

## Model Clause on ~~Compassionate Care~~ Care Provider Leave<sup>1</sup>

### 1

#### ~~Compassionate Care~~ Care Provider Leave

The employer will provide the following three types of care provider leaves to members who are absent from work in order to provide care or support to a relative or person who is like a family member, in accordance with the legislation or the following provisions, whichever provides the greater benefit.

#### 1.1

A member shall be granted a ~~compassionate care~~ **Compassionate Care** leave for up to ~~eight (8)~~ **twenty-eight (28)** weeks to ~~care for gravely ill family members.~~ **provide care or support for a family member who has a medical condition with a significant risk of death within 26 weeks.**

#### 1.2

~~Should circumstances warrant, a member shall be granted a further compassionate care leave for up to six (6) months to care for gravely ill family members.~~ **A member shall be granted a Critically Ill Adult care leave of up to seventeen (17) weeks to provide care or support to a family member who is a critically ill adult and requires the care or support of one or more of their family members; and**

#### 1.3

**A member shall be granted a Critically Ill Child leave of up to thirty-seven (37) weeks to provide care or support for a family member who is a critically ill child and requires the care or support of one or more of their family members**

#### ~~1.3~~ 1.4

~~When a member requests a care provider leave, the employer may request~~ **When a member requests a care provider leave, the employer may request** ~~requesting a compassionate care leave a member shall provide the employer with a medical certificate<sup>2</sup> from the ill person's primary care giver as evidence~~ **a qualified health practitioner stating that the family member has a medical condition and needs care or support. The member is not required to provide the medical certificate in order to access the leave, but once one is requested, it must be provided to the employer as soon as is reasonably possible.**

#### ~~1.4~~ 1.5

~~Upon return to work, the member shall be placed in the position that the member held prior to the leave with no loss of rights or benefits.~~

### 2

#### ~~Compassionate Care~~ Care Provider Allowance

#### 2.1

During the period of ~~compassionate care~~ **care provider** leave as specified in 1.1, **1.2, or 1.3** a member shall receive from the employer the following amounts.

- (a) ~~Where a member is subject to a waiting period of two (2) weeks before receiving Employment Insurance Compassionate Care Benefits,~~ **In any week in which the member does not receive EI benefits** the member shall receive an amount equal to one hundred percent (100%) of their normal weekly rate of pay for each week ~~of the waiting period.~~
- (b) For each week in which the member receives Employment Insurance Compassionate Care, **Critically Ill Adult, or Critically Ill Child** Benefits, the member shall receive an amount equal to the difference between the gross weekly amount of the Employment Insurance ~~Compassionate Care~~ Benefit and one hundred percent (100%) of their normal weekly rate of pay.
- (c) If a member is disentitled or disqualified from receiving Employment Insurance Compassionate Care, **Critically Ill Adult, or Critically Ill Child** Benefits for the ~~compassionate care~~ of a family member specified in 1.1, **1.2, or 1.3** or should Employment Insurance cease to provide coverage for Compassionate Care, **Critically Ill Adult, or Critically Ill Child** Benefits the member shall receive an amount equal to one hundred percent (100%) of their normal weekly rate of pay.

## 2.2

To qualify for a ~~compassionate care~~ **care provider** allowance under 2.1 (a) and (b) the member shall provide the employer with evidence that they have applied for and are in receipt of Compassionate Care, **Critically Ill Adult, or Critically Ill Child** Benefits under the *Employment Insurance Act* including the amount of that benefit.

## 2.3

To qualify for a ~~compassionate care~~ **care provider** allowance under 2.1 (c) the member shall provide the employer with evidence that they have applied for but are disentitled or disqualified from receiving a Compassionate Care, **Critically Ill Adult, or Critically Ill Child** Benefit under the *Employment Insurance Act*.

## 2.4

During the period of ~~compassionate care~~ **care provider** leave as specified in **1.1, 1.2, or 1.3** the member shall receive ~~their full pay including~~ all benefits.

## 3

### Pension and Benefits

#### 3.1

A member on ~~compassionate care~~ **a care provider** leave shall continue to participate in the pension plan and other benefit plans set out in the collective agreement. The employer and the member shall each continue to pay their applicable share of contributions and/or premiums, ~~unless the member elects not to do so in writing.~~

#### 3.2

Nothing in this article shall prevent a member from claiming sick leave for absences from work due to illness.

#### 3.3

The period of ~~compassionate care~~ **care provider** leave shall be included in the calculation of a member's length of service for seniority purposes.

## **4 Family Members**

### **4.1**

For the purposes of 4.2 a "spouse" means a person who is either married to or living in a conjugal relationship with another person.

### **4.2**

A "family member" is one of the persons listed below:

- (a) the spouse or common-law partner of the member;
- (b) a child of the member or a child of the member's spouse or common-law partner;
- (c) a parent of the member or a spouse or common-law partner of the parent;
- (d) a child of the member's parent or a child of the spouse or common-law partner of the member's parent;
- (e) a grandparent of the member or of the member's spouse or common-law partner or the spouse or common-law partner of the member's grandparent;
- (f) a grandchild of the member or of the member's spouse or common-law partner or the spouse or common-law partner of the member's grandchild;
- (g) the spouse or common-law partner of the member's child or of the child of the member's spouse or common-law partner;
- (h) a parent, or the spouse or common-law partner of a parent, of the member's spouse or common-law partner;
- (i) the spouse or common-law partner of a child of the member's parent or of a child of the spouse or common-law partner of the member's parent;
- (j) a child of a parent of the member's spouse or common-law partner or a child of the spouse or common-law partner of the parent of the member's spouse or common-law partner;
- (k) an uncle or aunt of the member or of the member's spouse or common-law partner or the spouse or common-law partner of the member's uncle or aunt;
- (l) a nephew or niece of the member or of the member's spouse or common-law partner or the spouse or common-law partner of the member's nephew or niece;
- (m) a current or former foster parent of the member or of the member's spouse or common-law partner;
- (n) a current or former foster child of the member or the spouse or common-law partner of that child;
- (o) a current or former ward of the member or of the member's spouse or common-law partner;
- (p) a current or former guardian of the member or the spouse or common-law partner of that guardian;
- (q) a person, whether or not related to the member by marriage, common-law partnership, or any legal parent-child relationship, whom the member considers to be like a close relative or who considers the member to be like a close relative.

<b>Your</b>	<b>Your Spouse's</b>
Spouse	
<del>Child or their Spouse</del>	<del>Child</del>
<del>Father, Mother or their Spouse</del>	<del>Father or Mother</del>
<del>Brother, Sister, Step Brother, Step Sister or their Spouse</del>	<del>Brother, Sister, Step Brother, Step Sister</del>
<del>Grandparent or their Spouse</del>	<del>Grandparent</del>
<del>Step Grandparent or their Spouse</del>	<del>Step Grandparent</del>
<del>Grandchildren or their Spouse</del>	<del>Grandchildren</del>
<del>Uncle, Aunt or their Spouse</del>	<del>Uncle, Aunt</del>
<del>Nephew, Niece or their Spouse</del>	<del>Nephew, Niece</del>
<del>Current or Former Foster Parent</del>	<del>Current or Former Foster Parent</del>
<del>Current or Former Foster Children or their Spouse</del>	<del>Current or Former Foster Children</del>
<del>Current or Former Wards</del>	<del>Current or Former Wards</del>
<del>Current or Former Foster Parent, Guardian or Tutor and their Spouse</del>	<del>Current or Former Foster Parent, Guardian or Tutor</del>

#### 4.3

~~A member shall also receive a compassionate care leave under the terms of this article to care for a gravely ill person who considers the member like a family member. This would include, but is not limited to, a neighbour or close friend. In this case a "Compassionate Care Leave Attestation" is required from the gravely ill person or their representative.~~

**Approved by the CAUT Council, April 2010;**

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**Draft revision approved by the CAUT Collective Bargaining and Economic Benefits Committee, August 2018;**

**Revision approved by the CAUT Executive Committee, September 2018.**

#### Endnotes

1. Your agreement should already have a policy which provides short-term family and personal leaves. See CAUT Policy Statement on Family and Personal Leave (2009).
2. CAUT recommends that your agreement contain a separate clause protecting privacy with respect to medical information. If your agreement does not contain such a clause, article ~~1.3~~**1.4** should be modified to protect the member's privacy.