

# Post-Traumatic Stress Disorder and the ADA



Prepared by:  
Doug Heise  
Heyl, Royster, Voelker & Allen, P.C.

**LORMAN**<sup>®</sup>

Published on [www.lorman.com](http://www.lorman.com) - July 2018

Post-Traumatic Stress Disorder and the ADA, ©2018 Lorman Education Services. All Rights Reserved.

## INTRODUCING

Lorman's New Approach to Continuing Education

# ALL-ACCESS PASS

The All-Access Pass grants you **UNLIMITED** access to Lorman's ever-growing library of training resources:

- ✓ Unlimited Live Webinars - 120 live webinars added every month
- ✓ Unlimited OnDemand and MP3 Downloads - Over 1,500 courses available
- ✓ Videos - More than 1300 available
- ✓ Slide Decks - More than 2300 available
- ✓ White Papers
- ✓ Reports
- ✓ Articles
- ✓ ... and much more!

Join the thousands of other pass-holders that have already trusted us for their professional development by choosing the All-Access Pass.



**Get Your All-Access Pass Today!**

# SAVE 20%

Learn more: [www.lorman.com/pass/?s=special20](http://www.lorman.com/pass/?s=special20)

Use Discount Code Q7014393 and Priority Code 18536 to receive the 20% AAP discount.

\*Discount cannot be combined with any other discounts.



# Post-Traumatic Stress Disorder and the ADA

Written by: Doug Heise, [dheise@heyloyster.com](mailto:dheise@heyloyster.com)

Descriptions of Posttraumatic Stress Disorder (PTSD) appear in literature going back to Homer (*The Iliad*, 9th Century B.C.), Shakespeare (*Henry IV*, 1597) and Dickens (*A Tale of Two Cities*, 1859). Each wrote of traumatic experiences to the characters and the symptoms that followed those events.

Over the years PTSD has been described as shell shock, War neuroses (WW I), battle fatigue, Combat Stress Reaction or CSR (WW II). In 1952, the American Psychiatric Association (APA) produced the first Diagnostic and Statistical Manual of Mental Disorders (DSM-I) which included "gross stress reaction." The diagnosis was proposed for individuals who were psychologically normal in general terms, but had symptoms from traumatic events such as disaster or combat. The diagnosis assumed that the reactions to the trauma would resolve relatively quickly, 6 months, and if present after that time, another diagnosis was to be made. In 1968, despite growing evidence that that exposure to trauma was associated with a constellation of psychiatric problems, the diagnosis was eliminated in the DSM-II. It included a section on "adjustment reaction to adult life" which was limited to three examples of trauma, unwanted pregnancy with suicidal thoughts, fears linked to military combat, and a

particular syndrome associated with prisoners who faced a death sentence. This diagnosis was clearly insufficient.

Prior to publishing the DSM-III in 1980, the APA reviewed and gave credence to research involving Vietnam Veterans, Holocaust survivors, sexual trauma victims, and others that had suffered severe traumatic events. Links between the trauma of war, post-military civilian life, and the non-war related traumatic events experienced in life where PTSD has affected civilians. DSM-6.2, released in October of 2017, reflects the continued research and evolution of knowledge about the causes and effects of PTSD. One major finding throughout the years has been that PTSD is relatively common. According to research cited by the Job Accommodations Network, exposure to a traumatic event is not uncommon, some 7-8% of the American population will develop PTSD at some point in their lives. About 8 million adults have PTSD during a given year. This is only a small portion of those who have gone through trauma. Nearly 10 out of every 100 (10%) of women develop PTSD sometime in their lives compared to about 4 of every 100 (4%) of men. In adding PTSD to the DSM, the APA merely coined a new term for an age old ailment. While often considered a wartime disorder, it has also afflicted civilians who have been involved in natural disasters, mass catastrophes or serious accidents— events that we see in the news on an increasingly regular basis, but that have been around as long as humans.

PTSD is quite common among veterans due to the risk of exposure to traumatic events on a daily basis. Data from the National Center for PTSD, (2015) suggests that approximately

11-20% of service members who return home from deployment in Afghanistan and Iraq have symptoms of PTSD. Statistics show that PTSD occurs in about 15% of Vietnam veterans and 12% of Gulf War veterans. Looking at these statistics, an employer must realize that employees, or potential employees, with PTSD, veterans and non-veterans alike, are in the workforce and may need accommodations in the workplace.

### **PTSD and the ADA**

Title I of the Americans with Disabilities Act of 1990 (ADA) prohibits private employers with 15 or more employees, State and local governments, employment agencies, and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. (42 U.S.C.)

The ADA is not limited to a list of medical conditions that constitute disabilities, rather, it contains a general definition of disability that each person must meet on a case by case basis. A person has a disability if he or she has a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or is regarded as having an impairment. (EEOC Regulations, 2011). According to the EEOC, the individualized assessment of virtually all people with PTSD will result in a determination of disability under the ADA given its inherent nature. The major life activities of learning, reading, concentrating and thinking, as well as the major bodily functions of the brain and neurological function are included in

its definitions. Indeed, PTSD is specifically included in the definitions of the implementing regulations to the ADA as substantially limiting brain function.

### **PTSD in the Workplace**

Unless a job applicant needs an accommodation to assist them in the application or interview process, they do not have to disclose a disability on a job application. An employee need only disclose their disability if or when they need an accommodation to perform an essential function of their job. Otherwise an employer may not know that an employee has PTSD unless the employee reveals or makes information available that they have been diagnosed with post-traumatic stress. Applicants with PTSD (or any disability), do not have to submit to a medical exam or answer any medical questions until they are conditionally offered a job. If the need for a medical examination is job-related and consistent with business necessity, an employer can ask for the examination. This can occur when an employee with PTSD has an incident on the job that would lead the employer to believe that the employee is unable to perform the job, or to determine if the employee can safely return to work, and if an accommodation will be needed on the job.

The National Center for PTSD list four types of symptoms that a sufferer may feel:

- Reliving the event through nightmares, flashbacks or “triggers” which can be sights, sounds or smells that bring the event back.

- Avoidance - The individual may avoid people or places that trigger the memories. This can include avoiding crowds because they feel dangerous, avoiding news or entertainment programs that depict the traumatic event. The individual may become hyper-busy to avoid having to think about the event.
- Negative changes in beliefs and feelings such as avoiding relationships with others or simply feeling that no one can be trusted.
- Feeling keyed up (hyperarousal) – The individual may be feeling tense, have excessive anxiety, cannot concentrate or is easily startled. This demonstrates a heightened state of alert.

Symptoms of PTSD can manifest itself with an individual in the workplace in various ways. Memory problems, lack of concentration or poor interactions with coworkers, and absenteeism are a few examples.

### **Accommodations**

The ADA requires an employer to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an “undue hardship” on the operation of the employer’s business. Reasonable accommodations vary depending on the needs of the individual. They are adjustments or modifications provided by an employer to enable individuals with disabilities to enjoy equal employment opportunities. An accommodation is not an abdication of an



essential function of the job. Accommodations for individuals with PTSD can take many forms, depending on the needs of the individual. Accommodation ideas from the Job Accommodations Network include:

- For those with concentration issues, reduce distractions with white noise or environmental sound devices, noise cancelling headsets, modifications in lighting, allow for a flexible work environment or schedule.
- For those with memory issues, provide written as well as verbal instructions, checklists, wall calendars, electronic organizers or apps, additional training time or refreshers.
- For those with organization issues, provide daily, weekly and monthly tasks lists, assign a mentor or coach, use of electronic organizers or apps.
- For those with time management issues, daily To Do lists and check items completed, electronic assists previously noted, regular meetings with supervisors or mentors to determine if goals are being met.
- For those with stress or emotional issues, emphasize stress management techniques, allow a support animal, use of a mentor to alert the employee if behavior is becoming unprofessional, EAP assistance and or allow a flexible work environment.



- For those with coworker interaction issues, encourage the employee to walk away from frustrating situations and confrontations, allow part time work from home, allow for greater privacy while at work, and provide disability awareness training to supervisors and coworkers.

This is not an exhaustive list of potential issues and accommodations. The Jobs Accommodations Network can provide assistance in suggesting accommodations for employees in need same due to PTSD.

Recognizing the needs of our returning veterans and those among us that have suffered trauma due to the acts of others or of nature is the right thing to do. If the trauma results in PTSD, the Americans with Disabilities requires that those employees needs be recognized and accommodated. Supporting an individual with PTSD should be a common goal for management and coworkers alike. Each employee can be a valuable asset to the work environment with a little help and understanding.

The material appearing in this website is for informational purposes only and is not legal advice. Transmission of this information is not intended to create, and receipt does not constitute, an attorney-client relationship. The information provided herein is intended only as general information which may or may not reflect the most current developments. Although these materials may be prepared by professionals, they should not be used as a substitute for professional services. If legal or other professional advice is required, the services of a professional should be sought.

The opinions or viewpoints expressed herein do not necessarily reflect those of Lorman Education Services. All materials and content were prepared by persons and/or entities other than Lorman Education Services, and said other persons and/or entities are solely responsible for their content.

Any links to other websites are not intended to be referrals or endorsements of these sites. The links provided are maintained by the respective organizations, and they are solely responsible for the content of their own sites.