

Subject: Policy – Protected Leaves	Date Approved: November 25, 2014
Approved by: Executive Director	Date Revised: January 1, 2018
Specific to: All Staff, Board of Directors and Volunteers	Next Review Date: September 2020

*Note: This document has been updated to be compliant with changes to Ontario's Employment Standards Act, 2000 resulting from Bill 148.*

## Intent

North Huron Family Health Team (NH FHT) has adopted this policy to ensure that its employees are provided with authorized time off as per applicable legislation without fear of a negative impact on their employment status or opportunities with the organization. NH FHT is committed to providing a work-life balance for its employees and understands that situations can and will arise that call for immediate, emergency leave.

This policy covers instances where employees may need to take planned/unplanned leave of absence in order to attend to situations that directly affect their families or dependents.

## Guidelines

### Protected Leaves

- Pregnancy Leave
- Parental Leave
- Family Medical Leave
- Personal Emergency Leave
- Emergency Leave, Declared Emergencies
- Reservists Leave
- Jury Leave
- Organ Donor Leave
- Family Caregiver Leave
- Critical Illness Leave
- Child Death Leave
- Crime-Related Child Disappearance Leave
- Domestic or Sexual Violence Leave

### Pregnancy and Parental Leave

Pregnancy and parental leave are provided to permit employees of NH FHT to have authorized time off that coincides with the birth or adoption of a child. The leaves have been designed to allow employees to recover from childbirth, bond with, and care for their newborn or adopted children, without fear of a negative impact on their employment status or any opportunities with NH FHT. Information contained in this section has been derived from Ontario's *Employment Standards Act, 2000*, Part XIV, Leaves of Absence.

Employees that have become a new parent in the following regards shall be eligible for either pregnancy, or parental leave.

#### Pregnancy Leave

- Biological birth mother

#### Parental Leave

- Mother
- Father
- Adoptive Parent
- Domestic Partner

#### Qualifying for Pregnancy/Parental Leave

A new parent or pregnant employee is entitled to pregnancy/parental leave whether he or she is a full-time, part-time, permanent or contract employee provided that she/he:

- Works for an employer that is covered by the ESA;
- Was hired at least thirteen (13) weeks before the date the baby is expected to be born (the "due date"); or
- Was hired at least thirteen (13) weeks before commencing the parental leave.

#### Request for Pregnancy/Parental Leave Procedure

To ensure that NH FHT can make the necessary arrangements to accommodate an employee taking pregnancy or parental Leave, employees are required to provide at least two (2) weeks' notice before embarking on pregnancy or parental Leave.

This is to help NH FHT procure staffing solutions and alleviate any additional work stress on other employees that may occur as a result of the employee's absence.

Submission of a request for pregnancy/parental leave must be accompanied by the appropriate documentation.

Employees are expected to give four (4) weeks' notice regarding their expected date of return to work or their letter of resignation if they choose not to return to work. (Insert Title of Appropriate Authority) should be contacted as soon as possible in the event of any changes to their leave.

#### Duration of Leave Parameters

##### *Pregnancy Leave*

- Pregnant employees have the right to take up to seventeen (17) consecutive weeks (or longer in certain circumstances) of job-protected unpaid time off work.
- Usually, the earliest a pregnancy leave can begin is seventeen (17) weeks before the employee's due date. However, when an employee has a live birth more than seventeen (17) weeks before the due date, she will be able to begin her pregnancy leave on the date of the birth.
- The latest a pregnancy leave can begin is on the baby's due date. However, if the baby is born earlier than the due date, the latest the leave can begin is the day the baby is born.
- Pregnancy leave can last a maximum of seventeen (17) weeks for most employees. However, if an employee has taken a full seventeen (17) weeks of leave but is still pregnant, she may continue on the pregnancy Leave until the birth of the child.

##### *Parental Leave*

- New parents have the right to take parental leave when a child is born or first comes into their care.

- Birth mothers who took pregnancy leave are entitled to up to sixty one (61) weeks' leave.
- Birth mothers who do not take pregnancy leave and all other new parents are entitled to up to sixty three (63) weeks of parental leave.
- Parental leave is not part of pregnancy leave and so a birth mother may take both pregnancy and parental leave.
- The right to parental leave is independent of the right to pregnancy leave.
- All other new parents must begin their parental leave no later than seventy eight (78) weeks after the date their baby is born; or the date their child first came into their care, custody, and control.
- The parental leave does not have to be completed within this seventy eight (78) week period. It just has to be started.

A birth mother who takes pregnancy leave must ordinarily begin her parental leave as soon as her pregnancy leave ends. However, an employee's baby may not yet have come into her care for the first time when the pregnancy leave ends. For example, perhaps her baby has been hospitalized since birth and is still in the hospital's care when the pregnancy leave ends.

In this case, the employee can either commence her leave when the pregnancy leave ends or choose to return to work and start her parental leave later. If she chooses to return to work, she will be able to start her parental leave anytime within seventy eight (78) weeks of the birth or the date the baby first came home from the hospital.

Any employee that elects not to use the maximum amount of leave available shall not have the option of taking any unused leave time at a later date.

Once the employee has started maternity or parental leave, the employee must take it all at one time and cannot split it up.

#### *Miscarriages and Stillbirths*

An employee who has a miscarriage or stillbirth more than seventeen (17) weeks before her due date is not entitled to a pregnancy leave. However, if an employee has a miscarriage or stillbirth within the seventeen (17) week period preceding the due date, she is eligible for pregnancy leave. The latest date for commencing the leave in that case is the date of the miscarriage or stillbirth.

The pregnancy leave of an employee who has a miscarriage or stillbirth ends on the date that is the later of:

- Seventeen (17) weeks after the leave began; or
- Twelve (12) weeks after the stillbirth or miscarriage.

This means that the pregnancy leave of an employee who has a stillbirth or miscarriage will be at least seventeen (17) weeks long. In some cases it may be longer.

#### *Use of Sick Leave Benefits, Vacation and/or Family Medical Leave*

In the event that an employee requires use of sick leave benefits at any time prior to the commencement of a pregnancy/parental leave period, the NH FHT Sick Leave Policy shall apply.

After the pregnancy/parental leaves have concluded, employees shall be allowed to use up any unpaid vacation time, and/or sick days.

In the event that a NH FHT employee requires an extension of leave following a pregnancy leave, the employee may use his or her family medical leave up to a maximum of eight (8) weeks, where medically substantiated.

Employees that elect to extend their leave through the use of accrued vacation time are required to comply with the NH FHT Vacation Policy, and provide four (4) weeks' notice, prior to the exhaustion of the leave.

NH FHT employees that elect to extend their leave through the use of family medical leave are requested to provide NH FHT with as much advance notice as possible prior to the exhaustion of pregnancy leave.

### **Family Medical Leave**

Family medical leave is unpaid, job-protected time off work for up to twenty eight (28) weeks. This leave is provided to enable employees who have a family member (or people the employee considers to be like family members) with a serious risk of passing away within a period of twenty six (26) weeks. The medical condition and risk of death must be confirmed in a certificate issued by a qualified health practitioner.

The twenty eight (28) weeks of a family medical leave do not have to be taken at the same time. Employees must inform senior Management at NH FHT prior to the start of the leave, as soon as they are aware of the need.

Family medical leave will normally be authorized to cover the duration of the initial situation. However, NH FHT understands that some situations may require greater time to remedy. Generally, it is up to the supervisor's discretion to determine the length of the extended leave, as well as whether the leave will be paid or unpaid. In certain circumstances, the employee may use a combination of paid leave, unpaid leave, annual vacation time, or parental leave (if applicable).

If the amount of leave taken in the initial leave period is less than twenty-eight (28) weeks, it is not necessary for a qualified health practitioner to issue an additional certificate in order for more leave (commencing after the conclusion of the initial leave period) to be taken.

Family medical leave shall have no impact on an employee's current salary or benefits. Performance objectives and goals for the employee will be adjusted so that they will not be penalized for being absent during peak hours. Employees are legally protected from dismissal, termination, selection for redundancy, or any other detriment to employment for making appropriate and authorized use of this policy.

If two (2) or more employees qualify to take the leave in order to provide care for the same person, the leave must be divided amongst those taking the leave.

If an employee takes family medical leave and the family member or other individual does not die within the fifty-two (52) week period beginning when the medical certificate is issued, the employee may take another leave, in accordance with the ESA.

### **Personal Emergency Leave**

Personal emergency leave (PEL) is job-protected time off work for up to ten (10) days per calendar year. The first two (2) used days of the leave are paid leave with the remaining eight (8) unpaid. NH FHT will pay the first two (2) days of the leave at the amount prescribed by legislation unless the employee has been employed for less than one (1) week, in which case the two (2) days will not be paid. The two (2) paid days must be taken first in a calendar year before any of the unpaid days can be taken, unless the employee has been employed for less than one (1) week.

The ten (10) days of personal emergency leave do not have to be taken all at once; however, NH FHT counts any part of a day taken off as a full day of personal emergency leave. This leave may be taken for personal illness, injury or medical emergency or for the death, illness, injury, medical emergency or urgent matter relating to a dependent or family member. Emergency leave is not intended for scheduled routine doctor/dentist/other health practitioner visits.

For personal emergency leave, the employee must inform NH FHT that he or she will require a leave before it begins, or as soon as possible. There will likely be circumstances where the employee contacts his or her supervisor on extremely short notice to explain that they are not able to attend work that day because of a crisis. Supervisors will approve requests that fall under the provisions listed within the *Employment Standards Act, 2000*. Situations that do not meet the

required provisions will be determined on a case-by-case basis. (Please see the Bereavement Policy for further information on Personal Emergency Leave and the death of a family member).

#### Personal Emergency Leave Pay

Employees who take paid personal emergency leave days will be paid in accordance with the *Employment Standards Act, 2000*.

#### **Declared Emergency Leave**

Declared emergency leave is a leave of absence without pay for employees who will not be performing their job duties because of an emergency declared under the *Emergency Management and Civil Protection Act* and because:

- Of an order that applies to them made under the *Emergency Management and Civil Protection Act*;
- Of an order that applies to him/her made under the *Health Protection and Promotion Act*;
- They are needed to provide care or assistance to the following individuals:
  - The employee's spouse.
  - A parent, step-parent or foster parent of the employee or the employee's spouse.
  - A child, step-child or foster child of the employee or the employee's spouse.
  - A grandparent, step-grandparent, grandchild or step-grandchild of the employee or of the employee's spouse.
  - The spouse of a child of the employee.
  - The employee's brother or sister.
  - A relative of the employee who is dependent on the employee for care or assistance.
- Of such other reasons as may be prescribed.

An employee is entitled to take this leave for as long as they are not performing the duties of their position as determined by the provisions above. The leave shall end on the day the emergency is terminated or disallowed.

#### Conditions

- Declared emergency leave may be extended beyond the initial period of absence due to an order made under the *Emergency Management and Civil Protection Act*.

#### Requesting Declared Emergency Leave

Employees who take declared emergency leave must advise NH FHT that they will be doing so as soon as possible. If an employee begins the leave before advising NH FHT, the employee must advise the company of the leave as soon as possible after starting it.

NH FHT may require an employee taking declared emergency leave to provide evidence reasonable in the circumstances at a time that is reasonable in the circumstances that the employee is entitled to the leave.

#### **Reservist Leave**

Employees who are military reservists and who are deployed to an international operation or to an operation within Canada that is or will be providing assistance in dealing with an emergency or its aftermath (including search and rescue operations) are entitled under the ESA to unpaid leave for the time necessary to engage in that operation. In order to be eligible for reservist leave, the employee must have worked for NH FHT for at least six (6) consecutive months.

Employees on a reservist leave are entitled to be reinstated to the same position if it still exists or to a comparable position if it does not. Seniority and length of service credits continue to accumulate during the leave. NH FHT is not

required to continue any benefit plans during the employee's leave; however, employees can provide payment in advance of the leave to cover the cost of the benefits so that they may continue while on the leave.

### **Organ Donor Leave**

Employees who have been continuously employed by NH FHT for thirteen (13) weeks are entitled to take unpaid, job-protected leave from work for the purposes of organ donation.

The organ donor leave must begin on the date of the surgery, although it may begin earlier where a medical practitioner specifies an earlier date in a written certificate. The employee may take leave for up to thirteen (13) weeks, although in cases where the doctor declares that the employee is not able to resume his/her work, an additional period of time will be granted. The maximum period of the extended leave is thirteen (13) weeks.

Employees taking organ donor leave must provide NH FHT with a minimum of two (2) weeks' notice of their intention to take the leave. Employees must provide a medical certificate confirming the reasons for and the expected duration of the leave.

### **Family Caregiver Leave**

All employees, regardless of their length of service with NH FHT, are entitled to eight (8) weeks of unpaid job protected leave per calendar year for family caregiver leave.

The employee can take the time for the family members described below in order to care for or support a family member if a qualified health practitioner issues a certificate stating that the individual has a serious medical condition. A serious medical condition may include a condition that is chronic or episodic.

For the purpose of this leave, a family member includes:

- The employee's spouse;
- A parent, step-parent or foster parent of the employee or the employee's spouse;
- A child, step-child or foster child of the employee or the employee's spouse;
- A grandparent, step-grandparent, grandchild or step-grandchild of the employee or the employee's spouse;
- The spouse of a child of the employee;
- The employee's brother or sister;
- A relative of the employee who is dependent on the employee for care or assistance;
- Any individual prescribed as a family member for the purpose of this section.

### Medical Certificate

NH FHT requires that employees provide a medical certificate from a qualified health practitioner (could include a physician, registered nurse or psychologist) stating that the individual has a serious medical condition. This should be provided to NH FHT prior to the start of a family caregiver leave, unless an emergency situation occurs. The medical certificate must be from the qualified health practitioner who is caring for the ill individual and must state that the family member is suffering from a serious medical condition.

### Notice

Employees are required to give notice in writing to NH FHT, along with the medical certificate, prior to the start of a family caregiver leave. If an employee must begin a family caregiver leave prior to notifying NH FHT due to an emergency situation, the employee must notify NH FHT in writing about the leave as soon as possible after its start.

### **Critical Illness Leave**

All employees who have been employed with NH FHT for at least six (6) consecutive months are entitled to up to thirty seven (37) weeks of unpaid job protected leave to provide care or support to a critically ill minor child (must have been certified by a qualified health practitioner). A "critically ill minor child refers to a minor child whose baseline state of health has significantly changed and whose life is at risk as a result of an illness or injury.

All employees who have been employed with NH FHT for at least six (6) consecutive months are entitled to up to seventeen (17) weeks of unpaid job protected leave to provide care or support to a critically ill adult (must have been certified by a qualified health practitioner).

For the purpose of this leave, a minor child includes a child, step-child or foster child or child who is under the legal guardianship of the employee and under the age of eighteen (18). An adult refers to an individual eighteen (18) years of age or older. The leave is restricted to instances where family members of the employee as defined by the Act are critically ill.

#### Length of Leave

If the qualified health practitioner sets out a period of less than the prescribed weeks of leave, the employee is entitled to take the leave only for the number of weeks in the period specified in the medical certificate. If the qualified health practitioner sets out a period of fifty two (52) weeks or longer, the employee's leave must end no later than the last day of the fifty two (52) week period.

If a critically ill minor child or adult dies while an employee is on leave, the employee's entitlement to be on leave ends at the end of the week in which the minor child or adult dies.

#### Further Leave

If a minor child or adult remains critically ill while the employee is on leave or after the employee returns to work, but before the fifty two (52) week period expires, the employee is entitled to take an extension of the leave or a new leave if they meet they meet the proper requirements. If the minor child or adult remains ill after the fifty two (52) week period expires, the employee is entitled to take another leave if the leave requirements are once again met.

#### Medical Certificate

NH FHT requires that employees provide a medical certificate from a qualified health practitioner (could include a physician, registered nurse or psychologist) prior to commencing a critically ill child leave, unless an emergency situation occurs. The medical certificate must state that the child is critically ill and requires the care or support of one (1) or more parents and it must also set out the time period during which the child requires the care or support of the employee.

#### Notice

Employees are required to give notice in writing to NH FHT, along with the medical certificate, prior to the start of a critical illness leave. The employee must also provide a written plan that indicates the weeks in which he or she will take the leave.

If the employee must begin a critical illness leave prior to notifying NH FHT due to an emergency situation, the employee must notify NH FHT in writing about the leave as soon as possible after beginning it and provide a written plan that indicates the weeks in which he or she will take the leave.

#### **Child Death Leave**

For the purpose of this leave, a child includes a child, step-child or foster child or child who is under the legal guardianship of the employee, and is under eighteen (18) years of age. "Crime" means an offence under the *Criminal Code of Canada*, other than an offence prescribed by the regulations made under paragraph 209.4 (f) of the *Canada Labour Code*.

### Length of Leave

All employees who have been employed with NH FHT for at least six (6) consecutive months are entitled to up to one hundred and four (104) weeks of unpaid job protected leave if an employee's child dies. Employees may take their leave only during the one hundred and five (105) week period that begins in the week the child dies.

Please note that an employee is not entitled to this leave of absence if the employee is charged with a crime in relation to the death or if it is probable that the child was a party to a crime in relation to their death.

### Notice

Employees are required to give notice in writing to NH FHT prior to the start of a child death leave. The employee must also provide a written plan that indicates the weeks in which they will take the leave.

If an employee must begin a child death leave prior to notifying NH FHT due to an emergency situation, the employee must notify NH FHT in writing about the leave as soon as possible after beginning it and provide a written plan that indicates the weeks in which they will take the leave.

### **Crime-Related Child Disappearance Leave**

All employees who have been employed with NH FHT for at least six (6) consecutive months are entitled to up to one hundred and four (104) weeks of unpaid job protected leave if an employee's child disappears and it is probable, considering the circumstances, that the child disappeared as the result of a crime.

Generally, an employee who takes a crime-related child death or disappearance leave must take the leave in a single time period, although limited exceptions do apply. For exceptions and unusual circumstances related to this leave, please consult your manager or refer to the *Employment Standards Act, 2000*.

If an employee's child is found alive while the employee is on a crime-related disappearance leave, the employee is entitled to stay on leave for an additional fourteen (14) days. If an employee's child is found dead, the employee's entitlement to be on leave ends at the end of the week in which the child is found.

If it becomes probable, considering the circumstances, that the disappearance of an employee's child is not the result of a crime; the leave must end on the day in which it no longer seems probable.

Please note that an employee is not entitled to this leave of absence if the employee is charged with the crime or if it is probable that the child was party to the crime.

### Evidence

NH FHT may ask an employee to provide reasonable evidence to support the employee's entitlement to a crime-related child disappearance leave.

### Notice

Employees are required to give notice in writing to NH FHT prior to the start of a crime-related child disappearance leave. The employee must also provide a written plan that indicates the weeks in which he or she will take the leave.

If an employee must begin a crime-related child disappearance leave prior to notifying NH FHT due to an emergency situation, the employee must notify NH FHT in writing about the leave as soon as possible after beginning it and provide a written plan that indicates the weeks in which he or she will take the leave.

### **Domestic or Sexual Violence Leave**



All employees who have been employed with NH FHT for at least thirteen (13) consecutive weeks are entitled to up to ten (10) days and up to fifteen (15) weeks of protected leave if an employee or a child of an employee experiences domestic or sexual violence, or the threat of domestic or sexual violence. If an employee takes any part of a day as leave, NH FHT may consider the employee to have taken one full day of leave. If an employee has taken part of a week as leave, NH FHT may consider the employee to have taken one full week of leave. Under this leave, employees are entitled to take the first five (5) days as paid days of leave. The balance of the employee's entitlement are unpaid days. NH FHT will pay the first five (5) days of domestic or sexual violence leave at the amount prescribed by legislation.

For the purpose of this leave, a child includes a child, step-child or foster child or child who is under the legal guardianship of the employee, and is under eighteen (18) years of age.

Please note that an employee is not entitled to this leave of absence if the domestic or sexual violence is committed by the employee.

#### Confidentiality

NH FHT will ensure mechanisms are in place to protect confidentiality of records given to or produced by NH FHT that relate to an employee taking domestic or sexual violence leave.

#### Notice

Employees are asked to give notice in writing to NH FHT prior to the start of a domestic or sexual violence leave. The employee must also provide a written plan that indicates the weeks in which he or she will take the leave.

If an employee must begin a domestic or sexual violence leave prior to notifying NH FHT due to an emergency situation, the employee must notify NH FHT in writing about the leave as soon as possible after beginning it and provide a written plan that indicates the weeks in which he or she will take the leave.

#### **Jury Duty Leave**

NH FHT recognizes and respects the need for employees to complete jury duty, and will make accommodations for employees who have been selected to participate on a jury.

#### Procedure

- Employees who are selected for jury duty must provide as much advance notice as possible of the start of their jury duty
- Employees should include in their advance notice a copy of their summons to jury duty.
- Employees will be granted leave with pay/without pay to perform their civic duty as jurors
- Where the jury duty lasts for only part of a day, the employee is required to return to work (where possible) for the remainder of the day
- Once the jury leave has concluded, the employee will be required to provide evidence of the jury leave in the form of documentation from the court clerk confirming the days that the employee participated on the jury
- Any employee who is required to appear in a court of law as a plaintiff, defendant, or witness shall not be eligible for a paid leave of absence. In these instances, the employee may use vacation time, or request an unpaid leave of absence