

Action: **Medical Termination/Demotion/Transfer**

Authority: Government Code sections 18670 - 18683 and 19253.5; California Code of Regulations, title 2, sections 51.1 - 52.10, 53.3, 56.1-60.3, and 446

Filing Deadline: 15 Days after service of the notice on the Employee

A department may require an employee to submit to a medical examination known as a “fitness for duty” evaluation to determine his/her ability to perform the job. If the results of the evaluation demonstrate that an employee is unable to perform the duties of his/her present position, the employee may be medically demoted or transferred to another position within the department. If the employee is not able to perform the duties of *any* position within the department, and the employee is not eligible for or waives disability retirement, the department may medically terminate the employee.⁶

The department must give written notice of the medical action and the reasons for it at least 15 days before its effective date. The employee may appeal this medical action to the SPB Appeals Division within 15 days after service of the written notice of the medical action. The medical action will be heard by an ALJ in an evidentiary hearing. During the hearing, the department must show by a preponderance of the evidence that it was proper to take the medical action.

After reviewing all the evidence presented during the hearing, the ALJ will prepare a proposed decision, which will be reviewed by the Board during one of its regularly scheduled bi-monthly Board meetings.

⁶ If the employee is eligible for and does not waive disability retirement, the department cannot medically terminate the employee. Instead, the department may file with the Public Employees’ Retirement System (PERS) for disability retirement on the employee’s behalf.