

# Know state and federal law for family medical leave

By VIRGINIA JUSTICE

On August 5, 1993, the Family Medical Leave Act (FMLA) was signed into federal law, providing working families with employment protection when an illness requires significant time loss for self-care or caring for a family member. Most of us have probably never considered the need for FMLA, let alone had to request its use. Though this law has been in effect for 24 years there still seems to be much confusion regarding FMLA and state law. Although different, there are many similarities. FMLA is the federal version; Oregon Family Leave Act (OFLA)/Oregon Family Medical Leave Act (OFMLA) is the state law. Oregon's Bureau of Labor and Industries enforces OFLA/OFMLA, but not FMLA.

Why are these acts important? Because they ensure that if you need time off to care for an ill family member or yourself, your continued employment is protected. If you take FMLA or OFLA/OFMLA leave, your employer must return you to your former position or an equivalent position. FMLA and OFLA/OFMLA both provide 12 weeks of unpaid leave (though some employers may require employees to use accrued paid leave) during a 12-month period for the following:

- Care for a spouse, son, daughter or parent with a serious health condition. Oregon's list of qualifying family is more expansive and includes same-gender domestic partners, in-laws, grandparents and others.
- For an employee when a serious health condition causes the em-

ployee to be unable to perform the essential functions of their job. OFLA/OFMLA permits leave for a sick child, which is not serious, yet requires home care.

- For the birth of a child or placement of a child for adoption or foster care.



- FMLA provides coverage for any need arising from a spouse, son, daughter or parent who is a military service member on active duty or called to active duty.
- OFLA/OFMLA provides for two weeks of bereavement leave to attend to the arrangements of a family member who has passed away. This leave must be completed within 60 days of the date the employee learned of the death.

Not all employers are covered under these laws. FMLA applies to only employers with 50 or more employees within a 75 radius. OFLA/OFMLA, however, applies to

employers with 25 or more employees within the state of Oregon. The other significant difference between the federal and state acts is the amount of time on the job required prior to requesting this type of leave. To qualify for leave under OFLA/OFMLA the employee must

have worked at least 180 calendar days with an average of 25 hours per week. The exception to this is parental leave where no weekly average is required. For FMLA you must have worked at least 1,250 hours during the 12-month period immediately preceding the FMLA request.

OFLA/OFMLA provides women with an additional 12 weeks of leave in a 12-month period. If they use 12 weeks of maternity leave, they may be granted an additional 12 weeks for another qualifying OFLA/OFMLA event. Parents granted 12 weeks leave for parental leave are entitled to up to an additional 12 weeks leave to care for a



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sick child.

Both FMLA and OFLA/OFMLA provide for intermittent leave that can be taken in blocks of time that total up to the 12 weeks. This intermittent leave would be for illnesses that require frequent medical visits, testing, etc. that over the course of 12 months may total 12 weeks.

Begin your request for leave at your employer's human resources department. There are specific deadlines for request and approval of this leave. You will need a medical professional's certification for FMLA and OFLA/OFMLA. Most employers provide a form for your doctor to complete. The best source of information is from the state of Oregon Bureau of Labor and Industries website at [www.oregon.gov/boli/CRD/Pages/OFLA\\_FMLA.aspx](http://www.oregon.gov/boli/CRD/Pages/OFLA_FMLA.aspx).

FMLA and OFLA/OFMLA seem very complex and there are many rules regarding their use. For more on the specifics of state law and your rights as an employee in Oregon, follow the link above. For information on FMLA for employees, visit [www.dol.gov/whd/fmla/employeeguide.pdf](http://www.dol.gov/whd/fmla/employeeguide.pdf). This document explains the law in easy-to-understand terms.

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