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# Legal Rights as a Survivor

Although discrimination in the workplace against people with a history of cancer has significantly decreased, it still occasionally occurs—often as a result of misconceptions regarding cancer and a survivor’s ability to work.

Of all the cases filed under the Americans with Disabilities Act of 1990, about 3 percent are by cancer patients and survivors. The Act, which is decided upon on a case-by-case basis, can apply to cancer patients, survivors, people with a genetic predisposition to cancer and in some instances, caregivers.

Employers with at least 15 employees are required to make reasonable accommodations for survivors, which can include a change in job duties, flex time—which can include flexible work hours or long lunches for naps—or it can be as simple as getting a new office chair.

“It really could be anything depending on the person’s needs,” says Barbara Hoffman, founding chair of the National Coalition for Cancer Survivorship and author of *Working It Out: Your Employment Rights as a Cancer Survivor*. “Flexible time is often the most important accommodation.”

With public awareness of cancer survivorship issues, discrimination and the stigma of cancer have decreased. “Blatant illegal discrimination doesn’t happen much anymore,” Hoffman says. “It’s usually more subtle, such as not being able to get flex time to schedule a follow-up visit.”

If survivors do face discrimination, experts recommend legal action as a last resort. Instead, survivors should familiarize themselves with their company’s policies and talk with their human resources department about any discrimination and possible solutions. Often, information from social workers, the survivor’s medical team or support from coworkers can help diffuse a situation. If legal action is the only alternative, survivors should keep written records of all actions and communications.

Survivors have the right to keep their diagnosis a secret, but if they want their employer to provide accommodations under the ADA, experts recommend survivors disclose the information if the diagnosis may affect their job performance. Supervisors may be more receptive to job delegation and flex time if survivors reveal why they may have been missing work or seem less focused.

The Family and Medical Leave Act also protects jobs of survivors at companies with 50 or more employees for up to 12 weeks of unpaid leave and guarantees the continuation of benefits and health insurance. FMLA leave does not need to be used all at once, which provides flexibility for doctor visits, treatments and recovery. Caregivers can also take advantage of FMLA. To qualify, employees must

have worked more than 1,250 hours for more than one year and intend to return to their jobs after their leave.