

## New Statutory Definition of “Physical and Mental Disability” under the Maine Human Rights Act

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A new law has been passed that is **effective immediately** and establishes the definition of “physical and mental disability” under the Maine Human Rights Act.

This new definition is much broader and inclusive than the federal definition of the same terms under the Americans with Disabilities Act (the “ADA”). Employers must ensure that supervisors and human resource staff members understand this new definition in order to (1) respond properly to employee requests for accommodation based on a disability and (2) prevent discrimination in the workplace based on an actual or perceived disability.

The new definition states that a “physical or mental disability” is a physical or mental impairment that (1) substantially limits one or more of a person’s major life activities; (2) significantly impairs physical or mental health; **OR** (3) requires special education, vocational rehabilitation, or related services.

The term “significantly impairs physical or mental health” means that the condition or illness has an “actual or expected duration of more than 6 months” and “impairs health to a significant extent as compared to what is ordinarily experienced in the general population.” In determining whether an employee has a “physical or mental disability,” you may not consider any mitigating measures such as medication or auxiliary devices.

The law lists approximately thirty medical and/or psychological conditions that without regard to their severity are automatically defined as “physical or mental disabilities.” Conversely, the law also lists conditions that are not included in the definition of “physical or mental disability” such as pedophilia, exhibitionism, sexual behavior disorders, compulsive gambling, kleptomania, and others. Finally, there are provisions relating to the circumstances under which an employee’s substance abuse problems may still allow them to qualify as having a “physical or mental disability.”

[Click here](#) to view the full text of the law.

For more information on the impact of this new statutory definition, call your Bernstein Shur attorney or contact **Patricia A. Peard** ([ppeard@bernsteinshur.com](mailto:ppeard@bernsteinshur.com) / 207 228-7306) or **Linda D. McGill** ([lmcgill@bernsteinshur.com](mailto:lmcgill@bernsteinshur.com) / 207 228-7226).