

# LEGAL EAGLE EYE NEWSLETTER

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*For the Nursing Profession*

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## Pregnancy Discrimination: Light Duty Work Rules Must Be Applied Uniformly.

Three Certified Nursing Assistants and an Activities Assistant worked for a company with twenty-six long term care facilities.

When they became pregnant their personal physicians put them on lifting restrictions. Each of them had a maximum amount her physician would allow her to lift during her pregnancy.

Each of them could fully perform every aspect of her job except for the heavy lifting that was an essential part of the job descriptions for their positions.

### **Employer Gives Light Duty For On-the-Job Injuries**

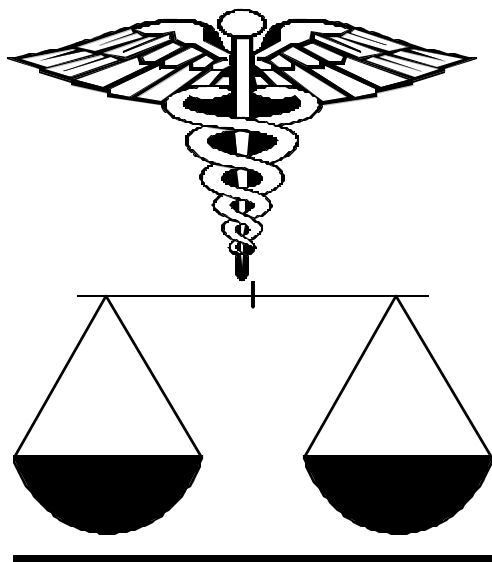
The company's policy limited light duty to employees injured on the job at one of the company's facilities.

### **Employer Says No Light Duty For Pregnant Employees**

Pregnant employees did not benefit from the company's light-duty policy. Pregnant employees with temporary work restrictions imposed by their physicians related to pregnancy faced termination, layoff or unpaid leave of absence as their only options.

### **Charges Filed With E.E.O.C.**

After separation from their employment all four filed pregnancy discrimination complaints with the Equal Employment Opportunity Commission.



***An employer must treat pregnant employees the same as non-pregnant employees.***

***Pregnant employees with temporary lifting restrictions imposed by their physicians due to pregnancy must be given light duty if non-pregnant employees with temporary lifting restrictions imposed by their physicians are given light duty.***

UNITED STATES COURT OF APPEALS,  
TENTH CIRCUIT, 2000.

The E.E.O.C. upheld their charges of pregnancy discrimination. The company appealed and the Federal District Court overruled the E.E.O.C. However, the US Circuit Court of Appeals for the Tenth Circuit overruled the Federal District Court and ruled in favor of the company's former employees.

### **No One Is Entitled To Light Duty**

The US Pregnancy Discrimination Act imposes no legal requirement for an employer to accommodate medical restrictions imposed by a pregnant employee's physician.

The courts have also said pregnancy is not a disability as disability is defined under the Americans With Disabilities Act.

### **Voluntary Accommodation Must Be Applied Uniformly**

The issue of fairness comes up when an employer voluntarily elects to accommodate non-pregnant employees' temporary medical restrictions. When an employer does that, the employer must also accommodate pregnant employees' temporary medical restrictions exactly the same.

The US Pregnancy Discrimination Act says that pregnant employees must be treated no less favorably than non-pregnant employees in all respects.

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