

# Asking Job Applicants about their Medical Condition during the Interview



## **QUESTIONS:**

1. Can you ask an employee in a pre-employment interview if they've ever had any workers' compensation claims?
2. Can you ask them if they have any health or medical conditions that would affect them in this very physical work?

## **ANSWER TO QUESTION 1:**

No.

## **EXPLANATION:**

I give you a lot of credit for asking. Some HR directors might ask job applicants about workers' compensation claims without realizing they were crossing a line. The problem, of course, is that you can't factor a job applicant's physical or mental disability into your hiring decision. Because they solicit information about conditions that may constitute disabilities, questions about workers' comp claims aren't allowed during the interview/pre-employment process.

It's not just workers' compensation claims. Other interview questions that aren't allowed because they relate to disabilities include asking applicants about:

- Their general health and medical history.
- Previous injuries, illnesses or mental disorders.
- Physical or intellectual limitations.
- How many sick days they've taken.
- What medications they use.
- Allergies or predisposition to medical conditions.
- Substance abuse problems.
- Whether they're seeing a doctor.
- Insurability under benefits plans.
- Whether they need accommodations.

## **ANSWER TO QUESTION 2:**

No.

## **EXPLANATION:**

Questions about medical limitations are still illegal even if you phrase them so as to relate to job performance. However, there are 3 things you *can* do when hiring applicants for jobs that are physically demanding:

1. Make it clear in the job description, application or ad that the work is strenuous—this should keep people who have physical limitations from applying in the first place.
2. When extending a job offer, let applicants know that the employment is contingent upon their passing a job-related medical exam. For example, ask the applicant to sign an acknowledgement with language to the effect:

“I understand that a job-related medical examination is required and that the offer of employment is contingent upon my completing the exam satisfactorily.”

1. Administer the exam *after* the applicant accepts the offer and signs the acknowledgement.

## **For More Help Avoiding Discrimination against Job Applicants**

- [How to Conduct Criminal Record Checks](#)