



**LEWIS & KAPPES**  
PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

2500 ONE AMERICAN SQUARE  
INDIANAPOLIS, IN 46282-0003

Tel: (317) 639-1210  
Fax: (317) 639-4882  
[www.Lewis-Kappes.com](http://www.Lewis-Kappes.com)

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## **COMMUNITY BASED HEALTH CARE**

Lewis & Kappes provides complete and comprehensive legal services to community based health care organizations, boards of directors, and medical and service providers.

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## **TITLE I OF THE AMERICANS WITH DISABILITIES ACT**

Title I of the Americans with Disabilities Act (ADA) prohibits an employer from discriminating against an employee on the basis of the employee's disability. Under the ADA an employer is a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and any agent of such person.

The ADA protects "individuals with a disability." An individual with a disability is a person who (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) has a record of such impairment; or (3) is regarded as having such impairment. Major life activities are activities that an average person can perform with little or no difficulty such as walking, breathing, seeing, hearing, speaking, learning, and working.

To be protected by the ADA, a person must be a "qualified individual with a disability." This is someone who satisfies skill, experience, education, and other job-related requirements of the position held or desired and, with or without reasonable accommodation, can perform the essential functions of that position. Reasonable accommodations can include, but are not limited to, job restructuring, modification of work schedules, providing additional unpaid leave, reassignment to a vacant position, acquiring or modifying equipment or devices and providing qualified readers or interpreters.

The ADA requires an employer to make a reasonable accommodation to a qualified individual with a disability unless doing so would impose an undue hardship on the operation of the employer's business. An undue hardship is an action that requires significant difficulty or expense when considered in relation to factors such as a business' size, financial resources, and the nature and structure of the business operation.

The ADA also prohibits an employer, prior to making an offer of employment, from asking an applicant about the existence, nature, or severity of a disability; however, an applicant may be asked about his or her ability to perform job functions. A job offer may be conditioned on the results of a medical examination, but only if the examination is required for all entering employees in the same job category. Medical examinations of employees must be job-related and consistent with business necessity.

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If we can provide you or your organization with additional information or assistance, please contact one of our community based health care attorneys directly at:

Tom Ruge  
Suzanne Gaidoo

[truge@lewis-kappes.com](mailto:truge@lewis-kappes.com)  
[sgaidoo@lewis-kappes.com](mailto:sgaidoo@lewis-kappes.com)