

June 5, 2019 Publication

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Paul M. Ostroff
ostroffp@lanepowell.com

Christine Thelen
thelenc@lanepowell.com

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Oregon Passes Law Expanding Pregnancy-Related Accommodations for Employees

Labor, Employment & Benefits Legal Update

Beginning January 1, 2020, Oregon employers with six or more employees must provide job applicants and employees with reasonable accommodations for a wider array of medical conditions related to pregnancy, childbirth, lactation, and related medical conditions. Current state and federal laws require providing reasonable accommodations, including leaves of absence, for pregnancy-related disabilities or serious health conditions. Under this new law, employers must provide reasonable accommodations for any known limitations related to pregnancy, childbirth, lactation, or related medical conditions. Reasonable accommodations may include, but are not limited to:

- Acquisition or modification of equipment or devices;
- More frequent or longer break periods or periodic rest;
- Assistance with manual labor; or
- Modification of work schedules or job assignments.

Employers are excused from providing reasonable accommodations if doing so imposes an undue hardship. To qualify as an undue hardship, the accommodation must require significant difficulty or expense, taking into account the same factors that apply under Oregon disability discrimination law. These include such factors as cost, the financial resources of the facility, the number of employees, the impact on the facility's operations, the size of the employer, the number of locations,

and the nature of the employer's operations. This new law also prohibits employers from imposing unnecessary reasonable accommodations or requiring employees to take any leave (including leave under the Oregon Family Leave Act) when an alternative reasonable accommodation is available.

In addition, the new law expands protections against pregnancy-related discrimination by making it unlawful for an employer to deny employment opportunities to applicants or employees because of their need for a reasonable accommodation; or to retaliate against applicants or employees for inquiring about, requesting or using a reasonable accommodation.

The new law also imposes a number of notification requirements on employers. Employers will need to post signs notifying employees of this new law, as well as provide written notices to all current employees no later than June 29, 2020; to all new employees at the time of hire; and within 10 days of learning that an employee is pregnant.

This new Oregon law is similar to Washington state's Healthy Starts Act. Washington recently amended its law to incorporate reasonable accommodations for lactation, including reasonable lactation breaks in a suitable, private location, for up to two years following the birth of a child.

How should employers prepare to implement this new law?

Employers should do the following by the end of this year:

- Update reasonable accommodation policies and handbooks to include a wider array of pregnancy accommodations;
- Update onboarding, leaves of absence and other practices to incorporate providing required notices; and
- Train HR representatives and managers on the revised policies and practices.

If you have questions about protections or reasonable accommodations for pregnant employees, Lane Powell's Lawyers for Employers™ are available to help.