



HUMAN RESOURCES REPORT



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Work/Life

Nursing Mothers Making Case for Increased Employer Flexibility, Resources, and Support

The prevalence in the workplace of mothers of small children, along with a greater focus on wellness issues and work/life balance, could signal increased employer acceptance and support for breastfeeding.

“I still think we have quite a long way to go with societal acceptance of breastfeeding,” Gina Ciagne, director of breastfeeding and consumer relations at Lasinoh Laboratories, a breastfeeding baby products company in Alexandria, Va., told BNA. “There are still people who think it’s funny or make jokes,” she said. “The messages employers send and actions that they take usually are very helpful.”

Meanwhile, advocates for employees who breastfeed have been stepping up their efforts nationwide to persuade employers to provide more support.

“The messages employers send and actions that they take usually are very helpful” in destigmatizing breastfeeding, said Gina Ciagne of Lasinoh Laboratories.

Efforts include an ongoing push for a federal law that prohibits discrimination against employees who breastfeed at work, securing private spaces in workplaces where nursing mothers can express milk, and encouraging employer flexibility for a process that requires about 20 minutes and generally needs to occur every two or three hours.

“As a pediatrician, I have advocated and campaigned on a case-by-case basis for women trying to return to work or to continue to work while breastfeeding their babies as they have faced discrimination and both a lack of understanding of the importance of breastfeeding and a failure to provide reasonable accommodations in the workplace,” said Joan Younger Meek, chair of the United States Breastfeeding Committee (USBC). “Federal legislation will prevent each individual working mother from having to fight this battle alone.”

Meek, a physician at the Orlando, Fla.-based Arnold Palmer Hospital for Children and the Winnie Palmer Hospital for Women & Babies, spoke Nov. 4 in Washington, D.C., during a briefing sponsored by USBC, an independent, nonprofit coalition of 41 professional, educational, and governmental organizations.

According to USBC and other health organizations, medical evidence suggests that breastfeeding, especially during the first six months of life, lowers a baby’s risk of many illnesses. There also is medical evidence, proponents of breastfeeding assert, that women who do not breastfeed have a higher risk of developing breast and ovarian cancer.

The Breastfeeding Promotion Act. Rep. Carolyn Maloney (D-N.Y.) and Sen. Jeff Merkley (D-Oregon) are sponsors of the Breastfeeding Promotion Act (H.R. 2819, S. 1244), introduced in June. The proposed federal law, which would apply to employers that have 50 or more employees, has failed thus far to gain much traction in Congress.

It would, among other things:

- amend Title VII of the Civil Rights Act of 1964 to protect breastfeeding women from being fired or discriminated against in the workplace;
- make tax incentives available for companies that provide private lactation areas, breastfeeding equipment, or consultation services to their workers; and
- protect the privacy of breastfeeding mothers by making sure they have break time and a private place to express milk in the workplace.

Merkley is a member of the Senate's Health, Education, Labor and Pensions (HELP) Committee. "We unanimously passed an amendment as part of the HELP Committee's health care bill that would provide breastfeeding mothers with adequate time and space," he said during the USBC briefing. "Now, we're working to get this provision in the merged Senate health bill."

Maloney said Merkley's support in this effort marks a turning point. "To get this provision in the health bill is just really phenomenal," she said.

State Laws Addressing Breastfeeding at Work. In its *Breastfeeding Report Card* for 2009, the Centers for Disease Control and Prevention reported that 14 states and the District of Columbia have laws that mandate employer lactation support. The states are: Arkansas, California, Colorado, Connecticut, Illinois, Indiana, Maine, Minnesota, Montana, New Mexico, New York, Oregon, Tennessee, and Vermont.

"It appears that there is a definite trend toward states regulating in this area," management attorney Jacklyn J. Ford, a partner at Vorys, Sater, Seymour and Pease LLP in Columbus, Ohio, told BNA during a telephone interview.

"As regulation increases," she said, "employer policymaking will have to increase, and even more so if federal regulation comes into play."

Ford noted that some court decisions suggest breastfeeding employees could be protected under sex discrimination statutes. For example, a factory worker who took unauthorized work breaks to pump breast milk failed to refute her employer's assertion that she was fired for insubordination, the Ohio Supreme Court held Aug. 27, rejecting her state law claim of pregnancy and sex discrimination (*Allen v. Totes/Isotoner Corp.*, Ohio, No. 2009-Ohio-4231, 8/27/09). A legal alert from Ford's firm noted at the time, however, that "three of the Court's seven justices concluded that a female employee could sue for sex discrimination in these circumstances." Ford said "this indicates there's at least some sympathy for the argument that something that is an activity exclusive to women might, in fact, fall under a gender discrimination category."

The alert noted that "proactive employers will want to review their existing policies on employee break times to ensure that they are uniform and nondiscriminatory, and they may also want to determine how their break policies should address this issue."

Federal legislation pertaining to breastfeeding in workplaces would provide a uniform approach to how employers nationwide handle this issue, Ford said. "Employer clients will say they don't want an obligation to do this," she added, noting that they usually are concerned about "efficiency and predictability" related to employee break schedules. "But some multi-state employers might do just as well by having the uniformity of a federal regulation," she added.

Marsha Walker, executive director of the National Alliance for Breastfeeding Advocacy in Weston, Mass., said employers have said they are concerned about costs associated with providing resources for breastfeeding employees in the workplace. "We hear employers say it's too expensive," she said. "And the issue of gender equity has come up," Walker said, related to whether male and female employees should be treated the same when it comes to how much break time they are allowed to take during a typical workday.

Walker said breastfeeding actually saves employers money because it improves staff retention and curbs absenteeism, and because breastfed children have fewer health problems, resulting in fewer insurance claims.

How Some Employers Are Responding. At Patagonia, an outdoor clothing and gear company in Ventura, Calif., employees have access to an on-site child development center as well as programs for nursing mothers who work there. Rocking chairs and nursing couches are available in the center where women can breastfeed their children.

"The program is not only used by working mothers," said Shannon Ellis, manager of human resources at Patagonia, which has 1,200 employees worldwide and 350 in the company's corporate office in Ventura. "You'll see grandmothers feeding their grandbabies bottles of milk," Ellis said. "You'll see dads feeding their babies with bottles."

When babies in the center are hungry a family member will be paged or contacted via cell phone to feed them. The parents can go to the center or the child can be brought to them. "Meetings can be stopped and re-

Employer Support Varies

The audience at the USBC briefing heard about employer approaches to breastfeeding—some more supportive than others.

Advertising account supervisor Cyrkle Lomax described her varied workplace experiences breastfeeding her two sons, now 10 and 4, and her daughter, almost six months old. One employer provided working mothers with "a beautiful facility" that included a lactation room, she said, while a manager at another company told her to find a restroom.

Breastfeeding in a restroom should never be an option in workplaces, proponents of nursing mothers said. Instead, employers should work with employees who are nursing to identify a private place—an office, a conference room, or a room as small as four feet by five feet—where mothers can express milk or breastfeed.

"Breastfeeding is an act where you are preparing food, in a sense. A bathroom is not a sanitary place," Cathy Carothers, a spokesperson for USBC and president-elect of the International Lactation Consultant Association, told BNA. "It's uncomfortable for a woman to sit on a toilet stall and manage the breast pump equipment. Plus, there are not electrical outlets in a bathroom stall," she said.

Further, Lomax said, female employees who are not breastfeeding are not always comfortable seeing a co-worker engaging in this process in the restroom.

"The point is, my choices to nourish my children were all put in the hands of someone else, and I don't like that," Lomax concluded. Employers at the least have to make some accommodations, she said.

sumed when you're done," Ellis said. "That's the way it's done. There's no real policy. It's just what it is."

At Mutual of Omaha, Peggy Rivedal, manager of health services, said the company established a maternity program that includes a breastfeeding component almost 12 years ago.

The Nebraska-based insurance and financial services company has 5,100 employees, 64 percent of whom are women, Rivedal said. A total of 3,600 employees work in the company's corporate office in Omaha, while the remaining 1,500 workers are based at various company sites nationwide.

Mutual of Omaha's maternity program includes case management consultation for working mothers as well as private lactation facilities at the company's headquarters. The on-site maternity lactation program includes private rooms for nursing mothers to breastfeed or express milk, Rivedal said, and five different pumping sites.

Last year, 71 of the company's employees delivered babies and 46 of them opted to breastfeed. Rivedal said the average duration that working mothers there breastfeed is nine and a half months.

"Education starts as soon as [employees] become pregnant," she said. "Expectant mothers come to a yearly baby shower and we bring in experts" to discuss what it means to be a working mother, Rivedal explained.

A crucial component of the program is that "we have a lot of senior management support," Rivedal said. "We feel helping women breastfeed is a no-brainer; it benefits the mom and the baby."

Moreover, the maternity program also benefits Mutual of Omaha, Rivedal said, noting that 93 percent of expectant mothers there return to work after giving birth.

BY RHONDA SMITH