

## ETSU PHYSICIANS AND ASSOCIATES

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**APPROVED BY:**

**Signature:** \_\_\_\_\_  
Chair, Administration and Budget Committee

**Signature:** \_\_\_\_\_  
President, Board of Directors

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**Policy:**

Employees of ETSU Physicians and Associates may request a leave of absence for justifiable reasons. The standard reasons that may be approved are listed as follows:

- Personal leave,
- **Short Term Disability,**
- Medical leave – for employees who do not qualify for FMLA leave,
- Military Member, Covered Service Member
- Civil leave,
- Family Medical Leave Act (FMLA),
- Jury duty, and/or
- Bereavement leave.

## **Procedure:**

Employees are required to submit a formal request for a leave of absence to their immediate supervisor at least one month in advance of the beginning date, with the exception of medical leave, emergencies and death in the family. All appropriate approvals will be obtained and the request will be given back to the employee within two (2) weeks, advising the employee if the leave is approved or not approved. In the case of medical leave, as much prior notice as possible is requested. The effective date of leave should be included. In cases of military leave, a copy of the orders to active duty must be submitted along with a written request.

Leave of absence related to pregnancy and childbirth shall be treated as any short-term medical disability. When certified by the attending physician, persons unable to work because of pregnancy and childbirth may be granted up to four months leave as in the case of any other disability.

***Available PTO, Vacation or Sick time accrued must be used for all absences including the 14 day qualifying period for short-term disability insurance and FMLA. If PTO/Vacation/Sick balance is exhausted, approved time off will be unpaid leave. Paid PTO hours while on leave will be counted toward the accrual of PTO for each pay period receiving PTO. Employees on FMLA must also be on payroll the day before or the day after the holiday to receive holiday pay i.e. using vacation time, sick time or PTO time.***

***For employees who do not qualify for FMLA, PTO time will be used as in the case of any certified medical leave. An advance 30-day notice of return to work is expected when possible.***

## **Family and Medical Leave Act (FMLA)**

### **1. Eligibility**

Employees who have worked for ETSU Physicians and Associates for at least twelve (12) months, and who have worked at least 1,250 hours during that prior twelve (12) month period, may take up to twelve (12) weeks of unpaid leave for the following reasons:

- birth and/or care of a child of the employee;
- placement of a child into the employee's family by adoption or other foster care arrangements;
- care of an employee's spouse, child or parent who has a serious illness or health condition; or

- a serious health condition or illness, which renders the employee unable to perform the functions of his or her job.
- ***Any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a member of the United States Armed Forces, including the National Guard or Reserves, on 'covered active-duty' military leave.***

***Employees who have worked for ETSU Physicians and Associates for at least twelve (12) months, and who have worked at least 1,250 hours during that prior twelve (12) months period, may take up to twenty-six (26) weeks of unpaid leave for the following reason:***

***Care of an employee's spouse, son, daughter, parent or "next of kin" covered service member who has a serious injury or illness incurred in the line of duty.***

***A seven-year break in service (unless the result of either National Guard/Reserve military service or a written agreement, such as a collective bargaining agreement) requires an employee to meet once again the "12 months of employment" requirement.***

In the case of unpaid leave for the birth or placement of a child, intermittent leave or working a reduced number of hours is not permitted unless both the employee and the Corporation agree. Also, leave for the birth or placement of a child must be completed within twelve (12) months of the birth or placement.

In the case of an employee's serious health condition or illness, or in the case where an employee must care for a spouse, child or parent's serious health condition or illness, leave may be taken intermittently or on a reduced hourly basis, but only if such leave is medically necessary. If either intermittent leave or reduced hours is required, ETSU Physicians and Associates, at its sole discretion, may temporarily transfer the employee to another position with equivalent pay and benefits that better accommodate the leave. Although the alternative position will have equivalent pay and benefits, it will not necessarily entail equivalent duties.

When leave is needed to care for an immediate family member or for the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the operations of the workplace at ETSU Physicians and Associates.

***FMLA may not be used for the care of an employee's in-laws, grandparents, aunts, uncles, siblings, cousins, children beyond age 18 (unless a mental or physical disability make the child incapable of self-care) or an unmarried domestic partner.***

## 2. ***Covered Active-Duty Leave: Military Families***

***Eligible employees may use FMLA for up to twelve (12) weeks of unpaid military family leave if immediate family members are reservists, members of the National Guard, and certain retired but recalled military service personnel for certain “exigencies”: qualifying events related to a family member’s active-duty military service or call to active duty. FMLA leave may be full or intermittent.***

***The Department of Labor regulations identify eight qualifying events:***

- ***Short-notice deployment***
  - ***Where the notification of a call or order to active duty is seven (7) days or less.***
- ***Military events and related activities***
  - ***To attend official military events, family assistance programs or briefings.***
- ***Child care and school activities***
  - ***Child care and school-related activities for a child, legal ward or stepchild of a military member.***
- ***Financial and legal arrangements***
  - ***To make or update financial or legal arrangements addressing the absence of a military member.***
- ***Nonmedical counseling***
  - ***Non-healthcare related counseling for employee or child, legal ward or stepchild of the military member.***
- ***Rest and recuperation***
  - ***An eligible employee may take up to fifteen (15) calendar days at a time to spend with a military member who is on Rest and Recuperation leave.***
- ***Post-deployment activities***
  - ***For a period of ninety (90) days after a military member’s active duty terminates, an eligible employee may take leave to attend ceremonies, reintegration briefings, or other programs, as well as deal with a service member’s posthumous return.***
- ***Additional activities***
  - ***This covers leave for other events where the employer and employee agree on the time and duration of the leave for support of an immediate family military member.***
- ***Parental Care***
  - ***This covers leave to care for a military member’s parent who is incapable of self-care when the care is necessitated by the member’s covered active duty. Such care may include arranging for alternate care, providing care on an immediate need basis, admitting or transferring the parent to a care facility, or attending meetings with staff at a care facility.***

### **3. Caregiver Leave: Military Families**

***Eligible employees may use FMLA for up to 26 weeks within a single 12-month period of unpaid job-protected leave to care for an immediate family***

**members who is a covered service member of the United States Armed Forces, including a National Guard or Reserves and covered veterans, with serious injury or illness incurred in the line of duty.**

**A covered veteran is an individual who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.**

**An eligible employee is defined as the spouse, son, daughter, parent or “next of kin” of a covered service member. “Next of kin” is defined as the family member who is a blood relative and has been granted legal custody of the covered service member by court decree or statutory provisions. “Next of kin” may include brothers, sisters, grandparents, aunts, uncles and first cousins unless the covered service member has specifically designated (in writing by the military member) another blood relative as his or her blood relative for purposes of FMLA military-caregiver leave.**

**A serious injury or illness means an injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating. A serious injury or illness also includes injuries or illnesses that existed before the beginning of the member’s active duty and were aggravated by service in the line of duty in the Armed Forces.**

**A serious injury for a covered veteran means an injury or illness that was incurred in the line of duty on active duty in the Armed Forces and manifested itself before or after the member became a veteran, and is:**

1. A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the service member unable to perform the duties of the service member’s office, grade, rank, or rating; OR
2. A physical or mental condition for which the covered veteran has received a VA Service Related Disability Rating (VASRD) of 50 percent or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; OR
3. A physical or mental condition that substantially impairs the veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; OR
4. An injury including a psychological injury

The following healthcare providers may complete a certification for a covered service member: (1) U.S. Department of Defense (DOD) health care provider; (2) U.S. Department of Veterans Affairs (VA) health care provider; (3) DOD TRICARE network authorized private health care provider; (4) DOD non-network TRICARE

authorized private health care provider, (5) a health care provider as defined in 29 CFR 825.125.

The company may require that the certification from an authorized health care provider contain the following information:

1. The type of healthcare provider;
2. Whether the injury or illness was incurred in the line of duty on active duty;
3. Approximate date of injury or illness and probable duration;
4. Statement or description of appropriate medical facts, including information on whether the injury or illness may render the member medically unfit to perform the duties of his office, grade, rank, or rating, and whether the member is receiving treatment, recuperation or therapy;
5. Beginning and ending dates if care is needed for a continuous period of time;
6. Whether there is medical necessity for leave on a reduced schedule or intermittent basis, and estimated schedule and
7. Estimate frequency and duration of intermittent care

The employer may require that the certification for military caregiver leave also contain the following information provided by the employee and/or covered service member:

1. Names and address of the employer, the employee requesting leave, and the name of the covered service member;
2. The relationship of employee to the service member for whom the employee is requesting leave;
3. Whether the service member is a current member of the Armed Forces, the service member's military branch, rank and unit;
4. Whether the service member is assigned to a military medical facility as outpatient, or unit established for command and control and the name of the treatment facility or unit;
5. Whether the service member is on the temporary disability list;
6. A description of care to be provided and an estimate of leave needed to provide care.

If the company requests certification, an employee may submit documentation of enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers as sufficient certification of the covered veteran's serious injury or illness. The documentation is sufficient even if the employee is not the named caregiver on the document.

If an employee submits documentation of the service member's enrollment in the VA Program of Comprehensive Assistance for Family Caregivers, an employer may require the employee to provide additional information, such as confirmation of the familial relationship to the enrolled service member or documentation of the veteran's discharge date and status.

The company may require the employee to indicate whether the military member is a veteran, the date of separation, and whether the separation was other than dishonorable. The company may also require that the employee provide documentation confirming this information.

Second and third opinions may be required by an employer for military caregiver leave certifications that are completed by health care providers, as defined in § 825.125, who are not affiliated with DOD, VA, or TRICARE.

#### 4. Insurance Benefits During Family Medical Leave

For employees that qualify for FMLA, the corporation will continue to pay its portion of the employee's health insurance premium up to 12 weeks, and the employee must continue to pay his or her normal share of such premium. After 12 weeks have expired, one of the following will apply:

- a. If the employee has leave time available (PTO, Vacation / Sick), the employer will continue to pay its portion of benefits until the employee is no longer on payroll. Once all time is exhausted, the employee will be responsible for 100% of the premium (employee and employer portion)
- b. If the employee is unable to return to work and has no leave time available (PTO, Vacation / Sick), the employee must pay 100% of the premiums
- c. If the employee returns to work and works at least 20 hours during the workweek, the employer will pay its portion of premium for up to 6 weeks. After 6 weeks, if the employee does not return full time (at least 32 hours), the employee will be responsible for 100% of the premiums. The employee must have a physician's statement releasing them to work.

When paying for benefits, the employee must submit his/her share of health insurance premiums within five (5) days of the first day of the coverage month. Upon request of leave, the employee must sign a promissory note guaranteeing his / her portion of benefit premiums.

For employees on leave other than FMLA, the employer will pay its portion of premiums as long as the employee is on payroll (i.e. using PTO, Vacation / Sick). Once leave time is exhausted, the employee will be responsible for 100% of premiums.

In the event that an employee on family or medical leave fails to make a premium contribution within thirty (30) days of the date that such contribution is due to the health insurance company, ETSU Physicians and Associates' obligation to maintain health insurance coverage ceases. Thus, failure of the employee to pay his or her share of the health insurance will result in loss of coverage.

#### 5. Twelve Month Period

Under the family and medical leave policy, an employee is entitled to twelve (12) weeks of family and medical leave based on a twelve (12) month period. The

twelve (12) month period will be measured from the date an employee first takes family and medical leave.

Therefore, the twelve (12) month period will always begin on the same date (day/month) in consecutive years following the first year in which the leave was taken.

6. Intermittent Leave or a Reduced Work Schedule

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or under certain circumstances may use the leave to reduce the work week or work day, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks over a 12-month period ***unless the leave is for Military Caregiver Leave which allows up to 26 weeks of unpaid FMLA leave in a single 12 month period.***

The company may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, for leave for the employee or employee's family member that is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

For the birth, adoption or foster care of a child, the company and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with the company before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary. The company may require certification of the medical necessity as discussed in Section 8.

7. Accrued Leave and Other Benefits

Employment benefits accrued by the employee up to the day on which the family or medical leave begins will remain intact.

Employees who return to work from a family or medical leave of absence within the leave period or on the next business day following the expiration of the twelve (12) weeks are entitled to return to their position or an equivalent position without any loss of benefits or pay otherwise available.

***Employees are required to use their available PTO hours, vacation hours, sick leave time, and/or other accrued leave time during the fourteen day waiting period for Short Term Disability. Employees, with or without Short***

***Term Disability benefits, who request FMLA, must use their available PTO/vacation hours, sick leave time and/or other accrued leave time for all periods of Personal, Medical or Family Leave. Accrued leave time will be used concurrently with unpaid FMLA. Once accrued leave time has been exhausted, the remainder of FMLA will be unpaid leave. Use of such accrued leave time will be in compliance with the established policy and procedure for each leave benefit.***

8. Procedure for Taking Family or Medical Leave

Before taking any leave, each employee must submit a request for leave by filling out a Family Medical Leave form. That form **MUST** be obtained from Human Resources. All requests for leave must be submitted at least thirty (30) days before the leave is to begin, or as soon as possible if thirty (30) days notice is not possible. If the reason for an employee's leave changes, the employee must request another Family Medical Leave form and submit the new form to Human Resources within **THREE (3) DAYS** of its receipt. If leave is requested due to a serious health condition of the employee or the employee's family member, that employee **MUST** obtain a "Certification of Serious Health Condition" Form. That form **MUST** be obtained from the Human Resources Department. A certification of serious health condition form must be submitted in order to qualify for family and medical leave due to a serious health condition.

Before being restored to his/her former employment, every employee who is on family or medical leave due to a serious health condition must submit a return to work statement from the attending physician, which will indicate if the employee may come back to work with or without restrictions. As well, the employee must schedule an appointment with the HR office to discuss FMLA case closing and be certified to return to work. Should the employee not return through the HR office, the employee will not be considered "released" to employment.

**Tennessee Maternity Leave Act (TMLA)**

A female or male employee who has been employed by ETSU Physicians and Associates for at least twelve (12) consecutive months as a full-time employee, as determined by the Corporation, may be absent from employment for a period not to exceed four (4) months in connection with adoption, pregnancy, childbirth, and nursing the infant. If a leave qualifies for both family and medical leave and Tennessee maternity leave, the leave counts against your entitlement under both laws. Specifically, T.C.A. § 4-21-408 provides as follows:

1.

A female or male employee who has been employed by the same employer for at least twelve (12) consecutive months as a full-time employee, as determined by the employer at the job site or location, may be absent from such

employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing the infant, where applicable (such period to be hereinafter referred to as "maternity leave").

2.

(a) A female or male employee who gives at least three (3) months' advance notice to their employer of their anticipated date of departure for maternity leave, their length of maternity leave, and their intention to return to full-time employment after maternity leave, shall be restored to their previous or a similar position with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of their leave.

(b) A female or male employee who is prevented from giving three (3) months' advance notice because of a medical emergency that necessitates that maternity leave begin earlier than originally anticipated shall not forfeit their rights and benefits under this section solely because of her failure to give three (3) months' advance notice.

3.

(a) Maternity leave may be with or without pay, depending on the amount of PTO, vacation or sick time the employee has accrued. Maternity leave shall not affect the employee's right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which she was eligible at the date of her leave, and any other benefits or rights of her employment incident to her employment position; provided, that the employer need not provide for the cost of any benefits, plans or programs during the period of maternity leave unless such employer so provides for all employees on leaves of absence.

(b) If an employee's job position is so unique that the employer cannot, after reasonable efforts, fill that position temporarily, then the employer shall not be liable under this section for failure to reinstate the employee at the end of her maternity leave period.

(c) The purpose of this section is to provide leave time to female or male employees for adoption, pregnancy, childbirth and nursing the infant, where applicable; therefore, if an employer finds that the employee has utilized the period of maternity leave to actively pursue other employment opportunities or if the employer finds that the employee has worked part time or full time for another employer during the period of maternity leave, then the employer shall not be liable under this section for failure to reinstate the employee at the end of her maternity leave.

(d) Whenever the employer shall determine that the employee will not be reinstated at the end of their maternity leave because their position cannot be filled temporarily or because they have used maternity leave to pursue employment opportunities or to work for another employer, the employer shall so notify the employee.

4. Nothing contained within the provisions of this section shall be construed to:

- affect any bargaining agreement or company policy, which provides for greater or additional benefits than those required under this section;
- apply to any employer who employs fewer than one hundred (100) full-time employees on a permanent basis at the job site or location; or
- diminish or restrict the rights of teachers to leave for maternity pursuant to title 49, chapter 5, part 7, or to return or reinstatement after leave.

## **Jury Duty**

The Corporation considers jury duty an important civic obligation. Employees are encouraged to serve when called. If you are summoned to jury duty, you will be excused from work and will receive full pay on the days you are required to serve in addition to your jury duty pay. If you receive a subpoena notice to report to jury duty you must forward a copy to your immediate supervisor, who will send a copy to the Human Resource office. Employees who are required to serve for less than 3 hours are expected to return to work upon completion of the time served. Any employee who is required to serve for more than 3 hours, but less than 8 hours, and chooses not to return to work, will only be paid for the actual amount of time served for that day. Time spent on jury duty will be considered time worked for purposes of calculating overtime.

When in obedience to a subpoena or direction by proper authority, an employee appears as witness for the Federal Government, the State of Tennessee, or a political subdivision of the State, he/she will be granted civil leave which will not be charged as annual leave.

Employees involved in personal litigation, or who serve as witness in private litigation, will be charged with annual leave or leave of absence.

## **Bereavement**

In the event of a death in the immediate family, employees are given leave up to three (3) consecutive working days with pay. For this purpose, the immediate family is considered to be your,

- spouse,
- children, stepchildren,
- parents, foster parents, parents-in-law, stepparents,
- brothers and sisters, stepbrothers & stepsisters,
- grandparents,
- grandchildren,

- sons-in-law and daughters-in-law, and
- brothers-in-law and sisters-in-law