



Mineral



Question of the Week

December 27, 2023

Question

Can we ask employees if they are taking any medications that may impair their abilities to do their job?

ANSWER

Generally, no. The Americans with Disabilities Act restricts employers from asking medical questions of employees and protects the privacy of medical information. Asking about prescription medications would fall into the category of a medical-related inquiry and should only be done if job related and consistent with business necessity. For such an inquiry to be job related and consistent with business necessity, you must have a reasonable belief, based on objective evidence, that an employee's ability to perform essential job functions will be impaired by a medical condition or that an employee will pose a direct threat to employee or public safety because of a medical condition. A **direct threat** is a significant risk of substantial harm that cannot be eliminated or reduced by reasonable accommodation.

For example, an automotive repair facility could require mechanics to report when they are taking medications that may affect their ability to operate heavy machinery safely. However, they would not be able to require administrative employees to do the same.

This Q&A does not constitute legal advice and does not address state or local law.