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A L A W C O R P O R A T I O N

“Leaves Of Absences and Land-mines For Employers.”

Employment Law Workshop

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The attached material must not be considered legal advice. The sample forms and policies are for educational purposes only. We strongly recommend that you consult with legal counsel before adopting or implementing any of the attached sample forms and policies to avoid potential liability.

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GUIDELINES FOR MANAGING FEDERAL AND/OR CALIFORNIA EMPLOYEE LEAVE LAWS

TYPE OF LAW	LAW(S) REQUIRING LEAVE	PURPOSE	LENGTH	WHICH EMPLOYEES ARE ELIGIBLE	PAID OR UNPAID
Family and Medical Leave and Military Caregiver Leave (50 or more employees within a 75 mile radius)	Family and Medical Leave Act (FMLA); California Family Rights Act (CFRA).	To care for newborn, recently adopted children, to care for own illness or illness of spouse, child or parent. 2008 amendments add Military Caregiver Leave to care for related service member, and qualifying "exigency" leave in connection with covered service member being called to active duty.	Up to 12 weeks in a 12 month period for traditional FMLA leave. Up to 12 weeks in a 12 month period for qualifying "exigency" leave. Up to 26 weeks in a 12 month period for Military Caregiver Leave. Leave taken in one category applies to leave entitlement in other categories.	Those who have worked for employer for at least 1250 hours Employer can deny to certain "key" employees.	Unpaid. Employer must maintain medical benefits during FMLA/CFRA leave. Employee vacation or other paid time may be used during leave.
Pregnancy Disability Leave (5 or more employees)	California Government Code §12945.	To allow leave to any female employee who becomes disabled by pregnancy, childbirth or related medical condition.	Up to 4 months (May be added to CFRA leave for a total of 7 months).	Any female employee with a covered pregnancy-related disability.	Unpaid. Employee may use vacation, sick, or personal. Entitled to same benefits that employer provides to employees on other leaves.
Americans with Disabilities Act (ADA) (15 or more employees)	ADA and California Government Code §12940.	Employers may have to give time off to employees to reasonably accommodate a disability.	No minimum or maximum. Depends upon circumstance, such as whether attendance is essential job function.	Qualified employees with a disability that substantially impairs a major life activity.	Unpaid. Employer may require employee to use accrued paid or unpaid leave such as vacation, sick or personal.
Workers' Compensation (1 or more employees)	Workers' Compensation Act, California Labor Code §3200 et seq.	To allow employee to recover from work related injury.	Indefinite or until job eliminated.	All employees.	Benefits provided by workers comp. insurance provider.
Organ Donor Leave (15 or more employees)	California Labor Code §1508-1513	To allow employees paid time off to donate organ or bone marrow to another	Organ donor – up to 30 days. Bone marrow – up to 5 days. Annually. Can't be concurrent with FMLA/CFRA.	All employees who have a medical necessity to donate organ/bone marrow.	Paid leave. First 5 days for bone marrow/2 weeksdays for organ donor can be vacation/sick time.
School Visits For Suspended Child (1 or more employees)	California Labor Code §230.7.	To allow parents or guardians to take time off from work to participate in suspension proceedings.	Time required for participation in suspension proceeding.	Any employee who gives reasonable notice to his or her employer.	Unpaid, but back pay liability for violation of this law.
Child's School Activities (25 or more employees)	Family School Partnership Act (FSPA), California Labor Code §230.8.	To allow parents, grandparents, or legal guardians to participate in their children's activities at school or licensed day care facility.	Up to 40 hours each calendar year, but no more than 8 hours in a single month.	Employees with children, grandchildren or legal guardian status where child is in licensed day care or between K-12.	Unpaid. Employers may require employees to use vacation, personal leave, or compensatory time off.
Substance Abuse (25 or more employees)	California Labor Code §1025-1028.	To require reasonable accommodation for employees who voluntarily enter and participate in drug or alcohol rehabilitation.	Indefinite, depends on circumstances or until job is eliminated.	Any employee who wishes to voluntarily enter into drug or alcohol rehabilitation program.	Unpaid. Employee may use accrued sick leave.
Unsafe Working Conditions (1 or more employees)	California Labor Code §6311.	No employees may be discharged or laid off because of a violation of work place safety laws that create a real and apparent hazard.	Employer must remedy hazard before allowing employees to return to work.	All employees who work subject to hazardous conditions.	Unpaid, but back pay liability for violation of this law.
Voting (1 or more employees)	California Elections Code §14000.	To allow time for employees to vote in a statewide election.	Reasonable time during shift or up to two (2) hours at beginning or end of shift if employee does not have time to vote outside of work hours.	Any employee who gives at least two (2) work days notice that time off for voting is desired.	Paid.

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TYPE OF LAW	LAW(S) REQUIRING LEAVE	PURPOSE	LENGTH	WHICH EMPLOYEES ARE ELIGIBLE	PAID OR UNPAID
Jury or Witness Duty (1 or more employees)	California Labor Code §230.	To allow employees to serve jury duty or appear in court as a witness.	For juror-until completion of trial. For witness-time required in court.	Any employee who gives reasonable notice to his or her employer.	Unpaid.
Domestic Violence & Sexual Assault Victims (25 or more employees)	California Labor Code §230.1.	To allow employees time off from work to seek medical attention, services, counseling or safety due to domestic violence or sexual assault.	Time required to seek care or services, but limited to time available under FMLA/CFRA.	Any employee who gives reasonable notice to his or her employer, unless advance notice is not feasible.	Unpaid.
Court Appearance for Victims of Crime (1 or more employees)	California Labor Code §230.2.	To allow an employee who is a victim of an enumerated crime or a family member of a victim to take time off to attend judicial proceedings related to that crime.	Time required to attend to each proceeding.	Any employee who gives reasonable notice to his or her employer, unless advance notice is not feasible.	Unpaid. Employee may use vacation, sick or personal time.
Literacy (25 or more employees)	California Labor Code §1040-1044.	Employers have duty to reasonably accommodate illiterate employees, such as leave to participate in literacy program.	Time required to reasonably accommodate employee in a literacy program.	Any employee who reveals problem with literacy and asks for employer assistance in enrolling in adult literacy program.	Unpaid.
Military Training and Service (1 or more employees)	Uniformed Services Employment & ReEmployment Act, 38 USC §§4301-1433; California Military & Vet. §394.	To treat employees as on leave of absence during military training and service.	Period of training and service.	Employees on active or reserve duty in military service.	Unpaid. No loss of benefits.
Military Spouse Leave (25 or more employees)	California Military & Veterans Code §395.10.	To allow a qualified employee who is a spouse of a qualified military personnel to take a leave of absence during a qualified leave period.	Up to ten (10) days of unpaid leave.	Spouses of a qualified member of the Armed Forces, National Guard, or Reserves who has been granted a deployment period.	Unpaid. No loss of benefits. Employee may use, but is not required to use vacation, sick or PTO.
Volunteer Firefighter - Emergency Duty (1 or more employees)	California Labor Code §230.3.	To allow an employee to take time off to perform emergency duties.	Indefinite during emergency.	Volunteer firefighters, reserve police officers or emergency rescue personnel. Employers who are a public safety agency or a provider of emergency medical services may preclude leave if the employer determines it would hinder the availability of public safety or emergency medical services.	Unpaid, but back pay liability for violation of this law.
Volunteer Firefighter - Training (50 or more employees)	California Labor Code §230.4.	To allow an employee temporary leave for the purpose of engaging in fire or law enforcement training.	Not to exceed fourteen (14) days per calendar year.	Volunteer firefighters.	Unpaid, but back pay liability for violation of this law.
Civil Air Patrol Employment Protection Act (more than 15 employees)	California Labor Code §1500	To allow a qualified employee temporary unpaid leave to respond to an emergency operational mission of the California Wing of the Civil Air Patrol.	Up to ten (10) days total per calendar year, but not more than three (3) days on any one occasion without employer approval.	Volunteer members of the California Wing of the Civil Air Patrol that have been employed for at least ninety (90) days immediately preceding the start of the leave.	Unpaid. Employers may allow, but not require, use of available paid leave benefits.

This chart is intended to convey a very brief summary of the highlights of federal and California employment leave laws that California employers may have to administer. As such, the brief summaries risk oversimplification of the detailed requirements of each leave law. Thus, this chart should only be used for quick reference as a tool to alert the user to the many different types of leave required in California, and should not be used as a substitute for a more thorough and informed legal analysis of what is required in each situation.

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Client Bulletin #492

NEW FMLA RULE TAKES EFFECT MARCH 8: Military and Flight Crew Changes, and More

By Robin Shea
Winston-Salem Office

As we reported last week, the U.S. Department of Labor issued its **Final Rule on the Family and Medical Leave Act**, to take effect March 8, 2013. This was based on a **proposed rule** that was issued last February. The 2013 rule will replace **the rule issued in late 2008** by the Bush Administration, which took effect January 16, 2009, right before President Obama's first inauguration.

(For clarity, from here on out I will refer to the rule that will take effect March 8 as "the new rule" or "the 2013 rule." I will refer to its predecessor as "the 2009 rule.")

For the most part, the 2013 rule was needed because of two new laws that were enacted after the 2009 rule went into effect. In the fall of 2009, Congress passed the National Defense Authorization Act for Fiscal Year 2010, which liberalized the requirements for employees seeking leave for a military "qualifying exigency" or for "military caregiver" leave. Congress also subsequently passed the Airline Flight Crew Technical Corrections Act, dealing with calculation of FMLA time for members of airline flight crews, including pilots and flight attendants.

The Department of Labor also took the opportunity to make a few tweaks to the old, "traditional," "non-military" provisions in the FMLA as well. But for the most part, those provisions of the 2009 rule are unchanged. The DOL has a **"side-by-side" comparison** of the 2009 and 2013 rules on its website. *(The DOL website refers to the 2009 rule as "the 2008 rule," based on its date of issuance rather than its effective date.)*

"MILITARY" CHANGES

Qualifying Exigency Leave

The new rule makes clear that it applies to members of the regular armed forces, and the National Guard and Reserves, called to service in a foreign country. The new rule also adds a new type of "qualifying exigency": for care of a *parent* related to active duty or the call or impending call to active duty in support of a contingency operation. The *parent* must be the parent of the military member (not necessarily the employee) and must be incapable of self-care. The *military member* must be the spouse, parent, or child of the employee.

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EXAMPLE: Employee Mary's husband is heading to Afghanistan in support of a contingency operation. His absence will require that his elderly mother, who is incapable of self-care, be placed in a nursing home. Mary would be entitled to "qualifying exigency" leave to help make these arrangements.

If Mary's own mother were the one needing to be placed in a nursing home, Mary would not be entitled to "qualifying exigency" FMLA leave to make the arrangements because her mother is not the mother of the "military member." (However, it is possible that Mary would qualify for "regular" FMLA leave for her mother's serious health condition.)

The allowable leave for "Rest and Recuperation" has been increased. Under the 2009 rule, five calendar days was allowed per "R&R" period. Under the 2013 rule, 15 calendar days will be allowed per "R&R" period.

Military Caregiver Leave

In accordance with the statutory changes in the Fiscal Year 2010 NDAA, the new rule provides that covered servicemember includes "covered veterans." A covered veteran is one who was discharged or released for reasons other than "dishonorable" within the five years* preceding the day that the employee's FMLA leave for the veteran's serious injury or illness would begin.

*** CAUTION:** *The DOL is not counting the period between October 28, 2009 (the date that the Fiscal Year 2010 NDAA was enacted) and March 8, 2013, in calculating the five-year period. This amounts to approximately 1,226 days. Employers will have to keep these extra days in mind when determining whether an employer's family member is a "covered veteran until March 8, 2018.*

EXAMPLE: Employee Joe requests leave to care for his wife's serious injury or illness on April 15, 2013. Joe's wife was honorably discharged from the Navy on January 15, 2005. In determining whether Joe's wife was a "covered" veteran, the employer would look back from April 15, 2013, the date that Joe's leave would begin. Although it would seem that his wife should not be a covered veteran because she was discharged more than five years before that date, she would actually be entitled to approximately 1,226 additional days, meaning that she is, in fact, a covered veteran.

Also per the changes made to the statute, "serious injury or illness" for current servicemembers and covered veterans now includes preexisting injuries or illnesses that were *aggravated* in the course of military service. For covered veterans, "serious injury or illness" also includes (1) a VA Service Related Disability Rating of 50 percent or greater; (2) a disability that "substantially impairs" the veteran's ability to get "substantial gainful employment" or would if untreated; and (3) injuries or illnesses that have been the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

Calculating FMLA Leave Eligibility Under USERRA

The 2009 rule provided that, in calculating whether an employee met the 12-months' employment requirement for eligibility, the employer was required to consider all periods of employment unless interrupted by a break of seven

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years or more. There was an exception for employees whose employment was interrupted because of military service within the meaning of the Uniformed Services Employment and Reemployment Rights Act – for those employees, the interruptions for military service were not counted against the employee.

In calculating whether an employee who had served in the military met the 1,250-hour requirement, the employer was required to consider the number of hours that the employee *would have worked* absent military service.

The 2013 rule clarifies that these exceptions to the eligibility requirements for members of the military apply to all types of military service, including service in the regular Armed Forces, the National Guard, and the Reserves, and to members of airline flight crews.

AIRLINE FLIGHT CREWS

Under the new rule, consistent with the Airline Flight Crew Technical Corrections Act, a member of a flight crew is eligible for FMLA leave if he or she has worked or been paid for at least 60 percent of his or her applicable monthly guarantee and has worked or been paid for at least 504 hours. An eligible flight crew member is entitled to 72 days per 12-month period for family/medical and “qualifying exigency” leave, and 156 days “in a single 12-month period” for military caregiver leave.

CHANGES THAT APPLY TO ALL EMPLOYEES

Minimum Increments of Leave

In a change that is sure to annoy employers, the 2013 rule provides that an employer must charge for intermittent or reduced schedule FMLA leave in the smallest timekeeping increment it uses for other types of leave, and in no event may the employer use an increment larger than one hour. The employer is not allowed to charge for more FMLA leave than the employee actually needs. The only (very narrow) exception to this rule is where it is physically impossible for the employee to interrupt a shift once begun – for example, for a flight attendant who is in the air. In a case like that, in which it is literally impossible for an employee to miss only “part” of a shift, the employer may charge for the entire shift.

New Forms/Certifications

The various FMLA forms have been revised to comply with the NDAA and the flight crew legislation, and they are no longer part of the regulations. The DOL removed the forms from the regulations so that it could amend the forms without being required to go through a full-blown period of notice and comment first. **The new forms are available on the DOL website.** (*Scroll down to forms WH-380-E through WH-385V.*) As under the prior rules, employers are allowed to use their own forms as long as they do not ask for more information than is on the corresponding government form.

To certify a need for qualifying exigency “R&R” leave, the 2013 rule provides that an employee can provide a copy of the R&R leave orders for the military member, or other documentation that specifies the dates of the military member’s R&R leave.

To certify a need for military caregiver leave, the 2013 rule provides that an employee can provide documentation from health care providers who are not part of the Department of Defense or TRICARE. If the service member

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is a veteran enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers, the employee can present documentation of the enrollment as the "certification," and this will be considered valid even if the employee is not the designated caregiver on the document. However, the employer can request documentation of the employee's familial relationship with the veteran, as well as the veteran's date of discharge and whether the discharge was under other than "dishonorable" circumstances.

The above is obviously only a summary of the changes in the new FMLA rule.

EMPLOYER NEXT STEPS

Employers covered by the FMLA should do the following by March 8, or as soon as possible afterward:

- * Update their FMLA policies in accordance with the new rule.
- * Replace the current FMLA poster with **this one**.
- * Make sure all **FMLA Fact Sheets** are up to date. (*Scroll down to "Family and Medical Leave Act of 1993."*)
- * Use the new DOL notification and certification forms, or adapt their own forms to be consistent with the new ones.
- * Ensure that leave administrators are familiar with the changes that will take effect March 8.

If you have a question about any of the above, please contact the Constangy attorney of your choice.

About Constangy, Brooks & Smith, LLP

Constangy, Brooks & Smith, LLP has counseled employers on labor and employment law matters, exclusively, since 1946. A "Go To" Law Firm in Corporate Counsel and Fortune Magazine, it represents Fortune 500 corporations and small companies across the country. Its attorneys are consistently rated as top lawyers in their practice areas by sources such as Chambers USA, Martindale-Hubbell, and Top One Hundred Labor Attorneys in the United States, and the firm is top-ranked by the U.S. News & World Report/Best Lawyers Best Law Firms survey. More than 140 lawyers partner with clients to provide cost-effective legal services and sound preventive advice to enhance the employer-employee relationship. Offices are located in Alabama, California, Florida, Georgia, Illinois, Massachusetts, Missouri, New Jersey, North Carolina, South Carolina, Tennessee, Texas, Virginia and Wisconsin. For more information, visit www.constangy.com.

Certification of Health Care Provider for
Employee's Serious Health Condition
(Family and Medical Leave Act)

U.S. Department of Labor
Wage and Hour Division



OMB Control Number: 1235-0003
Expires: 2/28/2015

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Employer name and contact: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

Check if job description is attached: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
First Middle Last

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: () Fax: ()

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Mark below as applicable:

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

___ No ___ Yes. If so, dates of admission: _____

Date(s) you treated the patient for condition: _____

Will the patient need to have treatment visits at least twice per year due to the condition? ___ No ___ Yes.

Was medication, other than over-the-counter medication, prescribed? ___ No ___ Yes.

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?
___ No ___ Yes. If so, state the nature of such treatments and expected duration of treatment: _____

2. Is the medical condition pregnancy? ___ No ___ Yes. If so, expected delivery date: _____

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition: ___ No ___ Yes.

If so, identify the job functions the employee is unable to perform: _____

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF LEAVE NEEDED

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? ☐ No ☐ Yes.

If so, estimate the beginning and ending dates for the period of incapacity: _____

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? ☐ No ☐ Yes.

If so, are the treatments or the reduced number of hours of work medically necessary?
☐ No ☐ Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? ☐ No ☐ Yes.

Is it medically necessary for the employee to be absent from work during the flare-ups?
☐ No ☐ Yes. If so, explain:

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency : _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER

Certification of Health Care Provider for
Family Member's Serious Health Condition
(Family and Medical Leave Act)

U.S. Department of Labor
Wage and Hour Division



OMB Control Number: 1235-0003

Expires: 2/28/2015

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave to care for a covered family member with a serious health condition to submit a medical certification issued by the health care provider of the covered family member. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Employer name and contact: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your family member or his/her medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave to care for a covered family member with a serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 29 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form to your employer. 29 C.F.R. § 825.305.

Your name: _____
First Middle Last

Name of family member for whom you will provide care: _____
First Middle Last

Relationship of family member to you: _____

If family member is your son or daughter, date of birth: _____

Describe care you will provide to your family member and estimate leave needed to provide care:

Employee Signature _____ Date _____

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Page 3 provides space for additional information, should you need it. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: (_____) _____ Fax: (_____) _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

___ No ___ Yes. If so, dates of admission: _____

Date(s) you treated the patient for condition: _____

Was medication, other than over-the-counter medication, prescribed? ___ No ___ Yes.

Will the patient need to have treatment visits at least twice per year due to the condition? ___ No ___ Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

___ No ___ Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? ___ No ___ Yes. If so, expected delivery date: _____

3. Describe other relevant medical facts, if any, related to the condition for which the patient needs care (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF CARE NEEDED: When answering these questions, keep in mind that your patient's need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

4. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? ☐ No ☐ Yes.

Estimate the beginning and ending dates for the period of incapacity: _____

During this time, will the patient need care? ☐ No ☐ Yes.

Explain the care needed by the patient and why such care is medically necessary:

5. Will the patient require follow-up treatments, including any time for recovery? ☐ No ☐ Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Explain the care needed by the patient, and why such care is medically necessary: _____

6. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery? ☐ No ☐ Yes.

Estimate the hours the patient needs care on an intermittent basis, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

Explain the care needed by the patient, and why such care is medically necessary:

7. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? ____ No ____ Yes.

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: ____ times per ____ week(s) ____ month(s)

Duration: ____ hours or ____ day(s) per episode

Does the patient need care during these flare-ups? ____ No ____ Yes.

Explain the care needed by the patient, and why such care is medically necessary: _____

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER

Signature of Health Care Provider

Date

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210.

DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.

Notice of Eligibility and Rights &
Responsibilities
(Family and Medical Leave Act)

U.S. Department of Labor
Wage and Hour Division



OMB Control Number: 1235-0003
Expires: 2/28/2015

In general, to be eligible an employee must have worked for an employer for at least 12 months, meet the hours of service requirement in the 12 months preceding the leave, and work at a site with at least 50 employees within 75 miles. While use of this form by employers is optional, a fully completed Form WH-381 provides employees with the information required by 29 CFR 825.300(b), which must be provided within five business days of the employee notifying the employer of the need for FMLA leave. Part B provides employees with information regarding their rights and responsibilities for taking FMLA leave, as required by 29 CFR 825.300(b), (c).

Part A – NOTICE OF ELIGIBILITY

TO: _____
Employee

FROM: _____
Employer Representative

DATE: _____

On _____, you informed us that you needed leave beginning on _____ for:

_____ The birth of a child, or placement of a child with you for adoption or foster care;

_____ Your own serious health condition;

_____ Because you are needed to care for your _____ spouse; _____ child; _____ parent due to his/her serious health condition.

_____ Because of a qualifying exigency arising out of the fact that your _____ spouse; _____ son or daughter; _____ parent is on covered active duty or call to covered active duty status with the Armed Forces.

_____ Because you are the _____ spouse; _____ son or daughter; _____ parent; _____ next of kin of a covered servicemember with a serious injury or illness.

This Notice is to inform you that you:

_____ Are eligible for FMLA leave (See Part B below for Rights and Responsibilities)

_____ Are not eligible for FMLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):

_____ You have not met the FMLA's 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately _____ months towards this requirement.

_____ You have not met the FMLA's hours of service requirement.

_____ You do not work and/or report to a site with 50 or more employees within 75-miles.

If you have any questions, contact _____ or view the FMLA poster located in _____.

PART B-RIGHTS AND RESPONSIBILITIES FOR TAKING FMLA LEAVE

As explained in Part A, you meet the eligibility requirements for taking FMLA leave and still have FMLA leave available in the applicable 12-month period. **However, in order for us to determine whether your absence qualifies as FMLA leave, you must return the following information to us by _____.** (If a certification is requested, employers must allow at least 15 calendar days from receipt of this notice; additional time may be required in some circumstances.) If sufficient information is not provided in a timely manner, your leave may be denied.

- _____ Sufficient certification to support your request for FMLA leave. A certification form that sets forth the information necessary to support your request _____ is/ _____ is not enclosed.
- _____ Sufficient documentation to establish the required relationship between you and your family member.
- _____ Other information needed (such as documentation for military family leave):

- _____ No additional information requested

If your leave does qualify as FMLA leave you will have the following **responsibilities** while on FMLA leave (only checked blanks apply):

- _____ Contact _____ at _____ to make arrangements to continue to make your share of the premium payments on your health insurance to maintain health benefits while you are on leave. You have a minimum 30-day (or, indicate longer period, if applicable) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.
- _____ You will be required to use your available paid _____ sick, _____ vacation, and/or _____ other leave during your FMLA absence. This means that you will receive your paid leave and the leave will also be considered protected FMLA leave and counted against your FMLA leave entitlement.
- _____ Due to your status within the company, you are considered a "key employee" as defined in the FMLA. As a "key employee," restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us. We _____ have/ _____ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us.
- _____ While on leave you will be required to furnish us with periodic reports of your status and intent to return to work every _____. (Indicate interval of periodic reports, as appropriate for the particular leave situation).

If the circumstances of your leave change, and you are able to return to work earlier than the date indicated on this form, you will be required to notify us at least two workdays prior to the date you intend to report for work.

If your leave does qualify as FMLA leave you will have the following **rights** while on FMLA leave:

- You have a right under the FMLA for up to 12 weeks of unpaid leave in a 12-month period calculated as:
_____ the calendar year (January – December).
_____ a fixed leave year based on _____
_____ the 12-month period measured forward from the date of your first FMLA leave usage.
_____ a "rolling" 12-month period measured backward from the date of any FMLA leave usage.
- You have a right under the FMLA for up to 26 weeks of unpaid leave in a single 12-month period to care for a covered servicemember with a serious injury or illness. This single 12-month period commenced on _____
- Your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work.
- You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. (If your leave extends beyond the end of your FMLA entitlement, you do not have return rights under FMLA.)

- If you do not return to work following FMLA leave for a reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; 2) the continuation, recurrence, or onset of a covered servicemember's serious injury or illness which would entitle you to FMLA leave; or 3) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.
- If we have not informed you above that you must use accrued paid leave while taking your unpaid FMLA leave entitlement, you have the right to have ____ **sick**, ____ **vacation**, and/or ____ **other leave** run concurrently with your unpaid leave entitlement, provided you meet any applicable requirements of the leave policy. Applicable conditions related to the substitution of paid leave are referenced or set forth below. If you do not meet the requirements for taking paid leave, you remain entitled to take unpaid FMLA leave.

____ For a copy of conditions applicable to sick/vacation/other leave usage please refer to ____ available at: ____

____ Applicable conditions for use of paid leave: ____

Once we obtain the information from you as specified above, we will inform you, within 5 business days, whether your leave will be designated as FMLA leave and count towards your FMLA leave entitlement. If you have any questions, please do not hesitate to contact: ____ **at** ____.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

It is mandatory for employers to provide employees with notice of their eligibility for FMLA protection and their rights and responsibilities. 29 U.S.C. 2617; 29 CFR 825.300(b), (c). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. 2616; 29 CFR 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**

Designation Notice
(Family and Medical Leave Act)

U.S. Department of Labor
Wage and Hour Division



OMB Control Number: 1235-0003

Expires: 2/28/2015

Leave covered under the Family and Medical Leave Act (FMLA) must be designated as FMLA-protected and the employer must inform the employee of the amount of leave that will be counted against the employee's FMLA leave entitlement. In order to determine whether leave is covered under the FMLA, the employer may request that the leave be supported by a certification. If the certification is incomplete or insufficient, the employer must state in writing what additional information is necessary to make the certification complete and sufficient. While use of this form by employers is optional, a fully completed Form WH-382 provides an easy method of providing employees with the written information required by 29 C.F.R. §§ 825.300(c), 825.301, and 825.305(c).

To: _____

Date: _____

We have reviewed your request for leave under the FMLA and any supporting documentation that you have provided.
We received your most recent information on _____ and decided:

_____ Your FMLA leave request is approved. All leave taken for this reason will be designated as FMLA leave.

The FMLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against your leave entitlement:

_____ Provided there is no deviation from your anticipated leave schedule, the following number of hours, days, or weeks will be counted against your leave entitlement: _____

_____ Because the leave you will need will be unscheduled, it is not possible to provide the hours, days, or weeks that will be counted against your FMLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

Please be advised (check if applicable):

_____ You have requested to use paid leave during your FMLA leave. Any paid leave taken for this reason will count against your FMLA leave entitlement.

_____ We are requiring you to substitute or use paid leave during your FMLA leave.

_____ You will be required to present a fitness-for-duty certificate to be restored to employment. If such certification is not timely received, your return to work may be delayed until certification is provided. A list of the essential functions of your position _____ is _____ is not attached. If attached, the fitness-for-duty certification must address your ability to perform these functions.

_____ **Additional information is needed to determine if your FMLA leave request can be approved:**

_____ The certification you have provided is not complete and sufficient to determine whether the FMLA applies to your leave request. You must provide the following information no later than _____, unless it is not
(Provide at least seven calendar days)
practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied.

(Specify information needed to make the certification complete and sufficient)

_____ We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

_____ Your FMLA Leave request is Not Approved.

_____ The FMLA does not apply to your leave request.

_____ You have exhausted your FMLA leave entitlement in the applicable 12-month period.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

It is mandatory for employers to inform employees in writing whether leave requested under the FMLA has been determined to be covered under the FMLA. 29 U.S.C. § 2617; 29 C.F.R. §§ 825.300(d), (e). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 – 30 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**

Form WH-382 January 2009

**Certification of Qualifying Exigency
For Military Family Leave
(Family and Medical Leave Act)**

U.S. Department of Labor
Wage and Hour Division



OMB Control Number: 1235-0003
Expires: 2/ 28/2015

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a qualifying exigency to submit a certification. Please complete Section I before giving this form to your employee. Your response is voluntary, and while you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 CFR 825.309.

Employer name: _____

Contact Information: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II fully and completely. The FMLA permits an employer to require that you submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a qualifying exigency. Several questions in this section seek a response as to the frequency or duration of the qualifying exigency. Be as specific as you can; terms such as "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Your response is required to obtain a benefit. 29 CFR 825.310. While you are not required to provide this information, failure to do so may result in a denial of your request for FMLA leave. Your employer must give you at least 15 calendar days to return this form to your employer.

Your Name: _____
First Middle Last

Name of military member on covered active duty or call to covered active duty status:

First Middle Last

Relationship of military member to you: _____

Period of military member's covered active duty: _____

A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a military member's covered active duty or call to covered active duty status. Please check one of the following and attach the indicated document to support that the military member is on covered active duty or call to covered active duty status.

A copy of the military member's covered active duty orders is attached.

Other documentation from the military certifying that the military member is on covered active duty (or has been notified of an impending call to covered active duty) is attached.

I have previously provided my employer with sufficient written documentation confirming the military member's covered active duty or call to covered active duty status.

PART A: QUALIFYING REASON FOR LEAVE

1. Describe the reason you are requesting FMLA leave due to a qualifying exigency (including the specific reason you are requesting leave):

2. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for informational briefings sponsored by the military; a document confirming the military member's Rest and Recuperation leave; a document confirming an appointment with a third party, such as a counselor or school official, or staff at a care facility; or a copy of a bill for services for the handling of legal or financial affairs. Available written documentation supporting this request for leave is attached.

Yes ☐ No ☐ None Available ☐

PART B: AMOUNT OF LEAVE NEEDED

1. Approximate date exigency commenced: _____

Probable duration of exigency: _____

2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency?

Yes ☐ No ☐

If so, estimate the beginning and ending dates for the period of absence:

3. Will you need to be absent from work periodically to address this qualifying exigency? Yes ☐ No ☐

Estimate schedule of leave, including the dates of any scheduled meetings or appointments:

Estimate the frequency and duration of each appointment, meeting, or leave event, including any travel time (i.e., 1 deployment-related meeting every month lasting 4 hours):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours _____ day(s) per event.

PART C:

If leave is requested to meet with a third party (such as to arrange for childcare or parental care, to attend counseling, to attend meetings with school, childcare or parental care providers, to make financial or legal arrangements, to act as the military member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address, and appropriate contact information of the individual or entity with whom you are meeting (i.e., either the telephone or fax number or email address of the individual or entity). This information may be used by your employer to verify that the information contained on this form is accurate.

Name of Individual: _____ Title: _____

Organization: _____

Address: _____

Telephone: (_____) _____ Fax: (_____) _____

Email: _____

Describe nature of meeting: _____

PART D:

I certify that the information I provided above is true and correct.

Signature of Employee _____ Date _____

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. 2616; 29 CFR 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution AV, NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE EMPLOYER.**

Certification for Serious Injury or
Illness of a Current
Servicemember - -for Military Family Leave
(Family and Medical Leave Act)

U.S. Department of Labor

Wage and Hour Division



OMB Control Number: 1235-0003
Expires: 2/28/2015

Notice to the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a serious injury or illness of a current servicemember to submit a certification providing sufficient facts to support the request for leave. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 CFR 825.310. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees or employees' family members created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 CFR 1630.14(c)(1), if the Americans with Disabilities Act applies.

SECTION I: For Completion by the EMPLOYEE and/or the CURRENT SERVICEMEMBER for whom the Employee Is Requesting Leave

INSTRUCTIONS to the EMPLOYEE or CURRENT SERVICEMEMBER: Please complete Section I before having Section II completed. The FMLA permits an employer to require that an employee submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a serious injury or illness of a servicemember. If requested by the employer, your response is required to obtain or retain the benefit of FMLA-protected leave. 29 U.S.C. 2613, 2614(c)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 CFR 825.310(f). The employer must give an employee at least 15 calendar days to return this form to the employer.

SECTION II: For Completion by a UNITED STATES DEPARTMENT OF DEFENSE ("DOD") HEALTH CARE PROVIDER or a HEALTH CARE PROVIDER who is either: (1) a United States Department of Veterans Affairs ("VA") health care provider; (2) a DOD TRICARE network authorized private health care provider; (3) a DOD non-network TRICARE authorized private health care provider; or (4) a health care provider as defined in 29 CFR 825.125

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed on Page 2 has requested leave under the FMLA to care for a family member who is a current member of the Regular Armed Forces, the National Guard, or the Reserves who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness. For purposes of FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

A complete and sufficient certification to support a request for FMLA leave due to a current servicemember's serious injury or illness includes written documentation confirming that the servicemember's injury or illness was incurred in the line of duty on active duty or if not, that the current servicemember's injury or illness existed before the beginning of the servicemember's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that the current servicemember is undergoing treatment for such injury or illness by a health care provider listed above. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the servicemember's condition for which the employee is seeking leave.

SECTION I: For Completion by the EMPLOYEE and/or the CURRENT SERVICEMEMBER for whom the Employee Is Requesting Leave:

(This section must be completed first before any of the below sections can be completed by a health care provider.)

Part A: EMPLOYEE INFORMATION

Name and Address of Employer (this is the employer of the employee requesting leave to care for the current servicemember):

Name of Employee Requesting Leave to Care for the Current Servicemember:

First Middle Last

Name of the Current Servicemember (for whom employee is requesting leave to care):

First Middle Last

Relationship of Employee to the Current Servicemember:

Spouse ☐ Parent ☐ Son ☐ Daughter ☐ Next of Kin ☐

Part B: SERVICEMEMBER INFORMATION

- (1) Is the Servicemember a Current Member of the Regular Armed Forces, the National Guard or Reserves?
Yes ☐ No ☐

If yes, please provide the servicemember's military branch, rank and unit currently assigned to:

Is the servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as a medical hold or warrior transition unit)?

Yes ☐ No ☐

If yes, please provide the name of the medical treatment facility or unit:

- (2) Is the Servicemember on the Temporary Disability Retired List (TDRL)?
Yes ☐ No ☐

Part C: CARE TO BE PROVIDED TO THE SERVICEMEMBER

Describe the Care to Be Provided to the Current Servicemember and an Estimate of the Leave Needed to Provide the Care:

SECTION II: For Completion by a United States Department of Defense ("DOD") Health Care Provider or a Health Care Provider who is either: (1) a United States Department of Veterans Affairs ("VA") health care provider; (2) a DOD TRICARE network authorized private health care provider; (3) a DOD non-network TRICARE authorized private health care provider; or (4) a health care provider as defined in 29 CFR 825.125. If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator).

(Please ensure that Section I above has been completed before completing this section. Please be sure to sign the form on the last page.)

Part A: HEALTH CARE PROVIDER INFORMATION

Health Care Provider's Name and Business Address:

Type of Practice/Medical Specialty: _____

Please state whether you are either: (1) a DOD health care provider; (2) a VA health care provider; (3) a DOD TRICARE network authorized private health care provider; (4) a DOD non-network TRICARE authorized private health care provider, or (5) a health care provider as defined in 29 CFR 825.125:

Telephone: () _____ Fax: () _____ Email: _____

PART B: MEDICAL STATUS

(1) The current Servicemember's medical condition is classified as (Check One of the Appropriate Boxes):

☐ **(VSI) Very Seriously Ill/Injured** – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

☐ **(SI) Seriously Ill/Injured** – Illness/injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

☐ **OTHER Ill/Injured** – a serious injury or illness that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating.

☐ **NONE OF THE ABOVE** (Note to Employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a "serious health condition" under § 825.113 of the FMLA. If such leave is requested, you may be required to complete DOL FORM WH-380-F or an employer-provided form seeking the same information.)

(2) Is the current Servicemember being treated for a condition which was incurred or aggravated by service in the line of duty on active duty in the Armed Forces? Yes ☐ No ☐

(3) Approximate date condition commenced: _____

(4) Probable duration of condition and/or need for care: _____

- (5) Is the servicemember undergoing medical treatment, recuperation, or therapy for this condition? Yes ☐ No ☐

If yes, please describe medical treatment, recuperation or therapy:

PART C: SERVICEMEMBER'S NEED FOR CARE BY FAMILY MEMBER

- (1) Will the servicemember need care for a single continuous period of time, including any time for treatment and recovery? Yes ☐ No ☐

If yes, estimate the beginning and ending dates for this period of time: _____

- (2) Will the servicemember require periodic follow-up treatment appointments? Yes ☐ No ☐

If yes, estimate the treatment schedule: _____

- (3) Is there a medical necessity for the servicemember to have periodic care for these follow-up treatment appointments? Yes ☐ No ☐

- (4) Is there a medical necessity for the servicemember to have periodic care for other than scheduled follow-up treatment appointments (e.g., episodic flare-ups of medical condition)?
Yes ☐ No ☐

If yes, please estimate the frequency and duration of the periodic care:

Signature of Health Care Provider: _____ Date: _____

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

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**"NOTICE A"****YOUR RIGHTS AND OBLIGATIONS AS A PREGNANT EMPLOYEE**

If you are pregnant, have a related medical condition, or are recovering from childbirth, **PLEASE READ THIS NOTICE.**

- California law protects employees against discrimination or harassment because of an employee's pregnancy, childbirth or any related medical condition (referred to below as "because of pregnancy"). California also law prohibits employers from denying or interfering with an employee's pregnancy-related employment rights.
- Your employer has an obligation to:
 - reasonably accommodate your medical needs related to pregnancy, childbirth or related conditions (such as temporarily modifying your work duties, providing you with a stool or chair, or allowing more frequent breaks);
 - transfer you to a less strenuous or hazardous position (where one is available) or duties if medically needed because of your pregnancy; and
 - provide you with pregnancy disability leave (PDL) of up to four months (the working days you normally would work in one-third of a year or 17½ weeks) and return you to your same job when you are no longer disabled by your pregnancy or, in certain instances, to a comparable job. Taking PDL, however, does not protect you from nonleave related employment actions, such as a layoff.
 - provide a reasonable amount of break time and use of a room or other location in close proximity to the employee's work area to express breast milk in private as set forth in Labor Code section 1030, et seq.
- For pregnancy disability leave:
 - PDL is not for an automatic period of time, but for the period of time that you are disabled by pregnancy. Your health care provider determines how much time you will need.
 - Once your employer has been informed that you need to take PDL, your employer must guarantee in writing that you can return to work in your same position if you request a written guarantee. Your employer may require you to submit written medical certification from your health care provider substantiating the need for your leave.
 - PDL may include, but is not limited to, additional or more frequent breaks, time for prenatal or postnatal medical appointments, doctor-ordered bed rest, "severe morning sickness," gestational diabetes, pregnancy-induced hypertension, preeclampsia, recovery from childbirth or loss or end of pregnancy, and/or post-partum depression.

Notice A
YOUR RIGHTS AND OBLIGATIONS AS A PREGNANT EMPLOYEE
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- PDL does not need to be taken all at once but can be taken on an as-needed basis as required by your health care provider, including intermittent leave or a reduced work schedule, all of which counts against your four month entitlement to leave.
- Your leave will be paid or unpaid depending on your employer's policy for other medical leaves. You may also be eligible for state disability insurance or Paid Family Leave (PFL), administered by the California Employment Development Department.
- At your discretion, you can use any vacation or other paid time off during your PDL.
- Your employer may require or you may choose to use any available sick leave during your PDL.
- Your employer is required to continue your group health coverage during your PDL at the level and under the conditions that coverage would have been provided if you had continued in employment continuously for the duration of your leave.
- Taking PDL may impact certain of your benefits and your seniority date; please contact your employer for details.

Notice obligations as an Employee:

- Give your employer reasonable notice: To receive reasonable accommodation, obtain a transfer, or take PDL, you must give your employer sufficient notice for your employer to make appropriate plans – 30 days advance notice if the need for the reasonable accommodation, transfer or PDL is foreseeable, otherwise as soon as practicable if the need is an emergency or unforeseeable.
- Provide a Written Medical Certification from Your Health Care Provider. Except in a medical emergency where there is no time to obtain it, your employer may require you to supply a written medical certification from your health care provider of the medical need for your reasonable accommodation, transfer or PDL. If the need is an emergency or unforeseeable, you must provide this certification within the time frame your employer requests, unless it is not practicable for you to do so under the circumstances despite your diligent, good faith efforts. Your employer must provide at least 15 calendar days for you to submit the certification. See your employer for a copy of a medical certification form to give to your health care provider to complete.
- PLEASE NOTE that if you fail to give your employer reasonable advance notice or, if your employer requires it, written medical certification of your medical need, your employer may be justified in delaying your reasonable accommodation, transfer, or PDL.

This notice is a summary of your rights and obligations under the Fair Employment and Housing Act (FEHA). For more information about your rights and obligations as a pregnant employee, contact your employer, visit the Department of Fair Employment and Housing's Web site at www.dfeh.ca.gov, or contact the Department at (800) 884-1684. The text of the FEHA and the regulations interpreting it are available on the Department's Web site.

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**“AVISO A”
AUSENCIA DE INCAPACIDAD POR EMBARAZO**

Bajo la Ley de Igualdad de Empleo y Vivienda de California (FEHA, por sus siglas en inglés), si sufre de una incapacidad debido a un embarazo, el nacimiento de un niño o por cuestiones médicas relacionadas, usted tiene derecho a tomar una ausencia de incapacidad por embarazo (PDL, por sus siglas en inglés). Si está embarazada o sufre cualquier otra condición médica relacionada al embarazo, usted también tiene la opción de que se le transfiera a una posición menos estresante y peligrosa o a tareas menos estresantes y peligrosas, siempre y cuando sea médicamente aconsejable. También tendrá la opción de que se le acomode de manera razonable en relación a su embarazo, el nacimiento de su hijo u otras condiciones médicas relacionadas siempre que lo pida por consejo de su proveedor de cuidados médicos. La FEHA nos prohíbe negarle, interferir con, o restringirle el ejercicio de estos derechos.

- La ausencia de incapacidad por embarazo se podrá disfrutar durante cualquier periodo de incapacidad real causada por el embarazo, el nacimiento de su hijo o los problemas de salud relacionados hasta un máximo de 4 meses (o 88 días laborales para una empleada de tiempo completo) por cada embarazo.
- La ausencia de incapacidad por embarazo no necesita tomarse en un solo periodo de tiempo continuo sino que puede tomarse según sea necesario.
- La ausencia de incapacidad por embarazo le permitirá el tiempo libre necesario para cuidados prenatales, náusea aguda debida al embarazo, reposo en cama dispuesto por el médico, nacimiento y recuperación después del parto.
- Por lo general, necesitamos tratar su incapacidad por embarazo de la misma manera que tratamos otras incapacidades de empleados en una situación similar. Esto afecta el hecho de si su ausencia será remunerada o no.
- Se le podrá pedir que obtenga un certificado de su proveedor de cuidados médicos sobre su incapacidad por embarazo o la recomendación médica para que se le transfiera de trabajo o se le acomode de forma razonable.

El certificado deberá incluir:

1. la fecha en la que quedó incapacitada por el embarazo o la fecha de la recomendación médica para que se le transfiera de trabajo o se le acomode de forma razonable;
2. la duración probable del(los) periodo(s) de incapacidad o el(los) periodo(s) de la recomendación médica de que se le transfiera de trabajo o se le acomode de forma razonable; y,
3. una declaración que diga que, debido a la incapacidad, usted no puede trabajar bajo ninguna circunstancia o realizar una o mas de una de las funciones esenciales de su puesto de trabajo sin correr un riesgo indebido hacia su persona, al desarrollo sin problemas de su embarazo o hacia otras personas, o una declaración que diga que, debido a su embarazo, que se le transfiera de trabajo o que se le acomode de forma razonable es médicamente aconsejable.

- A su elección, usted puede utilizar cualquier tipo de vacaciones acumuladas o cualquier otro tipo de tiempo libre al que tenga derecho como parte de su incapacidad por embarazo antes de tomar el resto de su ausencia como ausencia sin sueldo.
- Puede que le pidamos que utilice la ausencia por enfermedad disponible que tenga durante su ausencia por embarazo. También puede ser elegible para el seguro de incapacidad estatal para la parte no pagada de su ausencia.
- El tomar una ausencia de incapacidad por embarazo puede tener cierto impacto en sus beneficios/prestaciones y en su fecha de antigüedad. Si actualmente le brindamos y pagamos la cobertura a través de un plan de salud grupal, estamos obligados a continuar haciéndolo durante la licencia PDL. Si no le brindamos seguro médico, no estamos obligados a comenzar a hacerlo cuando se toma la licencia PDL. Si desea más información sobre su elegibilidad para una licencia, el impacto de la ausencia en su antigüedad y sus beneficios/prestaciones, y nuestra póliza para otras incapacidades, por favor comuníquese con:

(persona de contacto)

(números de teléfono del empleador)

**"NOTICE B"****FAMILY CARE AND MEDICAL LEAVE AND PREGNANCY DISABILITY LEAVE**

- Under the California Family Rights Act of 1993 (CFRA), if you have more than 12 months of service with your employer and have worked at least 1,250 hours in the 12-month period before the date you want to begin your leave, you may have a right to an unpaid family care or medical leave (CFRA leave). This leave may be up to 12 workweeks in a 12-month period for the birth, adoption, or foster care placement of your child or for your own serious health condition or that of your child, parent or spouse.
- Even if you are not eligible for CFRA leave, if disabled by pregnancy, childbirth or related medical conditions, you are entitled to take pregnancy disability leave (PDL) of up to four months, or the working days in one-third of a year or 17½ weeks, depending on your period(s) of actual disability. Time off needed for prenatal or postnatal care; doctor-ordered bed rest; gestational diabetes; pregnancy-induced hypertension; preeclampsia; childbirth; postpartum depression; loss or end of pregnancy; or recovery from childbirth or loss or end of pregnancy would all be covered by your PDL.
- Your employer also has an obligation to reasonably accommodate your medical needs (such as allowing more frequent breaks) and to transfer you to a less strenuous or hazardous position if it is medically advisable because of your pregnancy.
- If you are CFRA-eligible, you have certain rights to take BOTH PDL and a separate CFRA leave for reason of the birth of your child. Both leaves guarantee reinstatement to the same or a comparable position at the end of the leave, subject to any defense allowed under the law. If possible, you must provide at least 30 days advance notice for foreseeable events (such as the expected birth of a child or a planned medical treatment for yourself or a family member). For events that are unforeseeable, you must notify your employer, at least verbally, as soon as you learn of the need for the leave.
- Failure to comply with these notice rules is grounds for, and may result in, deferral of the requested leave until you comply with this notice policy.
- Your employer may require medical certification from your health care provider before allowing you a leave for:
 - your pregnancy;
 - your own serious health condition; or
 - to care for your child, parent, or spouse who has a serious health condition.

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FAMILY CARE AND MEDICAL LEAVE AND PREGNANCY DISABILITY LEAVE
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- See your employer for a copy of a medical certification form to give to your health care provider to complete.
- When medically necessary, leave may be taken on an intermittent or a reduced work schedule. If you are taking a leave for the birth, adoption or foster care placement of a child, the basic minimum duration of the leave is two weeks and you must conclude the leave within one year of the birth or placement for adoption or foster care.
- Taking a family care or pregnancy disability leave may impact certain of your benefits and your seniority date. Contact your employer for more information regarding your eligibility for a leave and/or the impact of the leave on your seniority and benefits.

This notice is a summary of your rights and obligations under the Fair Employment and Housing Act (FEHA). The FEHA prohibits employers from denying, interfering with, or restraining your exercise of these rights. For more information about your rights and obligations, contact your employer, visit the Department of Fair Employment and Housing's Web site at www.dfeh.ca.gov, or contact the Department at (800) 884-1684. The text of the FEHA and the regulations interpreting it are available on the Department's Web site.

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**“AVISO B”****AUSENCIA MÉDICA O POR CUIDADOS FAMILIARES (AUSENCIA CFRA, POR SUS SIGLAS EN INGLÉS) Y AUSENCIA DE INCAPACIDAD POR EMBARAZO**

Bajo la Ley de Derechos de Familia de California de 1993 (CFRA, por sus siglas en inglés), si tiene más de 12 meses de servicio con nosotros y ha trabajado un mínimo de 1,250 horas en el periodo de 12 meses antes de la fecha en la que quiera empezar su ausencia, podrá disfrutar de su derecho a una ausencia médica o de cuidados familiares no remunerada (ausencia CFRA). Esta ausencia puede ser de hasta 12 semanas laborales en un periodo de 12 meses por el nacimiento, adopción o por cuidado tutelar de su hijo o por problemas graves de su salud o la de su hijo, padre/madre o cónyuge. La CFRA nos prohíbe negarle, interferir con, o restringirle el ejercicio de estos derechos.

- Incluso cuando no sea elegible a la ausencia CFRA, si está incapacitada por el embarazo, parto o condiciones médicas relacionadas, tendrá derecho a tomar una ausencia de incapacidad por embarazo de hasta un máximo de cuatro meses, dependiendo del(los) periodo(s) de incapacidad real. Si usted es elegible a lo dispuesto en la Ley de Derechos de Familia de California, tendrá ciertos derechos para tomar AMBAS ausencias, la ausencia de incapacidad por embarazo y la ausencia CFRA debido al nacimiento de su hijo. Las dos ausencias tienen la garantía de que se le volverá a asignar al mismo puesto o a uno comparable al finalizar su ausencia, lo que estará sujeto a ser defendido según lo dispuesto en la ley. La ausencia de incapacidad por embarazo no necesita tomarse en un solo período de tiempo continuo sino que puede tomarse según sea necesario.
- Si es posible deberá notificar con 30 días de anticipación, en el caso de sucesos predecibles (como es el caso del nacimiento de un niño o un tratamiento médico planificado para usted o para un miembro de su familia). Para aquellos casos impredecibles, necesitamos que nos lo notifique, al menos de forma verbal, tan pronto como sepa que va a necesitar una ausencia. Por lo general, necesitamos tratar su incapacidad por embarazo de la misma manera que tratamos otras incapacidades de empleados en una situación similar. Esto afecta el hecho de si su ausencia será remunerada o no.
- El incumplimiento de estas normas sobre notificaciones será razón suficiente, y puede resultar en, el aplazamiento de la ausencia solicitada hasta que se cumpla con esta política de notificación.
- Podemos requerir un certificado de su proveedor de cuidados médicos antes de autorizarle la ausencia por embarazo o por problemas graves en su salud o un certificado del proveedor de cuidados médicos de su hijo, padre/madre o cónyuge que tenga una condición grave de salud antes de autorizarle una ausencia para cuidar a ese miembro de su familia. Cuando sea médicamente necesario, la ausencia podrá tomarse de forma intermitente o con horario de trabajo reducido..
- Si está tomando una ausencia por el nacimiento, la adopción o la acogida familiar de un hijo, la duración mínima básica de la ausencia es de dos semanas y deberá concluir la ausencia en el año posterior al nacimiento o de la adopción o cuidado tutelar.

El tomar una ausencia por cuidado familiar o de incapacidad por embarazo puede tener cierto impacto en sus beneficios/prestaciones y en su fecha de antigüedad. Si desea más información sobre su elegibilidad para una licencia y/o el impacto de la ausencia en su antigüedad y sus beneficios, por favor comuníquese con:

(persona de contacto)

(números de teléfono del empleador)

CALIFORNIA PAID FAMILY LEAVE OF ABSENCE

Employees are entitled to up to six weeks of leave benefits over a 12 month period when an employee cannot work due to the serious health condition of a family member or the birth, adoption, or foster placement of a child with the employee or the employee's domestic partner. Employees may be eligible to collect Family Temporary Disability Insurance ("FTDI") benefits provided through the California State Disability Insurance ("SDI") system during such a leave. As the program will be administered by the California Employment Development Department ("EDD"), please contact your local EDD office for additional information.

Employees are eligible for family care benefits if they provide a certification to the EDD establishing that either : (1) a "serious health condition" of a child, parent, spouse or registered domestic partner "warrants the participation of the employee to provide care," or (2) the employee is taking leave for reason of the birth, adoption or foster care placement of a minor child with the employee or the employee's domestic partner, and the leave is taken within one year of the birth or placement. "Serious health condition" is given the same definition as contained in the California Family Rights Act ("CFRA"). Situations that "warrant the participation of the employee to provide care" include providing psychological comfort and arranging third party care for the family member, as well as directly providing or participating in medical care. However, an employee is not eligible for family care benefits for any day that another family member is able and available to provide the required care.

The first seven (7) consecutive days of leave taken for family care are deemed a "waiting period," during which no benefits are payable. Employees are required to use one [or two] week(s) of vacation leave prior to receiving benefits. The vacation time will be applied to the waiting period.

[Employees who are entitled to leave under the Family and Medical Leave Act ("FMLA") or the CFRA must take FTDI leave concurrent with their FMLA and/or CFRA leave.] An employee may not receive FTDI benefits if he or she is also eligible, or already receiving, State Disability Insurance, Unemployment Compensation Insurance, or Workers' Compensation.

PREGNANCY DISABILITY LEAVE OF ABSENCE
[50 EMPLOYEES OR MORE]
(THIS POLICY IS FOR EMPLOYERS WHO HAVE AN FMLA POLICY)

Any employee who is disabled because of pregnancy or a pregnancy-related condition is entitled to up to four (4) months disability leave per pregnancy. The four (4) month leave is defined as one-third or a year or 17 1/3 weeks. A full time employee working 40 hours a week is entitled 693 hours of leave. A part-time employee working 20 hours per week is entitled to 346.6 hours of leave. This leave may be taken intermittently or all at once when medically advisable. During the disability leave, the employee is entitled to use whatever accrued vacation or sick benefits are available, but such benefits cannot be used to extend the four (4) month leave.

Such leave of absence is without pay, and no benefits shall accrue during the period of the leave. Health insurance coverage will be maintained during the Pregnancy Disability Leave, not to exceed four (4) months in a 12-month period.

Upon the completion of the disability leave, the employee shall be entitled to return to the same job previously held, unless the job has been eliminated for business reasons or because preserving the employee's job would substantially undermine the Company's ability to operate safely and effectively which would justify not making the same position available. Under such circumstances, the employee shall be entitled to a comparable position, if any exist at the time reinstatement is requested.

Employees must provide at least thirty (30) days' advance notice of the need for pregnancy leave if it is foreseeable. If thirty (30) days is not practicable, as much notice as is practicable should be given. Employees desiring a pregnancy leave must fill out a request form and provide a doctor's certification stating. (i) the commencement date; (ii) duration of such leave; and (iii) an explanatory statement that due to the disability, the employee is unable to work at all or is unable to perform one or more of the essential functions of her position without undue risk to herself, the successful completion of her pregnancy or to other persons. Forms are available at the office and should be completed and submitted to your supervisor.

Employees who are eligible for our family and medical leave policy may be provided with up to twelve (12) weeks of coverage under our medical plan subject to the requirements and conditions of the "medical insurance coverage" section of our family and medical leave policy. The first twelve (12) weeks of leave for such employee is counted toward the employee's FMLA leave entitlement under federal law, but not to leave under the California Family Rights Act (CFRA). CFRA leave is a separate and distinct entitlement from a pregnancy disability leave under this section. Employees may, under certain conditions, be eligible for twelve (12) additional weeks of CFRA leave at the end of the employee's pregnancy disability or at the end of four (4) months pregnancy disability leave under this section, whichever occurs first.

Pregnancy Accommodation. In lieu of a pregnancy leave of absence, a pregnant employee may request a transfer to a less strenuous or less hazardous position. If such a transfer can be reasonably accommodated, a pregnant employee will be transferred for the duration of her pregnancy, provided that she submits a written request for such transfer, and, in addition, furnishes a doctor's written certificate attesting that the transfer request is upon doctor's advice. However, the company will not undertake to create additional employment within the company that would not otherwise be created to meet its own business needs, nor will the company be required to discharge any employee, transfer any employee with more seniority than the pregnant employee, or to promote an employee who is not qualified to perform the job. Upon transfer, an employee will receive the salary and benefits which are regularly provided to employees in the position to which the employee has been transferred.

Consequences of Failure to Return From the Leave of Absence. Employees should be advised that failure to return after a leave of absence on the scheduled date of return can result in termination.

PREGNANCY DISABILITY LEAVE OF ABSENCE
[LESS THAN 50 EMPLOYEES]
(THIS POLICY IS FOR EMPLOYERS WHO DO NOT HAVE AN FMLA
POLICY)

Any employee who is disabled because of pregnancy or a pregnancy-related condition is entitled to up to four (4) months disability leave per pregnancy. The four (4) month leave is defined as one-third or a year or 17 1/3 weeks. A full time employee working 40 hours a week is entitled 693 hours of leave. A part-time employee working 20 hours per week is entitled to 346.6 hours of leave. This leave may be taken intermittently or all at once when medically advisable. During the disability leave, the employee is entitled to use whatever accrued vacation or sick benefits are available, but such benefits cannot be used to extend the four (4) month leave.

Such leave of absence is without pay, and no benefits shall accrue during the period of the leave. Health insurance coverage will be maintained during the Pregnancy Disability Leave, not to exceed four (4) months in a 12-month period.

If the need for disability leave is foreseeable, an employee must provide at least thirty (30) days' advance notice. If thirty (30) days is not possible, notice must be given by the employee as soon as practicable. Pregnancy Disability forms are available from the [corporate office].

Pregnancy Disability leave will be granted on the basis of a physician's written statement that an employee is no longer able to work due to a pregnancy related disability. Employees requiring a Pregnancy Disability leave must submit a written request to the [corporate office] and a physician's certification stating: a) the date on which the employee became disabled due to pregnancy; b) the probable duration of the period(s) of disability; and c) a statement that, due to the disability, the employee is unable to work at all or to perform any one or more of the essential functions of the employee's position without undue risk to herself, the successful completion of the pregnancy or to other persons. The certification shall also provide the Company with the expected return to work date. Employees returning to work after a Pregnancy Disability leave must have a written release from a physician verifying that they are able to return to work and safely perform their duties.

An employee who is granted a Pregnancy Disability leave of absence will be entitled to utilize any accrued vacation or sick/personal leave benefits during the period of disability for which the employee may be eligible. However, employees are not eligible to accrue vacation or sick pay during the leave of absence, nor are they eligible to receive paid holiday benefits.

[If an employee requires a leave of absence due to a pregnancy related disability, and is also eligible under the Company's Family and Medical Care Leave Policy,

Pregnancy Disability Leave and Family and Medical Care Leave will run concurrently for at least the first twelve (12) workweeks of the pregnancy related disability.]

At the end of the employee's pregnancy disability, or at the end of four (4) months pregnancy disability leave, whichever occurs first, employees may be eligible for twelve (12) additional weeks of leave under the California Family Rights Act ("CFRA") to care for the newborn child. CFRA leave is a separate and distinct entitlement from a pregnancy disability leave.

Pregnancy Accommodation

In lieu of a pregnancy leave of absence, a pregnant employee may request a transfer to a less strenuous or less hazardous position. If such a transfer can be reasonably accommodated, a pregnant employee will be transferred for the duration of her pregnancy, provided that she submits a written request for such transfer, and, in addition, furnishes a doctor's written certificate attesting that the transfer request is medically necessary. However, the Company will not create additional employment within the Company that would not otherwise be created to meet its own business needs, nor will the Company be required to discharge any employee, transfer any employee with more seniority than the pregnant employee, or to promote an employee who is not qualified to perform the job. Upon transfer, an employee will receive the salary and benefits which are regularly provided to employees in the position to which the employee has been transferred.

At the conclusion of the employee's Pregnancy Disability Leave, the Company will reinstate the employee to the same or a substantially equivalent position. The employee is requested to discuss with the [Human Resources] Department, prior to the Leave, whether or not immediate reinstatement to the employee's position or a substantially equivalent position can be accomplished while at the same time meeting the business needs of the Company.

Consequences of Failure to Return From the Leave of Absence

Employees should be advised that failure to return to work upon the expiration of your approved leave of absence without written notification and approval from the [Human Resources] Department will constitute job abandonment.

FAMILY MEDICAL LEAVE (FMLA) [50 EMPLOYEES OR MORE]

1. Family Care or Medical Leave Defined. The Company will provide an unpaid family care or medical Leave of Absence for any employee who has at least twelve (12) months service and has worked twelve hundred and fifty (1250) hours during the previous twelve (12) month period. If the employee has worked the required time for the Company, the reasons for requesting a family care or medical leave will determine whether the employee will receive such a leave. The following are reasons that will entitle an employee to a family care or medical leave:

- (i) Leave for reason of the birth of a child of the employee;
- (ii) Leave for reason of the placement of a child with the employee in connection with the adoption or foster care of a child;
- (iii) Leave for a serious health condition of a dependent child of the employee;
- (iv) Leave to care for a parent or spouse who has a serious health condition; and
- (v) Leave because of a serious health condition of the employee which prevents the employee from performing the essential functions of their position.
- (vi) Leave because of any qualifying exigency arising out of the fact that the spouse, or a son, daughter or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
- (vii) Leave to care for a spouse, son, daughter, parent or next of kin who is a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

2. Maximum Amount of Family Care or Medical Leave. The maximum amount of time for family care or medical leave is three (3) months (12 work weeks) during a twelve (12) month period. This twelve-month period is a rolling period and dates back from the date leave is first used. Leaves for the birth of a child or the placement of a child must be completed within twelve (12) months following the birth or placement of the child. When both spouses work for the Company, the maximum combined amount of leave for the birth or placement of a child or to care for a parent is twelve (12) weeks in a twelve (12) month period. Intermittent leaves or leaves on a reduced work schedule are not permitted after the birth or placement of a child, unless the Company approves intermittent leaves in advance. This does not apply where the employee's child or the employee has a serious health condition requiring treatment. Leaves for the other reasons specified in the section above can be intermittent or on a reduced work schedule when medically necessary.

(A) Maximum Leave to Care for Service Member. The maximum amount of time for family care or medical leave for an eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member in the Armed Forces is twenty six (26) workweeks during a single twelve (12)-month period to care for the service member.

3. Position will be Held Open. At the termination of the leave, the employee will be returned to their former position or an equivalent one unless the employee's position has been eliminated. No break in service or loss of seniority occurs during the family care or medical leave. Employees on leave because they have a serious health condition must provide a release to return to work, signed by a health care provider.

4. Serious Health Condition Defined. A serious health condition requires inpatient care, subsequent treatment in connection with inpatient care, or continuing treatment by a health care provider. It includes absences which are on a recurring basis for treatment or recovery. Minor illness of brief durations (3 days or less) are not serious health conditions. Examples of serious health conditions are heart conditions, stroke, cancer, back injuries, pneumonia, emphysema, severe morning sickness, prenatal care, childbirth and recovery from childbirth. Serious health conditions do not include absence for substance abuse (except where treatment by a health care provider is sought), or routine physical exams.

(A) Serious Injury or Illness of Service Member Defined. A serious injury or illness in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

5. Health Care Providers' Certificate Required for Family Care Leave. Employees are required to provide the Company with a certificate from a health care provider which certifies that the leave is required. Employees requesting a leave to care for other family members or covered service member are required to provide a health care providers' certificate which states that the employee is needed to care for the individual or service member requiring care. In the case of an employee's illness, a health care provider certification is also required. The certificate must state that the employee is unable to perform the essential functions of the job. In the case of a serious health condition of the employee, the Company may require the employee to be examined by a different physician at the Company's cost. The exact information required is set forth on a form which will be provided to you.

(A) Certification Related to Active Duty or Call to Active Duty. Employees who are called to active duty may be required to provide the Company with certification showing the need for such leave as required by state or federal law.

6. Notice Required. Employees are required to give the Company thirty (30) days' advance notice of the date that their family care or medical leave will commence, unless the event that gives rise to the need for the leave was unforeseeable, in which case the employee shall give as much notice as practicable of the date when leave will be required. When planning medical treatment, employees are requested to consult with your supervisor in order to make a reasonable schedule, so as to not disrupt our operations, subject to the approval of your doctor.

(A) Notice for Leave Due to Active Duty of Family Member. In any case in which the necessity for service member family leave is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee shall provide as much notice to the Company as is reasonable and practicable under the circumstances.

7. Interpretations of this Family Care or Medical Leave policy shall be governed by state and federal law.

8. Medical Insurance Coverage. Employees on family care or medical leave who are covered by a Company-sponsored group health plan will continue to be covered during the time they would have been working for the Company, absent the family care or medical leave. If the employee was paying a co-payment prior to the family care or medical leave for coverage on the Company-sponsored group health plan, the employee is required to continue to make the co-payment to maintain coverage while on family care or medical leave. The Company is not required to cover employees who do not make the requisite co-payment for insurance. Employees who do not return to the Company's employ after a family or medical leave shall reimburse the Company for all medical premiums paid on their behalf during the family care or medical leave.

9. Family care or medical leave is unpaid, and no benefits shall accrue during the period of the leave. However, employees may use any accrued vacation or sick time during such leave. Employees wishing to take a family or medical leave must fill out a request form and provide the required medical certification. These forms are available at the office and should be completed and submitted to your supervisor.

Via Certified Mail
Return Receipt Requested

August 17, 2011

Employee name
Address
City, State Zip Code

Dear _____:

We hope that this letter finds you well. We received your physician's certification dated [date] stating that your medical condition will continue through [date]. Unfortunately, your leave of absence pursuant to the Family and Medical Leave Act ("FMLA") will expire/expired on [date of expiration]. As a reasonable accommodation of your disability, you have been granted a further leave of absence beyond the expiration date of your FMLA leave of absence. Additionally, upon the conclusion of your leave and when you are able to return to work, you will be placed on a preferential list to be offered the first available position for which you are qualified.

Once your healthcare provider has submitted written verification that you are able to return to work, with or without restrictions, you will be offered the available position. If no positions are available, you will remain on the preferential list and offered the next available position for which you are qualified. While you are on the preferential list, it is your responsibility to keep the Human Resources Department informed once a month, in writing, of your continued interest in returning to work and remaining on the preferential list. You must provide this written confirmation on the first day of every month. If we do not receive such written confirmation for two consecutive months, then we will presume that you are no longer interested in returning to work and have voluntarily resigned.

In addition, upon expiration of your FMLA leave, you will be provided with information regarding continuation of your health insurance benefits pursuant to COBRA.

Please do not hesitate to contact me if you have any questions regarding the foregoing. We wish you a speedy recovery.

Sincerely,