

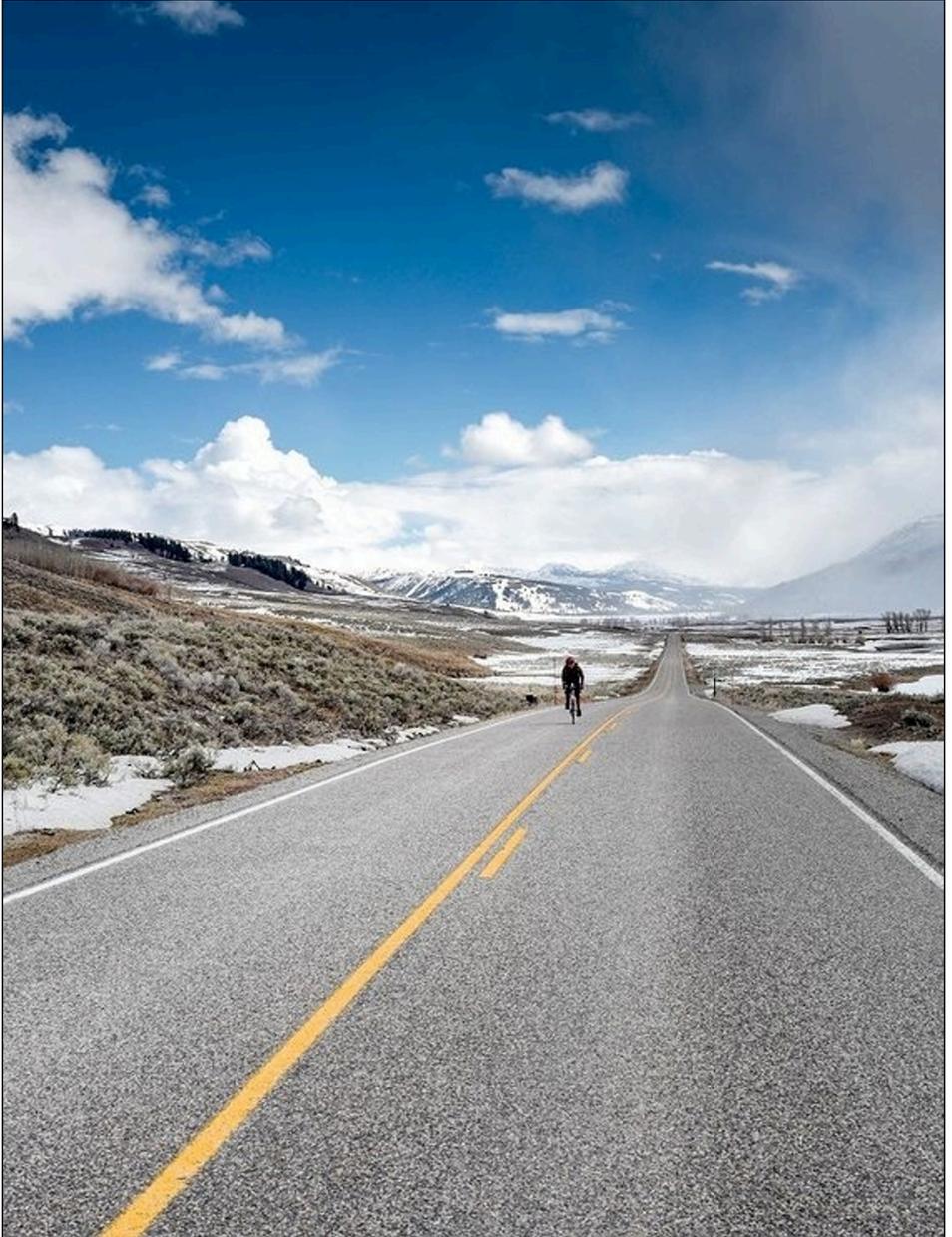
# PLAYBILL®

## Follow The Ethical Road

Inspired by the Wizard of Oz, Casablanca, and It's a Wonderful Life  
Entertain2Educate with the Illinois CPA Society

Chicago, IL

2021



# Follow The Ethical Road

*presented by*

# Entertain<sup>2</sup>Educate



ILLINOIS **CPA** SOCIETY.®

# FOLLOW THE ETHICAL ROAD

## PROGRAM SCHEDULE

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### Hour One

## Follow The Ethical Road Inspired By: The Wizard of Oz

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#### **A. Diversity and Bias - Andie Kramer & Al Harris**

- Workplace Bias
- Verbal and Nonverbal Communications and Bias
- Inter-Sectionalities
- Core Competencies and Leading for Success

#### **B. Communities with Disability - Angela Williams**

- Unemployment and Mobility issues
- Healthcare and Education
- Disability Advocates: Physical or Mental impairments
- Resources and how to support people

#### **C. Business Practices - Dealing with Clients & Associates who are divorcing - Beth**

##### **McCormack**

- Client and Attorney Due Diligence
- Cost Considerations and Strategies
- Advisor/Client Education
- Stress and Mental Health
- Choosing the Right Advisors

#### **D. Nonprofit and Advocacy Groups - John Bouman**

- Setting Advisors Up for Success
- Social Determinates and Quality of Life
- Education, Employment and Housing Security
- Ethics and Financial Rewards: Attorney Settlements

#### **E. Practical Applications - Dealing with Diversity in the Workplace - Michael Balaoing**

- Language that Conveys Bias
- Story Telling to Connect People to Ideas
- Action, Impact, Accountability
- Implementation

# FOLLOW THE ETHICAL ROAD

## Hour Two Follow The Ethical Road Inspired By: Casablanca

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### A. Communication While Sheltering in Place - Andie Kramer & Al Harris

- Home, The Remote Office: Ways to Cope
- Impact on Women
- Virtual Communication
- Anticipated Workplace Changes
- Sexual harassment Where Gender Bias Exists

### B. Systematic Issues Exacerbated by COVID - Angela Williams

- Mobility with limits to caregives and or day care
- Isolation
- Employment
- Education
- Health Care

### C. Advocacy for Financially Underprivileged -John Bouman

- Landlord and Tenant Challenges
- Receipt of Information from State Budgets
- Advoding Conflicts
- Domestic Violence Risks
- Need During Pandemics

### D. Business Practices for Divorcing Clients - Beth McCormack

- Remote Trials and Mediation
- Virtual Meetings and Efficiency
- Violence, Custody, Parenting
- Virtual Problem Identificatkion
- Special-Needs Dependents

### E. Practical Application - Michael Balaoing

- What Diversity Means in the Market
- Increaseing Networks
- Connecting with Talent in Diverse Communities

# FOLLOW THE ETHICAL ROAD

## Hour Three Follow The Ethical Road Inspired by: It's A Wonderful Life

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### **A. Communication and a World without Gender Bias - Andie Kramer & Al Harris**

- Impact of Technology and Public Presence
- Close Contact for Teams
- Flexibility and Productivity
- Minimizing Restrictions
- A Hopeful Future

### **B. Public Policy and the Future - John Bouman**

- Guidance and Mentorship
- Public Policy
- Private Engagement
- Attributes of Successful Policy Advocates
- Silver Linings

### **C. Trends in Divorce and Mediation - Beth McCormack**

- Finding Common Ground
- Unusual Cases and Forensics
- Financial Changes with Crypto Currencies
- Think and Plan Ahead
- Stop the Blame Game

### **D. Holistic Approaches to Dealing with Disabilities - Angela Williams**

- Fierce Urgency of Now
- New Opportunities
- Reflection and Impact
- Suggestions for Systemic Change

### **E. Practical Applications - Michael Balaoing**

- Commonality and Shared Humanity
- Busting Assumptions
- Framing of Stories
- Advising for Success

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# CAST

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## Cast

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|--|--------------------|
| Emcee .....  | Sherry Margolis    |
| Speaker .....  | Beth McCormack     |
| Speaker .....  | Angela F. Williams |
| Speaker .....  | John Bouman        |
| Speaker .....  | Andie Kramer       |
| Speaker .....  | Al Harris          |
| Speaker .....  | Michael Balaoing   |
| Dorothy .....  | Emilly "Em" Miller |
| Scarecrow, Victor Laszlo, George<br>Bailey .....     | Michael Mitchell   |
| Tin Man, Ugarte, Mr. Potter .....                    | Joe Janes          |
| Lion, Rick Blaine, Clarence Obody .....              | Ric Walker         |
| Witch, Ilsa Lund, Mary Hatch Bailey .....            | Kelly Haran        |
| Wizard, Captain Louis Renault, Harry<br>Bailey ..... | James Sherman      |

## Production

|   |                      |
|---|----------------------|
| Playwright .....  | James Sheman         |
| Event Producer & Technical Research .....                                     | Ruth Goran           |
| Event Producer & Technical Research .....                                     | Caren Yanis          |
| Video Production, Event Production,<br>Continuing Education Coordinator ..... | Illinois CPA Society |
| Production & Technology Assistant .....                                       | Ian Goran-Dry        |
| Technical Research Assistant .....  | Evan Goran-Dry       |
| Cover Photographer .....  | Ron Wu               |

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# WHO'S WHO

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## Sherry Margolis

*as Emcee*

Sherry Margolis is an Emmy Award-winning broadcast journalist. During her 35 year career as a news anchor in Detroit, she won several Emmy awards for her anchoring and reporting, as well as two Edward R. Murrow awards for the special "Tribute to Our Troops." She was also honored by the University of Michigan with its Community Involvement Award. In 2019 Sherry was inducted into the Buffalo Broadcasters Hall of Fame.



## Beth McCormack

*as Speaker*

Beth F. McCormack practices exclusively in family law matters, with experience in complex litigation, as well as mediation and collaborative law.

The Philosophy under which Ms. McCormack practices is founded on compassion and empathy. She sees it as her responsibility to be aware of her clients' needs, seeking the most appropriate solution for each individual.

Ms. McCormack has repeatedly been nominated by her peers in Leading Lawyers (since 2013), Best Lawyers (since 2016) and Super Lawyers (since 2012) publications and takes great pride in that she believes strongly in the importance of attorneys working collaboratively to create the best outcome for their clients. Ms. McCormack has been named a Top 50 Women Super Lawyer and Top 100 Super Lawyer. In 2017, Ms. McCormack was named Most Influential Woman Lawyer by Crain's Chicago Media.



## Michael Balaoing

*as Speaker*

**Michael Balaoing, Esq.** is Founder and CEO of Candlelion LLC, a global consulting firm that advises the world's largest companies, most iconic brands, major startups and investors, next-gen entrepreneurs and leading nonprofits and foundations. He has personally coached and trained more than 25,000 people, ages 3 to 93, 100 companies, Amazon to Uber, from Anchorage to Zanzibar. For 25 years, he has been an expert in strategic communications, leadership development, philanthropy and corporate responsibility. Trained as a public interest attorney, he is adjunct faculty at Johns Hopkins University. He has awarded over \$500 million in grants through key leadership roles: Entertainment Industry Foundation (Senior Vice President), Council on Foundations (Board Secretary), Philippine Development Foundation (Board Secretary), California Volunteers (Chairperson) and the Liberty Hill Foundation (Board Chairperson).



## Angela F. Williams

*as Speaker*

Angela F. Williams is president and CEO of Easterseals, the nation's leading nonprofit provider of life-changing services and powerful advocacy for people with disabilities of all ages, including veterans and seniors. She is the first Black woman to hold this post and was hired in 2018 as a change agent in anticipation of Easterseals' 100th anniversary in 2020.

Williams has more than 30 years of leadership experience in the nonprofit and corporate sectors. Most recently, she was EVP, general counsel and chief administration officer at YMCA of the USA. In her 11 years at the organization, she was instrumental in shaping strategy and developing resources to help 2,700 YMCAs across the country enhance outcomes for youth and families in 10,000 communities. While with the Y, she also had the unique opportunity to provide direct oversight in the construction of a \$130M mixed-use development project in Jerusalem, Israel to support its community services.



## John Bouman

*as Speaker*

Currently a private consultant since retiring last year as the President of The Shriver Center on Poverty Law. He joined the Shriver Center in 1996 and maintained a leading multi-issue law and policy role fighting poverty in Illinois, while also building a national program of training and information for anti-poverty advocates. Prior to his association at the Shriver Center, John worked for two decades at the Legal Assistance Foundation of Chicago where he spent ten years as a high-volume storefront legal aid lawyer in Chicago neighborhoods and then supervised public benefits advocacy.



## Andie Kramer

*as Speaker*

Andie is a partner in an international law firm that is one of the "10 Best Big Law Firms for Female Attorneys". Andie is head of the firm's Financial Products, Trading and Derivatives Group, and is the founding chair of the firm's Gender Diversity Committee and served as its co-chair. She has served on both her firm's Management Committee and Compensation Committee. Based on her experiences, she has been a voice for gender diversity in professional organizations. She is the co-author with her husband, Al Harris, of two books. "Breaking Through Bias: Communication Techniques for Women to Succeed at Work" and "It's Not You It's the Workplace: Women's Conflict at Work and the Bias that Built it." She is a contributor to Forbes on women at work.

# WHO'S WHO



## Al Harris

*as Speaker*

Al was a founding partner of the Chicago law firm of Ungaretti & Harris which in 2015 merged into the national law firm of Nixon Peabody LLP. At Ungaretti & Harris, Al served for many years as managing partner and then as a member of its Executive and Compensation Committees. Al has written articles for Harvard Business Review and been interviewed in The Financial Times, The New York Times, and other prestigious publications. Al has co-authored two books with his wife Andie and they both have a popular blog, [Andieandal.com](http://Andieandal.com).



## Kelly Haran

*as Witch, Ilsa Lund, Mary Hatch Bailey*

Kelly Haran had the joy of being in *The Greatest Theatrical Event Ever!* at The Edinburgh Fringe Festival last year. In New York, some favorite roles have been in *39 Defaults* at LaMaMa E.T.C., *The Perils of Obedience* at Abrons Arts Center and T. Schreiber Studio's productions of *The Cherry Orchard* and *Alien Child*. Kelly has also performed with *The Second City National Touring Company*, out of Chicago and at their nightly comedy revue in Las Vegas. She's also an English as a Foreign Language teacher, an occasional Girl Friday and dog walker.



## James Sherman

*as Wizard, Captain Louis Renault, Harry Bailey*

James Sherman is the author of the plays MAGIC TIME, THE GOD OF ISAAC, MR. 80%, THE ESCAPE ARTIST, BEAU JEST, THIS OLD MAN CAME ROLLING HOME, JEST A SECOND!, ROMANCE IN D, FROM DOOR TO DOOR, THE OLD MAN'S FRIEND, AFFLUENZA!, HALF AND HALF, RELATIVELY CLOSE, JACOB AND JACK, and THE BEN HECHT SHOW



## Emily "Em" Miller

*as Dorothy*

Emily "Em" Miller is currently earning her bachelor of fine arts in acting from The Theatre School at DePaul University. Em is very grateful for every opportunity she has to create/ collaborate during these less than ideal times for artists (and everyone).

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# WHO'S WHO

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## Michael Mitchell

*as Scarecrow, Victor Laszlo,  
George Bailey*

Michael has performed in commercials, television programs, numerous films, and in various theatrical performances in addition to his voice over work. He has also done numerous live industrial shows nationally and internationally.



## Joe Janes

*as Tin Man, Ugarte, Mr. Potter*

Joe Janes is an *Emmy award-winning* writer and teaches comedy writing and improvisation at The *Second City* and Columbia College. He has written for *SNL's "Weekend Update"* and Jellyvision's "You Don't Know Jack."

He has *published* three books of his staged work: *365 Sketches, 50 Plays* and *Seven Deadly Plays*. His full-length plays include *Metaluna* and *the Science of the Mind Revue, A Hard Day's Journey Into Night, Our Christian Nation, The Incident,* and *Always Never*.

He is a *regular contributor* to the on-line magazine *Literate Ape* with his weekly satirical column *The Minutes of Our Last Meeting*.



## Ric Walker *as Lion, Rick Blaine, Clarence Odbody*

As a performer, Ric has had the pleasure of working on stage and on camera. His credits include performing at The Goodman, in Chicago, the Alliance in Atlanta and for The Second City Chicago, among many other stages. On Camera, he has been seen on *Chicago Fire* and *Chicago PD* and for a season on Fox TV's *APB*. He is also an ensemble member and current director of The Improvised Shakespeare Company in Chicago. He is a Professor in the Comedy Writing and Performance department at Columbia College Chicago, the nation's first BA in Comedy. He is also an active member of Chicago's storytelling community.

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# WHO'S WHO

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**Ruth Goran**

*Event Producer & Technical Research*

**Caren Yanis**

*Event Producer & Technical Research*

**Illinois CPA  
Society**

*Video Production, Event Production, Continuing  
Education Coordinator*

**James Sheman**

*Playwright*

**Ian Goran-Dry**

*Production & Technology Assistant*

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# WHO'S WHO

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**Evan Goran-Dry**

*Technical Research Assistant*

**Ron Wu**

*Cover Photographer*

# Beth McCormack Esq., Equity Partner, Beermann Law for Entertain2Educate, September 2020

## Data Source and Case List

Chicago Daily Law Bulletin, Practicing Family Law Can Have Many Approaches to Serving Your Client

<https://www.beermannlaw.com/wp-content/uploads/2020/05/BFM-Collab-CDLB-April-3-2019-Practicing-family-law-serving-your-client.pdf>

Organization Seeks to Make Family Separation as Painless as Possible

Chicago Daily Law Bulletin, <https://www.beermannlaw.com/wp-content/uploads/2020/05/BFM-Collab-CDLB-Oct-4-2018-Organizaton-separation-painless-as-possible.pdf>

Wealth Management and Divorce

Podcast, <https://www.beermannlaw.com/team/beth-f-mccormack/>

Who keeps Marital Home at Work Can Be Contentious

Chicago Daily Law Bulletin, <https://www.beermannlaw.com/wp-content/uploads/2020/04/LB-reprint-Nov07-2018-McCormack-003.pdf>

Urging Sense of Cooperation in Divorce is Best

Chicago Daily Law Bulletin, <https://www.beermannlaw.com/wp-content/uploads/2020/04/LB-reprint-Jun21-2018-McCormack.pdf>

# Angela Williams Esq. CEO of Easter Seals for Entertain2Educate, September 2020

Data, Source and Case List:

**Defining Disability** [Source: **Employing Abilities @Work 2019 Research Report (Society of Human Resource Management – SHRM)**]

<https://conferences.shrm.org/conference/inclusion-2019-shifting-workplace-culture/session/concurrent-session-specific-details-1>

- The ADA Definition In the workplace and in employment contexts, the Americans with Disabilities Act (ADA) defines the term “disability”. According to the ADA, a person with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activities.
- This definition is quite broad, and includes people who have emotional and mental illness, certain learning disabilities, episodic conditions such as diabetes, etc. The definition includes people who have a record of a disability and those who do not have a formal diagnosis but are generally regarded as having a disability.
- The ADA also makes it unlawful to discriminate against a person based on their association with a person with a disability. Disability is thus not just a health problem, it is a complex phenomenon reflecting the interaction between the person’s physical body, mental capacity and the environment in which they live.

## **Non-Visible Disabilities**

- “Invisible” or “hidden” disability refers to a spectrum of disabilities or challenges that cannot be directly identified through observation. These can include cognitive, chronic health and psychological disabilities.
- There are thousands of illnesses, disorders, diseases, dysfunctions, congenital disabilities, impairments and injuries that can be debilitating enough to occasionally or always limit daily activities. While most people tend to recognize PTSD or dyslexia as invisible disabilities, conditions like chronic migraines, endometriosis, asthma, narcolepsy and traumatic brain injuries are often discounted as not being “real” disabilities. It is important to keep in mind that invisible disabilities can range from mild challenges to severe limitations and severity varies from person to person.

**Employing People w/ Disabilities (Source: Employing Abilities @Work, 2019 Research Report by SHRM)**

<https://conferences.shrm.org/conference/inclusion-2019-shifting-workplace-culture/session/concurrent-session-specific-details-1>

- **Attitudes and Opinions:** 21% of managers believe workers with disabilities perform better than their peers without disabilities; 71% say they perform the same and 21% say worse than
- **Disclosing Disability at Work:** Overall, people would be most comfortable disclosing a physical disability and most uncomfortable disclosing a mental health disability at work. The stigma that forces people to hide their disabilities causes business losses in the form of absenteeism and turnover, which can cost upwards of 20% of the employees salary. Encouraging self-identification can help employees feel safe enough to ask for the help they may need.

# CONCEPTS, CASES, AND ISSUES

- **Disability Inclusion Initiatives:** The majority of workplaces do not have disability inclusion initiatives. Prevalence of this feeling in certain industries suggests that the potential for unconscious bias may differ by industry. Training in these industries needs to make clear that just because a person has a disability, does not mean they are unable to do the job. Both HR professionals and managers report that they feel the work is not able to be done by workers with disabilities, but managers more frequently report this perception, suggesting both a need and an opportunity for HR to provide additional resources to help their managers better understand these issues.
- **Challenges with Recruiting, Hiring or Promoting People with Disabilities:** While many people with disabilities do not require accommodations, for those employees who would benefit from accommodations there is a lack of knowledge or awareness of what accommodations are available, how they can be implemented and at what cost. This common theme is rooted in a lack of knowledge or awareness of what accommodations are, how they can be implemented and what they cost. These factors might be best addressed with better training around diversity inclusion in the workplace at all levels (HR, managers and employees).
- **Recruitment Policies and Practices:**
  - Previous research done by SHRM in 2012 indicates that very little progress has been made. In 2012, SHRM in collaboration with the Cornell University ILR School Employment and Disability Institute, conducted the first iteration of this survey about organizational practices and policies related to employing people with disabilities. Comparing this study to the previous work, there has been no change over the last seven years in the proportion of HR professionals that explicitly include people with disabilities in diversity and inclusion plans or the proportion of organizations that have relationships with community organizations that promote or support the employment of people with disabilities (Figure 4B). Also concerning, in 2019 less than 20% of organizations are taking advantage of tax incentives for hiring people with disabilities, a decrease from 2012 when 27% of HR professionals reported utilizing these programs.
  - In 2012, the average unemployment rate was 7.9%. Today, we face a tighter job market with a 3.9% average unemployment rate. Thus, competition among organizations is fiercer than ever, and yet the majority of organizations have done nothing new to recruit from this high-potential labor force.
- **Accessibility and Accommodation:** Without a clear disability inclusion initiative or a guiding recruitment strategy, the accommodations offered to employees with disabilities tend to be either accommodations for physical disabilities or flexible working schedules. Managers and HR have a narrow understanding of the feasibility and possibilities for a variety of accommodations, for both current and future employees. HR and managers need to work hand-in-hand to think more creatively about what accommodations they are already making that they don't realize are accommodations and how new types of low-cost, low-risk, low-tech accommodations can be implemented in their workplaces right now.
- **Current and Future Accommodations:** Even when the right talent has been found, additional barriers can exist to full inclusion for individuals with disabilities. Figure 5A illustrates what HR professionals and managers say they are currently offering or have offered to employees in the past. HR professionals and managers are most likely to report that their organization is offering policy enhancements like modified and flexible work schedules, and less likely to report accessibility accommodations like providing a service or changing the format of training materials.

# CONCEPTS, CASES, AND ISSUES

- Change the presentation of tests/training materials
  - Provide aid or a service to increase access
  - Reassign to a vacant position
  - Additional training
  - Provide or adjust a product, equipment, or software
  - Job restructuring
  - Improve accessibility in a work area
  - Providing equipment or devices
  - Flexible leave
  - Modified work schedule
- **Training and Capacity-Building:** A gap exists between the training that is needed and the frequency and types of training that are offered at organizations. There is an opportunity to educate and promote inclusivity, not just via formal training but through other capacity-building methods. HR professionals should lead the charge in better educating their managers and employees about compliance matters related to disability and disability inclusion. HR also needs to create spaces within the organization where managers and employees can learn informally and build capacity around creating inclusive workplaces.
- Training for HR Professionals and Managers Only about 30% of organizations offer disability awareness or sensitivity training to all managers and supervisors. Less than half of managers seek out this training on their own. 61% of managers and 51% of HR professionals have not participated in any disability inclusion training at all, whether optional or required
- People w/ Disabilities – Discrimination During the COVID-19 Pandemic/Public Health Emergency**
- **People With Developmental Disabilities More Likely To Die From COVID-19**
- Individuals in this population are significantly more likely than others to die if they contract COVID-19, according to [findings](#) published in the Disability and Health Journal in late May.
- Among those ages 18 to 74 with COVID-19, researchers found that the fatality rate was 4.5 percent for people with intellectual and developmental disabilities compared to 2.7 percent for others. The rate of death was also higher among individuals with developmental disabilities ages 17 and under, while the fatality rate was similar for those ages 75 and older whether or not they had a disability.
- It's not entirely clear from the data why individuals with developmental disabilities experience a higher risk of death from the virus, though the findings indicate that this group did have more co-occurring conditions including hypertension, heart disease, respiratory disease and diabetes. The researchers also noted that people with developmental disabilities are more likely to live in congregate settings where it's harder to limit the spread of COVID-19.
- **Disability-Based Discrimination in Health Care**
- More than 56 million Americans—nearly one in five people—experienced some form of disability as of the 2010 U.S. Census, a number expected to increase as the population ages.
- Despite forming a significant and growing share of the population, people with disabilities, who can be particularly vulnerable to COVID-19, experience significant inequities in health and health care. One of the reasons for these inequities is persistent disability discrimination and negative bias in the provision of medical treatment.
- Although bias can be explicit or implicit, studies have consistently demonstrated that health care providers hold negative views of people with disabilities and fail to “[fully appreciate the value and quality of life with a disability.](#)”

# CONCEPTS, CASES, AND ISSUES

- In particular, because the COVID-19 pandemic places tremendous strain on our health care system, states, health care facilities, and professional organizations are developing triage protocols to determine how to allocate critical health care resources, especially ventilators, when there is not enough capacity to treat all patients.
- Examples of problematic provisions include:
  - categorical exclusions based on disability, such as intellectual or developmental disability;
  - explicit or implicit quality-of-life assessments;
  - assumptions regarding long-term survival that disadvantage people with disabilities;
  - failure to incorporate reasonable modifications in receiving treatment, including allowing for longer time on a ventilator;
  - provisions authorizing reallocation of ventilators from chronic ventilator users to other patients;
  - assumptions or concerns about the ability of people with intellectual and developmental disorders to comply with post-treatment protocols; and
- **3 Federal Laws that matter:**

In creating and implementing triage policies, states, facilities and providers must consider three federal laws that prohibit disability-based discrimination in health care:

- Section 1557 of the Patient Protection and Affordable Care Act (ACA), [42 U.S.C. § 18116](https://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html#:~:text=Section%201557%20is%20the%20nondiscrimination,certain%20health%20programs)  
<https://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html#:~:text=Section%201557%20is%20the%20nondiscrimination,certain%20health%20programs>
- Americans with Disabilities Act of 1990 (ADA), [42 U.S.C. § 12101](https://www.ada.gov/pubs/adastatute08.htm)  
<https://www.ada.gov/pubs/adastatute08.htm>
- Section 504 of the Rehabilitation Act of 1973, [29 U.S.C. § 794](https://www.hhs.gov/civil-rights/for-individuals/disability/laws-guidance/index.html#:~:text=Section%20504%20of%20the%20Rehabilitation,assistance%20from%20HHS%3B%2)  
<https://www.hhs.gov/civil-rights/for-individuals/disability/laws-guidance/index.html#:~:text=Section%20504%20of%20the%20Rehabilitation,assistance%20from%20HHS%3B%2>

Section 1557 of the ACA prohibits discrimination in health care by entities receiving federal financial assistance or administered by the U.S. Department of Health and Human Services (HHS) on the basis of race, color, national origin, sex, disability, and age. It amends Section 504 of the Rehabilitation Act, which applies to entities that receive federal funding.

The ADA also prohibits discrimination on the basis of disability in public services, programs and activities (Title II), including state policies and health care services offered by public hospitals, and by places of public accommodation (Title III), which includes private physician's offices and private hospitals.

# CONCEPTS, CASES, AND ISSUES

Although there are differences between these laws, they generally require: physical access to health care services and facilities, including accessible spaces and the removal of barriers; effective communication, including auxiliary aids and services such as the provision of sign language interpreters or materials in alternative formats; and reasonable modification of health care policies, practices, and procedures when necessary to accommodate individual needs. These laws also require that health care decisions be made based on an individualized, evidence-based assessment of the patient, rather than stereotypes or assumptions based on disability, age, or both.

- **US Department of Health and Human Services Office of Civil Rights in Action published a bulletin in March 2020**

<https://www.hhs.gov/sites/default/files/ocr-bulletin-3-28-20.pdf>

- Ensuring that entities covered by civil rights authorities keep in mind their obligations under laws and regulations that prohibit discrimination on the basis of race, color, national origin, disability, age, sex, and exercise of conscience and religion in HHS-funded programs.
- Offering care quickly and efficiently must be guided by the fundamental principles of fairness, equality, and compassion that animate our civil rights laws. This is particularly true with respect to the treatment of persons with disabilities during medical emergencies as they possess the same dignity and worth as everyone else.
- The Office for Civil Rights enforces Section 1557 of the Affordable Care Act and Section 504 of the Rehabilitation Act which prohibit discrimination on the basis of disability in HHS funded health programs or activities. These laws, like other civil rights statutes OCR enforces, remain in effect.
- As such, persons with disabilities should not be denied medical care on the basis of stereotypes, assessments of quality of life, or judgments about a person's relative "worth" based on the presence or absence of disabilities or age. Decisions by covered entities concerning whether an individual is a candidate for treatment should be based on an individualized assessment of the patient based on the best available objective medical evidence.
- "HHS is committed to leaving no one behind during an emergency, and this guidance is designed to help health care providers meet that goal,"
- To this end and as resources allow, government officials, health care providers, and covered entities should not overlook their obligations under federal civil rights laws to help ensure all segments of the community are served by:
  - Providing effective communication with individuals who are deaf, hard of hearing, blind, have low vision, or have speech disabilities through the use of qualified interpreters, picture boards, and other means;
  - Addressing the needs of individuals with disabilities, including individuals with mobility impairments, individuals who use assistive devices, auxiliary aids, or durable medical equipment, individuals with impaired sensory, manual, and speaking skills, and individuals with immunosuppressed conditions including HIV/AIDS in emergency planning;

# CONCEPTS, CASES, AND ISSUES

- In order to ensure that healthcare providers can serve patients, including those who cannot or should not leave their homes during this emergency, OCR announced on March 17, 2020, that it will exercise its enforcement discretion and will not impose penalties for HIPAA violations against health care providers that in good faith provide telehealth using non-public facing audio or video communication products, such as FaceTime or Skype, during the COVID-19 nationwide public health emergency. This exercise of enforcement discretion applies regardless of whether the telehealth service is related to the diagnosis and treatment of health conditions related to COVID-19.
- **The Right Way to Accommodate**

And while each disability needs to be evaluated on a case by case basis, several recent court rulings shed further light on employers' ADA accommodation responsibilities.

[Source: The do's and don'ts of ADA Accommodations: 3 new rulings located on the HR Morning website, Jan 4, <https://www.hrmorning.com/articles/the-dos-and-donts-of-ada-accommodations-3-new-rulings/2019>]

1. In *Brumley v. United Parcel Service*, a court ruled that ADA accommodations don't necessarily have to be given to employees immediately.  
<https://law.justia.com/cases/federal/appellate-courts/ca6/18-5453/18-5453-2018-11-30.html>

Melissa Brumley delivered packages for UPS when she hurt her back lifting a heavy box from her truck.

She took leave to heal, and her doctor said when she returned to work she could no longer lift packages or drive. Since these were two essential functions of her job, Brumley's manager put her on leave while waiting on more information from her doctor.

After beginning the interactive process and considering a reassignment, Brumley's doctor cleared her to go back to her old job, and UPS ended the process.

But Brumley sued the company for failing to accommodate her during those weeks she was on leave, which resulted in loss of pay.

A district court ruled in favor of UPS, and on appeal the 6th Circuit agreed. It said just because the company didn't accommodate the employee immediately didn't mean it violated the ADA. UPS began the interactive process and only stopped once Brumley was cleared to go back to her old job without an accommodation.

The key things the company did? Beginning the process and requesting additional info from Brumley's doctor – this showed the court a good faith effort to comply with the ADA.

2. In *Sharbono v. Northern States Power*, a court ruled a company that failed to find an accommodation didn't fail to fulfill its ADA duties.

[https://scholar.google.com/scholar\\_case?case=14243809349490818079&q=Sharbono+v.+Northern+States+Power&hl=en&as\\_sdt=](https://scholar.google.com/scholar_case?case=14243809349490818079&q=Sharbono+v.+Northern+States+Power&hl=en&as_sdt=)

# CONCEPTS, CASES, AND ISSUES

After a foot injury, James Sharbono wasn't able to wear the steel-toed boots required by his company's safety procedures.

HR worked with Sharbono and suggested several accommodations, such as altering his boots and getting a custom pair made, but none worked out. Sharbono was forced to retire, and he sued for ADA violation.

But the 8th Circuit ruled the company acted in good faith. It worked with Sharbono and suggested several accommodations. It was only after exhausting all options that Sharbono was forced to retire. The court said the company fulfilled its ADA responsibilities, despite finding no accommodation for Sharbono.

3. In *Stokes v. Nielsen*, a court decided companies can be required to make accommodations that cover more than just essential job functions.

<https://caselaw.findlaw.com/us-5th-circuit/1901377.html>

Jacqueline Stokes had impaired vision and received multiple accommodations that allowed her to do her job. Stokes then requested special meeting handouts, printed in large letters, that she could read beforehand.

Despite many promises from HR, Stokes never received her requested handouts. She sued, claiming to be denied a reasonable accommodation under the ADA.

While the company argued it gave Stokes everything she needed to do her job, therefore fulfilling its ADA responsibilities, the Fifth Circuit disagreed.

"Our circuit has explicitly rejected the requirement that requested modifications must be necessary to perform essential job functions to constitute a reasonable accommodation," it said. And Stokes' request was deemed reasonable.

This case shows if an employee makes a reasonable request for their job, it's easier to just grant it.

# John Bouman Esq. Immediate Past President of the Shriver Center for Poverty Law, Lecturer at University of Chicago for Entertain2Educate, September 2020

## Data, source, and case list:

Racial Wealth gap generally: [https://usafacts.org/articles/white-people-own-86-wealth-despite-making-60-population/?utm\\_source=bing&utm\\_medium=cpc&utm\\_campaign=ND-Race&msclkid=bed91f07996518090381406b67d9de35](https://usafacts.org/articles/white-people-own-86-wealth-despite-making-60-population/?utm_source=bing&utm_medium=cpc&utm_campaign=ND-Race&msclkid=bed91f07996518090381406b67d9de35)

And: <https://www.thebalance.com/racial-wealth-gap-in-united-states-4169678>

COVID 19 and race generally: <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html>

And: <https://www.brookings.edu/blog/up-front/2020/06/16/race-gaps-in-covid-19-deaths-are-even-bigger-than-they-appear/>

Mass incarceration generally: <https://www.prisonpolicy.org/blog/2020/07/27/disparities/>

See Michelle Alexander, *The New Jim Crow*

Legal fees and settlement agreements/possible conflict: National Center for Law and Economic Justice, Federal Practice Manual, Section 9.4.E. (“The *Jeff D* Problem”), <https://nclj.org/chapter-9-4> (Caveat: updates are in the planning stage for this valuable resource, but for now be aware that the information may not be up to date).

Paying off the named plaintiff in a class action: <https://www.jonesday.com/en/insights/2016/01/supreme-court-restricts-defendants-use-of-settlement-offers-to-pick-off-named-plaintiffs-in-class-actions>

And: <https://attorneyatlawmagazine.com/mechanism-plaintiffs-rule-23-class-action>

Treatise on what happens when a named plaintiff no longer represents the class (e.g., takes a separate settlement, is paid or fully satisfied without a settlement, among other reasons): The Headless Class Action: the Effect of a Named Plaintiff’s Pre-certification Loss of a Personal Stake, 39 Md. L. Rev. 121 (1979) Available at: <http://digitalcommons.law.umaryland.edu/mlr/vol39/iss1/6>. This article is old, but is a good treatment of the basics of this conundrum. It is also available at: <https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2413&context=mlr>

Regarding helping clients in litigation financially, the ABA rule prohibits it generally but carves out a limited exception for small gifts to help indigent clients with necessities, creating the “gray area”: [https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_1\\_8\\_current\\_clients\\_specific\\_rules/](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_8_current_clients_specific_rules/).

Illinois Rules of Professional Responsibility 1.8(d) is more clear and forbids financial support for clients other than court costs. [http://www.illinoiscourts.gov/SupremeCourt/Rules/Art\\_VIII/pepealed/ArtVIII.htm#6.4](http://www.illinoiscourts.gov/SupremeCourt/Rules/Art_VIII/pepealed/ArtVIII.htm#6.4)

# CONCEPTS, CASES, AND ISSUES

Health coverage for undocumented seniors: <https://www.npr.org/local/309/2020/06/11/874985727/undocumented-low-income-illinois-seniors-can-soon-get-publicly-funded-health-coverage#:~:text=Undocumented%2C%20Low-Income%20Illinois%20Seniors%20Can%20Soon%20Get%20Publicly,state%20to%20extend%20Medical%20benefits%20to%20seniors%20http://www.ilga.gov/legislation/101/HB/PDF/10100HB0357sam002.pdf>

Text:

## ARTICLE 85. MEDICAL ASSISTANCE TO CERTAIN NONCITIZENS

### **Sec. 12-4.35. Medical services for certain noncitizens.**

(a-5) Notwithstanding Section 1-11 of this Code, the Department of Healthcare and Family Services may provide medical assistance in accordance with Article V of this Code to noncitizens over the age of 65 years of age who are not eligible for medical assistance under Article V of this Code due to their not meeting the otherwise applicable provisions of Section 1-11 of this Code, whose income is at or below 100% of the federal poverty level after deducting the costs of medical or other remedial care, and who would otherwise meet the eligibility requirements in Section 5-2 of this Code. The medical services available, standards for eligibility, and other conditions of participation under this Section shall be established by rule by the Department; however, any such rule shall be at least as restrictive as the rules for medical assistance under Article V of this Code. (b) The Department is authorized to take any action, including without limitation cessation or limitation of a enrollment, reduction of available medical services, and changing standards for eligibility, that is deemed necessary by the Department during a State fiscal year to assure that payments under this Section do not exceed available funds. (c) Continued enrollment of individuals into the program created under subsection (a) of this Section in any fiscal year is contingent upon continued enrollment of individuals into the Children's Health Insurance Program during that fiscal year.

**The Public Act number (assigned after the gov signs it and it becomes law) is:**

**Public Act: 101-0636**

## Michael Balaoing Resources

### Books

1. *Stories That Stick: How Storytelling Can Captivate Customers, Influence Audiences and Transform Your Business* by Kindra Hall (HarperCollins, 2019)
2. *Building a Story Brand: Clarify Your Message So Customers Will Listen* by Donald Miller (HarperCollins, 2017)
3. *Talk Like TED: The 9 Public-Speaking Secrets of the World's Top Minds* by Carmine Gallo (St. Martin's Press, 2014)
4. *Resonate: Present Visual Stories that Transform Audiences* by Nancy Duarte (John Wiley & Sons, September 2010)

### Videos

1. *The Clues to a Great Story* by Andrew Stanton (TED Talk, February 2012) [19 minutes, 26 seconds] (4.5 million views)
2. *Think Fast, Talk Smart: Communication Techniques* by Matt Abrahams, Stanford Graduate School of Business (12/4/14) [58 minutes, 19 seconds] (14.2 million views)
3. *The Best Stats You've Ever Seen* by Hans Rosling (TED Talk, February 2006) [19 minutes, 46 seconds] (13.1 million views)
4. *'Thought Leader' gives talk that will inspire your thoughts* by Pat Kelly (Comedy/Satire Skit, June 2016) [4 minutes, 15 seconds] (2.3 million views)

### Podcasts

1. *Question Your Questions: How to Spark Creativity in Your Communication*, Think Fast, Talk Smart podcast by Matt Abrahams with Tina Seelig, Professor, Stanford University (9/25/20) [23 minutes]

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