# Accommodation Solutions for Gastrointestinal Disorders

## [Introduction]

**TRACIE DeFREITAS:**

Good afternoon, everyone. Thank you for joining us for this JAN Accommodation and Compliance Webcast Series titled "Accommodation Solutions for Gastrointestinal Disorders." My name is Tracie DeFreitas.

Before we begin, let's quickly cover some housekeeping items. First, if you experience technical difficulties during the webcast, please use the question-and-answer option located at the bottom of your screen to submit a question. Of course you may also contact JAN at 800-526-7234 or use the Live Chat feature on our homepage at AskJAN.org. That's A-S-K J-A-N dot O-R-G.

We also offer a frequently asked questions document that may answer some of your questions. You can see — excuse me — You can see the email that you received with the event login information for the FAQ link. You can also find it on the webcast registration page.

Next, questions may be submitted during the webcast using the Q&A option mentioned previously. Questions will be gathered into a queue and will be answered, time permitting, at the end of the presentation.

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Now let's get started with today's training by introducing our speakers: Matthew McCord, JAN Motor Team Senior Consultant, and Julie Davis, who is a newer consultant member of JAN's Motor Team.

Matt, now I'll hand the program over to you. Take it away.

## [About Gastrointestinal Disorders]

**MATTHEW McCORD:**

Thank you, Tracy. So we will begin our presentation today by laying some groundwork on what gastrointestinal disorders are and then discuss some common gastrointestinal disorder diagnoses. We'll then discuss common limitations that these disorders share and then move into a lengthy discussion on the sorts of accommodations that are commonly requested for people with gastrointestinal disorders, followed by some real-life situations and solutions. I'm sure you're all eager to get started, so without further ado, let's begin.

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Let's begin by understanding what a gastro disorder is and how they impact the people that have them. To begin, gastrointestinal disorders broadly involve atypical functioning of the body's digestive processes. Therefore, a medical condition that impairs the absorption of nutrients that the foods — of the foods that we eat or that impairs our ability to dispose of waste products created by our body from taking in sustenance will likely fall under this broad umbrella.

According to the National Institute of Diabetes and Digestive and Kidney Disorders, about 20% of the American population has some sort of gastrointestinal disorder. They go on to state that, out of all the possible reasons for someone to be hospitalized, around 10% of all hospitalizations are attributed to these disorders. They also give us an idea of just how costly these conditions can be by stating that about $100 billion are spent in direct medical care costs treating them each year and about 44 billion in indirect costs as well.

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### [Common Gastrointestinal Disorders]

Now let's briefly discuss some of the more common gastrointestinal disorders that we here at JAN receive questions about. It is important to understand how an individual is limited to explore accommodations. So let's familiarize ourselves with a few of these.

First we have celiac's disease, which is an autoimmune disorder that causes the body's immune system to attack the small intestine when gluten is eaten. Because of this, individuals with celiac's disease will need to avoid gluten-based food products to manage their symptoms.

Second, we have Crohn's disease. which is an inflammatory bowel disease. With Crohn's, any area of the digestive tract can become inflamed, and the inflammation can start in one area and then spread to deeper parts of the tract. Unlike with celiac's disease, where the treatment and management of the disease always involves a dietary plan that involves avoiding gluten, foods that trigger Crohn's flareups can vary from person to person.

Third, we have cyclical vomiting syndrome, which is a disorder characterized by recurrent episodes of vomiting. The episodes follow predictable patterns of intense nausea prior to the episode, three or more instances of vomiting that starts around the same time and lasts for similar lengths of time, which are then followed by varying time frames of relatively normal health between the episodes. It is common for those with cyclical vomiting syndrome to also have issues with migraine headaches, and naturally with all the vomiting that they deal with, dehydration can also be a concern for them as well.

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Our fourth condition is diverticulitis. It is common and often benign for the lining of the digestive tract to form small bulging pouches called diverticula. However, when diverticula become inflamed or infected, this is diverticulitis. Less-severe cases of diverticulitis can be successfully treated with antibiotics, rest, and dietary changes. However more-severe cases or instances of recurring diverticulitis can necessitate surgery.

Our fifth condition is an umbrella of various allergies to food. Like all allergies, they involve a reaction by the immune system when encountering the trigger. Food allergies can have respiratory as well as digestive problems as their symptoms. Avoiding the triggering food, both in diet and in proximity, is often necessary to manage food allergies.

Our sixth condition is GERD, or gastroesophageal reflux disease. This condition is characterized by heartburn that is caused by stomach acid flowing back into the esophagus. Experiencing heartburn is something that we all deal with from time to time, however GERD is when this happens regularly, such as milder pains that happen twice a week or severe pains that happen once a week. Individuals with milder GERD can manage it with dietary changes and medication, but individuals with more severe GERD might require surgery.

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Our seventh condition is gastroparesis. This condition is characterized by your stomach muscles being less able to move food into your intestine. The stomach will typically force food down along the digestive tract with strong muscle contractions, but in individuals with gastroparesis, these contractions are slowed down or do not happen at all. Though it is unclear why gastroparesis develops in some cases, in others it is due to damage to the nerves that control the movement of the stomach muscles.

Our eighth condition is IBS, or irritable bowel syndrome. This chronic condition impacts the functioning of the large intestine and does not have an exact cause, however it is possible for people with IBS to have increased flareups of the condition triggered by increased stress, or food-related triggers. Therefore identifying food that triggers the flareups and avoiding them while also reducing or better managing stress will often be helpful for individuals with this condition.

Our ninth and final condition that we will talk about today is ulcerative colitis. This form of inflammatory bowel disease is characterized by the development of ulcers or sores in the large intestine and rectum. It is typical for symptoms to develop gradually over time rather than arising all at once. Though diet and stress do aggravate the symptoms of this condition, it is currently theorized that the cause is related to a malfunctioning of the immune system.

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Now that we've reviewed some common gastrointestinal conditions intimately, let's zoom out and look and their situations from a more broader perspective. What sort of limitations would an individual with a gastrointestinal disorder likely require workplace accommodations for? On this slide are some of the ones that we will be focusing on today and suggesting accommodations to help individuals perform at their best. They are: being more likely to be tardy for a scheduled shift, being fatigued more often and more easily, troubles commuting into the office, being less able to manage stress, special dietary needs for employer-sponsored events, being more likely to have odors that impact others around them, and needing access to a restroom much more urgently than other people usually would.

Now I will turn things over to Julie so she can discuss the accommodations of modifying the worksite as an accommodation with you all.

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## [Accommodations]

### [Workplace Modifications]

**JULIE DAVIS:**

Modifying the workplace is an accommodation that the employer may consider. Some points to consider that may not be thought of could make a big difference to the employee. Providing closer access to the restroom by moving the workstation. Also you would want to consider closer access to the breakroom, office equipment, and employee parking lot.

If feasible and without isolating the employee, moving the workstation to a more private location without a lot of traffic could be an option. Ensuring that the hallways or access areas are not cluttered will allow the employee to be able to access the restroom and other areas more easily.

Consider limiting long meetings or allow the employee to go first so they can leave the meeting if needed. Consider Zoom, Teams, or participating via phone if meetings are necessary during flareups. Workplace modifications allow the employee to have easy access to areas and not have them worry of how they are going to get to those areas without issues.

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Some additional accommodation ideas to consider could be a sit-to-stand desk to allow the employee to alternate between sitting and standing to alleviate symptoms, air deflectors help assist airflow in the work area, ergonomic and adjustable office chairs to assist with positioning and posture to alleviate symptoms, monitor risers to bring the computer screen to eye level to assist with posture, basically making a regular desk a version of a sit-stand desk, and white noise machines to mask noise could also be an option.

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Let's consider this scenario. An employee stated that being able to alternate between sitting and standing alleviated their gastrointestinal symptoms. This employee was in an office setting, so adjustments to the workstation were considered.

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During the interactive process with the employee, the employer agreed to purchase a sit-stand desk so the employee could complete the job duties while alternating between sitting and standing. Sometimes employers are concerned about the cost associated with a sit-stand desk. Another acceptable alternative that the employer could have considered would have been an adjustable desktop workstation for office settings that sits on the existing desk and affords the employee with the same benefits as a sit-stand desk.

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### [Schedule Modifications]

Another accommodation idea to consider may be schedule modifications. These modifications could allow the employee to continue to work their scheduled hours while allowing some modifications.

Sometimes employees may have issues with their commute or have issues before work. A flexible schedule would allow for the employee to come in later on those days and make up the time by staying later. If the issues are worse in the morning or evening, a flexible schedule could offer a later or earlier time when symptoms are not aggravated.

Another modification to consider could be a modified break schedule. If the employee is allowed two 15-minute breaks a day, perhaps 5- to 10-minute breaks would be more feasible for the employee to have more breaks. If additional breaks are needed outside of the approved break time, you may consider having the employee work longer at the end of the day or come in earlier the next day. During a flareup, teleconferencing meetings may be an option, so the employee does not have the added anxiety of getting to the meeting or the worry of having an episode during the meeting. Consider telework to allow the employee to have the privacy of their home when the essential duties can be completed at home. Another option would be a hybrid schedule for the days when an employee cannot work in the office for the day or part of the day.

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Let's go over a scenario. An employee who works in a call center has a gastrointestinal disorder and must take frequent restroom breaks. Productivity is measured by the number of calls. Keep in mind that the ADA does not require employers to disregard productivity standards.

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he solution that was offered was the employer continued to require all employees to meet productivity standards but moved to the employee closer to the restroom and allowed him to take flexible breaks. He was also allowed to make up time for breaks taken beyond what all employees are entitled to. These accommodations allowed the employee to access the restroom but also be able to meet productivity standards.

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### [Dignity Issues]

Let's discuss some dignity issues. At JAN, when employees call in for assistance, they are embarrassed and don't want to share all details of their gastrointestinal disorders with the employer. So some of the things the employer should take into consideration: An employee should not have to request to go to the restroom every time that they need to utilize it. This becomes cumbersome for the employee and the employer. Consider having the individual email or call their supervisor if they may be late or need additional breaks, so the supervisor can make the necessary schedule adjustments. Don't make a big issue of the employee being late or having to leave early if an accommodation is in place to address these issues.

Be mindful about asking for in-depth medical documentation and the employee being reluctant to share details due to embarrassment. Medical documentation just needs to state the limitation and the need for the accommodation and not all the in-depth details.

Offer the employee privacy to address issues that may arise due to their gastrointestinal issues. A private area to change if needed or a place to go without other employees when symptoms cause cramping or pain could be considered.

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Let's go through another scenario of an employee with a food allergy had an accident after eating contaminated food and needed to change their clothes. This scenario created a great deal of embarrassment for the employee.

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We hear a lot at JAN regarding employees having concerns about drawing coworkers' attention to their disability, especially gastrointestinal disorders. The employer discreetly let the employee go home to change and telework for the remainder of the day. Another option to consider for dignity issues may be allowing the employee an area to store extra clothing in a private restroom area to change within the office.

Now I'll turn things over to Matt to discuss accommodations for body odor. Next slide, please.

### [Body Odor]

**MATTHEW McCORD:**

Okay. Speaking of treating employees and their needs with dignity, let's review accommodations for body odor concerns. Accommodations for body odor issues can be a difficult situation for all parties involved, so let's make things a little bit easier by reviewing some general ideas you can keep in your back pocket for it.

First, consider allowing the individual additional breaks to help keep the odor under control. Perhaps the individual needs to go to the restroom and clean themselves up, reapply deodorant due to having sweat it all off, or, as was previously discussed, to go and change their clothes due to what they were wearing having become soiled. This way the individual has additional time to tend to the issue themselves.

If the individual is not able to tend to the issue on their own, like for instance if they use a wheelchair or have back issues that make it so they cannot bend and reach all the areas that need to be cleaned by themselves, then consider allowing a personal assistant on site to help them with these needs.

You also might want to set aside a private area where the individual can go to do these things. As I'm sure we all can imagine, body odor concerns can be embarrassing, so tending to these sorts of things when someone could walk into the room while you're doing it is likely going to make the situation a lot more embarrassing.

Along those same lines, you could also consider allowing the individual to work during times where less people are present. After all, the issue here is the odor and how it is likely impacting those around them, so arranging for the individual to work when less people are around would naturally the number of people being impacted.

Finally, you can also consider allowing the individual to work from a remote location or from home. Certainly not every job is compatible with teleworking, but if this job happens to be, then this may be the simplest and most efficient way of accommodating body odor concerns.

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Now let's have — Now that we have reviewed general accommodation options for body odor, let's switch over to some assistive technology or product-based solutions. There are two main methods of using products to help with body odor concerns. Number one, you can use products to trap the odor so that other people do not smell it, or, number two, you can use products to disperse the smell.

By trapping the odor, you can use options like air deflectors or vent covers to divert air flow in the ventilation system so that the smell is contained within a specific area. You can also use air cleaners to draw in the smell and trap them in the cleaner's filter or odor-absorption products in the individual's clothing to trap the smells before it leaves their person.

For dispersing the smell, fans can be a great option to keep air moving and less — not letting the smell stagnate and build up in a given area. Odor-control products can also be — can also be products like cleaners to remove odors from surfaces that are — that have odors trapped within them as well as other scents to mask or contain the odor so people cannot detect it.

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In this example, the individual was working as a janitor, and due to their incontinence issues they had a significant odor problem. The employer received reports that the odor was making it very difficult for coworkers to work near the individual.

The accommodations that the employer already had in place was to allow them to take breaks to go home to shower and change clothes when they needed to, and to work alone as much as possible. The individual worked in an office setting during regular business hours, and thus it was hard for them to always avoid other workers.

Next slide, please. As the main issue was the breaks to go home and clean themselves in this situation, the consultant suggested setting up an area where the individual could clean themselves at work. They also suggested allowing the employee to store clean clothes on site and to provide sealed, odor-absorbing bags to store the soiled clothing in to contain the smell. The consultant also suggested a schedule modification to allow the employee to work when less people were present to minimize the impact on the odor on others too.

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### [Stress]

Moving on from body odor, let's look at accommodations for stress. A good first step for accommodating stress limitations is to identify the triggers that are causing the stress so that you can explore accommodations to assist the individual in managing those triggers.

For instance, if a big trigger for an employee's stress is interacting with difficult customers, then perhaps we can review some schedule modifications to help with this. If more-difficult customers tend to pop up around the same times during the day, then we could allow flexibility in the schedule to work during other times of the day. If that is impossible, then we could review allowing for additional breaks after a stressful encounter to provide time for them to deescalate.

Another tactic can be increasing the individual's support systems so that they can better manage their stress. This can be a common — This can be accomplished by connecting the individual with resources through employee assistance programs, or this could be fulfilled by allowing an individual to bring in their service animal into the workplace too.

However, it can also be very effective to just eliminate the trigger altogether. To that end, reallocating non-essential job functions to other workers can be a very powerful tool for accommodating stress issues. If the trigger happens to be a non-essential function, then you can just take that off the individual's plate and give them something else that won't cause them as much stress.

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In this example, the individual had not only gastrointestinal disorders but also some mental health conditions as well like anxiety, depression, and attention deficit disorder. Because of all these needs combined, stress was a major hurdle for them. When they requested accommodations to help them better manage their stress, the employer was not sure if they could provide those accommodation long-term. The individual contacted us because the employer was talking about leaving the accommodations open-ended, which didn't really help the individual's stress very much, since this made them afraid that the accommodations could just be randomly revoked at some time in the future.

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Since the major issue here was the uncertainty for both the individual and the employer, JAN suggested that the individual discuss setting up a trial period for the accommodation with the employer. This way the individual will definitely have the accommodation for that set period of time, and the employer can take that time to see if they can continue the accommodation beyond that timeframe.

Trial periods can be a great compromise in situations like this. Sometimes an employer really just cannot determine how burdensome a specific accommodation would be for them, without some real-world data to base it on. This way they can test things out while allowing the individual to have the accommodation that they want for at least that defined period of the trial.

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### [Dietary Needs]

Next up is accommodations for dietary needs. The first main way of accommodating dietary needs is to ensure that the individual with a disability is not unintentionally exposed to the food that triggers them. This can be done by providing separate spaces where their food can be stored and cooked where the triggering food is not permitted. It also can be done by enforcing policies where the triggering foods are not permitted in common areas like break rooms, restrooms, and conference rooms. Remember sometimes an individual does not have to ingest the food for it to trigger them. For some people being around it and breathing it in is enough.

After reducing the possibility of unintentional exposures, let's flip that coin over and discuss accommodations relating to intentional exposures. When employers are holding gatherings or parties where food will be provided, simply making sure that the individual is not exposed to the triggering food is not enough. If the employer is providing food for their employees to enjoy, then that is a benefit of employment, and all employees need to be able to enjoy it. So the employer will want to keep dietary needs in mind when crafting the menu for the parties they hold and ensure that there will be appropriate options for everyone.

And finally, in many situations, shortly after mealtime can be a time where the urgency to access a restroom becomes much stronger. This is true for people with and without disabilities, but it can be much greater for people with disabilities. Because of that, it may be a good idea to consider some schedule flexibility around those times so that it will be easier for restrooms to be accessed when they're needed.

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In this example, JAN spoke with an employer who was informed that their individual was having trouble when traveling. The individual said that catered events are often a problem for them, as there is rarely gluten-free foods available for them to eat. The individual mentioned that if it was just one catered meal, then they're not concerned about that, as they always carry some emergency snacks on them just in case, but that events that involve multiple catered meals is where the real trouble lies.

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Situations like this can be tricky, but thankfully this one wasn't. JAN discussed reaching out to the people coordinating the events that this individual will attend and also involve — that will involve multiple catered meals. and inquire how to go — how they need to go about requesting a meal accommodation for someone with a food sensitivity that will be attending. This way the event is put on notice that dietary accommodations will be needed for a participant.

These situations can get tricky, though, if the event refuses to provide accessible catered food options. In that situation, as the employer has no power over this other company, they naturally can't force the other company to comply with their individual's dietary needs. In situations like that, it may be necessary to consider options like foregoing the catered meals entirely and reimbursing the individual for meals purchased outside of the event while they are traveling instead.

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### [Commute]

I'm sure we all can imagine that sitting in a car for an extended commute to and from the office is a situation ripe for problems with people with gastrointestinal disorders. After all, being stuck in traffic, especially a traffic jam, is already unpleasant on its own, but what if you suddenly have a great urge to use the restroom while you're stuck in one? Might sound like the setup of a punchline for a sitcom, but remember this can and does happen to people.

So how can we help when it does? There are a few ways that commutes can be accommodated. First we can review allowing flexibility in the schedule, so that the individual's shift start time is adjusted. This way the individual can stop during their commute and use the restroom when they need to go without worrying about getting in trouble for being a few minutes late when they finally get to work.

Another option can be allowing employees to carpool each other to work. For that option, it can be particularly helpful in situations where the individual has been having episodes of vomiting and feels too ill to safely drive themselves into the office.

We can also consider modifying the location that the individual reports to work to. Employers have the power to dictate at what location their work is done, and because of that power they can allow someone to work somewhere more advantageous for their medical needs. This can be done by allowing the individual to work at another office that would allow a shorter commute or to work out of their own home, since that would eliminate the commute entirely.

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In this example, JAN spoke with an individual who wanted to continue to work from home, but their employer is implementing a requirement that everyone return on-site for three days a week. The individual had concerns about commuting to and from the office due to their disability, and when they need to use the restroom, they must be near a restroom when that happens. The individual contacted us because they needed some guidance on how to negotiate the telework with their employer.

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As the situation was regarding self-advocacy and negotiating the accommodation that the individual felt was best, JAN suggested documenting the workplace barriers that the employer would need to consider accommodations for should telework not be provided. This included issues like allowing for schedule flexibility regarding the employee's start time in case they need to stop to use the restroom during their commute, ensuring that the individual have access to a restroom on-site when they need to use it by setting aside a restroom or stall with fewer employees that can access it, and so on.

I wanted to discuss this scenario because situations like this are a very hot topic discussion for us here at JAN. It makes complete sense that employers will want to go back to normal due to all of the disruptions COVID caused, however ADA accommodations still need to be factored into that equation, just like they were prior to and during the pandemic as well.

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### [Leave]

Leave time is a versatile and powerful accommodation tool, as it can be helpful in many distinct situations. However, it is important to keep in mind that leave does not enable an employee to work, and because of that it should be considered an accommodation of last resort. So if there is some way to accommodate the individual to allow them to work, then those alternatives usually should be considered first. But, if there is no such accommodations to enable them to work, or if the individual specifically wants leave as their accommodation of choice then in those situations it is appropriate to consider leave as an accommodation.

First and foremost, remember that leave is something that the individual may well have access to under various laws. Leave can be a form of reasonable accommodation under the ADA as well as a benefit if the individual is eligible for it under FMLA too. So it is important for employers to keep that perspective in mind. When multiple laws can provide benefits, the employer will want to review those benefits under all applicable laws and then offer the option that provides the best protection. Which law that will be will vary depending on the individual situation.

One important thing to keep in mind about leave under ADA is that it can be used in multiple ways. There is no language that states that ADA leave can only be used continuously or can only be used intermittently. ADA accommodations are intended to be flexible to best meet the individual's needs, and that flexibility extends to how and when the accommodation is used too.

One key way the flexibility manifests under the ADA is in how the ADA does not have a maximum leave amount per year like FMLA does. Under FMLA, the individual can use up to 12 weeks a year, whereas under the ADA the maximum varies depending on how much leave the individual needs versus how much leave the individual — or the employer is able to provide, absent undue hardship.

Another way that flexibility can manifest is that leave can easily be used in conjunction with other accommodations. For instance, if the employee has a flexible schedule accommodation but for some reason will not be able to make up the time that they have missed, then they can use ADA leave time to cover that time that they can't make up. The individual would have to accept that they will be unpaid — they will not be paid for that time, as ADA leave is unpaid leave, but it still covers them and prevents them from being disciplined for having to miss when they have to miss.

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In this example, JAN spoke with an employer who had a medical resident that was on leave due to a gallbladder surgery. The individual used up their FMLA time but gave the employer a note stating that they can return to work, but they cannot perform excessive walking, standing, or bending. The employer was concerned about this individual returning, because patients are placed into rooms regardless of where they are in the facility, so the employee could very well have patients that they need to visit spread through the entire facility and its various floors, and there was no real way to keep them centralized into one specific area of the hospital.

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Due to the employer knowing that the individual's restrictions were due to recovering from a surgery and that the individual would not be examined by the doctor again — sorry — and that the individual would be examined by their doctor again within a month's time, they decided to extend the individual's leave as an accommodation.

The JAN consultant that took this call did suggest other options to the employer, like allowing the use of assistive devices to help them get around, but the individual would have had to be able to access not only patient rooms and but also other sorts of areas too, like bloodwork and lab areas, x-ray and other imaging areas, and so on where a mobility scooter could not easily enter. Because of that and the possibility of a short duration, it makes sense to extend the leave instead of purchasing a scooter that might not be needed in a few weeks’ time.

Now I'll turn things back over to Julie so she can discuss accommodations for fatigue with you-all. Next slide, please.

### [Fatigue]

**JULIE DAVIS:**

Let's discuss some accommodations for fatigue. With job restructuring, the employer could remove the marginal job duties so the employee can perform the essential job functions. Keep in mind that, under the ADA, the employer does not have to remove essential job functions but could definitely consider doing so.

Periodic rest breaks would allow for the individual to take breaks as needed. This may be in conjunction with a modified break schedule.

A reduced work schedule is another option that could be an accommodation that would allow the employee to work during hours where they are not having fatigue issues. For example, the employee may have issues with medication making them tired as the day progresses, so the employee may want to work earlier in the day to be at peak job performance.

Telework could be an option also for the employee not to become fatigued by getting ready for work and commuting to work. Also with telework a hybrid schedule can be implemented to allow the employee to work in the office on good days and telework on days that the fatigue may be worse.

Another recommendation could be allowing time for sitting if the job requires a lot of standing.

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Next we will discuss some accommodations to the work area that may be helpful for fatigue. An adjustable workstation or a sit-to-stand desk would allow the individual to sit and stand as needed.

Another accommodation would be a stand-lean stool, and that can be helpful in jobs where there is a lot of standing and where the employee has to provide customer service like a cashier or a bank teller. A low task chair would assist in an environment where an individual would need to reach out lower to the ground or floor.

Another accommodation to consider for those jobs where there is a lot of standing or walking would be anti-fatigue matting or clothing. A vendor list for these accommodations can be located in the A-to-Z list on the JAN website.

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Let's consider this scenario for fatigue. In this scenario, the employer has an employee who would get nauseous and fatigued after a gastrointestinal episode. The employer was looking for accommodations that would still allow the employee to complete the essential functions of the job.

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Since the fatigue and nausea only lasted for a short amount of time, the employer allowed the individual to take a break and lie down until the employee feels better. The employee is allowed to make up the break time by skipping break time, working over to make up the time, or coming in earlier the next day.

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Another accommodation idea to consider could be reassignment. Reassignment can be an accommodation to cover for gastrointestinal disorders. Let's go over some general practices for reassignment.

Keep in mind that reassignment should be considered as an accommodation of last resort. Reassignment could be considered if the individual cannot be accommodated in their current role due to undue hardship or not being able to complete the essential functions of the job.

If reassignment is an option, the employee should not have to compete for the job if they are qualified for the position. Lastly, the reassigned position should be equivalent or equal in benefits if at all possible. If this is not possible, the employer may want to discuss this with the employee prior to reassigning the employee to the position, so the employee understands why they are not getting equal pay and/or benefits and it doesn't come as a surprise to them when they get their paycheck.

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Sometimes employers just cannot accommodate in the current role due to safety issues. In this scenario, we at JAN got a call regarding an employee that was a train brakeman and did not have the flexibility to use the restroom when needed for flareups for colitis due to safety concerns. The employee was aware that this was not possible, so reassignment became an option.

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During the interactive process between the employee and the employer, the employer reassigned the employee to another position that the employee was satisfied with that was equivalent in pay and benefits where a restroom was more accessible.

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## [Q&A]

**MATTHEW McCORD:**

And that will be all for our training today. Does anyone have any questions?

**TRACIE DeFREITAS:**

We do have just a few questions that have come in, so let's take a look at those real quickly.

One question around if an individual does have body odor and needs to use deodorant, can they use deodorant in a scent-free environment?

**MATTHEW McCORD:**

Well, I mean if the deodorant is one that is specifically designed to not affect scent-related issues, that could be an option. You know, some deodorants don't have a scent that comes along with it, so those would be better in those environments than ones that are heavily fragranced or perfumed.

**TRACIE DeFREITAS:**

OK. Another question around disability disclosure topics. So, you know, if you are an individual who is seeking employment, and you know that you may ultimately need some accommodations around a gastrointestinal disorder and some limited — limitations associated with the disorder, do you have any guidance on disclosure and when or how to talk with an employer about the disability and the need for accommodations?

**MATTHEW McCORD:**

Well, first and foremost, I would say that the most important thing is that we want to disclose and request accommodations before any performance problems happen. You know, absolutely. 100%. But beyond that, if we're talking about, like, you know, you're just starting the job, then you could certainly wait to request accommodations until after you get the job offer if you feel more comfortable with that.

But beyond those sort of things like you're already employed and you're not sure when to do it, at that point it would be — I would start off by figuring out what sort of accommodations you might need. You know, what are the things that you think would be helpful?

And kind of send everything together in one package, just because, you know, we want to make the accommodation process as easy for the stuff that we need to be approved. So if we're taking a little bit of time to figure out what we need and get the information that the employer needs and submit it all at once, it might speed the process along. So that can be helpful in that situation. But definitely, at the end of the day, the important thing is you don't have to disclose until you need an accommodation. And you want to make certain that you're asking and getting the accommodations you need before you have any performance problems that are coming around.

**TRACIE DeFREITAS:**

Matt, if people were looking for information related to disclosure, does JAN offer any information to help with that?

**MATTHEW McCORD:**

Oh, yes. We have a lot of resources on that. Specifically the first thing that comes to mind is we have a page that you can access from our main homepage. It has a link called "For Individuals." It's our information by role for individuals page. There's an entire section on that page dedicated to disclosure. So that would be where I would point them to. There's a lot of resources linked on there.

**TRACIE DeFREITAS:**

Great. Lots of really useful information there. And also information about how to request accommodations if anyone needs that. Ok. Looks like we have a few more coming in. You mentioned leave as an accommodation under the ADA, and there is a question around, "What is a good practice on figuring out the length of — the duration of leave and what might be reasonable?" Any guidance on that?

**MATTHEW McCORD:**

Sure. Well, I mean, that's a situation where, like I said, it's really going to depend upon how much the individual needs. You know, so if this is a situation when leave is the only option, then that's going to be something where you — you're going to get most of that information from the individual and their doctor. You know, if someone's out because of a surgery and they are 100% unable to work, then, you know, the next time that they're going to be evaluated when their needs might be updated and less severe, that can be a good time frame to use if you do not have a concrete duration.

But if we're looking at things where we're looking at leave intermittently, that's going to be a situation where, depending upon the need, we might need to give more or less. So say someone's having a flareup, they might need leave in that situation, and if they're having a really bad time, having a bad month, bad year, in that situation they might need more leave because their flareups might be more severe. So we need to be a little flexible in that regard with that situation, but it's really going to be determined on how much the individual requires versus how much the employer can provide without it causing an undue hardship. It's a little bit of a dance. It's — probably that's the best way to go about it is just being flexible and case by case, I would say.

**TRACIE DeFREITAS:**

Okay. Absolutely. I'm going to come back to sort of the idea of providing time and breaks.

So let's say an individual is in need of having to take more frequent breaks throughout the day, and perhaps they're using more time than might ordinarily be allowed to use the restroom. What's your take on whether or not the ADA requires additional paid breaks as an accommodation?

**MATTHEW McCORD:**

Well, I mean, first of all, if this is a situation where other workers are allowed to use the restroom and not have to clock out to do that, then it might be helpful to do a little bit of digging and do a little bit of review on how much time does the employer typically pay for someone whenever they need to use the restroom. What's the standard that we allow people without disabilities to go and use the restroom and have that paid time? And then whenever we have that standard of how much we allow everyone to use, you know, we want to certainly allow that to people with disabilities too. But if someone needs beyond that amount of what we normally allow to everyone else, that's a situation where we might need to cover that by allowing the time to be made up or by providing unpaid leave to cover that additional time beyond what we allow everyone.

**TRACIE DeFREITAS:**

Okay. Let's see. A few more here. If someone is experiencing some issues related to joint pain — maybe they have celiac disease and they are experiencing some issues around joint pain, any thoughts as far as accommodations related that generally or addressing pain-related issues?

**MATTHEW McCORD:**

 Sure. Well, I mean, obviously the best way to go about is to accommodate what's causing the pain. So usually with the joint issues it's going to be bending or lifting or carrying or things like that. You know, maybe some standing and walking. But whatever happens to be in this situation, we want to look at what it is that's causing the joint pain, what activity is causing the pain, and then review accommodations to help them whenever they're doing that activity.

There are some general accommodations for pain. You know, additional breaks to rest, maybe some time to ice or use some heat compresses on the joint, so that way it could relieve the pain. Stuff like that can be helpful, naturally, but usually if we are looking at more long-term accommodations or complete accommodation packages, we want to be focusing on the specific task that is causing the pain and accommodate that too.

**TRACIE DeFREITAS:**

Ok. We're keeping you busy, Matt. (laughter) We do have a few more questions rolling in here, so let's see here.

This is a tricky area, and you did such a great job talking about dignity issues and addressing accommodations around body odor, so this is sort of a follow-up related to that. So let's say you have a situation where an individual maybe isn't aware that their body odor is causing a problem at work. Do you have any suggestions for how to approach the — excuse me — the employee in that type of situation?

**MATTHEW McCORD:**

Sure. This is very difficult situation for someone, you know, because if the individual isn't aware, then how do we broach the topic about a problem they don't know? Well, just like with anything else, like say you're going to be talking to someone about a performance problem that they're not aware of. What sort of strategies do we use there?

Well, we usually point to things that we've noticed like, you know. It's like, "Hey, we noticed that you're doing this, and we're — we want you to do it this way." You know, we're pointing to things that we can clearly see, we can objectively show. And it's kind of the same in this situation too. You know, the individual doesn't know about their body odor, but we've been receiving, you know, other people have been telling us that it's a problem, or maybe we have actually experienced it ourselves. We want to focus on those things that can be objectively verified and shown. Let them know it's like, "Hey, these are — these complaints have been coming in a lot." It's like, you know, "This a problem, you know. We've got this from multiple different people." Obviously you don't want to name names, but, you know, this is — you want to focus on "This is something that a lot of people have let us know about, so let's see if there's anything that we can do to help you," so that way you don't have to worry about it, and also they don't have to worry about it too."

**TRACIE DeFREITAS:**

Okay. Very good. If people would like more information around that topic, does JAN offer resources related to body odor?

**MATTHEW McCORD:**

We do. We actually have a page on our A-to-Z list on body odor. It's a "By Limitation" page. You can review information on there.

**TRACIE DeFREITAS:**

Okay. That's a challenging topic, so it's great that there's some more information on that. Ok. Another question. I'm going to come back to sort of the break topic again.

And in this situation, let's say you have someone who is requiring additional breaks, but they're actually teleworking. You know, a lot of people are teleworking these days, and so in kind of scenario, what sort of — what sort of monitoring or, you know, what might an employer need to think about if somebody's needing to take extra breaks but they're working from home?

MATTHEW McCORD:

Well, I mean, that's a situation where, if you have, say, like a phone system or a chat program or things like that where people can set their statuses, that can be a very useful way to go about it, because if the individual goes away or goes offline, you know, then that's a clear way that you can track that, and that makes it easier to determine when the person is taking breaks and when.

If you don't have anything like that though, you could go through — say it's an hourly employee — you could have them clock in and clock out as a way to track it. but obviously that might not work so well with an exempt employee who's not hourly. In that situation, it might just be better to have the individual contact their supervisor or the person that controls their schedule, give them a call, shoot them an email, let them know, "Hey, I took a break from this time to this time." So that way that there's a record of it. You know, because obviously the supervisor wouldn't be able to tell that the individual is taking a break like they would on-site if they popped their head into their office, but also at the same time, depending upon the job, the supervisor might not be able to know that either. You know, they might be busy, they might be distracted, they might not be able to check in either, so these are sort of things that you would want to consider when they're on-site too, having a way to track it. So usually the easiest option is shooting an email or giving them a call.

**TRACIE DeFREITAS:**

Ok. Of course. I think too with, you know, a lot of times with working at home, it kind of just depends on — You know, at the end of the day, what needs to be accomplished, and, you know, are we looking at, you know, the minutes people are putting in or is it about the production time that they're putting in, so those things might be taken into consideration too.

**MATTHEW McCORD:**

Right.

**TRACIE DeFREITAS:**

Ok. Let's see. Another question around — So this is one related to — Let's say there's a situation where someone has food allergies, and there's been a decision to limit the type of food that comes into the work environment — or restrict, I should say. So in that situation, similar to situations where accommodations like fragrance policies might impact other people in some way, Any thoughts related to that kind of situation? So what's the employer's responsibility to accommodate an individual when they're making policy changes that could affect other people in some way?

**MATTHEW McCORD:**

Okay. Well in that situation, obviously we want to make certain, number one, that people are aware of the policy. You know, like if someone has an allergy to peanuts, we want to let people know, "Hey," you know. It may be as a part of the onboarding process, maybe putting it in the employee handbook or, you know, as part of their "first day on the job" package. You know, stuff like that. Any way that we can inform that, "Hey, there is a policy at this workplace. No products involving peanuts are allowed in these areas. And if it's the entire worksite, then you can let them know the entire worksite, no peanuts at all. That's going to be the best way to get the thing started off. We want to make certain people are aware of it.

As for how to enforce it, you know, obviously that's going to be more difficult, just like it is with fragrance policies. You know, it's not like employers are setting up metal detectors or anything like that where the individual is going through and being screened for these things, so that's a situation where we need to make certain people are aware of the policy, what is involved if they violate the policy, and also if you receive reports on it you do in fact act on it. You know, stuff like that. Just like any other policy. But I think the important thing is just making certain that it is aware that that policy is in place and enforced. From there, people are usually pretty receptive and understanding once they understand that that's an issue, and you need to avoid it in this workplace.

**TRACIE DeFREITAS:**

Okay. All right. Do keep in mind, as Matt mentioned, we do offer a number of resources around all of these topics, so if you visit the AskJAN.org page and visit the A-to-Z section, you'll find a lot of resources around these various topics that may be helpful. I think I have time for one more question. Let's see here.

So let's say you have a scenario where someone is using — maybe they're in need of some leave time, but the person does have accrued leave that they could use — sick leave, vacation leave, that sort of thing. The question is around whether or not that sort of leave should be used before ADA leave could be applied?

**MATTHEW McCORD:**

Okay. So in the Equal Employment Opportunity Commission's guidance document that discusses that, the language states that employers must allow an individual to use that paid time. So that's not very clear; right? It's not — it doesn't specifically state that the PTO has to be used first or that the ADA leave can be used first, it just states that it needs to be allowed. Like, we need to allow it. So it's entirely possible that that might just be an option that we need to provide to them just like any other option that's on the table for accommodation. Do you want to use your paid time off? Or do you want to use unpaid ADA time?

That's probably going to be the best way to go about it, because, number one, we're not forcing it one way or the other, but we are providing it as an option. Just like it says, you may allow this. That's the way I encourage people to look at it, because, you know, sometimes people want to keep their PTO for pretty valid reasons. Maybe they want to save up for a vacation, or maybe they need their PTO for — you know, maybe they were saving it up because they're going to have a surgery or something like that, and they don't want to have to use short-term. All those things make sense, so maybe they're willing to use that unpaid time and just kind of take the pay cut now so they can save it up. And that's a situation where I think that that choice is something that the individual would likely appreciate having. So I think just going about it from that way and offering the PTO as another option that's available to them is probably the best way.

**TRACIE DeFREITAS:**

Ok. Lots of good questions. Thanks for handling all those, Matt. Appreciate it.

**MATTHEW McCORD:**

You're welcome.

**TRACIE DeFREITAS:**

I am going to move to kind of close us out with just a few final housekeeping slides. First of all, thank you, Matt and Julie, for a great presentation. Excellent information. I think that our attendees will find it very helpful moving forward. So we appreciate you and your time. Thanks so much.

Now, also just letting everyone know, of course, there are other JAN webcasts that you can attend, so please do consider registering for the next JAN webcast. Our next presentation will be on Reproductive Disorders and Pregnancy on May 14th. For more information go to AskJAN.org and click on "Training," and you can go ahead and sign up for the remainder of the series.

We hope that you'll share your feedback about this webcast by completing the evaluation. Please keep the JAN webcast window open when the webcast ends. The evaluation will pop up in a new window. You can also go to AskJAN.org/EvaluationReg.cfm to go ahead and complete the evaluation if you have any trouble doing that when the webcast ends.

Again, if you're seeking a CEU for this event, the CEU approval code will be available after the evaluation is completed, so click on "View your certificate" to get that.

Finally, that's all the time we have today. We do hope this information has been interesting and helpful. Thank you, Matt and Julie, once again and also thank you to Alternative Communication Services for providing captioning for this webcast.

For any additional information on the topics discussed today, please contact JAN or go to AskJAN.org to contact us by phone, Live Chat, or email. Please also follow us on Facebook and Twitter for timely ADA and accommodation information resources.

Finally, thank you to everyone for attending this JAN Accommodation and Compliance webcast event. This concludes today's training.