

Department of Labor Publishes Updated Family and Medical Leave Act Forms

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By Susan Gross Sholinsky, Joshua A. Stein, Nancy L. Gunzenhauser, and Gregg Settembrino

On May 27, 2015, the Department of Labor (“DOL”) issued new model Family and Medical Leave Act (“FMLA”) notices and medical certification forms. The previously issued forms expired as of February 28, 2015, without any update by the DOL. These new model forms are valid through May 31, 2018.

Aside from the new, extended expiration date, there is only one noteworthy change from the old forms—many of the forms now acknowledge the obligations of employers and health care providers under the Genetic Information Nondiscrimination Act (“GINA”) by including requisite disclosure language. This language informs health care providers about the types of information that they should not provide to employers and serves to protect employers in the event they inadvertently receive information prohibited under GINA. The language itself is not new, but its inclusion in the DOL’s FMLA forms serves as a codification of rules and recommendations that have been in place since the passage of GINA in 2008.

As a reminder, under GINA:

- **employers** are required to maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in files/records that are separate from personnel files if such certifications, recertifications, or histories are covered by GINA; and
- **health care providers** should not provide any information about:
 - genetic tests or genetic services on FMLA certification forms; or
 - the manifestation of disease or disorder in the employee’s family members on the [Certification of Health Care Provider for Employee’s Serious Health Condition form](#).

The following is a list of the revised forms, and you may click on each link to access the applicable form:

- [Certification of Health Care Provider for Employee's Serious Health Condition](#)
- [Certification of Health Care Provider for Family Member's Serious Health Condition](#)
- [Certification for Serious Injury or Illness of a Current Servicemember—for Military Family Leave](#)
- [Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave](#)

Other FMLA forms published by the DOL were not updated and remain effective as-is. Employers may access these forms at the following links:

- [Notice of Eligibility and Rights & Responsibilities](#)
- [Designation Notice](#)
- [Certification of Qualifying Exigency for Military Family Leave](#)

What Employers Should Do Now

- Review your FMLA forms to ensure that they are current.
- Review GINA-related obligations with human resources personnel and/or company medical professionals, if applicable, to ensure GINA compliance.
- Train human resources personnel and/or company medical professionals on what information can and cannot be sought in connection with FMLA forms pursuant to GINA.

For more information about this Advisory, please contact:

Susan Gross Sholinsky
New York
212-351-4789
sgross@ebglaw.com

Joshua A. Stein
New York
212-351-4660
jstein@ebglaw.com

Nancy L. Gunzenhauser
New York
212-351-3758
ngunzenhauser@ebglaw.com

Gregg Settembrino
New York
212-351-4809
gsettembrino@ebglaw.com

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