

Legal FAQs

By Stephen Marmaduke

The CVMA's Legal Services Program assists members with workplace safety, legal issues, and laws and regulations that affect veterinary professionals. Here are questions and responses that are representative of those asked and answered through the CVMA's program:

I work at a small veterinary practice. Can I take a leave of absence to care for my critically ill parent without jeopardizing my position?

Effective January 1, 2021, the CFRA was expanded to cover employees of private employers with five or more employees. Under the CFRA, employees who have worked for their employer for more than 12 months and at least 1,250 hours in the immediately preceding 12 months can take up to 12 weeks to care not only for their own serious health condition, but for the serious health conditions of certain "family members," including a parent. The list of "family members" encompassed by the CFRA now includes a spouse, domestic partner, parent, child (including an adult child), child of a domestic partner, grandparent, grandchild, or sibling. The CFRA leave may also be used to bond with a new child, whether that child arrives by birth, adoption, or foster placement. Although CFRA leave is unpaid, an employee on such leave may be eligible for California's Paid Family Leave or State Disability Insurance, both of which are administered by the State's Employment Development Department. Employers are required to continue health benefits to an employee on leave. Further, employees returning to work from CFRA leave are entitled to their same or a comparable position.

Given the above, while there are some qualification requirements and exceptions, you may be able to take CFRA leave to care for a parent with a serious health condition.

I purchased an Employer's Practices Liability ("EPL") policy of insurance. Am I protected from all employment claims?

EPL policies are not tantamount to a "get out of jail free" card from employment claims. The type and scope of coverage provided by EPL insurance policies vary by the insurer and should be investigated at the time of purchase. Most policies provide coverage for employee vs. employer claims like wrongful termination or employment discrimination based on a protected class, such as age, race, ethnicity, religion, sex (including sexual preference and identity), national origin, and disability. EPL policies may also cover employer liability to employees due to the conduct of third parties, such as sexual harassment by vendors, clients, or others to whom employees are exposed via their employment. Wage and hour claims may or may not be covered, or may be subject to different limits and deductibles. It is important to understand the scope of coverage provided by an EPL policy before purchasing it.

In California, employer liability claims are becoming a cost of doing business. No employment setting is perfect. Although EPL insurance policies may be expensive and have high deductibles, they can provide valuable protection, particularly from catastrophic claims. Even the cost of defending claims of questionable merit can be devastating to a small business. EPL policies should be investigated and considered as part of the insurance review process of any business. ■

CVMA veterinarian members may access an attorney for up to 30 minutes of free legal consultation each month through the CVMA Legal Services Program. Attorneys with expertise in business law, employment law, and administrative law (Veterinary Medical Board license defense) are available to answer general questions. For more information about this member benefit, visit the Membership Benefits and Services section under the Membership tab at cvma.net.



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Mr. Marmaduke has been a partner with Wilke Fleury for 30 years and has been practicing law in California for over 40 years. One of his primary focuses is the representation of physicians and medical groups in matters ranging from corporate structure, mergers and acquisitions, joint ventures, business transactions, regulatory issues, and professional employment.

Mr. Marmaduke is part of the CVMA's Legal Services Program, a program designed to assist CVMA member veterinarians with workplace safety, legal issues, and laws and regulations that affect the veterinary profession.