Baptist Health South Florida

POLICY NO.: BHSF-HR 3410

☑ Administrative
☐ Departmental

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POLICY TITLE:
Medical Leave of Absence Non-FMLA (Family and Medical Leave of Absence)

SUMMARY & PURPOSE:
This policy describes the conditions under which an employee may request a Medical Leave of Absence Non-FMLA.

POLICY:
Baptist Health provides eligible employees who do not otherwise qualify for a Family and Medical Leave of absence with a paid or unpaid absence from work under the following circumstances:

1. The employee does not meet FMLA eligibility requirements but requests leave for the following circumstances:
   a. The birth and care of the employee's newborn child;
   b. When a serious health condition[1] makes the employee unable to perform the functions of his or her position.

2. The employee's Family and Medical Leave for the employee's own serious health condition has expired and the employee requires additional time when a serious health condition makes the employee unable to perform the functions of his or her position. Medical certification is required in that event (Certification of Healthcare Provider form).

[1] See BHSF-3400, Family and Medical Leave, for the definition of "serious health condition."

3. To provide reasonable accommodation for a qualified employee with a disability.

SCOPE/APPLICABILITY:
This policy applies to benefit eligible employees as of their first day of work at Baptist Health. The employee taking Medical Leave Non-FMLA must use his or her available PTO (Paid Time Off), EIB (Extended Illness Benefits) and Pre-merger Sick Leave. Upon exhaustion of PTO, EIB and Pre-merger Sick leave benefits, the remainder of the leave period will be unpaid. Per diem employees may be eligible for this leave if they are a qualified individual with a disability under the ADA (American Disabilities Act).

Pregnancy Complications:
Employees who develop medical complications from pregnancy may be eligible for Medical Leave Non-FMLA, if they do not meet FMLA eligibility criteria or if their FMLA leave extends beyond the 12 week period. The employee may be placed on Medical Leave Non-FMLA as a reasonable accommodation under the ADA. Upon the birth of the employee's child, the employee will be granted 6 weeks protected leave after a normal delivery or 8 weeks protected leave after a C-section.

PROCEDURES TO ENSURE COMPLIANCE:
1. Notification And Certification Requirements:
   a. When Leave is Forseeable:
      An employee must provide Baptist Health at least 30 days advance written notice before Medical Leave Non-FMLA is to begin if the need for the leave is foreseeable based on an expected birth, planned medical treatment for a serious health condition of the employee. The written notice (Leave of Absence Request form A) must set forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated effective date of the leave, and must be provided to the leader for signature and then forwarded to the Integrated Disability Management (IDM) Representative.
   b. When Leave is Not Forseeable:
      If 30 days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. As soon as practicable means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case. An employee shall provide at least verbal notice sufficient to make Baptist Health aware that the employee needs a qualifying Medical Leave Non-FMLA, and the anticipated timing and duration of the leave. Notice should be provided by the employee to their leader and then the IDM Representative. Notice may be given by the employee's spokesperson (e.g., spouse, adult family member, or other responsible party) if the employee is unable to do so personally. If a request for leave form A is not submitted by the employee, the leader should submit a completed form A on the employee's behalf to the Integrated Disability Management Department no later than 5 business days from the date the leave becomes known by the leader.
   c. Duty to Cooperate:
      Employees must respond to Baptist Health's questions designed to determine whether an absence qualifies for a Medical Leave Non-FMLA. Failure to respond to reasonable Baptist Health inquiries regarding the leave request may result in denial of the Medical Leave Non-FMLA if Baptist Health is unable to determine whether the leave meets criteria for Medical Leave Non-FMLA.
   d. Consequences of Failure to Provide Notice:
      i. Forseeable Leave:

When the need for Medical Leave Non-FMLA is foreseeable at least 30 days in advance and an employee fails to give timely advance notice with no reasonable excuse, Baptist Health may delay Medical Leave Non-FMLA coverage until 30 days after the date the employee provides notice.

ii. Unforseeable Leave:
When the need for Medical Leave Non-FMLA is unforeseeable and an employee fails to give notice as provided in paragraph 3(b) of this policy, coverage for Medical Leave Non-FMLA may be delayed, depending upon the circumstances surrounding the failure to give notice.

e. Medical Certification of Leave:
   i. An application for leave based on the employee's own personal health problem requires a Certification of Healthcare Provider completed by the physician. The certification must state the date on which the health condition commenced, the probable duration of the condition and the appropriate medical facts regarding the condition.
   ii. A Certification of Healthcare Provider must be provided within fifteen (15) days of the leave request, or the leave may be delayed. The Certification of Healthcare Provider should be sent directly to the IDM Representative. Failure to provide the requested certification will ordinarily result in absences treated as unexcused and may lead to disciplinary action leading up to and including termination of employment. If the certification cannot be returned in time, it is the employee's obligation to request an extension beyond the 15 days. Extensions will only be granted by the Disability Management Coordinator for reasons beyond the employee's control. Due to confidentiality, copies of the Certification of Healthcare Provider are not permitted in personnel files or departmental files.
   iii. If an employee misrepresents the reasons or need for a Medical Leave Non-FMLA, he or she will be subject to disciplinary action up to and including termination.

f. Consequences if an Employee Fails to Obtain the Required Certification of Health Care Provider:
   i. The employee must provide a complete and sufficient certification. Baptist Health shall advise an employee whenever it finds a certification incomplete or insufficient, and shall state in writing what additional information is necessary to make the certification complete and sufficient. A certification is considered incomplete if Baptist Health receives a certification, but one or more of the applicable entries have not been completed. A certification is considered insufficient if Baptist Health receives a complete certification, but the information provided is vague, ambiguous, or non-responsive. The employee will have seven (7) calendar days (unless not practicable under the particular circumstances despite the employee's diligent good faith efforts) to cure any such deficiency. If the deficiencies specified by Baptist Health are not cured in the resubmitted certification, Baptist Health may deny the taking of Medical Leave Non-FMLA. A certification that is not returned to Baptist Health is not considered incomplete or insufficient, but constitutes a failure to provide certification.

   If the employee fails to provide Baptist Health with a complete and sufficient certification, despite the opportunity to cure the certification as provided above, or fails to provide any certification, Baptist Health may deny the taking of Medical Leave Non-FMLA leave. This may result in absences treated as unexcused and may result in disciplinary action up to and including termination. It is the employee's responsibility either to furnish a complete and sufficient certification or to furnish the health care provider providing the certification with any necessary authorization from the employee in order for the health care provider to release a complete and sufficient certification to Baptist Health to support the employee's Medical Leave Non-FMLA request. This provision will apply in any case where Baptist Health requests a

certification, whether it is the initial certification, a recertification, a second or third opinion, or a fitness for duty certificate, including any clarifications necessary to determine if such certifications are authentic and sufficient.

g. Authentication and Certification:
If an employee submits a complete and sufficient certification signed by the health care provider, Baptist Health may not request additional information from the health care provider. However, Baptist Health may contact the health care provider for purposes of authenticating the information contained on the certification form, by verifying that it was completed and/or authorized by the health care provider who signed the document, and/or for clarification to understand the handwriting on the medical certification or to understand the meaning of a response, (whether initial certification or recertification). Baptist Health first will give the employee an opportunity to cure any deficiencies.

h. Additional Medical Opinions:
If Baptist Health has reason to doubt the validity of a medical certification, we may require an employee to obtain a second opinion by a health care provider designated or approved by Baptist Health, and at Baptist Health's expense. If this second opinion differs from that provided by the employee's physician, Baptist Health may require the opinion of a third health care provider, designated or approved jointly by Baptist Health and the employee, and at Baptist Health's expense. The third opinion shall be binding. Pending receipt of the second (or third) medical opinion, the employee is provisionally entitled to Medical Leave Non-FMLA, including maintenance of group health benefits. If the certifications do not ultimately establish the employee's entitlement to Medical Leave Non-FMLA, the leave shall not be designated as Medical Leave Non-FMLA and will be treated as paid or unpaid depending upon the other established leave policies which are applicable.

Baptist Health will provide the employee with a copy of the additional opinion, if requested.

i. Medical Certification Abroad:
In circumstances in which the employee is visiting in another country and a serious health condition develops, Baptist Health shall accept a medical certification as well as second and third opinions from a health care provider who practices in that country. Where a certification by a foreign health care provider is in a language other than English, the employee must provide Baptist Health with a written translation of the certification upon request.

j. Re-certification Requirements:
Baptist Health may request re-certification from the health care provider.

2. Leave Duration:
The duration of a leave because of the employee's own serious health condition will be determined by the employee's physician, as documented in the Certification of Healthcare Provider form which must be submitted by the employee. If the physician later determines that the employee can return to work earlier than originally predicted, the leave shall end at the earlier date, subject to clearance of the employee to return to work by Employee Health Services. An employee unable to return to work on the anticipated date of return may apply for a leave extension with proper medical certification, for a period no longer than one (1) year from the last day worked, unless otherwise covered by the ADA. *Employees should not be returned to active duty without clearance from Employee Health Services.*

3. Transfer Eligibility:
Employees will not be permitted to apply for transfer during their leave of absence unless there is mutual agreement between the current department leader, the HR Site Consultant, the HR Recruitment Director(s) and the employee.

4. Benefits while on Leave:
   a. The employee will continue to pay for and be covered under the Flexible Benefits program while using PTO, EIB and Pre-merger sick leave benefits. Thereafter, the employee may continue coverage in the health and/or dental plans at his or her own expense under COBRA. Corporate Benefits will provide the employee with information and forms for continued participation when the leave is approved.

      During an unpaid leave, the employee ceases accruing benefit time.

5. Annual Performance Evaluation
   If an employee's annual performance evaluation is scheduled during the employee's approved Medical Leave Non-FMLA, the leader will hold the merit until the employee returns to active status. For every 30 days the employee is on a Medical Leave Non-FMLA, the merit review date is moved forward 30 days to the next scheduled review date. For example, if an employee has a scheduled review date of May 22, 2011 and is placed on Medical Leave Non-FMLA for 96 days, the merit review date is moved 3 scheduled review dates forward. In this example, the new review date will be August 28, 2011 and will continue in August of each year that follows, unless the employee goes on another Medical Leave Non-FMLA. The leader is notified via email by Compensation of the review date change.

6. Reporting to Baptist Health while on Leave and Notice of Intention to Return from Leave of Absence:
   a. An employee on Medical Leave Non-FMLA is required to report to the IDM Representative on a bi-weekly basis regarding his or her status and intention to return to work. If circumstances change and the employee needs either more or less leave, the employee must provide Baptist Health with reasonable notice (i.e., within 2 business days) of the changed circumstances where foreseeable.
   b. If a leave return is foreseen, an employee should complete a "Notice of Intention to Return from Leave of Absence" and submit the completed form to the leader at least five (5) days before returning to work so the department can properly prepare for the employee's return. If an employee has been on leave for two weeks or longer, the employee is encouraged to give his or her leader at least five working days prior notice before the employee's return date. The employee must bring a completed Physical Capacity Form from their physician to Employee Health Services. Employee Health Services, in turn will give the returning employee a signed release to return to work.

7. Reinstatement:
   Reinstatement will be determined on a case by case basis depending on the employee's particular situation and as determined by BHSF.

8. Failure to Return to Work:
   Employees who fail to return to work within five (5) calendar days after the expiration of the Medical Leave Non-FMLA, will be subject to termination as a voluntary resignation unless an extension for leave is approved. The effective date of the termination will be the day following the expiration date of the Medical Leave Non-FMLA. Extensions should be requested at least five (5) days prior to initial leave expiration date.

9. Outside or Supplemental Employment While on Medical Leave of Absence - Non-FMLA:
   An employee on a full time Medical Leave Non-FMLA for their own serious health condition may not work at another job during the duration of the leave, unless such outside employment is not consistent with the Medical Leave Non-FMLA offered by BHSF. Employees on Medical Leave Non-FMLA must notify the IDM Representative if he/she is

employed in another position with an outside employer in order to determine Medical Leave Non-FMLA eligibility. Failure to disclose this information may lead to revocation of Medical Non-FMLA protected leave and may also lead to disciplinary action.

10. Medical/Leave Documentation:
    The employee is to submit all medicaland leave documentation only to the Disability Management department and not to their leader. Leaders may not keep copies of any medical documentation or leave forms in the employee's departmental file.

11. Fitness for Duty Certification:
    a. To return to work from Medical Leave Non-FMLA because of a serious health condition of the employee in excess of three (3) full consecutive calendar days (including but not limited to short-term disability, workers' compensation injury, and PTO used for medical or health reasons), the employee must provide their respective Employee Health Office with a certification from the employee's health care provider that states that the employee is able to resume work. If the employee fails to provide the certification before the Medical Leave Non-FMLA ends, the employee will not be permitted to return to work. An employee who does not provide a fitness-for-duty certification or request additional Medical Leave Non-FMLA before the leave ends is no longer entitled to reinstatement under Medical Leave Non-FMLA. The employee must pay the cost of obtaining the fitness for duty certification.
    b. Baptist Health may require an employee to submit to further evaluation only as permitted, or required, by applicable law. In certain cases, further evaluation by the Employee Health Office may occur after the employee returns to work. Such evaluations shall be conducted in accordance with the Americans with Disabilities Act.
    c. If the employee is unable to perform essential functions of his/her position even with reasonable accommodation, because of disability, including continuation of a serious health condition or an injury or illness also covered by workers' compensation, Baptist Health may make a reasonable accommodation at that time by allowing the employee to work part-time or by reassigning the employee to a vacant position, barring undue hardship. Any employee who is released to work from Medical Leave Non-FMLA with restrictions, must provide notice to the Employee Health Office, 48 hours prior to the employee's return, so that an assessment can be made as to whether such restrictions can be accommodated.

12. Medical Leave Non-FMLA to Personal Leave:
    An employee who wants to extend their Medical Leave Non-FMLA leave for personal reasons may apply for a leave extension (in writing) at least five (5) days prior to their Medical Leave Non-FMLA end date. The request for extension should be sent to the employee's leader. The leader is encouraged to consider what accommodations can be made to allow employees to take Personal Leave of Absence. If the employee is in good standing, the department leader may also consider the length of the employee's service in determining whether the leave extension is appropriate. Employees in good standing are those employees who have not received a formal corrective action within the previous 6 month period. The leader must balance the individual's desire for additional leave against the department's staffing requirements before he or she can approve a Personal leave extension. If the Personal leave is not approved, the employee is expected to return to work the day following the Medical Leave Non-FMLA end date. If the employee who is denied this transition to Personal Leave does not return to work provisions under Failure to Return to Work apply. If the leave is approved, the leader should complete a request for leave extension form A and forward to the IDM Representative. All rules for Personal Leave will apply.

13. Termination from Leave of Absence:
Employees on Leave of Absence may be terminated for any one of the following reasons: (1) Failure to return to active employment on the day following the Medical Non-FMLA leave end date without proper notification or request for leave extension; (2) Failure to provide Baptist Health with a complete and sufficient Certification of Healthcare Provider despite the opportunity to cure the Certification of Healthcare Provider or failure to provide any required leave documentation; (3) Employee notifies Baptist Health of intent not to return to work and/or notification of resignation.

14. Procedures:

PROCEDURE FOR REQUESTING LEAVE

Responsible Party	Step	Procedure
Employee	1.	Review the materials within the Leave of Absence packet and complete the Request for Leave of Absence form A. Submit the completed, signed form to your department leader as far in advance of the desired leave as possible. Leave packets are located in Human Resources, Employee Health Services, the Intranet – Sun Page under Human Resources and the ESS webpage.
	2.	The employee must submit the completed Certification of Healthcare provider form to the IDM Representative within 15 days from the date the leave is requested.
Leader	3.	Send the approved Request for Leave of Absence Form – A to the IDM Representative immediately upon receipt. If the Request for Leave of Absence Form – A is not submitted by the employee, the leader must submit the form on the employee's behalf to the Integrated Disability Management Department no later than 5 business days from the date the leave becomes known by the leader.
	4.	The department leader will be required to initiate the *Employee Leave* transaction within 5 business days from the first scheduled missed workday after the last day worked. To do so, the leader must log onto the Lawson Manger Self-Service (MSS) portal using the unique ID and password to initiate an *Employee Leave* transaction.
	5.	The department leader selects the employee who is requesting leave, enters the leave effective date (first scheduled missed workday after the last day worked), and selects the "Leave of Absence" personnel action. The leader must also enter a description of the leave reason as free text and must enter "unknown" if the reason for leave is not known.
	6.	Submit the transaction by clicking "Update"; a dialogue box will appear that will indicate that the LOA request has been submitted successfully. If a Supervisor or Manager submits the Employee Leave transaction in MSS, the transaction will flow to the next leader in the process hierarchy and then Disability Management and Compensation for acknowledgement and approval. If a Director or above submits the Employee Leave

		transaction, it will flow directly to Disability Management and then Compensation for review and approval.
Integrated Disability Management	7.	Integrated Disability Management receives and Reviews the Request for Leave of Absence Form – A and the Certification of Healthcare Provider form.
	8.	IDM sends a notification letter of leave rights and responsibilities, including the leave effective date, leave end date, etc., to the employee within 5 days from the receipt of the request form.
	9.	If the Certification of Healthcare Provider form is not received, IDM will provide the employee with a new blank Certification of Healthcare Provider form and advise the employee of the date by which he/she is required to submit the completed form to IDM. If the Certification of Healthcare Provider form is not received after the second request, the employee's leave may be canceled and the absences may be considered unexcused which may lead to disciplinary action, up to and including termination.
	10.	The IDM Representative receives the *Employee Leave* transaction in MSS, reviews and confirms that all of the data fields are correct, enters the appropriate leave reason code based on the medical documentation received and approves the transaction if no corrections are made. If the leave effective date or the leave status is incorrect, the IDM Representative will make the appropriate corrections and approve the transaction. *(**Note:** IDM will not approve an Employee Leave transaction in MSS without a Request for Leave of Absence Form A that is signed by the employee's leader).*

PROCEDURE FOR REQUESTING REINSTATEMENT

Responsible Party	Step	Procedure
Employee	1.	Submit a Notice of Intention to Return from Leave – form and submits it to their leader. Notification must be given to the employee's leader at least five (5) working days prior to the planned return date.
	2.	Provide a physician's release to return to work or a completed Physical Capacity Form to your Employee Health Services Office.
Leader	3.	Do not schedule the employee to work until you have received the Return to Work Status form from Employee Health Services.
	4.	If the Return to Work Status form indicates work restrictions, review the situation with Employee Health Services and Integrated Disability Management.

	5.	The department leader will be required to initiate the *Employee Leave Return* transaction, within 5 business days from the employee's return to active duty, by logging into the Lawson Manger Self-Service (MSS) portal using the unique ID and password to initiate an *Employee Leave Return* transaction.
	6.	The leader must complete all of the required fields of the *Employee Leave Return* transaction, including selecting the "Return from Leave" personnel action and the effective date of the leave return. (This is the first day that the employee physically returns to active duty or clocks in for work).
	7.	Submit the transaction by clicking "Update"'; a dialogue box will appear that will indicate that the LOA return request has been submitted successfully.
Integrated Disability Management	8.	The IDM Representative receives and reviews the *Employee Leave Return* transaction in MSS, reviews and confirms that all the data fields are correct based on the return to work documentation received and approves the transaction if no corrections are necessary. If the leave return effective date or leave status change is incorrect, the IDM Representative will make the appropriate corrections and approves the transaction.

REQUESTING REINSTATEMENT - FAILURE TO RETURN TO WORK

Responsible Party	Step	Procedure
Leader, IDM Representative and HR Site Consultant	9.	If the employee fails to return to work within five (5) calendar days of the leave expiration date, the employee will be subject to termination as a voluntary resignation unless an extension for leave was approved. The Leader must consult with the IDM Representative and HR Site Consultant if a termination from leave is applicable.
Leader	10.	If applicable, the leader submits the employee's termination from leave in MSS by logging into the Lawson MSS portal using the unique ID and password to initiate an *Employee Termination* transaction. The leader completes all of the required fields of the *Employee Termination* transaction, including selecting the "Termination" personnel action and the effective date of the leave termination (for leaves of absence, the termination effective date is defined as the leave end date, resignation date or other termination date indicated by HR Site). The Leader selects the "Did not return from LOA" personnel action, indicates if the employee is deceased or not and enters the employee's last day worked.
	11.	Submit the transaction by clicking "Update"'; a dialogue box will appear that will indicate that the termination request has been submitted successfully.

SUPPORTING/REFERENCE DOCUMENTATION:

- N/A

RELATED POLICIES, PROCEDURES, AND ASSOCIATED FORMS:

- Request for Leave of Absence - Form A
- Certificate of Healthcare Provider Form
- Notice of Intention to Return from Leave
- Physical Capacity Form

ENFORCEMENT & SANCTIONS:

Violation of this policy may lead to disciplinary action, up to and including termination of employment.