**Section 2535.120 Interactive Process**

a) To determine the appropriate reasonable accommodation, the employer and job applicant or employee shall engage in a timely, good faith, meaningful, exchange to determine the effective reasonable accommodation. This process should identify the needs and limitations resulting from the pregnancy condition, and the potential reasonable accommodations that could meet those needs or overcome those limitations. If the employer believes the requested accommodation will impose an undue hardship, this process should also cover whether there is any less restrictive alternative available that could accommodate the job applicant's or employee's pregnancy condition in lieu of the requested accommodation.

b) During the interactive process, the employer and job applicant or employee should first explore whether there are any accommodations that would permit the job applicant or employee to perform the essential functions of the applied for or current position. If no such accommodation is available, the employer and job applicant or employee should explore whether there are any accommodations that would permit the job applicant or employee to work in another capacity for the duration of the pregnancy or the recovery from the pregnancy condition. Examples of accommodations that may allow a job applicant or employee to begin work or continue working include, but are not limited to, a temporary transfer, reassignment or job restructuring.

c) During the interactive process, an employer may offer alternate accommodations to the job applicant or employee. A job applicant's or employee's refusal to accept an alternate accommodation offered by the employer during the interactive process may constitute evidence that the job applicant or employee is not participating in good faith during the interactive process if:

1) The alternative accommodation would adequately accommodate the job applicant's or employee's pregnancy condition;

2) The alternative accommodation would allow the job applicant or employee to perform her current position without a change in the job applicant's or employee's earnings or benefits, or the alternative accommodation would have the same or a lesser impact upon the job applicant's or employee's earnings or benefits as the accommodation requested by the employee;

3) The alternative accommodation offered by the employer would impose a lesser disruption to the operations of the employer; and

4) The alternative accommodation is approved by the job applicant's or employee's health care provider, or if otherwise within the restrictions or recommendations of the employee's health care provider.

d) An employer has met its duty to reasonably accommodate a job applicant or employee by offering in good faith an alternative accommodation that satisfies this Section and by engaging in a meaningful discussion regarding the alternative accommodation. However, an employer may not require the job applicant or employee to accept the alternative accommodation if the job applicant or employee chooses to reject it.

e) Nothing in this Section prohibits a job applicant or employee from modifying her reasonable accommodation request if the original reasonable accommodation request is no longer necessary or adequate. Any requests to modify a previous reasonable accommodation request should be considered as a new or independent request.

f) In the event that a requested accommodation would impose an undue hardship on the employer after the employer and job applicant or employee had engaged in the interactive process, a job applicant or employee may provide her own accommodation at her own expense, provided that the accommodation does not unduly disrupt the ordinary conduct of the employer's business.