



*Agreement by the Ministry of Health
incorporating the
format of the Electronic Certificate of Disability.*

To Our Clients and Friends:

The purpose of this note is to update you on the disclosure of the Ministry of Health’s protocol for the Electronic Certificate of Disability. This initiative is aimed at enhancing the recognition and practical support for individuals with disabilities. The certificate represents a significant step in ensuring that the rights and necessities of disabled individuals are formally acknowledged and adequately addressed in various social and commercial settings, promoting a more inclusive and accessible environment.

Legal Foundations and Global Commitments

Article 1 of the Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*), along with the General Law for the Inclusion of Persons with Disabilities (*Ley General para la Inclusión de Personas con Discapacidad*, “LGIPD”), sets forth that the State and all competent authorities have an obligation to ensure the exercise of human rights for people with disabilities. This includes ensuring their full inclusion in society within a framework of respect and equity.

Furthermore, as the United Mexican States is a signatory to the United Nations Convention on the Rights of Persons with Disabilities, it is committed to protecting and promoting the rights and dignity of individuals with disabilities, with the goal of fostering a globally inclusive society.

In light of these obligations, on July 17th, 2018, a decree was published in the Official Gazette of the Federation (*Diario Oficial de la Federación*, “DOF”). This decree amended and added provisions to the LGIPD, the General Health Law (*Ley General de Salud*, “LGS”) and the General Population Law (*Ley General de Población*). Specifically, a section was added to Article 389 of the LGS addressing the issuance of disability certificates.

The transitory provisions of the aforementioned decree granted the health sector one year to implement an official Mexican Standard for disability certification along with the corresponding issuance of regulations for its implementation.

As per these transitory provisions, on February 2nd, 2024, the Ministry of Health published in the DOF the format for the Electronic Certificate of Disability and the guidelines for its issuance.

Operational Aspects of the Certificate

The Electronic Certificate of Disability is the official, personal and non-transferable document, issued by the corresponding sanitary agency. Said certificate is granted to a person with a disability upon evaluating him or her evaluation based on an integrative biopsychosocial and human rights model. This document is used for epidemiological and statistical purposes and for the planning and creation of public policies, among others.

Publication and Current Content

While commercial establishments are not required to recognize the Electronic Certificate of Disability, this extends beyond a legal obligation as it represents a societal commitment to inclusivity, demanding practical measures to guarantee that the rights of individuals with disabilities are upheld.

It implicitly underscores the importance of understanding and meeting the needs of people with disabilities, while being progressively more inclusive and equitable, adopting: **i)** Universal Designs, which implies the creation of products, environments, programs and services accessible to all people, minimizing the need for adaptations or specialized designs; and **ii)** promoting participation, understood as the active involvement of people with disabilities in everyday situations and/or activities.

The above is relevant for companies in any industry, as they must exercise extreme caution within their facilities and/or daily activities to avoid any interference with the rights of persons with disabilities as outlined in the LGIPD. Otherwise, they could face complaints and/or lawsuits for disability-based discrimination before the National Council for the Prevention of Discrimination (Consejo Nacional para Prevenir la Discriminación. If these complaints are valid, they could serve as a basis for claiming moral damages.

From a Labor & Employment stance, it is crucial to comply not only with the Official Mexican Standards (“*Norma Oficial Mexicana*”, NOM”) regarding workplace safety, health, and civil protection, but also with the issuance of the aforementioned certificate, which will result in Verification Units visiting establishments where certified employees work, to ensure and verify the environment in which individuals holding the Electronic Disability Certificate are situated.

Prior to the creation of NOM-039-SSA-2023, from which the Electronic Disability Certificate originates, the Federal Labor Law (“*Ley Federal del Trabajo, LFT*”) already included provisions prohibiting discrimination based on disabilities and mandating employers to provide appropriate facilities for the access and development of activities for individuals with disabilities.

This implies that failing to provide adequate facilities while employing an individual with an Electronic Disability Certificate could subject the employer to sanctions imposed by Labor Authorities.

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