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Brent D. Sherard, M.D., M.P.H., F.A.C.P., Director and State Health Officer

Governor Dave Freudenthal

## MEMORANDUM

**DATE:** November 30, 2010  
**TO:** WDH Employees  
**FROM:** Brent D. Sherard, M.D., M.P.H., F.A.C.P., Director and State Health Officer  
Wyoming Department of Health  
**SUBJECT:** Breastfeeding Support in the Workplace Policy  
**REF:** S-2010-168

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**Purpose:** Breastfeeding Support in the Workplace Policy

**Number:** XXXX

### Executive Summary

Supervisors and managers face a variety of challenges in maintaining healthy, balanced work environments that focus on worksite efficiency while supporting working families. This is difficult when the fastest growing segment of the United States (US) workforce is women with infants and children. In fact, one third of new mothers return to work within three months of giving birth, and two-thirds return to work within six months. This is of concern for working women who breastfeed, because working outside the home is related to shorter breastfeeding duration. Intention to work full time is also associated with lower rates of breastfeeding initiation and shorter duration. Workplace lactation accommodation, when coupled with adequate maternity leave, and protection against harassment, enables the majority of mothers to successfully breastfeed their infants.

Breastfeeding lowers maternal/infant health risks, and saves billions of healthcare dollars annually. Medical evidence shows that breastfeeding has multiple health benefits. The American Academy of Pediatrics and others recommend breastfeeding for at least twelve (12) months. The Wyoming Department of Health (WDH) will provide lactation accommodation in the workplace for women returning to work with a newborn breastfeeding infant. These women may bring their infant to work with them up to six (6) months of age or express breastmilk at work up to twelve (12) months of age. They should also have accommodation in regard to a clean, private, and secure place to breastfeed or express breastmilk that is not a bathroom, along with the necessary time, flexibility in the work schedule, and access to lactation support.

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**WDH Commitment**

The WDH is committed to promoting and supporting breastfeeding as the best source of nutrition for infants. This commitment includes providing a workplace environment, which is conducive to successful breastfeeding by employees who choose to breastfeed or express milk, and whenever possible, provide lactation support assistance.

**Rationale for Policy**

- Improve maternal child health outcomes for breastfeeding dyads (a breastfeeding couple that includes the mother and infant)
- Lower healthcare costs associated with healthier breastfed infants
- Reduced staff turnover and loss of skilled workers
- Reduced sick time for women who breastfeed, as their infants are more resistant to illness
- Higher job productivity, employee satisfaction, and morale
- Demonstration of concern for the welfare of its WDH employees and their families
- Modeling a workplace environment consistent with the WDH mission
- Reduces environmental costs of distribution and disposal of infant formula

**General Procedures**

Employees who wish to participate in the Breastfeeding Support in the Workplace Program will complete an application for lactation accommodation. On a case-by-case basis, WDH supervisors and managers will make a reasonable effort to work with employees who bring infants to work to breastfeed or who need to express breastmilk during work hours. This application will be reviewed by the immediate supervisor and approved by the Division Administrator. Lactation accommodation in the workplace will be defined during the application process, guided by Section Seven (7) of the *Fair Labor Standards Act (FLSA)*, with consideration for workplace environment and infant safety. It should include:

1. Reasonable flexibility in the work schedule for lactation breaks, not to exceed normal lunch and break time. If this time period is exceeded, sick and annual leave, or compensatory time may be used with prior supervisor approval.
2. A clean, private, secure area near the workplace to nurse or express breastmilk that is not a bathroom. If the space is not dedicated to the nursing mother's use, it must be available when needed. At a minimum, breastfeeding women must be shielded from view and free from intrusion from co-workers and the public.
3. Wherever possible, reasonable accommodation to provide a lactation area with the following: a comfortable chair, access to a hospital-grade breast pump, an electrical outlet, and a table, a refrigerator, or access to a refrigerator to store breastmilk, and a nearby sink for washing hands and breast pump, or hand sanitizer.
4. WDH will clearly communicate its support of employees who breastfeed and make available information on the benefits of breastfeeding and available educational materials.
5. An employee requesting to bring an infant to the workplace will be required to sign a waiver of liability, indemnification, and medical release (see Attachment A).
6. Employees who work in laboratories or with environmental toxins, contaminants, chemicals, or substances that may be harmful to infant health shall be exempt from this policy.

7. Employee eligibility to bring breastfed infants to work shall be terminated when:
  - (i) The infant is no longer breastfeeding or turns 180 days old, OR
  - (ii) The parent is no longer a WDH employee, OR
  - (iii) A decision has been made pursuant to the complaint process.
8. Any complaints about Breastfeeding Support in the Workplace shall be made first to the immediate supervisor, then to the Human Resources Division. They will investigate the complaint, and resolve the issue up to, and including revoking the parental eligibility to bring the child to work. Human Resources will notify the parent in writing of the ruling for termination of Breastfeeding Support in the Workplace eligibility.
9. WDH has the right to terminate employee eligibility to bring breastfed infants to work without cause, or retire the Breastfeeding Support in the Workplace Program in part or in its entirety with or without cause.
10. Harassment or discrimination of breastfeeding women in the workplace shall be prohibited. Such conduct creates an unfriendly, intimidating, or unreceptive work environment and interferes with employee work performance. Any incident of harassment shall be addressed in accordance with WDH policies for discrimination and harassment.

#### **WDH Responsibilities**

1. Communicate commitment to breastfeeding support to all WDH staff.
2. Provide support and coordination in identifying appropriate work space.
3. Periodically monitor implementation.
4. Harassment of breastfeeding women will be prohibited at the work site.
5. Any report of harassment will be resolved by Division Administrators with guidance from Human Resources.
6. Assure fair application of policy.
7. Provide lactation room(s) for WDH staff.
8. Provide funding for Breastfeeding Support in the Workplace Program.

#### **Human Resources Division Responsibilities**

1. Have available current evidence-based breastfeeding information to all new and expectant employees, and provide community lactation resources to expectant parents going on maternity or Family Medical Leave.
2. Provides training to all WDH staff on the Breastfeeding Support in the Workplace Policy and guidance to supervisors over lactation accommodation conflicts.
3. Serve as mediator for worksite issues, complaints, or conflicts over workplace lactation accommodation.
4. Keeps employee's Division Administrator and Community and Public Health Division Administrator informed of Breastfeeding Support in the Workplace issues.
5. Resolve any issues of discrimination or harassment surrounding Breastfeeding Support in the Workplace issues.

#### **Community and Public Health Division Responsibilities**

1. Provide an administrative home for the Breastfeeding Support in the Workplace Program, including the design, development, promotion, and administration of the

- Workplace Accommodation Program with guidance from the Breastfeeding Support in the Workplace Committee.
2. Assist with provision of hospital-grade electric breast pumps and lactation accommodation issues.
  3. Assist Human Resources with provision of breastfeeding information and community resources.
  4. Assist Human Resources with provision of Breastfeeding Support in the Workplace training.
  5. Monitor Breastfeeding Support in the Workplace in Department.

#### **Breastfeeding Employee's Administrator Responsibilities**

1. Identify and designate appropriate physical space within or close to work place. There may be situations where the dedicated lactation accommodation space is not in the immediate work area of the employee.
2. Make available through appropriate means information on breastfeeding, including resources for supporting successful breastfeeding. This may include posters, fliers, or newsletters.
3. Promote flexible scheduling and breaks to allow adequate time for employees that breastfeed to either express breastmilk, travel to nearby child care providers, or breastfeed their infant at the work site.
4. Monitor implementation of procedure in work site/facility; inform Division Administrator of needed revisions or enhancements.

#### **Supervisor/Management Responsibilities**

1. Inform employees of policy.
2. Managers and supervisors shall respond to any request for workplace accommodation in a timely manner, consistent with the *Breastfeeding Support in the Workplace Policy*.
3. With individual breastfeeding employees, assess and determine suitability to breastfeed an infant at the work site. If suitable:
  - (i) Agree upon a work/break schedule that allows adequate time for expressing breastmilk, breastfeeding infant at the work site, or when child care provider is close by, to breastfeed infant at the child care facility;
  - (ii) Review available space for lactation accommodation in work area;
  - (iii) Consult with Human Resources Division on any employee workplace lactation accommodation conflict.
3. Determine time period for which these scheduling arrangements are needed and appropriate.
4. Maintain a work place environment that communicates WDH's commitment to breastfeeding, including making available information on breastfeeding.
5. Monitor policy and procedures as implemented in work area. Inform Administrator of any needed revisions.

#### **Employee Responsibilities**

1. Inform supervisor of intent to breastfeed or express breastmilk, and of any workplace lactation accommodation needs.

2. Work with supervisor and Breastfeeding Support in the Workplace Program to facilitate lactation needs, including work schedule and breastfeeding support needs.
3. Consistently follow established lactation schedule, using breaks or flexible work hours to nurse, and using sick, annual leave or compensatory time to make up for extended lactation break periods.
4. Follow WDH procedures for scheduling use of lactation room or designated workspace.
5. Consistently keeps infant in employee or designated workspace.
6. Label breastmilk stored in lactation room or break room refrigerator with name and date.
7. Always leave lactation area, room, and equipment clean after use.
8. Immediately inform supervisor of any workplace accommodation issues or conflicts.
9. Responsible for purchasing single use breast pump kit and any appropriate furniture needed for infant care.
10. Does not carry non-State employees, including infant, in State vehicle. May carry infant in private vehicle with prior supervisor and Division Administrator approval.
11. At all times will avoid disruptive infant or lactation impact on the work environment by removing infant or making other childcare arrangements.
12. When a breastfed infant is brought to work, they must remain in the mother's designated workspace. The infant may be in other employee workspace with supervisor and co-worker approval. Consideration will be taken to ensure the environment is safe for the infant at all times.
13. A sick baby shall not be brought to work.
14. Understand that eligibility for lactation accommodation may be terminated at any time.
15. Once eligibility for participation in the Breastfeeding Support in the Workplace Program has been terminated, employee shall remove the infant from the workplace by the end of the week.

Approved this \_\_\_<sup>nd</sup> day of \_\_\_\_\_, 2012.

BDS/MB/bb

Attachment A

WAIVER, RELEASE OF ALL CLAIMS AND HOLD HARMLESS AGREEMENT FOR:  
WYOMING DEPARTMENT OF HEALTH  
BREASTFEEDING SUPPORT IN THE WORKPLACE PROGRAM

**PLEASE READ CAREFULLY**

Please read this form carefully and be aware that, in signing up and participating in the above program, you will be waiving and releasing all claims for injuries, arising out or sustained while participating in this workplace program, other than a valid Worker's Compensation claim.

In registering for the program, you are agreeing as follows:

- As a participant in the program, I recognize and acknowledge that there are certain risks, however minor, of physical injury. I agree to assume the full risk of any injuries, including death, damages, or loss, which I or my child may sustain as a result of participating in any and all activities connected with or associated with such program.
- I agree to waive and relinquish any and all claims that I or my child may have as a result of participating in the Wyoming Department of Health Breastfeeding Support in the Workplace Program against the State of Wyoming, any and all other participating or cooperating governmental units, officers, agents, servants, and employees of the governmental bodies for any injuries that I or my child might sustain while participating in the program, other than a valid Workers Compensation claim. (The parties described in the preceding sentence are referred to as "released parties" in the remainder of the Agreement).
- I hereby do fully release and discharge the State of Wyoming and the other released parties from any and all claims for injuries, including death, damage, or loss, which I or my child may have or, which may accrue to me or my heirs, by my participation in the program, other than a valid Worker's Compensation claim.
- I further understand and agree that the terms such as, "participation," "program," and "activities," referred to in this Agreement, include all actions taken and resulting from my participation in the program.
- I understand the nature of the program for which I am registering and have read and fully understand this Waiver, Release, and Hold Harmless Agreement. I further understand that any advisements or warnings of the particular risks of this program that I subsequently receive will be incorporated by reference into and become a part of this Agreement.

Name of Participant (please print) \_\_\_\_\_

Signature of Participant \_\_\_\_\_ Date \_\_\_\_\_