

## **New Mexico Guidelines for Drafting Work Accommodation Notes for Pregnant and Postpartum Patients**

\*These guidelines **apply only in New Mexico.**

Visit [the Pregnant@Work website](http://www.pregnantatwork.org) (www.pregnantatwork.org) for other states.

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 these state-specific guidelines.

**Attached as Appendix A is a sample work note that maximizes the likelihood that your patient will receive the accommodation she needs to continue working.**

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.

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 pregnant patient take leave or adopt a reduced schedule, see "Caution: Recommending leave" under #6 below.

For patients requiring **lactation accommodations** (e.g., breaks and space for pumping breast milk), review our separate guidelines for writing effective lactation accommodation notes at [the Pregnant@Work website's page for Helping Patients Seek Breastfeeding Accommodations](#).

An effective pregnancy or postpartum accommodation work note includes 7 components:

- 1. State that your patient is pregnant or postpartum.** The Pregnancy Discrimination Act requires employers to accommodate pregnant and postpartum women to the same extent as they accommodate other non-pregnant employees who have similar work limitations. To trigger the protections of this law, your patient must reveal that she is pregnant or recently gave birth.

*What if my patient does not want to reveal her pregnancy to her employer? That is her choice, but she may be less likely to receive the accommodation she needs.*

- 2. Identify your patient's medical condition(s) and the bodily system(s) impaired.** Identifying this information in the note will demonstrate to your patient's employer that she has an impairment that constitutes a disability under the Americans with Disabilities Act, and therefore is entitled to an accommodation under that law.

See **Appendix C** for a list of medical conditions commonly associated with pregnancy. Examples include:

- Gestational Diabetes, an impairment of the endocrine system
- Sciatica/severe back pain, an impairment of the musculoskeletal system
- Migraine headaches, an impairment of the cardiovascular and nervous systems
- Recurrent urinary tract infection, an impairment of the genitourinary system

**Tip:** It is useful to identify a specific medical diagnosis and the bodily system it impairs, if possible. For example, state that your patient has been diagnosed with "hyperemesis

gravidarum, an impairment of the digestive and reproductive systems,” instead of simply saying she has “morning sickness.”

**What if my patient does not have an identifiable medical condition or does not want to disclose it for privacy reasons?** You will increase the likelihood that your patient will receive an accommodation by identifying a specific medical condition in your note. If your patient does not want to disclose her diagnosis, you should ask your patient if she is comfortable disclosing the bodily systems the condition impairs. (E.g., instead of disclosing “depression and anxiety,” state that patient has “a medical condition that impairs the cardiovascular, immune, and brain systems.”) If your patient does not provide her employer documentation of her impairment, she will not be entitled to an accommodation under the Americans with Disabilities Act—although she may be entitled to an accommodation under another law or her employer’s policies. **A sample work note that does not disclose any information about a medical condition is attached as Appendix B.**

- 3. Identify major life activities that are substantially limited by your patient’s medical condition.** This will demonstrate for the employer that your patient has an impairment covered by the Americans with Disabilities Act.

**E.g., You may write:** “XYZ medical condition substantially limits patient’s ability to [eat, sleep, bend, reach, stand, walk, lift, communicate, concentrate, think, perform manual tasks, care for herself, work, or any other life activity impaired].”

**FYI:** “Substantially limits” means substantially limits as compared to the rest of the general population, before any ameliorative actions have been taken to treat the condition. Under the law, “substantially limits” is construed broadly.

- 4. Precisely identify your patient’s 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.

- “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.

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

**6. Recommend reasonable accommodation(s).** Patients typically have a better chance of receiving the accommodations they need if their health care provider identifies them.

- *A reasonable accommodation* is any change in the work environment or in the way a job is customarily done that would enable the pregnant or postpartum employee 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 (#4 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.** Your patient should consider two factors before taking leave. First, *leave is often unpaid*. Second, most employees have limited leave time, or no leave time. If your patient exhausts her leave before she is able to return to work, she may be fired.
  - During Pregnancy: Before recommending that your patient take leave during pregnancy, consider that if she goes out early in her pregnancy, *she may exhaust her leave* and have none available during the final weeks of pregnancy and following childbirth. You should discuss with your patient other accommodations that will allow her to continue working.
  - Postpartum: Your patient may be entitled to take leave following childbirth for recovery and bonding with her newborn. She may also be entitled to take leave for postpartum pregnancy-related conditions (e.g., depression or anxiety). To learn about the laws that may provide your patient a right to take leave postpartum, visit [the Babygate website](#).
  - 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 taking leave or unsure of her leave eligibility,** advise her to contact WorkLife Law's free legal hotline without delay (see below).

\***Appendix C** 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
- Ability to periodically eat or drink water
- Periodic rest
- Time off for medical appointments
- Assistance with lifting or other manual labor
- Temporarily modified work duties
- Modified work schedules or telecommuting

- 7. Provide expected duration of impairment and limitation.** Inform the employer how long you expect the impairment 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 choose to list a date by which you will have reevaluated 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.*

**Have Questions?** Health care providers may contact the Center for WorkLife Law at (415)-565-4640. Pregnant women may contact WorkLife Law’s free legal hotline at [hotline@worklifelaw.org](mailto:hotline@worklifelaw.org) or (415) 703-8276. WorkLife Law experts are available to deliver grand rounds or are available for other educational opportunities on this topic.

Visit [the Pregnant@Work website](http://www.pregnantatwork.org) ([www.pregnantatwork.org](http://www.pregnantatwork.org)) for more info or to draft a work accommodation note using our interactive note-writing tool.

**Attached as Appendix A is a sample work note that maximizes the likelihood that your patient will receive the accommodation she needs. An alternative sample work note, which does *not* disclose any information about your patient’s medical condition, is attached as Appendix B.**

Thank you for your work and commitment to your patients.

## New Mexico: Sample Pregnancy and Postpartum Accommodation Work Letter

### Health Care Provider's Letterhead

**[Date]**

To Whom It May Concern:

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

I diagnosed **[Patient]**, **[who is pregnant/recently gave birth<sup>1</sup>**, with **[state medical condition and system impaired, e.g., gestational diabetes, an impairment of the endocrine system<sup>2</sup>**. This medical condition substantially limits **[Patient's]** ability to **[state any major life activity impaired, e.g., walk, stand, lift, etc.<sup>3</sup>**].

Due to **[Patient's]** condition, she **[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.<sup>4</sup>**].

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

**Optional:** I recommend she be provided the following accommodation: **[Describe requested accommodation here<sup>5</sup>**].

**[Patient's]** medical condition and related limitation began on **[Date]**. At this time, I anticipate that **[Patient]** will need an accommodation until **[state estimated end date of limitation/accommodation<sup>6</sup>**].

Thank you.

Signature

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<sup>1</sup> See guidelines document, component#1.

<sup>2</sup> See guidelines document, component#2.

<sup>3</sup> See guidelines document, component#3.

<sup>4</sup> See guidelines document, component#4.

<sup>5</sup> See guidelines document, component#6.

<sup>6</sup> See guidelines document, component#7.

## New Mexico: Sample Pregnancy and Postpartum Accommodation Work Letter (No Medical Condition Identified)

*\*Use this sample note only when patient wishes not to disclose any information about her medical condition or no identifiable condition exists. It is preferable to identify information about your patient's medical condition,<sup>1</sup> 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]**, [who is pregnant/recently gave birth<sup>2</sup>].

Due to **[Patient's]** medical condition, she **[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.<sup>3</sup>]**.

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

**Optional:** I recommend she be provided the following accommodation: **[Describe requested accommodation here<sup>4</sup>]**.

**[Patient's]** medical condition and related limitation began on **[Date]**. At this time, I anticipate that **[Patient]** will need an accommodation until **[state estimated end date of limitation/accommodation<sup>5</sup>]**.

Thank you.

Signature

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<sup>1</sup> See guidelines document, component#2.

<sup>2</sup> See guidelines document, component#1.

<sup>3</sup> See guidelines document, component#4.

<sup>4</sup> See guidelines document, component#6.

<sup>5</sup> See guidelines document, component#7.

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

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



Intrauterine growth restriction	<ul style="list-style-type: none"> <li>• Provide scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility)</li> </ul>
Lactation complication, such as breast engorgement	<ul style="list-style-type: none"> <li>• Provide a private space for pumping</li> <li>• Provide breaks every 3-5 hours lasting at least 20 minutes in order to pump</li> </ul>
Lower extremity edema	<ul style="list-style-type: none"> <li>• Provide employee with stool or chair to sit on while working</li> <li>• Modify workstation to allow elevation of legs</li> <li>• Allow short breaks for movement or exercise – state how frequently (e.g., approximately every two hours, or “as necessary”)</li> <li>• Modify footwear requirements – be specific</li> </ul>
Lower extremity varicosities	<ul style="list-style-type: none"> <li>• Allow short breaks for movement or exercise – be specific as to timing (e.g., approximately every two hours, or “as necessary”)</li> <li>• Modify workstation to provide ability to sit or stand as needed</li> </ul>
Lumbar lordosis	<ul style="list-style-type: none"> <li>• <i>See musculoskeletal pain</i></li> </ul>
Mastitis	<ul style="list-style-type: none"> <li>• Provide a private space for pumping</li> <li>• Provide breaks every 3-4 hours lasting at least 20 minutes in order to pump</li> </ul>
Migraine headaches	<ul style="list-style-type: none"> <li>• Change lighting in the work area to create a less bright environment</li> <li>• Limit exposure to noise and fragrances</li> <li>• Provide scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility)</li> </ul>
Musculoskeletal pain (back pain)	<ul style="list-style-type: none"> <li>• Allow use of a heating pad as needed</li> <li>• Allow sitting while working</li> <li>• Allow assistance from coworkers in lifting</li> <li>• Provide assistive equipment to lift more than X pounds</li> <li>• Allow modification of workstation</li> <li>• Temporarily modify particular duties of the job</li> <li>• Must be allowed to wear belt</li> </ul>
Oligohydramnios	<ul style="list-style-type: none"> <li>• Allow time off for medical appointments</li> </ul>
Pelvic pain (round ligament pain, uterine pain, Braxton Hicks, degenerating fibroid)	<ul style="list-style-type: none"> <li>• Allow lifting assistance from coworkers</li> <li>• Provide assistive equipment to lift more than 25 pounds</li> <li>• Modify workstation to provide ability to sit or stand as needed</li> <li>• Provide scheduling changes such as flexible schedules or telework (which may include a temporary transfer to a position that provides this kind of flexibility)</li> </ul>

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

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