

## FMLA Forms Now Updated by DOL

For those of you who maintain hard copies of FMLA sample forms, as provided by the Department of Labor - Wage and Hour Division, you will need to destroy outdated revisions, and replace with the newly issued (Effective June 1, 2015) forms.

The expired Family and Medical Leave Act (FMLA) forms (February 28, 2015) that the U.S. Department of Labor (DOL) said to keep using have now been replaced. These new FMLA forms don't expire until May 31, 2018.

Other than a change in the expiration date, it appears that the only substantive change to the forms is a reference to the Genetic Information Nondiscrimination Act (GINA) in the WH-380E, 380F, 385, and 385V medical certification forms. In the new FMLA forms, the instructions to the healthcare provider (Section II on the forms) states:

*Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29 C.F.R. § 1635.3(e), or the manifestation of disease or disorder in the employee's family members, 29 C.F.R. § 1635.3(b).*

According to GINA regulations, if an employer provides a safe harbor notice with the request for medical certification, any receipt of genetic information in response to the request will be considered inadvertent (and will not violate GINA).

### **Here are the links to the latest forms provided by the DOL-WHD:**

Form WH-380-E - Certification of Health Care Provider for Employee's Serious Health Condition (PDF)  
<http://www.dol.gov/whd/forms/WH-380-E.pdf>

WH-380-F - Certification of Health Care Provider for Family Member's Serious Health Condition (PDF)  
<http://www.dol.gov/whd/forms/WH-380-F.pdf>

WH-381 - Notice of Eligibility and Rights & Responsibilities (PDF)  
<http://www.dol.gov/whd/forms/WH-381.pdf>

WH-382 - Designation Notice (PDF)  
<http://www.dol.gov/whd/forms/WH-382.pdf>

WH-384 - Certification of Qualifying Exigency For Military Family Leave (PDF)  
<http://www.dol.gov/whd/forms/WH-384.pdf>

WH-385 - Certification for Serious Injury or Illness of Covered Servicemember -- for Military Family Leave (PDF)  
<http://www.dol.gov/whd/forms/WH-385.pdf>

WH-385-V Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave (PDF)  
<http://www.dol.gov/whd/forms/wh385V.pdf>