

Privacy

The only information obtained from a physical requirements exam that shall be conveyed to the employer is the opinion of the examining physician as to whether the prospective employee is either able or unable to perform the essential functions of the job, with or without reasonable accommodation.

Any medical history or physical condition that does not pertain to the employee's present ability to perform the essential functions of the job must not be disclosed to the employer and must be kept confidential. The only exceptions to the confidentiality rule are that supervisors and managers may be informed about necessary restrictions on the employee's work or duties and necessary accommodations.

Additionally, first aid and safety personnel may be informed, when appropriate, if the individual's disability may require emergency medical treatment. Finally, government officials investigating compliance with the ADA must be provided relevant information on request.

Disability

An individual is considered disabled if she or he cannot perform the essential functions of a job with reasonable accommodation to the disability, if needed.

The following defines a person who is consider disabled and is thus afford protection under MGL Chapter 151B and the Americans with Disabilities Act (ADA):

- ▷ Any person who has a physical or mental impairment that substantially limits one or more of such person's major life activities.
- ▷ Any person who has a past record or medical history of physical or mental impairment. Impairments do not include "normal" physical characteristics such as left-handedness, height, weight, muscle tone or pregnancy. Also not included are characteristic predispositions to illnesses or disease, a personality trait such as poor judgment or quick temper, cultural disadvantages or old age, although age is a protected class under a separate body of law.
- ▷ Any person who is regarded as having an impairment, whether or not the perceived impairment substantially limits one or more major life functions. For example, a person with heart problems who might have no difficulty in performing the essential functions of a job, but who the employer might believe would incur future liability for the municipality, causing insurance rates to rise.