



Connecticut's Paid Family Medical Leave Act: What Attorneys Need to Know

**March 25, 2021
12:30 p.m. – 2:00 p.m.**

**CT Bar Association
Webinar**

CT Bar Institute, Inc.

CT: 1.5 CLE Credits (General)
NY: 1.5 CLE Credits (AOP)

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LAWYERS' PRINCIPLES OF PROFESSIONALISM

As a lawyer, I have dedicated myself to making our system of justice work fairly and efficiently for all. I am an officer of this Court and recognize the obligation I have to advance the rule of law and preserve and foster the integrity of the legal system. To this end, I commit myself not only to observe the Connecticut Rules of Professional Conduct, but also conduct myself in accordance with the following Principles of Professionalism when dealing with my clients, opposing parties, fellow counsel, self-represented parties, the Courts, and the general public.

Civility:

Civility and courtesy are the hallmarks of professionalism. As such,

- I will be courteous, polite, respectful, and civil, both in oral and in written communications;
- I will refrain from using litigation or any other legal procedure to harass an opposing party;
- I will not impute improper motives to my adversary unless clearly justified by the facts and essential to resolution of the issue;
- I will treat the representation of a client as the client's transaction or dispute and not as a dispute with my adversary;
- I will respond to all communications timely and respectfully and allow my adversary a reasonable time to respond;
- I will avoid making groundless objections in the discovery process and work cooperatively to resolve those that are asserted with merit;
- I will agree to reasonable requests for extensions of time and for waiver of procedural formalities when the legitimate interests of my client will not be adversely affected;
- I will try to consult with my adversary before scheduling depositions, meetings, or hearings, and I will cooperate with her when schedule changes are requested;
- When scheduled meetings, hearings, or depositions have to be canceled, I will notify my adversary and, if appropriate, the Court (or other tribunal) as early as possible and enlist their involvement in rescheduling; and
- I will not serve motions and pleadings at such time or in such manner as will unfairly limit the other party's opportunity to respond.

Honesty:

Honesty and truthfulness are critical to the integrity of the legal profession – they are core values that must be observed at all times and they go hand in hand with my fiduciary duty. As such,

- I will not knowingly make untrue statements of fact or of law to my client, adversary or the Court;
- I will honor my word;
- I will not maintain or assist in maintaining any cause of action or advancing any position that is false or unlawful;

- I will withdraw voluntarily claims, defenses, or arguments when it becomes apparent that they do not have merit or are superfluous;
- I will not file frivolous motions or advance frivolous positions;
- When engaged in a transaction, I will make sure all involved are aware of changes I make to documents and not conceal changes.

Competency:

Having the necessary ability, knowledge, and skill to effectively advise and advocate for a client's interests is critical to the lawyer's function in their community. As such,

- I will keep myself current in the areas in which I practice, and, will associate with, or refer my client to, counsel knowledgeable in another field of practice when necessary;
- I will maintain proficiency in those technological advances that are necessary for me to competently represent my clients.
- I will seek mentoring and guidance throughout my career in order to ensure that I act with diligence and competency.

Responsibility:

I recognize that my client's interests and the administration of justice in general are best served when I work responsibly, effectively, and cooperatively with those with whom I interact. As such,

- Before dates for hearings or trials are set, or if that is not feasible, immediately after such dates have been set, I will attempt to verify the availability of key participants and witnesses so that I can promptly notify the Court (or other tribunal) and my adversary of any likely problem;
- I will make every effort to agree with my adversary, as early as possible, on a voluntary exchange of information and on a plan for discovery;
- I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;
- I will be punctual in attending Court hearings, conferences, meetings, and depositions;
- I will refrain from excessive and abusive discovery, and I will comply with all reasonable discovery requests;
- In civil matters, I will stipulate to facts as to which there is no genuine dispute;
- I will refrain from causing unreasonable delays;
- Where consistent with my client's interests, I will communicate with my adversary in an effort to avoid needless controversial litigation and to resolve litigation that has actually commenced;
- While I must consider my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with zealous and effective representation.

Mentoring:

I owe a duty to the legal profession to counsel less experienced lawyers on the practice of the law and these Principles, and to seek mentoring myself. As such:

- I will exemplify through my behavior and teach through my words the importance of collegiality and ethical and civil behavior;
- I will emphasize the importance of providing clients with a high standard of representation through competency and the exercise of sound judgment;
- I will stress the role of our profession as a public service, to building and fostering the rule of law;
- I will welcome requests for guidance and advice.

Honor:

I recognize the honor of the legal profession and will always act in a manner consistent with the respect, courtesy, and weight that it deserves. As such,

- I will be guided by what is best for my client and the interests of justice, not what advances my own financial interests;
- I will be a vigorous and zealous advocate on behalf of my client, but I recognize that, as an officer of the Court, excessive zeal may be detrimental to the interests of a properly functioning system of justice;
- I will remember that, in addition to commitment to my client's cause, my responsibilities as a lawyer include a devotion to the public good;
- I will, as a member of a self-regulating profession, report violations of the Rules of Professional Conduct as required by those rules;
- I will protect the image of the legal profession in my daily activities and in the ways I communicate with the public;
- I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement of administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance; and
- I will support and advocate for fair and equal treatment under the law for all persons, regardless of race, color, ancestry, sex, pregnancy, religion, national origin, ethnicity, disability, status as a veteran, age, gender identity, gender expression or marital status, sexual orientation, or creed and will always conduct myself in such a way as to promote equality and justice for all.

Nothing in these Principles shall supersede, supplement, or in any way amend the Rules of Professional Conduct, alter existing standards of conduct against which a lawyer's conduct might be judged, or become a basis for the imposition of any civil, criminal, or professional liability.

Connecticut's Paid Family Medical Leave Act: What Attorneys Need to Know (ELE210325)

Agenda

20 min: Discuss the basics of Connecticut's new Paid Family Medical Leave Act ("PFMLA")

20 min: Identify the obligations and benefits under CT PFMLA

20 min: Discuss the interaction of CT PFML with other leave laws

20 min: Identify potential legal issues in application and implementation of CT PFMLA

10 min: Q&A

Faculty Biographies



Paula N. Anthony

As a member of the Labor and Employment practice group at Berchem Moses, Paula advises private and public sector employers on a wide variety of personnel, labor and employment matters. She has a notable record of success in representing management in mediation, grievance arbitration and employment litigation, as well as extensive experience conducting workplace investigations, involving employee misconduct, violation of workplace policies, and discrimination and harassment complaints. She is a regular presenter on labor and employment topics to various professional groups and employers. Paula also has extensive experience in public sector legal representation. She formerly served as Assistant Corporation Counsel for the City of Waterbury, Connecticut, where in addition managing labor and employment matters, she advised the city on various municipal issues, including land use and zoning.

Paula is Past Chair of the Connecticut Bar Association's Labor and Employment Law Section, and currently serves on its Executive Committee. She is also a member of the Women in the Law Section.

Examples of Paula's commitment to the community include serving as the newly elected President of the Shelton Historical Society, and as a former member of the Greater Waterbury YMCA Risk Management Committee. She is also an active member of the Women in Business Alumnae Council for Pace University where she serves as a career mentor for students and promotes networking with female alumni in major corporations and businesses throughout the greater New York metropolitan area.

Paula is a graduate of Pace University and the Villanova University School of Law. She is admitted to practice in both Connecticut and New York, and is a member of the American Bar Association, the Connecticut Bar Association, and the New York Bar Association.



John G. Stretton

Shareholder

john.stretton@ogletree.com

Location:

Stamford (Office: 203-969-3102, Fax: 877-229-7662)

Education:

J.D., *cum laude*, Boston University School of Law, 1998

B.A., *cum laude*, Boston College, 1995

Practice Areas:

Employment Law, Litigation, Unfair Competition and Trade Secrets,
Retail, Leaves of Absence/Reasonable Accommodation, Mergers and
Acquisitions, Manufacturing, Wage & Hour

John Stretton is a Shareholder in the Stamford office of Ogletree Deakins with nearly twenty years of experience. Clients view John as a resourceful counselor and aggressive litigator who never loses sight of a client's business objectives and need to establish value. In addition to providing proactive counseling and advice, John is frequently sought out to represent clients in discrimination, noncompete, confidentiality, wrongful termination, wage and overtime, breach of contract, unfair trade practices, intellectual property, and complex litigation matters in state and federal courts and administrative agencies. John also has extensive experience drafting and negotiating executive employment agreements and agreements concerning data use, privacy, and security. John regularly counsels clients on the enforceability of restrictive covenants (non-solicitation, non-competition and confidentiality clauses), in addition to litigating restrictive covenant cases. Based on feedback from both in-house and outside counsel, [Chambers USA](#) identified John as a "Leading Lawyer" in 2017 and 2018 and proclaimed that John wins praise for his "fantastic quality of work and turnaround time" and his ability to "apply a business acumen to the legal knowledge he has." John has also been named a New England [Super Lawyer](#) and a Connecticut [Super Lawyer](#) in 2013 - 2018 and was recognized in the area of Employment & Labor. From 2010 through 2012, John was named a Connecticut [Rising Star](#) and was recognized in the area of Employment & Labor. Additionally, John was selected by the [American Institute of Legal Counsel](#) for its 10 Best - Labor and Employment List in 2016.

Experience:

- Lead counsel in numerous federal and state court cases involving discrimination and wrongful termination claims.
- Lead counsel in numerous federal and state court cases involving the enforcement of restrictive covenants and the protection of trade secrets.
- After successfully obtaining a denial of a request for a temporary restraining order, negotiated a dismissal with prejudice of a restrictive covenant case involving claims of misappropriation and non-compete and non-solicit clause violations between two direct competitors.
- Successfully argued before the Second Circuit Court of Appeals to affirm summary judgment in favor of employer in a case involving claims of age and sex discrimination, sexual harassment and retaliation.
- Successfully sought and obtained the dismissal of all claims advanced by a former employee, including wrongful discharge, defamation, false imprisonment, interference with custodial rights, intentional and negligent infliction of emotional distress, negligent supervision and retention, tortious interference with business expectancies and violation of the Connecticut Due Process Clause in an action pending in the Connecticut Superior Court.

- Successfully argued before the Second Circuit Court of Appeals to affirm summary judgment in favor of client sued by a former employee hired in connection with a business acquisition and claiming unjust enrichment and violations of Connecticut's wage statute.
- Obtained, as a sanction for the plaintiff's failure to appear at his deposition, dismissal of a Title VII discrimination claim pending before the United States District Court, District of Connecticut.
- Obtained the dismissal of an action seeking a declaratory judgment and alleging federal antitrust violations and unfair business practices commenced in the United States District Court for the Northern District of California.
- Obtained a defense verdict after trial in a case pending in the Connecticut superior court wherein claims of breach of contract, breach of fiduciary duty, fraud and unjust enrichment were advanced in connection with the sale of the Joe Boxer brand.
- Successfully defended a pharmaceutical excipient manufacturer at trial in a patent infringement suit in the United States District Court for the District of Delaware.
- Obtained the dismissal of a multi-million dollar claim alleging fraud, breach of fiduciary duty, legal malpractice, fraudulent concealment and negligence commenced in the United States District Court for the District of Connecticut.
- Successfully defended numerous discrimination claims before the Equal Employment Opportunity Commission and the Connecticut Commission on Human Rights and Opportunities.

Admitted to Practice:

Connecticut
 New York
 District of Columbia
 U.S. District Court, District of Connecticut
 U.S. District Court, Eastern Southern Districts of New York
 U.S. Court of Appeals, Second and Ninth Circuits

Honors and Awards:

- Leading Lawyer, [Chambers USA](#) (2017-2020)
- Connecticut [Super Lawyer](#) Rising Star (2010-2012)
- Connecticut [Super Lawyer](#) (2013-2016, 2018, 2019)
- American Institute of Legal Counsel [10 Best – Labor and Employment](#) (2016)

Professional Activities:

- Executive Committee of the Labor & Employment Law Section of the Connecticut Bar Association
- Connecticut Bar Association
- American Bar Association

Speeches:

- NYCLA Webinar - "Alleged Misappropriation of Trade Secrets and Confidential Information" - November 12, 2020
- Connecticut SHRM HR 2020 Leadership Conference (panelist) - "Managing Politics in the Workplace in a Volatile Year" - October 16, 2020
- Connecticut SHRM - "Practical Strategies for Managing a Remote Workforce" - July 22, 2020
- Ogletree Deakins Webinar - "Reopening Connecticut: An Update for Connecticut Employers" - June 9, 2020
- Connecticut SHRM - "Return to Work: A Guide for Getting the Workforce Back Into the Workplace" - May 13, 2020
- Connecticut SHRM - "Improving Performance Management for HR Professionals" - March 10-11, 2020
- Ogletree Deakins Briefing - "Is Your Drug-Free Workplace Discriminatory? The Confluence of Disability Discrimination and Mind-Altering Substances" - West Hartford - September 12, 2019
- Ogletree Deakins Podcast – “Untangling Complex Leave Issues – Part II” – April 9, 2019
- Managing a Workforce in New York, New Jersey, and Connecticut - "When Employees Return from Leave, the Journey for HR Continues" - New York - April 4, 2019
- Ogletree Deakins Seminar - "Recent Developments in the Tristate Area" - New York City - March 9, 2018
- Ogletree Deakins Podcast – “Untangling Complex Leave Issues – Part I” – November 19, 2018
- Ogletree Deakins Workplace Strategies Seminar – “Responding to Multi-Agency Investigations - A Strategy for Success” – San Diego – May 5, 2017
- Annual Advanced Employment Law Symposium - "The ADA, FMLA, and Workers' Compensation: Leave Issues in Employment" - Orange - March 16, 2017
- Ogletree Deakins Seminar - "Recent Developments in New York, New Jersey, and Connecticut Employment Laws" - New York - March 10, 2017
- Westchester/Southern Connecticut Chapter of ACC (WESFACCA) - "Wage and Hour Issues for 2016" - Darien - November 19, 2015
- NAM/New York Law Journal CLE - "Employment ADR: Recent Trends and Practical Tips When Dealing with Restrictive Covenants and Trade Secrets" - New York City - September 24, 2015
- Connecticut Law Tribune/ALM CLE - "In-House Counsel CLE Seminar - Unfair Competition and Trade Secret Law" - Stamford - September 10, 2015
- Ogletree Deakins Workplace Strategies Seminar - "What Can Go Wrong Often Will When Enforcing Restrictive Covenants" - Las Vegas - May 8, 2014
- Ultimate Software Interactive HR Workshop - "Navigating the Intersection Between the ADA, FMLA and Connecticut Leave Laws" - Hartford - February 14, 2013

- Ogletree Deakins Webinar - "New Connecticut Law Regarding Palliative Marijuana Use: What Employers Need to Know" - Stamford - September 18, 2012
- Private Client Webinar - "Classification Issues for Independent Contractors" - Stamford - Spring 2012

Media Quotes:

- August 2015 - [SHRM Online](#) - "Wage Secrecy Prohibitions Require Caution by Employers"
- August 2014 - [SHRM.org](#) - "Comments that Black Trooper 'Did Not Fit In' May Show Race Bias"
- January 2014 - [Connecticut Law Tribune](#) - "Employment and Immigration Law: Workers' Comp Officials Get Last Word on Employer-Employee Deals"
- October 2013 - [Connecticut Law Tribune](#) - "Ask This...Not That! The Confidentiality of Employee Medical Information Under the ADA"
- April 2007 - [The Connecticut Law Tribune](#) (co-author) - "Separation Anxiety"

Published Works:

- January 26, 2021 – Ogletree Deakins Blog Post – [“Connecticut Employment Legislation in 2021: What’s on the Agenda?”](#)
- September 30, 2020 – Ogletree Deakins Blog Post – [“Connecticut Employers: Now Is the Time to Get Ready for Paid Family and Medical Leave”](#)
- July 23, 2020 – Ogletree Deakins Blog Post – [“Connecticut’s Mandatory Self-Quarantine Executive Order: 5 Things Employers Need to Know”](#)
- April 24, 2020 – Ogletree Deakins Blog Post – [“Facemasks Are the Rule in the Connecticut Workplace”](#)
- May 28, 2019 – Ogletree Deakins Blog Post – [“It’s Official: Connecticut Minimum Wage Will Increase to \\$15.00 per Hour”](#)
- March 25, 2019 – Ogletree Deakins Blog Post – [“The Americans with Disabilities Act Prohibits Hostile Work Environments, Second Circuit Rules”](#)
- January 16, 2019 – Ogletree Deakins Blog Post – [“Working for the Weekend: Denial of Pay Premium Due to FMLA-Related Absences Does Not Violate the FMLA”](#)
- January 2, 2019 – Ogletree Deakins Blog Post – [“Connecticut Court Rules in Favor of Medical Marijuana User in Discrimination Case”](#)
- September 17, 2018 – Ogletree Deakins Blog Post – [“More Buzz in Connecticut on Medical Marijuana in the Workplace”](#)
- May 18, 2018 – Ogletree Deakins Blog Post – [“The Patchwork of States Prohibiting Salary History Inquiries Grows to Include Vermont and Likely Connecticut”](#)
- September 13, 2017 – SHRM Online – [“Conn. Supreme Court Upholds Fluctuating Workweek Method, but Not for Retail”](#)

- September 6, 2017 – Ogletree Deakins Blog Post – [“Connecticut Supreme Court Upholds Fluctuating Workweek Method . . . but Not for Retail Employees”](#)
- July 27, 2017 – Ogletree Deakins Blog Post – [“Second Circuit Lowers Bar for Causation in FMLA Retaliation Claims”](#)
- December 20, 2016 – Ogletree Deakins Blog Post – [“Connecticut Federal Court Expands Title VII Protections to Sexual Orientation”](#)
- July 21, 2016 – Ogletree Deakins Blog Post – [“It’s Time to Update Physician Noncompete Agreements in Connecticut”](#)
- April 14, 2016 – Ogletree Deakins Blog Post – [“Second Circuit Holds HR Professionals Can Be Liable as ‘Employers’ Under FMLA”](#)
- November 25, 2015 – SHRM Online – [“No Bias in College Firing Professor for Rudeness”](#)
- July 14, 2015 – Ogletree Deakins Blog Post – [“Employees Permitted To Openly Discuss Wages in Connecticut”](#)
- May 8, 2015 – Ogletree Deakins Blog Post – [“EEOC’s Proposed Wellness Program Regulations Offer Guidance on Confidentiality of Employee Medical Information”](#)
- April 21, 2015 – Ogletree Deakins Blog Post – [“New Law Restricts Employer Access to Employee Social Media Accounts Including Through ‘Friend Requests’”](#)
- August 7, 2014 – SHRM.org – [“Comments that Black Trooper ‘Did Not Fit In’ May Show Race Bias”](#)
- January 23, 2014 - Connecticut Law Tribune - ["Employment and Immigration Law: Workers' Comp Officials Get Last Word on Employer-Employee Deals"](#)
- December 4, 2013 - Ogletree Deakins Publication - ["In Connecticut, Global Release “Non-Binding” with Respect to Workers’ Compensation Claims Until Approved by Commissioner”](#)
- October 21, 2013 - Connecticut Law Tribune - ["Ask This...Not That! The Confidentiality of Employee Medical Information Under the ADA"](#)
- August 15, 2013 - Ogletree Deakins Publication - ["Commercial Driver Fired for Driving Under the Influence Eligible for Unemployment Benefits According to Connecticut Supreme Court"](#)
- August 15, 2013 - Ogletree Deakins Publication - ["Connecticut Public Policy Supports, and in Some Cases, Requires, Termination of Workplace Harassers"](#)
- October 8, 2012 - Ogletree Deakins Publication - ["New Connecticut Supreme Court Decision Clarifies Application of the Connecticut Family and Medical Leave Act"](#)

Connecticut Paid Family Medical Leave Act- What you Need to Know

**March 25, 2021
Connecticut Bar Association**

Presenters



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Objectives

- Discuss the basics of Connecticut's new Paid Family Medical Leave Act (“PFMLA”)?
- Identify the obligations and benefits under CPFMLA
- Discuss the interaction of CPFML with other leave laws
- Identify potential legal issues in application and implementation of CTPFMLA

Important Changes from Current CTFMLA

- PFMLA broadens who qualifies for Family Medical Leave and for what reasons as compared with CT's existing Family Medical Leave Act.
- Provides a paid leave benefit.
- Eligible employees are eligible for 12 weeks of leave in a 12-month period, with 2 additional weeks available for a pregnancy-related health condition resulting in incapacitation.

Other Important Provisions

- Limits the extent to which employer can require employee taking FMLA to use vacation, personal, or medical or sick leave - employee must retain no less than two weeks of such leave.
- Act creates a “non-charge” against an employer’s unemployment tax experience rate when an employee’s separation is due to the return of someone who was on bona fide FMLA leave.
- Allows employer to lay off an employee who was temporarily filling the job of an employee on FMLA leave without increasing employer’s unemployment taxes.

Comparison Between PFMLA and CTFMLA

	PFMLA	CTFMLA
Covered Employers	All private employers with at least one employee	Private employers with 75 or more employees
Eligible employees	Employees are eligible if they received \$2,325 of wages in the base period and are employed or have been employed in the last 12 weeks.	Employee must have worked for the employer for at least 12 months and worked 1,000 hours in the 12 months prior to the leave.
Definition of “family member”	Spouse, child, parent (including in laws), grandparent/child, sibling, any other blood relative of close association equivalent to family.	Spouse, child, parent (including in laws).
Amount of Leave	12 weeks in a 12 month period with 2 additional weeks for pregnancy related health condition resulting in incapacitation.	16 weeks in a 24 month period.

Who Administers CTPFML?

- The CT Paid Leave program (“CTPL”) will be administered by the newly-created Connecticut Paid Leave Authority
- The mission of the Connecticut Paid Leave Authority is to provide Connecticut's workforce access to paid family leave benefits and to empower employers by offering helpful tools for understanding their vital role and provide support to navigate the program.

Who is a Covered Employer?

Applies to

- all private employers with at least one employee; and
- Self-employed or sole proprietors who opt in.

Generally, does not apply to:

- State, local government employers
- Local or regional boards of education
- Non-public elementary or secondary schools

Exceptions

- In the case of municipal employers, once a municipal bargaining unit negotiates inclusion into the program, non-union employees for that municipality will automatically be included in the program as well.
- Covered employers may qualify for an exemption if they have a private leave plan that meets specified criteria

Private Plan Requirements

- At least the same number of weeks of benefits.
- At least the same level of wage replacement for each week.
- Does not include any additional requirements or conditions for employees to qualify.
- If employer deducts contributions from employee wages to fund the program, it deducts the same 0.5%.
- Covers all employees through the duration of their employment.
- Applies to all current and future employees.
- Approved by a majority of the company's employees.
- Maintains compliance with any additional requirements established by the authority

Who is an Eligible Employee?

- Earned wages of at least \$2,325 in the “base period,” and
- Are employed or have been employed by the within the last 12 weeks; or
- Self-employed or sole proprietor
- Employees can get leave for work from multiple employers, but are only eligible if they have worked at one employer for 3 months.

Who is an Eligible Employee? (cont'd)

- Eligible employees must work in CT.
- If the employee is covered by UI then they are “working within the state”
- If not covered by UI, Authority will consider the following factors in this order:
 - 1st) if services localized (i.e., performed entirely) within Connecticut, employee will be considered to be working in CT.
 - 2nd) If services not localized, will be considered working in CT if base of operations is in Connecticut and some services performed within Connecticut.
 - 3rd) If work not localized and no base of operations, considered working in CT if employee performs some of the services within CT and receives direction and control from CT.
 - 4th) If and only if no place of direction and control, no localized services, and no base of operation but employee resides in CT, then the employee will be considered to be working in CT.

Who is Not An Employee?

Five categories of individuals who are **not** considered employees under the CT Paid Leave Act:

- Individuals who work for employers that are excluded from definition of "employer" in the CT Paid Leave Act;
- employees of a separate sovereign entity, specifically, a tribal nation or the government of another state or country;
- individuals not subject to state or local payroll taxes as a result of explicit federal laws, such as the Railroad Unemployment Insurance Act or the Military Spouses Residency Relief Act;
- individuals who work for subminimum wage pursuant to a 14C certificate; and
- individuals who are self-employed, including members of a LLC, sole proprietors, members of a partnership or joint venture, independent contractors and other self-employed individuals. **NOTE:** You are not self-employed if you are an employee of a company that you own.

Qualifying Reasons

- Birth of a child of the employee or placement of a child with the employee for adoption or foster care;
 - Need to care for a family member with a serious health condition;
 - Employee's own serious health condition;
 - Employee is an organ or bone marrow donor;
 - Qualifying exigency related to employee's spouse, son, daughter, or parent being on active duty or having been notified of impending call or order to active duty in the armed forces; or
 - Reasons related to family violence
- *PRACTICE NOTE: Employers can request medical data from the employee the same as allowable under CT FMLA.*

Who is a “Family Member?”

One of the defining features of the PFMLA is its expansive definition of “family member”, which includes an employee’s:

- Spouse
- Child
- Parent (including in-laws)
- Grandparent or Grandchild
- Sibling
- Other blood relations or individuals related to the employee by affinity whose close association is the equivalent of a family relationship.

Leave Requests for Family Bonding

- Parent can request income replacement during bonding leave under the PFMLA for up to one year after 2022.
- More than one family member may access the Connecticut Paid Leave (CTPL) program same time, but if spouses work for same employer, there are limits to amount of time off each spouse may be eligible for. If family members work for different employers, each is entitled to CTPL benefits if they meet the eligibility criteria according to their work and wage history at their own employer.
- Parent will not be eligible for benefits for time taken from work in 2021 even if they file a claim with the Authority in 2022 for income replacement associated with that time off in 2021. Parent will be eligible for benefits for time taken from work in 2022 due to pregnancy which begins January 1, 2022.
- Parent will not be eligible for benefits for time taken off from work due to pregnancy in 2021 even if they file a claim beginning on or after January 1, 2022 for income replacement associated with that time off in 2021.

Employee Benefits Under CTPFMLA

- Employees are eligible to begin receiving benefits January 1, 2022
- A covered employee's weekly benefit is calculated as 95% of the BWE **up to** 40 times the state minimum wage; AND
- 60% of the employee's BWE that exceeds 40 times Min Wage with total weekly benefits capped at 60 times the minimum wage.
- *PRACTICE NOTE: Employers may require employees to use accrued PTO concurrently with PFMLA as long as total compensation does not equal more than regular rate of pay. However, under the CT FMLA employees must retain at least 2 weeks of PTO.*

What do Employees Get under the PFMLA?

- Employers not involved in calculation of employee's benefit.
- Employer provides Authority with employee's Base Weekly Earnings ("BWE").
 - Base Weekly Earnings is 1/26 of the sum of the earnings in the two highest calendar quarters of first 4 of last 5 quarters.
- PFMLA does not provide job-protection.

How is the Benefit Calculated?

Example:

Part 1

- Minimum wage: \$12.00
- Employee's BWE: \$1000.00
- 95% of BWE =\$950.00
- Base Cap 40 x's min wage: \$480.00
- Difference (Line 3-Line 4):\$470.00

Part 2

- Take 60% of that difference: ($\$470.00 \times 60\% = \282.00)
- Add 95% of BWE (or Base Cap where income is capped) to Overage: (Base Cap of \$480 + Overage of $\$282.00 = \762.00)
- Cap it at 60 times the minimum wage. ($60 \times \$12 = \720.00)

Employee Receives \$720.00 – Note – Cap will be \$780.00 in 2022

How is the CT Paid Leave Program Funded?

- CTPPL will be entirely employee funded; employers are not required to contribute.
- Employees fund the program by contributing 0.5% of their income via a mandatory payroll deduction.
- Employees cannot opt out of this deduction.

Practice Notes Regarding Employee Contributions

- Employers are responsible for making sure the deductions are made in a timely manner. If they do not, the employer will be responsible for the deduction amount, penalties and interest.
- For the first 2 quarters of 2021, employers may make catch up deductions up to 1% of the employee's wages to get into compliance. After this time period, catch up deductions will not be permitted.
- The contributions go into a trust and stay there regardless of whether the employee ever takes a leave under the PFMLA.
- Contributions are **post-tax**.
- Employers can choose to pay their employee contributions, however, this is a taxable benefit.

Employer's Role

- Register with the Authority
- Withhold contribution from employees and submitting the funds to the Authority quarterly.
- Covered employers must provide written notice to eligible employees of their entitlement to CTPL at the time of hire and annually, beginning July 1, 2022.

Authority's Role

- The Authority will accept, review and approve employee applications for benefits and will administer the benefits to eligible employees.
- Employees will have to apply to both the Authority and their employer for benefits. However, the Authority will ultimately decide whether the employee is entitled to payment.
- If denied, an employee can appeal to the state Department of Labor.
- *PRACTICE NOTE: Currently an employer cannot contest an employee's claim for benefits under the PFMLA.*

Important Upcoming Dates

- Fall/Winter 2021 – Employees can begin submitting applications for CTPL.
- January 1, 2022 Benefit payments begin for eligible employees on approved leave.

Planning Ahead

- Calendar important dates for PFMLA compliance.
- Revise leave policies to clarify who is eligible for leave, and when employees must use accrued paid vacation, sick time or personal time.
- Train HR, managers and other personnel tasked with administering leaves under the CTPL program.
- Train HR, managers and others that retaliation against employees on CTPL is prohibited.
- Coordinate with vendors who may be administering the leave.
- Determine if a private leave plan is a better option and seek an exemption from the CTPL program.

Interaction with Other Leave

Consider CTPFMLA interaction with

- Federal FMLA
- State FMLA
- Short Term Disability
- State Paid Sick Leave
- Employer Policies

Questions?



Due to the constantly changing nature of government regulations, it is impossible to guarantee the total and absolute accuracy of the material contained in this presentation.

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