

January 20, 2009

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assistance should you need advice.*

New FMLA Regulations Now in Effect

By Stacey E. Mark, Chair, Labor & Employment Group

*Employers should update their Family Medical Leave policies
and be aware of inconsistencies between new state and federal
regulations.*

The new federal Family Medical Leave Act (FMLA) regulations went into effect on Friday, January 16, 2009. FMLA is applicable to employers with 50 or more employees. Oregon employers with 25 or more employees are covered by the state Oregon Family Leave Act (OFLA) and regulations. Those Oregon employers with 50 or more employees must comply with both laws. Employers in Washington and California with 50 or more employees must comply with FMLA and their own states' leave laws.

The Oregon Bureau of Labor and Industries (BOLI), which enforces OFLA, announced today that, while there are inconsistencies between FMLA and OFLA, it will not be making changes to OFLA regulations at this time. BOLI will hold public hearings in February 2009 to gather public comment, after which it will determine whether to make changes to OFLA regulations. Until such time as BOLI modifies the OFLA regulations, employers covered by OFLA must apply the law that is most generous to the employee. Notwithstanding the differences between state and federal law, BOLI announced that it is permissible for Oregon employers to use the federal forms for obtaining medical certification of the employee's serious health condition (WH-380-E November 2008) and for a family member's serious health condition (WH-380-F November 2008). The forms are available on DOL's website:
www.dol.gov/library/forms

Please contact one of our employment attorneys if you need an updated family medical leave policy and forms.