



This column informs members of important legislative issues in nursing and health care and encourages political activism. To share your ideas for this column or to contact the author, e-mail [nsnavicepresident@yahoo.com](mailto:nsnavicepresident@yahoo.com).

BY HONEY BEDDINGFIELD

"LEGISLATIVE INTERVENTIONS: CHANGING THE FUTURE OF NURSING"

# Breastfeeding and the Law

Imagine a new mother shopping at the local mall and stopping at a bench to breastfeed her baby. A police car drives by and an officer informs her that she is violating an indecent exposure law and must stop or she will be arrested. This scenario has already taken place in many states. Currently, thirty-nine states have enacted some form of legislation concerning breastfeeding; however, there is still a need for more specific guidelines. For example, if a

law is in place that simply defines breastfeeding as not falling under a criminal act, a woman can still be banned from public property while breastfeeding, or even fired for taking breaks to express milk (United States Breastfeeding Committee 2003).

It is well-known that breastfeeding is generally considered the best form of infant nutrition. There is compelling evidence that breastfed infants have a lower incidence of childhood illnesses such as respiratory tract infections, otitis media, urinary tract infections, bacterial meningitis, botulism, and others. In addition, studies reveal substantial health benefits to the mother, such as reduced risk of osteoporosis and breast cancer, faster loss of weight gained during pregnancy, and reduction in postpartum bleeding (United States Breastfeeding Committee 2003).

Despite the numerous health benefits, breastfeeding is not the appropriate choice for everyone. Women who take certain medications or test positive for HIV should not breastfeed due to the health risks to the infant. The goals of "Healthy People 2010," a government initiative to reduce preventable health threats, are to increase the

percentage of women in the United States choosing to breastfeed immediately postpartum from 64 percent (in 1998) to 75 percent, and to increase the number of women continuing to breastfeed at six months from 29 percent to 50 percent.

Breastfeeding offers a significant economic advantage to the parents as well as to the public over formula-fed babies. Government programs such as the "Special Supplemental Food Program for Women, Infants, and Children," (WIC) assist low income mothers and children by providing formula, and are funded by tax dollars. It has been estimated that an HMO could save as much as \$200 per infant due to hospitalizations, drug prescriptions and office visits during the first 12 months of life if the mother chooses to breastfeed (Hoey and Ware, 1997). In an analysis of several studies, it was estimated that the US would save \$3.6 billion dollars if the "Healthy People 2010" goals were met (Weimer, J., 2001). Achieving these goals requires not only educating the public, but also removing the many barriers that discourage many women from choosing to breastfeed (Healthy People 2010, 2001).

(Continued on p. 34)



(Continued from p. 32)

## Barriers to Breastfeeding

An article published in *Pediatrics* entitled “Breastfeeding and the Use of Human Milk” lists barriers that inhibit a woman’s decision to breastfeed (Gartner et al, 1997). They are:

- physician apathy and misinformation
- insufficient prenatal education
- disruptive hospital policies
- inappropriate interruption of breastfeeding
- early hospital discharge in some populations
- lack of timely routine follow-up care
- maternal employment
- lack of broad societal support
- media portrayal of bottle-feeding as normative
- commercial promotion of infant formula in hospital discharge packs
- coupons for free formula
- television and general magazine advertising

## Current Breastfeeding Legislation

Most state legislation addresses a woman’s right to breastfeed, but may not elaborate on what those rights may entail. Some states offer comprehensive laws that not only support a woman’s right to breastfeed, but offer support and encouragement. This type of legislation calls for: (1) allowing a woman to breastfeed in public even if her breast is exposed in an incidental act of breastfeeding; (2) broadening violations of discrimination laws to include stopping a woman from breastfeeding; (3) requiring employers to allow mothers unpaid break time to express milk as well as a private, sanitary place to do so;

(4) excusing women who are breastfeeding from jury duty if they choose; (5) allowing mothers in prison to breastfeed their infants; (6) requiring hospitals and providers of health care to offer education on breastfeeding and to provide a lactating consultant to patients. (Porter, 2003)

On the national level, the “Breastfeeding Promotion Act—HR2790” was introduced in the House by Rep. Carolyn Maloney of New York on July 18, 2003. This bill would serve four purposes: 1) amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers; 2) provide tax incentives for businesses that establish private, lactation areas in the workplace; 3) provide for a performance standard for breast pumps; and 4) allow breastfeeding equipment to be tax deductible for families. (HR 2790, 2003). The bill has currently been referred to the Committee on Ways and Means, the Committee on Energy and Commerce, and the Committee on Education and the Workforce.

## What Can We Do?

The first step toward change is to become informed. The resources listed at the end of this article provide in-depth information on breastfeeding and what legislative action has taken or will take place in your state. Take the time to learn about the issues and become proactive in your community. Call your state legislators to encourage their support of legislation that protects a women’s right to breastfeed. Write to insurance companies and HMOs to inform them of the economic savings of breastfeeding and to encourage them to reimburse for the cost of renting a breast pump. And finally, spread the word and encourage others to join with you in making a difference. ☺

## references

American Academy of Pediatrics Work Group on Breastfeeding, 1996 to 1997 (1997). Breastfeeding and the use of human milk. *Pediatrics*, 100(6), 1035-1039.

Hoey, Christine, RN, IBCLC and Julie Ware MD, IBCLC. Economic advantages of breastfeeding(sic) in an HMO setting: A pilot study. *Am J Man Care* 1997; 3:861-65

Healthy People 2010 (2001). Objective 16-19. Retrieved August 30, 2004 from [www.healthypeople.gov/Document/HTML/Volume2/16MICH.htm#\\_Toc494699668](http://www.healthypeople.gov/Document/HTML/Volume2/16MICH.htm#_Toc494699668)

Porter, D. (2003). Breast-feeding: Impact on Health, Employment and Society. CRS Report for Congress, 1-21.

Maloney, C. (2003). Breastfeeding Promotion Act H.R. 2790. 108th Congress, 1st Session, July 18th 2003. Retrieved September 10, 2004 from [www.breastfeeding.org/law/update2003.html](http://www.breastfeeding.org/law/update2003.html)

Weimer, D. United States Breastfeeding Committee (2003). State Breastfeeding Legislation. Retrieved August 30, 2003 from [www.usbreastfeeding.org/Issue-Papers/Legislation.pdf](http://www.usbreastfeeding.org/Issue-Papers/Legislation.pdf).

Weimer, J. (2001). The Economic Benefits of Breastfeeding: A Review and Analysis. Economic Research Service/USDA. Report 13. Retrieved from [www.ers.usda.gov/publications/fanrr13/fanrr13.pdf](http://www.ers.usda.gov/publications/fanrr13/fanrr13.pdf)

## resources

[www.usbreastfeeding.org](http://www.usbreastfeeding.org)

[www.lalecheleague.org/LawBills.html](http://www.lalecheleague.org/LawBills.html)

[www.healthypeople.gov/Document/HTML/Volume2/16MICH.htm#\\_Toc494699668](http://www.healthypeople.gov/Document/HTML/Volume2/16MICH.htm#_Toc494699668)

[www.house.gov/maloney/issues/breastfeeding/CRS\\_Report\\_on\\_State\\_Breastfeeding.pdf](http://www.house.gov/maloney/issues/breastfeeding/CRS_Report_on_State_Breastfeeding.pdf)

[www.house.gov/maloney/issues/breastfeeding/2790Summary.pdf](http://www.house.gov/maloney/issues/breastfeeding/2790Summary.pdf)

[www.ers.usda.gov/publications/fanrr13/fanrr13.pdf](http://www.ers.usda.gov/publications/fanrr13/fanrr13.pdf)

[www.ilca.org/](http://www.ilca.org/)

[www.medela.com/](http://www.medela.com/)

**Honey Beddingfield** is NSNA vice president and chair, Legislation/Education Committee. She is a nursing student at the University of Alabama in Huntsville.