Using Fitness for Duty Evaluations

In the past six months, I’ve received an increased number of inquiries from employers who want to perform some type of fitness for duty screening on employees returning to duty after an injury or illness rendered them incapable of full duty work. These employers understand that even when employees are released to full duty by their treating physicians, they may still pose a safety risk to themselves and the company.

I’ve noticed some trends in these requests that may help you determine whether or not fitness for duty evaluations may be warranted at your business in certain circumstances. If you have an employee scheduled to return to full duty following an absence, conduct a brief litmus test to determine whether or not some evaluation may help protect your company and your employee. If you answer yes to any of the questions below, fitness for duty may be in order.

1. **Does the employee’s position require physical exertion that is challenging at times?**
   For example, does the employee stand for long periods of time, lift/push/pull heavy objects, operate large equipment or machinery, or perform repetitive tasks? Sometimes even relatively light materials can become burdensome when they are lifted repeatedly throughout the course of the day and week. Ask yourself whether or not you would expect this employee to be tired at the end of the day.

2. **Was this an extended absence (6 weeks or more)?**
   Six weeks or more is a long time to be on work restrictions or off work entirely, and it’s unlikely that any employee is truly ready, both physical and mentally, to return to full duty on the day he/she is released. The time away from the workplace coupled with the stress of recuperating from an injury or illness can spawn the perfect storm that puts your employee at risk for an accident.

3. **Did your employee have a major medical procedure, such as surgery?**
   Aside from pregnancy, most employees who have undergone surgery (shoulder repair, hernia, knee scope, etc.) should be evaluated prior to their return to work. To offer your company and the employee the best protection, this evaluation should occur after the treating provider has released the employee back to full duty. For example, when the shoulder surgeon has completed all follow-up appointments and signed off on the completion of therapeutic rehabilitation and the employee now has a full return to duty in hand, it’s time to schedule some fitness for duty testing.

4. **Did the employee receive a full release to work much sooner than you expected?**
   Most employees want to return to work as soon as possible, especially after a personal illness or injury. Unfortunately, this desire may persuade treating physicians to excuse them to work prematurely, usually with the reassurance from the employee that they won’t have to perform any strenuous activities right away. If you have any doubt about the timing of an employee’s release to full duty, trust your instincts.

If you respond yes to any of these questions, fitness for duty testing may be warranted. Of course, return to work is not the only situation when fitness for duty testing is valuable. Many employer requests I receive are for current employees who have demonstrated a decline in physical ability, increased errors or incidents, or presumed difficulty observed by co-workers or supervisors. Fitness for duty testing of current employees can help circumvent a major incident or injury.

**Establishing Your Company’s Fitness for Duty Process & Policy**

Both return to work and observation-related fitness for duty requests require that companies implement some clearly defined processes before scheduling their first employee for evaluation. As in all employment matters, I suggest you obtain legal advice before implementing a fitness for duty policy. Then draft the
language, add it to your employee handbook, and make sure all employees and applicants have been provided a copy. Obtaining signed consent of receipt from employees is a great way to document this step.

When considering your policy, your individual company needs will dictate what you can and can’t do in regard to fitness for duty testing. But with all things HR, consistency is key. I get nervous when companies request services like fitness for duty evaluations without having a clearly defined policy in place beforehand. Picking and choosing who needs additional medical testing and who doesn’t is a clear recipe for disaster. Applying a policy consistently in all situations will better protect the process and reduce your liability.

The most common policy considerations are:

1. What positions at our company may require fitness for duty testing from a safety standpoint?
2. What length of absence will automatically trigger a required fitness for duty evaluation?
3. Will we only request evaluations for employees who have had musculoskeletal problems that may impact their physical ability?
4. Will pregnancy leaves be subject to testing upon return?
5. What components will be required? Physician examination? Strength and agility screening? Both?

Scheduling a Fitness for Duty Evaluation: Assembling the Needed Documentation
With a policy in place and an employee flagged for testing, additional steps must be completed before the actual fitness for duty can occur. At a basic level, the following documentation must be provided to the medical clinic performing the fitness for duty evaluation before the exam will be scheduled:

For employees returning to work:
1. Full release by treating physician
2. Medical records from most recent injury/illness related appointment – this will require your employee to sign consent at the office of the treating provider to release those records to the clinic performing the fitness for duty services
3. Job description of position the employee is returning to, including physical demands

For current employees observed to be at risk:
1. Job description of position the employee works in, including physical demands
2. Specific observations documented by date, time, and description of incident that you are using as the reason for requesting the fitness for duty evaluation
3. Any pertinent medical information that may apply; for example, if an employee appears tired all the time and you learn they are taking medication that may affect their ability to work, the employee should sign consent at the office of their treating provider to have records about this medication sent to the clinic performing the evaluation

For all employees:
If strength and agility testing will be conducted, most testing sites will require their own medical release (separate from a return to work slip or the previously mentioned consent your employee must sign to have their provider send records). This consent informs the treating physician that your employee will complete physical tests that may require significant effort. Treating physicians who may have released an employee to full duty may reconsider once they realize the employee will be subjected to this type of screening.

Components and Results of Fitness for Duty Evaluations
Whether your company opts to conduct strength and agility testing, physician examination, or both, you’ll be provided with documentation following the fitness for duty evaluation that you can use when returning your employee to duty or excluding them from certain activities. Some employees may receive restrictions even if they have been previously released to full duty. Some may receive a clean bill of health and a full release. Many will receive something in the middle.

Be sure to keep an open line of communication with your medical provider to ensure they understand your intent and goals in fitness for duty testing and you understand their medical opinion once testing is completed. If you accomplish this, your fitness for duty program will provide an added layer of protection to your company and your employees.