IMMUNIZATIONS have become a core responsibility of community pharmacists. A recent case from a federal court of appeals has upheld the discharge from employment of a pharmacist who has trypanophobia—fear of needles. The pharmacist had contended that the Americans with Disabilities Act (ADA) provides protection from the requirement to perform immunizations at his pharmacy.

**Background**

In 2011, the pharmacy began to require its pharmacists to provide immunizations to patients, and the pharmacist’s job description was modified to include immunizations under “essential duties and responsibilities.”

The pharmacist had worked for this pharmacy, or its predecessors, for 34 years. He obtained a note from his physician stating that he is “needle phobic and cannot administer immunizations by injection.” Invoking the ADA, the pharmacist asked that the pharmacy provide him with a reasonable accommodation of his disability. The pharmacy responded that the ADA does not apply to trypanophobia. The pharmacist’s employment was terminated.

The pharmacist sued the former employer under the ADA and was awarded damages in excess of $1 million. From this judgment, the defendant pharmacy appealed.

Finding someone else to perform the essential function, while the pharmacist with a disability performs other duties, is not a reasonable accommodation.

**Rationale**

The appellate court first noted that “the ADA prohibits discrimination in employment against a qualified individual on the basis of disability.” Under the ADA, a “qualified individual” is one who “with or without reasonable accommodation, can perform the essential functions of the employment position.”

The court first concluded that immunization injections were an essential pharmacist function at the time of the pharmacist’s termination. While recognizing it was “understandable that the jury had sympathy” for the pharmacist, “his inability to perform an essential function of his job as a pharmacist is the only reasonable conclusion that can be drawn from the evidence.”

The court next considered whether there was a reasonable accommodation that would “enable [the pharmacist] to perform the essential function of administering immunization injections.” The pharmacist suggested that the pharmacy “could have either hired a nurse to give immunizations for him or assigned him to a dual-pharmacist location.” The court rejected these suggestions because a reasonable accommodation does not require the elimination of an essential function.

The court reversed the jury verdict for the pharmacist and entered judgment in favor of the pharmacy because “performing immunization injections was an essential job requirement, and [the pharmacist] presented no evidence of a reasonable accommodation that would have allowed him to perform immunizations.”

**Discussion**

Persons with disabilities are welcome in the pharmacy profession, and they are afforded protections under the ADA. That law applies to “qualified individuals” who can perform “essential functions” of the practice of pharmacy.

As this case illustrates, the evolution of pharmacy practice can lead to changes in the essential functions of a pharmacist. A pharmacist who has spent a career performing traditional essential functions such as order processing, patient education, and consultation with other health professionals may be confronted with a new responsibility to which a disability applies. It is an unwelcome development, and it is no surprise that a jury would sympathize with a pharmacist who suddenly discovers that she or he cannot meet newly established responsibilities because of a disability that previously was of no professional consequence.

Employers are required to reasonably accommodate employees who have a disability if doing so will enable the employee to perform an essential function. However, finding someone else to perform the essential function, while the pharmacist with a disability performs other duties, is not a reasonable accommodation, the court ruled. When a disability renders a pharmacist unable to perform the essential functions of the job, that disability takes the pharmacist outside the definition of “qualified individual.”

Based on: Stevens v Rite Aid, 2017 U.S.App. LEXIS 4985 (2nd Cir. March 21, 2017)

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