

Resident Physician/Fellow Leave of Absence Policy

SUBJECT: Resident Physician/Fellow Leave of Absence Policy	PREPARED BY: David Carcieri, MD	EFFECTIVE DATE: 6/27/19	POLICY NUMBER: WIH-GME-001
PAGE: 1 of 8	APPROVED BY: Robert Insoft, MD Chief Medical Officer		REPLACES: NA

- I. Purpose.** The purpose of this *This Resident Physician/Fellow Leave of Absence Policy* (this “**Policy**”) recognizes the need to allow resident physicians/fellows to take reasonable leaves for qualified family and medical reasons. The Policy is intended to summarize the benefits and eligibility requirements in order to qualify. **Residents may be required to extend their training to meet the mandated training requirements of all agencies including but not limited to: ACGME, AOA, RRC and Relevant Specialty Board even if granted leave under this policy.**
- II. Scope.** This Policy applies to all resident physicians/fellows employed by Women & Infants Hospital (“Hospital”). This Policy, which specifically applies to resident physicians/fellows, supersedes portions of Hospital’s “Leave of Absence Policy” only with respect to resident physicians/fellows.
- III. Policy.** In accordance with the federal Family Medical Leave Act (FMLA) and state law, Hospital (“Hospital”) will grant resident physicians/fellows unpaid leaves of absence (“LOA”) for the following reasons:
- For incapacity due to pregnancy, prenatal medical care or child birth;
 - To care for the resident physician/fellow’s child after birth, or placement for either adoption or foster care;
 - To care for the resident physician/fellow’s spouse, son or daughter, or parent, or mother-in-law or father-in-law who has a serious health condition; or
 - For a serious health condition that makes the resident physician/fellow unable to perform the resident physician/fellow’s job;
 - Qualifying exigency leave for families of members of the National Guard and Reserves when the covered military member is on active duty or called to active duty in support of a contingency operation.

(An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to active military duty or who is already on active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up to service. The qualifying exigency must be one of the following: 1. short-notice deployment, 2. military events and activities, 3. child care and school activities, 4. financial and legal arrangements, 5. counseling, 6. rest and recuperation, 7. post-deployment activities and 8. additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave. The leave may commence as soon as the individual receives the call-up notice. Note: Son or daughter for this type of leave is defined the same as for a child for other types of FMLA leave except that the person does not have to be a minor. This type of leave would be counted toward the employee's 13-week maximum of FMLA/State leave in a 12-month period.

- **Military caregiver leave to care for an ill or injured service member;** (This leave may extend to up to 26 weeks in a single 12-month period for an employee to care for a spouse, son, daughter, parent or next of kin covered service member with a serious illness or injury incurred in the line of duty on active duty. Next of kin is defined as the closest blood relative of the injured or recovering service member. Note: Former members of the Armed Forces and those on the permanent disability retired list are excluded.)

This policy is intended to encompass resident physicians/fellows' FMLA and State Law entitlements. Leaves qualifying under these policies and FMLA and/or State Law will run concurrently. In the event any questions arise as to the meaning or application of these policies, the following rules shall apply:

1. If the question involves FMLA and/or State Law rights of the resident physician/fellow or the employer, those laws will decide the issue and,
2. All other issues will be resolved by the Hospital at its discretion.

IV. Definitions.

- (a) **Child**: "Child" means a biological child, a stepchild, a legally adopted child, a foster child (pursuant to an agreement with the State), a legal ward or a child for whom the resident physician/fellow has the day-to-day responsibility for care and financial support ("In loco parentis"). A child must be under the age of eighteen (18) unless he or she is incapable of self-care because of a mental or physical disability.
- (b) **Health Care Provider**: The phrase "health care provider" includes M.D.s, D.O.s, podiatrists, dentists, clinical psychologists, optometrists, chiropractors (under

certain limited circumstances), nurse practitioners and nurse midwives. Certain Christian Science practitioners are also included.

- (c) **Intermittent Leave**: “Intermittent Leave” involves leave taken in separate blocks of time for the same illness (e.g., for doctor’s appointments or for periodic treatments such as physical therapy or chemotherapy).
- (d) **Parent**: “Parent” means a biological parent or a person who was in loco parentis to the resident physician/fellow when the resident physician/fellow was a child.
- (e) **Reduced Schedule Leave**: “Reduced schedule leave” involves a reduction in the resident physician/fellow’s daily or weekly hours of work.
- (f) **Serious Health Condition**: A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a licensed health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or other daily activities.
- (g) **Spouse**: “Spouse” means a legal wife or husband. An unmarried domestic partner is not a “spouse”.

V. Procedure.

- (a) **Who is eligible for a LOA?** While the LOA is based on FMLA, there are changes implemented as needed to meet the special needs of the educational program. All resident physicians/fellows, even in their first year, are eligible, regardless of length of service or hours worked. Any impact of the LOA leave time on satisfying the completion of all educational requirements, as set by the program’s respective accrediting body must be reconciled prior to the resident physician’s/fellow’s graduation.
- (b) **What Reasons Qualify for Leave?** Resident physicians/fellows may take leave for the following reasons:
 - For incapacity due to pregnancy, prenatal medical care or childbirth;
 - To care for the employee’s child after birth, or placement for either adoption or foster care;
 - To care for the employee’s spouse, child or parent, or mother-in-law or father-in-law who has a serious health condition; or
 - For a serious health condition that makes the employee unable to perform the employee’s job;

- Qualifying exigency leave for families of members of the National Guard and Reserves when covered military member is on active duty or called to active duty in support of contingency operation;
- Military caregiver leave to care for an ill or injured service member;

- (c) **What Types of Illnesses Are Covered?** This policy covers illnesses of serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three (3) consecutive days of incapacity with the first visit to a licensed health care provider within 7 days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must occur at least twice a year.
- (d) **How Much Leave Can I Take and What Benefits are Granted to me While on Leave?** Please refer to the Hospital “Leave of Absence Policy” for specific amounts of allowable leave.

Please remember that the number of weeks of leave to which the resident physician/fellow is legally entitled includes all types of statutory leave. If the leave qualifies under both FMLA and State Law, it will be counted towards the resident physician/fellow’s entitlement under both laws. In order to make it easier to keep track of how much FMLA leave the resident physician/fellow has available, the Hospital will measure FMLA entitlements on a rolling 12 month basis.

- (e) **What Fringe Benefits Will I Receive While on Leave?** The Hospital will pay its share of the premiums for the resident physician’s/fellow’s health insurance for a period of time as indicated on the leave table as provided in the Hospital “Leave of Absence Policy” provided that the resident physician/fellow continues to pay his/her share of those premiums where applicable.

When a LOA is approved, the resident physician/fellow will receive instructions on how to pay his/her share of health insurance premiums. The Hospital reserves the right to deduct the resident physician’s/fellow’s share of health insurance premiums from any pay that may be due to the resident physician/fellow during or at the end of the leave. If the resident physician/fellow fails to pay his/her share during the leave within thirty (30) days of the due date, the Hospital will cancel the resident physician/fellow’s insurance after fifteen (15) days’ notice and after notifying the resident physician/fellow of the resident

physician/fellow's COBRA rights. Life and LTD are continued where applicable.

If the resident physician/fellow fails to return to work at the end of the resident physician/fellow's leave, the resident physician/fellow will be liable to the Hospital for any health insurance premiums paid by the Hospital on the resident physician/fellow's behalf while on leave unless the resident physician/fellow's failure to return is due to the continuation, recurrence or onset of a "serious health condition" or to other circumstances beyond the resident physician/fellow's control. The Hospital may deduct amounts owed from any final paycheck and/or pursue other legal remedies to collect these amounts.

- (f) **What Are My Reinstatement Rights?** Under FMLA, the resident physician/fellow is entitled to reinstatement to the resident physician/fellow's training position at the time of the resident physician/fellow's leave only. The resident physician/fellow's reinstatement rights will be determined by aggregating the amount of leave for all purposes (disability, family and parental) in the preceding twelve (12) months.

Failure to return to work at the end of the resident physician/fellow's leave will result in termination of the resident physician/fellow's employment. Please refer to Graduate Medical Education "Termination Policy".

- (g) **How is "Intermittent Leave" and "Reduced Schedule" Leave Treated?** FMLA permits employees to take "intermittent leave" or "reduced schedule" leave, under certain circumstances, because of the resident physician/fellow's own or a family member's serious illness. "Intermittent Leave" would normally be used for doctor's appointments or for periodic treatments (e.g., physical therapy or chemotherapy). "Reduced schedule leave" is available only when the resident physician/fellow's physician so requires. A "Health Care Provider Certification" Form is required for both of these types of leave.

Leaves of this type will be counted (pro rata based on the resident physician/fellow's regular schedule) towards statutory entitlements and are not available for birth, adoption or foster care.

- (h) **Which Procedures are required to Qualify for Leave?** The resident physician/fellow must request a leave of absence for any period of absence that exceeds or will exceed five (5) scheduled days of work. The resident physician/fellow's request should be made to the resident physician/fellow's immediate supervisor.

If the need for the resident physician/fellow's leave is foreseeable, the resident physician/fellow must make the request at least thirty (30) days before the leave is to begin. If thirty (30) days' notice is not possible, the resident physician/fellow must make the request as soon as practicable, within one or two workdays of the time the resident physician/fellow discovers the need for leave. Prior to approval of any leave for the resident physician/fellow's own serious health or for the serious health condition of a family member, the resident physician/fellow must submit a "Medical Certification Form" signed by a health care provider to the resident physician/fellow's FMLA source. This certification must be submitted as soon as possible. A delay of more than fifteen (15) days may result in denial of the resident physician/fellow's leave. The Hospital reserves the right, at the Hospital's expense, to require certification from a provider of the Hospital's own choice and, in the event of a disagreement, to refer the matter to a third provider for a final resolution.

A "Healthcare Provider Certification" Form upon initiation of a leave and extensions must be communicated to the resident physician/fellow's supervisor. If the resident physician/fellow is on worker's compensation, the resident physician/fellow must also give a copy of the note to Occupational Health.

Leaves related to serious health conditions will not be approved for periods longer than that certified by the health care provider(s). In the event that a definite return date cannot be specified, the leave will be approved only for a period ending one calendar week after the resident physician/fellow's next scheduled appointment with the provider. If the resident physician/fellow's approved leave exceeds thirty (30) days, the resident physician/fellow must provide a medical recertification of the continued need for the leave every thirty (30) days.

The resident physician/fellow's supervisor will then notify the Human Resources Department by completing a "Human Resources Personnel Action Form (951-44.01).

The FMLA source will inform the resident physician/fellow in writing whether the resident physician/fellow's leave has been approved and will send the resident physician/fellow an "FMLA Notice Form" explaining the nature of the resident physician/fellow's leave and the resident physician/fellow's rights and obligations if the leave is approved. A COBRA notice, if applicable, and application explaining the resident physician/fellow's COBRA rights will be provided to the resident physician/fellow by the Hospital's third-party administrator.

Extensions. Requests for extensions of leaves should be made directly to the resident physician/fellow's immediate supervisor in addition to the resident physician/fellow's FMLA source, and must be made within one or two work days after the need for the extension is known and, in any event, prior to expiration the resident physician/fellow's approved leave. Where warranted by exceptional circumstances, consideration will be given to extending benefits beyond those delineated on a case by case basis.

Failure to request a leave or an extension of a leave in a timely fashion may result in denial of the leave and termination of employment.

If the leave is due to the resident physician/fellow's own serious health condition and is one week or longer, the resident physician/fellow will also be required to furnish the Hospital with medical certification of the resident physician/fellow's fitness to return to work and to clear through Occupational Health prior to returning to work. Care New England may additionally require a fitness to return to work by an independent medical examiner.

- (i) **How Are Worker's Compensation Leaves Processed?** If the resident physician/fellow suffers a work related injury, the resident physician/fellow may qualify under the Hospital's Worker's Compensation Program. These leaves are considered FMLA leaves and will be subject to the provisions delineated in this policy. In addition, when the leave periods specified herein have been exhausted, the resident physician/fellow will be placed in an "inactive" status from the end of the leave entitlement period to twelve (12) months from the date of injury, in compliance with State regulations. This inactive status is a non-benefit status. All benefits will be suspended while in this status. At the end of twelve (12) months, if the resident physician/fellow is still unable to return to work, the resident physician/fellow's participation in the residency training program will be terminated.
- (j) **Mandatory Classes/Meetings/Training Session while on an LOA?** Resident physicians/fellows are not permitted to attend any department or hospital meetings while on active leave of absence. Resident physicians/fellows on approved leaves of absences may, with approval from Human Resources, attend classes and training programs provided by the hospital, but under no circumstance will the resident physician/fellows be paid for such time.
- (k) **Responsibilities**

Resident Physician: Submit "Request for Leave Forms" and request leave extensions to the Residency Program Coordinator prior to going on leave, in

writing if possible, and provide medical certification at least every thirty (30) days. Continue to make health insurance contributions. Make an appointment to clear through Occupational Health when ready to return to work. Repay the Hospital the full cost of the resident physician/fellow's health insurance if the resident physician/fellow does not return to work following the the resident physician/fellow's leave (unless disabled or no position is available).

Residency Program Coordinator: Complete and submit a "Request for Personnel Action Form" and part two of the "Request for Leave Form" to FMLA Source for approval along with employee's medical certification. (Do not retain medical documentation). Forms should be submitted as soon as it is known that the resident physician will be on leave for more than five (5) work days. Even if the resident physician/fellow does not specifically request a leave and the resident physician/fellow knows the absence is for an FMLA related reason, it is the resident physician/fellow's responsibility to initiate the leave approval and documentation process. Obtain and forward requests for leave extensions to FMLA Source. Notify Department Chair/Program Director to terminate resident physician who does not return from leave or who does not obtain authorization for an extension beyond the date approved.

FMLA Source: Review and approve leave requests, forward approval to the resident physician, obtain signed FMLA notice from the resident physician and forward resident physician medical information to Occupational Health for filing/retention.

Occupational Health: Maintain employee medical files. Provide back to work clearances. Obtain medical second opinions on some leave of absence.

Payroll: Obtain payment of full Hospital share of health insurance premiums from resident physician who does not return from leave except as noted in this policy. Obtain resident physicians/fellows portion of premium from resident physician while on leave where applicable.

APPROVED/REVISIONS:

GMEC, 5/27/15

6/27/19 Policy Review and updated