Summary of the Family and Medical Leave Act of 1993

The *Family and Medical Leave Act of 1993* (FMLA) was enacted on August, 1993. It requires public agencies to provide up to twelve weeks (60 work days; 480 work hours) of unpaid, job-protected leave per calendar year to *eligible* employees for certain family and medical reasons. Employees are eligible if they have worked for Emerge in a salaried position at least one year or for Emerge in a wage position for at least one year and in addition the employee has worked 1,250 hours during the immediate prior 12 months. Leave for part-time employees is given proportionate to the percent of time worked and the one year requirement still applies.

**Reasons for Taking Leave**

An employer must grant unpaid leave to eligible employees for one or more of the following reasons:

- a serious health condition that makes the employee unable to perform their job;
- the care of the employee’s child (birth, adoption or foster care; or
- the care of the employee’s spouse, parent, step-parent, child, step-child who has a serious health condition.
- Certain types of paid leave may be substituted for unpaid leave at the option of the employee or the employer.

**Advance Notice and Medical Certification**

- The employee should provide 30 days advance notice and medical certification. In case of emergency the request may initiated by family member.
- An employer may also require medical certification if the employee is unable to return from leave because of a serious health condition.
- An employer may require second or third opinions (at the employer’s expense) and may require a release to return to work.

**Intermittent or Reduced Leave**

- An employee may take intermittent leave or may work a reduced leave schedule to reduce the usual number of hours per day or work week.
- Subject to the approval of the healthcare provider, when planning medical treatment the employee should consult with the employer and make a reasonable effort to schedule the leave so as not to unduly disrupt department operations.
- Intermittent or reduced scheduled leave to care for a newborn child, adoption or foster care is subject to department head approval.

**Job and Benefits Protection**

- Upon return from FMLA leave, employees must be returned to their original or equivalent position with equivalent pay, benefits and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit accrued prior to the start of the employee’s leave.
- The use of unpaid FMLA leave cannot affect the exempt status of bonafide executive, administration and professional employees under the *Fair Labor Standards Act*.

**Miscellaneous Provisions**

- *Special rules apply to employees of local education agencies.*
- Employers must post a notice approved by the Secretary of Labor explaining rights and responsibilities under FMLA. Any
sick leave under the provisions of FMLA, the payroll deductions of the employee portion of the premium continues.

- If the employee fails to return to work from FMLA, the employer may recover premiums paid to maintain the employee’s health coverage.

**FMLA Does Not**

- affect any federal or state laws prohibiting discrimination;
- supersede any state or local law which provides greater family or medical leave rights;
- discourage employers from adopting policies more generous than required by FMLA.

**Unlawful Acts by Employers**

FMLA makes it unlawful for an employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA;
- discharge or discriminate against any person for opposing any practice made unlawful; and
- discharge or discriminate against any person because of involvement in any proceeding under or related to FMLA.

employer who willfully violates this requirement may be subject to a fine of up to $100 for each separate offense.

**Enforcement**

- The Secretary of Labor is authorized to investigate and attempt to resolve complaints of violations and may bring an action against an employer in any federal or state court of law.
- The enforcement procedures of FMLA parallel those of the federal Fair Labor Standards Act. The FMLA will be enforced by the Department of Labor’s Wage and Hour Division.
- An eligible employee may bring a civil action against an employer for violations.
- Employers who act in good faith and have reasonable grounds to believe their actions did not violate FMLA may have any damages reduced to actual damages at the discretion of a judge.

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For additional information, contact Employee Services at (520) 795-8001 ext 7004.
Emerge FMLA Employee/Supervisor Responsibilities and Information

- At the time the employee makes the supervisor aware of a request for leave for a reason that might qualify under FMLA, the supervisor should give the employee the application and related information.

- The FMLA Request Form may be completed by the employee, family member, or the supervisor.

- It is the responsibility of the employee, not the supervisor, to submit the (original) completed Certification of Health Provider Form (by the attending physician) to Employee Services within fifteen (15) calendar days; copies may be retained by the employee and supervisor.

- Failure to submit the appropriate paperwork to Employee Services within the 15 calendar day time frame may result in the denial of FMLA leave.

- The supervisor has an option of putting the employee on Provisional FMLA leave to avert the use of more leave than necessary from work. Please call Employee Services for additional information.

- The employee must have worked for Emerge for at least 12 months and must have worked 1,250 hours during the previous 12 months. Leave for part-time employees is given proportionate to the percent of time worked.

- **Payroll will:**
  1. determine the 1,250 hours eligibility requirement,
  2. calculate the available leave.

- **Employee Services will:**
  3. verify the certification of the required documentation by the attending physician,
  4. notify the employee and supervisor or VP documenting the approval or /disapproval of the request for FMLA leave with effective date and any current accrued leave balances.

- Follow up medical documentation may be requested of the employee only by Employee Services during the time the employee is on leave.

- If an intermittent or reduced work schedule is requested, it must be discussed and developed by the employee and the supervisor, maintaining the plan at the department. An intermittent or reduced schedule of leave for birth, adoption or foster care of a child is subject to approval by the department head. Contact Employee Services for assistance.

- If the employee is on unpaid approved FMLA leave, it will be his/her responsibility to pay the employee portion of the monthly health care premium to the Payroll Office.

- If the employee does not return to work after 12 weeks of leave, Emerge may then seek to recover the health insurance contribution for the period of leave-without-pay.

- At the end of the FMLA leave, the employee will be reinstated to the original or equivalent position.

- For the birth, adoption or foster care placement of a child, the parents may only use twelve weeks of combined leave. They are not each entitled to twelve weeks of FMLA leave.

**Reporting Leave and Leave Usage**

- The employee has the option of using applicable leave balances while on approved FMLA leave. The hours will be deducted from the employee’s FMLA leave annual entitlement.

- An eligible employee may take up to 12 weeks of unpaid leave or use applicable leave balances (annual, sick or compensatory).

- If an employee is found ineligible for FMLA leave, standard leave policies will apply.

- If the employee is unavailable to complete the Time Sheet, the supervisor should complete it, and enter leave on the leave system.

- If the employee will be on leave-without-pay for more than 14 consecutive calendar days, the department must notify the Payroll Office.

- Under the Standard Sick Leave Plan, employees may use up to 48 hours of Family Sick Leave per calendar year with no more than 24 hours per event for the illness of an immediate family member (parents, step-parents, spouse, children, step-children).

**Employees Use of Accrued Leave While On Family And Medical Leave**

**The Serious Health Condition of the Employee**

Under the Personal Time Off(PTO) Leave Plan the employee may use PTO leave then other applicable leave balances may be used or the employee may go on leave-without-pay.

If the employee is enrolled in Supplemental Benefits with AFLAC, the employee must contact AFLAC, the administrator of the plan at 1-800-992-3522.

**Caring for an Immediate Family Member (parents, step-parents, spouse, children, step-children)**

Under the Personal Time Off(PTO) Leave Plan the employee may use PTO leave then other applicable leave balances may be used or the employee may go on leave-without-pay.

**Birth of a Child**

Under the Personal Time Off(PTO) Leave Plan the employee may use PTO leave then other applicable leave balances may be used or the employee may go on leave-without-pay.

**Adoption or Placement of a Foster Child**

Under the Personal Time Off(PTO) Leave Plan the employee The parent(s) may use PTO leave then other applicable leave balances may be used or the employee may go on leave-without-pay.

If both parents are Emerge employees, their FMLA entitlement is a total of 12 weeks combined.

Revised 9-17-09
# Family and Medical Leave (FMLA) Request Form

<table>
<thead>
<tr>
<th>Name:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Security Number:</td>
<td>Department:</td>
</tr>
<tr>
<td>Mailing Address (home):</td>
<td>Home Phone Number:</td>
</tr>
<tr>
<td>Supervisor’s Name:</td>
<td>Phone Number:</td>
</tr>
<tr>
<td>☐ Salaried Appointment ☐ Wage Appointment</td>
<td>Normal Work Hours Per Week:</td>
</tr>
<tr>
<td>Hire Date:</td>
<td></td>
</tr>
<tr>
<td>Anticipated Begin Date of Leave:</td>
<td>Expected Return to Work Date:</td>
</tr>
<tr>
<td>Has the Employee Taken Other FMLA leave During this Calendar Year?</td>
<td></td>
</tr>
<tr>
<td>☐ Yes ☐ No. If Yes, How Many Work Days?</td>
<td></td>
</tr>
<tr>
<td>Explain Reason for Request:</td>
<td></td>
</tr>
<tr>
<td>Schedule of Leave Request:</td>
<td></td>
</tr>
<tr>
<td>☐ For entire period requested above</td>
<td></td>
</tr>
<tr>
<td>☐ Intermittent (a few hours a day, for a few days a week or on an as needed basis)</td>
<td></td>
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<tr>
<td>☐ Reduced Schedule (reduction in hours worked per work week or work day)</td>
<td></td>
</tr>
<tr>
<td>☐ Retain Leave Balances During Leave ☐ Use Applicable Leave Balances</td>
<td></td>
</tr>
</tbody>
</table>

Request is initiated by: ☐ Employee ☐ Supervisor ☐ Other (family member)

**Signature of Person Initiating Request:**

<table>
<thead>
<tr>
<th>Signature:</th>
<th>Date:</th>
</tr>
</thead>
</table>

Please return to: *Emerge! Center Against Domestic Abuse*  
*Attn: Employee Services*  
*2545 East Adams Street*  
*Tucson, AZ 85716*

Note: After making the supervisor aware that the employee needs leave for a reason that might qualify FMLA Leave, it is the responsibility of the employee to obtain from the physician the completed *Certification of Health Provider Form* and return to Human Resources within fifteen (15) days.
Certification of Health Care Provider Form  
Family and Medical Leave Act of 1993

<table>
<thead>
<tr>
<th>Employee’s Name:</th>
<th>Patient’s Name (if different from employee)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee’s Department:</td>
<td>Patient’s Relationship to Employee:</td>
</tr>
</tbody>
</table>

Do you believe the physical presence of the employee named above is necessary or beneficial in the care of the patient?  
☐ Yes  ☐ No  If Yes, for how long? __________________________

The Following is to be Completed by the Attending Physician or Practitioner:
The information requested on this form relates only to the *serious health condition* for which the employee is requesting leave under the Family and Medical Leave Act. *Please check the applicable category of the patient’s qualifying condition.* NOTE: Definitions on Reverse Side of This Form

<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Hospital Care</td>
<td>Admission to Hospital Date: _______________  Discharge Date: _______________</td>
</tr>
<tr>
<td>☐ Acute Condition (Absence Plus Treatment)</td>
<td></td>
</tr>
<tr>
<td>☐ Birth of a Child</td>
<td>Estimated Date of Delivery _______________  ☐ Request for Mother  ☐ Request for Father</td>
</tr>
<tr>
<td>☐ Chronic/Permanent</td>
<td>Expected frequency of absence: _______________  Lasting _______________ hours per absence</td>
</tr>
</tbody>
</table>

1. Length of time your patient has had/will have this condition: _______________ Through _______________. (keeping the employee from essential function of his/her job.)

2. Describe the *regimen of treatment* to be prescribed indicating the number of visits, general nature and duration of treatment, including referral to other provider(s) of health services.

Include schedule of visits or treatment, if medically necessary for the employee to be off work on an intermittent basis or to work less than the employee’s normal schedule of hours per day or days per week.

Print or Type Name of Healthcare Provider

______________________________
Signature of Healthcare Provider

______________________________
Type of Practice

______________________________
Street and Mailing Address

______________________________  ______________________________
Telephone Number  FAX Number

______________________________
Physician Signature  Date

*Please Return the Completed Form to:*  
Employee Services, 2545 East Adams Street, Tucson, AZ 85716
<table>
<thead>
<tr>
<th>Definitions for Purposes of FMLA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>Incapacity:</strong> the inability to work, attend school or perform other regular daily activities due to the serious health condition and treatment for or recovery from.</td>
</tr>
<tr>
<td>2. <strong>Treatment:</strong> includes examinations to determine if a serious health condition exists and evaluations of the condition but does not include routine physical and eye or dental examinations.</td>
</tr>
<tr>
<td>3. <strong>A Regimen of Continuing Treatment:</strong> includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications, such as aspirin or antihistamines that can be initiated without a visit to a health care provider.</td>
</tr>
<tr>
<td>4. <strong>Serious Health Condition:</strong> an illness, injury, impairment or physical or mental condition involving hospital care, absence plus treatment, pregnancy, a chronic condition requiring treatment or permanent/long term conditions requiring supervision, as described above.</td>
</tr>
<tr>
<td>5. <strong>Hospital Care:</strong> Inpatient care (an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.</td>
</tr>
</tbody>
</table>
| 6. **Absence Plus Treatment:** A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition) which also involves:
  - Treatment two or more times by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider or by a provider of health care services (e.g., physical therapist) under orders of or on referral by a health care provider; or
  - Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of health care provider. |
| 7. **Pregnancy:** A period of incapacity due to pregnancy or for prenatal care |
| 8. **Chronic Conditions Requiring Treatment:** A chronic condition which:
  - Requires periodic visits for treatment by a health care provider or by a nurse or physicians assistant under direct supervision of a health care provider;
  - Continues over an extended period of time (including recurring episodes of a single underlying condition);  
  - May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). |
| 9. **Permanent/Long Term Conditions Requiring Supervision:**
  - A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving, active treatment by a health care provider. Examples include Alzheimer’s, a severe stroke, or the terminal stages of a disease. |