

Effective Accommodation Notes For Women With Postpartum Mental Health Disorders

Postpartum mental health disorders are extremely common, with postpartum depression alone affecting between 13 and 19 percent of mothers during the year after birth (O'Hara & McCabe, 2013). Postpartum depression and anxiety profoundly affect sleep, energy, and concentration, which can make it difficult or impossible for a woman to function normally at work without additional support. Although these disorders are temporary and treatable, they can have devastating long-term consequences, one of the most disruptive being job loss (Kasperson et al., 2016). Further, job loss is highly likely to exacerbate symptoms of depression and anxiety (Andreeva, Magnusson Hanson, Westerlund, Theorell, & Brenner, 2015; Kim & von dem Knesebeck, 2016; Amital, Fostick, Silberman, Beckman, & Spivak, 2008).

Postpartum mental illness does not have to end in job loss. Workers with postpartum depression and anxiety are typically entitled by law to reasonable accommodations to help them do their jobs well during treatment.

Unfortunately, many workers are completely unaware of these legal protections or how to go about requesting the accommodations they need. By writing effective accommodation notes, therapists can help clients with postpartum mental health conditions stay employed and maintain their income and health insurance. Here's how.

The right to reasonable accommodation

This right to reasonable accommodations arises from a number of different laws, including state disability laws, state laws requiring accommodations for conditions related to pregnancy or childbirth, the federal Pregnancy Discrimination Act, and, most importantly, the Americans with Disabilities Act (ADA, 1990).

The ADA requires employers with at least 15 employees to provide reasonable accommodations to employees with disabilities. A person with a mental health disorder has a disability for purposes of the ADA if the disorder substantially limits one or more major life activities, which include sleeping, concentrating, thinking, communicating, breathing, or working; or if the disorder substantially limits the functions of the brain. Most people with depressive or anxiety disorders fall within the scope of this broad definition. It's easy to see how if an individual with a mental health disorder is experiencing clinically significant impairment in a major area of functioning (to use the parlance of the DSM V), she is probably also substantially limited in a major life activity, and therefore "disabled" and under the protection of the ADA. Moreover, ADA regulations specifically list major depressive disorder and OCD as examples of conditions that substantially limit brain function and therefore constitute disabilities under the ADA.

Writing your client a note can go a long way toward helping her get the disability accommodations she needs. An accommodation note is an

opportunity to *educate* your client's employer about the ways that her condition impacts her at work and to *propose potential solutions* to enable your patient to continue to do her job. Your goal is not to excuse your client from performing her job duties, but to help her and her employer find a therapeutically appropriate solution that will enable her to work effectively.

It is often a therapist's instinct to restrict a client from participating in any activity that causes distress or difficulty, but if the activity is an essential job function, that can do more harm than good. Because the employer typically does not have to create a new position or change essential job functions as an accommodation, the client could likely be put on unpaid leave or terminated. Talk to your client about why particular job tasks are difficult and develop ideas for workplace modifications short of avoiding the task entirely. Leave can be a reasonable accommodation, but should also be considered as a last resort. Clients may benefit from the routine, social interaction, and sense of accomplishment they gain at work and may be unable to afford to go without income during an extended leave. A request for leave can even sometimes put a client's job at risk.

Roadmap for success

It is important to strike a balance between protecting patient privacy and writing an optimally effective note. Sadly, stigma against mental illness is alive and well, and clients may have reason to fear backlash at work if they disclose a mental health disorder. Women who disclose postpartum mental health disorders may face a host of gendered assumptions, as well ("Her head isn't in the job; she just wants to be home with her kids"). It is always the client's choice whether or not to reveal her specific diagnosis or other confidential treatment information. Failing to provide certain information, however, may make it less likely that she will receive the accommodations she needs.

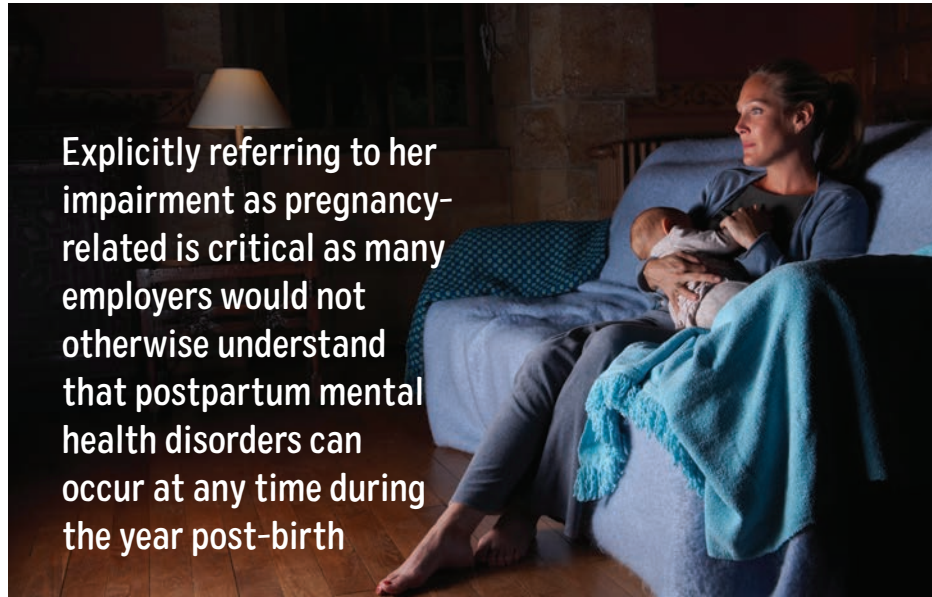
There are five basic steps to writing an effective accommodation note:

Step 1: State that the employee is in continuing treatment for a medical condition related to pregnancy/childbirth/lactation and that she requires an accommodation.

In certain states, alerting the employer that the condition is related to pregnancy, childbirth, or a related condition triggers legal protections such as additional protected medical leave. Explicitly referring to her impairment as pregnancy-related is critical as many employers would not otherwise understand that postpartum mental health disorders can occur at any time during the year post-birth (Davey, 2011; O'Hara & Swain, 1996). If your client is comfortable doing so, you can identify her specific medical diagnosis. If not, ask whether you can identify a general type of disorder. Where necessary, you can describe the disorder more generally as a "medical condition." Regardless, be sure to provide as much of the information requested in step two as possible—failing to do so may mean your client is denied an accommodation. Example: "Jennifer is in ongoing treatment with me for an anxiety disorder related to her recent pregnancy. As a result of this condition, she requires an accommodation at work."

Step 2: Identify the employee's specific functional limitations and how the limitations affect the employee at work.

To trigger ADA protection, it is vital that the employer understands that the employee is substantially limited in a major life activity and that the limitation impacts the employee at work. To protect client privacy and avoid potentially triggering the employer's bias against mental illness, it is best to be specific in your description of the limitation as it applies to the workplace, but to avoid unnecessary detail surrounding the symptoms creating the limitation. For example, a well-written note might state that a client has a health condition that



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impairs her ability to sleep but would not state that she is waking up multiple times a night in the grips of a panic attack worrying uncontrollably about whether she is going to die.

Examples:

- “Ana’s medical condition substantially limits her ability to sleep and causes daytime fatigue. As a result, she is unable to work long periods without rest.”
- “Jordan’s medical condition adversely affects her ability to concentrate. In order to effectively perform her work, she needs to limit distractions in her work environment.”
- “Lillian’s condition causes episodes of shortness of breath and nausea. She is not able to work during these episodes and must take a break from her work when they occur.”

Step 3: Affirm that the employee is able to work with accommodation.

Example: “Alyssa is able to work and able to perform her essential job duties with accommodation.”

Step 4 (optional, but usually helpful): With the client’s help and input, make a recommendation as to a way in which the employee could be effectively accommodated and explain why the recommendation addresses her limitation.

This should always be done in consultation with the client to determine the feasibility of the accommodation in light of her particular workplace and duties. Accommodations may need to be negotiated, so avoid overstating the need for a particular accommodation.

Examples:

- “I recommend that Jordan be provided with a quiet workspace, permission to telecommute, or that she be permitted to use headphones or ear plugs during the workday so that she can avoid or minimize distractions in order to focus on her work and perform her job duties effectively.”
- “Lillian should be permitted to take rest breaks as needed when she experiences shortness of breath. I estimate breaks will be needed for approximately 20 minutes up to three times per week.”

Step 5: State an end date for the accommodation, or a date on which you will provide a re-evaluation of your client’s needs. You can extend if necessary, but make sure that you do so before the end date on the current note passes.

What if my client needs lactation accommodations?

Breastfeeding accommodations deserve their own mention here, due to the impact on postpartum mental health. Research indicates that breastfeeding is associated with reduced depressive symptoms (Figueirido, Canario, & Field, 2014) and that women who are unable to breastfeed for as long as intended are at heightened risk for postpartum depression (Borra, Iacovou, & Sevilla, 2015; Davey, Tough, Adair, & Benzie, 2011). It is likely that both hormonal and situational factors contribute to this phenomenon. Breastfeeding and weaning cause major hormonal changes in the body that may affect mood. Moreover, breastfeeding is very subjectively important to many women as a way to support their baby. Losing the ability to breastfeed due to work conditions may be experienced as major loss and provoke feelings of grief, guilt, or worry. A breastfeeding client who is unable to express milk regularly is also at risk of engorgement, pain, infection, and other complications.

Federal law gives non-exempt employees the right to take breaks as needed to express breast milk in a private place (other than a bathroom) throughout the first year of a child’s life, and several states provide similar rights. Unfortunately, millions of workers are excluded from these laws, and 60 percent of breastfeeding workers still aren’t getting time and space to express milk at work (Kozhimannil, Jou, Gjerdingen, & McGovern, 2016). Many mothers are forced to rely on other, less clear laws or their employer’s goodwill to ensure they can breastfeed at work.

Fortunately, a note from a healthcare provider may help workers get the time and space they need to express milk. An accommodation note for a breastfeeding client should state that 1) she is breastfeeding and needs temporary accommodations as a result; 2) continued breastfeeding and regular expression of milk is necessary for the client’s own health (not just a benefit for the baby); and 3) she needs a clean and private space to pump (not a bathroom); and the ability to take breaks to do so (state how often and how long).

With their expertise in mental health and clinical practice of spending significant time with clients, therapists are uniquely situated to develop effective work accommodation notes for those with postpartum mental health conditions and thereby protect them from job loss. State and federal laws affecting disabilities and pregnancy-related conditions can be complicated, so be sure to contact legal experts when needed.



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Resources

A sample lactation note is available at <https://www.pregnantatwork.org/healthcare-professionals/breastfeeding>.

Sample notes, detailed lists of potential accommodations for common postpartum mental health disorders, and other resources are available at www.pregnantatwork.org/healthcare-professionals.

Contact the Center for Worklife at the UC Hastings College of the Law’s free national legal hotline: 415-703-8276 or hotline@worklifelaw.org. The Center offers advice concerning pregnancy and postpartum accommodations and leave.

U.S. Equal Opportunity Employment Commission. The mental health provider’s role in a client’s request for reasonable accommodation at work. https://www.eeoc.gov/eeoc/publications/ada_mental_health_provider.cfm