

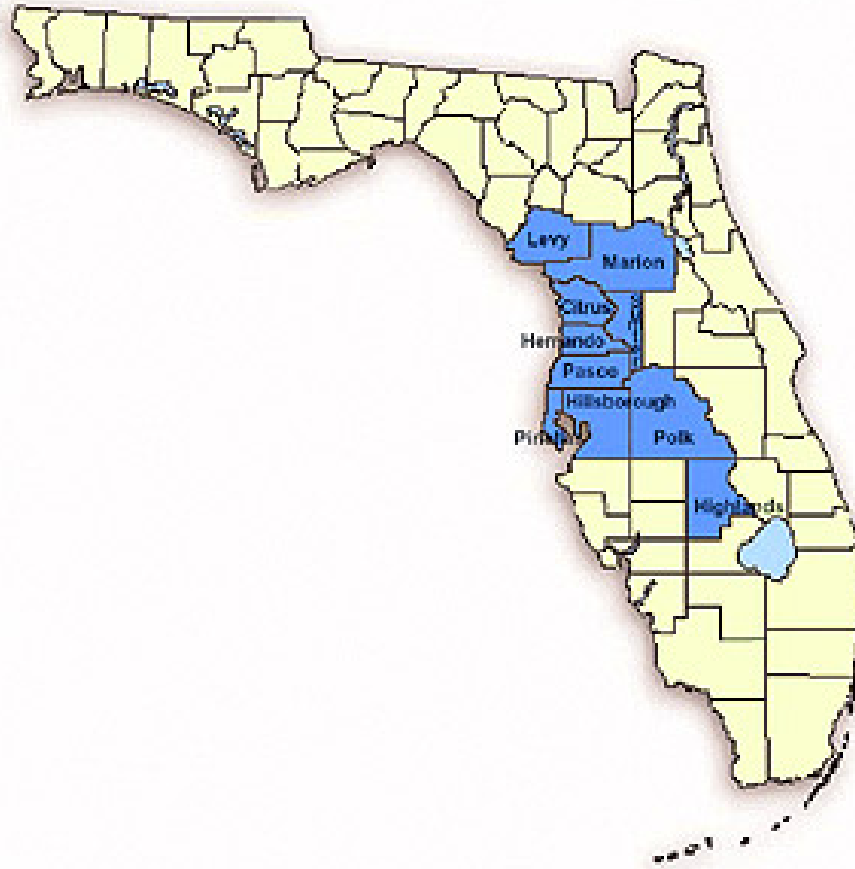
Stop Injuries Before They Start:

EEOC Compliant
Post-Offer Employment
Physical Evaluations

Janine Bain
Director – Corporate Risk and Compliance
Goodwill Industries-Suncoast, Inc.



Goodwill Industries-Suncoast, Inc.





The world of applicants today





If your applicant
presents like this . . .





and their job is to do
this . . .





the results are
probably going to be
this.





If your applicant
presents like this . . .





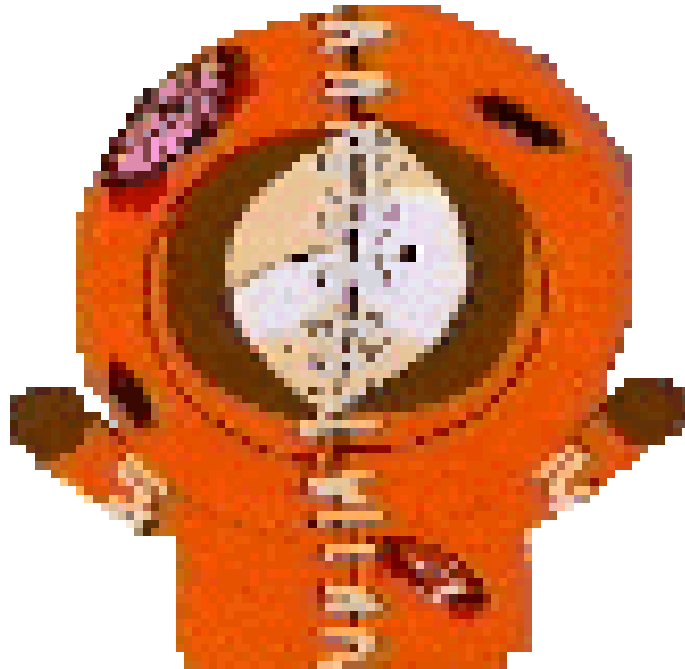
and it is their job to do
this . . .





the result will probably be this.





If you are watching
your workforce do
this . . .





You can watch your
revenue do this



**IF THERE AIN'T NO MONEY,
THERE AIN'T NO MISSION**



You can't get there from here

(without knowing how this happened)

LOSS SUMMARY						
Policy Year	Coverage	Premium	Change	Incurred	Loss Ratio	Dividends Paid to Date
			(decrease in green)			
7/1/08-7/1/09	Workers Comp	569,779	(69,953)	389,046	68%	
7/1/07-7/1/08	Workers Comp	639,732	(282,969)	547,103	86%	
7/1/06-7/1/07	Workers Comp	922,701	(433,475)	359,259	39%	\$ 9,227
7/1/05-7/1/06	Workers Comp	1,356,176	211,622	252,366	19%	\$ 65,096 \$ 43,398
7/1/04-7/1/05	Workers Comp	1,144,554	46,568	314,528	27%	\$ 45,782
7/1/03-7/1/04	Workers Comp	1,097,986	143,767	772,105	70%	Not eligible
7/1/02-7/1/03	Workers Comp	954,219		584,200	61%	Not eligible
	Total WC	\$ 6,685,147		\$ 3,218,606	48%	
			(786,397)			\$ 110,878 \$ 52,625.00

Premium savings and dividends totaled \$949,000





Faster
became the
mantra



Which led to
unsafe work
practices



By
employees
ill-suited for
the tasks
necessary
to execute
their job
functions.



LOSS SUMMARY					
Policy Year	Coverage	Premium	Change	Incurred	Loss Ratio
			(decrease in green)		
7/1/08-6/30/09	Workers Comp	569,779		389,046	68%
7/1/09-6/30/10	Workers Comp	545,658	24,121	552,392	101%
7/1/10-6/30/11	Workers Comp	482,715	62,943	733,198	152%
7/1/11-6/30/12	Workers Comp	647,928	165,213	559,934	86%
7/1/12-6/30/13	Workers Comp	1,238,169	590,241		





Client Insurance Report



Client Name	Insurance Name	Start Date	End Date	Type	ID #	Group #	Insur. Addr
Green, Beth D.	Acme Ins	08/14/13		P	33559988-QRS		
Moore, Gary David	ABC Ins Co	08/11/12		P	98753-ZXQ	123PSYBH	102 Insur Pittsburgh,
	Acme Ins	08/01/12		S	9872355zte		
Porter, Betsy	ABC Ins Co	09/07/12		P	9875313		102 Insur Pittsburgh,
Rogers, Mary S	ABC Ins Co	09/08/12		P	78935789		102 Insur Pittsburgh,
Rowe, Karen A	XYZ Print Ins Co	08/11/13		P	33559988-QRS	STATE109	204 Industrial Way Denver, CO 80111
Smith, Jim Jr.	ABC Ins Co	01/01/13		P	12345678-AZ		102 Insurance Row Pittsburgh, PA 15213
Wagner, Nancy A	ABC Ins Co	08/08/13		P	9872355zte		102 Insurance Row Pittsburgh, PA 15213

Code	Name	Phone	Contact	City	DOB
Chart No.	Name	Policy & Group Numbers		S/S	DOB
<i>(Patient Info if different than Insured)</i>					
Claim No.	Initial Bill Date	Last Bill Date			
<i>(Claim Details)</i>					
	Date From	Procedure	Amount		
AET00	Aetna	(602)333-3333	Erik	Nowhere	
SIMTA000	Simpson, Tanus 1 12/3/2002	GG93-GXTA & 99999 6/30/2005		222-66-4444	04/04/68
		12/3/2002	43220	275.00	
		12/3/2002	71040	50.00	
		12/3/2002	81000	11.00	
		12/3/2002	99213	60.00	
			Claim Total	396.00	
CIG00	Cigna	234-5678	Bill S. Preston	Mesa	
BRJA000	Brimley, Jay 3 3/25/2002	98547377 & 12d 6/30/2005			01/23/64
		3/25/2002	99214	65.00	
		3/25/2002	97260	30.00	
			Claim Total	95.00	
(BRISU000	Brimley, Susan 18 6/30/2006	6/30/2006			
		4/2/2006	99213	60.00	
			Claim Total	60.00	
JASST000	Jasper, Stephanie 20 6/30/2005	123456789 & ABCDEFG 6/30/2005			10/14/72
		4/10/2005	99213	60.00	
			Claim Total	60.00	
MED01	Medicare	(800)999-9999	Ted T. Logan	Ahwatukee	
AGADW000	Again, Dwight 7 12/6/2002	780340761 & 23c 6/30/2005			03/30/32
		6/3/2002	73130	45.00	
		6/3/2002	99213	60.00	
			Claim Total	105.00	
	10 5/27/2006	5/27/2006			
		5/9/2006	99211	25.00	
		5/27/2006	99214	65.00	
			Claim Total	90.00	
			Report Total:	\$806.00	

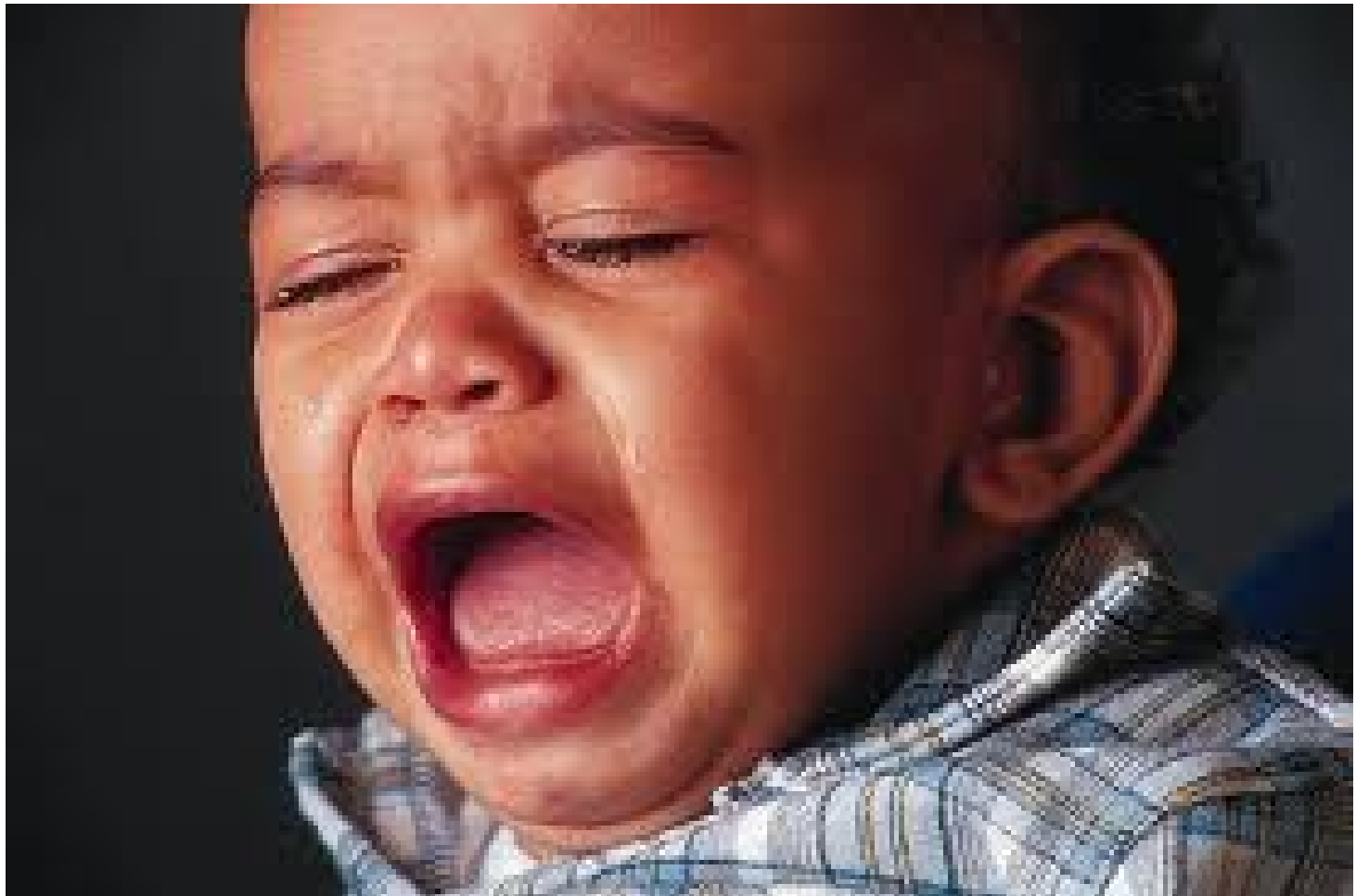
**Fred's Focus on Profits
Sample Report 3**



Selling it to senior management was relatively easy.



Selling it to my HR Dept was not quite as easy





The EEOC has done the work for you and tells you exactly when you can and cannot screen your applicants or current employees for their ability to meet the physical requirements of their jobs.



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From the EEOC's ADA Guidance Publication:

Are the rules about when an employer may make disability-related inquiries and **require medical examinations** the same for employees and applicants?

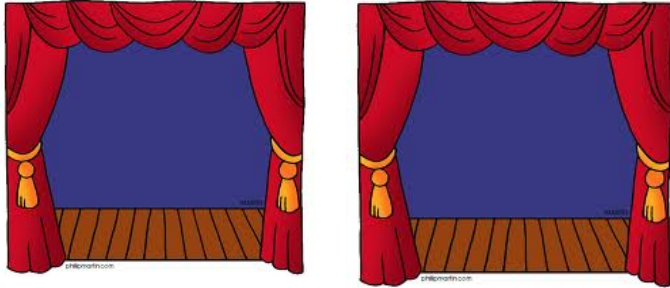
No. The ADA limits an employer's ability to make disability-related inquiries or require medical examinations at three stages: **pre-offer**, **post-offer**, and **during employment**. The rules concerning disability-related inquiries and medical examinations are different at each stage.





At the first stage (**prior to an offer of employment**), an employer may not ask any disability-related questions **or require any medical examinations**, even if they are related to the job.





At the second stage (after an applicant is given a **conditional job offer, but before he or she starts work**), an employer may ask disability-related questions **and conduct medical examinations, regardless of whether they are related to the job, as long as it does so for all entering employees in the same job category.**



In our hiring process, we literally reversed the steps to the standard process of:

- making an application
- holding an interview
- screening for suitability
- making an offer.

Now we:

- accept an application
- hold interviews
- make a **CONDITIONAL OFFER OF EMPLOYMENT**
- screen for suitability.





At the third stage (**after employment begins**), an employer may make disability-related inquiries and require medical examinations only if they are **job-related and consistent with business necessity**.



Occupational Health providers are the best source of medical evidence that will stand up to scrutiny.

These folks look at injured workers all day, everyday.

They are used to looking at the body in motion at work.



Just what is
the provider
looking at
for their
evaluation?









- Each of these individuals designed an evaluation of physical ability based upon their professional opinion, then came to an agreement on the protocol for each job position.





Job Description Modifications

ESSENTIAL FUNCTIONS

- Physical Examination: All post offer, pre-placement hires must pass a physical examination to ensure that they can perform the essential functions of the job with or without reasonable accommodation.



Job Description Modifications

WORKING CONDITIONS

- Physical Examination:

All post offer, pre-placement hires must pass a physical examination to ensure that they can perform the essential functions of the job with or without reasonable accommodation.



Job Descriptions Modifications

Physical Activities:

1. Substantial: grasping, lifting, pulling, pushing, reaching, standing and walking.
2. Considerable: balancing.
3. Moderate: crouching, hearing, stooping and talking.
4. Occasional: climbing and feeling.
5. Nominal: crawling, fingering, kneeling and repetitive motions.



Job Description Modifications

Physical Requirements:

- Heavy Work: Exerting up to 100 pounds of force occasionally, and/or up to 50 pounds of force frequently, and/or up to 20 pounds of force constantly to move objects.





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Dictionary Of Occupational Titles
Appendix C: Components of the Definition Trailer



S-Sedentary Work – Exerting up to 10 pounds of force occasionally (Occasionally: activity or condition exists up to 1/3 of the time) and/or a negligible amount of force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time) to lift, carry, push, pull, or otherwise move objects, including the human body. Sedentary work involves sitting most of the time, but may involve walking or standing for brief periods of time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met.

L-Light Work - Exerting up to 20 pounds of force occasionally, and/or up to 10 pounds of force frequently, and/or a negligible amount of force constantly (Constantly: activity or condition exists 2/3 or more of the time) to move objects. Physical demand requirements are in excess of those for Sedentary Work. Even though the weight lifted may be only a negligible amount, a job should be rated Light Work: (1) when it requires walking or standing to a significant degree; or (2) when it requires sitting most of the time but entails pushing and/or pulling of arm or leg controls; and/or (3) when the job requires working at a production rate pace entailing the constant pushing and/or pulling of materials even though the weight of those materials is negligible. NOTE: The constant stress and strain of maintaining a production rate pace, especially in an industrial setting, can be and is physically demanding of a worker even though the amount of force exerted is negligible.

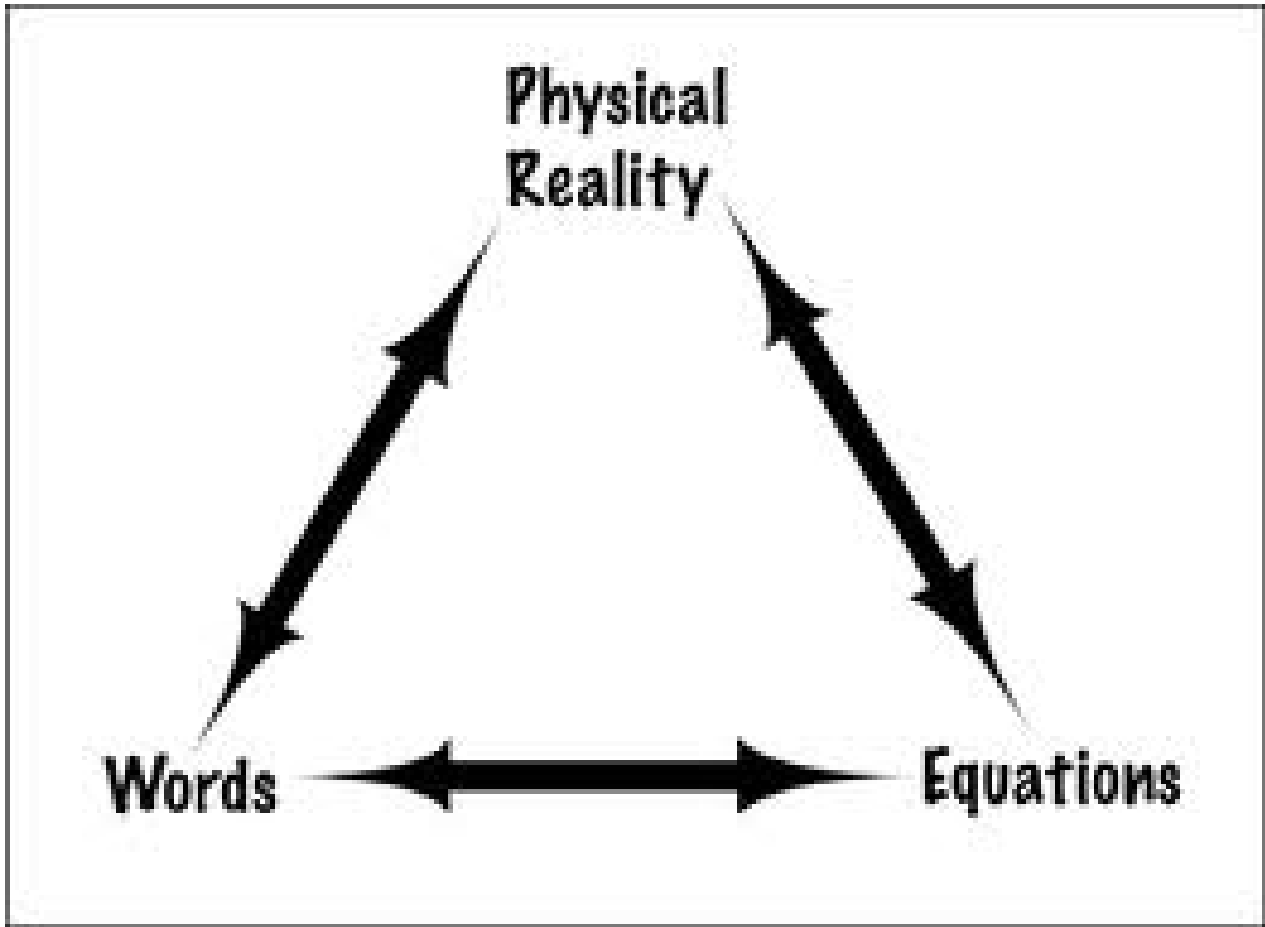
M-Medium Work - Exerting 20 to 50 pounds of force occasionally, and/or 10 to 25 pounds of force frequently, and/or greater than negligible up to 10 pounds of force constantly to move objects. Physical Demand requirements are in excess of those for Light Work.

H-Heavy Work - Exerting 50 to 100 pounds of force occasionally, and/or 25 to 50 pounds of force frequently, and/or 10 to 20 pounds of force constantly to move objects. Physical Demand requirements are in excess of those for Medium Work.

V-Very Heavy Work - Exerting in excess of 100 pounds of force occasionally, and/or in excess of 50 pounds of force frequently, and/or in excess of 20 pounds of force constantly to move objects. Physical Demand requirements are in excess of those for Heavy Work.











You can't always sometimes tell



From the EEOC's ADA Guidance Publication:

JOB RELATED AND CONSISTENT WITH BUSINESS NECESSITY

When may an employer ask an employee a disability-related question or require an employee to submit to a medical examination?

Generally, an employer only may seek information about an employee's medical condition when it is **job related and consistent with business necessity**.

This means that the employer must have a reasonable belief based on objective evidence that:

- an employee will be unable to perform the essential functions his or her job because of a medical condition; or,
- the employee will pose a direct threat because of a medical condition.



.....objective medical evidence.....

A functional capacity evaluation (FCE) evaluates an individual's capacity to perform work activities related to his or her participation in employment.

The FCE process compares the individual's health status, and body functions and structures to the demands of the job and the work environment.

In essence, an FCE's primary purpose is to evaluate a person's ability to participate in work, although other instrumental activities of daily living that support work performance may also be evaluated.



What Are the Components of the FCE?

The components of the FCE will vary based on the purpose of the assessment.

The FCE typically begins with a client interview, medical record review, and musculoskeletal screening.

Functional testing may include graded material-handling activities such as lifting, carrying, pushing, and pulling; and positional tolerance activities such as sitting, standing, walking, balancing, reaching, stooping, kneeling, crouching, crawling, object handling/manipulation, fingering, hand grasping, and hand manipulation. The FCE may also include evaluation of an individual's hand dexterity, hand coordination, endurance, and other functions affecting job-specific necessity.

Pain monitoring is frequently performed during the FCE to document client-reported levels of pain during various activities as well as to manage pain.

FCEs are done on a one-on-one basis and may range in length from 4 to 6 hours. The FCE may take place over 2 consecutive days.



The FCE report includes:

- an overall physical demand level (U.S. Department of Labor defined),
- a summary of job-specific physical abilities
- a summary of performance consistency and overall voluntary effort
- job match information
- adaptations to enhance performance.

Some FCEs are designed to also report on the worker's ability to meet the cognitive demands of the job in question.



PHYSICAL ABILITIES ASSESSMENT (PAA)

MEDIUM

	Occasional (0 - 33%)	Frequent (33% - 66%)	Constant (66% - 100%)	Job Position	Comments
Material Handling :					
Lift - Floor to Waist	35	30	N/A	Occasional Up to 100 pounds	Job Function Not Met
Lift - Waist to Shoulder	25	20	N/A	Not Defined	Job Function Not Met
Lift - Floor to Shoulder	25	20	N/A	Not Defined	Job Function Not Met
Carry - Bimanual	35	30	N/A	Not Defined	Job Function Not Met
Push	30	30	N/A	Not Defined	See Comments
Pull	30	30	N/A	Not Defined	See Comments
Additional Testing:					



Positional Tolerance :

	Frequency	Job Position	Comments
Sit	Constant	Not Defined	See Comments
Stand	Constant	Constant	Job Function Met
Walk	Constant	Constant	Job Function Met
Climb Stairs	Occasional	Occasional	Job Function Met
Climb Ladders	Not Defined	Not Defined	See Comments
Reach Desk Level	Constant	Constant	Job Function Met
Reach Overhead	Not Defined	Not Defined	See Comments
Reach Floor Level	Frequent	Not Defined	See Comments
Balance	Constant	Occasional	Job Function Met
Stoop	Frequent	Frequent	Job Function Met
Kneel	Occasional	Constant	Job Function Not Met
Crouch	Frequent	Frequent	Job Function Met
Crawl	Occasional	Occasional	Job Function Met



Manipulative Ability:	Frequency				Job Position	Comments
	Right:	Constant	Left:	Constant		
Object Handling	Right:	Constant	Left:	Constant	Constant	R: Job Function Met / L: Job Function Met
Fingering	Right:	Constant	Left:	Constant	Constant	R: Job Function Met / L: Job Function Met
Simple Hand Grasp	Right:	Constant	Left:	Constant	Constant	R: Job Function Met / L: Job Function Met
Firm Hand Grasp	Right:	Constant	Left:	Constant	Constant	R: Job Function Met / L: Job Function Met
Fine/Gross Manipulation	Right:	Constant	Left:	Constant	Constant	R: Job Function Met / L: Job Function Met

Consistency Profile:

Consistent Test Performance

Maximal Voluntary Effort	Consistent	10 of 10 CV Scores < 15%; 2 of 2 of Bell Shaped Curve Distributions
Pinch Strength Testing	Consistent	6 of 6 CV Scores < 15%
Isometric Push / Pull	Consistent	2 of 2 CV Scores < 15%
Dynamic Lift Test	Consistent	Expected Linear Heart Rate Increase. Client demonstrates deterioration of body mechanics with accessory muscle recruitment during occasional frequent lifting. However, she is unable to meet job requirements.
Observed Movement Patterns	Consistent	
Weddell's Testing	Not Tested	



Accommodating employees

Reasonable Accommodation

- Accommodating a worker means providing assistance or making changes in the job or workplace that will enable the worker to do the job. For example, an employer might lower the height of a desktop to accommodate a worker in a wheelchair; provide TDD telephone equipment for a worker whose hearing is impaired; or provide a quiet, distraction-free workspace for a worker with attention deficit disorder.



When accommodations are a hardship

Undue Hardship Exception

- You don't have to provide an accommodation if it would cause your business "undue hardship." For instance, if the cost of an accommodation would eat up an entire year's profits (building a new wing on your office building, for example), you don't have to do it. Whether an accommodation qualifies as undue hardship depends on a number of factors, including:
 - the cost of the accommodation
 - the size and financial resources of your business
 - the structure of your business, and
 - the effect the accommodation would have on your business.
- You and the employee may have different opinions about what constitutes a reasonable accommodation and what would be an undue hardship.



Documenting the accommodation

Dear Ms. Smith:

As a result of the physical evaluation performed by the occupational health physician, you have been evaluated and found to be qualified to meet the physical requirements as they are currently stated in the job description of the position of Sales Associate with the following restrictions:

-no lifting from floor to shoulder greater than 30 pounds.

So as to accommodate your restrictions of no lifting from floor to shoulder over thirty pounds, as stated by Care One of Florida Urgent Care Centers on 1/9/12, Goodwill Industries-Suncoast, Inc. offers the following reasonable accommodations:

- **ESSENTIAL FUNCTIONS**



First Year Stats

- Post-offer physical evaluations to include a basic physical and physical abilities testing to assure applicants are able bodied and capable of meeting the physical demands of their position went into effect March 1, 2011.
- In the first year, four hundred eleven individuals have been targeted for evaluations.
- Forty-five of those were not acceptable for employment, even with accommodations to assist them with executing the essential functions of their position.



First Year Stats continued

- Eight withdrew their application prior to the physical.
- Five had personal medical issues precluding their employment.
- Five did not show up for the physical.
- Five began the physical, additional medical information was requested, and they never supplied it.
- Seven had various other issues, but fifteen were simply not capable of meeting the physical demands of the position for which they had applied.



Subsequent annual statistics

2013

501 individuals sent for new employment screening
60 individuals could not successfully meet demands

2014

378 individuals sent for new employment screening
41 individuals could not successfully meet demands

2015

661 individuals sent for new employment screening
72 individuals could not successfully meet demands

2016 through April 30th

264 individuals sent for new employment screening
15 individuals could not successfully meet demands





THANK YOU!



For further information, please contact:

Janine Bain

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Goodwill Industries-Suncoast, Inc.

Janine.bain@goodwill-suncoast.com

Mobile: 727-423-1671

