job share with another employee.</td>
</tr>
<tr>
<td>Develop work simplification techniques, such as collect all copying to be done at one time or use a wheeled cart to move supplies.</td>
</tr>
<tr>
<td>Have a liberal leave policy for health problems, flexible hours, and back-up coverage.</td>
</tr>
<tr>
<td>Individualize work agreements.</td>
</tr>
<tr>
<td>Verify employees’ efficacy regarding their ability to sustain effort or persist with a task.</td>
</tr>
<tr>
<td>Teach on-the-job relaxation and stress-reduction techniques.</td>
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<thead>
<tr>
<th>Managing time pressure and deadlines*</th>
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<tbody>
<tr>
<td>Maintain structure through a daily time and task schedule using hourly goals.</td>
</tr>
<tr>
<td>Provide positive reinforcement when tasks are completed within the expected time lines.</td>
</tr>
<tr>
<td>Arrange a separate work area to reduce noise and interruptions.</td>
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<tr>
<td>Screen out unnecessary business.</td>
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<tr>
<th>Initiating interpersonal contact*</th>
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<tbody>
<tr>
<td>Purposely plan orientation to meet and work alongside co-workers.</td>
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<tr>
<td>Allow sufficient time to make good, unhurried contacts.</td>
</tr>
<tr>
<td>Make contacts during work, break, and even lunch times, adjusting the conversation to the situation.</td>
</tr>
<tr>
<td>When standing, instead of facing each other, try standing at a 90° angle to each other.</td>
</tr>
<tr>
<td>Allow the person to work at home.</td>
</tr>
<tr>
<td>Have an advocate to advise and support the person.</td>
</tr>
<tr>
<td>Communicate honestly.</td>
</tr>
<tr>
<td>Plan supervision times and maintain them.</td>
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</tbody>
</table>
Develop tolerance for and helpful responses to unusual behaviors.

Provide awareness and advocacy training for all workers.

**Focusing on multiple tasks simultaneously**

Eliminate the number of simultaneous tasks.

Redistribute tasks among employees with the same responsibilities, so each can do more of one type of job task than a lot of different tasks.

Establish priorities for task completion.

Arrange for all work tasks to be put in writing with due dates or times.

**Responding to negative feedback**

Have employee prepare own work appraisal to compare with supervisor's.

Work together to establish methods employee can use to change negative behavior.

Provide positive reinforcement for observed behavioral change.

Provide on-site crisis intervention and counseling services to develop self-esteem, provide emotional support, and promote comfort with accommodations.

Establish guidelines for feedback.

**Symptoms secondary to prescribed psychotropic medications**

Provide release time to see psychiatrist or primary physician.

Encourage employee to work with physician to establish a time schedule to take medications that are conducive to work responsibilities.

Provide release time or changes in job tasks that match condition.

*These headings are adopted from Mancuso (1990).*

**References**


