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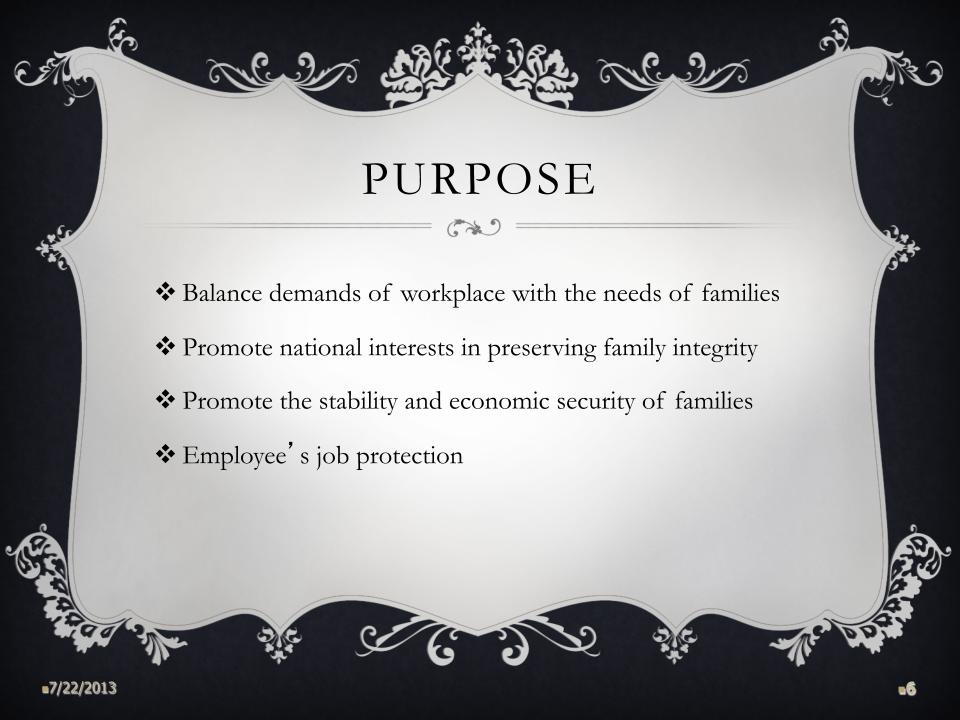
Dr. Richard Enyard, Ph.D., SPHR

















- \* For ones own serious health condition;
- To care for the employee's child after birth, or placement for adoption or foster care;
- \* To care for ones spouse, child or parent;
- \* For incapacity due to pregnancy, prenatal care or child birth;
- Certain military qualifying exigencies.



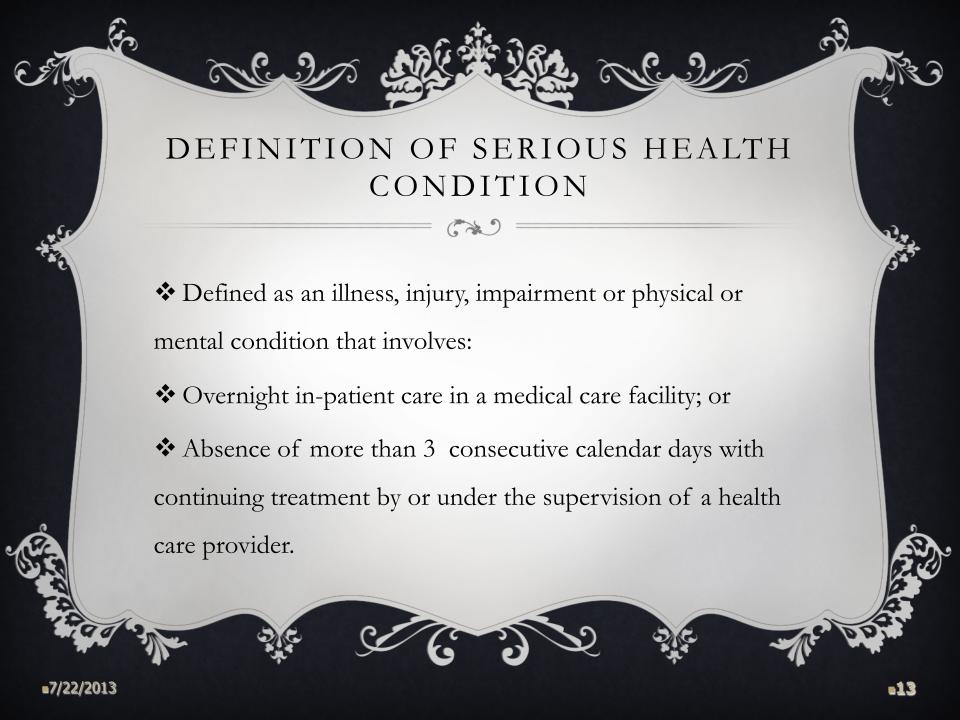
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### MILITARY EXIGENCIES

- ❖ Military Caregiver Leave: (covers parents, child, spouse and next of kin)
- ❖ Includes a special 26 week entitlement for a covered service member who has an injury or illness incurred in the line of active duty that renders the service member medically unfit to perform (service members is in medical treatment, recuperation, therapy or is in outpatient status or on temporary disability retired list.

#### KEY DEFINITIONS

- ❖ Spouse means a husband or wife as defined under State law for purposes of marriage where the employee resides, including common law marriages.
- ❖ Parent means biological or an individual who stood *in loco parentis* to an employee does not include parent in-law.
- ❖ Child son, daughter, biological/adopted/foster/or stepchild, legal ward, who is under the age of 18 or age 18 or older and incapable of self-care because of a mental or physical disability.



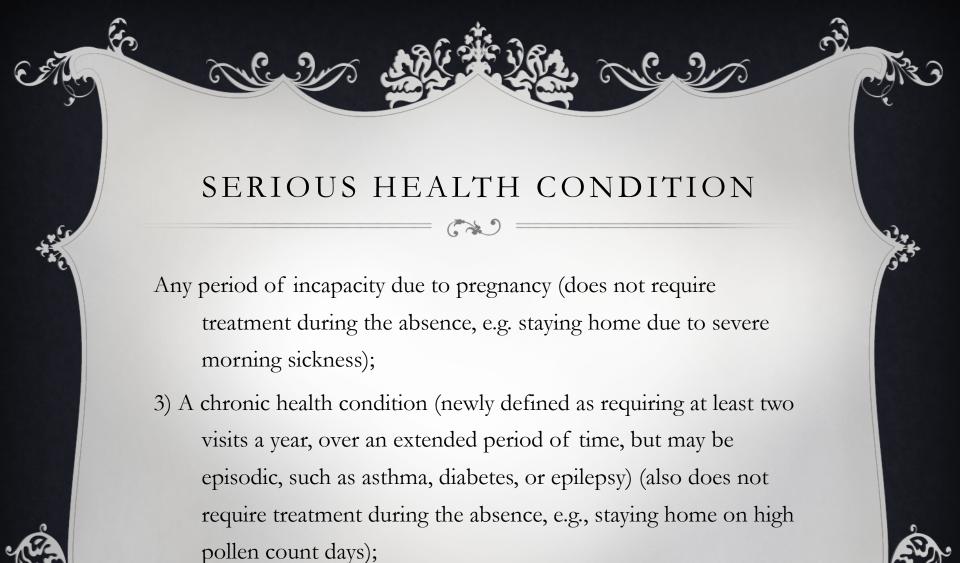


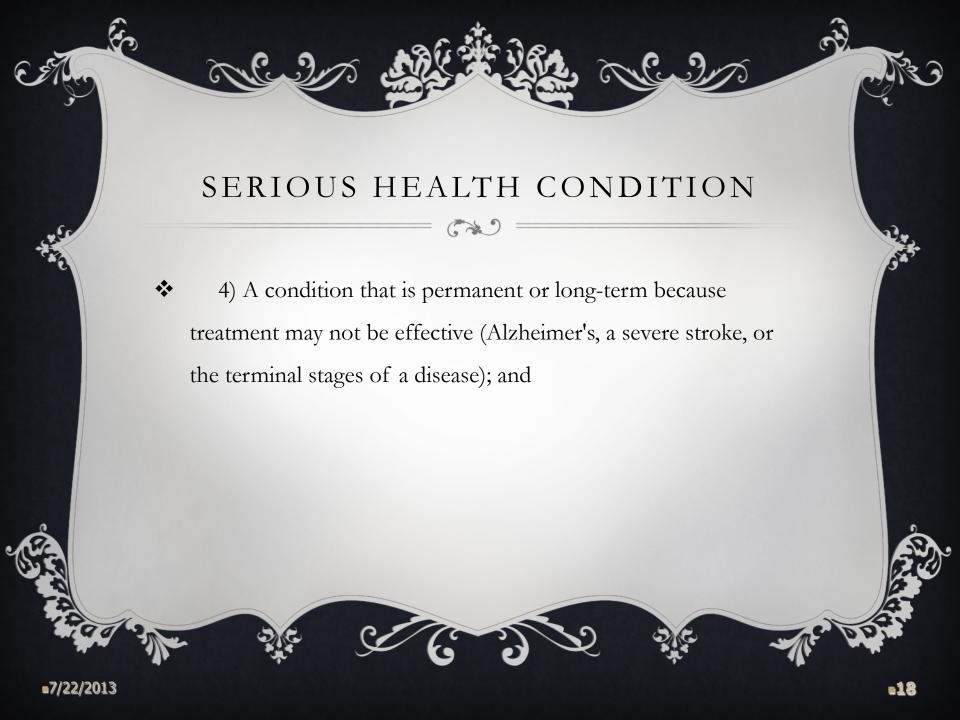
### DEFINITION OF SERIOUS HEALTH CONDITION

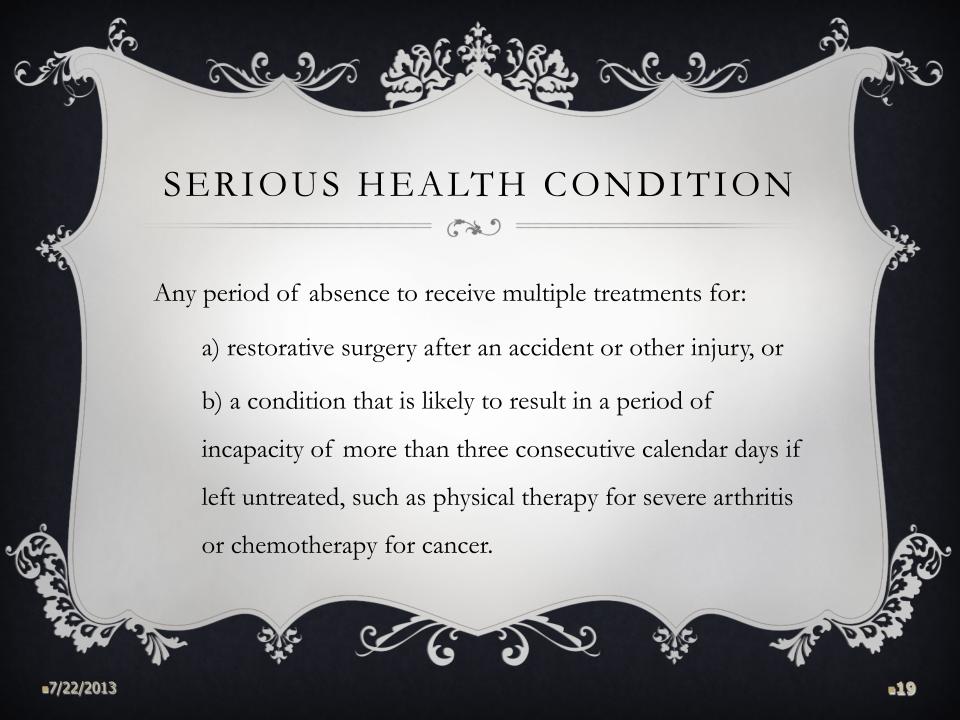
- ❖ Continuing treatment by or under the supervision of a health care provider for a chronic or long-term condition (e.g., chemotherapy or radiation for cancer, dialysis for kidney disease or physical therapy for arthritis).
- ❖ Chronic but not debilitating condition that generally cause episodic periods of incapacity (e.g., diabetes, epilepsy, asthma, morning sickness due to pregnancy) these episodes qualify even if they are for less than 3 days − a health care provider visit is not necessary for each absence.

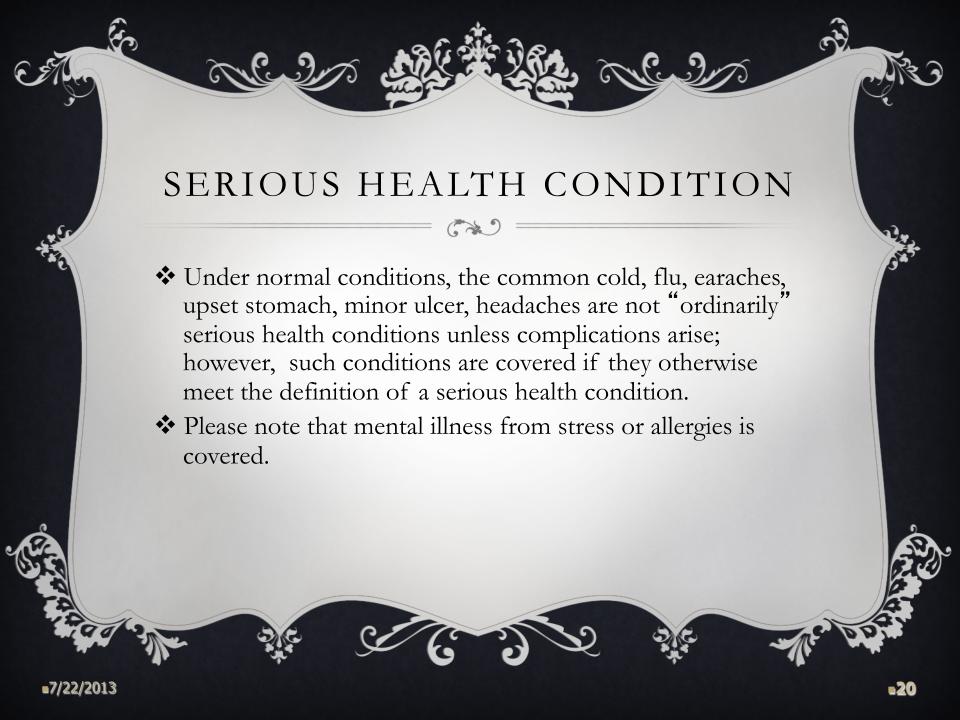










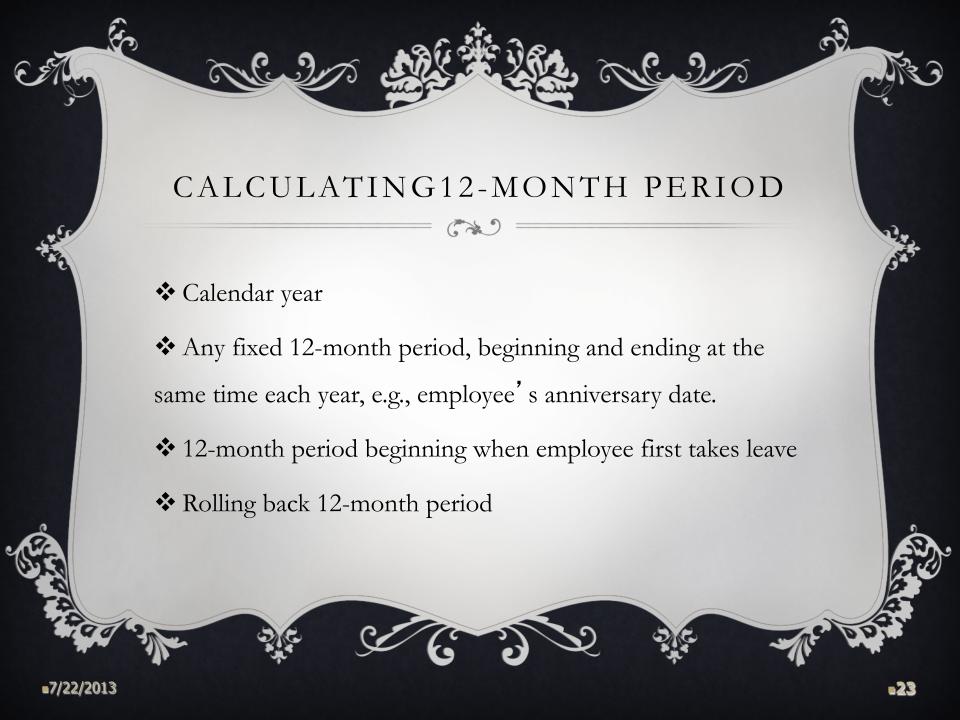




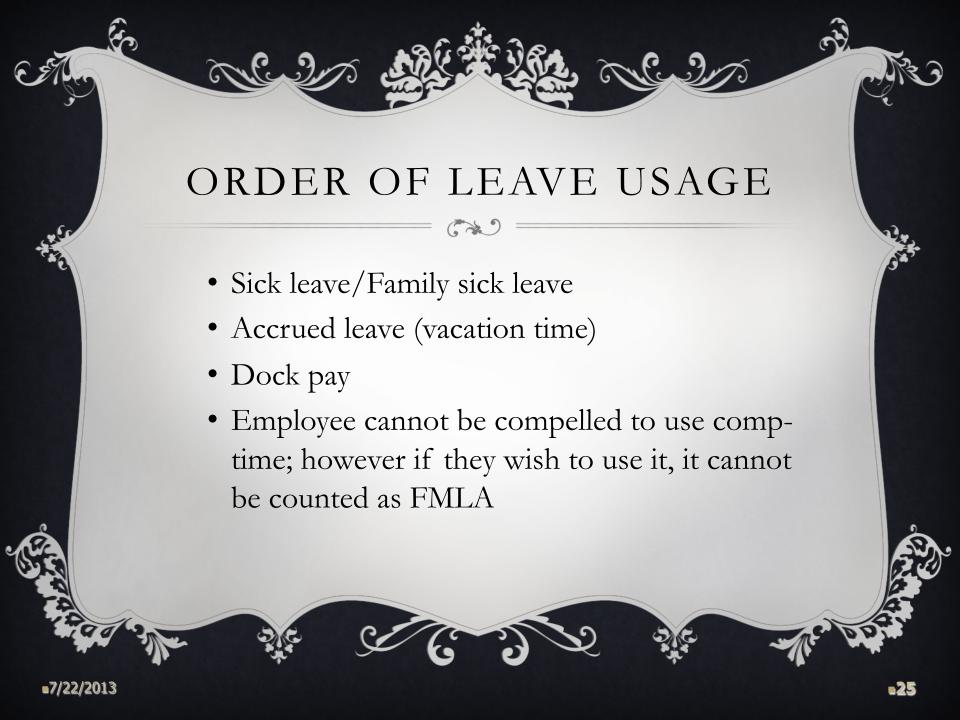


### LIMITATIONS OF LEAVE

- ❖ For birth or adoption expires at the end of the 12-month period.
- ❖ Leave taken for the birth or placement of a child may not be taken intermittently or on a reduced leave schedule unless the employer and the employee agrees.
- ❖ Spouses of the same employer for the birth/adoption or for the care of a sick parent share 12-weeks.











#### MEDICAL CERTIFICATION

- \* Employee may be required to certify the need for leave.
- \* Employee has 15 calendar days to provide certification.
- \* Employer may deny leave if the medical certification is incomplete or insufficient.
- \* Employee has 7 days to remedy deficiency.

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#### MEDICAL CERTIFICATION

- The employer may contact the employee's provider directly in order to seek authentication or clarification of the medical certification. But:
- 1) Under no circumstances may the employee's direct supervisor contact the employee's healthcare provider; and
- 2) The Employer may not ask health care providers for additional information beyond that required by the certification form.



#### MEDICAL CERTIFICATION

❖ May be requested every 30 days unless condition has been defined for a longer period of time.

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#### EMPLOYEE'S NOTICE OBLIGATION

Old Rule: Allowed employees to provide notice to an employer of the need for FMLA leave up to two full business days after an absence, even if they could have provided notice more quickly.

New: Employees may be required to follow the employer's established call-in procedures for reporting an absence, if not, leave can be denied.



#### EMPLOYER'S NOTICE OBLIGATION

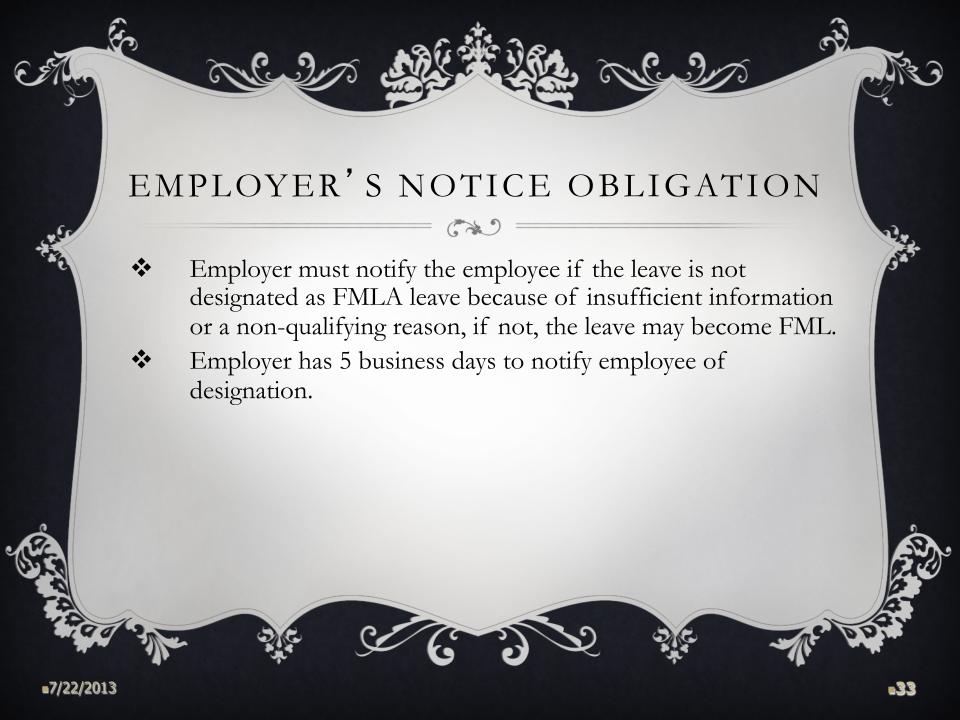
The required notices include:

- A general notice about the FMLA (through a poster, and either an employee handbook or upon hire);
- An eligibility notice;
- A rights and responsibilities notice (in conjunction with the eligibility notice); and
- \* A designation notice.



## EMPLOYER'S NOTICE OBLIGATION

- ❖ Big picture: written notice should detail the employer's expectations, the obligations of the employee, and the consequences of failing to meet those obligations.
- ❖ May include other information, e.g., whether the employer will require periodic reports of the employee's status and intent to return to work.
- ❖ May include any required certification form(s).





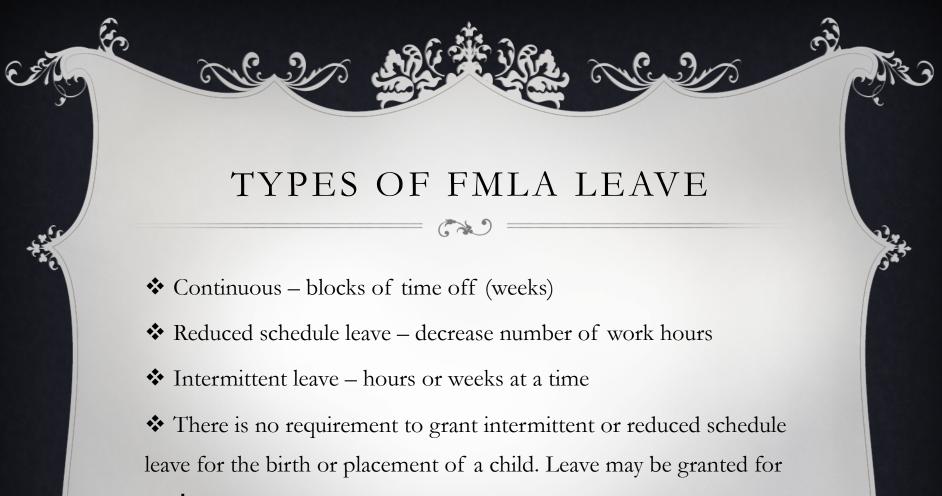
- Must notify employer when the need for leave is foreseeable, typically 30 days prior to the need for leave; or
- ❖ As soon as practicable, but within 2 business days of learning leave is necessary.
- ❖ Verbal or written notice is acceptable.
- \* Notice can be given by the employee's spokesperson.

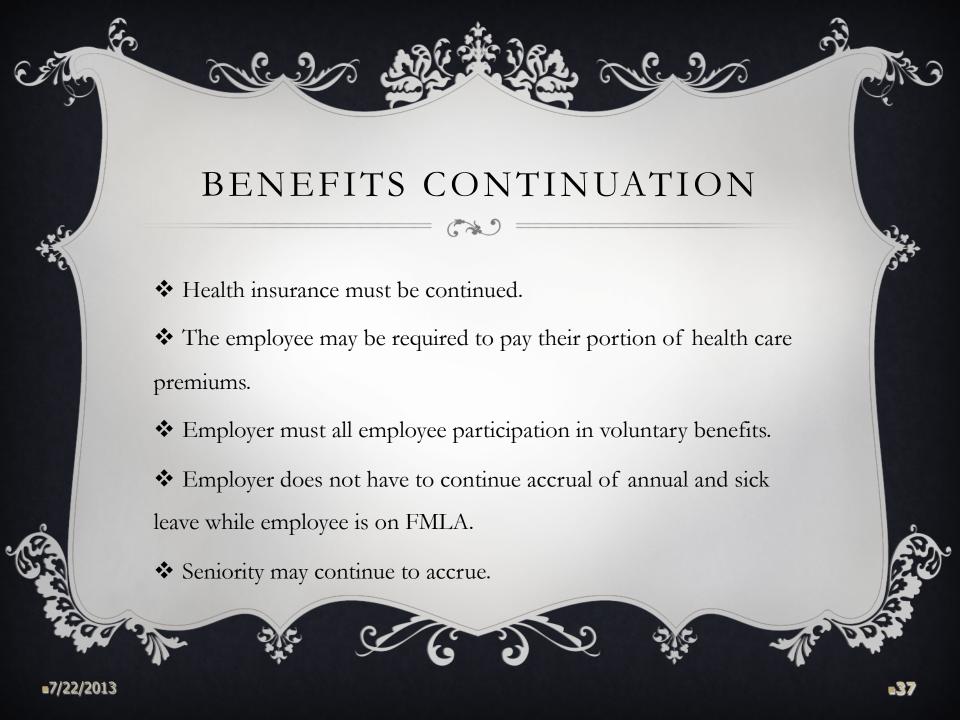


#### FITNESS FOR DUTY

New: Employer may require that the certification specifically address the employee's ability to perform the essential functions of the employee's job.

New: Where reasonable job safety concerns exist, an employer may require a fitness-for-duty certification before an employee may return to work when the employee takes intermittent leave.











#### ENFORCEMENT

The Department of Labor has a website dedicated exclusively to their Final FMLA Regulations. It contains a wealth of resources, including links to the actual regulations, a fact sheet summarizing key changes, and model forms and notices.

http://www.dol.gov/esa/whd/fmla/finalrule.htm

