

## Employing our Military Veterans:

How to embrace and manage this  
important section of the modern  
workforce

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## Physical Symptoms of PTSD

- Trouble sleeping, overly tired
- Upset stomach, trouble eating
- Headaches and sweating with flashbacks
- Rapid heartbeat/breathing
- Existing health problems worsen.

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## Emotional Symptoms of PTSD

- Bad dreams
- Flashbacks or frequent unwanted memories
- Anger
- Feeling nervous, helpless or fearful
- Feeling guilty, self blame, shame
- Feeling sad, rejected or abandoned
- Agitated, easily upset, irritated or annoyed
- Feeling hopeless about the future
- Experiencing shock, being numb, unable to feel happy

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### Symptoms of TBI and PTSD

- Insomnia
- Impaired memory
- Poor Concentration
- Depression
- Anxiety
- Irritability, impatience or impulsiveness

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### Symptoms of TBI

- Signs and Symptoms exclusive to TBI include:
  - Headaches
  - Blurred vision
  - Noise/light intolerance
  - Dizziness, nausea, vomiting
  - Fatigue
- Examples of TBI:
  - Concussion
  - Skull Fracture

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### Oregon Veteran Preference Points

- “It is the policy of the State of Oregon that a public employer grant a preference in hiring and promotion to veterans and disabled veterans...”  
OAR 839-006-0435
- Pre-employment screening OAR 839-006-0450
  - Add 5 preference points for a veteran
  - Add 10 preference points for a disabled veteran
  - If method does not result in score, “devise and apply methods ... giv[ing] special consideration ... to veterans and disabled veterans.”

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### Oregon Veteran Preference Points, Cont.

- Preference for Promotions OAR 839-006-0455
- If...
  - Was granted military leave by the public employer,
  - Returned from leave to civil service position,
  - Qualified as a veteran or disabled veteran, and
  - Successfully completed test for promotional position, and
  - Meets the minimum qualifications.
  - THEN, 5 points given for veterans and 10 for disabled veterans.

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### Hiring Veterans: Federal Tax Credit

- Public, tax-exempt, employers hiring a qualified veteran eligible for the work opportunity tax credit can instead claim a credit against the old-age, survivor and disability (OASDI) tax.
  - The credit equals the WOTC for wages paid, with some modifications.
  - Use Form 5884-C to calculate and claim credit
  - Excess credit (exceeding OASDI tax imposed) can be carried forward for a later tax period.

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### Who is a Qualified Veteran?

- One who has served on active duty for more than 180 days OR have been discharged/released from active duty for service-related disability, AND
- Not have a period of active duty of more than 90 days that ended during the 60-day period ending on the hiring date.
- Be hired before Dec. 31, 2013
  - Bill introduced to extend hiring deadline to Dec. 31, 2017

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### Who is a Qualified Veteran? (Cont.)

- Member of family receives food stamps for at least a 3 month period that ended during the 12 month period ending on the hiring date.
- Unemployed for at least 4 weeks, but less than 6 months in the 12 months preceding hire date.
- Unemployed for a total of at least 6 months in 1 year period ending on hire date.
- Entitled to compensation for a service-connected disability and hired not more than 1 year after being discharged or released from active duty in the U.S. Armed Forces.
- Entitled to compensation for a service-connected disability and unemployed for at least 6 months in the 1 year period ending on the hiring date.

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### Who is a Qualified Veteran? (Cont.)

- Restrictions:
- Veteran cannot be any of the following:
  - Related to the Employer
  - Have worked for the employer at any time in the past.
  - Employer's dependent
  - Work less than 120 hours during the year.

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### ADA Requirements

- A person has a disability if the physical or mental impairment *substantially limits one or more major life activities*.
- Under Title I of the ADA, applicant must be given *reasonable accommodations* unless to do so would cause *undue hardship*
- These can differ based on the disability.
- Frequently veterans suffer from Traumatic Brain Injury (TBI) and Post-Traumatic Stress Disorder (PTSD)
  - Not all veterans with TBI and/or PTSD will be considered disabled

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### How would you accommodate these TBI issues in the workplace?

- Physical limitations
- Visual Problems
- Maintaining Stamina During the Workday
- Maintaining Concentration
- Difficulty Staying Organized and Meeting Deadlines
- Memory Deficits
- Problem Solving Deficits
- Working Effectively with Supervisors
- Difficulty Handling Stress and Emotions
- Attendance Issues
- Issues of Change

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### How would you accommodate these PTSD issues in the Workplace?

- Maintaining Concentration
- Memory Deficits
- Time Management/ Completing Tasks
- Coping with Stress
- Working Effectively with Coworkers
- Dealing with Emotions
- Sleep Disturbances
- Absenteeism and Tardiness
- Panic Attacks
- Working Effectively

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### What Constitutes Undue Hardship?

- Significant difficulty or expense to implement
- Determined on case-by-case basis
- Factors to evaluate whether undue hardship
  - Nature/Cost of accommodation needed
  - Financial resources
  - Size and number of employees
  - Type and location of facilities
  - Type of operation (structure and function of workforce)
  - Impact of the accommodation on the operation of the facility

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## USERRA

- Provides additional protection to veterans in excess of ADA requirements (if disabled)
- Reemployment
  - Prompt reinstatement
  - Accrued seniority (status, rate of pay, pension vesting and credit for period for pension benefits computations)
  - Training/Retraining and other accommodations.
  - Special protection against discharge except for good cause

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## USERRA Eligibility Requirements

- Returning service members must:
  - Hold or have applied for a permanent civilian job
  - Have given notice to employer prior to military leave
  - Must not have exceeded the 5-year cumulative limit on periods of service
  - Must have been released from service (excluding dishonorable discharges)
  - Must report back to civilian job in timely manner or submit a timely application for reemployment.

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## Oregon Law and USERRA

- Similar, but with advantages
  - Fewer conditions before becoming eligible for employment and reemployment rights.
  - Extending protection to veterans no longer in military service.
  - Giving state agencies an enforcement role
  - More options for remedies: Federal, state or both.

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### What can you ask In the Interview?

- General rule: You cannot ask questions likely to elicit information about a disability.
- You cannot ask if the applicant has a particular disability
- If the question could be answered in different ways, only some of which would be disability related answers, then it is allowed.
- After giving a job offer, employer is entitled to ask disability-related questions in accordance with ADA.

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### An Employer CAN ask...

- Whether applicants can perform any or all job functions “with or without reasonable accommodation.”
- To describe how they would perform any or all job functions, as long as all applicants in the job category were asked to do so.
- Whether an applicant can meet the employer’s attendance requirements

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### An Employer CAN ask... (Cont.)

- Applicants to “self-identify” as an individual with a disability for purposes of an employer’s affirmative action program, BUT
  - State clearly that the information requested is used only with the affirmative action obligations or efforts, AND
  - State clearly that the information is being requested on a voluntary basis, and will be kept confidential in accordance with ADA

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### An Employer CANNOT ask...

- Whether an applicant will need reasonable accommodation to perform the functions of the job.
- How many days an applicant was sick.
- Whether applicants can perform major life activities, such as standing, lifting, walking, etc.

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### An Employer CANNOT ask... (Cont.)

- About the applicant's workers' compensation history
- About an applicant's lawful drug use if likely to elicit information about the disability.
  - Exception: If employer is administering a test for illegal use of drugs.
    - Ex: "What medications have you taken that might have resulted in this positive test result? Are you taking this medication under a lawful prescription?"

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### Helpful Resources

- <http://www.oregon.gov/odva/Pages/employment.aspx>
- <https://www.vetsuccess.va.gov/public/index.html?PHPSESSID=5c7f4b49c1ff16030902dfba3f0676dc>
- <http://www.dol.gov/dol/audience/aud-employers.htm>
- <http://www.ptsd.va.gov/>

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### Helpful Resources (Cont.)

- <http://www.dol.gov/vets/>
- <http://www.americaheroesatwork.gov/forEmployers/HiringToolkit/>
- [www.askjan.org](http://www.askjan.org)

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### Questions?

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