

News Release

For immediate release

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American Diabetes Association: Americans with Disabilities Act Restoration Act Vital to Protecting Individuals with Diabetes from Discrimination

ADA strongly supports legislation, introduced today, to ensure employees with diabetes and other diseases are given equal opportunity to work

Alexandria, VA (July 26, 2007) – The American Diabetes Association (the Association) today came out in strong support of the Americans with Disabilities Act Restoration Act. The bill would restore the original intent of the landmark 1990 legislation, which was to create a level playing field so everyone who is qualified for a job has an equal opportunity to work free from discrimination on the basis of disability. Unfortunately, a series of Supreme Court decisions have narrowed who is covered by the law so that many individuals with chronic illnesses, including diabetes, have found themselves no longer protected by the Act because they don't meet the very stringent definition of disability. Their cases are dismissed by courts that never reach the issue of whether they were treated unfairly.

Bipartisan, bicameral legislation introduced today by House Majority Leader Steny Hoyer (D-MD) and Rep. James Sensenbrenner (R-WI) and Senators Tom Harkin (D-IA) and Arlen Specter (R-PA) would ensure that those originally intended to be protected from discrimination are indeed covered by federal law. The legislation would keep the focus in employment cases on whether an individual can do the job in question safely and effectively.

“The Supreme Court decisions have created a tragic situation where the better people manage their medical conditions, the less likely it is that the courts will protect them from being discriminated against because of that same medical condition,” said John W. Griffin, Jr., Chair of the Association's Legal Advocacy Subcommittee. “As a result, many individuals who are doing a great job of managing their diabetes have no form of redress even when they are denied a job simply for having diabetes. This was not what Congress and President George H.W. Bush intended in enacting the Americans with Disabilities Act, and it is time to correct this injustice once and for all.”

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Diabetes Information

call 1-800-DIABETES (1-800-342-2383)
online www.diabetes.org
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The Mission of the American

Diabetes Association is to prevent and cure diabetes and to improve the lives of all people affected by diabetes.

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Many recent rulings illustrate the Catch-22 nature of how the courts have narrowed the Americans with Disabilities Act. Take, for instance, the story of Stephen Orr, who was a pharmacist at a Wal-Mart store in Chadron, Nebraska until he was fired for taking the lunch breaks that he needed to eat in order to successfully manage his diabetes. After Orr lost his job, he decided to challenge his firing and filed a claim against Wal-Mart under the Americans with Disabilities Act. Wal-Mart responded that Orr did not have a “disability” because he was able to manage his diabetes with insulin and diet. The courts agreed. Because the Supreme Court has directed courts to consider “mitigating measures” – including medications, prosthetics, diet and exercise, or any other treatment – in deciding whether an individual has a disability, the courts found that Orr did so well managing his condition that he was not protected by the law. Wal-Mart’s refusal to allow Orr to take a lunch break was never reviewed by the court.

This legislation would amend the definition of “disability” so that individuals who Congress originally intended to protect from discrimination, like Stephen Orr, are again covered by the Americans with Disabilities Act. The bill would also prevent the courts from considering “mitigating measures” when deciding whether an individual qualifies for protection under the law.

“The American Diabetes Association has been relentless in protecting individuals with diabetes from discrimination in the workplace,” Griffin said. “This common sense measure is needed to assure that each person with diabetes is judged based on what he or she can do, not based on a diagnosis of diabetes. Every American wants the opportunity to work and be judged based on performance, not stereotype – this legislation will move us closer to that goal.”

The American Diabetes Association is the nation’s leading voluntary health organization supporting diabetes research, information and advocacy. The Association’s advocacy efforts include helping to combat discrimination against people with diabetes; advocating for the increase of federal diabetes research and programs; and improved access to, and quality of, healthcare for people with diabetes. The Association’s mission is to prevent and cure diabetes and to improve the lives of all people affected by diabetes. Founded in 1940, the Association provides service to hundreds of communities across the country. For more information please call the American Diabetes Association at 1-800-DIABETES (1-800-342-2383) or visit www.diabetes.org. Information from both these sources is available in English and Spanish.

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