





# BABY ON SITE

**With more women joining Alberta's construction industry, it's time to talk about pregnancy in the workplace**

Written by Lisa Gordon | Illustrated by Scott Carmichael

**A**ccording to BuildForce Canada, the Alberta construction industry included 44,300 female workers in May 2023. That represents a 38.7 per cent year-over-year increase compared to the same month last year, and it's exciting to see more women exploring construction-related careers – especially as the industry is facing a labour shortage.

At the same time, more women on the jobsite has sparked important conversations that weren't happening even five years ago. For women working in roadbuilding and heavy construction, pregnancy brings a list of questions and concerns – for them and their employer.

“Women are an essential and growing part of the construction industry,” said Kristen Hallberg, a member of the board of directors for the Canadian Association of Women in Construction (CAWIC).

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As a mother and someone whose entire career has been in construction or related industries, Hallberg says conversations about pregnancy in the workplace are vital.

“The construction industry should and can become a leader in its support, policies and resources for women,” she said. “Ultimately, we need to create a culture of safety, respect, collaboration and openness that embraces women throughout their career, including their pregnancy and their return to work.”

Hallberg believes that by creating policies and taking action to make workplaces safer for pregnant women, the industry can help to ensure the health of both the worker and her unborn child. At the same time, construction will earn a reputation as a positive environment that will attract women looking for an exciting career.

Depending on a pregnant worker’s role and responsibilities, they may require different types of accommodation so they can work safely. Hallberg says this could involve a change in duties, adjusted schedules, switching to a new physical location or even additional bathroom breaks.

“Employers and employees need to understand what potential risks may be posed and determine what changes are necessary to ensure the health and safety of mother and child,” she said.

That’s where a woman’s physician comes into the picture. As a health-care professional, obstetricians are a key point in the triangle of care with employers and the worker herself.

“It’s important to evaluate the pregnancy, whether high-risk or low-risk, as well as the job demands,” said Dr. Chandrew Rajakumar, president of the obstetrics and gynecology section of the Alberta Medical Association.

“If it’s a high-risk pregnancy, the obstetrician may say they need to abstain from specific work – such as no heavy lifting, no prolonged days on their feet, no climbing or push/pull activities,” he explained.

For low-risk pregnancies, working hard doesn’t necessarily lead to a negative outcome for the baby or the

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– Lia Moody, Samfiru Tumarkin LLP

mother. However, as the pregnancy progresses, physical changes can make demanding jobs more difficult.

“A person’s centre of mass moves from being nicely balanced to more forward,” said Rajakumar. “People can succumb to back strain and pain. There will also be other concerns

about exposure to toxic substances and radiation. You now have a fetus on board, with rapidly dividing cells and vulnerable DNA, where the effect could be much more substantial than to fully developed adults.”

He also says that as the baby grows, a woman’s lung capacity is reduced.

Activities that are not normally tiring may become so.

“In general, the most dangerous time for the baby is during the first trimester. Once organ development has taken place, the overall risk drops significantly,” said Rajakumar. “In comparison, the most dangerous time for

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– Dr. Chandrew Rajakumar, Obstetrics and Gynecology, Alberta Medical Association

the mother would be during the third trimester due to the more extreme physiologic changes to the body.”

He recommends that women share their job descriptions with their physicians. Often, an obstetrician will provide a range for how much weight the pregnant woman can push or pull, how long they can be on their feet and a recommended break schedule.

It’s best to initiate a discussion about possible accommodations early in the

pregnancy, including planning for the possibility of an early, medically induced departure.

“It’s all about communication,” said Rajakumar. “Early on, a person can be very nauseated due to hormonal changes. If a person is vomiting several times a day, they may need hydration breaks, time off, etc. Perhaps they are feeling light-headed, out of breath or experiencing cramping. Employers need to be aware, so

they are not left high and dry. When there is early and open communication, it changes the psychology of pregnancy in the workplace. It’s nice to have some forewarning instead of someone showing up last minute with a doctor’s note.”

Finally, he says employers need to understand that pregnancy is not a medical disability. However, it is a state where things can change quickly.

“People can go from being very able-bodied to being incapable of doing much, very quickly,” said Rajakumar. “A lot of last-minute changes are not due to neglect or self-care, but rather part of that physiological process.”

#### **A duty to accommodate**

Pregnant workers are protected under federal and provincial employment legislation. In Alberta, most workers will fall under the Alberta Human Rights Act (AHRA) and the Alberta Employment Standards Code (ESC).

Lia Moody has been practising employment law since 2010 and is now Western Canada practice leader at Samfiru Tumarkin LLP. She says that with more women joining the construction industry, it is crucial for employers to understand their obligations to pregnant employees.



“The AHRA protects people from discrimination based on a number of enumerated grounds like disability, religion and gender,” said Moody. “It protects women who are pregnant and experiencing any kind of pregnancy issue. This includes health complications, miscarriages, abortions, breastfeeding – all are under the umbrella of gender, which is protected from discrimination.”

The Alberta ESC provides that all pregnant women who have been employed for at least 90 days can take an unpaid maternity leave of 16 weeks, and it can start any time from 13 weeks ahead of the due date. It also entitles employees to unpaid parental leave of up to 62 weeks, which can be taken by the mother, father or other caregivers. At the end of this leave, workers must be returned to the same or comparable position at the same compensation.

Employers are required to accommodate a pregnant employee’s needs whenever possible.

“If you have an employee on your site who is pregnant and they are asking for certain accommodations, you must duly consider those in good faith and implement them if you can,” said Moody. “Employers must accommodate to the point of undue hardship – as an example, undue hardship could mean a large expense or even a negative impact on safety.”

Accommodation might include removing pregnant women from areas subject to toxic fumes or exempting them from lifting.

Like Rajakumar, Moody stresses that pregnancy is not a disability.

“Employers can’t make an assumption that just because you are pregnant, you can’t do your job,” she said. “Women and their medical practitioners have the right to determine what she can and cannot do. But if she asks for accommodation supported by her doctor, an employer has an obligation to provide it to the best extent possible.”

Moody always encourages employers to open the communication channels with a pregnant employee.

“Tell them if they need anything to let you know,” she said. “Make



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it clear you are an employer who is considerate of these issues and the door is open for them if they want to discuss.”

For employers who want to draft an internal pregnancy policy, Moody suggests it should contain key information.

“I would recommend setting out what they are entitled to under the code and include company policies on how much notice of maternity leave is required, as well as including their expected return to work date,” she said. “Encourage them to speak to the HR manager so there is a road map for how the employee should navigate their various legal entitlements. At the end of the day, run your policy past your legal adviser.”

Ultimately, companies that already have robust bullying and harassment policies in place will be well on their way to fostering an inclusive environment for pregnant workers.

“As with so many things, communication is key,” said Moody. “Even celebrating the news is good – sending out a company-wide congratulatory

email with the parents’ permission, for example, leads to a culture of inclusion. I think a lot of women feel the construction industry is a man’s territory, and that’s not dissimilar to

the law. My personal experience is that if you are vocal about it, it’s not treated like a secret that must be kept. It makes it easier for women to feel included and welcome.” ■

**“The construction industry should and can become a leader in its support, policies and resources for women.”**

– Kristen Hallberg, Canadian Association of Women in Construction

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