

**Dear HR Knowledge, can we ask for a doctor's note under the ADA and FMLA?**

An employer may request a doctor's note as evidence of the need for an employee's leave under both the Family Medical Leave Act (FMLA) and Americans with Disabilities Act (ADA), each with its own governing provisions and limitations.

**FMLA**

Under the FMLA, employers can ask for a doctor's note from a healthcare provider when the employee first requests leave for a qualifying reason. The FMLA has a specific certification process and timeline, and the Department of Labor (DOL) offers employers template certification forms, which can be found [here](#). Employees are responsible for providing complete and sufficient information, generally within 15 days, to their employer.

In situations where an employee has been approved for intermittent FMLA leave, employers shall not request a healthcare certification form for each absence. In these instances, employers may ask the employee for a new certification form only at the beginning of the subsequent FMLA leave year, if their intermittent leave continues.

When the employee is ready to return to work after FMLA leave, employers may have a policy or practice in place that requires a return-to-work certification or "fitness-for-duty" certification, there is no standard form, the employer can use their own, but only if the employee has been out of work for his or his own medical condition. If this is an established practice, employers must provide notice of the fitness-for-duty requirement on the FMLA Designation Notice. It is important that this be uniformly applied to all similarly situated employees.

**ADA**

Under the ADA, an employer can ask for medical proof when the employee is requesting an accommodation or if the employer has an objective basis to believe the employee cannot perform the essential functions of his or her job because of an impairment. Such medical documentation does not have to include the specifics of the employee's impairment; rather it is considered sufficient if the documentation explains the nature, severity, and duration of the impairment; the activities that are limited; the extent of the employee's ability to do his or her job; and why reasonable accommodations are needed.

In situations where an employee is on extended ADA leave, employers may require periodic updates if the initial documentation did not specify an exact or fairly specific return date or if the need for leave goes beyond what was originally understood. If either of these is not the case, the employer cannot require periodic updates. This means that if an employee was approved for two months of leave, the employer cannot ask for documentation again after one month.

In cases where an employee requests an ADA accommodation upon returning from FMLA, employers may ask for the fitness-for-duty certification as part of the interactive process for coming up with a reasonable job accommodation with the employee.



### Employer takeaway

Leave laws can be tricky to navigate and each situation often presents its own set of challenges, but nonetheless, assessing and providing such leaves is an employer obligation. In this article, we have synthesized guidance from both the DOL and Equal Employment Opportunity Commission (EEOC), so please contact us with questions or to discuss specific situations.

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