

Delaware Guidelines: Drafting Work Accommodation Notes for Patients with Limitations Related to Pregnancy, Childbirth, Lactation, or a Related Condition

*These guidelines **apply only in Delaware.**

Visit Pregnant@Work (www.pregnantatwork.org) for other states.

Attached as Appendix A is a sample work note that satisfies all of the requirements of Delaware law.

Delaware law requires employers that have 4 or more employees to provide:

- *Reasonable accommodations* to known limitations related to an employee’s pregnancy, childbirth, lactation, or related condition;
- Unless the employer can demonstrate the accommodation would impose an *undue hardship* on the operation of the employer’s business.

Health care providers can play an important role in enabling patients to receive the accommodations they need to keep their jobs.

In most cases, the goal is to write a note that will assist your patient to receive the accommodation she needs to continue working and earning an income for the family she supports. Before you recommend that a patient take leave or adopt a reduced schedule, see “Caution: Recommending Leave” and “Recommending a Reduced Schedule” under #4 below.

An effective pregnancy accommodation work note has five components:

- 1. State that your patient has a limitation related to pregnancy, childbirth, lactation, or a related condition.** This will trigger Delaware’s legal protections.
- 2. Precisely identify your patient’s known limitation(s).** Identify exactly what your patient requires to work safely. Do not impose limitations that are not medically necessary, because if there is no accommodation available, your patient could be sent out on leave.

Examples of specific, clear limitations include:

- Is unable to stand for more than one hour without fifteen minutes of sitting
- Must eat snacks every two or three hours throughout the day
- May not lift more than 50 pounds more than three times per day
- Must consume water approximately every 10 minutes throughout the day
- May not be exposed to [specific toxin]
- May not be put at risk of being kicked in the stomach
- May not climb ladders

CAUTION: Avoid recommending limitations that are too vague or overly broad. For example, **DO NOT recommend:**

- “Light duty.” Instead, specify the maximum number of pounds the patient can safely lift, that she can only be on her feet X amount without a rest break, etc.

Examples continue on the following page

- “No stress.” This typically will cause a patient to lose her job. What employer can guarantee a stress-free job?
- “No physical activity.” Be more specific; few jobs require no physical activity at all.

3. Affirmatively state that your patient is able to continue working with a reasonable accommodation. Omit this step if you recommend full-time leave.

4. Recommend reasonable accommodation(s). A health care provider need not identify a reasonable accommodation to address the patient’s known limitation, but patients typically have a better chance of receiving the accommodations they need if their health care provider identifies it.

- *A reasonable accommodation is a reasonable change in the workplace* that would accommodate the known limitation of a woman related to her pregnancy, childbirth, or a related medical condition by enabling her to satisfactorily perform the essential duties of her job, without imposing an undue difficulty or expense on her employer. Speak with your patient about what may be possible at her workplace.
- *What if you don’t know enough about your patient’s workplace to recommend an accommodation?* So long as you clearly explain the patient’s known limitations (#2 above), you are not required to recommend a specific accommodation. If you do recommend an accommodation, it is important to be as specific and clear as possible in making your recommendation.
- **Caution: Recommending leave.** Before recommending that your patient take leave, you should discuss with her other accommodations that will allow her to continue working. Under the Delaware law, an employer may not require a pregnant woman to take leave if another reasonable accommodation can be provided instead. Your patient should consider two factors before taking leave in her pregnancy. First, *leave is often unpaid*. Second, most employees have limited leave time, and if your patient goes out early in her pregnancy, *she may exhaust her leave and may end up being fired* because she will be unable to return to work when her leave runs out.
- **Caution: Recommending a reduced schedule.** A woman whose health care provider recommends a reduced schedule (e.g., part time work) typically uses up her leave on a pro rata basis.
- **If your patient is fired for asking for or taking pregnancy leave,** advise her to call WorkLife Law’s legal hotline (see number below) for information - under certain circumstances, women are entitled to take additional leave when they are pregnant, because leave may be considered a reasonable accommodation.

***Appendix B** to this document is a chart of typical pregnancy-related conditions and accommodations that may be appropriate in addressing them.

Examples of reasonable accommodations include:

- Acquisition of equipment for sitting
- More frequent or longer breaks
- Periodic rest
- Assistance with manual labor
- Job restructuring
- Modified work schedules or telecommuting
- Temporary transfers to less strenuous or hazardous work
- Time off to recover from childbirth
- Break time and appropriate facilities for expressing breast milk

- 5. Provide expected duration of limitation.** Inform the employer how long you expect the limitation to last. Say, for example, that the limitation began on the date of the letter and is expected to last for the duration of your patient's pregnancy, until she gives birth on her approximate due date. If the end date of the accommodation is uncertain, you may list a date by which you will reevaluate your patient – the date can be extended or changed in the future. *If you say nothing at all about when a patient on leave can return to work, she may end up losing her job as a result.*

Does the patient have to reveal her pregnancy-related medical condition? No. Your patient must reveal that she is pregnant, but Delaware law does not require providers to identify conditions like gestational diabetes or morning sickness in the accommodation note. Because patients may want to keep such information private from their employers, it is recommended that you state only that your patient has a limitation related to pregnancy, childbirth, lactation, or a related condition and address each of the four elements described above.

Have Questions? Health care providers may contact the Center for WorkLife Law at (415)-565-4640 for more information. Pregnant women may contact WorkLife Law's free legal hotline at hotline@worklifelaw.org or (415)-703-8276.

Visit [Pregnant@Work](http://www.pregnantatwork.org) (www.pregnantatwork.org) for more info.

Attached as Appendix A is a sample work note that satisfies the requirements of Delaware law.

Thank you for your work and commitment to your patients.

**Delaware: Sample Work Accommodation Letter
Supporting Pregnancy, Childbirth, or Lactation-Related Accommodations**

Your 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 a limitation related to **[pregnancy, childbirth, and/or lactation]** that requires accommodation. Specifically, **[state limitation 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.¹]**.

[Patient] is able to continue working with a reasonable accommodation.

Optional: I recommend **[Patient]** be provided the following accommodation: **[Describe requested accommodation here²]**.

This limitation began on **[Date]**. At this time, I anticipate that **[Patient]** will need an accommodation for her limitation until **[state estimated end date of accommodation³]**.

Thank you.

Signature

¹ See Delaware Guidelines document, component #2.

² See Delaware Guidelines document, component #4.

³ See Delaware Guidelines document, component #5.

Delaware Guidelines: Drafting Work Accommodation Notes for Pregnant Women

Suggested Reasonable Accommodations

Condition	Potential Reasonable Accommodations
Abnormal placentation (placenta accreta, placenta percreta, placenta increta, placenta previa, vasa previa)	<ul style="list-style-type: none"> • Allow time off for medical appointments • Provide scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility) • Allow assistance from coworkers with lifting • Provide assistive equipment to lift more than X pounds • Temporarily modify particular duties of the job • Move workstation close to restrooms
Anemia	<ul style="list-style-type: none"> • Allow sitting while working • Allow assistance from coworkers in lifting • Allow breaks every 4 to 6 hours
Bladder dysfunction (urinary incontinence)	<ul style="list-style-type: none"> • Allow more frequent bathroom breaks as needed
Carpal tunnel syndrome	<ul style="list-style-type: none"> • Allow occasional breaks from manual tasks or typing – state how frequently (e.g. every two hours or “as needed”) • Provide specialized programs that allow for dictation instead of typing • Provide ergonomic support for hands and wrists • Allow wearing of wrist brace
Cesarean incision infection	<ul style="list-style-type: none"> • <i>See wound complications</i>
Cholestasis of pregnancy	<ul style="list-style-type: none"> • Allow time off from work twice weekly for medical appointments • Allow to take medication
Deep vein thrombosis	<ul style="list-style-type: none"> • Allow frequent (hourly) breaks to stretch and move extremities • Allow refrigerator for storage and privacy for injections • Modification of workstation to allow for more comfortable movement of legs • Allow teleconferencing rather than travel to avoid risks associated with travel
Depression	<ul style="list-style-type: none"> • Provide time off for employee to participate in therapeutic sessions • Temporarily transfer employee to a less distracting environment • Allow telecommuting (which may include temporary transfer to a position that allows for telecommuting)

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Diabetes	<ul style="list-style-type: none"> • Allow time off for medical appointments • Permit employee to take more frequent bathroom breaks and to eat small snacks during work hours – be specific with regard to timing, if possible (e.g., approximately every two hours, or “as necessary”) • Allow breaks and a private location for testing blood glucose – before and/or after each meal • Provide space for medications to be stored • Allow scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility)
Dyspnea	<ul style="list-style-type: none"> • Provide employee with stool or chair to sit on while working • Provide assistive equipment for lifting • Allow coworker assistance with lifting • Temporarily modify particular duties of the job
Fatigue	<ul style="list-style-type: none"> • Temporarily modify job duties to avoid strenuous activity • Allow scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility) • Exemption from mandatory overtime
Gastroesophageal reflux (GERD)	<ul style="list-style-type: none"> • Allow breaks for food – be specific as to timing (e.g., approximately every two hours, or “as necessary”) • Provide space for medications to be stored
Hyperemesis gravidarum (morning sickness)	<ul style="list-style-type: none"> • Allow employee to take more frequent bathroom breaks • Allow employee to eat small snacks during work hours • Provide a cot for lying down and take breaks as needed • Provide schedule changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility)
Hypertension	<ul style="list-style-type: none"> • Provide time and place for blood pressure monitoring • Allow time off for medical appointments and monitoring
Insomnia	<ul style="list-style-type: none"> • Provide scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility) • Provide a cot for lying down and take breaks as needed
Intrauterine growth restriction	<ul style="list-style-type: none"> • Provide scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility)
Lactation complication, such as breast engorgement	<ul style="list-style-type: none"> • Provide a private space for pumping • Provide breaks every 3-5 hours lasting at least 20 minutes in order to pump

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Lower extremity edema	<ul style="list-style-type: none"> • Provide employee with stool or chair to sit on while working • Modify workstation to allow elevation of legs • Allow short breaks for movement or exercise – state how frequently (e.g., approximately every two hours, or “as necessary”) • Modify footwear requirements – be specific
Lower extremity varicosities	<ul style="list-style-type: none"> • Allow short breaks for movement or exercise – be specific as to timing (e.g., approximately every two hours, or “as necessary”) • Modify workstation to provide ability to sit or stand as needed
Lumbar lordosis	<ul style="list-style-type: none"> • <i>See musculoskeletal pain</i>
Mastitis	<ul style="list-style-type: none"> • Provide a private space for pumping • Provide breaks every 3-4 hours lasting at least 20 minutes in order to pump
Migraine headaches	<ul style="list-style-type: none"> • Change lighting in the work area to create a less bright environment • Limit exposure to noise and fragrances • Provide scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility)
Musculoskeletal pain (back pain)	<ul style="list-style-type: none"> • Allow use of a heating pad as needed • Allow sitting while working • Allow assistance from coworkers in lifting • Provide assistive equipment to lift more than X pounds • Allow modification of workstation • Temporarily modify particular duties of the job • Must be allowed to wear belt
Oligohydramnios	<ul style="list-style-type: none"> • Allow time off for medical appointments
Pelvic pain (round ligament pain, uterine pain, Braxton Hicks, degenerating fibroid)	<ul style="list-style-type: none"> • Allow lifting assistance from coworkers • Provide assistive equipment to lift more than 25 pounds • Modify workstation to provide ability to sit or stand as needed • Provide scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility) • Allow more frequent breaks - be specific as to timing (e.g., approximately every two hours, or “as necessary”)
Pelvic varicosities (hemorrhoids)	<ul style="list-style-type: none"> • Allow employee to avoid being in a seated position all day or to use a special cushion

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Placental abruption	<ul style="list-style-type: none"> • Allow time off for medical appointments • Provide scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility) • Allow assistance from coworkers with lifting • Provide assistive equipment to lift more than X pounds • Temporarily modify particular duties of the job • Move workstation close to restrooms
Preterm pregnancy risk (shortened cervix, incompetent cervix, cerclage, threatened preterm labor)	<ul style="list-style-type: none"> • Allow time off for medical appointments
Pulmonary embolism	<ul style="list-style-type: none"> • Allow time off for medical appointments • Modify workstation to allow elevation of legs • Allow short breaks for movement or exercise – be specific as to timing (e.g., approximately every two hours, or “as necessary”) • Must be allowed to take medications, including injections, at work
Rash, dermatitis, PUPPP	<ul style="list-style-type: none"> • Allow use of protective gloves or clothing as recommended
Sciatica	<ul style="list-style-type: none"> • Allow lifting assistance from coworkers • Provide assistive equipment to lift more than X pounds • Modify workstation to provide ability to sit or stand as needed • Provide scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility) • Allow more frequent breaks - be specific as to timing (e.g., approximately every two hours, or “as necessary”)
Stroke (TIA, embolus, CVA)	<ul style="list-style-type: none"> • Allow time off for medical appointments • Allow flexible schedule • Must be allowed to take medications, including injections, at work
Sub-chorionic hematoma	<ul style="list-style-type: none"> • Allow time off for medical appointments • Provide scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility) • Allow assistance from coworkers with lifting • Provide assistive equipment to lift more than X pounds • Temporarily modify particular duties of the job • Move workstation close to restrooms

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Symphyseal separation	<ul style="list-style-type: none"> • Modify workstation to provide ability to sit or stand as needed • Provide scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility)
Syncope	<ul style="list-style-type: none"> • Provide a stool or chair to sit on while working • Allow more frequent breaks - be specific as to timing (e.g., approximately every two hours, or “as necessary”) • Allow lifting assistance from coworkers • Provide assistive equipment to lift more than X pounds • Temporarily modify specific duties of the job • Move workstation close to restrooms
Thrombocytopenia	<ul style="list-style-type: none"> • Allow time off from work for medical appointments • Modify work duties to temporarily refrain from engaging in activities that would cause bruising (identify specific activities)
Urinary tract Infection	<ul style="list-style-type: none"> • Allow more frequent bathroom breaks as needed • Allow employee to carry a bottle of water
Vaginal laceration separation	<ul style="list-style-type: none"> • <i>See wound complications</i>
Wound complications, such as cesarean incision infection or vaginal laceration separation	<ul style="list-style-type: none"> • Allow sitting while working • Allow assistance from coworkers in lifting • Allow modification of workstation • Allow assistance from coworkers in activities that require bending or twisting • Provide assistive equipment to lift more than X pounds • Allow frequent bathroom privilege • Temporarily modify particular duties of the job