

## PUBLIC HEALTH

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# Effectiveness in the Implantation of Law 155 of 2002 Ordering the Designation of Spaces for Breastfeeding in Government Agencies

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As part of an effort to promote and protect breastfeeding among working mothers in Puerto Rico, Public Law 427 was passed in December 2000. This law grants a paid breastfeeding daily break for milk extraction in the workplace. In support of this initiative Public Law 155 was passed in 2002 ordering Secretaries, Directors, Presidents and Public Administrators of the government of Puerto Rico to designate breastfeeding spaces in the workplaces. **Objective:** Describe the level of compliance with the dispositions of Law 155 in government agencies. **Methodology:** A cross sectional descriptive study was carried out. A sample of 28 government agencies was randomly selected, representing 25% of the total number of agencies, and a structured telephone interview was administered using an instrument made up of 6 premises. **Results:** All (100%) of the agencies had knowledge about the existence of this law, but only 50% had set up and equipped the spaces. Of these, all

had a table, a chair, and an electric outlet, 43% had available running water, and 71% provided a refrigerator for milk storage. Fifty three percent of the agencies reported having received followup communications to verify whether they were complying with the law, and 61% reported having a written public policy in support of breastfeeding for working mothers. Only 54% of the agencies stated they had offered some type of orientation to their women employees regarding their breastfeeding rights. **Conclusions:** In spite of over two years since the passing of Law 155, the majority of government agencies in Puerto Rico have not complied with its legal dispositions. It is necessary that the responsible entities watch for the satisfactory compliance with this law since working mothers need a secure and accesible place for milk extraction during the working day.

*Key words: Breastfeeding, Legislation, Work, Milk extraction, Breastfeeding spaces, Government agencies*

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**M**otherhood is a very important topic for working mothers and has a prominent place for the International Labor Organization (ILO). Since its foundation in 1919, ILO adopted its first convention relative to the protection of maternity, setting such basic principles as the right to receive medical assistance, job security, and the right to breastfeeding breaks during the work day (1).

The last decades have witnessed a considerable increase in women's participation in the workforce at the global level, and thus the number of women who spend most of their lives at work is increasing. The worldwide economic activity index for women has gone from 54% in 1950 to 66% in 1990, and it is probable that it will reach

70% by the year 2010. In the early twentieth century women joined the work force, but many abandoned it after a few years to raise their children. By 1950 the global rate increased to 59% in the cohort of women aged 20-24 years. By 1990, the rate increased considerably as women increased their participation in the work force (1).

The job market suffered similar changes in Puerto Rico by the decade of 1950, and allowed for the entry of women into the industrial work force. Industrialization and urban growth altered the traditional family relationships as a consequence of the industrial capitalist system's need for a skilled working class, albeit not necessarily well paid. A. Parrilla and J. J. Gorrín Peralta have pointed out that medicalization and technology were key elements for this period, in which the health indicators of the Puerto Rican people improved significantly. A negative consequence, however, was an increase in the utilization of artificial milk and a significant reduction in breastfeeding (2). The number of working mothers has increased progressively in the second half of the past century, and continues to do so. Since 1950, the number of women in the work force has

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increased over 200%. As a consequence of this evolution, the number of women who work during their reproductive years has increased, which creates a growing need for the protection of the rights of women during their maternity periods (3). For this purpose, not only is medical attention important, but it is vital that mothers have paid maternity leave.

The Puerto Rico Department of Health (PRDOH) approved in 1995 its Public Policy for the Promotion of Breastfeeding which recognizes the importance of health promotion and disease prevention as an effective and cost-efficient strategy towards the achievement of optimal health (4). One of its goals is the creation of legislation which guarantees the rights of the breastfeeding mother.

By the year 2002 the PRDOH found that 54.3% of mothers were breastfeeding in the immediate postpartum period, while 91.2% planned to breastfeed once discharged from the hospital (5). A later study carried out at the baby's first birthday sought evidence on the need for the development of strategies for breastfeeding promotion. Of the total number of mothers who responded, 20.4% was breastfeeding at the moment of the interview, while only 8.5% were still breastfeeding after one year.

The World Health Organization (WHO) has issued a report on breastfeeding which indicates that the rights recognized to pregnant women constitute the basis of the necessary support system for successful breastfeeding (6). In the labor environment some corporations have introduced favorable policies and practices for the working mothers. Economic benefits promote a reduction in health insurance costs. The results of an internal research study carried out by Kaiser Permanente, an important health insurance organization in the United States, have confirmed that breastfeeding support policies in the workplace not only provoke long term improvements in the health of mothers and children, but also significantly reduce health care costs by decreasing the need for medical visits, drug prescriptions, and hospitalizations for children during their first year of life (7).

Valdés et al found that Chilean mothers who practice exclusive breastfeeding while working had 2.8 times less absenteeism than non-breastfeeding mothers, and their loyalty to the employer was directly proportional to the company's support for breastfeeding (8). A study of the breastfeeding program of the Los Angeles Department of Power and Water (LADPW) found that breastfeeding employees had less absenteeism due to illness of their baby, had an increase in employees' loyalty, improved productivity, better recruitment results, and an improvement in the company's image among mothers who participated in the program (9). The company found, moreover, that they had been losing one million dollars

annually, prior to the breastfeeding support policy, due to those women employees who chose not to return to work after delivery, not counting the annual health care costs of approximately \$70 million. After the introduction of the breastfeeding support program, absenteeism was reduced by 20%, and health care visits by 35%. Active support for breastfeeding mothers had the consequence of a \$7 million saving, and for every dollar invested in the breastfeeding program the company recuperated \$3.50-\$5.00 (9).

Breastfeeding support programs are considered by these companies as an investment in function of their cost since they reduce absenteeism to a minimum as well as reduced personnel turnover. These programs, moreover, are viewed by many employees as favorable to their efforts to balance their professional and family responsibilities.

Recommendation #95 on the 1952 Maternity Protection Convention encourages companies to set up facilities for breastfeeding, and for pertinent assistance to be offered during the workday (1). A typical scenario includes a room where mothers can milk themselves and save the milk in a refrigerator. A pump is sometimes provided, as well as appropriate recipients for transportation to the home. All these services are well received by the working mothers who cannot have their babies with them in the workplace, nor can they go home during their breastfeeding breaks.

There are cases, on the other hand, where breastfeeding mothers have to choose between weaning their baby prior to the recommended age, or use unhealthy environments for milk extraction in the workplace, such as a toilet or a locker room. Both options raise health concerns. Moreover, if the breastfeeding spaces are not suitably located and clearly identified, breastfeeding mothers could be subjected to lack of privacy and indiscretions from co-workers. The physical equipment needed for a breastfeeding room is very simple. A table, some chairs, clean running water, an electric outlet, and, in the best scenario, a refrigerator for storage of the milk. In spite of this, many workplaces continue to lack these installations.

In the last few years we have seen a growing interest in the Puerto Rico legislative assembly for laws which protect breastfeeding women, and their right to continue breastfeeding. Several bills presented in the House and in the Senate demonstrate this, and although over half of them are still pending approval, and have been referred to different commissions for evaluation and recommendations, there certainly is a genuine interest for improving the working conditions of mothers.

Law #427 was passed on December 16, 2000, regulating the period for breastfeeding or milk extraction (10). This law grants a total of 30 minutes during the regular work day to mothers working full time for breastfeeding or milk extraction for 12 months from the day they return to work.

Analyzing this law, the Puerto Rico chapter of the International Baby Food Action Network (IBFAN), and the Project for the Promotion of Human Lactation and Breastfeeding of the Maternal and Child Health Program, Medical Sciences Campus, University of Puerto Rico, recommended increasing the breastfeeding license to two 30 minute periods, or three 20 minute periods, for breastfeeding or milk extraction. Another recommendation made was to include the mother working part-time, so as to guarantee her rights also (11).

Law #155 was passed in 2002, ordering Department Secretaries, Executive Directors of agencies, Presidents of public corporations, and directors and administrators of agencies of the government of Puerto Rico to designate spaces for breastfeeding which guarantee the right to privacy of breastfeeding mothers in the workplace (12). This law specified that these directors should designate a space or area for the use of the breastfeeding mother no later than one year after the signing of the law, something which occurred on August 10, 2002.

With the purpose of developing a health care system which supports mothers in breastfeeding, aids in preventing problems, and helps mothers in overcoming barriers found for breastfeeding, Public Law #79, March 13, 2004, prohibits the administration of breast milk substitutes to newborns, unless for a valid medical indication or with the consent of the parents or legal guardian (13).

### Methodology

For the purpose of investigating whether government agencies are in full compliance with the dispositions of Law #155 of 2002, which orders the designation of breastfeeding spaces for working mothers, and to corroborate whether any monitoring has been performed by any government agency to verify compliance with the law, a cross sectional descriptive study was designed. A random sample was selected from a universe of 117 agencies of the government of Puerto Rico, according to the list of agency heads provided by the Department of State. This sample was 25% of the total number of agencies and was made up of 30 government agencies.

The type of measuring instrument selected for the study was a previously standardized questionnaire made up of six questions. The questions were asked in the same sequence and with the same terms. The answers were Yes, No, or I do not know, with the exception of the third question, for which as many as six options could be chosen.

The chosen method for the administration of the interview was the telephone interview. Contact was

initiated with the Office of Human Resources of each interviewed agency, and referral to the appropriate office or division was thus secured. Among the persons answering the questions there were directors, supervisors, secretaries, office clerks, analysts, officials, employee services representatives, special assistants, health and security specialists, executive personnel, assistant directors, and consultants. Two of the agencies requested that the questionnaire be faxed to them, which were answered and returned. In two cases there was nobody available for the interview, for a total of 28 interviewed agencies.

### Results

**Knowledge about the passing of the law.** All the interviewees answered yes to the question on whether they knew about the existence of Law 155 of 2002 ordering the designation of spaces for breastfeeding in government agencies.

**Spaces available for breastfeeding.** Upon being asked if they had available breastfeeding spaces, only 14 agencies (50%) said they did, while the other 14 (50%) stated they had no space for that purpose.

**Physical facilities.** To obtain an idea regarding the facilities in these spaces, we included a list of six options which the interviewee would check if present in the breastfeeding room (Table #1). Of the 14 agencies which

**Table 1.** Physical facilities in government agencies providing breastfeeding spaces

Facility	Available		Not available	
	n	%	n	%
Hand washing stand	14	100	0	0
Table	14	100	0	0
Chair	14	100	0	0
Electric outlet	14	100	0	0
Running water	6	42.9	8	57.1
Refrigerator	10	71.4	4	28.6

said they had a breastfeeding room, 100% said they had table, chairs and electric outlet. Six of them (43%) said they had running water for the mothers, and 10 (71%) said they had a refrigerator for storage of milk.

**Followup by some government agency.** Upon being asked if they had received some type of followup by any government agency to verify compliance with the law, 10 (36%) answered affirmatively and 16 (57%) answered in the negative. Two agencies (7%) stated they did not know if any type of followup had been made. As a matter of fact, four of the agencies which answered affirmatively (14%) said that the Office for the Ombudswoman for Women had been the one to call.

**Breastfeeding support policy for working mothers.** Seventeen agencies (61%) said they had a written public policy in support of breastfeeding for working mothers, although eleven of them (39%) said they did not have one. Of the 14 agencies which stated they did not have a breastfeeding room in the second question, three of them had developed a breastfeeding support policy.

**Education to the working mother on breastfeeding rights.** The final question was whether any type of orientation had been offered to working mothers regarding their breastfeeding rights. Fifteen agencies (54%) said they had, and 13 (46%) said they had not. This finding is in contrast with the 14 agencies which answered they had created a breastfeeding space, since one of those who stated they did not have the space oriented the mothers on their rights. One of the agencies which answered positively, representing 4%, indicated that the Central Office of Labor Advice and Human Resources (OCALARH, for the initials in Spanish), had offered an orientation talk to the mothers.

## Discussion

Section 20, Article II, of the Bill of Rights of the Constitution of Puerto Rico, recognizes, among human rights, “the right of every pregnant or lactating woman, and the right of every child, to receive special care and assistance”. (14). One way for a better definition of the intention of our Constitution is through the Law for the Protection of the Working Mother, of 1942 (15). This law was created to establish the right of working mothers to a four week period of rest before delivery and four weeks postpartum, with the employer having to pay the woman her full salary during that period, and including the mother who adopts. The employer must protect and guarantee the woman’s employment, and must not terminate her employment without just cause, adding that the diminished productivity which could occur during the pregnancy is not considered just cause. These dispositions guarantees the right of every woman to work without ill effects on her physical and emotional health and without a negative effect on family income.

Law 155 clearly expresses the government’s public policy to provide working mothers with the necessary mechanisms in order for infants to receive the correct nutrition, and thus contribute to the development of healthy and productive citizens (12). This policy extends to all agency chiefs in the government. Without their support it is impossible to achieve recognition of the need to implant supportive policies for working mothers.

The results of this study show that one half of the government agencies evaluated are not complying with

Law 155, since they have not designated and equipped breastfeeding spaces which provide the breastfeeding mother with the necessary privacy, And, while all agencies had knowledge about the existence of this law, one half of them had not complied with its dispositions. One important aspect of this law is that it does not specify who will be responsible for monitoring for compliance, and while the Office of the Ombudswoman for Women has taken the initiative of monitoring some agencies, it cannot do much to force compliance. No penalties are fixed by this law for non-complying agencies. This situation provides a situation where agencies are fundamentally free to decide whether to comply with the law or not, adversely affecting working mothers who need this space for milk extraction.

It is important that bills be passed which guarantee that the spaces designed for breastfeeding provide privacy, security and hygiene, avoiding placing them in places like lavatories, and charging the Office of the Ombudswoman for Women as the government agency responsible for full compliance with these laws. Responsibilities and penalties should be set on the non-compliant agencies and the Office of the Ombudswoman for Women empowered to do the monitoring and impose sanctions on these agencies.

In spite of the existence of many laws for the protection of women, the described situation demands that the position assumed by the government of Puerto Rico be a stronger one, and provide for the return of breastfeeding as the cultural norm in the Puerto Rican society. The promotion of the rights of breastfeeding working mothers requires an orientation and education campaign which utilizes the Department of Health, the Office of the Ombudswoman for Women, employers and labor unions. The latter should bring to the collective bargaining table the issue of the right of working mothers to breastfeed.

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