



## **Medical Inquiries and Exams**

**Note:** This information does not constitute legal advice. The law is constantly changing and application of the ADA depends on the specific circumstances of each case. Consult an attorney when faced with legal issues.

### **What is may employer allowed to ask about my medical condition?**

Employers are restricted in what kinds of medical inquiries they can make at every stage of the employment process. There are different rules about what kinds of medical inquiries employers can make at three distinct stages of the employment process:

1. The job application stage, before a job offer is made;
  2. After a conditional job offer has been made; and
  3. Once an employee has started work.
- Anytime an applicant or employee requests an accommodation, an employer may require additional information on the disability, with some limitations.

### **What is a medical inquiry?**

- A medical inquiry is any question about an individual's health or disabilities.
- A disability-related question is a question that is likely to elicit information about a disability. If there are many possible answers to a question and only some of them would contain information about disabilities, that question is not disability-related.
- Examples of medical inquiries:
  1. Asking whether you have been treated for a specific condition or disease.

2. Asking whether you have been hospitalized and, if so, for what.
3. Asking if there is a health reason that would prevent you from performing your job.
4. Asking how often you have been out sick on previous jobs.
5. Asking what prescribed medications you take.
6. Asking if you have ever been treated for substance abuse.
7. Asking if you have ever filed a claim for workers compensation.

### **What is a medical exam?**

- Medical exams are all tests and procedures administered by a health care professional in a medical setting to seek information about an individual's mental or physical impairments.
- Examples of medical exams:
  1. Vision tests.
  2. X-rays or MRIs.
- Tests that are not considered medical exams:
  1. Blood and urine tests to determine current use of illegal drugs.
  2. Polygraph exams.
  3. Physical agility or fitness tests (although these tests are subject to some limitations).

### **What kind of medical inquiries can my employer make during the application process?**

- The ADA prohibits employers from medical inquiries in job applications, during job interviews, and during background and reference checks.
- Employers may not require job applicants to undergo medical examinations.
- The prohibition on medical inquiries applies even if the inquiry is related to the job.

- Employers cannot ask disability-related questions during the job application stage of the employment process. For example: an employer cannot ask you during a job interview how much sick time or leave time that you think you will need.
- Employers may ask about information that is needed to assess a job applicant's qualifications and to assure safety on the job. For example: an employer can ask whether you currently use illegal drugs.
- Employers can ask questions about an applicant's ability to perform specific job functions if they are essential to the job. For example: an employer can describe the physical requirements of a job and then ask you whether you can perform those requirements with or without reasonable accommodation.
  - An employer may also ask you to demonstrate performing essential functions of the job. You are entitled to a reasonable accommodation to demonstrate performance, or you may describe how you would perform the job if the accommodation could not be implemented during the interview.
- Note: One exception is if you request a reasonable accommodation for the job application or interview process. In that instance the rules on inquiries related to an accommodation request apply.

**What kind of medical inquiries can my employer make once I am offered a job?**

- Employers can make job offers conditional on the satisfactory outcome of a medical inquiry or exam as long as the employer requires this exam or inquiry for all entering employees in the job category.
- Employers cannot make your job offer conditional on the outcome of a medical inquiry or exam if they do not require the same inquiry or exam for all entering employees.

- Medical inquiries and exams conducted after a conditional job offer do not have to be job-related or consistent with business needs. However, if the medical exam tends to screen out people with disabilities it may violate the ADA unless your employer can show that the exam or inquiry is job-related and consistent with business needs.
  - For example, an employer may require all applicants for a loading dock position to be physically capable of lifting 50 pounds. But the same requirement of an administrative position would not be job-related and consistent with business needs, and tends to screen out people with disabilities.

### **What kind of medical inquiries can my employer make during my employment?**

- Once you begin work, an employer can require medical exams and inquiries only when these exams and inquiries are job-related and consistent with business needs.
- Examples of situations in which medical exams or inquiries may be appropriate:
  1. An employee is having a problem that has compromised job safety.
  2. It is necessary to determine if an employee can perform a physically demanding job.
- If you ask for a reasonable accommodation, your employer can ask you to provide medical information to determine whether the accommodation is necessary.
- If you ask for a reasonable accommodation and do not provide sufficient documentation requested by your employer, your employer may require you to be examined by a health care provider of their choice.
- However, an employer cannot ask you to undergo a medical exam when the disability of medical condition for which you are requesting accommodation is known or obvious.
- After your return from sick leave, an employer may make medical inquiries or require a medical exam if the employer has a reasonable belief that your ability to perform the

essential functions of the job will be impaired by a medical condition. But, your employer may not require you to return to work with no restrictions without first considering whether a reasonable accommodation would enable the employee to perform the essential functions of the job. For more information on no restrictions policies, please follow this link.

### **Can my employer share my medical information with others?**

- No. Your medical information is confidential. Your employer must maintain the results of any medical exams or inquiries in medical files separate from your personnel records and treat all medical information as confidential.
- There are a few situations in which employers can disclose your medical information:
  1. To supervisors or managers if they must be made aware of restrictions on and accommodations for you;
  2. With safety personnel if you have a disability that might require emergency treatment or assistance in the event of an emergency evacuation; and
  3. With government officials investigating ADA compliance claims.

### **What should I do if my employer asks for medical information or requires an exam?**

- If your potential employer makes a medical inquiry during the job application and interview process, you do not have to answer. It would be a violation if the ADA if the employer refused to hire you if you refused to respond to this prohibited inquiry.
  - If you believe you were not hired for a job because of a prohibited medical question on your job application or during a job interview, you may consider filing a complaint within 180 days. [Follow this link for more information](#) on filing complaints under the ADA and PHRA.

- If your employer makes a medical inquiry after you ask for a reasonable accommodation, you should provide the relevant documentation.
- It would be a violation of the ADA for an employer to fire you if you refuse to respond to a medical inquiry that is prohibited.