

Guidelines for Drafting Work Accommodation Notes for Pregnant and Postpartum Patients

Visit www.PregnantAtWork.org for state-specific guidelines.

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Health care providers play an important role in enabling patients to receive the accommodations they need to keep their jobs during pregnancy and following childbirth. ACOG's Committee Opinion on Employment Considerations (#733) recommends that obstetric care providers assist their patients to obtain accommodations by writing work notes to employers using the resources in this document.

The goal is to write a note that will help your patient receive the accommodation you believe would be helpful to them so they are able to work comfortably and safely while continuing to earn an income to support their family. When your patient needs leave, the goal is to ensure their job remains protected.

You may choose to use WorkLife Law's [Medical Certification Form](#), which triggers your patient's legal protections, protects their privacy to the extent possible, and gives employers the information they are legally entitled to receive. If you prefer to write your own note, the steps below will help ensure that your patient's rights are protected. These materials comply with the federal regulations interpreting the Pregnant Workers Fairness Act.

Lactation Resources

If your patient needs *break time and space* for pumping milk, consider using this [template work note](#). For all other lactation and postpartum accommodations, use these guidelines.

Abortion Resource

If your patient needs time off or other changes for abortion care and recovery, please see our [guidance for abortion care providers](#).

California Resource

If your patient works in California, see our [guide to supporting workers](#) in accessing accommodations and paid leave.

Understanding the Law

The Pregnant Workers Fairness Act requires employers that have 15 or more employees¹ nationwide to provide reasonable accommodations for pregnancy, childbirth, and related medical conditions such as lactation, miscarriage, stillbirth, abortion, infertility, and contraception/menstruation. While employees with pregnancy-related disabilities and complications are eligible for accommodations under this law, such a condition is *not* required. There is no severity threshold. Under the law, employers must provide requested accommodations that promote pregnancy health (including avoiding risk and discomfort). These accommodations must be made unless it would be significantly difficult or expensive for the employer to provide.

¹ **Total** number of employees employed by the employer, not at a particular worksite. Some state and local laws apply to smaller employers. Visit our [state law chart](#) to learn more.

Federal regulations place limits on the scope of supporting medical documentation that an employer is allowed to request in response to a request for accommodation for reasons related to pregnancy and childbirth. To learn more about the specifics, see our [FAQ on medical certification](#).

In some states, similar pregnancy accommodation laws apply to employers with fewer than 15 employees. Visit our [state pregnancy law chart](#) to learn about the state(s) where your patients work.

The Center for WorkLife Law at the University of California Law, SF is available to answer your questions about work notes and accommodations at no charge. You can email us at info@worklifelaw.org or leave a message for us at 415-565-4640. You can also get more information at our [Pregnant@Work website](#).



The Center for WorkLife Law also operates a **free and confidential helpline for workers and students** who have questions about their legal rights at work and school during pregnancy and postpartum. Your patients can email hotline@worklifelaw.org or call 415-703-8276.

Guidelines for Writing Notes

An effective pregnancy or postpartum accommodation work note includes five components:

- 1. State that your patient has a limitation related to, affected by, and/or arising out of pregnancy, childbirth, or a related medical condition for which they need an accommodation.** Employers are required to accommodate employees under federal and state pregnancy accommodation laws only *if the employer knows* that the employee needs the accommodation because of a limitation that is related to pregnancy, childbirth, or a related condition. Your note may be the first notice the employer receives, so it is important to state that the limitation is “due to pregnancy,” “due to childbirth” and/or “due to a medical condition related to pregnancy.”

Note that your patient’s pregnancy, childbirth or related medical condition does not have to be the sole or primary cause of their workplace limitations for legal protections to apply.

What conditions are covered under the law?

- pregnancy symptoms such as nausea and fatigue;
- conditions such as gestational diabetes and preeclampsia;
- complications of pregnancy and childbirth such as ectopic pregnancy;
- prenatal and postpartum mental health conditions;
- labor and delivery;
- termination of pregnancy;
- lactation and related conditions such as low milk supply and engorgement;
- (in)fertility;
- use of contraception; and
- changes in pregnancy-related hormone levels and menstruation.

Sample language: “I am the treating physician/nurse midwife/doula/therapist/etc.² of Patrice Williams. She has a limitation related to pregnancy that requires work accommodation.”

If your patient does not want to disclose their pregnancy, you may still be able to write them a note that will help them to get accommodations under a different law. See our [guidelines for drafting such work accommodation notes here](#).

- 2. Identify your patient’s limitation with specificity.** This can be a physical or mental condition, impediment, or problem, such as needing to rest, reduce risk, or alleviate pain. It may be modest, minor, or episodic. It also can be for maintaining the health of the employee or pregnancy, such as obtaining healthcare or childbirth recovery.

Your patient’s employer is not allowed to ask for your patient’s symptoms or diagnosis. You should avoid providing this information, to protect their privacy.

Be specific and clear in describing the limitations. For example, say your patient:

- Must eat every two or three hours, depending on energy levels
- Needs to attend regular medical appointments
- Will need 6-8 weeks of leave to recover from childbirth
- Should rest in a reclining position for at least 20 minutes every four hours
- Should not lift more than 50 pounds
- Needs to work from home
- Should not work more than 8 hours/day
- Has to store breast milk in a location that is at least 40 degrees Fahrenheit
- Must be able to sleep during the nighttime
- Should not engage in a commute of more than 15 minutes
- Should avoid indoor groups of more than 2 people
- Needs to be able to access the bathroom in under 90 seconds
- Should not climb ladders
- Cannot engage in any physical altercations
- Should not harvest crops that have been sprayed with agricultural pesticides

Avoid identifying limitations that are vague or overly broad. If you identify limitations that cannot be reasonably accommodated, your patient could be forced to take unpaid leave or even fired. Ask your patient what accommodations seem feasible in their workplace. Balance the likelihood that a particular limitation can be accommodated with its medical necessity and your patient’s stated economic needs.³

² Federal regulations permit doctors, midwives, nurses, nurse practitioners, physical therapists, lactation consultants, doulas, occupational therapists, vocational rehabilitation specialists, therapists, industrial hygienists, licensed mental health professionals, psychologists, psychiatrists, and other health care providers to certify employees for pregnancy/childbirth/related accommodations. The healthcare provider that writes the note does not have to be the same one treating the condition. Employers must accept notes from telehealth providers.

³ For example, if your patient suffers from hyperemesis gravidarum, it would be reasonable to recommend that they reduce their hours and work from home, especially if they are a knowledge worker whose job can be done entirely remotely. On the other hand, if your patient checks out customers in a grocery store and tells you that their commute increases their

For example, DO NOT recommend:

- “Light duty.” Instead, state specifically which activities the patient should avoid or limit, e.g., the maximum number of pounds the patient can safely lift.
- “No stress.” All jobs have stress. Instead, describe the stressful activity that should be minimized or avoided.
- “No physical activity.” Be more specific; few jobs require no physical activity at all.

Exercise CAUTION when recommending leave or a reduced schedule:

Leave is a reasonable accommodation under the Pregnant Workers Fairness Act, so long as it can be provided without imposing significant difficulty or expense on the employer. However, before you recommend that your patient take leave or reduce their working hours, rather than seeking a different accommodation, discuss three considerations with your patient:

- Leave is often unpaid.* Your patient should determine if they have the financial resources to take leave or if there are sources of money available to them (e.g., an employer-provided short-term disability insurance program, or a state-administered temporary disability insurance program).
- Your patient’s employer may stop paying health insurance premiums during their leave.* The law requires continued health insurance benefits in certain situations, but there are limits.
- Your patient may exhaust their family and medical leave* and have limited leave available for purposes of bonding with their infant. Note:
 - Even if a patient has exhausted their family and medical leave (FMLA), postpartum leave for the patient’s *own* health (e.g. 6-8 weeks for recovery from childbirth; time off for postpartum depression) is still available under the Pregnant Workers Fairness Act if it can be provided without significant difficulty or expense.
 - Employers typically reduce family and medical leave allotments when employees work a reduced schedule (e.g., if you recommend that your patient work an 80% schedule, their amount of protected leave could be reduced by 1 day for every week that they work the 80% schedule).

If your patient is unsure of their leave eligibility or is fired for taking leave, encourage them to contact WorkLife Law’s free legal hotline without delay (see below).

- 3. Affirmatively state that your patient is able to continue working with an accommodation, if true.** This will safeguard against the employer putting your patient out on unpaid leave. Omit this step if you recommend full-time leave, but see the cautionary note about recommending leave above.

Sample Language: “She is able to continue to work with an accommodation.”

fatigue, recommending telecommuting would likely not be in the best interest of your patient. The key is to discuss these considerations with your patient.

- 4. Describe the adjustment(s) or change(s) at work that would address your patient's needs.** A *reasonable accommodation* is any change to the work environment or the way things are usually done at work, which does not impose a significant difficulty or expense on the employer. Speak with your patient about what may be possible at their workplace. As a healthcare provider, you are not responsible for determining what is reasonable.

See Appendix B for suggestions of appropriate accommodations.

What if I don't know enough about my patient's workplace to recommend an accommodation? You are not required to identify the specific accommodation the employer should provide in order to make the adjustment or change you recommend. You may identify in broad terms what change is needed, and the employer has the responsibility of determining, after a discussion with your patient, what specific accommodation to provide. For example, you can reiterate what your patient should (not) do or what they need. Say, for example, "they should not continue to do work that exposes them to this chemical" or "their job duties should be adjusted to allow them to rest for ten minutes every two hours." It is the responsibility of the employer to determine the specific accommodation that will be effective to carry out the changes you recommend (e.g., trading certain work duties with another employee or using the break room to rest).

- 5. Provide the expected duration of the need for accommodation.** State how long you expect your patient's need for accommodation to last. If the end date of the accommodation is uncertain, you may give your best estimate or state a date by which you will have reevaluated your patient—the date can be extended or changed in the future.

Sample language : "I anticipate that Ms. Williams will need these accommodations until she delivers, on or about [date]."

Questions?

You or your patient can contact WorkLife Law's free legal hotline at hotline@worklifelaw.org or (415) 703-8276. WorkLife Law experts are available to deliver grand rounds or for other educational opportunities on this topic.

Thank you for your work and commitment to your patients.

Appendix A is a sample work note that triggers your patient's legal protections, protects their privacy to the extent possible, and gives employers the information they are legally entitled to receive.

You may also use WorkLife Law's [Medical Certification Form](#).

Appendix B lists responsive accommodations for a wide range of pregnancy-related needs.

Appendix A

Sample Pregnancy and Postpartum Accommodation Work Note

[Health Care Provider's Letterhead]

[Date]

RE: [Patient name] –Accommodation for [Pregnancy/Childbirth/Pregnancy-Related Medical Condition]

To Whom It May Concern:

I am a [physician/nurse-midwife/childbirth doula, etc.] for [Patient].

[Patient] has a limitation due to [pregnancy/childbirth/a pregnancy-related medical condition] that requires accommodation. Specifically, she [state limitation, problem, or need, e.g., "must be able to sleep during the nighttime"].

[Patient] is able to continue to work with an accommodation. I recommend that [state recommended changes, e.g., "she be temporarily excused from working night shifts"].

I anticipate that [patient] will need this accommodation until [Anticipated Date].

Thank you.

[Your signature]

Pregnancy, Childbirth, and Related Medical Conditions:

Common Workplace Limitations and Reasonable Accommodations Explained

Working during pregnancy is generally safe.¹ Many pregnant and postpartum employees need work accommodations, whether because of risks posed by their particular job duties, medically complicated pregnancies, or simply the normal physical changes that occur during pregnancy. Employees may also have work limitations resulting from related medical conditions like lactation, abortion, miscarriage, pregnancy loss, fertility treatment, and menstruation. This guide provides an overview of these workplace needs for non-medical professionals. It may be particularly useful to lawyers and HR professionals.

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Questions?

For information about the laws that give rights to employees who need accommodations for pregnancy and related conditions, contact the Center for WorkLife Law Hotline at 415-703-8276 or hotline@worklifelaw.org.

¹ Am. Coll. of Obstetricians and Gynecologists, No. 733, *Employment Considerations During Pregnancy and the Postpartum Period*, in 131 *Obstetrics & Gynecology* 115-23 (2018), <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2018/04/employment-considerations-during-pregnancy-and-the-postpartum-period>.

Accommodations Employees May Need During a Typical Pregnancy

During pregnancy, people experience normal physical changes that impact numerous bodily systems. These differ from person to person, and may include pain in the back, abdomen, or thighs; swelling in limbs and joints; increased breast size and breast tenderness; nosebleeds; heartburn; dizziness or lightheadedness; fatigue; hemorrhoids; leg cramps or muscle spasms; nausea and vomiting; numb or tingling hands; increased need for urination and bladder control issues; and increased hunger and thirst.

Depending on the nature of their work, employees may require reasonable accommodations related to these typical physical changes. Common pregnancy accommodations include:

- Extra breaks for rest, snacks, water, and restroom use
- Uniform changes
- Changes to job duties, work location, or other modifications needed to reduce or avoid bending, lifting, climbing, walking, and/or standing (e.g., permission to sit on a chair, or moving workstation closer to the bathroom)
- Ability to more frequently drink water and eat during the workday
- Schedule changes or excusal from absence and tardiness control policies (“attendance points”)
- Time off for regular prenatal care appointments
- Leave prior to childbirth, and for 6-8 weeks after birth for physical recovery

Accommodations Employees May Need to Avoid Hazardous Work

Certain occupations expose employees to conditions that could be harmful to the health of a pregnant person or the health of their pregnancy. An individual pregnant person should be free to decide their personal risk tolerance in consultation with their healthcare provider. Accommodations may be needed to avoid hazardous duties.

Exposure to Toxins

Employment sectors at particular risk of potentially hazardous exposures during pregnancy include agriculture (pesticides), manufacturing (organic solvents and heavy metals), dry cleaning (solvents), custodial and cleaning services (solvents), beauty salons (solvents and phthalates), and health care (biologics and radiation).² Toxic exposures have been associated with infertility and miscarriage, obstetric outcomes such as preterm birth and low birth weight, neurodevelopmental outcomes such as autism and attention deficit hyperactivity disorder, and adult and childhood cancer.³

Responsive accommodations may include change in job duties, switching to less hazardous chemicals,

² Am. Coll. of Obstetricians and Gynecologists, No. 832, *Reducing Prenatal Exposure to Toxic Environmental Agents*, in 138 *Obstetrics & Gynecology* 40-54 (2021), <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2021/07/reducing-prenatal-exposure-to-toxic-environmental-agents>.

³ *Id.*

use of personal protective equipment (note PPE may need to be adjusted to fit properly during pregnancy), temporary transfer to an alternate position, or leave when economically feasible (consider disability insurance benefits when leave is the only safe option).

For more information about specific workplace exposures that can be hazardous during pregnancy and breastfeeding, visit <https://www.cdc.gov/niosh/topics/repro/specifcexposures.html>.

Physically Demanding Work

Everyday physical activities are appropriate for most pregnant people, however physically demanding work such as heavy lifting, excessive repetition, awkward postures, and prolonged periods of sitting or standing could increase chances of miscarriage, preterm birth, or injury during pregnancy, according to the National Institute for Occupational Safety and Health (NIOSH),⁴ which publishes specific lifting recommendations for pregnant workers.⁵ Positions that tend to be physically demanding include healthcare workers, manufacturing workers, construction crews, service workers, flight attendants, firefighters and first responders, childcare providers, and farm and greenhouse workers.

Responsive accommodations may include ability to sit or stand as needed (e.g., providing a chair, a sit-stand workstation, or additional rest breaks), mechanical assistance with lifting or hauling, modification or reassignment of job duties, assistance from co-workers, and temporary transfer to light duty or an alternate position.

Excessive Heat

Exposure to excessive heat at work could increase the risk of reproductive harms, including birth defects, according to the National Institutes for Occupational Safety and Health (NIOSH).⁶ Pregnant people are more likely to get heat exhaustion, heat stroke, and dehydration sooner than nonpregnant people.⁶ Workers most commonly exposed to heat include those who work outdoors and in buildings without climate control during hot weather, cooks and dishwashers in commercial kitchens (e.g., restaurants), certain manufacturing workers, and firefighters.⁷

Responsive accommodations may include additional breaks to cool down or drink water, portable cooling devices (AC or fan), provision of shade, modification of job duties or productivity metrics, permission to drink water more frequently, and temporary transfer to an alternate position.

⁴ Nat'l Inst. for Occupational Safety and Health, *Physical Job Demands-Reproductive Health*, CDC.GOV, <https://www.cdc.gov/niosh/topics/repro/physicaldemands.html>.

⁵ Leslie A. MacDonald et al., *Clinical Guidelines for Occupational Lifting in Pregnancy: Evidence Summary and Provisional Recommendations*, 209 Am. J. Obstetrics Gynecology 80 (2013), <https://www.sciencedirect.com/science/article/abs/pii/S0002937813002421>.

⁶ Nat'l Inst. for Occupational Safety and Health, *Heat-Reproductive Health*, CDC.GOV, <https://www.cdc.gov/niosh/topics/repro/heat.html>.

⁶ Id.

⁷ Id.

Long Working Hours and Overnight Shifts

Working long hours and working at night has been correlated with miscarriages and preterm birth, according to the National Institutes for Occupational Safety and Health (NIOSH).⁸ Americans workers in a wide range of industries have long work hours. Healthcare workers, flight attendants and pilots, law enforcement workers, and workers in the service industry commonly work rotating or night shifts.

Responsive accommodations may include schedule modifications, modification of job duties, temporary excusal from overnight shifts, relief from mandatory overtime, temporary transfer to an alternate position, and reduced work hours or part-time status.

Risk of Falls

Falls are the leading cause of occupational injury among the general population. Pregnant people are at an increased risk of falls because of joint laxity and a shifting center of gravity, particularly later in pregnancy.⁹ Falls can be caused by slippery floors, hurried pace, climbing, or carrying a child or object. They are therefore more likely to occur in occupations like food services, farmwork, and childcare.¹⁰

Responsive accommodations may include mechanical assistance with carrying objects (e.g., a wagon or cart), slower pace of work, modification of duties, assistance of coworkers, and temporary transfer to an alternate position.

Accommodations Employees May Need for Medical Conditions Caused or Exacerbated by Pregnancy

Pregnant employees with medical conditions beyond pregnancy (e.g., gestational diabetes or perinatal depression) may need reasonable accommodations to meet the limitations of their medical condition. The following chart is based on the Appendix of *A Sip of Cool Water: Pregnancy Accommodations after the ADA Amendments Act*.¹¹ It was prepared by with assistance from Drs. Marya Zlatnik and Megan Huchko of the Center for WorkLife Law's Pregnancy Accommodation Working Group.

⁸ Nat'l Inst. for Occupational Safety and Health, *Work Schedule-Reproductive Health*, CDC.GOV, <https://www.cdc.gov/niosh/topics/repro/workschedule.html>.

⁹ Am. Coll. of Obstetricians and Gynecologists, No. 733, *supra* n. 1.

¹⁰ H.M. Salihu et al., *Pregnancy in the workplace*, 62 Occupational Med. 88 (2012), <https://academic.oup.com/occmed/article/62/2/88/1480061?login=false>.

¹¹ Joan C. Williams, *A Sip of Cool Water: Pregnancy Accommodation after the ADA Amendments Act*, 32 Yale L. & Pol'y Rev. 97 (2015), https://repository.uchastings.edu/cgi/viewcontent.cgi?article=2276&context=faculty_scholarship.

Table of Pregnancy-Related Conditions and Responsive Accommodations

Pregnancy-Related Conditions	Reasonable accommodations
Anemia	Provide employee with stool or chair to sit on while working; more frequent rest breaks; assistance with lifting
Blurred vision	No driving/commuting; limits to screen time; breaks; naps
Carpal Tunnel Syndrome	Frequent breaks from manual tasks or typing; expert ergonomic evaluation of workstation and appropriate ergonomic equipment; specialized programs that allow for dictation instead of typing
Cholestasis of pregnancy	Time off for medical appointments; breaks to take medication;
Chronic migraines	Change lighting in the work area; limit exposure to noise and fragrances; schedule changes such as flexible schedules or work from home, which may include a transfer to a position that provides necessary flexibility
Deep vein thrombosis, pulmonary embolism, stroke	Modification of work station to allow more comfortable movement of legs; breaks to stretch and move extremities; allow refrigerator storage and privacy for injections; prohibit travel by air or that requires long periods of sitting
Dependent edema	Provide employee with stool or chair to sit on while working; modification of workstation to allow elevation of legs; more frequent breaks for rest or to move extremities; modification of footwear requirements
Dyspnea	Provide employee with stool or chair to sit on while working; more frequent rest breaks
Fatigue	Modification of job duties to avoid strenuous activity; flexible or reduced hours; breaks for rest; exemption from mandatory overtime; work from home, which may include a transfer to a position that provides necessary flexibility
Gastroesophageal reflux (GERD)	Breaks for food as needed; provide space for medications to be stored
Gestational diabetes	Provide more frequent breaks for bathroom use, rest, blood testing, and eating small snacks during work hours; provide a cot for lying down; provide a space to store medications; modified schedules; time off for medical appointments

Hemorrhoids	Provide frequent breaks from sitting; allow use of a special cushion
High-risk pregnancy	Time off for medical appointments; provide a stool or chair for employee to sit on while working; limit lifting and bending requirements; modify job duties to avoid strenuous activity; flexible or reduced hours; breaks for rest; schedule changes or excusal from absence and tardiness control policies ("attendance points"); exemption from mandatory overtime; work from home, which may include a transfer to a position that provides necessary flexibility; leave
Hyperemesis gravidarum	Provide more frequent breaks for bathroom use, rest, and eating small snacks during work hours; provide a cot for lying down; modified schedules; work from home, which may include a transfer to a position that provides necessary flexibility
Hypertension, preeclampsia	Provide a stool or chair for employee to sit on while working; limit lifting and bending requirements; work from home while on bedrest, which may include a transfer to a position that provides necessary flexibility; leave
Insomnia	Modification of job duties to avoid strenuous activity; flexible or reduced hours; breaks for rest; schedule changes or excusal from absence and tardiness control policies ("attendance points"); exemption from mandatory overtime; work from home, which may include a transfer to a position that provides necessary flexibility
Intrauterine Growth Restriction	Time off for medical appointments; work from home, which may include a transfer to a position that provides necessary flexibility
Lumbar Lordosis and other musculoskeletal pain	Use of a heating pad; sitting instead of standing; lifting assistance or limitations; use of assistive equipment to lift; modification of workstation; modification of the duties of the job, such as temporarily removing job duties that require movement that causes pain, work from home if commuting increases pain, which may include a transfer to a position where remote work is feasible
Multiple gestation	Provide a stool or chair for employee to sit on while working; limit lifting and bending requirements; provide more frequent breaks for bathroom use, rest, and eating small snacks during work hours; provide a cot for lying down; modified schedules; work from home while on bedrest, which may include a temporary transfer to a position that provides this kind of flexibility; time off for medical appointments; leave

Oligohydramnios	Time off for medical appointments; allow carrying of water bottle; provide a stool or chair for employee to sit on while working; limit lifting and bending requirements; work from home, which may include a transfer to a position that provides necessary flexibility
Perinatal and postpartum depression	Time off to attend therapeutic sessions; temporary transfer to a less distracting environment; work from home, which may include a temporary transfer to a position that provides this kind of flexibility; leave
Preterm labor risk	Provide a stool or chair for employee to sit on while working; limit lifting and bending requirements; time off for medical appointments; work from home while on bedrest; leave
Subchorionic hematoma, abnormal placentation (placental abruption, placenta accreta, placenta percreta, placenta increta, placenta previa, vasa previa)	Time off for medical appointments; work from home, which may include a temporary transfer to a position that provides this kind of flexibility; lifting assistance from coworkers or use of assistive equipment to lift; temporarily modify job duties to remove physically demanding duties; move workstation close to restrooms
Susceptibility to infectious diseases	Separation from populations that could be infected; personal protective equipment that is sized appropriately for pregnancy; work from home, which may include a transfer to a position that provides necessary flexibility
Symphyseal separation (i.e. pubic symphysis separation)	Limit lifting requirements; provide a stool or chair to sit on; more frequent breaks; schedule modifications; work from home, which may include a transfer to a position that provides necessary flexibility
Syncope or near-syncope	Provide a stool or chair to sit on; more frequent breaks
Thrombocytopenia	Time off for medical appointments; modification of job duties to temporarily eliminate activities that could cause bruising
Urinary tract or bladder infection	Provide more frequent bathroom breaks; allow carrying a bottle of water
Varicose veins	Provide more frequent breaks for rest or to move legs; allow sitting or standing as needed
Wound complications	Time off for medical appointments; lifting assistance from coworkers or use of assistive equipment to lift; temporarily modify job duties to remove physically demanding duties; allow sitting and standing as needed; provide more frequent bathroom breaks

Accommodations Employees May Need for Other Related Medical Conditions

Lactation

Most nursing parents must use a breast pump¹² to remove milk from their body during the workday. Physicians instruct lactating parents to express milk on the same schedule as they feed their child—which is typically every two to three hours for young infants—to maintain their milk supply and avoid serious health consequences.¹³ If a nursing parent suddenly changes their pumping schedule or misses pumping sessions, their body will likely respond by beginning to produce less milk (as the body constantly produces breast milk on a demand-and-supply basis). The diminution of milk supply may mean the nursing parent can no longer produce enough milk to meet their infant’s feeding needs.¹⁴ Additionally, inability to pump milk on schedule can cause considerable discomfort or illness for the nursing parent, including painful breast engorgement, infections, and mastitis.¹⁵ Lactating employees who are not producing milk for their own child may also need to pump in cases of surrogacy or infant loss.

Break Time

Breastfeeding, chestfeeding, and pumping employees generally require sufficient break time and a private, non-bathroom space to express milk on an as-needed basis. According to the U.S. Department of Health and Human Services, a pumping break should allow fifteen to twenty minutes for expressing milk, plus time for (i) set up, (ii) clean up, and (iii) the walk to and from the work area and the pumping space, if any.¹⁶ Longer may be needed due to certain physical or workplace conditions.

Pumping Space

The space must not be a bathroom; pumping requires a sanitary environment to reduce the risk of contaminating the breast milk, which is food for a baby.¹⁷ Many parents also require a private space because using a pump exposes the breast/chest. The pumping space should have a seat and a flat surface on which to place the pump. It should be clean and a comfortable temperature. Employees may

¹² A breast pump is equipment that creates a rhythmic suction mimicking the pace and physical effect of a nursing baby to remove breast milk from the body. Breast pumps typically require access to an electrical outlet. U.S. Food and Drug Admin., *What to Know When Buying or Using a Breast Pump*, FDA.GOV, <https://www.fda.gov/consumers/consumer-updates/what-know-when-buying-or-using-breast-pump>.

¹³ U.S. Dep’t of Labor, Wage & Hour Div., Reasonable Break Time for Nursing Mothers, 75 Fed. Reg. 80073, 80075 (Dec. 21, 2010).

¹⁴ Susan Reslewic Keatley, *How to Deal with Low Breastmilk Supply*, N.Y. TIMES (Apr. 17, 2020), <https://www.nytimes.com/article/increase-breastmilk-supply.html>.

¹⁵ *Breast Engorgement*, CHILDREN’S HOSP. OF PHILA., <https://www.chop.edu/pages/breast-engorgement>; see also *Engorgement*, WIC BREASTFEEDING SUPPORT—U.S. DEPT. OF AGRIC., <https://wicbreastfeeding.fns.usda.gov/engorgement>.

¹⁶ *Time for breaks*, OFF. ON WOMEN’S HEALTH—U.S. DEPT. OF HEALTH & HUM. SERV., <https://www.womenshealth.gov/supporting-nursing-moms-work/break-time-and-private-space/time-breaks>.

¹⁷ *What employers need to know*, OFF. ON WOMEN’S HEALTH—U.S. DEPT. OF HEALTH AND HUM. SERV., <https://www.womenshealth.gov/supporting-nursing-moms-work/what-law-says-about-breastfeeding-and-work/what-employers-need-know> See also U.S. Dep’t of Labor, Wage & Hour Div., Reasonable Break Time for Nursing Mothers, 75 Fed. Reg. 80073, 80076 (Dec. 21, 2010).

also need access to electricity (e.g., an outlet or extension cord), access to a refrigerator or permission to carry a cooler to store the milk, and running water to clean their hands and pump parts.

Other Lactation Accommodations

Lactating employees sometimes need accommodations that extend beyond reasonable break time and a private space, either because of personal health needs or the nature of their jobs.¹⁸ For example, a lactating employee may need:

- time off or remote work for a lactation-related complication such as mastitis
- modified work duties, PPE, or a temporary transfer to avoid exposure to toxic chemicals or other hazards that can contaminate human milk¹⁹
- excusal from long-distance travel, or flight schedules and layovers that allow for pumping
- telecommuting or permission for a caretaker to bring the employee's infant to the workplace when the employee is physically unable to pump breast milk
- assignment to work locations where pumping is feasible
- modification of a work uniform that compresses the chest and therefore hinders milk production

Fertility Treatment, Miscarriage, and Pregnancy Loss

Employees may need time off for medical appointments and procedures, counseling, physical recovery, and/or bereavement. Employees under fertility treatment may need breaks at specific times of day to administer medication.

Abortion

Employees may need time off for medical procedures, including travel to abortion providers, physical recovery, and/or bereavement.

Menstruation

Employees may need accommodations for issues related to mensuration, including menstrual disorders like abnormal bleeding or premenstrual dysphoric disorder (PMDD). Employees may need modified or work hours, excusal from overnight shifts,²⁰ additional restroom breaks, or time off for medical appointments.

Questions?

For information about the laws that give rights to employees who need accommodations for pregnancy and related conditions, contact the Center for WorkLife Law's free legal helpline at 415-703-8276 or hotline@worklifelaw.org.

¹⁸ Ctr. for WorkLife Law, *Exposed: Discrimination Against Breastfeeding Workers* (2016) at 31, <https://www.pregnantatwork.org/wp-content/uploads/WLL-Breastfeeding-Discrimination-Report.pdf>.

¹⁹ Nat'l Inst. for Occupational Safety and Health, *Learn about Specific Exposures during Pregnancy & Breastfeeding*, CDC.GOV, <https://www.cdc.gov/niosh/topics/repro/specifcexposures.html>.

²⁰ Working at night and working long hours has been related to menstrual disorders. See Nat'l Inst. For Occupational Safety and Health, *Work Schedule-Reproductive Health*, CDC.GOV, <https://www.cdc.gov/niosh/topics/repro/workschedule.html>.