

EFFECTIVE DECEMBER 1, 2005
NOTICE REGARDING LOUISIANA OFFICE OF RISK MANAGEMENT
WORKERS' COMPENSATION INSURANCE
LOUISIANA SECOND INJURY FUND
POST-OFFER, MEDICAL QUESTIONNAIRE
E-2 FORM

This Notice and Procedures regarding the Louisiana Second Injury Fund Post-Offer, Pre-existing Conditions Medical Inquiry Questionnaire (E-2) are to be distributed with the form to all State agencies insured for workers compensation by the Office of Risk Management. The purpose of the E-2 form is to request pre-existing medical condition information, in accordance with Louisiana R.S. 23:1208.1 of the Workers' Compensation Law.

The form will be used only in the event the employee experiences a work-related injury and becomes eligible for workers' compensation benefits. The Second Injury Fund statute allows for reimbursement of a portion of the funds spent on workers' compensation claims if the employer can show it knowingly retained or knowingly hired an employee with a pre-existing disability. To establish this fact, ORM requires all employees to complete the attached questionnaire upon hire and once every two years thereafter. Employees who have not previously completed an E-2 form should do so now. Agencies are to immediately destroy ALL previous versions of the E-2 form and begin using this form.

IMPORTANT: The completed E-2 form MUST be treated as confidential medical information and kept in a Second Injury Fund Medical file separate from the employee's personnel file. It must be used only in the event an employee receives workers' compensation benefits, and for the specific purpose of submitting a claim to the Second Injury Fund. If the employee sustains a work-related accident, the agency of employment must notify ORM that there is a completed E-2 form on file at the same time that it is notified of the Employers' First Report of Occupational Injury or Disease Form (E-1).

The Americans with Disabilities Act (ADA) permits such medical inquiries only in the "post offer" stage of employment. This is the period between the time when an applicant is given a job offer and before starting work. Therefore, the employer should only require the completion of this form after the offer of employment is made. Furthermore, the information obtained from this form cannot be used to discriminate against qualified individuals with disabilities who can perform the essential functions of the job, with or without accommodation. Your agency should consult its own legal counsel regarding any questions about the appropriate use of this form.

R. S. 23:1208.1 of the Louisiana Workers' Compensation Law reads:

Nothing in this title shall prohibit an employer from inquiring about previous injuries, disabilities, or other medical conditions and the employee shall answer truthfully; failure to answer truthfully shall result in the employee's forfeiture of benefits under this chapter, provided said failure to answer directly relates to the medical condition for which a claim for benefits is made or affects the employer's ability to receive reimbursement from the second injury fund. This Section shall not be enforceable unless the written form on which the inquiries about previous medical conditions are made contains a notice advising the employee that his failure to answer truthfully may result in his forfeiture of workers' compensation benefits under R. S. 23:1208.1. Such notice shall be prominently displayed in bold faced block lettering of no less than ten point type.