

# Asking Employees for a Doctor's Note



## **QUESTION:**

When can you ask an employee for a doctor's note? Specifically, can you ask for a doctor's note to pay out a sick day?

## **ANSWER:**

Yes. Here's a quick summary of the ground rules for doctor's notes. (Click on the link for more information and Model Tools about the particular item.)

## **EXPLANATION:**

General Rule: Under [privacy laws](#), you can't collect medical information about an individual without the person's consent. Exception: Employers are allowed to collect medical information about their employees when it's reasonably necessary to carry out essential employment functions, including via asking for a doctor's note. Examples:

### **You CAN Ask for a Doctor's Note:**

- To confirm that an employee who calls in sick really *is* sick and thus entitled to sick pay;
- To confirm that an employee in an [attendance management program](#) who calls in sick really is sick;
- To confirm that employees required to undergo rehab, anger management and other employment-related treatment plans are following the terms of those programs;
- To [verify that an employee who claims disability under the organization's disability plan really has a disabling injury](#);
- To confirm that an employee who requests an unpaid medical [leave of absence](#) really has an illness for which leave is allowed or required;
- To confirm that an employee requesting accommodation for a medical condition really has such a condition; and/or
- To determine an ill or injured employee's capabilities during the return-to-work process.

Conversely, asking employees for a doctor's note *isn't* allowed when there's no employment-related justification to have that information. Examples:

### **You CAN'T Ask for a Doctor's Note:**

- As a matter of course or principle any time an employee calls in sick;

- To harass the employee; and
- To confirm a suspicion that an employee is hiding an illness when she claims she's fine.

### Information You Can & Can't Ask for

Even when it's justifiable to ask for a doctor's note, you must ask only for minimum amount of information needed to meet your employment-related purpose.

#### TODAY'S EXPERT



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In cases of short absences due to illness, you don't have a right to insist on any details about the employee's condition. A one sentence note from the doctor stating that "Employee X is sick" is generally enough.

Even in cases where an employee's medical condition is relevant to the employment-related purpose, e.g., during the return-to-work or accommodation process, there are limits to the medical information you can request.

The basic rule: You can ask the doctor for the employee's prognosis but not diagnosis, i.e., when she can return but not what condition she actually has.