

- It is invasive (e.g., requires drawing blood, urine, or breath).
- It measures the applicant's physiological responses to performing a task.
- It is normally given in a medical setting and/or medical equipment is used.
- It tests for alcohol consumption.

Though closely allied with medical examinations, several types of tests fall outside the bounds of medical examinations; these may be used proffer. These include physical agility tests, physical fitness tests, vision tests, drug tests for current illegal use of controlled substances, and tests that measure honesty, tastes, and habits.

A gray area involves the use of psychological tests, such as personality tests. They are considered medical if they lead to identifying a medically recognized mental disorder or impairment, such as those in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*. Future regulations and court rulings may help clarify which types of psychological tests are medical exams.

Medical Examinations: Current Employees

This enforcement guidance applies to employees generally, not just employees with disabilities.¹⁴⁸ An employee who applies for a new (different) job with the same employer should be treated as an applicant for a new job and thus subject to the provisions described above for job applicants. An individual is not an applicant where she or he is entitled to another position with the same employer (e.g., because of seniority or satisfactory performance in her or his current position) or when returning to a regular job after being on temporary assignment in another job. Instead, these individuals are considered employees.

For employees, the employer may make disability-related inquiries and require medical examinations only if they are job related and consistent with business necessity. Any information obtained, or voluntarily provided by the employee, is a confidential medical record. The record may only be shared in limited circumstances with managers, supervisors, first aid and safety personnel, and government officials investigating ADA compliance. Generally, a disability-related inquiry or medical examination is job related and consistent with business necessity when the employer has a reasonable belief, based on objective evidence, that (1) an employee's ability to perform essential job functions will be impaired by a medical condition or (2) an employee will pose a direct threat due to a medical condition.

A medical examination for employees is defined the same way as for job applicants. Examples of disability-related inquiries include the following:

- Asking an employee whether she or he was disabled (or ever had a disability) or how she or he became disabled, or asking about the nature or severity of an employee's disability