Patients’ Legal Rights as an Employee of a Company

Working dialysis patients may have legal rights as an employee of a company. For example, legal rights are provided by the federal Family and Medical Leave Act (FMLA) and the Americans with Disabilities Act (ADA), which includes changes made by the ADA Amendments Act of 2008 ("ADAAA"). The ADAAA became effective on January 1, 2009.

According to the National Kidney Foundation, “The Americans With Disabilities Act, a federal law passed in 1990, makes it unlawful to discriminate in employment against qualified individuals with disabilities and requires most employers to make ‘reasonable accommodations’ to remove obstacles to continued employment. ESRD qualifies as a disability under the Act. This law is in effect for businesses that employ more than 15 people.

The Family Medical Leave Act, passed in 1993, allows people emergency time off to care for dependents or themselves if they are too ill to do their work. The individual may return to the same job or one that is comparable to it. This law affects not only those being treated for ESRD but can also be applied to those who decide to donate a kidney to a loved one.”

http://www.kidney.org/atoz/content/employersguide.cfm

More information on job accommodation can be found on the Job Accommodation Network’s website at http://askjan.org.
Supporting Working Patients

Research demonstrates that patients who continue working are less likely to be depressed, more likely to have higher activity levels, and less likely to experience financial stress. Mental health has also been linked to heart health and longevity in patients with end stage renal disease (ESRD).

Unfortunately, many patients may miss out on the significant quality of life benefits that are associated with working. In addition to the personal satisfaction of contributing to society and one’s family and community, studies have shown that employed patients have better clinical outcomes and are more financially secure.

Patient Perceptions of Working Are Key

Patient perceptions of working while on dialysis are critically important in determining whether a patient will continue to work. In one study, researchers found that “Subjects’ beliefs about dialysis patients’ ability to work [were]...a ‘self-fulfilling prophecy’” (Curtin, 1996).

The perceptions of the surrounding care team can also impact patient employment. Researchers found a significant difference between employed and non-employed patients’ perceptions of their care teams’ beliefs about the ability of dialysis patients to work.

While 66 percent of employed patients perceived that their patient care teams believe that patients can work, only 40 percent of non-employed patients perceived the same belief.

“We’re too accustomed to thinking of ESRD as a disability, when we should be doing everything we reasonably can to keep working patients working. The best place to start may be focusing on energy and activity levels and actively managing depressive symptoms.”

Allen R. Nissenson, MD
DaVita Chief Medical Officer

One study on quality of life in ESRD patients demonstrated that “unemployed ESRD patients scored significantly lower than those employed in physical function, role physical, bodily pain, general health, vitality and role emotional scales” (Blake, 2000).
References and helpful reading


Kang, Ea Wha, MD, PhD, from the Ilsan Hospital in Gyeonggi-do, Korea and Mark Unruh, MD, from the University of Pittsburgh Medical Center. Dialysis Patients’ Mental Health Linked To Heart Health And Longevity, Clinical Journal of the American Society Nephrology (CJASN), April 2012 http://www.medicalnewstoday.com/articles/243959.php


National Kidney Foundation, Kidney Disease Outcomes Quality Initiative. Encouraging Ability Instead of Disability, 2005 http://www.imakenews.com/ckdupdate/e_article000466460.cfm?x=b11,0,w