

**Introduction of ADA
(Americans with Disabilities Act)**

The Americans with Disabilities Act (1992) affects employers with 25 or greater employees. According to the act, pre-employment physical exams may not be conducted on an applicant until after a conditional offer of employment has been extended. They are illegal prior to a conditional job offer.

It is recommended that the conditional offer be in writing, and if hiring is contingent upon other conditions (such as passing a pre-employment drug screen), those conditions should be set forth in a conditional offer letter.

Any disability-related inquiries and medical screenings of employees must be “job related and consistent with business necessity”. Only applicants who are otherwise qualified for employment may be subject to a pre-employment physical exam.

After making the offer, but before active employment, an employer may make unrestricted medical inquiries, but may not refuse to hire an applicant with a disability based on results of such inquiries, unless the rejection is job related and justified by business necessity. The type of testing to be conducted at a pre-placement exam depends on the job for which the worker is being considered. It can be used as a screening tool to uncover unrecognized illness or as a “predictor” of future occupational illness or injury. Regardless, it is recommended that employers limit their inquiries to those physical or mental conditions that relate to an applicant’s ability to perform the essential functions of the job for which he/she has applied.

Source: The Rand Study, 2006