

Can we insist that doctors' notes include a diagnosis of an employee's medical condition?

Q. May we ask for a diagnosis when an employee requests a few days of sick leave? Or must we - accept any doctor's note without any explanation?

A. It seems reasonable for an employer to request a diagnosis for an employee's absence due to sick leave. However, a federal court recently held that requiring a doctor's note that inquires into the nature of an employee's absence was an intrusive and unlawful medical inquiry under the ADA.

In *EEOC v. Dillard's*, a California district court examined an employer's attendance policy, which required employees to provide a doctor's note identifying the nature of a health-related absence and the medical condition being treated.

The court concluded that the policy violated the ADA. It said the employer failed to explain why it needed to identify the employee's underlying medical condition in a case where a doctor's note verified that the employee had a medical condition that required missing work and specified when she may return to work. The court said the policy invited intrusive questioning into the employee's medical condition that could elicit information regarding a disability.

Rather than requiring a diagnosis from an employee's health care provider, you should require employees to submit a doctor's note providing the date on which he or she was seen and the expected return-to-work date, along with a statement that absence from work was medically necessary.