

COVID-19 Prenatal Care Provider’s Guide Supporting Pregnant and Breastfeeding Patients with Work Issues

Pregnant workers face threats to their health and economic security because of discrimination and unsafe conditions at work during the pandemic. Patients are concerned about risking exposure to COVID-19 and many experience job loss rooted in some employers’ belief that pregnancy and employment are not compatible because of the virus.

Sixty-four percent (64%) of frontline workers are women,¹ and the most common occupations for pregnant workers are high-contact jobs that may not be performed remotely.² Pregnant people typically need to continue working, as two out of three of pregnant people are their families sole, primary, or co-breadwinner.³ Health care providers can support patients by:

- **Understanding state-specific legal rights to non-discrimination, reasonable accommodations, and job-protected leave and income replacement**
- **Asking questions, listening, and flagging potential legal violations**
- **Writing effective work notes for accommodations to avoid exposure to COVID-19**
- **Referring patients to free legal resources for additional help**

See [ACOG Committee Opinion on Employment Considerations During Pregnancy and the Postpartum Period](#) (recommending each of these steps).

While, all employees deserve workplaces that protect their safety during the pandemic, pregnant and breastfeeding people have unique legal rights to protect their health at work. Care providers can help ensure their patients are able to access them.

I. Understanding Legal Rights

The legal rights of pregnant and breastfeeding people vary from state to state and depend on employer size.

1. The right to work, free from discrimination: The Pregnancy Discrimination Act applies on all states and prohibits employers with 15 or more employees from discriminating against a worker because they are pregnant, have given birth, or are breastfeeding. Employers cannot treat pregnant or breastfeeding employees worse than others or make negative employment decisions based on pregnancy or lactation. **Pregnant people should not be chosen first for layoff, put on leave, called back last from furlough, or terminated because of perceived health risks, concerns about employer liability, or worries about future caregiving responsibilities.** The choice to continue working is one the employee should be allowed to make, in consultation with their healthcare provider.

¹ <https://cepr.net/a-basic-demographic-profile-of-workers-in-frontline-industries/>.

² <https://nwlc.org/wp-content/uploads/2019/08/Pregnant-Workers-by-the-Numbers-v3-1.pdf>.

³ <https://www.americanprogress.org/issues/women/reports/2019/05/10/469739/breadwinning-mothers-continue-u-s-norm/#:~:text=In%202017%2C%20the%20latest%20year,of%20their%20total%20household%20income.>

Some states have similar laws that apply to smaller employers, as noted in the final column (Anti-Discrimination: Covered Employer Size) of Appendix B (State and Federal Laws).

2. The right to receive a reasonable accommodation: Modifications to where, when, or how a patient does their job may be needed during the pandemic to minimize risk of exposure to COVID-19. Depending on your patient's job duties and workplace, this can include:

- remote work
- alternate work location within employer facility, incl. outdoors
- higher-quality PPE (masks, face shield, goggles)
- plexiglass or other barriers from the public/coworkers
- HEPA filters or other ventilation modifications
- temporary transfer to alternate position
- modification of job duties
- modified schedule or reduced hours
- work uniform changes
- leave, when necessary
- other creative solutions

Roughly half of all states require employers, depending on their size, to provide work accommodations to pregnant and breastfeeding employees who need them to stay healthy.

In all 50 states, two federal laws that cover employers with 15 or more employees may help:

- **The Americans with Disabilities Act** requires employers to provide reasonable accommodations for disabilities - which can include pregnancy-related conditions like severe morning sickness and gestational diabetes, or preexisting conditions like anxiety, and cancer.
- **The Pregnancy Discrimination Act** requires employers to treat pregnant workers just as well as other workers, which means that they must be given the same pandemic work accommodations given to other employees, like seniors or immunocompromised people.

See second column (Right to Receive Reasonable Accommodation?) of Appendix B (State and Federal Laws) to determine whether the state where your patients work has a helpful law and to learn more about federal protections that apply in all states.

3. The right to take job-protected leave: Federal and state laws may give your patient a right to take job-protected leave from work. In some cases, your patient may be entitled to receive continued health insurance benefits and pay or partial pay. These laws are described in **Appendix C (Pandemic Leave Options)**. Legal experts may be able to patch together a combination of laws to provide leave to the patient throughout the pregnancy, if medically advisable.

Should I recommend my patient take leave? Leave is often limited in duration, and taking leave can cause patients to lose their health insurance, and possibly their jobs. Leave can also be unaffordable, as it is often only partially paid or unpaid, although new pandemic programs may help. Depending on individual circumstances and health, a reasonable accommodation that allows the patient to continue working may be best. **Whether to recommend leave for an employee who cannot possibly telework or avoid exposure at work should be a decision made following a careful discussion balancing the health and economic risks.**

- ❖ For the most up-to-date medical info on the risks associated with exposure to COVID-19 during pregnancy, visit: American College of Obstetricians and Gynecologists' COVID-19 FAQs of Obstetrician-Gynecologists, Obstetrics, available at <https://www.acog.org/clinical-information/physician-faqs/covid-19-faqs-for-ob-gyns-obstetrics>.
- ❖ For a free legal helpline your patient can call to talk through the economic and legal risks and to receive help in determining eligibility for the various leave programs described in Appendix C (Pandemic Leave Options), see “Referring Patients for More Help,” page 4.

II. Communicating with Patients and Identifying Issues

Prenatal care providers are encouraged to initiate conversations about work with pregnant and breastfeeding patients. A collaborative dialogue can help the patient identify what is possible in their workplace, in conformity with medical advice. Often patients are unaware that they have a right to receive accommodations or that they should not be forced on leave or fired due to employer concerns about pregnancy. Prenatal care providers can flag these issues for patients and refer them to the free legal services in Section IV below.

III. Writing Effective Work Accommodation Notes

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 state-specific guidelines available at www.PregnantAtWork.org/healthcare-professionals/. The recommendations below are based on that guidance and updated for the COVID-19 context.

Appendix A (Model Work Note) provides a template for seeking an accommodation to avoid exposure to COVID-19.

The content of an effective work notes depends on the state where the patient works, which can be either: (1) a state where pregnant workers have a clear right to receive accommodations recommended by their health care providers, or (2) a state where patients have to rely on a complicated federal law framework to determine whether they have a right to accommodation. Appendix B (State and Federal Laws) catalogues these laws, state by state.

Regardless of state, all effective work notes should:

- 1) **State that the patient is pregnant, recently gave birth, or has a pregnancy-related condition (e.g., breastfeeding),** to trigger legal protections.
- 2) **Identify the patient’s *specific* work limitation** (e.g., cannot remain indoors with other people outside of their household for more than 15 minutes a day) **and suggest a reasonable accommodation** that would still allow the patient to perform the essential functions of their job (e.g., telecommuting, with the exception of brief visits to the office to pick up mail or other materials). Do not make recommendations that are impossible to implement, because the patient may be sent out on unpaid leave or even fired as a result.
- 3) **Affirmatively state that the patient is able to continue working** with a reasonable accommodation, to ensure the employer does not force the employee out of the job.
- 4) **Provide the expected duration** of the accommodation, which can be modified later.

Providing a work note for a patient who works in a state that does *not* provide a clear right to accommodation requires an additional step. This applies in *only* AL, AK, AZ, AR, FL, GA, ID, IN, IA, KS, LA, MI, MS, MO, MT, NH, NC, ND, OH, OK, PA, SD, TX, WI, and WY. Patients in these states often have a right to accommodation under federal laws, including the Americans with Disabilities Act. Identifying a specific impairment that requires accommodation, beyond pregnancy, increases the likelihood that the patient will be accommodated. The impairment can be pregnancy-related (e.g., preeclampsia, severe morning sickness, severe musculoskeletal pain, perinatal depression and anxiety, gestational diabetes) or unrelated (e.g., cancer, diabetes, immunocompromised state). Whenever possible, identify such a physical or mental impairment. See Appendix A (Model Note) for examples.

IV. Referring Patients for More Help

Free COVID-19 know-your-rights resources for pregnant and breastfeeding workers are available at <https://www.pregnantatwork.org/covid-workplace-rights/>.

The Center for WorkLife Law operates a free legal helpline that serves pregnant, postpartum, and breastfeeding workers with questions about their workplace rights during the pandemic:

Email COVID19Helpline@worklifelaw.org or call 415-851-3308.

Appendix A: Model Work Note

Requesting Accommodations to Avoid Exposure to COVID-19

To Whom It May Concern: I am the [treating physician, nurse practitioner, health care professional, etc.] for [Patient]. [Patient] has a condition related to [pregnancy, childbirth, and/or lactation] that requires accommodation.

Specifically, she [state limitation here, e.g., “cannot remain indoors with other people outside of her household for more than 15 minutes a day” or “cannot have contact with other people without a non-porous barrier between her and them,” etc.].

[Patient] is able to continue working with a reasonable accommodation. I recommend [Patient] be provided the following accommodation: [Describe suggested accommodation, e.g., “permission to telecommute, with the exception of brief visits to the office to pick up mail other materials” or “installation of plexiglass at the cash register”].

[Patient] needs an accommodation from [date] until [state currently anticipated end here.].

Thank you, [Signature]

Additional Text to Add in States that Do Not Provide Clear Right to Accommodation

(Only AL, AK, AZ, AR, FL, GA, ID, IN, IA, KS, LA, MI, MS, MO, MT, NH, NC, ND, OH, OK, PA, SD, TX, WI, WY, PR)

Identify your patient’s medical condition(s) beyond pregnancy and the bodily system(s) impaired to demonstrate to your patient’s employer that they have an impairment that constitutes a disability requiring accommodation under the Americans with Disabilities Act. Examples:

- Depression/Anxiety, an impairment of the cardiovascular, immune, and brain systems
- Hyperemesis Gravidarum/Severe morning sickness, an impairment of the digestive and reproductive systems
- Sciatica/severe back pain, an impairment of the musculoskeletal and neurologic systems
- Cancer, an impairment of the immune system

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 their diagnosis, ask your patient if they are 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 disclose their impairment, they will not be entitled to an accommodation under the ADA—although they may be entitled under another law.

Appendix B: State and Federal Laws

This chart catalogues laws in each state that give rights to pregnant and breastfeeding workers who need accommodations or job protection during the pandemic. When a clear right to receive accommodation does not exist under state law, see the discussion at the end the chart for federal laws that may help: The Americans with Disabilities Act, the Pregnancy Discrimination Act, and the Break Time for Nursing Mothers Law. (Please note that many states provide a right receive clean, private space and reasonable break time during the workday to express breast milk. For more information, visit: the Center for WorkLife Law’s Workplace Lactation Laws map at <https://www.pregnantatwork.org/workplace-lactation-laws/>.)

State	Right to receive accommodation? Is there a strong state law requiring employers to accommodate pregnancy and lactation? (Visit https://www.pregnantatwork.org/workplace-lactation-laws/ for laws that provide break time and space to express breast milk.)	Anti-Discrimination Are employers prohibited from discriminating (e.g., firing, furloughing, harassing) because of pregnancy and lactation?
Alabama	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
Alaska	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers of all sizes are prohibited from discriminating because of pregnancy and parenthood, which likely also includes lactation.
Arizona	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
Arkansas	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 9 or more employees are prohibited from discriminating because of pregnancy/lactation.
California	Yes, clear right to reasonable accommodation if employer has 5 or more employees. Employers must also allow up to four months of leave with continued benefits to pregnant or postpartum employees who are unable to perform their jobs. Additional leave may be available as a reasonable accommodation.	Employers with 5 or more employees are prohibited from discriminating because of pregnancy/lactation.

Colorado	Yes, clear right to reasonable accommodation for employers of all sizes.	Employers of all sizes are prohibited from discriminating because of pregnancy and sex, which likely also includes lactation.
Connecticut	Yes, clear right to reasonable accommodation if employer has 3 or more employees.	Employers with 3 or more employees are prohibited from discriminating because of pregnancy/lactation.
Delaware	Yes, clear right to reasonable accommodation if employer has 4 or more employees.	Employers with 4 or more employees are prohibited from discriminating because of pregnancy/lactation.
Florida	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
Georgia	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
Hawaii	Yes, clear right to reasonable accommodation for pregnancy related disabilities for employers of all sizes. The federal laws described below may also help.	Employers of all sizes are prohibited from discriminating because of pregnancy/lactation.
Idaho	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 5 or more employees are prohibited from discriminating because of pregnancy and sex, which likely also includes lactation.
Illinois	Yes, clear right to reasonable accommodation for pregnancy related disabilities if employer has 15 or more employees.	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
Indiana	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 6 or more employees are prohibited from discriminating because of sex, which likely includes pregnancy and lactation.
Iowa	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 4 or more employees are prohibited from discriminating because of pregnancy and childbirth, which likely includes lactation.
Kansas	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 4 or more employees are prohibited from discriminating because of

		pregnancy and sex, which likely also includes lactation.
Kentucky	Yes, clear right to reasonable accommodations if employer has 15 or more employees.	Employers with 8 or more employees are prohibited from discriminating because of pregnancy/lactation.
Louisiana	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
Maine	Yes, clear right to reasonable accommodations for employers of all sizes.	Employers of all sizes are prohibited from discriminating because of pregnancy/lactation.
Maryland	Yes, clear right to reasonable accommodation for pregnancy-related disabilities for employers with 15 or more employees. The federal laws described below may also help.	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
Massachusetts	Yes, clear right to reasonable accommodations if employer has 6 or more employees.	Employers with 6 or more employees are prohibited from discriminating because of pregnancy/lactation.
Michigan	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers of all sizes are prohibited from discriminating because of pregnancy/lactation.
Minnesota	Yes, clear right to reasonable accommodations if employer has 21 or more employees. The federal laws described below may also help for smaller employers that have between 15 and 20 employees.	Employers of all sizes are prohibited from discriminating because of pregnancy and childbirth, which likely also includes lactation.
Mississippi	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
Missouri	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 6 or more employees are prohibited from discriminating because of sex, which likely also includes pregnancy and lactation.
Montana	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers of all sizes are prohibited from discriminating because of sex, which likely includes pregnancy and lactation.

Nebraska	Yes, clear right to reasonable accommodations if employer has 15 or more employees	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
Nevada	Yes, clear right to reasonable accommodations if employer has 15 or more employees	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
New Hampshire	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 6 or more employees are prohibited from discriminating because of pregnancy/lactation.
New Jersey	Yes, clear right to reasonable accommodations for employers of all sizes.	Employers of all sizes are prohibited from discriminating because of pregnancy/lactation.
New Mexico	Yes, clear right to reasonable accommodations if employer has 4 or more employees.	Employers with 4 or more employees are prohibited from discriminating because of pregnancy/lactation.
New York	Yes, clear right to reasonable accommodations for employers of all sizes.	Employers of all sizes are prohibited from discriminating because of pregnancy/lactation.
North Carolina	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
North Dakota	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers of all sizes are prohibited from discriminating because of pregnancy and childbirth, which likely also includes lactation.
Ohio	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 4 or more employees are prohibited from discriminating because of pregnancy/lactation.
Oklahoma	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers of all sizes are prohibited from discriminating because of pregnancy/lactation.
Oregon	Yes, clear right to reasonable accommodations if employer has 6 or more employees.	Employers with 6 or more employees are prohibited from

		discriminating because of pregnancy/lactation.
Pennsylvania	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 4 or more employees are prohibited from discriminating because of sex, which likely includes pregnancy and lactation.
Puerto Rico	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers of all sizes are prohibited from discriminating because of pregnancy/lactation.
Rhode Island	Yes, clear right to reasonable accommodations if employer has 4 or more employees.	Employers with 4 or more employees are prohibited from discriminating because of pregnancy/lactation.
South Carolina	Yes, clear right to reasonable accommodations if employer has 15 or more employees.	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
South Dakota	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers of all sizes are prohibited from discriminating because of sex, which likely includes pregnancy and lactation.
Tennessee	Yes, clear right to reasonable accommodations if employer has 15 or more employees.	Employers with 8 or more employees are prohibited from discriminating because of sex, which likely includes pregnancy and lactation.
Texas	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
Utah	Yes, clear right to reasonable accommodations if employer has 15 or more employees or is a public employer of any size.	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
Vermont	Yes, clear right to reasonable accommodations for employers of all sizes.	Employers of all sizes are prohibited from discriminating because of pregnancy/lactation.
Virginia	Yes, clear right to reasonable accommodations if employer has 5 or more employees.	Employers with 15 or more employees are prohibited from discriminating because of pregnancy/lactation.
Washington	Yes, clear right to reasonable accommodations if employer has 15 or more employees.	Employers with 8 or more employees are prohibited from discriminating because of pregnancy/lactation.

Washington, D.C.	Yes, clear right to reasonable accommodations for employers of all sizes.	Employers of all sizes are prohibited from discriminating because of pregnancy/lactation.
West Virginia	Yes, clear right to reasonable accommodations if employer has 12 or more employees.	Employers with 12 or more employees are prohibited from discriminating because of sex, which likely includes pregnancy and lactation.
Wisconsin	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers of all sizes are prohibited from discriminating because of pregnancy/lactation.
Wyoming	No law explicitly requires reasonable accommodation, but a right may be available under one of the federal laws described below.	Employers with 2 or more employees are prohibited from discriminating because of pregnancy and sex, which likely includes lactation.

Federal Laws

What if my patient works in a state that does not provide an explicit right to accommodation?

Employers in all fifty states are subject to three laws that provide a right to pregnancy and breastfeeding accommodations in many, but not all, circumstances. Workers and healthcare providers can contact the Center for WorkLife Law’s free COVID-19 legal helpline for assistance navigating these complicated legal standards: **Call 415-851-3308 or email COVID19Helpline@worklifelaw.org.**

The Pregnancy Discrimination Act requires employers with 15 or more employees to treat pregnant workers as well as other workers, which means that they must be given equal access to work accommodations during the pandemic.

- E.g.: If seniors or employees with heart conditions and cancer are being allowed to work from home, a pregnant employee should be given the same freedom.

Even if the employer’s policy of providing certain accommodations predates the pandemic, pregnant workers must still be given the same privileges and freedoms during the pandemic.

- E.g.: If the employer has a preexisting policy of making temporary transfers to alternate positions for workers injured on the job, the same accommodation should be made available to pregnant and breastfeeding workers during the pandemic.

The Americans with Disabilities Act requires employers with 15 or more employees to make reasonable accommodations for disabilities, so long as they can be made without significant difficulty or expense to the business. Although pregnancy alone and risk of exposure to COVID-

19 do not qualify as disabilities, many typical pregnancy-related conditions do, including perinatal depression and anxiety, severe morning sickness, significant musculoskeletal pain, and preeclampsia. Additionally, a pregnant patient's preexisting conditions may qualify, including cancer, heart disease, or immunocompromised state. If the recommended job modification accommodates one of these, or similar, impairments, it is required by the ADA.

- E.g.: If the stress of pregnancy during a pandemic causes a patient to develop perinatal anxiety or depression, they have a disability entitling them to accommodation.
- A patient with a preexisting chronic disease unrelated to their pregnancy, like asthma or kidney disease, has a disability entitling them to an accommodation.
- Many (and likely all⁴) cases of COVID-19 in pregnant patients rise to the level of impairment to qualify as an ADA disability requiring employer accommodation.

The Break Time for Nursing Mothers law requires employers to provide reasonable break time for employees to express breast milk as needed throughout the workday, as well as non-bathroom pumping space that is shielded from view, free from intrusion, and functional for expressing milk. Employers must still comply with these requirements during the pandemic. Providing functional space during the pandemic may mean taking additional steps, such as:

- providing extra break time and/or supplies for disinfecting shared space, and
- allowing carrying a cooler when shared refrigerators are no longer available

This law protects only employees who are entitled to receive overtime compensation under federal law and only during the first year after the child's birth. For information about state laws that provide a right to break time and space to all employees and for longer durations, visit <https://www.pregnantatwork.org/workplace-lactation-laws/>.

⁴This is an undeveloped area of law, given the novelty of COVID-19. The Center for WorkLife Law believes that all cases of COVID-19 constitute a disability, requiring accommodation, due to the patient's inability to conduct the many daily activities that require leaving the house and/or interacting with others. Health care providers should feel comfortable that there is strong legal support to certify that a pregnant patient with COVID-19 has a disability requiring accommodation.

Appendix C: Pandemic Leave Options

The following laws may provide job-protected leave for pregnant, postpartum, and breastfeeding patients. Some also provide pay and/or continuation of health benefits. **For help navigating which laws apply in a particular situation, contact the Center for WorkLife Law’s free COVID-19 legal helpline. Call 415-851-3308 or email COVID19Helpline@worklifelaw.org.**

Families First Coronavirus Response Act (FFCRA): Provides 80 hours of *paid* or *partially-paid* leave to covered employees who need it for one of several enumerated reasons, including to stay home based on the advice of a medical care provider. Pregnant patients advised to stay home—who work for a public employer or a private employer with fewer than 500 employees and who are not employed as healthcare providers or emergency responders—are likely eligible for 80 hours of pay with job protection and continued health benefits.

Additionally, the FFCRA provides certain covered employees up to an additional 10 weeks of job-protected, partially-paid leave with continuation of health benefits for parents who need time off work to provide childcare when their normal childcare/school is closed, remote, or unavailable because of the pandemic. For patients with other children at home, this may provide a viable paid leave option. **Be aware** that taking childcare leave under this program typically exhausts a patient’s available FMLA leave bank, which may be needed postpartum for childbirth recovery and baby care. However additional leave may be available for childbirth and bonding under state law.

As of October 2020, the FFCRA leave options are available only until December 31, 2020, although new protections may pass in the future.

For more information on the availability of FFCRA leave, including eligibility requirements, and fillable forms for requesting leave, visit <https://worklifelaw.org/covid19/helpline-resources/>.

Family and Medical Leave Act (FMLA): Provides up to 12 weeks of job-protected *unpaid* leave, with continuation of health insurance benefits, for a pregnant employee when their health care provider certifies that the patient should not work under their job conditions. Strict eligibility requirements exclude many women of childbearing age from coverage. Be aware that in most cases, when the 12 weeks is used up during pregnancy, the employee may have no time left to take job-protected leave postpartum for childbirth recovery and baby bonding. Also note this leave runs concurrently with *paid* FFCRA childcare leave described immediately above; no more than 12 weeks total is available during a 12-month period (some state-level family and medical leave laws may provide additional time though).

State-level pandemic emergency leave laws: States and localities across the country have passed laws intended to fill in the coverage gaps left by FFCRA (above). Typically these laws apply to large employers excluded by the federal FFCRA and/or to healthcare providers who may be ineligible for FFCRA. They provide paid leave for a range of qualifying reasons and may pertain to specific industries, employer sizes, etc. Search the internet for “covid-19 paid leave law” and “coronavirus paid leave law” along with the name of the city, county, and state where your patients work to identify protections.

Paid sick days and employer-provided paid time off: Many states, counties, and cities around the country require employers to provide a limited number of paid sick days. Although short in duration, these days can provide some additional needed income. Search the internet for “paid sick time law” with the name of the city, county, and/or state where your patient works to identify protections.

State-level pregnancy accommodation laws: The same laws that give a right to reasonable accommodations for pregnancy may give a right to take unpaid leave as a form of reasonable accommodation, so long as leave can be provided without undue difficulty or expense to the employer. Typically, an employee taking leave as a reasonable accommodation does not have a right to receive continued health insurance or compensation, unless other employees are being provided continued benefits during extended leaves taken for reasons other than pregnancy. See main text and Appendix A for more on reasonable accommodation rights.

Pandemic Unemployment Assistance (PUA): The same state agencies that administer unemployment insurance have been charged with providing a new federal income-replacement program for people out of work (and in some cases, people earning less than normal) due to COVID-19. PUA provides benefits to people who are not eligible for regular unemployment insurance, including employees and independent contractors who have been advised by a health care provider to self-quarantine due to concerns about health risks the individual might face if they were to become infected with the novel coronavirus. Pregnant patients who are unable to do their jobs based on such advice should be eligible. In some states, claimants must apply for regular unemployment insurance, receive a denial, and then apply for PUA. Encourage patients to apply early and expect delays. Employees not authorized to work in the United States are ineligible. The PUA program provides up to 39 weeks of benefits, which are available retroactively starting with weeks of unemployment beginning on or after January 27, 2020, and ending on or before December 31, 2020.

Short-term/temporary disability insurance: A small handful of states operate programs providing income replacement benefits for pregnant employees who are out of work on the advice of a health care provider. Whether states are providing benefits to those out of work to avoid exposure to COVID-19 is currently in flux. Consult a legal expert. Additionally, some employers provide private short-term disability insurance programs, which are legally required to cover pregnancy and related conditions.