

# New Jersey employees

## Purpose

The purpose of this standard is to establish the policy, procedures and forms to guide the uniform and legally compliant designation and administration of employee leaves of absence and to ensure proper coordination with other forms of leave and paid leave benefit available to employees. This Supplemental Guidance on Leaves of Absence for New Jersey Employees is intended as a resource containing specific provisions that apply to Stryker's New Jersey employees. The Standard and this Supplemental Guidance should be read together. Where Stryker's obligations under applicable federal, state and/or local laws governing leaves of absences conflict, Stryker will comply with the law that is most generous to the employee.

## Scope

This Standard applies to all Stryker ("the Company") employees working within the state of New Jersey, or who routinely perform work in New Jersey and whose work is directed and controlled in New Jersey.

## Related documents

Leave of Absence Standard CHR-BEN-001.

## General requirements

This standard will identify the Company's general policy and administration of employee leaves of absence that are covered by New Jersey law.

## Procedure

### 1.0 New Jersey Family Leave

- 1.1 **Overview of leave provisions:** In addition to leave under the Family and Medical Leave Act ("FMLA"), both "Basic FMLA Leave" and "Military Family Leave" described in CHR-Ben-001, employees who work within the state of New Jersey have additional leave requirements as dictated by the New Jersey Family Leave Act ("NJFLA").
- 1.2 **Leave eligibility:**
- 1.3 Employees are eligible for New Jersey Family Medical Leave if they meet the following eligibility requirements:
  - 1.3.1 Have been employed by the Company for a total of at least 12 months;
  - 1.3.2 Have worked at least 1,000 hours for the company during the 12 calendar months immediately preceding the request for leave of absence (The time spent in military service will be counted in determining whether the employee meets the 12-month and 1,000 hour requirements); and
  - 1.3.3 The leave is for a qualifying reason as set forth in Section 2.1 below

## 2.0 New Jersey Family Leave Act

- 2.1** Qualifying Reason for NJFLA Leave: If eligibility requirements are met, employees may take up to 12 weeks of unpaid leave during a Leave Period (the 24-month period that begins on the date that leave commences) for one of the following qualifying reasons:
- 2.1.1** To care for the employee's son or daughter following the birth or adoption of a child or;
  - 2.1.2** To care for an employee's family member defined as a spouse (including a civil union partner or registered domestic partner under New Jersey law), son, daughter (including adult children incapable of self-care because of a physical or mental disability at the time leave commences), or parent (includes adoptive, step, foster parent or parent-in-law) who has a serious health condition.
- 2.2** **Serious health condition:** An illness, injury, impairment or physical or mental condition that involves:
- 2.2.1** Inpatient care including any associated period of incapacity or subsequent treatment; or
  - 2.2.2** Continuing treatment by a healthcare provider ("HCP") that includes any one or more of the following:
    - a) a period of incapacity of more than 3 consecutive full calendar days and any associated subsequent treatment or period of incapacity relating to the same condition that involves 2 or more HCP visits, the first of which occurs within 7 days of the first day of incapacity and both of which occur within 30 days of the first day of incapacity unless extenuating circumstances prevent it;
    - b) a period of incapacity of more than 3 consecutive full calendar days and any associated subsequent treatment or period of incapacity relating to the same condition that involves a single HCP visit within 7 days of the first day of incapacity which results in a regimen of continuing treatment under supervision of a HCP;
    - c) any period of incapacity due to pregnancy or to receive pre-natal care;
    - d) any period of absence to receive multiple treatments by a HCP for restorative surgery after an accident or other injury;
    - e) any period of absence to receive multiple treatments by a HCP for a condition that would likely result in incapacity of more than 3 consecutive calendar days in the absence of medical treatment;
    - f) any period of incapacity or treatment for such incapacity due to a chronic serious health condition that requires treatment at least twice per year (e.g., asthma, diabetes, epilepsy); or
  - 2.2.3** Any period of incapacity that may be permanent or long term for which treatment may not be effective (e.g. Alzheimer's disease, severe stroke, or terminal stages of a disease).
- 2.3** **Multiple requests for Family Leave:** If more than one member of the same family is employed by the Company and requests NJFLA at the same time, the Company shall grant simultaneous leaves, provided that both employees are otherwise eligible for NJFLA.
- 2.4** **Leave period:** The amount of NJFLA leave available to an employee will be based on the 24-month period immediately preceding the date the employee uses any NJFLA leave. The available leave will be the balance of the 12-week allowance which has not been used during the preceding 24 months. For purposes of determining leave use, a company holiday occurring within a full week of NJFLA leave has no effect; the entire week is counted as NJFLA leave. If, however, the employee uses NJFLA leave in increments of less than 1 week, the company holiday will not be charged against the leave unless they were scheduled to work it.

- 2.5 Variable schedule and part time employee calculation.** The leave entitlement for employees whose schedule with the Company varies from week to week is calculated based on the weekly average hours the employee is scheduled to work over the preceding 12 months. Usually pro-rata leave is not calculated if the employee works a fixed hour, part-time schedule and is taking leave in full weeks. If the employee requests intermittent leave or needs partial weeks of leave, the pro-rata leave amount will need to be calculated.

For example: Leslie normally is scheduled to work 30 hours per week. Her NJFLA entitlement is 12 weeks leave X 30 hours per week = 360 hours NJFLA entitlement. If she requests 12 weeks of leave due to a serious medical condition, she will get 12 weeks of 30 hours leave per week. However, should she request 15 hours off each week due to a serious medical condition, Leslie will take half a week of FMLA leave each calendar week and will use all her NJFLA leave in 24 calendar weeks. [15 hours X 24 weeks = 360 hours].

### 3.0 Intermittent and Reduced-Schedule Leave

- 3.1 Intermittent & reduced-schedule leave:** An employee taking NJFLA to care for a family member with a serious health condition may be allowed to take intermittent leave (in separate blocks of time due to a single health condition) or on a reduced-schedule leave (reducing the usual number of hours worked per workday or workweek) if medically necessary. Any employee taking intermittent or reduced schedule leave must make a reasonable effort to schedule the leave so as not to unduly disrupt the Company's operations. The total time within which intermittent leave for a serious health condition may be taken cannot exceed a 12-month period. Intermittent leaves taken in connection with more than one serious health condition must be taken within a consecutive 24-month period, or until the employee's 12 week leave entitlement is exhausted, whichever comes first.
- 3.2 Temporary transfers:** If an employee requires intermittent or reduced schedule leave to care for a family member with a serious health condition, the Company may transfer the employee temporarily to an alternative position for which the employee is qualified that can better accommodate the leave schedule. The position must have equivalent pay and benefits, but not necessarily have equivalent duties.
- 3.3 Accounting for intermittent leave:** All time taken under an intermittent or reduced-schedule leave will be accumulated and count toward the employee's 12 week leave entitlement for NJFLA leave.

### 4.0 Administration of leave process and designation of leave

- 4.1** The process is initiated when the employee provides written notice to the Company that the employee needs NJFLA. If it is impracticable to provide written notice, the employee may provide oral notice followed by written notice.
- 4.2** An employee shall provide the Company with at least 30 days advance notice of the leave, except where emergent circumstances warrant shorter notice. Failure to provide appropriate notice may be grounds for delaying the start of leave.
- 4.3** The employee is obligated to respond to reasonable Company's inquiries regarding leave request, amount of notice and other information in order to determine eligibility and qualification for NJFLA leave.
- 4.4** The Company will notify the employee of his/her eligibility and qualification to take NJFLA leave in writing.
- 4.5** In certain situations, the Company may retroactively designate leave taken as NJFLA leave as long as there is no negative impact on the employee.

## 5.0 Medical certification & recertification & second and third opinions

- 5.1 Certification:** Certification will be required from the employee to support that the employee is taking leave for the birth or adoption of a child (stating the date of birth or placement) or to care for a family member with a serious health condition. Where the certification is for the serious health condition of a family member, it must be completed by a duly licensed HCP and state the date on which the serious health condition commenced, the probable duration of the condition, and the medical facts within the HCP's knowledge regarding the condition. Failure to provide requested certification in a complete and timely manner may result in denial of leave until it is provided.
- 5.2 Second and third opinions:** The Company may, at its expense, require an examination by a second healthcare provider designated by the Company, if it has reason to doubt the validity of the medical certification initially provided. If the second healthcare provider's opinion conflicts with the original opinion, the Company, at its expense may require a third, mutually agreeable, healthcare provider to conduct an examination and provide a final and binding opinion.

## 6.0 Benefits

- 6.1** For the approved leave term, the Company will maintain the employee's healthcare coverage. Any employee contributions to employee benefit plans must be maintained during the leave to continue coverage. If the employee's premium payment is more than 30 days late, the Company may elect either to cancel benefits coverage (after written notice to the employee at least 15 days in advance) or to pay for the coverage and to obtain reimbursement by payroll deduction when the employee returns to work. An employee who fails to return from a leave will be obligated to reimburse the Company for the cost of company-paid benefits, except when the employee's failure to return from leave is due to the continuation, recurrence or onset of a serious health condition or due to other circumstances beyond the employee's control.
- 6.2** The use of FMLA leave will not result in the loss of any employment benefit that accrued or was earned prior to the start of the employee's leave. The period of leave will be treated as credited service for purposes of all benefit accrual, accumulation, vesting or eligibility to participate in a benefit plan.

## 7.0 Paid time off and coordination with other forms of leave

- 7.1** For any leave that is paid during the FMLA period, the employee will continue to receive voluntary benefit coverage (e.g. supplemental life insurance, employee stock purchase plan) according to the terms of the plan. All voluntary benefit coverage that the employee wishes to maintain during unpaid FMLA leave is the responsibility of the employee. The employee will either make arrangements for payments during the leave, or will reimburse the Company by payroll deduction at the conclusion of the leave.
- 7.2** NJFLA and FMLA leave is coordinated and will run concurrently when the employee requests leave covered under both the FMLA and NJFLA. However, if the employee first takes leave for his/her own serious condition (covered by FMLA only) and, during the course of that leave and while the employee still is suffering from his/her own serious medical condition, also qualifies for leave that is covered by the NJFLA (birth/placement of a child or serious family illness), any period of time in which the employee remains on his/her own medical leave will count against his/her FMLA leave entitlement only. The leave only converts to NJFLA leave once he/she is no longer is entitled to leave for his/her own serious medical condition (either the medical condition is resolved or he/she exhausts all available FMLA leave.)
- 7.3** Leave will be unpaid except as covered by any earned and available vacation and sick/personal balances, other paid time-off, New Jersey Temporary Disability Benefits, New Jersey Family Leave Insurance, or payments under Stryker's disability plan or workers' compensation benefits, as

applicable. The use of paid leave time for unpaid leave time does not extend the 12 week leave period. In no case can the application of paid leave time for unpaid leave time result in the receipt of more than 100% of an employee's salary. The Company may consider information about an employee's health condition obtained while trying to determine disability status under the ADA or a workers' compensation program. Coordination and paid time off is as follows:

- 7.3.1 Serious medical condition of a family member:** When NJFLA leave is used to care for a family member with a serious medical condition, the employee is eligible to apply for NJ Family Leave Insurance. Following the expiration of the NJ Family Leave Insurance coverage period, the employee must use all his/her sick/personal time and vacation balances available, in that order, except that the employee may choose to save up to five days of vacation balance.
- 7.3.2 Birth, adoption or foster care of a child:** When NJFLA leave is taken for purposes of birth, adoption or foster care placement of a child, the employee is eligible to apply for NJ Family Leave Insurance. Following the expiration of the NJ Family Leave Insurance coverage period, the employee must use all his/her sick/personal time and vacation balances available, in that order, except that the employee may choose to save up to five days of vacation balance.
- 7.3.3 Charge against NJFLA entitlement:** All time off work which falls under the NJFLA will be designated as NJFLA and charged against the employee's NJFLA entitlement. This determination is made by the Company. If an employee uses vacation, sick/personal time or other paid time off balances for any purposes covered by NJFLA, all time taken will be charged against the employee's NJFLA entitlement. This applies even when the employee makes no reference to NJFLA at the time of the leave request.
- 7.3.4 Notice to employees regarding return to work date:** Employees may be required to provide regular reports regarding their status and intention to return to work. Employees will be notified of reporting obligations in the Notice of Eligibility and Rights & Responsibilities notice. Likewise, it may be necessary for the Company to contact an employee for those reasons. If the employee cannot be reached at the phone number on file with the Company and the leave is in excess of 5 working days, the employee must provide a telephone number and address at which they can be contacted.

## **8.0 Return to work**

- 8.1** Before you will be allowed to return to work following a leave of absence or transfer, you must provide the myHR, Leaves Team with a certification from your health care provider that you can perform safely all of the essential duties of your position, with or without reasonable accommodation. If you do not provide such a release prior to or upon reporting for work, you will be sent home until a release is provided. This time before the release is provided will be unpaid.
- 8.2** Upon return from NJFLA leave, an employee will be restored to his/her same position or to an equivalent position with equivalent pay, benefits, and other employment terms. The employee will not lose any employment benefit that accumulated, accrued or was earned prior to the start of the leave. The Company may deny an employee's request to return to work prior to the prearranged expiration of the leave.
- 8.3 Performance review:** Any performance review will reflect the employee's performance for the time actually worked. Employees will not be treated any differently for review, salary or bonus purposes because they were on leave on an NJFLA leave. Employees must meet all other eligibility requirements for merit increases and bonus payments.

## 9.0 Termination of leave

- 9.1 Termination of NJFLA leave:** An employee's NJFLA leave, accompanying benefits and employment will cease under the following circumstances:
- 9.1.1** The employment relationship would have terminated if the employee had not taken NJFLA leave;
  - 9.1.2** The employee informs the Company of his/her intent not to return from leave;
  - 9.1.3** The employee fails to return a medical certification, as required, or otherwise fails to comply with/engage in the process for verifying the need for leave;
  - 9.1.4** The employee engages in other employment (including self-employment) or other conduct that is inconsistent with the need for leave;
  - 9.1.5** The Company honestly believes that the employee fraudulently obtains NJFLA leave, or otherwise misrepresents his/her need for the amount or type of leave taken; or
- 9.2** The employee fails to return from leave or continues on leave after exhausting the NJFLA leave entitlement, unless permission to do so has been granted by the Company in writing or the leave is covered by another approved form of leave. Even though the NJFLA leave entitlement may cease, termination of employment may not be warranted at the end of NJFLA leave.

## 10.0 New Jersey Temporary Disability Insurance (TDI)

The New Jersey Department of Labor also administers Temporary Disability Insurance benefits which are fully funded by taxes deducted from New Jersey employees' pay. An employee who is unable to work due to his or her serious health condition and experiences a resulting wage loss may be eligible, and should apply, for TDI benefits through the New Jersey Department of Labor. Information on TDI benefits, including how to apply, can be reviewed on the New Jersey state government website at [www.nj.gov/labor/tdi2](http://www.nj.gov/labor/tdi2). The myHR, Leaves Team will coordinate eligible short-term disability payments, vacation, sick leave, or other paid time off benefits with any eligible TDI benefits. At no time will an employee be eligible to receive more than 100% of his or her pay through receipt of TDI and short-term disability payments.

## 11.0 New Jersey family leave insurance law (Paid Family Leave)

- 11.1** New Jersey employees are covered by New Jersey's Paid Family Leave (PFL) benefit. The New Jersey Family Leave Insurance fund is administered by the New Jersey Department of Labor and Workforce Development (LWD), not Stryker, which means that employees must apply to the LWD to receive this benefit. Through the NJFLIL fund, the LWD will provide eligible employees with a wage supplement for a maximum of six weeks within a 12-month period, paid at 2/3 of the Employee's weekly wage, capped at a statutory maximum per week. PFL benefits may be available from the LWD for a leave of absence for the following:
- 11.1.1** For the birth or a placement of a child, as defined by the PFL law, for adoption or foster care within one year of the birth or replacement of the child, or
  - 11.1.2** To care for an immediate family member (spouse, domestic partner, civil union partner, child or parent, as defined by the PFL law) who is seriously ill and requires care.
  - 11.1.3** New Jersey employees are eligible for PFL benefits if, during the twelve (12) months prior to leave, they have worked at least 20 calendar weeks and have earned at least 1,000 time the NJ minimum wage.

PFL benefits will be coordinated with an otherwise authorized leave of absence. In such circumstances, the use of the PFL benefits and/or paid time off during the leave period will not be extended the length of the leave beyond what is required by applicable law and/or Stryker policy. Employee benefits do not accrue during a leave of absence unless otherwise required by law or by applicable Stryker policies.

## 12.0 New Jersey SAFE Act Leave

**12.1** Employees are permitted to take an unpaid leave of absence, not to exceed twenty (20) days in a twelve (12) month period, to address circumstances resulting from domestic violence or a sexually violent offense. Leave also may be taken by an employee whose child, parent, spouse, domestic partner, or civil union partner is a victim of domestic violence or a sexually violent offense. This leave must be taken within (1) year of the qualifying event.

**12.1.1** To be eligible for this leave, an employee must have worked for Stryker for at least one (1) year and at least 1,000 hours during the previous twelve (12) months.

**12.1.2** SAFE Act Leave may be taken for the following reasons:

- a) To seek medical attention for physical or psychological injuries;
- b) To obtain services from a victim services organization; pursue psychological or other counseling.
- c) To participate in safety planning for temporary or permanent relocation;
- d) To seek legal assistance to ensure health and safety of the employee or the employee's covered relative; or
- e) To attend, participate in, or prepare for a criminal or civil court proceeding relating to an incident of domestic or sexual violence.

**12.1.3** If the reason for NJ SAFE Act Leave also qualifies for leave under the FMLA or the NJFLA, then such leave will run concurrently and will count against all applicable leave entitlements.

**12.1.4** Leave will be unpaid except as covered by any earned and available vacation and sick/personal balances, other paid-time off, New Jersey Temporary Disability benefits, New Jersey Paid Family Leave, or payments under Stryker's disability plan, as applicable. The use of paid leave time for unpaid leave time does not extend the available leave period. In no case can the application of paid leave time for unpaid leave time result in the receipt of more than 100% of an employee's salary.

## 13.0 New Jersey emergency responders leave

**13.1** Employees who are "volunteer emergency responders" (as defined by the Act) are eligible to take an unpaid leave of absence to (1) serve as a volunteer emergency responder during a state of emergency declared by the President of the United State or the Governor of New Jersey or (2) actively respond to an emergency alarm.

**13.2** In order to take Volunteer Emergency Responder Leave, the employee must provide notice at least one (1) hour in advance of his/her employment start time that he/she is providing emergency services in response to an emergency alarm or state of emergency.

**13.3** Upon return, the employee must provide to Stryker an incident report and a certification from the incident commander that (1) employee was actively engaged in and necessary for providing emergency services, and (2) the date and time that the employee was relieved from emergency duty.

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