

# JAN

Job Accommodation Network

Practical Solutions • Workplace Success

## Accommodation and Compliance Series

# Accommodation and Compliance Series: Medical Exams and Inquiries

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## JAN'S Accommodation and Compliance Series

### Introduction

Title I of the Americans with Disabilities Act (ADA) limits an employer's ability to make disability-related inquiries or to require medical exams at three stages of employment: pre-job offer, post-job offer, and during employment. The following discusses when employers can ask disability-related questions or require medical exams and provide guidance regarding the scope of medical inquiries and exams.

### General Rules

The following are the general rules for each stage of employment. There are exceptions to these general rules that can be found in the related publications.

#### Stage 1: Job Applicants

General rule: Employers cannot ask medical questions or require medical exams at this stage.

- For more information, see [Preemployment Disability-Related Inquiries and Medical Exams \(EEOC Guidance\)](#)

#### Stage 2: Job Offer Made, Hasn't Started Working

General rule: Employers can ask any medical questions or require any medical exams they choose as long as all entering employees in the same job category are subjected to the same questions or exams, regardless of disability and the medical information obtained is kept confidential. Medical questions and examinations do not have to be job related and consistent with business necessity at the post-offer, preemployment stage.

- For more information, see [Preemployment Disability-Related Inquiries and Medical Exams \(EEOC Guidance\)](#)

#### Stage 3: Employees

General rule: Disability-related inquiries and examinations of employees must be "job-related and consistent with business necessity." A medical inquiry or examination is job-related and consistent with business necessity when:

1. an employer has a reasonable belief, based on objective evidence, that an employee's ability to perform essential job functions will be impaired by a medical condition, or

2. an employer has a reasonable belief, based on objective evidence, that an employee will pose a direct threat due to a medical condition, or
3. an employee asks for a reasonable accommodation and the employee's disability or need for accommodation is not known or obvious, or
4. required in positions that affect public safety, such as police and fire fighters.
  - For more information, see [Disability-Related Inquiries and Medical Exams of Employees \(EEOC Guidance\)](#)

## Frequently Asked Questions and JAN Resources

### Employers

**Question:** What medical documentation can employers request when employees ask for accommodations?

- [Medical Inquiry in Response to an Accommodation Request and Sample Form](#)
- [Requests for Medical Documentation and the ADA](#)
- [To Ask, or Not to Ask? – Knowing When to Request Medical Information](#)

**Question:** Are there standard forms employers should use when requesting medical documentation and if not, is it okay to use sample forms to create standard, in-house forms?

- [The Use of Sample Forms under the ADA](#)

**Question:** Does HIPAA limit an employer's right to request medical documentation under the ADA?

- [HIPAA and Consent to Obtain Medical Information for ADA Purposes](#)

**Question:** What healthcare professionals can provide medical documentation to support an employee's accommodation request?

- [Who Can Provide Medical Documentation for ADA Purposes?](#)

**Question:** Can employers ask for medical information when employees with disabilities request flexible work arrangements?

- [Workplace Flexibility, the ADA, and Requesting Medical Information](#)

**Question:** What steps can employers take to help ensure that employees provide medical documentation in a timely manner?

- [Avoiding "The Waiting Place" After Requesting Medical Information](#)

**Question:** Can employers ask employees whether they need accommodations?

- [Mother May I? Must I? Should I?](#)

**Question:** Can employers periodically ask for new medical documentation to support a long-term accommodation?

- [Recertifying the Ongoing Need for Accommodation](#)

**Question:** Can employers ask whether a job applicant has a disability for affirmative action or when giving hiring preference to applicants with certain types of disabilities?

- [Affirmative Action and Disability: What Can Employers Ask?](#)
- [Giving Hiring Preference to People with Disabilities](#)

#### Healthcare Providers

**Question:** What type of information can be provided to support a patient's accommodation request?

- [Practical Guidance for Medical Professionals: Providing Sufficient Medical Documentation in Support of a Patient's Accommodation Request](#)

#### Individuals with Disabilities

**Question:** When are employers allowed to ask medical questions or require medical exams?

- [Disability Disclosure and Employment](#)

**Question:** What can employees do if they think their employer is asking for too much medical information?

- [Dealing with Improper Requests for Medical Documentation from an Employer](#)

**Question:** Do employers have to keep employee medical information confidential?

- [Confidentiality of Medical Information under the ADA](#)

## Situations and Solutions:

The following situations and solutions are real-life examples of accommodations that were made by JAN customers. Because accommodations are made on a case-by-case basis, these examples may not be effective for every workplace but give you an idea about the types of accommodations that are possible.

### **A library employee who had several fairly severe motor tics very rarely had vocal ones because of Tourette Syndrome.**

After demonstrating one of his rare outbursts, his employer requested medical documentation in order to ascertain the nature of the outbursts and whether they would be an issue in the future. The employer was able to determine that the outbursts were rare indeed, that there really was no accommodation to help reduce them, and that they could handle the outbursts as outlined by the employee's doctor.

### **A nurse in an extended care facility asked for the accommodations of no overtime, as well as being relieved of duties that require her to work on the floor.**

The employer denied the overtime request, as being available to provide overtime is an essential function of the job. As for not being required to work on the floor, the employer requested more medical documentation in order to determine what stressors were involved and how they might be reduced in order for the employee to work on the floor, another essential function of the position.

### **An employee with avoidant personality disorder works as a vocational specialist for a disability insurance company.**

Originally, the employee's position allowed him to work from home full time. Recently, the company decides to begin transitioning some of its teleworking employees back into the office. The employee discloses his condition and requests he be allowed to continue working from home as an accommodation. The employee provides medical documentation explaining that he experiences intense feelings of inadequacy and discomfort when around others and would not be able to perform at the same level in an office environment as he would at home. As a result, the employer allows the employee to continue working from home.

### **An employee with schizotypal personality disorder just started working as a cashier in a small department store.**

Within three weeks, the employer receives four comments from customers regarding the employee's behavior, that the employee had begun talking to them about strange things including aliens and various conspiracy theories. The employer meets with the employee to discuss these occurrences, at which point the employee discloses her disability. The employee provides medical documentation that states that the employee will at times have episodes where she will think and talk about things that are not grounded in reality and that while medication can help to prevent such occurrences, they will inevitably occur on an almost daily basis. Because it is an essential function to be able to communicate effectively with customers, and the employee's eccentric behavior is not in compliance with the employer's conduct standards, the employer

determines the employee is not qualified for the position. Because the employee wasn't qualified for the position from the point of hire, the employer does not have an obligation to consider reassignment, but does anyway, reassigning the employee to a position as a stock clerk, which requires much less interaction with customers.

**An insurance salesman, working in a call center, had Tourette Syndrome that was getting more severe.**

No longer able to control his vocal outbursts, it became impossible for him and his coworkers to complete calls. When it was brought to his attention, he shirked it off as his co-workers being too difficult to get along with. He refused to take part in the accommodation process, and refused the move to a more private area with frequent breaks to help him manage the stress that he stated was exacerbating his condition. With no assistance from medical documentation as he refused to cooperate, the employer determined that he was no longer qualified for the position as he was unable to complete the essential functions of his position.

**An employee with histrionic personality disorder works in a cubicle environment as an insurance claims processor.**

She is regularly talking and distracting her coworkers, at times talking about very personal issues and having crying fits. At other times the employee will be very physical with coworkers, hugging and talking about how much she loves being around them. The employee's behavior is generally disruptive, and when the supervisor confronts her about this, the employee discloses her condition. The employee provides medical documentation that states that she would benefit from working in a more private space where it is not so easy for her to talk to coworkers and listening to music on earphones while doing work off the phones. The employer is able to provide these accommodations, which prove to be effective.

**An human resources specialist for a department store was recently required to add a weekend shift to her work schedule once a month.**

This caused significant stress which caused an exacerbation to her Marfan syndrome. After making a request for a flexible schedule along with medical documentation, the employer approved removing the weekend shift as an accommodation. This enabled the employee to work her regular schedule without worsening her symptoms.

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