

ADVANCED FMLA REGIONAL WORKSHOP QUALIFYING EXIGENCY LEAVE AND MILITARY CAREGIVER LEAVE

Qualifying Exigency Leave

The FMLA also requires employers to grant **up to twelve weeks of leave** for certain qualifying exigencies **to employees whose spouse, child of any age, or parent is a military service member under a call or order to federal active duty and are being deployed to a foreign country**. This form of FMLA leave is known as *qualifying exigency leave*. In general, qualifying exigency leave is designed to give employees time to deal with some of the informational, financial and child-related issues that arise when a family member is called to or on active duty.

The U.S. Department of Labor's FMLA regulations define *qualifying exigency* as:

- deployment of a service member to a foreign country with seven or fewer days' notice;
- military ceremonies and events, as well as support, family-assistance or informational programs related to a service member's active duty or call to active duty status in connection with a foreign deployment;
- providing urgent, immediate childcare/parental care or arranging for alternative childcare/parental care for the children/parent of service members on or called to active duty for deployment abroad;
- attending school, daycare/care facility meetings relating to the child/parent of a service member on or called to active duty for deployment abroad;
- making financial or legal arrangements related to a service member's active duty status or call to active duty for deployment abroad;
- counseling sessions related to a service member's active duty status or call to active duty;
- post-deployment activities for a period of ninety days after the termination of the service member's foreign deployment; or
- spending time with military member who is on rest and recuperation leave during deployment.

Qualifying exigency leave may be taken on an intermittent or reduced schedule. 29 CFR 825.126

Who May Take Qualifying Exigency Leave?

Qualifying exigency leave is available to employees whose *spouse, child of any age or parent* is a military service member under a call or order to federal active duty for deployment to a foreign country. *Qualifying exigency leave is limited to situations in which a call or order to active duty status is in support of a contingency operation.* The active duty orders of a service member will generally say whether he or she is serving in support of a contingency operation.

Qualifying exigency leave now applies to the family members of all members of the armed forces, including the regular armed forces as well as those serving in the Reserve components of the armed forces, and the National Guard. 29 CFR 825.126

Notice of the Need to Take Qualifying Exigency Leave:

Notice of the need for qualifying exigency leave must be “as soon as practicable.” There is requirement that leave be foreseeable. *This is a different standard than that applied to FMLA or military caregiver leave.* 29 CFR 825.302

Certification for Qualifying Exigency Leave. Employers may require employees requesting qualifying exigency leave to provide:

1. a copy of the military member’s active duty orders or other documentation issued by the military indicating that the military member is on or called to active duty and will be deployed abroad and the dates of the deployment, **and**
2. a certification from the employees setting forth:
 - a. facts supporting the employee’s need for leave in this situation (does the employee need, for example, to attend military briefings for family members, meet with a counselor or school official, or meet with a lawyer or financial advisor);
 - b. the approximate starting date on which the qualifying exigency began or will begin;
 - c. the beginning and end dates of the absence for which the employee is requesting FMLA qualifying exigency leave;
 - d. if the employee is meeting with a third-party, identifying and contact information for the third-party and a description of the meeting’s purposes.

An employer may not request recertification of the covered service member’s orders. It may, however, request certification of each individual qualifying exigency arising out of the same call to duty.

Use U.S. DOL Form WH-384 Certification of Qualifying Exigency Leave.

Note that certification of the need for qualified exigency leave is subject to the same time requirements as FMLA leave: the employer must request the certification in writing within five days of the request for or beginning of leave and the certification must be completed and returned within fifteen days of its receipt from the employer. 29 CFR 825.309

Military Caregiver Leave

FMLA-eligible employees may take **up to 26 weeks of leave within a twelve-month period** to care for a family member who has been injured or become ill while serving in the armed forces.

Covered Service Members

Employees may take military caregiver leave to care for current members or veterans of:

- the regular Armed Forces,
- the National Guard or Reserves, and
- the regular Armed Forces or National Guard or Reserves who are on the disability retired list, who have a serious injury or illness incurred in the line of duty on active duty (or have a preexisting condition that was aggravating during active duty) that renders them medically unfit to perform the duties of his or her office, grade or rating, and for which the service member is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status or is otherwise on the disability retired list.

Veterans must have been discharged or released within five years of date on which the veteran begins medical treatment, recuperation or therapy for injuries or illness incurred in the line of duty.

Who Can Take Leave?

The spouse, “son or daughter of a covered service member,” “parent of a covered service member” or “next of kin of a covered service member.”

These are terms of art used only in the context of military caregiver leave and are different from the definitions of “son,” “daughter” or “parent” as used elsewhere in the context of the FMLA.

- a. “Son or daughter of a covered service member” means biological, adopted, foster, stepchild, legal ward or a child for whom the service member stood *in loco parentis*. The child may be of any age.
- b. “Parent” means biological, adoptive, step or foster father or mother or any other person who stood *in loco parentis* to the employee and, as elsewhere in the FMLA, does not include in-laws.
- c. “Next of kin” means nearest blood relative other than spouse, son, daughter or parent in order of priority set out in 29 CFR 825.127(d)(3).

Notice of the Need for Military Caregiver Leave

An employer may require an employee to give notice of the need for military caregiver leave:

- 30-days in advance, when the need for military caregiver leave is foreseeable.
- Either the same day or the next business day, when the need for leave was not foreseeable.
- This is the same notice requirement as applies to FMLA leave for the serious health condition of an employee or of an employee's immediate family member.
- An employer may require employees requesting military caregiver leave to use its usual and customary notice and procedural requirements for requesting leave. If an employee fails to do so without a reasonable justification, the employer may delay or deny leave. 29 CFR 825.302

Certification for Military Caregiver Leave

An employer may ask an employee requesting military caregiver leave to provide a medical certification of the need for leave from the healthcare provider of the service member.

1. For the purposes of military caregiver leave, the healthcare providers who may complete the certification include Department of Defense providers, Department of Veterans Affairs providers, TRICARE network authorized private providers, and non-network TRICARE authorized private providers.
2. Pursuant to 29 CFR § 825.310(b) and (c), medical certifications for military caregiver leave may ask information sufficient to establish the employee's need for leave, including the following:
 - a. A statement of medical facts regarding the service member's health condition – specifically, facts relating to whether the injury or illness renders the service member medically unfit to perform the duties of his or her military office, grade, rank or rating and whether the member is receiving medical treatment, recuperation or therapy;
 - b. Information sufficient to establish that the service member is in need of care;
 - c. A description of the care to be provided to the service member and an estimate of the leave needed to provide the care; and
 - d. The relationship of the employee to the service member.
3. Certification of the need for military caregiver leave is subject to the same time requirements as FMLA leave: the employer must request the certification in writing within five days of the request for or beginning of leave and the certification must be completed and returned within fifteen days of its receipt from the employer.

Because military caregiver leave differs from FMLA leave to care for a family member with a serious health condition, employers should not use the same certification form for traditional FMLA leave and military caregiver leave.

For military caregiver leave, use U.S. DOL Forms WH-385 (current service member), WH-385-V (veteran). 29 CFR 825.310

Four Important Points about Military Caregiver Leave

1. The timing requirements for certification are the same as those for FMLA leave. The employee must return the certification of the need for military caregiver leave within fifteen calendar days after receiving the form from the employer.
2. In contrast to FMLA leave, second and third opinions are not permitted for military caregiver leave. Some exceptions apply. 29 CFR 825.310(d)
3. Again in contrast to FMLA leave, recertifications are not permitted for military caregiver leave. 29 CFR 825.310(d)
4. An employer requiring certification for military caregiver leave, must accept “invitational travel orders” (ITOs) or invitational travel authorizations (ITAs) issued to a family member to join an ill or injured service member at his or her bedside in lieu of the DOL’s certification form or the employer’s own certification form. 29 CFR 825.310(e)

Calculating the Amount of Military Caregiver Leave an Employee May Take.

- The employee is eligible for 26 weeks of leave to care for the service member during a single twelve-month period.
- This is a limit of one-time per covered service member per injury.
- An employee may be eligible to take 26 weeks of leave in a subsequent year to care for a different family member or to care for the original covered service member who has suffered a subsequent injury upon return to duty.
- If the covered service member needs care for the original injury beyond the initial 26 weeks of military caregiver leave, the employee may be able to use his or her 12-week FMLA entitlement in a subsequent year to care for the service member as an immediate family member with a serious health condition.
- The employee is entitled to a combined total of 26 workweeks of leave for any FMLA-qualifying reason in a year in which she or he takes military caregiver leave.
- The single twelve-month period begins the first day the employee takes military caregiver leave and ends twelve months later, regardless of the method that the employer uses to determine FMLA entitlement for other forms of FMLA leave.
- Military caregiver leave may be taken on an intermittent or reduced leave schedule. 29 CFR 825.200(f), (g), 825.127(e)

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: 5/31/2018

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



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

OMB Control Number: 1235-0003
Expires: 5/31/2018

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, and in accordance with 29 CFR 1635.9, if the Genetic Information Nondiscrimination 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. Do not provide information about genetic tests, as defined in 29 CFR 1635.3(f), or genetic services, as defined in 29 CFR 1635.3(e).

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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Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave (Family and Medical Leave Act)

U.S. Department of Labor Wage and Hour Division



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

OMB Control Number: 1235-0003 Expires: 5/31/2018

Notice to the EMPLOYER

The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking military caregiver leave under the FMLA leave due to a serious injury or illness of a covered veteran 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, and in accordance with 29 CFR 1635.9, if the Genetic Information Nondiscrimination Act applies.

SECTION I: For completion by the EMPLOYEE and/or the VETERAN for whom the employee is requesting leave

INSTRUCTIONS to the EMPLOYEE and/or VETERAN: 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 military caregiver leave under the FMLA leave due to a serious injury or illness of a covered veteran. 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.

(This section must be completed before Section II 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 a veteran):

Name of employee requesting leave to care for a veteran:

First Middle Last

Name of veteran (for whom employee is requesting leave):

First Middle Last

Relationship of employee to veteran:

Spouse [] Parent [] Son [] Daughter [] Next of Kin [] (please specify relationship):

Part B: VETERAN INFORMATION

- (1) Date of the veteran's discharge:

- (2) Was the veteran **dishonorably** discharged or released from the Armed Forces (including the National Guard or Reserves)? Yes No
- (3) Please provide the veteran's military branch, rank and unit at the time of discharge:

- (4) Is the veteran receiving medical treatment, recuperation, or therapy for an injury or illness?
Yes No

Part C: CARE TO BE PROVIDED TO THE VETERAN

Describe the care to be provided to the veteran and an estimate of the leave needed to provide the care:

SECTION II: For completion by: (1) a United States Department of Defense (“DOD”) health care provider; (2) a United States Department of Veterans Affairs (“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.

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee named in Section I has requested leave under the military caregiver leave provision of the FMLA to care for a family member who is a veteran. For purposes of FMLA military caregiver leave, a serious injury or illness means an injury or illness incurred by the servicemember in the line of duty on active duty in the Armed Forces (or that 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 manifested itself before or after the servicemember became a veteran, and is:

- (i) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember’s office, grade, rank, or rating; or
- (ii) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
- (iii) a physical or mental condition that substantially impairs the covered veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
- (iv) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans’ Affairs Program of Comprehensive Assistance for Family Caregivers.

A complete and sufficient certification to support a request for FMLA military caregiver leave due to a covered veteran’s serious injury or illness includes written documentation confirming that the veteran’s injury or illness was incurred in the line of duty on active duty or existed before the beginning of the veteran’s active duty and was aggravated by service in the line of duty on active duty, and that the veteran is undergoing treatment, recuperation, or therapy 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 military caregiver leave coverage. Limit your responses to the veteran’s condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 CFR 1635.3(f), or genetic services, as defined in 29 CFR 1635.3(e).

(Please ensure that Section I has been completed before completing this section. Please be sure to sign the form on the last page and return this form to the employee requesting leave (See Section I, Part A above). **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION.**)

Part A: HEALTH CARE PROVIDER INFORMATION

Health care provider’s name and business address:

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

Type of Practice/Medical Specialty: _____

Please indicate if you are:

a DOD health care provider

a VA health care provider

a DOD TRICARE network authorized private health care provider

a DOD non-network TRICARE authorized private health care provider

other health care provider

PART B: MEDICAL STATUS

Note: If you are unable to make certain of the military-related determinations contained in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as, DOD Recovery Care Coordinator) or an authorized VA representative.

(1) The Veteran's medical condition is:

- A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating.
- A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service Related Disability Rating (VASRD) of 50% or higher, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave.
- A physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment.
- An injury, including a psychological injury, on the basis of which the covered veteran is enrolled in the Department of Veterans' Affairs Program of Comprehensive Assistance for Family Caregivers.
- None of the above.

(2) Is the veteran 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 veteran undergoing medical treatment, recuperation, or therapy for this condition? Yes No

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

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

"Need for care" encompasses both physical and psychological care. It includes situations where, for example, due to his or her serious injury or illness, the veteran is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport him or herself to the doctor. It also includes providing psychological comfort and reassurance which would be beneficial to the veteran who is receiving inpatient or home care.

(1) Will the veteran 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 veteran require periodic follow-up treatment appointments? Yes No

If yes, estimate the treatment schedule: _____

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

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years, in accordance with 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 Ave., NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE EMPLOYEE REQUESTING LEAVE (As shown in Section I, Part "A" above).**