NEW YORK LIFE GROUP BENEFIT SOLUTIONS

DMEC 2026 ANNUAL CONFERENCE

Beyond Suspicion

Practical strategies for managing leave concerns

DMEC Annual Conference 2026 | New York Life Group Benefits Solutions

Allison Wheeler, Corporate Counsel • Kelsy Holliday-Schiavon, Head of Absence Products

Introductions



Kelsy Holliday-Schiavon

Corporate Vice President,
Absence Product Lead
New York Life Group
Benefit Solutions



Allison Wheeler

Associate General Counsel,
New York Life Group
Benefit Solutions

Today's Conversation

A practical framework for leave concerns

- Level set on job-protected leave and legal restrictions that make it difficult to address
- Assessing the Nature and Level of Concern; Reframe language: Intentional wrongdoing vs. misuse concerns vs. protected leave patterns
- Use compliant tools before conclusions: Clarify, recertify, document, and escalate
- Apply the framework through realistic employer scenarios



Understanding the Landscape

Start with guardrails, then address the friction

Job protection: FMLA/state leave level set

Job-protected leave may be intermittent, operationally inconvenient, and still protected.

Employer pressure points

Patterns near weekends, holidays, overtime, peak shifts, or vague certifications can raise reasonable questions.

Anti-retaliation: Risk of overreaction

Mislabeling or inconsistent scrutiny can create interference, retaliation, or employee-relations risk.

Better path

Move from reaction to a neutral, documented assessment using compliant tools.



Reframing the Language

Labels shape both decisions and risk



Fraud/intentional deception

- Evidence points to knowingly false information or intentional misrepresentation
- Requires careful fact development and consistent escalation



Misuse/abuse concerns

- May reflect confusion, process gaps, vague certification, or legitimate change in underlying condition
- Patterns worth a closer look

Do: Document facts | Don't: Treat timing alone as proof



Assessing the Nature and Level of Concern

Patterns are a starting point, not proof

- Intermittent absences before or after weekends, holidays, or hard-to-staff shifts
- Repeated absences tied to overtime, peak periods, or operationally critical work
- Incomplete, evolving, or unusually broad certifications
- Documentation that appears inconsistent with the absence request or timing
- Manager frustration when expectations, escalation paths, or visibility are unclear



Decision checkpoint: Identify facts first; separate assumptions before taking action.

Compliant Actions HR can use

Choose the right tool for the right question

Authentication/clarification

Confirm source or clarify incomplete or unclear certification through appropriate channels.

Recertification

Use when permitted by the facts, timing, or changed circumstances; avoid overuse or targeting.

Second/third opinions

Reserve for eligible situations and follow required process boundaries.

What to avoid

Direct pressure on employees, assumptions about intent, manager speculation, or inconsistent scrutiny.



Problems & Solutions

Pair each concern with the appropriate compliant response

Problem	Solutions
Certification unclear	Clarification or Authentication
Telehealth or same-day certification concern	Possible second and third opinions
Exceeding frequency & duration limits	Possible second and third opinions
Reason to doubt the certification	Recertification



Operational Strategies

Prioritize policies and communication over investigations

Employees need clarity on

- What is approved
- When leave can be used
- Documentation requirements
- Reporting responsibilities

Breakdowns often stem from

- Employee confusion
- Poor communication
- Documentation gaps
- Inconsistent reporting
- Supervisor misunderstanding of leave protections

Key Principle

Clear policies set expectations for use.

Address concerns through clear policies, consistent processes, effective communication, and appropriate documentation.



Operational Strategies

Build consistency before concerns escalate

- Give employees clear leave expectations, call-in rules, and documentation deadlines
- Train managers on what to observe, what to document, and what not to say
- Use consistent intake, routing, and follow-up language across locations and teams
- Create structured prompts that separate facts from assumptions
- Escalate early when facts suggest legal claim integrity implications



Communication Guardrails

Keep the review neutral and documented

Do

- Document observable facts
- Use neutral language
- Route medical questions through the right process
- Apply policies consistently

Do not

- Call it “fraud” without evidence
- Pressure an employee about medical details
- Treat protected use negatively because it is inconvenient
- Single out situations without a documented basis



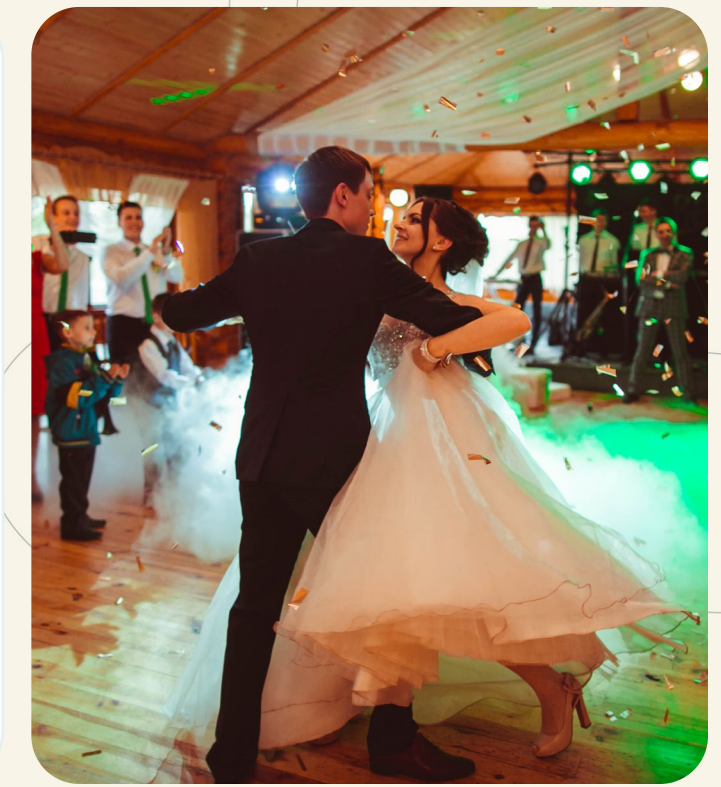
Scenario 1:

Apply the framework before choosing a response

An employee requests a Friday off for a wedding during a blackout PTO period. It is denied.

Employee then uses FMLA for a flare-up for that day, within the bounds of the certification.

Later social media pics of employee at a wedding that weekend surface.



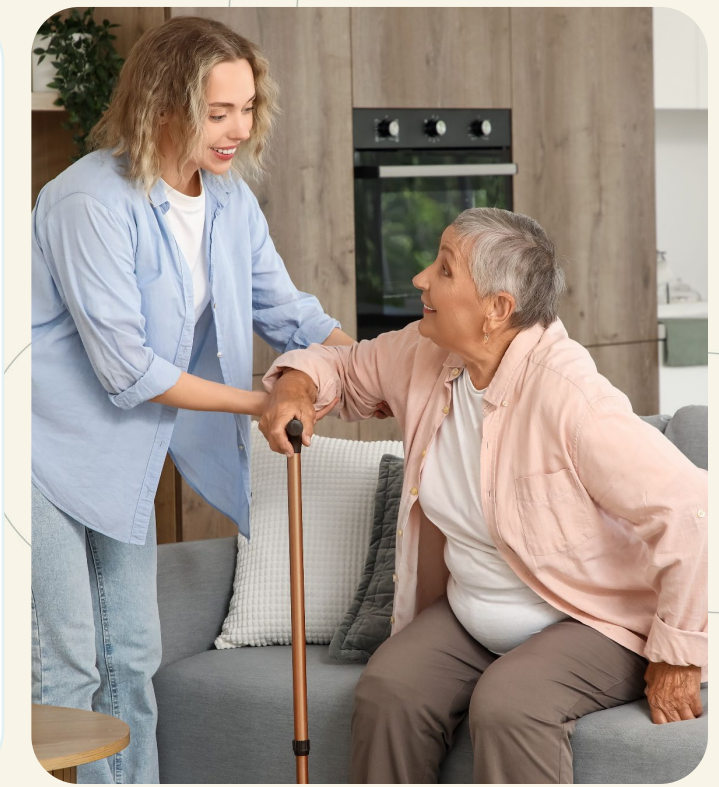
Scenario 2:

Protected leave may still be challenging to administer

Employee has approved intermittent FMLA to care for her grandmother 1–2 days per month.

For six straight weeks, she calls out FMLA every Friday at 4:57 p.m., exactly three minutes before mandatory weekend overtime begins.

The employer believes another family member lives with grandma who could take care of her and that employee is **actually** using FMLA because they are tired from working a 2nd job at night at a hardware store.



Scenario 3:

Employee has approved intermittent FMLA for "flare-ups," certified at 4 days per month.

The certification comes from an online telehealth provider located 900 miles away.

The form is submitted 18 minutes after the employee's PTO request for a music festival weekend is denied.

The certification is otherwise complete, but you happen to notice that the provider whose website advertises: "Guaranteed FMLA approval in 15 minutes."



Key Takeaways

Practical, balanced, and compliance-aware

- Intentional misuse exists, but many concerns stem from process gaps or misunderstood protections
- Language matters: Avoid conclusory labels until facts support them
- Patterns can justify questions; they do not prove misuse on their own
- Use compliant tools consistently and document the basis for each step
- Strong leave programs protect claim integrity while preserving employee rights and trust



Q & A

The information contained herein does not constitute legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only. New York Life Group Benefit Solutions assumes no responsibility for any circumstances arising out of the use, misuse, interpretation or application of any information supplied in this publication. For FMLA information, see www.dol.gov/agencies/whd/fmla. New York Life Group Benefit Solutions products and services are provided by Life Insurance Company of North America, New York Life Insurance and Annuity Corporation, and New York Life Group Insurance Company of NY, subsidiaries of New York Life Insurance Company. Life Insurance Company of North America is not authorized in NY and does not conduct business in NY.

New York Life Insurance Company, 51 Madison Avenue, New York, NY 10010
© 2026, New York Life Insurance Company. All rights reserved. NEW YORK LIFE, and the NEW YORK LIFE Box Logo are trademarks of New York Life Insurance Company. SMRU 8986804.1 Exp. Date 08.31.2026

