

**Workshop Description**

If you're an employer with five or more employees in California --- you're at risk. The only question is: How are you going to minimize it—and protect your company?

Are your managers, supervisors and HR professionals aware of the staggering changes to California law that have made disability discrimination the newest “bet the company” litigation? Are they prepared to enact and enforce key policies to protect and defend the organization? Will they properly handle return to work and reasonable accommodation decisions properly? Do they have the skills to develop defensible documentation? Will they recognize potential legal landmines before they explode into lawsuits?

The changing legal climate in California requires informed business leaders. Here's why:

- The California Fair Employment & Housing Act (FEHA) broadens the definition of “disability” – way beyond the Federal law. Impact: many more employees now qualify as “disabled,” and can sue for discrimination or harassment based on their disabilities.
- FEHA has also broadened the employers' responsibilities to consider reasonable accommodations, and defines a very specific “interactive process” for communicating with an employee when considering a “reasonable accommodation.” The process must be explicitly followed and documented. Impact: Failure to conduct this process correctly will result in enormous liability – even if there was no accommodation that could be made.
- Amendments to the workers' compensation laws replaced Vocational Rehabilitation with a Supplemental Job Displacement Benefit Voucher. Your company now has only 10 days to tell an injured worker he's eligible for a voucher and then 30 days to find modified work. Result: Many more injured workers must be evaluated for modified duty – and must be provided with the “interactive process” under FEHA. And, your workers' compensation insurer has no responsibility to help you with this process.
- In five cases in the last year alone, juries have assessed awards to individual employees of \$2.26 million (Wysinger v. Auto Club), \$1.2 million (Snider v. Laquer, Urban), 1.679 million (Leuzinger v. Lake County) \$5.2 million (Alberigi v. Sonoma County) and \$6.5 million (Welch v. Anaheim) because of similar process failures that violated FEHA. The California Department of Fair Employment & Housing reported over 3,000 complaints for disability discrimination and retaliation in the last two years. Applicants' attorneys and employment lawyers have made this a litigation hotbed.

Drawing upon many years' experience in the courtroom and the boardroom, and unique insights from consulting with employers on discrimination and controlling workers compensation claims, Patricia S. Eyres takes you step-by-step through the maze of ever-expanding legal risks you face today. You can protect your company and gain peace of mind, when you pay attention to prevention, follow consistent procedures, and know what to do when trouble strikes.

**Participants Will Learn To:**

- Understand, in plain English, the maze of legal risks facing California employers, by focusing on their critical roles in their organization's response to modified duty decisions and workplace assignments for disabled employees; whether following a workers compensation leave or at the request of an employee who has a non work-related disability.
- Identify areas where policies and procedures must be updated to assure compliance with FEHA and regulatory requirements. This includes essential procedures for conducting the “interactive process,” to prevent crippling claims and lawsuits.
- Identify the triggers for the interactive process (return to work decisions following a leave of absence, triggers during performance management or after disciplinary actions, observed barriers to performance);
- Appreciate how the company can be “right” that no accommodation is available and still lose a FEHA lawsuit if it doesn't conduct an appropriate interactive process, and document the results.
- Recognize the essential roles for executives and HR specialists during and following every “interactive process,” to prevent successful discrimination, harassment or retaliation charges.
- Follow the nine principles of effective documentation, so that business communications work for you – not against the organization – in a legal dispute.