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PWFA, Pregnancy, and Mental Health: Navigating the Accommodation Landscape

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Pregnant Workers Fairness Act

Pre-PWFA & Post-PWFA

Before the PWFA

Young v. United Parcel Service, Inc., 575 U.S. 206 (2015)

- The Supreme Court held that courts must evaluate the extent to which an employer's policy treats pregnant workers less favorably than non-pregnant workers with similar inabilities to work
- Under the Pregnancy Discrimination Act, a pregnant worker had to point to comparators; there was no freestanding duty to accommodate

June 27, 2023 | PWFA takes effect

Employers with 15 or more employees must accommodate a qualified worker's known limitations related to pregnancy, childbirth, or related medical conditions.

June 18, 2024 | EEOC final rule effective

The EEOC's final regulation and interpretive guidance, issued in April 2024, define related medical conditions broadly and add the four predictable assessments.

May 21, 2025 | Fed District Court vacates elective abortion provisions

A Louisiana federal district court vacated the portions of the final rule requiring accommodation of elective abortion.

Charge volume and enforcement focus

PWFA charges rose from 2,729 in FY 2024 to 3,448 in FY 2025. New EEOC leadership in 2025 signaled a focus on core accommodations.

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Who Is Covered by the PWFA?

Covered employers

- Private and public employers with 15 or more employees
- Employment agencies, labor organizations, and federal agencies are also covered

Protected individuals

Employees and applicants who are "qualified." The limitation must relate to the worker's own pregnancy, childbirth, or related medical condition.

"Qualified" — path one

The worker can perform the essential functions of the job with or without a reasonable accommodation.

"Qualified" — path two

The worker cannot currently perform an essential function, but the inability is temporary, the function could be performed in the near future (generally presumed to be 40 weeks for a current pregnancy), and the inability can be reasonably accommodated — including by temporarily suspending the function.

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"Known Limitation"

Two words, two requirements

Known

The worker, or a representative such as a family member, union representative, or health care provider, has communicated the limitation to the employer.

Limitation

A physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or a related medical condition. It may be modest, minor, or episodic and need not meet the ADA definition of disability.

Common examples

Morning sickness, fatigue, and pelvic pain; prenatal and postpartum appointments; lactation; miscarriage, pregnancy loss, and recovery from childbirth.

Mental health conditions count

Postpartum depression and anxiety are known limitations under the PWFA

No sole-cause requirement

Pregnancy, childbirth, or the related medical condition does not have to be the sole, original, or substantial cause of the limitation.

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Reasonable Accommodations

What counts

- Changes in the work environment, or in the way things are customarily done, that let the worker keep working
- The analysis generally follows the ADA — with one key addition: temporary suspension of an essential function
- Needs change over time. What works in the first trimester may not work in the third or postpartum, so build in check-ins

The four predictable assessments (for pregnancy)

(1) Having water available and drinking it; (2) additional restroom breaks; (3) sitting/standing as needed; (4) breaks to eat and drink.

These are virtually always reasonable and not an undue hardship.

Other common accommodations

Flexible breaks, changes to food and drink policies, a stool to sit on, dress code changes, telework, leave for medical appointments, assistance with manual labor, and temporary reassignment.

Lactation

The PUMP Act requires reasonable break time and a private, non-bathroom space for one year after birth. The PWFA can require lactation accommodations beyond that.

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Medical Documentation

The rule

A request *is not* reasonable when:

- The limitation is obvious — for example, a pregnant employee asks for a larger uniform
- The employer already has sufficient information
- The employee is pregnant and the request is one of the four predictable assessments, confirmed by the employee
- The employee is lactating and needs modifications to pump at work
- The employer would not request documentation in a comparable situation — for example, a policy requiring a doctor's note only for absences of three or more consecutive days

Guardrails when a request is reasonable:

- Limit the request to confirmation of the physical or mental condition, confirmation that it relates to pregnancy, childbirth, or a related medical condition, and the change needed at work and its expected duration
- No specific form may be required
- The employer may not require the worker to be examined by a health care provider of the employer's choosing
- Keep all documentation confidential and separate from the general personnel file, as under the ADA

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The Key Employer Obligations

Accommodate

- Provide reasonable accommodations for known limitations unless they impose an undue hardship
- Engage in the interactive process
- Respond without unnecessary delay — delay alone may be a violation
- Consider an interim accommodation while the process runs

Do not force

- Do not require an accommodation that was not arrived at through the interactive process
- Do not require leave, paid or unpaid, if another reasonable accommodation would let the employee keep working
- Leave is an accommodation of last resort

Do not penalize

- Do not deny opportunities because of the need for an accommodation
- Do not take adverse action for requesting or using an accommodation
- No retaliation, coercion, or interference — including leaving productivity metrics unadjusted when an employee works fewer hours

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PWFA Settlements

Polaris Industries, Inc.

N.D. Ala. | settled July 2025

- The EEOC alleged the employer penalized an employee for pregnancy-related absences and medical appointments and required mandatory overtime despite her physician's direction that she not work more than 40 hours per week.
- She was told she would be terminated if she accumulated additional attendance points for any reason, and she resigned.
- Settled for $55,000.

Marsha Rucker (regional attorney for the EEOC's Birmingham District): "The PWFA ensures that pregnant employees have the opportunity to seek and receive reasonable accommodations. The EEOC will make sure employers that fall short of this obligation are held accountable."

Urologic Specialists of Oklahoma, Inc.

N.D. Okla. | settled February 2026

- A pregnant worker asked for permission to sit, take short breaks, or work part time.
- The EEOC alleged the employer required unpaid leave, refused to guarantee her job on return, and refused to commit to lactation breaks after childbirth.
- Settled for $90,000.

Joshua C. Stockton (lead EEOC trial attorney): "The PWFA's requirements are simple and fair. The policies and procedures required by this decree are a model that all employers should follow to ensure that pregnant women are never forced to choose between their jobs and their health and safety."

HR takeaways

- Requests to sit and take short breaks fall within the predictable assessments — grant them.
- Leave is a last resort, not a first response.
- Attendance and overtime policies should flex for pregnancy-related limitations.

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The PWFA's Interactive Process

Managing PWFA Requests with Confidence

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Spot the Request

No magic words required

What makes a request

- It can be verbal or written, and made to any supervisor, manager, or HR representative
- It can come from the employee's representative — a family member, union representative, or health care provider
- The worker need not mention the PWFA or use the phrase "reasonable accommodation"

Each of these is enough to start the process

- "I'm having trouble getting to work on time because of morning sickness"
- "I'm worried about hurting myself or the baby if I lift these boxes"
- "I need time off for a pregnancy-related appointment"

The wrong channel still counts

The request still counts if the worker skips the Company form/portal

Train the front door

Frontline managers do not have to decide anything. They need to recognize the request, acknowledge it, and route it to HR promptly

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A Practical Interactive Process

1. Acknowledge & listen
- Respond and act promptly
- Ask what the limitation is and what change is needed
- Consider an interim accommodation right away
- Request documentation only if it is reasonable to do so

2. Explore & assess
- Brainstorm options together and consider the employee's preference
- Assess undue hardship case by case
- Do not default to leave
- The employer may choose among effective options but cannot impose one the interactive process did not produce

3. Implement & follow up
- Confirm the accommodation in writing
- Calendar check-ins as needs change
- Document each step: the request, the options considered, the selection, and implementation
- Document any failure to engage in the process

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Medical Documentation: *Ask Less*

HR quick reference

Do not ask when
- The limitation is obvious — for example, a larger uniform
- The employer already has enough information
- The request is one of the four predictable assessments and the employee confirms the pregnancy and the need
- The request relates to pumping or nursing at work
- You would not require documentation in a comparable situation

If you do ask, limit it to
- Confirmation of the physical or mental condition
- Confirmation that it is related to, affected by, or arising out of pregnancy, childbirth, or a related condition
- The change needed at work and its expected duration

Self-confirmation from the employee is often enough, and a diagnosis is not required. Asking for more than you need can support a PWFA or retaliation claim.

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Limits and Defenses

Undue hardship

- Significant difficulty or expense, assessed case by case against the employer's resources and operations — the same framework as the ADA.
- Where the accommodation is the ***temporary suspension of an essential function***, there are additional factors, including how long the employee will be unable to perform the function, whether there is work for the employee to accomplish, the nature and frequency of the function, whether similar suspensions were granted to others in similar positions, whether others could perform or be hired to perform the function, and whether the function can be postponed.

Document the analysis!

Not a "known" limitation

The limitation was never communicated to the employer or anyone who could act on it.

Not "qualified"

The inability to perform an essential function is not temporary, could not be performed in the near future, or cannot be reasonably accommodated.

Choice of accommodation

The employer may select among effective options; the employee is entitled to an effective accommodation, not the accommodation of choice.

Good-faith efforts

Consulting with the employee in a good-faith effort to identify an accommodation can limit damages.

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Anticipated Developments

Litigation over related medical conditions

A Louisiana federal judge ordered the EEOC to remove a portion of the PWFA final rule related to elective abortions as a condition for which employers are required to make reasonable accommodations.

EEOC leadership

Chair Andrea Lucas voted against the final rule and has said she intends for the Commission to reconsider portions she believes are unsupported by law — including accommodation for menstruation, infertility, and menopause, which in her view are not caused by a particular pregnancy or childbirth.

What to watch

Possible rulemaking narrowing related medical conditions — and the resulting need to revisit accommodation policies and manager training.

The ADA

Reasonable Accommodations – Mental Health

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Why It Matters: Mental Health

EEOC Charge Data

8,400+
FY 2021 charges alleging mental health or substance use disorder discrimination

22,843
FY 2021 total disability-related charges

36,256
FY 2025 total disability-related charges

~13,300 estimated mental health charges in FY 2025
If mental health claims held at the FY 2021 share (about 37% of disability charges), FY 2025 would see roughly 13,332 such charges, and the true number is likely higher.

NAMI Statistics

23.4%
of U.S. adults experienced mental illness in 2024

61.5M
people, or about 1 in 5 adults

Sources: U.S. Equal Employment Opportunity Commission charge data (2021, 2025); National Alliance on Mental Illness. 2025 mental health figure is an estimate.

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ADA Basics: What the Law Requires

- **Who is protected:** A "qualified individual" with a disability who, with or without reasonable accommodation, can perform the essential functions of the job
- **The core duty:** Provide a reasonable accommodation for known limitations unless doing so would impose an undue hardship
- **What an accommodation is:** Any change in the work environment or the way things are customarily done
- **Employer flexibility:** The employee is entitled to an effective accommodation, not necessarily the accommodation of choice
- **Limits:** Employers are not required to eliminate essential functions
- **Privacy:** Medical inquiries are limited (e.g., when an accommodation is requested), and medical information must be kept confidential

Mental Health: Usually a Covered Disability

Why coverage is the norm

Per the EEOC, major depression, PTSD, bipolar disorder, schizophrenia, and OCD "should easily qualify" — and many others will too.

In most cases, individuals with diagnosed mental health conditions are covered and have a right to accommodation.

Medication/therapy/treatment does not remove protections
Coverage is judged as if the condition were left untreated; medication or therapy does not remove protection.

Not permanent or severe
A condition need not be permanent or severe to be "substantially limiting."

Episodic conditions count
If symptoms come and go, what matters is how limiting they are when active.

Practical tip
Spend less time debating coverage and more time on the interactive process.

Defenses: Direct Threat & Undue Hardship

Direct Threat

A significant risk of substantial harm to self or others that cannot be eliminated or reduced by accommodation. "Significant" means high, not slightly increased.

Requires an individualized assessment of present ability, based on current medical knowledge or objective evidence.

Factors: duration of the risk; nature and severity of harm; likelihood; imminence; whether reasonable modifications of policies/practices could mitigate the risk.

Identify the specific behavior that poses the threat. A diagnosis, treatment history, or medication alone is not enough.

Example: an employee returning to work with clearance from their provider after a mental health-related hospitalization usually does not pose a direct threat; assess individually.

Undue Hardship

Significant difficulty or expense, judged against the employer's resources and operations. Not limited to cost.

Factors: cost (including the possibility of outside funding/tax credits); facility and company resources and size; type of operation; impact on operations.

Applies to the specific accommodation. If an alternative would not be an undue hardship, it must be provided.

Hardship is employer-specific: what is too costly or disruptive for one employer may not be for another.

HR tip: document the specific risk or hardship and the alternatives considered. Conclusory statements will not hold up.

Mental Health Requests: The Interactive Process

Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
Recognize the request No magic words needed: any statement that a change is needed due to a medical condition triggers the process. Watch for known conditions + performance issues.	**Respond promptly** Acknowledge and direct the employee to HR/LOA resources. Delay or silence can itself support a claim.	**Limit records requests** Ask only what is needed to confirm the disability and the need for accommodation. Keep it confidential and separate from general personnel file.	**Understand limitations** Focus on functional limits (concentration, stress, schedules), not the diagnosis. Review essential functions.	**Explore options** Flexible schedules for therapy, quiet space, written instructions, breaks, remote work, leave, reassignment as an accommodation of last resort.	**Decide, document, follow up** Choose an effective option, explain any denial and alternatives, and check in; the process is ongoing. If undue hardship is identified, document the supportive reasoning.

Example 1: EEOC v. Ranew's Management Company, Inc.

M.D. Ga. Complaint filed Dec. 20, 2021 (Settled in 2022) — Depression

What happened

Employee at a metal fabrication company told the company he had depression and requested time off. The company allowed him to take the time. When he returned, he was fired because the CEO said he could not trust him to perform his duties.

Outcome / status

EEOC attempted pre-litigation settlement. After filing a complaint, EEOC ultimately settled for $250,000 with reporting and monitoring requirements.

EEOC issued a press release – "the ADA makes it clear that employment decisions must be made based on employee qualifications rather than on stereotypes about an employee's disability."

HR takeaway

Assess the real facts of the matter, not assumptions based on stereotypes.

Example 2: Nimon v. The Shadowfax Corporation

M.D. Pa. complaint filed July 28, 2026 — Depression & anxiety (allegations only)

What happened

Associate Director alleges his employer knew of his depression and anxiety through FMLA paperwork and provider documentation. He requested a predictable schedule, clarified duties, limits on direct-care duties, and remote work.

The employer "delayed, resisted, and ultimately imposed a one-sided accommodation proposal that did not address his actual medical restrictions" and he was later terminated.

Outcome / status

Newly filed; no findings have been made.
The complaint asserts ADA claims based on notice through FMLA documents, medical records, and repeated requests.

HR takeaway

Coordinate FMLA and ADA processes.

Requests like schedule predictability and role clarity are common mental health asks — evaluate each one.

Do not unreasonably delay the process.

Do engage in good faith in the interactive process.

Document undue hardship.

Example 3: Allard v. Allegheny Health Network

W.D. Pa. July 6, 2026 - PPD/Outburst

What happened

In 2019, employer granted accommodations to a NICU charge nurse to move to day shift due to PPD. In 2023, she engaged in a serious event where she repeatedly yelled a patient's family, threw her badge, and ran through the unit yelling profanities. Following that outburst, she claimed a "mental break" and was granted a medical leave of absence for an "acute stress reaction" related to the incident. She was fired for the 2023 incident.

Outcome / status

Summary judgment for the employer. The record demonstrated a non-disability-related reason for her termination.

"Requiring others—like critically ill patients, their families, and fellow nurses—to tolerate misconduct is not the kind of accommodation contemplated by the ADA."

HR takeaway

The termination was for a legitimate inappropriate interaction with a patient's family, unrelated to her medical leave that followed a previous accommodation.

Example 4: Remote Work Requests After RTO

EEOC enforcement (2023-2024) — Telework as accommodation

What happened

As return-to-office policies expand, employees increasingly request work-from-home accommodations, including for mental health conditions.

EEOC has FAQs on in the federal sector.

The EEOC has sued employers over denied telework requests (e.g., EEOC v. United Labor Agency (N.D. Ohio 2023)) (the employer required all employees to RTO after the pandemic).

Outcome / status

United Labor Agency resolved with compensation ($32,271) plus training and reporting obligations.

Note: remote work would be unreasonable where it eliminates an essential function (for example, daycare worker).

HR takeaway

Telework is not automatic, but a blanket "no" is risky.

Tie the analysis to documented essential functions. Treat similarly situated employees consistently.

Telework primarily for the employee's personal benefit, is not a recognized reasonable accommodation.

Employers can revisit previously granted accommodations.

Comparing the Processes: PWFA vs. ADA

Issue	ADA	PWFA
Covered condition	Disability that substantially limits a major life activity; only covers "impairments" related to pregnancy	Known limitation related to, affected by, or arising out of pregnancy, childbirth, or related conditions; may be modest, minor, or episodic
Essential functions	Never required to eliminate essential functions	**Temporary suspension may be required (generally up to 40 weeks for a current pregnancy) absent undue hardship**
Documentation	May request reasonable documentation of disability and need	Not required; permitted only when reasonable, and often not reasonable for obvious or routine needs
Leave	Leave may be a reasonable accommodation	Cannot require leave if another accommodation lets the employee keep working
Shared ground	Interactive process; undue hardship defense; 15+ employees	Same terms, some broader obligations

Hypothetical 1: The Return-to-Office Request

Optional discussion exercise

The Scenario

Morgan, a marketing specialist, worked remotely during the pandemic with strong performance reviews.

The company now requires four days per week in the office. Morgan submits a note from a psychiatrist stating Morgan has generalized anxiety disorder and asks to remain fully remote.

Morgan's manager says in-person collaboration is important, but several employees on the same team have been approved for hybrid schedules for personal reasons.

Discuss

1. Is full-time remote work a reasonable accommodation here?
2. How should HR evaluate which job functions are essential?
3. What alternatives could address Morgan's limitations?
4. Does the treatment of other employees matter?

Based on: EEOC telework guidance; Freeman v. City of Cheyenne (D. Wyo. 2023); EEOC v. ISS Facility Services (N.D. Ga. 2021); ADA National Network.

Hypothetical 2: "I Need a New Manager"

Optional discussion exercise

The Scenario	Discuss
Riley, a project coordinator, provides a note from a therapist stating Riley has an anxiety disorder. Riley says the manager's last-minute verbal assignments and open criticism in team meetings trigger panic attacks and asks to be transferred to a different supervisor. There are no open coordinator roles under other managers.	1. Must the employer grant a new supervisor? 2. What alternatives could address the limitation? 3. What documentation can HR request?

Based on: EEOC Reasonable Accommodation Guidance, Q. 33; EEOC mental health guidance; ADA National Network.

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PWFA Hypothetical

The scenario

Emma, a customer service representative, is in her second trimester.

Fatigue and nausea make long periods at her desk difficult, and she needs frequent restroom breaks.

At a routine check-in, she tells her supervisor she is pregnant and is struggling to keep up.

Discuss

- Has Emma made a request for an accommodation?
- What should the supervisor do today?
- May HR ask for a doctor's note before granting restroom breaks?

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PWFA Hypothetical

Guidance

Recognize & route

- Treat the conversation as a request — no magic words are needed.
- Acknowledge it and route it to HR promptly rather than treating it as venting.

Accommodate

- Grant restroom breaks — this is a predictable assessment.
- Explore options such as flexible breaks, workstation changes, or telework.
- Adjust call-handling metrics so the breaks are not penalized.

Document & follow up

- Confirm the accommodation in writing.
- Schedule a follow-up as the pregnancy progresses and needs change.
- Record each step of the process, including options considered.

Thank You

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