

Limitations on Requesting Medical Exams

If your organization has 15 or more employees, you have obligations under the Americans with Disabilities Act (ADA) even if you don't have any employees with disabilities. You may not have to worry about providing reasonable accommodations, but the ADA also restricts when you may require a medical examination or make a medical inquiry.

The ADA establishes three different levels of restrictions on medical inquiries: Before you've extend a job offer to an applicant, after you've extended a conditional job offer but before the individual starts working, and after employment begins.

Before the job offer

Before you've extended a job offer, the ADA prohibits all disability-related inquiries and medical examinations, even if they would be related to the job.

A disability-related inquiry includes any question that is likely to elicit information about a disability. This would include questions about medical conditions or medications the applicant might be taking, whether the applicant would require accommodation, and whether the applicant had any previous workers' compensation claims.

You may ask general questions that are not likely to elicit information about a disability, such as "how are you feeling today?" or "can you perform, with or without reasonable accommodation, these job functions?" However, you may not ask questions that target an applicant's current or previous medical issues.

After the job offer

After you've extended a conditional job offer but before the applicant begins working, you may make disability-related inquiries or require medical examinations. You may even require examinations that are not related to the job, such as asking about previous workers' compensation claims, as long as all applicants for the same job category are subjected to the same evaluations. However, you may not withdraw a job offer based on medical information that is unrelated to the job.

In addition, any medical information you acquire (at any stage) must be kept confidential, and the documentation must be stored separately from the general personnel files.

During employment

Once employment begins, you may make disability-related inquiries or require medical examinations only if they are job related and consistent with business necessity. Otherwise, an employee's actual performance is the best indicator of his or her ability to perform the job.

For example, if an employee requests accommodation for a medical condition that is not obvious, you may require the employee to provide medical information to help you evaluate possible accommodations. Similarly, when an employee returns from injury leave, you may require a "fit for duty" statement from a physician.

On the other hand, if an employee is not meeting expectations, you should begin by addressing the situation as a performance issue. Even if you know that the employee has a medical condition, don't assume that it's the source of the problem, and don't be too quick to request medical information. You could, however, remind the employee that he or she may request an accommodation. If the employee does so, then you can decide whether medical information is needed to evaluate options.

Employers may want to obtain medical information from applicants or employees for a variety of reasons, but both the timing and the purpose of the request will impact whether the inquiry is permissible under the ADA.