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Must Dentists Provide Maternity Leave?

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Maternity leave can be a complex issue for dentists and other small employers. Dentists want to keep valued employees happy by allowing a reasonable amount of time off after the birth of a child, yet they must consider how an extended absence could affect their practice. At the same time, federal, state and local laws create a variety of obligations for employers. Dentists must carefully balance these factors to maintain morale and productivity while avoiding potential liability.

Disability Leave

Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of pregnancy. Title VII applies only to employers with 15 or more employees; however, most states and many cities have enacted similar anti-discrimination statutes that apply to smaller employers, including those with as few as one employee. Unless you have consulted with knowledgeable legal counsel and determined that your practice is not subject to an anti-discrimination statute, it is best to err on the side of caution and assume that you are subject to such a law.

These statutes generally require employers to treat pregnant employees no differently than non-pregnant employees with similar ability to work. Pregnant employees are thus entitled to equal treatment in terms of disability leave and personal leave policies.

For example, if an employer allows employees to take personal leaves of absence to care for a sick family member or following bereavement, it must offer similar leave to employees who give birth. And if an employer allows employees to take a week-long disability leave after an appendectomy, a similarly appropriate disability leave should also be granted after the birth of a child.

At the same time, if an employee has a normal delivery and is otherwise able to work, her employer generally has no obligation under the nondiscrimination laws to give her a disability leave of absence beyond the time she is disabled after childbirth.

Other Benefits Issues

Employers are also required to treat pregnant employees equally with respect to conditions of leave and benefits. If a dental practice normally pays its share of an employee's health insurance during an approved leave, it must do the same for a pregnant employee. Dentists should also be aware that Title VII and similar anti-discrimination statutes prohibit employers from preventing a pregnant woman from working if she remains physically capable of performing her job.

Employers are obligated to provide maternity leave under the federal Family and Medical Leave Act (FMLA) and similar state laws. The FMLA – which covers new fathers as well as new mothers – requires employers with 50 or more employees to provide 12 weeks of unpaid leave following the birth or adoption of a child to employees who have worked at least 1,250 hours in the previous 12 months. Again, while the FMLA applies to larger employers, small employers may be subject to a similar state law. Check with an attorney to determine whether your practice is covered by such a law.

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