1. **What should Alice do?**

Although Alice cannot deviate from the sick leave policy and request a doctor’s note if Mad Hatter is disabled, she may ask questions about whether the Mad Hatter is entitled to FMLA leave and should consider sending out FMLA paperwork.

**ADA:** The EEOC recently issued a new “resource document” that says an employer should not treat a disabled employee differently under its leave policies. This resource document, entitled “Employer-Provided Leave and the Americans with Disabilities Act,” ([https://www.eeoc.gov/eeoc/newsroom/release/5-9-16.cfm](https://www.eeoc.gov/eeoc/newsroom/release/5-9-16.cfm)) notes that disability claims are at an all time high. According to the EEOC press release, “The document creates no new agency policy, but it is one in a series of EEOC Resource Documents that explains how existing EEOC policies and guidance apply to specific situations.”

It provides the following as an example of discriminating against a disabled employee by imposing conditions on the use of leave not imposed on non-disabled employees:

**Example 1:** An employer provides four days of paid sick leave each year to all employees and does not set any conditions for its use. An employee who has not used any sick leave this year requests to use three days of paid sick leave because of symptoms she is experiencing due to major depression[4] which, she says, has flared up due to several particularly stressful months at work. The employee's supervisor says that she must provide a note from a psychiatrist if she wants the leave because "otherwise everybody who's having a little stress at work is going to tell me they are depressed and want time off." The employer's sick leave policy does not require any documentation, and requests for sick leave are routinely granted based on an employee's statement that he or she needs leave. The supervisor's action violates the ADA because the employee is being subjected to different conditions for use of sick leave than employees without her disability.

So, even though employers can of course request medical certification to justify use of sick leave ([https://www.eeoc.gov/policy/docs/guidance-inquiries.html](https://www.eeoc.gov/policy/docs/guidance-inquiries.html)), if the Mad Hatter has a disability, it would be discriminatory to deviate from the employer’s policy and require a doctor’s note.

Can Alice ask questions to find out if the Mad Hatter has a disability so she will know whether or not it is unlawful to deviate from the policy and require a note? That might be an impermissible disability related inquiry under the ADA. An employer cannot make medical inquiries that would tend to illicit information about a disability unless justified as job related and consistent with business necessity. That means the employer has a reasonable, objective belief that the employee cannot perform essential functions of the job or poses a direct threat. Here, the Mad Hatter is just requesting sick leave within what the employer allows. That does not indicate he is unable to do the essential functions of the job, or the employer would not allow
that amount of sick leave. Alice might recommend a sick leave policy which requires a note for
any sick absence; or requires a note after 3 sick absences whether or not consecutive and
absences after that in a year; or leaves the note requirement more open (see Desk Manual Model
at p. 375). Any such policy should be consistently applied and not applied differently based on
an employee’s disability.

**FMLA**: Assuming the Queen’s Palace is an FMLA covered employer, if Mad Hatter is
absent multiple times for the same reason, the employer has information indicating this may be a
form of serious health condition which would qualify for FMLA leave – a chronic condition
perhaps. The FMLA regulations specifically authorize an employer with some information to
ask for more that might establish a Serious Health Condition.

(b) **Content of notice.** An employee shall provide sufficient information for an employer
to reasonably determine whether the FMLA may apply to the leave request. Depending
on the situation, such information may include that a condition renders the employee
unable to perform the functions of the job; that the employee is pregnant or has been
hospitalized overnight; whether the employee or the employee's family member is under
the continuing care of a health care provider; if the leave is due to a qualifying exigency,
that a military member is on covered active duty or call to covered active duty status (or
has been notified of an impending call or order to covered active duty), that the requested
leave is for one of the reasons listed in §825.126(b), and the anticipated duration of the
absence; or if the leave is for a family member that the condition renders the family
member unable to perform daily activities or that the family member is a covered
servicemember with a serious injury or illness; and the anticipated duration of the
absence, if known. When an employee seeks leave for the first time for a FMLA-
qualifying reason, the employee need not expressly assert rights under the FMLA or even
mention the FMLA. When an employee seeks leave due to a qualifying reason, for which
the employer has previously provided the employee FMLA-protected leave, the
employee must specifically reference either the qualifying reason for leave or the need
for FMLA leave. Calling in “sick” without providing more information will not be
considered sufficient notice to trigger an employer's obligations under the Act. The
employer will be expected to obtain any additional required information through informal
means. An employee has an obligation to respond to an employer's questions designed to
determine whether an absence is potentially FMLA-qualifying. Failure to respond to
reasonable employer inquiries regarding the leave request may result in denial of FMLA
protection if the employer is unable to determine whether the leave is FMLA-qualifying.

29 CFR §825.303 (emphasis added).

Here, Mad Hatter may have a period of incapacity due to a chronic condition. That
requires (1) periodic visits (2x/yr) to a health care provider; (2) continues over an extended
period of time (may be recurring episodes); (3) may cause episodic incapacity. Alice should ask
what job functions he cannot do; if these absences are related to a single condition; whether
Rabbit has seen a health care provider; and Alice should send a notice of eligibility, rights and
responsibilities and certification forms if in doubt.
2. **Should Alice raise any concerns about the evaluation of March Hare?**

   Yes, Alice should advise the Queen that penalizing March Hare for this ADA and FMLA protected leave would be unlawful. The Queen should evaluate March Hare based on productivity during the months he did work.

   According to the EEOC resource document, “An employer may not penalize an employee for using leave as a reasonable accommodation. Doing so would be a violation of the ADA because it would render the leave an ineffective accommodation; it also may constitute retaliation for use of a reasonable accommodation.” It provides the following example:

   **Example 8:** An employee who is not covered by the FMLA requires three months of leave due to a disability. The employer determines that providing three months of leave would not cause undue hardship and grants the request. Instead of giving the employee an unsatisfactory rating during her next annual performance appraisal because she failed to meet production quotas while she was on leave, the employee's supervisor should evaluate the employee's performance taking into account her productivity for the months she did work.

   The FMLA also prohibits employers from using the taking of FMLA leave as a negative factor in employment actions. While the FMLA does not require that employers adjust performance standards for the time an employee is actually on the job, it may require that performance standards be adjusted to avoid penalizing an employee for being absent during FMLA protected leave. If the performance problems the Queen intends to reflect on the evaluation are a result of the FMLA leave, noting them would interfere with the March Hare’s right to take that leave.

3. **Should Alice deem the certification incomplete and give the White Rabbit seven days to return it with a diagnosis?**

   No, it is not incomplete; no diagnosis is required; and Alice should not ask for a diagnosis. At the health care provider’s discretion, the medical facts may include information on symptoms, doctor’s visits, or a diagnosis. Whether a diagnosis is included in the certification form is left to the discretion of the health care provider and an employer may not reject a complete and sufficient certification because it lacks a diagnosis. (FMLA Employer Guide)

   However, under the ADA, because it is job related and consistent with business necessity, an employer may ask for a diagnosis to determine if the employee needs a reasonable accommodation or which reasonable accommodation to offer – as long as it is not tied to a medical certification.

4. **Can Alice require these updates?**

   No, an employer that has granted leave with a fixed return date may not ask the employee to provide periodic updates, although it may reach out to an employee on extended leave to check on the employee’s progress. (ADA Resource Document)
5. **Is this a problem under the ADA?**

Yes, White Rabbit had a right to return to his original position after taking a leave of absence.

According to the EEOC Resource Document, it states that, “Leave as a reasonable accommodation includes the right to return to the employee’s original position. However, if an employer determines that holding open the job will cause an undue hardship, then it must consider whether there are alternatives that permit the employee to complete the leave and return to work.” (Emphasis added).

In this particular situation, there appears to be no undue hardship suffered while White Rabbit was off work. To demonstrate that there is undue hardship, the employer would need to present evidence such as (1) length of the leave; (2) impact of the employee’s absence on coworkers and on whether specific job duties are being performed in an appropriate and timely manner; and (3) the impact on the employer’s operations and its ability to serve customers/clients appropriately and in a timely manner. There is no indication that White Rabbit’s leave was impacting other employees or the employer’s operations in a negative manner.

More importantly, White Rabbit’s duties appear to still exist, and therefore, his position should still exist, as they were distributed amongst three others.

**However, what if we changed the factual scenario to state: Alice took over White Rabbit’s bookkeeping duties and realized that White Rabbit’s job duties could be performed by a part-time bookkeeper? When White Rabbit returned, Alice offered White Rabbit a part-time bookkeeper position. Is this action permissible?** Yes. In *Mendoza v. The Roman Catholic Archbishop of Los Angeles*, 2016 U.S. App. LEXIS 10381 (9th Cir. Jun. 7, 2016), a recent Ninth Circuit Court case, the Court affirmed a lower court’s decision granting the Archbishop summary judgment holding that plaintiff could not establish that the Archbishop’s legitimate, nondiscriminatory reason for not returning plaintiff to full-time work was pretextual and plaintiff failed to establish that a full-time position (or the existence of a reasonable accommodation) was available.

6. **Is this a problem under the FMLA?**

Yes, under the FMLA, White Rabbit has a right to reinstatement to her same position when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and condition of employment. *See 29 CFR §825.214.*

7. **How should Alice advise the Queen?**

Alice should advise the Queen to allow the Cat to work light duty. Hawaii law has long required employers to “make every reasonable accommodation to the needs of the female affected by disability due to and resulting from pregnancy, childbirth, or related medical conditions.” That includes providing leave, and also other accommodations. Here the Queen has
a policy of providing light duty work only for employees injured on the job. Failing to extend that same accommodation to a pregnant female would likely violate Hawaii law. Leave of absence is unlikely to be considered an ‘effective’ accommodation where the Cat could perform available light duty work. It would also likely be evidence of discrimination under the pregnancy discrimination act which requires that employers treat “women affected by pregnancy . . . the same for all employment-related purposes . . . as other persons not so affected but similar in their ability or inability to work.” In Young v. UPS (U.S. Sup. Ct. 2015) the Supreme Court held that UPS may have failed to do this where it offered light duty to employees unable to work due to a work injury, a non-occupational disability or because they had lost DOT certification.

8. Should Alice intervene?

Yes, the Queen’s conduct of requiring the Cat to announce bathroom breaks may be discriminatory/harassment based on the Cat’s pregnancy as it is not required of non-pregnant employees and may be considered retaliatory for the Cat’s protected activity of requesting an accommodation for her pregnancy related disability. Similarly the termination could be discriminatory/harassing/retributory and also interference with and retaliation for an attempt to exercise FMLA rights. Similar facts resulted in recent verdict against Chipotle on a pregnancy discrimination claim of $50,000 compensatory and $500,000 punitive damages.

9. Should Alice have any concerns about terminating the Caterpillar?

Yes. Because Caterpillar supplied a prescription, it appears he may be taking the medication for a disability. Thus terminating him might be in violation of the ADA. As long as Caterpillar got his prescription from a licensed medical practitioner who is familiar with his medical history and has advised him that the substance will not adversely affect his ability to safely operate the Queen’s carriage, then Caterpillar can drive the carriage under the DOT regulations. Because of the Medical Review Officer’s advice that Caterpillar may pose a significant risk to himself or others in his job as a driver, the Queen should require Caterpillar to ask his doctor to provide verification that he is able to safely perform the essential functions of his job, particularly driving the Queen’s carriage, while using Marinol. The doctor may recommend that Caterpillar avoid medicating with Marinol within a certain time period (8 hours) before engaging in any driving of the Queen’s carriage. If the doctor says he cannot do his job safely, the Queen should give the Caterpillar an opportunity to try another mediation to treat his condition.

An employer should not limit employee intake of controlled substances only to FDA approved uses because this might violate the ADA. For example, Marinol’s FDA approved uses are to treat anorexia and nausea/vomiting, but some doctors may prescribe it for other conditions. However, an employer may limit employees to taking medications as prescribed.

10. Has the Caterpillar suffered a compensable work injury?

Yes, Caterpillar suffered a compensable work injury because a performance improvement plan is not a disciplinary action.
In *Gao v. State of Hawaii*, the Hawaii Supreme Court stated that the state legislature intended to *narrowly interpret* the meaning of “disciplinary action” under the state workers’ compensation statutes (HRS § 386-1 and HRS § 386-3(c)). The Court essentially limited a “disciplinary action” to a reprimand, suspension and discharge. The Court also held that, “A mental injury claim arising from a Performance Improvement Plan is [part of the disciplinary action but not itself ‘disciplinary action’ because a sanction, such as a suspension or discharge, had yet to be imposed] …”. *Gao v. State*, 2016 Haw. LEXIS 119, at *21-22, 375 P.3d 229 (Haw. May 18, 2016) (emphasis added).

**Take away:** Based on Hawaii law, a Performance Improvement Plan is not a form of disciplinary action and an employee can suffer a compensable work injury due to stress or other mental injury as a result of a PIP. Consider changing the word “warning” to “reprimand” on disciplinary documentation as dictionary definition of “reprimand” is “strong reproof or rebuke” and dictionary definition of “warning” does not connote same degree of ‘reproof or rebuke.’

**11. Can the Queen safely terminate the Caterpillar?**

No, not under the company’s maximum leave policy. The EEOC May 2016 Resource Document states: “Although employers are allowed to have leave policies that establish the maximum amount of leave an employer will provide or permit, they may have to grant leave beyond this amount as a reasonable accommodation to employees who require it because of a disability, unless the employer can show that doing so will cause an undue hardship.”

Instead, the Queen must refrain from terminating Caterpillar until the Queen has engaged in the interactive process. As part of the interactive process, the Queen can (1) obtain medical documentation specifying the amount of the additional leave needed, (2) the reasons for the additional leave, and (3) why the initial estimate of a return date proved inaccurate. The Queen may also request relevant information to assist in determining whether the requested extension will result in undue hardship.

In this case, if the Caterpillar cannot say whether and when he will be able to return to work and since the Caterpillar has been out for one year, the Queen potentially has an argument that the Caterpillar’s leave constitutes an indefinite leave. An indefinite leave is not a reasonable accommodation and the EEOC stated in its Resource Document that an indefinite leave “will constitute an undue hardship.”

As a side note, in the fact pattern, the Queen wanted to require the Caterpillar to return to work without restrictions. Can she do that?

Generally, no unless there is a direct threat. The EEOC May 2016 Guidance states: “An employer will violate the ADA if it requires an employee with a disability to have no medical restrictions – that is, be “100%” healed or recovered – if the employee can perform her job with or without reasonable accommodation unless the employer can show providing the needed accommodations would cause undue hardship. Similarly, an employer will violate the ADA if it
claims an employee with medical restrictions poses a safety risk but it cannot show that the individual is a ‘direct threat.’”

12. Does the ADA require the Queen to accommodate Tweedledee by allowing him to take a leave of absence because he is “associated” with his disabled brother?

The ADA does not require the Queen to provide a reasonable accommodation but must not discriminate against Tweedledee on the basis of his association and must allow Tweedledee to utilize available leave policies to the same extent as other employees.

In addition to protecting employees with disabilities, the ADA prohibits discrimination against employees based on the employee’s relationship or association with an individual with a disability (whether or not the applicant/employee has a disability). This provision does not require an employer to provide a reasonable accommodation to a non-disabled employee associated with a disabled individual. EEOC guidance points out however that “an employer must avoid treating an employee differently than other employees because of his or her association with a person with a disability” and provides the following examples of how an employer would violate the ADA by denying leave to an employee associated with a disability wanting to use it for that purpose and granting leave to employees for other reasons:

Example J: Kyung, an employee at an accounting firm, requests a week of unpaid leave and is told by her supervisor that there will be no difficulty in granting the leave. Kyung then mentions that she will be using the leave to care for her mother with a disability, who is coming into town for medical treatments. The supervisor denies the leave request, telling Kyung that the firm's leave policy is not intended to cover this type of situation and that she should hire someone to look after her mother. A few days later, the supervisor approves Diego's request for a week of unpaid leave to attend a father-son camp with his son. If the firm grants requests for unpaid leave for certain personal or family reasons, it is a violation of the ADA's association provision to deny Kyung's request because she wishes to use the time to assist her mother with a disability.

Example K: A law firm permits its attorneys to use 100 hours of administrative leave a year to provide pro bono legal services. One attorney, Sylvia, wants to use these hours to work with a non-profit organization that provides legal and other services to individuals with psychiatric disabilities. The law firm denies her request because it does not believe that this type of work will reflect well on its image. If the firm allows attorneys to use administrative leave to provide pro bono legal services, it is a violation of the association provision of the ADA to deny Sylvia's request because she wishes to use the time to assist individuals with disabilities.

13. Does the FMLA or HFLL require the Queen to give Tweedledee time off to care for his brother?

Neither the FMLA nor HFLL currently require an employer to allow time off to care for a sibling. Legislation was introduced but not passed in this past session to add that to the Hawaii
Family Leave Law. HFLL leave is available to care for a reciprocal beneficiary. It would be possible for Tweedledee and Tweedledum to create such a relationship, which requires:

(1) Each of the parties be at least eighteen years old;
(2) Neither of the parties be married, a party to another reciprocal beneficiary relationship, or a partner in a civil union;
(3) The parties be legally prohibited from marrying one another under chapter 572;
(4) Consent of either party to the reciprocal beneficiary relationship has not been obtained by force, duress, or fraud; and
(5) Each of the parties sign a declaration of reciprocal beneficiary relationship as provided in section 572C-5.

14. Must the Mad Hatter’s threats be accommodated because they are a product of his disability?

Not when they are this serious. According to the 9th Circuit Court of Appeals: “An employee whose stress leads to serious and credible threats to kill his coworkers is not qualified to work for the employer, regardless of why he makes those threats.” Mayo v. PCC STRucturals, Inc. (9th Cir. 2015) (emphasis added). However, in the 9th Circuit when less serious misconduct results from the employee’s disability such conduct is considered to be part of the disability rather than a separate basis for termination, meaning termination for such misconduct when an employer knows it is a product of the disability can be considered discriminatory. See Humphrey v. Mem’l Hosps. Ass’n, 239 F.3d 1128, 1139-40 (9th Cir. 2001); see also Gambini v. Total Renal Care, Inc., 486 F.3d 1087, 1094-95 (9th Cir. 2007); Dark v. Curry County, 451 F.3d 1078, 1084 (9th Cir. 2006).

15. When Bill the Lizard attends physical therapy on a day when he was scheduled for “voluntary” overtime work, is this counted against his FMLA entitlement like other periods when he is required to work?

Yes, although Bill had the option to sign up for overtime shifts, if he was selected for overtime, the shift became mandatory since failing to report for an overtime shift, just like a regular shift, counts as an incident of absence under the attendance policy.

He is entitled to 12 workweeks of leave during any 12 month period for FMLA qualifying reasons, which would include recuperating from his injuries and taking care of his ailing mother. The hours he did not work because of his physical therapy should be deducted from his FMLA entitlement. (Hernandez v. Bridgestone, 8th Cir. 2016)

16. Are these hours incorporated into Bill’s FMLA entitlement?

Yes, because the overtime was mandatory, it should be included in calculating Bill’s FMLA leave allotment, and the Queen would interfere with Bill’s FMLA rights by failing to include overtime in that calculation.
The Queen must allow Bill’s intermittent leave to continue until he reaches 12 workweeks worth of hours. The Queen must determine how many hours per week Bill was working at the time when he started taking leave. Then, the Queen should multiply that times 2 because Bill has 2 weeks remaining of leave.

Also note that if an employer has made a permanent or long-term change in the employee’s schedule (for reasons other than FMLA, and prior to the notice of need for FMLA leave), the hours worked under the new schedule are to be used for making this calculation. For example, if an employee has reduced his weekly hours from 40 to 20 hours and he already used the equivalent of 3 weeks of FMLA leave, 9 weeks of FMLA leave remain, and he will have 180 hours remaining (9 x 120). (http://www.fmlainsights.com/fmla-faq-how-does-an-employer-calculate-intermittent-fmla-leave-when-an-employee-moves-from-full-time-to-part-time/)

17. Is working rotating shifts an essential job function?

What is an essential function? Under the federal regulations (29 CFR § 1630.2(n)), it is a fundamental duty of the position and it does not include marginal functions.

It appears that the rotating shift is an essential job function. The Queen was having difficulty finding competent managers willing to accept the night manager position and she specifically increased the pay for the position and re-wrote the job description to require managers to work rotating shifts to address those issues.

Going forward, if the Queen schedules some managers to work only nights and others only days (like she had before), and does not incorporate the rotating shifts, it could call into question whether working rotating shifts is an essential function of the position.

18. If the Knave of Hearts cannot be accommodated in his café job, can the Queen require that he compete for the vacant Gift Shop Manager position?

No. Under the EEOC Resource Document, “The [EEOC] takes the position that if reassignment is required, an employer must place the employee in a vacant position for which he is qualified, without requiring the employee to compete with other applicants for open positions.”

19. Would it be an undue hardship to require the Queen to continue to accommodate the Mock Turtle’s neck condition?

It would likely be an undue hardship for the Queen to continue to retain Mock Turtle in his current position without bringing in a permanent replacement; however the Queen should determine whether he can be accommodated by working in a different vacant position.

In determining whether an accommodation constitutes an undue hardship the employer may consider both the period over which leave was already taken as well as the period of further leave needed. In this case, Mock Turtle’s leave would amount to a full year of significant disruption and continuing to keep him in the position without permanently replacing him is likely an undue hardship based on an equivalent example in the EEOC resource document. However,
if there is another vacant position for which Mock Turtle is qualified, i.e., that he can perform in spite of his frequent and unpredictable absences, that should be offered.

20. Is the Dodo entitled to FMLA leave?

Dodo may not be eligible as his depression appears to fail to meet the FMLA’s definition of serious health condition when addressing a chronic condition as that requires two doctor’s visits in a year. 29 CFR §825.113 and .115(c):

(c) *Chronic conditions.* Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

1. Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;
2. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
3. May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, *etc.*).


21. Is the Dodo entitled to intermittent leave under the ADA?

The ADA may require intermittent leave as a reasonable accommodation IF the intermittent leave does not cause an undue hardship on the operations.

In determining undue hardship, EEOC states that employer may consider the following:

- The amount and/or length of leave required (for example, four months, three days per week, six days per month, four to six days of intermittent leave for one month, four to six days of intermittent leave each month for six months, leave required indefinitely, or leave without a specified or estimated end date);
- The frequency of the leave (for example, three days per week, three days per month, every Thursday);
- Whether there is any flexibility with respect to the days on which leave is taken (for example, whether treatment normally provided on a Monday could be provided on some other day during the week);
- Whether the need for intermittent leave on specific dates is predictable or unpredictable (for example, the specific day that an employee needs leave because of a seizure is unpredictable; intermittent leave to obtain chemotherapy is predictable);
- The impact of the employee’s absence on coworkers and on whether specific job duties are being performed in an appropriate and timely manner (for example, only one coworker has the skills of the employee on leave and the job duties involved must be performed under a contract with a specific completion date, making it impossible for the employer to provide the amount of leave requested without over-burdening the coworker, failing to fulfill the contract, or incurring significant overtime costs); and
The impact on the employer’s operations and its ability to serve customers/clients appropriately and in a timely manner, which takes into account, for example, the size of the employer.

22. Should Alice advise against terminating the Duchess?

No. The Queen can safely terminate the Duchess because she is not able to perform an essential function of her job with or without reasonable accommodation, namely working extended hours and six to seven day weeks. Even if other members of the Queen’s Cabinet received limited accommodations, that does not change the analysis if those accommodations were temporary or consistent with extended hour shifts. Nor does evidence that the Queen left the Duchess’ position open pending her potential return harm the Queen’s decision to terminate her. Rincon v. Am. Fedn. of State (9th Cir. 2016).

23. Should Alice grant the White Rabbit’s request?

YES, assuming White Rabbit meets the requirements for FMLA leave for a qualifying exigency and leave under the Hawaii Family Leave Law (HFLL).

White Rabbit could possibly qualify for FMLA leave for a “qualifying exigency.” This is assuming that the Company has 50 or more employees within a 75 mile radius, worked for the Company for 12 months and worked 1,250 hours during those prior 12 months and given that it is for one of the following four reasons listed in the federal regulations at 29 CFR §825.126(a)(8)(i)-(iv). The four reasons are:

(i) To arrange for alternative care for a parent of the military member when the parent is incapable of self-care and the covered active duty or call to covered active duty status of the military member necessitates a change in the existing care arrangement for the parent;

(ii) To provide care for a parent of the military member on an urgent, immediate need basis (but not on a routine, regular, or everyday basis) when the parent is incapable of self-care and the need to provide such care arises from the covered active duty or call to covered active duty status of the military member;

(iii) To admit to or transfer to a care facility a parent of the military member when admittance or transfer is necessitated by the covered active duty or call to covered active duty status of the military member; and

(iv) To attend meetings with staff at a care facility, such as meetings with hospice or social service providers for a parent of the military member, when such meetings are necessary due to circumstances arising from the covered active duty or call to covered active duty status of the military member but not for routine or regular meetings.

In addition, White Rabbit could qualify leave under the Hawaii Family Leave Law (HFLL), if he worked for six consecutive months, to care for a parent-in-law.
24. **How much time is the White Rabbit entitled to take off?**

Twelve weeks under FMLA. See 29 CFR § 825.200. Under HFLL, White Rabbit would be entitled to four weeks of leave.