

Guidelines for Drafting Work Accommodation Notes for Patients Who Do Not Want to Disclose Pregnancy

*These guidelines **apply only when a patient does not want to disclose to their employer that they are pregnant**. Visit Pregnant@Work for guidelines for patients who consent to disclosure.

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Health care providers can 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 appropriate notes to employers following the guidelines below. In most cases, 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.

Typically, you should disclose your patient’s pregnancy in the work note to trigger legal protections for pregnant people. However, in certain circumstances, an employee may not want to disclose their pregnancy, for example if they plan to terminate the pregnancy or fear discrimination. Although a note that mentions pregnancy is more persuasive from a legal perspective, the guidelines below are intended to help you write an effective note that does not disclose pregnancy when that is the patient’s preference. (For a note that *does* disclose pregnancy, visit PregnantAtWork.org for guidance.)

Understanding the Law:

The **Pregnant Workers Fairness Act** is the law most employees use to request pregnancy-related accommodations. That law requires employers that have more than 15 employees to give reasonable accommodations for pregnancy, childbirth, and related medical conditions. Many states have similar laws that apply to smaller employers. To request accommodations under the Pregnant Workers Fairness Act, an employee is required to inform their employer that they have limitations related to pregnancy or a pregnancy-related condition.

The **Americans with Disabilities Act (ADA)** also gives pregnant employees a right to accommodation in certain circumstances. The ADA requires employers that have 15 or more employees¹ to provide reasonable accommodations to employees who have a disability. The laws of certain states give the same right to employees who work for smaller employers. To be entitled to receive a reasonable accommodation under the ADA, an employee must establish for their employer that they have a disability, which is a physical or mental impairment that substantially limits a major life activity or a major bodily function. (“Substantially limits” means that it affects the employee more than the general population.) Although pregnancy alone is not considered a disability under the ADA, many common pregnancy conditions do meet the ADA’s definition of “disability,” as discussed in these Guidelines.

¹ **Total** number of employees employed by the employer, not at a particular worksite.

The Center for WorkLife Law at the University of California Law, SF is available to answer your questions about 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. Email hotline@worklifelaw.org or call 415-703-8276.

Guidelines for Writing Notes

An effective accommodation work note that does not disclose pregnancy includes 7 components:

- 1. Identify your patient’s medical condition for which they need accommodation.** This information will inform the employer that your patient has a physical or mental impairment, which is necessary to receive accommodation under the ADA. Include in your note all the conditions for which your patient needs accommodation.

Many medical conditions that commonly arise in pregnancy can be adequately described for purposes of requesting an accommodation, without reference to pregnancy, such as:

- Gestational Diabetes can be described as “diabetes”
- Preeclampsia can be described as “high blood pressure”
- Sciatica or severe back pain
- Migraine headaches
- Recurrent urinary tract infection
- Edema
- Insomnia
- Depression and anxiety

Sample language: “I am the treating physician of Patrice Williams. She is being treated for anemia.”

Tip on writing notes for morning sickness: Nausea and vomiting during pregnancy can be a disability under the ADA if it is severe enough or lasts long enough. You may describe it without mentioning the underlying pregnancy (for example as “persistent” or “chronic” nausea). Morning sickness is discussed in more detail in section 3 below.

Tip on writing notes for abortion healthcare: If your patient needs accommodation to seek abortion healthcare due to an underlying disability (e.g., cancer, muscular dystrophy, depression/anxiety), you may identify the underlying disability as the condition for which they need accommodation without mentioning pregnancy (for example, “Ms. Williams has been previously diagnosed with lupus and needs to take medical leave for a medical procedure related to her condition”).

What if my patient does not have an identifiable medical condition or does not want to disclose it for privacy reasons? If your patient does not want to disclose their diagnosis, you can state simply that they have a “medical condition” and move forward with the steps below. If your patient does not provide their employer with sufficient information about their impairment, they might not receive an accommodation under the ADA. **A sample work note that does not disclose any diagnosis or medical condition is attached as Appendix B.**

- 2. Identify major life activities or major bodily functions that are substantially limited by your patient’s medical condition.** This will demonstrate for the employer that your patient’s condition is covered by the ADA.

Major life activities include (but are not limited to) caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, and communicating.

Major bodily functions include (but are not limited to) functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

“*Substantially limits*” means limited as compared to the rest of the general population, before any ameliorative actions have been taken to treat the condition.

Here are some examples:

- Gestational Diabetes, an impairment of the endocrine system
- Sciatica/severe back pain, an impairment of the musculoskeletal system, may substantially limit the patient’s ability to walk, lift, and sit for extended periods
- Migraine headaches, an impairment of the cardiovascular and nervous systems, may substantially limit the patient’s ability to concentrate, think, read, and learn
- Recurrent urinary tract infection, an impairment of the genitourinary system

Sample language: “The anemia is an impairment of her cardiovascular system and substantially limits her ability to walk, lift, perform physical labor, and concentrate.”

Tip: Your patient is entitled to accommodations if they are limited in *just one* major life activity or *one* major bodily function, but if more than one is limited, it increases the likelihood of your patient receiving an accommodation if you include more than one in your note. Similarly, identifying both a major bodily function that is impaired and a major life activity that is limited will create a stronger note.

Understanding the meaning of “Substantially Limits”: Morning sickness provides a good example of how “substantially limits” operates. If your patient has occasional mild nausea and vomiting, only a couple of times a week for only a few weeks, they probably would not be considered “substantially limited” because what they experience is not that much different from what the general population experiences. But frequent nausea and vomiting that lasts for days and weeks can be substantially limiting, particularly when it interferes with eating, causes dehydration and weakness, etc. If your patient needs medication or IV fluids, their morning sickness (hyperemesis) is substantially limiting because they are experiencing nausea and vomiting to a greater extent than the general population. As suggested above, describe the condition in a way that does not indicate a linkage to pregnancy (e.g., “persistent nausea and vomiting that is an impairment of the digestive system and that substantially limits patient’s ability to eat, sleep, and concentrate”).

- 3. Precisely identify what your patient cannot do.** Identify exactly the restrictions your patient requires to work safely. Examples of specific, clear restrictions include:

- Should not stand for more than 20 minutes when it is practicable to sit instead
- Should not commute to her office and work outside of her home on days when she is

- experiencing nausea and vomiting
- Should eat snacks every two or three hours throughout the day
- Should rest in a reclining position for at least 20 minutes every four hours
- Should not lift more than 50 pounds
- Should sip water approximately every 10 minutes throughout the day
- Should not climb ladders

Avoid identifying limitations that are vague or overly broad. If the employer cannot identify an accommodation that would allow your patient to continue working given their limitation, your patient could be put out on unpaid leave or lose their job. 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.

Be aware: If you identify limitations that cannot be reasonably accommodated, your patient could be forced to take unpaid leave or even fired. Be sure to ask your patient what accommodations seem feasible in their workplace. Balance the likelihood that a particular accommodation can be provided with the medical necessity of your recommendations and your patient’s stated economic needs. 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 graphic designer whose job can be done entirely remotely. On the other hand, if your patient works with customers in a grocery store and shares that their commute increases their fatigue, recommending full-time leave would likely not be in the best interest of your patient. The key is to discuss these considerations with your patient.

CAUTION: Recommending Leave or a reduced schedule: Leave is a reasonable accommodation under the ADA, 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, discuss two 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 may exhaust their family and medical leave* while still pregnant and have limited leave available for purposes of bonding with their infant.

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).

- 4. 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.”

- 5. Recommend reasonable accommodation(s).** It is the employer’s role to identify and provide a reasonable accommodation to address the limitation you described (above), regardless of whether you suggest a particular accommodation that will address that limitation. However, patients typically have a much better chance of receiving the accommodations they need if their health care provider suggests it.

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 C for suggestions of appropriate accommodations.

What if I don’t know enough about my patient’s workplace to recommend an accommodation? So long as you clearly explain your patient’s limitations and what they can and cannot do, you are not required to recommend a specific accommodation.

- 6. 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 choose to 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 [date].”

Have 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 maximizes the likelihood that your patient will receive the accommodation they need without disclosing their pregnancy.

Appendix B is an alternative sample work note, which does *not* disclose any diagnosis or your patient’s medical condition.

Appendix C is a chart of typical pregnancy-related conditions and accommodations that may be appropriate in addressing them.

Sample Accommodation Work Letter that Does Not Disclose Pregnancy

Health Care Provider's Letterhead

[Date]

To Whom It May Concern:

I am the [treating physician, nurse practitioner, health care professional, etc.] for [Patient].

[Patient] has been diagnosed with [state medical condition]. This medical condition [impairs their [state major bodily function]] / substantially limits their ability to [state major life activity impaired]].

Due to [Patient's] condition, they [state restriction here, e.g., "cannot stand for more than an hour without 15 minutes of sitting," "must take breaks every 3-4 hours to eat a snack," etc.].

[Patient] is able to continue working with accommodations. Optional: I recommend that they be provided the following accommodation: [Describe requested accommodation here].

I anticipate that [Patient] will need these accommodations until [date].

Thank you.

[Signature]

**Sample Accommodation Work Letter that Does Not Disclose Pregnancy
(No Medical Condition Identified)**

**Use this sample note only when patient wishes not to disclose any information about their medical condition or no identifiable condition exists. It is preferable to identify information about your patient’s medical condition, if possible, as provided in the sample note found at Appendix A.*

Health Care Provider’s Letterhead

[Date]

To Whom It May Concern:

I am the [treating physician, nurse practitioner, health care professional, etc.] for [Patient].

[Patient] is substantially limited in their ability to [state major life activity here]. Specifically, they [state restriction here, e.g., “cannot stand for more than an hour without 15 minutes of sitting,” “must take breaks every 3-4 hours to eat a snack,” etc.].

[Patient] is able to continue working with accommodations. Optional: I recommend that they be provided the following accommodation: [Describe requested accommodation here].

At this time, I anticipate that [Patient] will need these accommodations until [date].

Thank you.

[Signature]

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
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
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