


# POST-OFFER MEDICAL QUESTIONNAIRES

**Making uninformed hiring decisions puts your employees at risk of injury.**

Employees physically unable to perform essential job duties are a risk to themselves and their organizations.



Employers reported  
**3.0 million**  
Nonfatal workplace  
**injuries**

*in 2013*

**What can employers do to keep employees safe?**

Fit the  
**Job**



with a candidate that is appropriate for the  
**essential job functions.**

**How is this done?**

## POST-OFFER MEDICAL QUESTIONNAIRES

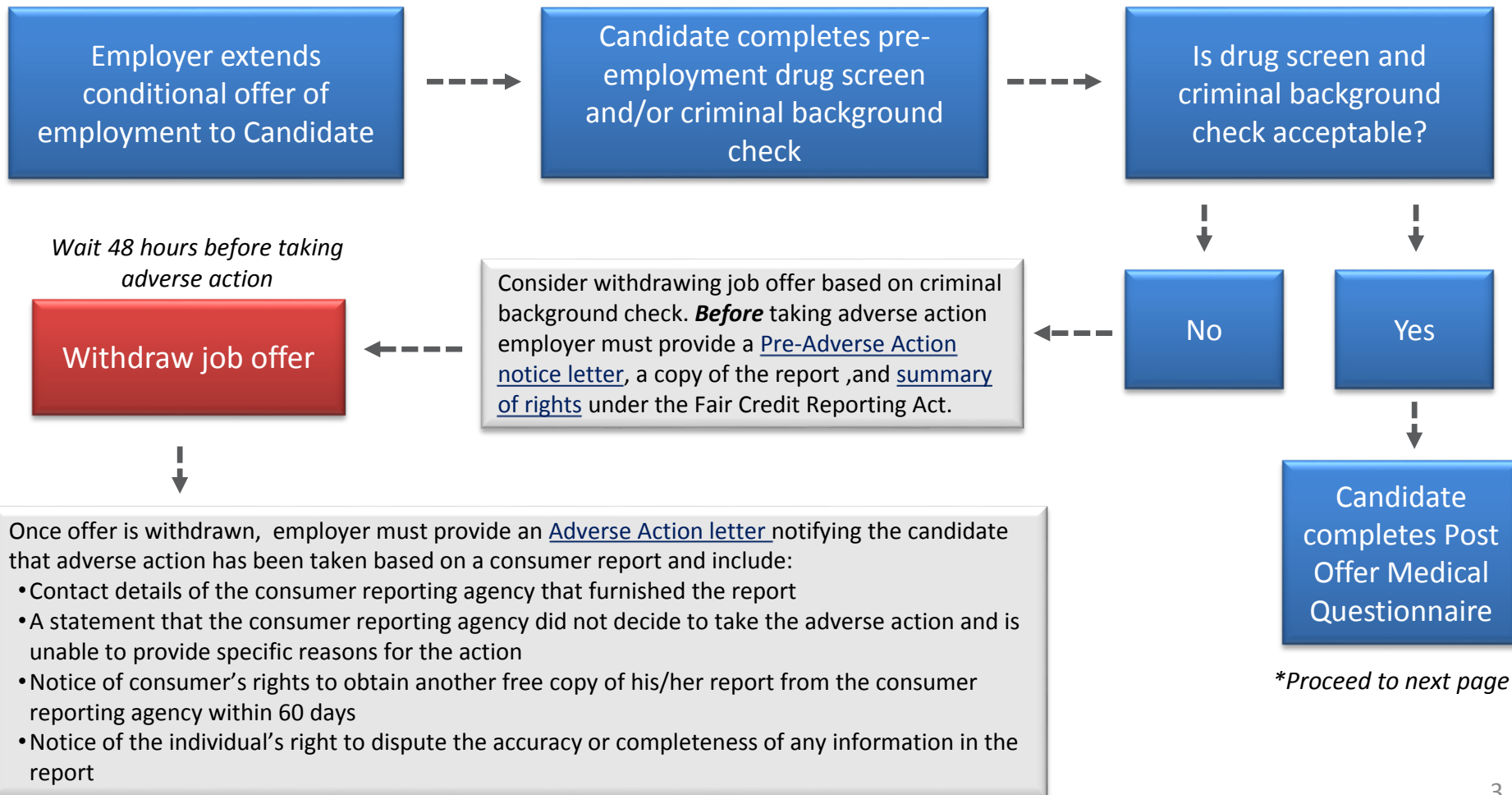
*Helping employers hire appropriate job candidates to successfully perform essential job functions without compromising their safety.*

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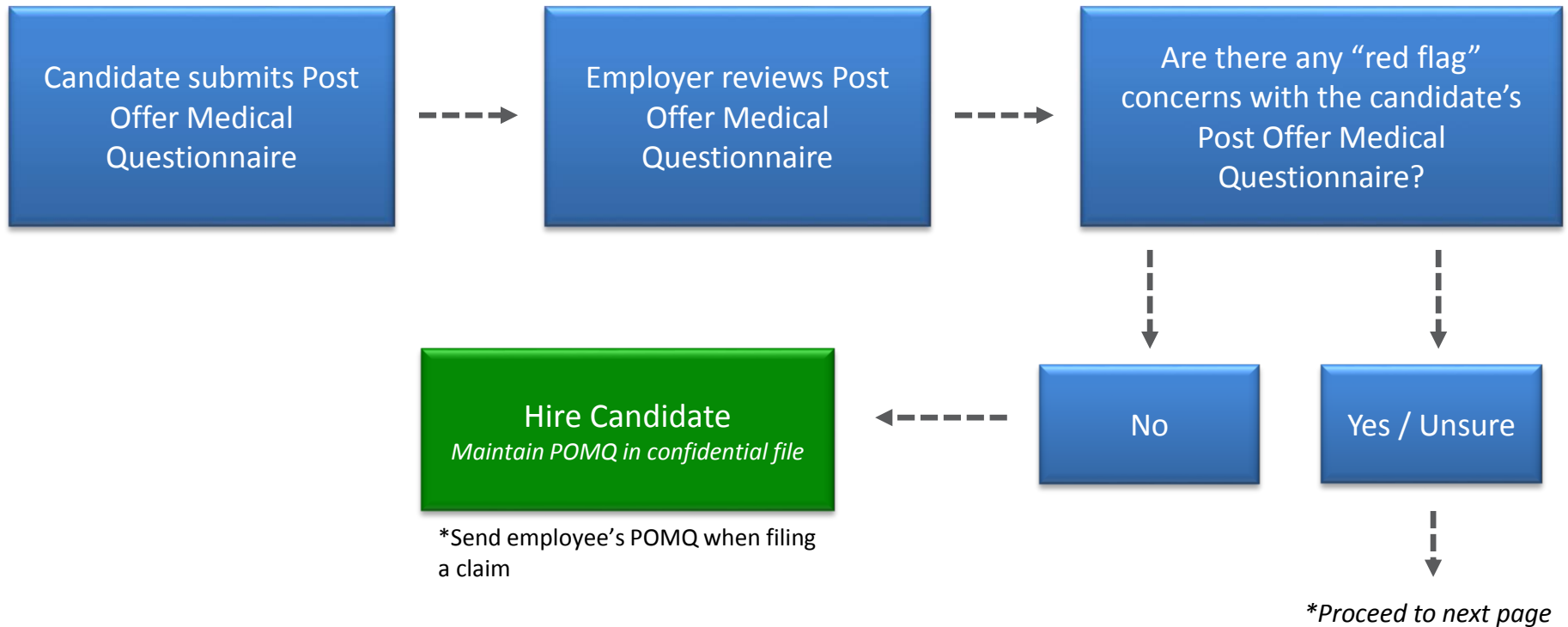
# Post-offer Medical Questionnaire

**AFTER AN EMPLOYER HAS COMPLETED THE INTERVIEW PROCESS AND SELECTED A QUALIFIED CANDIDATE FOR EMPLOYMENT:**



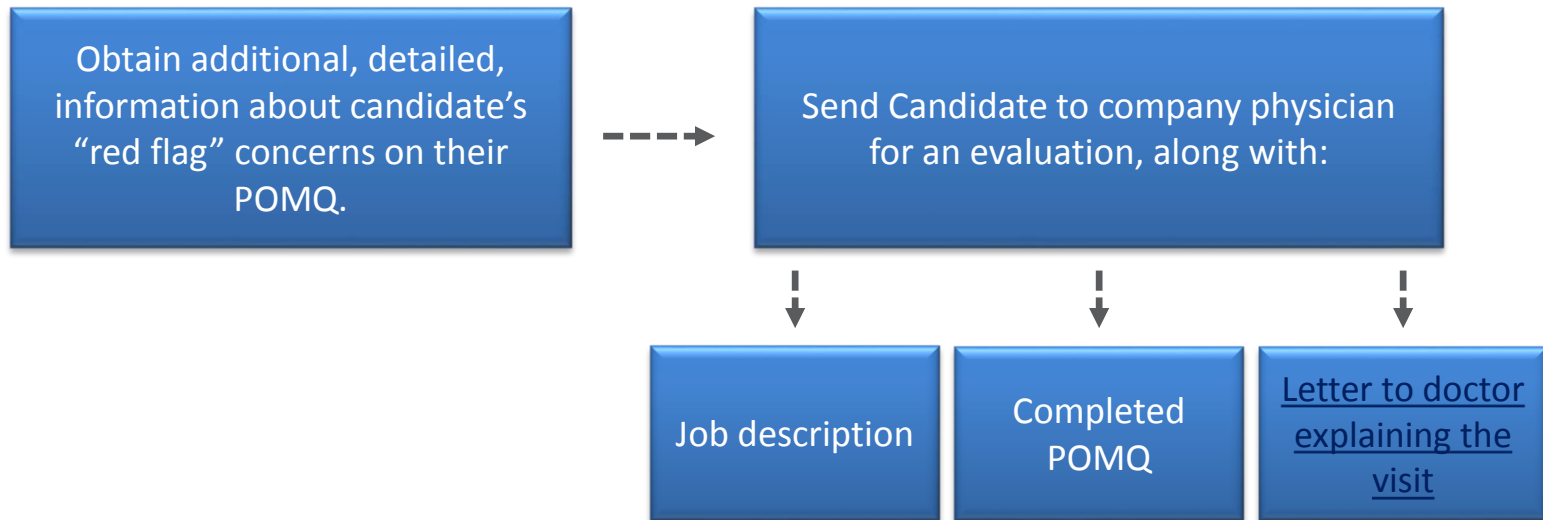
# Post-offer Medical Questionnaire

**CANDIDATE HAS COMPLETED A POST-OFFER MEDICAL QUESTIONNAIRE.**



# Post-offer Medical Questionnaire

IF THE EMPLOYER HAS “RED FLAG” CONCERNS REGARDING THE CANDIDATE’S POMQ:

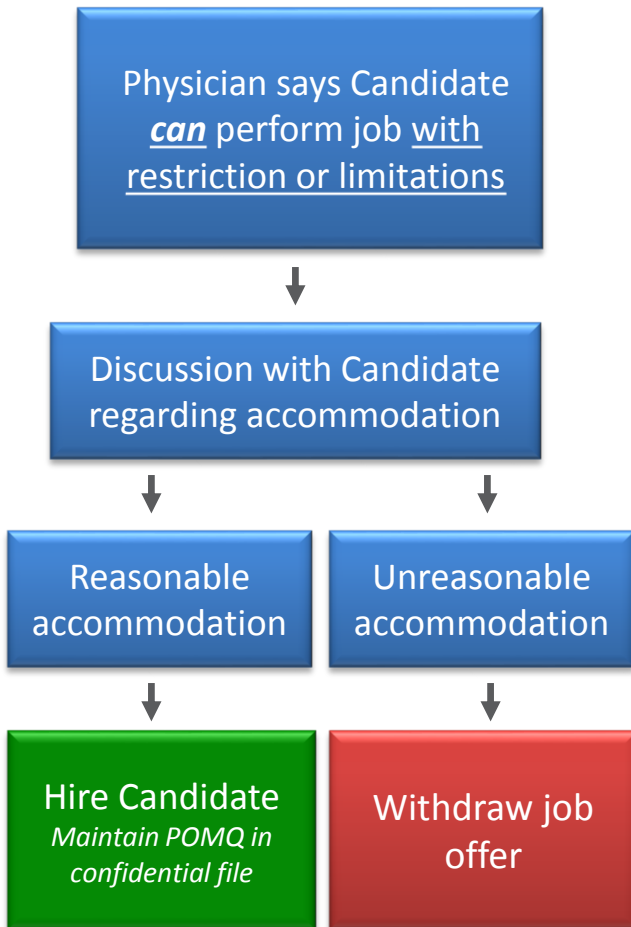


*\*Provide additional details about "red flag" concerns in this letter.*

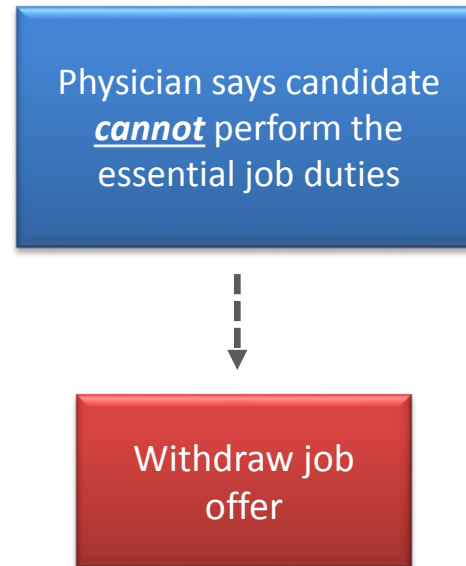
# Post-offer Medical Questionnaire

THERE ARE THREE TYPES OF RESPONSES THE PHYSICIAN WILL GIVE AFTER THE EVALUATION:

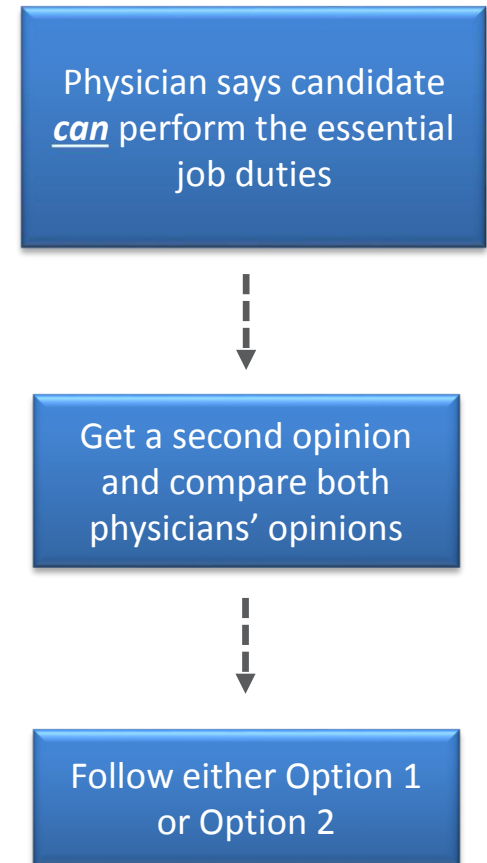
1)



2)



3)



\*Send employee's POMQ when filing a claim



**SYNERGY**  
COVERAGE SOLUTIONS

Post Offer Medical Questionnaires are your **solution** to:

- Reducing claims costs,
- Decreasing the likelihood of workplace injuries, and
- Assisting employers in making appropriate hiring decisions.

To implement a Post Offer Medical Questionnaire into your hiring practices, contact your Synergy Coverage Solutions Loss Prevention Consultant or email us at [info@synergyinsurance.net](mailto:info@synergyinsurance.net).

This article is an introduction to Post Offer Medical Questionnaires, which must be used appropriately based on current employment law. It is critical that an employer consult an employment attorney before withdrawing a job offer based on information learned from a background check, drug screen, or Post-offer Medical Questionnaire.



# Attachments

[Conditional Offer of Employment Example](#)

[Pre-adverse Action Notice Letter](#)

[Summary of Rights](#)

[Adverse Action Letter](#)

[Post Offer Medical Questionnaire Template](#)

[POMQ Letter of Explanation to Physician](#)





# POST-OFFER MEDICAL QUESTIONNAIRE

## *Legal White Paper*

### **Introduction**

The principal law governing Post-offer Medical Questionnaires is the American with Disabilities Act (the “ADA”). This memorandum discusses the benefits that a Post-offer Medical Questionnaire (a “POMQ”) offers, as well as the procedures that a prospective employer needs to follow when distributing such questionnaires.

### **Benefits of a Post-offer Medical Questionnaire**

The benefits of a POMQ program can be significant.

1. A POMQ can help the prospective employer determine whether an employee is qualified to perform the essential functions of the job. For example, an employee whose medical condition absolutely prevents them from lifting more than 10 pounds may not be qualified for a job in which they would regularly be required to lift 30-pound boxes. A well-drafted POMQ will “flush out” limitations like these. If the information on a prospective employee’s POMQ leaves any doubt about the employee’s qualifications, the employer is entitled to seek the judgment of a medical professional.
2. In some cases, a prospective employee may be able to perform the essential functions of the job, so long as he or she receives what the law calls a “reasonable accommodation” from the employer. For example, an employee who suffers from diabetes may need to take a periodic break for a brief snack. A POMQ can help focus both the employer and the prospective employee on any accommodations that may be needed. It is preferable, of course, for that dialogue to begin as soon as possible, and before the employee starts work.
3. In short, a POMQ gives the employer a sense of confidence in hiring employees who are fully able to perform the jobs for which they are hired, without an undue risk of injury to themselves. Occasionally, employers who have implemented a thoughtful POMQ program in compliance with all applicable legal requirements may benefit from decreased workers’ compensation premiums.
4. In North Carolina, if a prospective employee misrepresents their medical condition to the employer and later makes a workers’ compensation claim related to the misrepresented condition, the employer and its workers’ compensation carrier may be legally entitled to deny the claim.

In South Carolina, Georgia, and Virginia, outcomes are determined by existing case law.

In Missouri, Indiana, and Illinois, misrepresentation on a POMQ could be considered fraud. In this case, the employee could later be subject to substantial penalties as a result of filing a workers’ compensation claim.

Thus, the information that the prospective employee provides on a POMQ may later aid the employer in defending against a workers’ compensation claim.



## POST-OFFER MEDICAL QUESTIONNAIRE

### *Legal White Paper*

#### Procedures

To secure the benefits described previously, the employer needs to make sure that its POMQ program is conducted in compliance with the Americans with Disabilities Act and any other applicable law. Below are the main legal requirements of that law. Employers should review these requirements (and all other applicable requirements) with their own legal counsel before establishing a POMQ program.

1. The employer cannot ask any medical or disability-related questions on its initial job application. Instead, the employer can require the prospective employee to complete a POMQ **only** during the period **after** the employee has received a “conditional” offer of employment and **before** the employee actually begins work. With respect to staffing companies, this requirement means that a staffing company can require a POMQ **only after** a prospective employee has been offered a particular job assignment with an employer, not when the prospective employee is placed on a roster of employees eligible for assignment.
2. If an employer adopts a POMQ program, they must request a POMQ from *all* employees in the same job category who have received conditional offers of employment. Employers cannot “pick and choose” among employees, requesting POMQ’s from some but not others.
3. POMQ’s may not solicit genetic information, including information about family medical history. Attempts to solicit such information are prohibited by the Genetic Information Nondiscrimination Act of 2008.
4. All medical information that an employer receives from a POMQ must be kept strictly confidential in a location separate from the employee’s personnel file. Employers may disclose such information only in limited circumstances.
5. If the POMQ suggests that a prospective employee may need a reasonable accommodation to perform an essential function of the job, the employer must engage in a good faith dialogue with the employee to determine if such an accommodation is feasible. An employer is not required to implement an accommodation that would impose an “undue burden,” or significant difficulty or expense, on the employer.
6. If the POMQ indicates that: i) the employee is not able to perform an essential function of the job at all, or ii) the employee can perform all essential functions, but only with an accommodation that would impose an “undue burden” on the employer, the employer is legally entitled to withdraw the job offer. The employer should consult with their legal counsel, however, before taking that step.

As this summary indicates, a well-crafted POMQ program can be of great value. But, employers should consult with their legal counsel and take all other steps necessary to make sure that such programs are established and maintained in accordance with all applicable laws and regulations.