

**6**

**Patient:**  
 Do I have to tell my employer all my health information?

**Navigator:**  
 No. You only need to tell them about your “serious health condition,” that you need to take time off, and approximately how long you will be out.

**7**

**Patient:**  
 Do I have to take all my leave at once?

**Navigator:**  
 You might not need to take all your leave at once. Sometimes, you can take leave as needed or work on a reduced schedule.  
  
 Also, say how much leave time you think you’ll need. Your employer may require (a) a healthcare provider letter explaining your serious health condition and specifying how much time off you need, or (b) a “medical certificate,” a government form your provider fills out.

**8**

**Patient:**  
 What if I am not sick, but my family member needs caregiving?

**Navigator:**  
 Many policies offer medical leave to someone who is well but needs to care for a sick family member. Under FMLA, one can take leave to care for a spouse, child or parent.

**Provider DOs and DON'Ts**

**DO . . .**

- use professional judgment when considering a request for medical certification.
- return written documentation on time.
- focus on functions (symptoms) not labels (diagnoses)
- talk to the patient about job functions before completing a form or writing a letter.
- be honest, clear and specific about ability to perform specific job functions — vague responses may be misinterpreted.
- follow up to find out if the accommodations were helpful.
- maintain a record of communications.

**DON'T . . .**

- provide medical records (paper or electronic) without patient’s permission.
- ask the patient how you should answer.
- answer questions outside your medical expertise.
- provide information beyond what is necessary to answer employer’s questions.
- say the patient requires “indefinite” leave. This is not protected by law.
- provide genetic information.

[Main Street Medical Center Letterhead]  
 [Date]  
 To Whom it May Concern:

**Sample Letter**  
  
 Ms. Smith is my patient and has a medical condition that substantially limits some major life activities, including her ability to cope with a crowded environment. She has been getting care in my psychiatric practice since July of this year.  
  
 She will require a total of 3 weeks of medical leave for treatment and recovery.  
  
 Please note that Ms. Smith’s post-treatment symptoms will affect her ability to concentrate, which will be very challenging in her current crowded office space. For this reason, she will need to work from home, for at least 4 weeks after her medical leave.  
  
 Please let Ms. Smith know if you have any questions about how to provide reasonable accommodation to her during her recovery. Upon her request, I will be happy to (a) provide further input about how she may perform essential job functions while following doctor’s orders as she recuperates, and (b) prepare any necessary paperwork in support of her request for medical leave.  
  
 Yours Truly,  
 Mary Jones, MD  
 Co-chair, Dept. of Psychiatry  
 Main Street Medical Center

# Getting Well While Keeping the Job

An *It Takes Two* Guide for Patients and Providers

Medical Legal Partnership | Boston  
 RAISING THE BAR FOR HEALTH

Acknowledgments:  
 We are grateful to the **Fair Employment Project** for its contribution to this content.

*Designed by Artists for Humanity*

*Information contained in this document is for educational purposes only and does not constitute legal advice or establish an attorney-client relationship. If patients or caregivers have specific questions, they should contact a lawyer or advocate.*

**Patient:**  
I am really struggling with my health right now. It is getting harder to work.

**Navigator:**  
You could be eligible for medical leave — a temporary break from your job.

1

**Patient:**  
I thought medical leave was only for physical illnesses, like cancer or a heart attack. I have depression and anxiety.

**Navigator:**  
Some mental health conditions can be just as challenging as physical conditions. Depression or anxiety may qualify you for leave if, in your clinician's view, they are so serious you are unable to work.

**Patient:**  
How do I access medical leave?

**Navigator:**  
Tell your employer you have a "serious health condition" and need time off. Do this in writing if possible. Be as explicit as possible about why you need leave.

3

**Patient:**  
Will I get paid while on medical leave?

4

**Navigator:**  
Not necessarily. The law does not require employers to pay an employee on medical leave. But some employers choose to provide paid medical leave.

**Patient:**  
Can I get my job back after I have recovered?

5

**Navigator:**  
Usually you can get your job back — or a job almost the same in all major ways. An exception: with leave or accommodation under the ADA, your employer does not have to hold your specific job open if it is an "undue burden" for its workplace.

Medical Leave: What are My Options?

Legal Protection	How Long?	Notice Requirements	Paid or Unpaid?	Who Can Certify Medical Condition?	Other Requirements
Family and Medical Leave Act (FMLA)	Up to 12 weeks/year	30 days, ideally; otherwise as soon as possible	Unpaid (unless employer chooses to pay)	Almost any professional healthcare provider	Applies to private employers with 50+ employees & public employers. You must have completed probationary period of 12+ months & 1250 hours in previous year
Small Necessities Leave Act (SNLA)	Up to 24 hours/year	7 days, ideally; otherwise as soon as possible	Unpaid (unless employer chooses to pay)	Employee may "self-certify"	Same as FMLA
Americans with Disabilities Act (ADA)	Varies by disability and circumstances	Varies by disability and circumstances	Generally unpaid	Employer generally can ask medical questions or require medical exam	Employers with 15+ employees
Massachusetts Fair Employment Practices Act, Chapter 151B, Disability Discrimination Provisions	Varies by disability and circumstances	Varies by circumstances	Generally unpaid; employee can be required to use accrued leave (ex.= sick time)	Employer generally can ask medical questions or require medical exam	Some public employers; private employers with 6+ employees; domestic workers
Massachusetts Parental Leave Law	Up to 8 weeks of parental leave	2 weeks, if possible	Unpaid (unless employer chooses to pay)	Employee may "self-certify"	Public employers; private employers with 6+ employees; you must have completed probationary period
Employer-based benefits/ insurance (ex. long- & short-term disability)	Varies by benefit	Varies by benefit	Varies by benefit	Varies by employer	Benefits not always offered by employer
Massachusetts Earned Sick Time	Up to 40 hours/year (employees "earn" 1 sick hour per 30 work hours)	Required, except in emergency	Paid if 11+ employees, & unpaid if fewer than 11 employees	Employer may require medical documentation under some circumstances	Most private employees; excludes federal and some municipal employees