

New Mexico Guidelines: Drafting Work Accommodation Notes for Pregnant Patients

*These guidelines **apply only in New Mexico**.
Visit Pregnant@Work (www.pregnantatwork.org) for other states.

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.

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 #6 below.

An effective pregnancy accommodation work note includes 7 components:

- 1. State that your patient is pregnant.** The Pregnancy Discrimination Act requires employers to accommodate pregnant 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. If your patient is postpartum, you should state that your patient’s medical condition is related to her recent pregnancy.

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 D** 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 an existing medical condition in your note. If your patient does not want to disclose her specific diagnosis, you should ask your patient if she is comfortable disclosing the bodily systems the condition limits or other details about the condition. (E.g. “a medical condition that impairs the

endocrine system”). If your patient does not provide documentation to her employer that she has a specific 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 discloses some information about the medical condition but does not state a diagnosis is attached as Appendix B. **A sample work note that does *not* disclose any medical condition or impairment is attached as Appendix C.**

- 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. Include this component in the note only if your patient has an identifiable medical condition (#2 above).

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). A health care provider need not identify a reasonable accommodation to address the patient's 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 any change in the work environment or in the way a job is customarily done that would enable the pregnant 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.** Before recommending that your patient take leave, you should discuss with her other accommodations that will allow her to continue working. Your patient should consider two factors before taking leave in her pregnancy. First, *leave is often unpaid*. Second, most employees have limited leave time, or no 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 D** 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

Examples continue on the following page.

- 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 or (415) 703-8276.

Visit [Pregnant@Work](http://www.pregnantatwork.org) (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 a specific diagnosis but which *does* include other information about the medical condition, is attached as Appendix B. Another alternative sample work note, which does *not* disclose any medical condition, is attached as Appendix C.

Thank you for your work and commitment to your patients.

New Mexico: Sample Pregnancy 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 pregnant¹]**, with **[state medical condition and system impaired, e.g., gestational diabetes, an impairment of the endocrine system²]**. This medical condition substantially limits **[Patient's]** ability to **[state any major life activity impaired, e.g., walk, stand, lift, etc.³]**.

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.⁴]**.

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

Optional: I recommend she be provided the following accommodation: **[Describe requested accommodation here⁵]**.

[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/accommodation⁶]**.

Thank you.

Signature

¹ See guidelines document, component #1.

² See guidelines document, component #2.

³ See guidelines document, component #3.

⁴ See guidelines document, component #4.

⁵ See guidelines document, component #6.

⁶ See guidelines document, component #7.

New Mexico: Sample Pregnancy Accommodation Work Letter

**Use this sample note only when patient wishes not to disclose the specific diagnosis, but is willing to disclose some information about the nature of her medical condition. It is preferable to identify a medical condition, if possible.¹ (See Appendix A: sample note identifying condition.)*

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]** with a pregnancy-related² medical condition that impairs **[state bodily system impaired, e.g., the endocrine system³]**. This medical condition substantially limits **[Patient's]** ability to **[state any major life activity impaired, e.g., walk, stand, lift, concentrate etc.⁴]**.

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.⁵]**.

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

Optional: I recommend she be provided the following accommodation: **[Describe requested accommodation here⁶]**.

[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/accommodation⁷]**.

Thank you.

Signature

¹ See guidelines document, component #2, 3.

² See guidelines document, component #1

³ See guidelines document, component #2.

⁴ See guidelines document, component #3.

⁵ See guidelines document, component #4.

⁶ See guidelines document, component #6.

⁷ See guidelines document, component #7.

New Mexico: Sample Pregnancy Accommodation Work Letter – No Condition Identified

**Use this sample note only when patient wishes to not disclose any information about the nature of her medical condition or when patient does not have an identifiable medical condition. It is preferable to identify a medical condition, if possible.¹ (See Appendix A: sample note identifying condition.)*

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 pregnant²].

Due to **[Patient’s]** [*choose one*: pregnancy-related disability **or** 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.³]**.

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

Optional: I recommend she be provided the following accommodation: **[Describe requested accommodation here⁴]**.

[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/accommodation⁵]**.

Thank you.

Signature

¹ See guidelines document, component #2, 3.

² See guidelines document, component #1.

³ See guidelines document, component #4.

⁴ See guidelines document, component #6.

⁵ 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"> • 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)
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
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)

	<ul style="list-style-type: none"> • 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
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

	<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) • 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
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