

Tucson Physical Therapy, PC

“Functional Employment Testing”

Tucson Physical Therapy, PC

- 28 Years in the community
- 5 Tucson Locations
- Work Compensation/Pre-Employment/Post-injury Testing

Tucson Physical Therapy, PC

- Works within a network that has:
 - 650+ healthcare providers in 46 states.
 - Done over 1,000,000 functional employment evaluations
 - The network has the largest pre-injury normative data base in the nation

Employer Nightmares:

- Don't know overall condition of new hires (baseline).
- Don't have policies to get functional data post-injury.
- Don't have consistency checks / symptom magnification tests.
- Don't have objective medical evidence to support return to work (RTW) position.
- Continued increasing premiums / costs and decreased productivity.

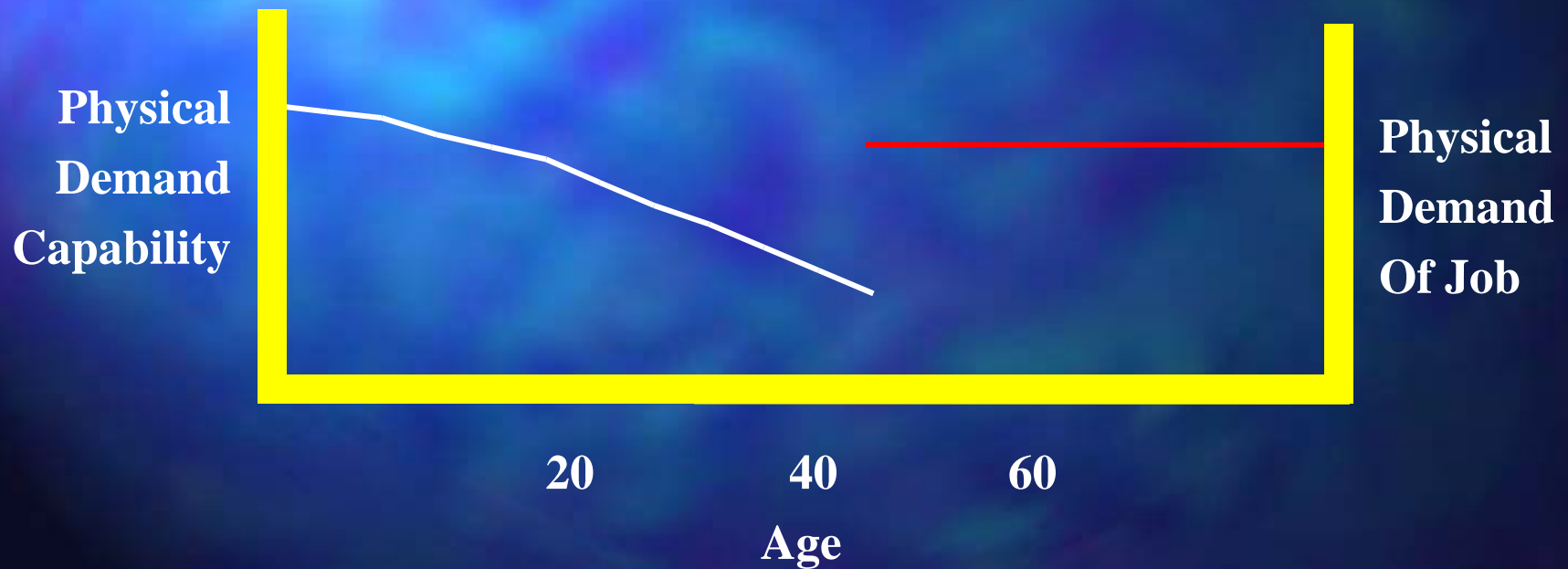
WORK COMP Law Assumes:

- Employees never grow old
- Employees are perfect when hired
- Whatever may be wrong with the employees, the employer caused

All Are True Unless You Can Prove Otherwise!

The reality of our current workforce

Functional Testing can identify potentially employees and currently employed individuals who are at risk of injury.



Today's Purpose

■ Learning Objectives

- List the different, legally compliant Functional Employment test available
- Describe Essential Job Functions
- Understand the need for job specific testing related to essential job functions
- Know how and when objective FCE and "Sincerity of Effort" testing can be utilized in case management

Functional Employment Testing

- Allows employers to manage the function of employees from new hire through retirement.
- Use of functional tests by employer results in safer, more productive workforces with fewer injuries, reduced turnover and significant reductions in workers compensation costs.
- Maintain legal compliance within the American's with Disabilities Act.

Successful Functional Employment Testing:

- *Identifies* persons who have pre-existing cardiovascular, degenerative, or cumulative trauma disorders.
- *Identifies* persons who do not meet job specific strength and/or aerobic requirements.
- *Assists* employers in appropriately matching current and new employees to safe/appropriate job positions.

Successful Functional Employment Testing (continued):

- *Collects* baseline physical measurements for comparative analysis post injury or trauma.
- *Qualifies* legitimate injuries and disqualifies fraudulent injuries.
- *Expedites* rehabilitation and return-to-work post legitimate injury.
- *Allows* successful medico-legal intervention comparing an employee's pre-injury and post-injury status.

Comprehensive Functional Employment Testing

- Job Analysis
- Pre Offer Testing
- Post Offer Testing
- Functional Capacity Testing

Tucson Physical Therapy, PC

- Proper planning and implementation is the key to legal compliance physical tests, they must be:
 - directly relate to the essential functions of the job
 - administered to all applicants for that position
 - scored objectively, using objective measurements
 - Begins with a good Job Analysis

Job Analysis

- Weigh and measure objects.
- Document force requirements for hands, back, etc.
- Measure aerobic requirements / repetitions.
- Document static and dynamic posture requirements.
- Create Job Specific Tests / Essential Job Functions

Pre-Employment Tests

■ Pre-Offer

- After application is received, but before an offer of employment
- No medical questions or history is obtained
- No physical baseline determined
- Dynamic Lifting/Job Specifics only

Pre-Employment Tests

■ Post-Offer

- After application, interview, and hire
- May also collect medical information/History
- Consistent with business necessity.
- Physical Baseline Determined
- Dynamic Lifting and Job Specific Testing
- Required of all employees entering similar positions in the same geographic proximity. (TAM 6.4)

Post-Employment Test

- Fit for Duty (Current Employees)
 - To determine reasonable accommodation
 - To determine job capability

Post-Employment Test

- Fit for Duty (Current Employees)

- Post Injury Employees

- "Under the ADA, medical information or medical exams may be required when an employee suffers an injury on the job. Such an exam may be required when an employee wishes to return to work after an injury or illness, if it is job related and consistent with business necessity."

- Existing Employees

- (TAM 6.6) The need for the exam may be triggered by some evidence of problems related to job performance or safety, or ... to determine whether individuals in physically demanding jobs continue to be fit for duty."

Functional Capacity Evaluation

(Post-Injury - Workman's Comp Claims)

- Core components
 - Pain profile
 - Validation parameters
 - Symptom magnification testing
 - Dynamic lifting
 - Activity tolerance
 - Cardio-vascular profile
 - Musculoskeletal evaluation
 - Job specific testing
 - Endurance projections to determine Physical Demand Level

Functional Capacity Evaluation

(Post-Injury - Workman's Comp Claims)

- Customizable based on:
 - Distraction Based Testing
 - Upper extremity
 - Lifting
 - Client injury status
 - Job title/Job duties
- Data gathered is compared to industrial data base that allows most accurate and safe Physical Demand Level recommendations

Functional Capacity Evaluation

(Post-Injury - Workman's Comp Claims)

- Myths associated with Functional Capacity Evaluations
 - "Bell Curve Analysis"
 - Stokes, 1983 J. Occupational Medicine
 - Stokes, 1995 J. Hand Surgery Americana
 - etc.

Functional Capacity Evaluation

(Post-Injury - Workman's Comp Claims)

- Myths associated with Functional Capacity Evaluations
 - Dynamic lifting vs. Isokinetic / Isometric Testing
 - Lit review finds that isokinetic testing does not predict dynamic function, likelihood of injury and does not accurately assess effort
 - Isometric testing has no published controls predicting validity of effort

Functional Capacity Evaluation

(Post-Injury - Workman's Comp Claims)

- Myths associated with Functional Capacity Evaluations
- Visual Estimation of Effort
 - Has two aspects:
 - First Aspect:
 - Working definition of effort

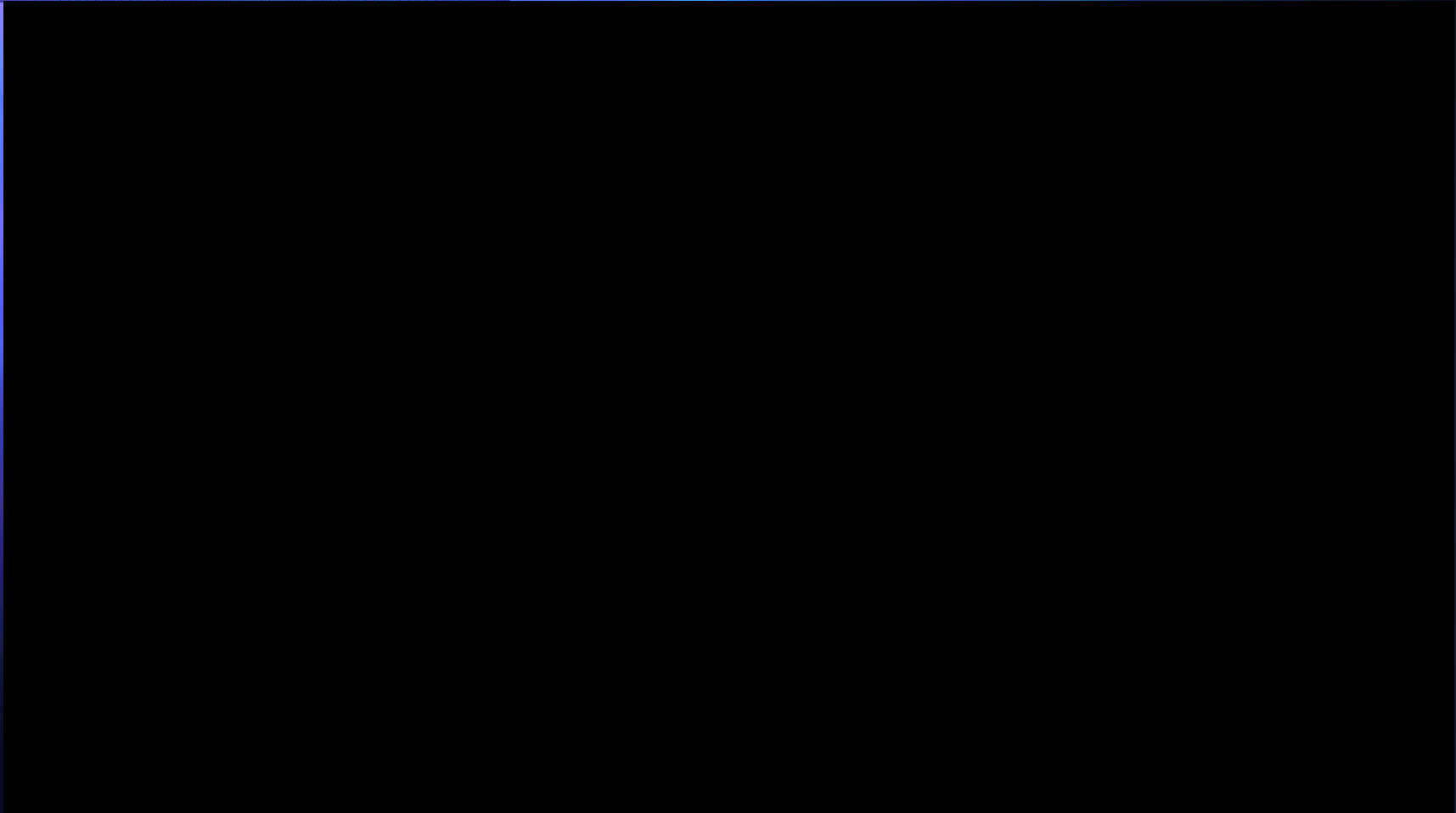
Functional Capacity Evaluation

(Post-Injury - Workman's Comp Claims)

Light Lifting	Moderate Lifting	Heavy Lifting
No accessory muscle recruitment; prime movers only (quadriceps, trunk stabilizers, biceps, hand grip) Safe Natural stance Upright posture Easy movement patterns	Recruitment of accessory muscles, neck flexors, upper trapezius, deltoids Safe Stable base Beginning of counter balance in extension Smooth movements, increased time of lift test	Pronounced recruitment of neck flexors, trapezium, deltoids, rhomboids. Safe Wider, very solid base Marked, increase counter balancing Uses momentum in controlled manner, increased time of lift test

Functional Capacity Evaluation

(Post-Injury - Workman's Comp Claims)



Functional Capacity Evaluation

(Post-Injury - Workman's Comp Claims)

- Myths associated with Functional Capacity Evaluations
- Visual Estimation of Effort
 - Second aspects:
 - Ability to visually determine or apply that definition
 - D. Schapmire, et al., 2011 Work

Distraction-Based Techniques or Sincerity of Effort Testing Uses

- **Non-emotional**
- **Non-surprising**
- **Non-hurtful**

Distraction-Based Techniques or Sincerity of Effort Testing Uses



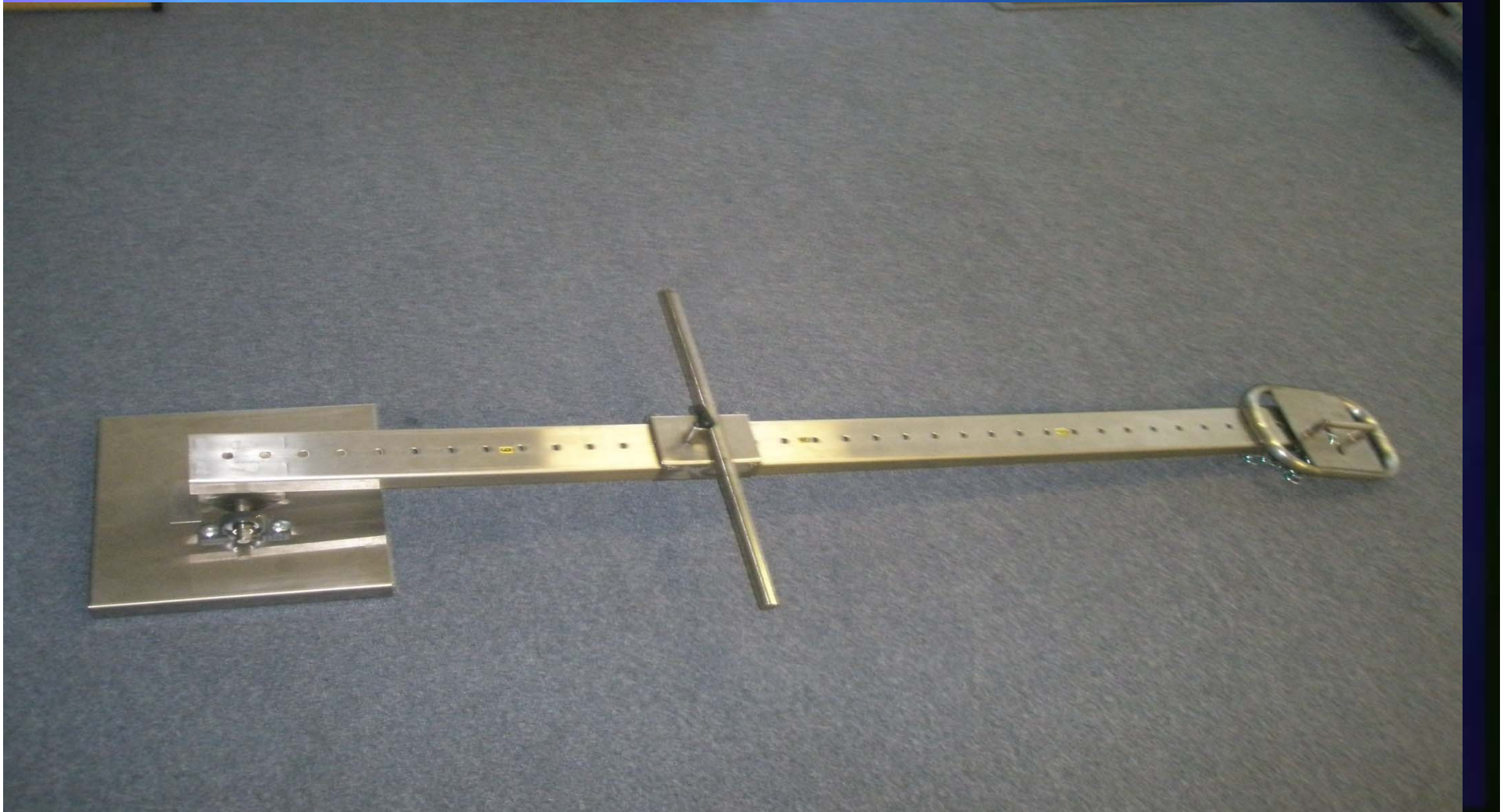
Distraction-Based Techniques or Sincerity of Effort Testing Uses



Distraction-Based Techniques or Sincerity of Effort Testing Uses



Distraction-Based Techniques or Sincerity of Effort Testing Uses

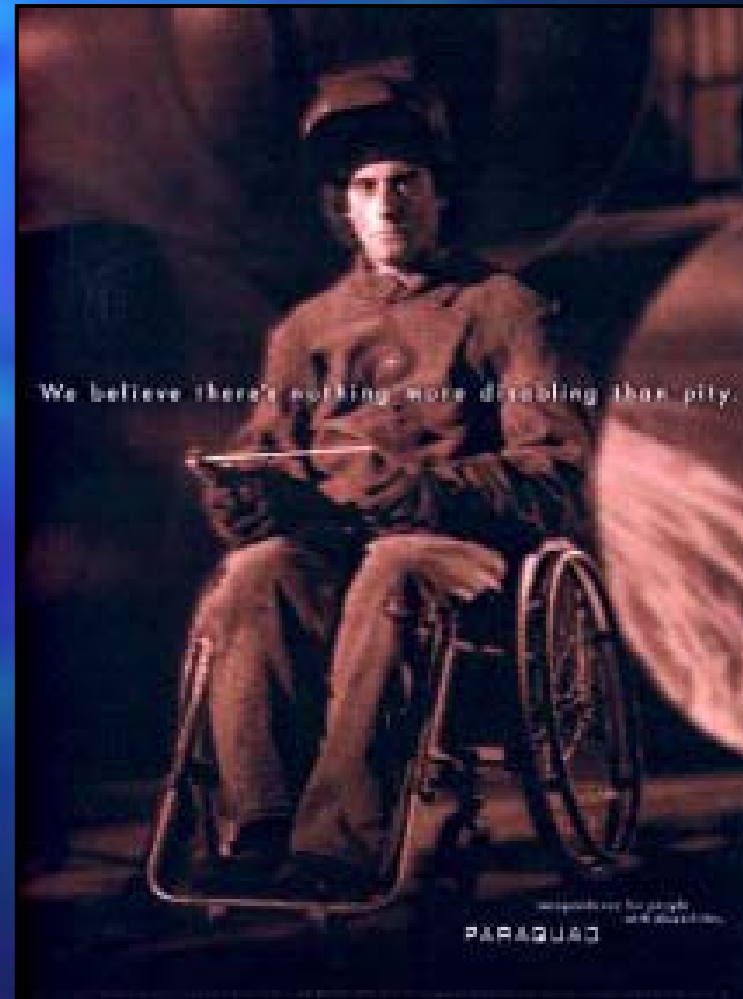


Functional Capacity Testing (really all Employment Testing)...

- ✓ MUST be based on objective measurement.
- ✓ MUST be reliable.
- ✓ MUST be legal-defensible.

Americans with Disabilities Act (1990):

- Title 1 prohibits employment discrimination against qualified individuals with disabilities.



LEGAL COMPLIANCE

CAN EMPLOYMENT TESTING BE SUPPORTED UNDER THE ADA?

“An employer may ask an applicant to demonstrate how, with or without reasonable accommodation, the applicant will be able to perform **job related functions.**”

(Title 1 TAM 5.5)

Legal Compliance

**Can an Employer Deny
Employment To An
Individual Without
Liability Under Federal
Anti-Discrimination
Law?**

Yes...For Two Reasons:

1. If The Employee Cannot Perform The Essential Functions Of The Job.

“An employer is not required to hire or retain an individual who cannot perform the ‘essential functions’ of a job.” (EEOC TAM 4.4)

THE EMPLOYER MUST CONSIDER:

- ✓ “Standards for employment must be job-related and consistent with business necessity.”
- ✓ If an individual is disabled, he/she may be entitled to a reasonable accommodation in order to perform the essential functions.

Essential Functions Defined

- “Basic job duties that an employee must be able to perform, with or without reasonable accommodation.”
 - EEOC August 2008

Essential Function Factors

- ...the position exists is to perform that function,
- ...who can perform the function,
- ...expertise or skill required to perform the function
 - EEOC, August 2008

2. Such An Individual Is In Direct Threat Of Harm.

“An employer is not required to hire or retain an individual who would pose a ‘direct threat’ to health or safety.” (EEOC TAM 4.4)

THE EMPLOYER MUST SHOW:

- ✓ Substantial risk of imminent harm
- ✓ Actual risk, not speculative
- ✓ No availability of reasonable accommodation
- ✓ Such an individual is in direct threat of harm (if disabled)

(EEOC TAM 4.5)

Reason to Withdraw Offer of Employment

- Fail post-offer drug test.
- Lie on medical history (post-offer).
- Cannot lift enough weight to “safely” qualify for the position sought.
- Cannot complete any part of **job specific** tests.
- Are disabled and can't perform functions with or without a reasonable accommodation.
- Have a quantified medical condition making them unsafe.

ADA Title 1 – Post-Offer Allows Employer To:

- Find **not capable** applicants who do not meet strength and/or aerobic requirements for the job in question.
- Find **not capable** applicants with a quantified medical condition that would make them unsafe for the position in question.

Tucson Physical Therapy, PC

Is The Model Your
Currently Using
Compliant With
Employment Law?

Benefits to Employer

- Promotes safe job performance
- Don't pay for pre-existing conditions
- Only pay to rehab to baseline levels
- Test and treat in same network w/ same protocols (accountability)
- Don't hire employees who aren't strong enough or reclassify
- Don't pay anything for doctor releases, hold harmless, and extra measures to clear a condition
- Receive legally compliant policies and scientific data to control RTW

QUESTIONS?

