Medical and Fitness Rules Regarding Fitness for Duty

- Employers can only require a physical examination *after* extending a conditional offer of employment. At the pre-offer stage, employers can only determine the applicant's ability to perform specific job functions. This includes not only asking the applicant if and how they could perform those job functions but also requiring agility or fitness tests (which are not medical exams) that address their ability to perform job functions.

- Per 2008 ADA amendments, the employer can only require exams after tendering an offer if:
    - All other candidates in the job category are also required to have a physical examination.
    - The candidate's medical history is treated confidentially and is kept separate from other employment-related records.
    - The results of the examination are not used to discriminate against persons covered by the ADA.

- Under Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), employers cannot discriminate against employees or applicants based on their genetic information, which includes family health histories.

- During a post-offer medical exam, the employer can assess whether the person is able to perform job duties with or without accommodation. If accommodation is required, the employer must determine if (and can ask for documentation that) the reason is covered by the ADA.