

Your Employee Gives You a Doctor's Note, Can You Call The Health Care Provider?

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Under the Americans with Disabilities Act (ADA), an employer can reach out to an employee's health care provider directly so long as the following requirements are met:

1. The employer gets the employee's consent to communicate directly to their health care provider, [EEOC, Guidance on Disability Related Inquiries \(2000\)](#), and
2. The communication between the employer and the health care provider is "job -related and consistent with business necessity," and must be limited to "determining the existence of an ADA disability and the functional limitations that require reasonable accommodation." [EEOC, Guidance on Disability Related Inquiries \(2000\)](#).

Prior to initiating contact, Question 11 of the EEOC guidance suggests that the employer should discuss the note with the employee and why the employer needs more information. [EEOC, Guidance Question 11](#). The Guidance reads: "If an employee provides insufficient documentation in response to the employer's initial request, the employer should explain why the documentation is insufficient and allow the employee an opportunity to provide the missing information in a timely manner. Insufficient documentation includes documentation where "the information does not specify the functional limitations due to the disability."

While under certain circumstances an employer has the option to request its employee be examined by a health care provider of the employer's choice, the employer should first consider consulting with the employee's health care provider (with the employee's consent). [EEOC, Guidance on Disability Related Inquiries \(2000\)](#).

Contacting an Employee's Health Care Provider Under the ADA

It is important to note that a HIPAA-compliant release form is likely necessary to obtain an employee's consent for the employer to speak directly to the employee's health care provider to allow the health care provider the ability to disclose the relevant medical information of their patient/the employee.

Takeaway: Disability reasonable accommodations (leave and job modification) are complicated issues. Please reach out to the experienced members of our [employment law team](#) to discuss any such issues.

Attorney

- Tracy Armstrong

Practice

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