What about pre-employment disability related questions and medical examinations?
An employer may not ask disability related questions or conduct medical examinations until after it makes a conditional job offer to the applicant. This ensures an applicant’s possible hidden disability is not considered before the employer evaluates an application’s non-medical qualifications. Employers can ask about an applicant’s ability to perform all job functions.

Once a conditional job offer is made, the employer may ask disability related questions and require medical examinations as long as this is done for all entering employees in that job category.

May an employer ask whether an applicant can meet the employer’s attendance requirements?
Yes. An employer may state its attendance requirements and ask whether an applicant can meet them. An employer also may ask about an applicant’s prior attendance record. However, at the pre-offer stage an employer may not ask how many days an applicant was sick. The employer may also not ask about job related injuries or worker’s compensation history. These types of questions are likely to elicit information about at disability.

This information was prepared by the Indiana University Office of Affirmative Action.
What are essential functions?
Essential function refers to the fundamental job duties of the position in question. A job function is essential if: (1) the position exists to perform that function, (2) performance of the function can be distributed to only a limited number of employees, (3) the incumbent is hired for his/her expertise or ability to perform the function, or (4) the consequences of not performing the function are significant to the employer.

Do short-term disabilities qualify under the ADA?
Generally, the ADA does not protect short-term conditions such as a broken leg that heals normally. However, conditions with long-term impairment where it is simply unclear how long an impairment will last may be protected. Episodic conditions may be covered, such as schizophrenia or bipolar disorder.

What are some examples of a disability under the ADA?
Examples include Alcoholism, Drug Addiction, HIV status, obesity, mental illness and pregnancy considered disabilities under the ADA:
- Alcoholism and Drug Addiction: The ADA protects individuals with alcohol and drug addiction problems, not the casual user. Under the ADA, employees are protected if they are in a drug treatment program and/or not currently using drugs illegally. Since alcohol is a legal substance, employees with alcohol problems are protected as long as they are able to perform their jobs and are not in violation of the employer’s drug free workplace policies.
- HIV or AIDS: Persons with HIV or AIDS are usually considered disabled under the ADA.
- Obesity: Weight within the normal range is not an impairment and therefore not a disability under the ADA. However, severe or morbid obesity (twice the normal body weight) has been found to be a disability in some cases.
- Mental Illness: Persons with psychiatric disorders such as a major depression, bipolar disorder, anxiety disorders, schizophrenia, and personality disorders may be qualified under the ADA.
- Pregnancy: Although pregnancy itself is not considered a disability under the ADA, complications and conditions—because of, pregnancy may rise to the level of an impairment that substantially limits a major life activity.

If a person qualifies for disability assistance under Worker’s Comp, FMLA, or Social Security, do they automatically qualify under the ADA?
No. The American’s with Disabilities Act, Worker’s Compensation, Family Medical Leave, and the Social Security Act each has its own qualification requirements. For example, a person may qualify for disability benefits under the Social Security Act but not under the American’s with Disabilities Act.

What is a reasonable accommodation under the ADA?
A reasonable accommodation means modifications or adjustments, which allow all applicants and employees full participation in the employment process. These include: (1) adjustments to job applications or testing processes enabling qualified applicants with disabilities full consideration; (2) modifications to the work environment or way a job is customarily performed enabling individuals with disabilities to perform the essential functions of the position; and (3) modifications which provide employees with disabilities equal employment benefits and privileges as similar non-disabled employees. In addition, reasonable means that the accommodation is (1) effective and (2) would allow the employee to attain an equal level of achievement, opportunity, and participation that a non-disabled individual in the same position would be able to achieve.

Can the employer require documentation that the person requesting an accommodation is disabled?
Yes! In most cases, documentation of disability is required. The information used to document disabilities and determine if a person’s qualification under the ADA will be supplied to the Accommodation Specialist in Human Resources Management or the Dean of the Faculties (depending on the status of the individual requesting the accommodations.)

What does the Accommodation Specialist do?
The Accommodation Specialist will determine if the employee is qualified under the ADA. If the employee is qualified, the Accommodations Specialist will: (1) review the essential and marginal functions of the job and the functional limitations of the disability and (2) facilitate a discussion between the employee and the supervisor/dean/department head to determine what accommodation may be reasonable.

Who decides which accommodation is reasonable?
The employer’s responsibility is to provide an accommodation that is (1) effective and (2) allows the employee to attain an equal level of achievement, opportunity, and participation that a non-disabled person would be able to achieve. The employer does not necessarily have to provide the most expensive accommodation or the accommodation of the employee’s choice, as long as the accommodation satisfies the above conditions.

Does the person with a disability have to maintain the same performance standards as everyone else?
Yes! Persons with disabilities must maintain the same performance standards with or without reasonable accommodation.

Are employees required to request a reasonable accommodation?
Yes! In most cases, documentation of disability is required. The information used to document disabilities and determine if a person’s qualification under the ADA will be supplied to the Accommodation Specialist in Human Resources Management or the Dean of the Faculties (depending on the status of the individual requesting the accommodations.)

What exactly does the employee have to say?
The employee does not have to use the magic words, “I would like to request a reasonable accommodations.” A request is any notification that an individual needs or might need a job modification because of a disability.

Once I know that the employee is requesting an accommodation, what do I do?
Once a supervisor is aware that a medical condition may be interfering with an employee’s ability to perform, she must discuss the problem with the employee. If the employee is having a performance problem, discuss the performance problem with the employee and then ask if anything would help him/her improve their performance. If the employee indicates they are having a medical problem, then the supervisor/dean/department head and the employee should work together to determine the most effective accommodation.

What are the employer’s responsibilities if the employee sill cannot perform the essential function of the job even with a reasonable accommodation?
If the employee cannot perform the essential function of the job even with a reasonable accommodation they are not qualified for the position. Disabled employees must maintain the same performance levels as all other employees.