Presentation Goals

✔ Understand worksite accommodations required under the federal and state breastfeeding laws

✔ Learn about successful strategies businesses have implemented to comply with the laws and support their employees

✔ Identify local resource for support
The Public Health Law Center
What does the Public Health Law Center do?

We help Drue eat strawberries and kale!
Legal Technical Assistance

- Legal Research
- Policy Development
- Publications
- Trainings
- Direct Representation
- Lobby
Just a reminder....

The legal information and assistance provided in this training does not constitute legal advice or legal representation.
Equality doesn’t mean Equity
Legal Protections for Nursing Mothers in Minnesota

Breastfeeding mothers have legal protections in the workplace & in public

In Minnesota, 89.2% of women breastfeed their newborn infants and 59.2% still breastfed six months after birth. This is higher than the national average, where 79% of women have ever breastfed and 49.4% breastfed at six months. While many states have laws protecting nursing mothers in the workplace, Minnesota has some of the strongest laws in support of breastfeeding. In Minnesota, nursing mothers have legal protections in the workplace, as well as in public locations like parks, restaurants, or stores. This fact sheet provides an overview of the Minnesota and federal laws that protect nursing mothers in the workplace and in public.

Q: What laws protect nursing mothers in the workplace?
A: Under both Minnesota law and the federal Patient Protection and Affordable Care Act, Minnesota has some of the strongest laws in support of breastfeeding. Nursing mothers have legal protections in the workplace as well as in public locations like parks, restaurants, and stores.

Breastfeeding-Friendly Child Care Programs

Meeting Best Practices, Providing Great Service

By supporting breastfeeding, child care providers are helping babies get the best start they can in life, leading to stronger, healthier kids and adults.

There is growing awareness and appreciation of the health and wellness benefits of breastfeeding. Across the nation, breastfeeding rates are increasing. In Minnesota, breastfeeding rates are higher than national averages, with 64.2% of women breastfeeding their infants and 59.2% still breastfeeding their infants six months after birth. The number of women choosing to breastfeed in hospitals is increasing, and recent changes to federal and Minnesota law have strengthened workplace protections for nursing mothers. For child care providers, the increasing preferences for breastfeeding means that programs with breastfeeding-friendly programs are meeting a key market need, which makes them more competitive as well as helping promote healthy child development.

Why is Breast Milk the Most Beneficial and Nurturing Choice?

With the optimal combination of proteins, fats, vitamins and carbohydrates, breast milk (sometmes referred to as human milk) is the best source of nutrition for infants. Alternatives, such as formula...
Why Support Nursing Mothers?

Health Benefits

- Maternal health benefits
- Infant health benefits
Why Support Nursing Mothers?

Return on Investment

• Reduces absenteeism
• Lowers health care costs
• Lower turnover rates/higher retention rates
• Higher productivity and loyalty
• Positive public relations
Why Support Nursing Mothers?

Legal Requirements

• Required under Federal and State law
• Avoiding Lawsuits
• Written Policies can help ensure compliance and communication
Laws Related to Breastfeeding

• Breastfeeding & the Workplace:
  24 states, the District of Columbia & Puerto Rico

• Breastfeeding Allowed in Public:
  45 states, the District of Columbia & the Virgin Islands

• Breastfeeding Exempt from Public Indecency Laws:
  28 states, the District of Columbia & the Virgin Islands

Minnesota law protects nursing mothers in all of these areas
No Preemption in Federal Law

Where a state law provides greater rights to employees (for example, by providing compensated break time, break time for exempt employees, or break time beyond one year after the child’s birth), state law will control.
TIME: Federal and Minnesota

Employer must provide:

• “reasonable break time... to express breast milk for her nursing child for 1 year after the child’s birth each time such employee has need to express the milk”
TIME: Federal and Minnesota

Breaks do not need to be paid if the employee is completely released from work duties:

However, if the employer provides paid breaks to other employees and the nursing mother uses that time to express milk, she must be compensated in the same way other employees are compensated for break time.
SPACE: Federal and Minnesota

- Shielded from view, near work area (if reasonable)
- Free from intrusion
- Includes an electrical outlet
- CANNOT be a bathroom
- Should be made available at the same time as other break times if possible
Related Federal Laws


• This includes reporting undocumented employees to INS

Employer cannot treat employee who takes breaks to nurse differently than employee who takes breaks for other personal reasons (42 U.S.C. § 1981a)
WHO does this apply to?

• Employees who work for an employer with one or more employees (MN law)
• Applies regardless of the mother’s citizenship status and whether she is legally permitted to work in the US (Fed law)
Recent Updates to MN Law

Minnesota’s law protecting nursing mothers was recently changed to allow someone who is injured by a violation of the law to bring a civil action to recover any and all damages, costs and disbursements (including reasonable attorney’s fees), and obtain injunctive and other equitable relief.
Wage and Hour Division (WHD)

Break Time for Nursing Mothers

Overview

The Patient Protection and Affordable Care Act ("Affordable Care Act") amended section 7 of the Fair Labor Standards Act ("FLSA") to require employers to provide reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth. Each time such employee has need to express the milk, employers are also required to provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk. The break time requirement became effective when the Affordable Care Act was signed into law on March 23, 2010. The Wage and Hour Fact Sheet #72, 'Break Time for Nursing Mothers under the FLSA' and the Frequently Asked Questions (FAQs) posted below provide basic information about the law.

Key News

- Request for Information on Break Time for Nursing Mothers, Federal Register 75: 00072-00079, (2010, December 21): This notice is a request for information from the public regarding the recent amendment to the FLSA that requires employers to provide reasonable break time and a place for nursing mothers to express breast milk for one year after the child's birth. The Department seeks information and comments for its review as it considers how best to help employers and employees understand the requirements of the law.
- Questions and Answers about the Request for Information
- Presidential Memorandum for the Director of the Office of Personnel Management
- OPM Guidance on Nursing Mothers in the Federal Workforce

General Guidance

- WHD Fact Sheet #72, Break Time for Nursing Mothers under the FLSA (Spanish Version)
Compliance & Communication
What is an effective policy?

- Easy to understand and follow
- Easy to enforce
- Accomplishes goals
- Includes periodic evaluation
Drafting Effective Policies

- be clear & concise
- be consistent
- be specific
- be practical
Workplace Policy Outline

Develop a lactation/breastfeeding policy or program for your workplace that includes:

• Statement of Support for Breastfeeding

• Employer Responsibilities
  – Staff Support
  – Time and Space

• Employee Responsibilities
  – Communication with supervisor
  – Maintenance of milk expression areas
  – Storage of milk
Best Practices

Policy for Supporting Breastfeeding Employees

In recognition of the well documented health advantages of breastfeeding for infants and mothers, [name of company] provides a supportive environment to enable breastfeeding employees to express their milk during work hours. This includes a company-wide lactation support program administered by [name of department].

[Name of company] subscribes to the following worksite support policy. This policy shall be communicated to all current employees and included in new employee orientation training.

Company Responsibilities
Breastfeeding employees who choose to continue providing their milk for their infants after returning to work shall receive:

- **Milk Expression Breaks**
  Breastfeeding employees are allowed to breastfeed or express milk during work hours using their normal breaks and meal times. For time that may be needed beyond the usual break times, employees may use personal leave or may make up the time as negotiated with their supervisors.

- **A Place to Express Milk**
  A private room (not a toilet stall or restroom) shall be available for employees to breastfeed or express milk. The room will be private and sanitary, located

http://www.womenshealth.gov/breastfeeding/business-case-for-breastfeeding.html
COMPANY RESPONSIBILITIES
Providing a Supportive Environment

- Formal support of breastfeeding in workplace policy, including a company-wide lactation support program.
- A breastfeeding support policy should be communicated to all employees and should be covered in new employee orientation.

Carver County’s Policy:

- “Carver County provides a supportive environment to enable breastfeeding employees to express their milk in privacy during work hours.”
Milk Expression Breaks

- Breastfeeding employees should be allowed to express milk during work hours using their normal breaks and meal times.
- If breastfeeding employees need additional time beyond breaks, they should communicate with supervisors.

Carver County’s Policy:

- "Milk Expression Breaks: Breastfeeding employees are allowed to breastfeed or express milk during work hours using their normal breaks and meal times. For time that may be needed beyond the usual break times, employees may use personal leave or may make up the time as negotiated with their supervisors."
A Place to Express Milk

- Breastfeeding employees should have access to private rooms to express milk at their workplace. Milk expression areas should be sanitary and contain an electrical outlet. They should also be located near a sink for washing hands or rinsing equipment.
- Milk expression areas should be separate from restrooms.
- Employees should also be given the option to express milk or breastfeed in their own private offices or in another agreed upon location.
Breastfeeding Equipment

• Employers should provide or subsidize electric breast pumps to assist employees with milk expression during work hours. The pump may be hospital-grade for use by multiple employees or a private portable pump to be retained by the employee.

• It should be clearly indicated in company policy what equipment is available, who has access to it (employees, partners of employees, the public), and whether it is provided free of charge.
Breastfeeding Education

- Employees should have access to prenatal and postpartum breastfeeding classes and information. Educational materials and classes should also be made available to employees’ partners.

- The Children’s Museum of Southern Minnesota provides prenatal and postpartum information and local resource materials to all mothers, fathers, and other museum staff interested in breastfeeding support information.
Staff Support

• Employers should strive to foster a supportive work environment for breastfeeding mothers. Supervisors should ensure that employees are made aware of the workplace lactation support program and negotiate policies to best serve each employee’s breastfeeding goals.

• ALL employees should be expected to comply with workplace policies that serve to create a positive atmosphere for mothers expressing milk.

Carver County’s Policy:

• **Supervisor’s are responsible for alerting employees about the policy or directing them to Employee Relations.**
EMPLOYEE RESPONSIBILITIES
Communication with Supervisors

- It is the responsibility of any employee who wishes to express milk during work hours to keep supervisors informed so that the needs of both the employee and employer may continue to be met and accommodations may be made if necessary.
Maintenance of Milk Expression Areas

- Employees who express milk at work should also be responsible for maintaining the cleanliness of milk expression areas. Areas and equipment should be wiped down with antimicrobial wipes after each use.
- This responsibility should extend to any area other than designated expression areas where employees may express milk while at work, regardless of whether the area is used by another employee.

Carver County’s Policy:

- Employees are responsible for cleaning after each use. Report large spills to Facilities for clean up.
Milk Storage

- Employees should always label expressed milk with their name and the date collected. This is to avoid confusion with another employee’s milk, or other items that may be stored in common food storage areas.
- Milk may be stored in an employer-provided refrigerator or personal coolers.
Break Times and Sign-In Logs

- Sign-in logs should be used when more than one employee needs to express milk while at work. These logs will assist in negotiating which times are most convenient or best meet the needs of each breastfeeding employee.

Carver County’s Policy:

- Requires the use of sign-in logs for any use of the two designated lactation rooms. Employees may also use these log sheets to provide comments or suggestions to Employee Relations.
Industry-Specific Examples

- Food Service
- Arts, Entertainment
- Construction
- Education
- Finance and Insurance
- Health Care
- Manufacturing
- Etc.

http://www.womenshealth.gov/breastfeeding/employer-solutions/industry.html
MINNESOTA BREASTFEEDING COALITION

BUSINESS CASE FOR BREASTFEEDING

The Minnesota Breastfeeding Coalition has received a grant from the U.S. Department of Health and Human Services Health Resources and Services Administration (HRSA) to implement the Business Case for Breastfeeding (BCFB).

The Minnesota Breastfeeding Coalition’s strategic plan to implement this program includes:

- Providing one-day or half-day trainings around the state to educate breastfeeding advocates on working with their local...
Success Stories:
Victoria Elementary School
Success Stories:
Park Nicollet in Chanhassen
Park Nicollet in Chanhassen
Park Nicollet in Chanhassen

• Posted guidelines and procedures for room
Success Stories: Farmington School District

- Designated and furnished a lactation room at each school (8 schools)
- Administrative support
- Flexible work schedule
- Developed a district breastfeeding procedure
- Developed an information packet for mothers-to-be and new mothers
- Communication
Farmington School District

Congratulations,

When you are ready to return to work, check out our new lactation room at each school. The school office has the key and procedures for use.

Your Wellness Committee
“Now, we can say we really take care of our kids from birth to grade 12.” – Superintendent Haugen at Board meeting

“Going back to work when you've got a young infant is challenging. Breastfeeding is very important to me. I had heard from a number of friends who stopped breastfeeding when they went back to work because they didn't have the space to pump. That has not been the case for me. My employer has been very supportive, providing both the time and facilities needed. It is because of this support that I have been able to (and plan to continue to) pump throughout my child's first year of life.” – new mom
Breastfeeding-Friendly Businesses in Carver County

Carver County Public Health can assist local businesses in developing a worksite Breastfeeding Support Program

- Breastfeeding support guidelines
- Private, dedicated lactation room
- Employee education materials
Breastfeeding Resource Bags

- Free for local businesses to distribute to expecting parents
- Submit breastfeeding support policy with order request
Breastfeeding-Friendly Recognized

• Launched fall 2014
• Application on MDH breastfeeding webpage
• Applications reviewed in February and August
• Receive certificate, posters, window cling(s) and sample media release
Additional Support

• Carver County
  Jean Pierson, Public Health Program Specialist
  jpierson@co.carver.mn.us
  (952) 361-1345

• Other MN Counties
  – Local Public Health Agency
  – Public Health Law Center
Questions?