

SAMBA 2024 Annual Meeting

May 2-4, 2024

Caring for the Ambulatory Anesthesiologists

- **Lactation in the Workplace:** Kara M. Barnett, MD, FASA, SAMBA-F
- **Part Time vs. Full time:** Jamey E. Eklund, MD
- **Back to the Job After a Long Leave or Short-Lived Retirement:** Anjana Kundu, MD, ABHIM, FAAP
- **Workplace Psychology/Engagement and the Multi Generational Workforce:** Elizabeth W. Duggan, MD, MA

Dr. Rebecca S. Twersky Research Award Presentation

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Lactation in the Workplace

Kara M. Barnett, MD, FASA, SAMBA-F

Memorial Sloan Kettering Cancer Center

Director of Anesthesia Services, MSK Monmouth

Society for Ambulatory Anesthesia Director

BarnettK@mskcc.org

No Disclosures

Objectives

- Identify appropriate locations for breast milk expression.
- Discuss workplace barriers to lactation for anesthesia clinicians.
- Establish what you can do to support lactating colleagues at work.

Assumptions



Maternal Discrimination

Characteristic	Respondents, No. (%)		OR (CI) for Experiencing Maternal Discrimination ^b	P Value
	Total (N = 5782)	Experienced Maternal Discrimination ^a (n = 2070)		
Medical specialty				
Anesthesia	187 (3.2)	88 (47.1)	1.92 (1.32-2.80)	<.001
Dermatology	103 (1.8)	39 (37.9)	1.32 (0.83-2.11)	.24
Emergency medicine	516 (8.9)	214 (41.5)	1.54 (1.16-2.06)	.003
Family medicine	950 (16.4)	335 (35.3)	1.15 (0.87-1.52)	.32
Internal medicine	1291 (22.3)	462 (35.8)	1.23 (0.95-1.60)	.12
Neurology	139 (2.4)	55 (39.6)	1.36 (0.91-2.03)	.14
Obstetrics-gynecology	709 (12.3)	244 (34.4)	1.22 (0.91-1.65)	.19
Ophthalmology	96 (1.7)	42 (43.8)	1.85 (1.14-3.00)	.01
Pathology	95 (1.6)	36 (37.9)	1.27 (0.78-2.07)	.34
Pediatrics	1166 (20.2)	372 (31.9)	0.98 (0.75-1.27)	.86
Psychiatry	314 (5.4)	103 (32.8)	1.02 (0.72-1.44)	.92
Radiology	109 (1.9)	41 (37.6)	1.43 (0.90-2.29)	.13
Surgery	278 (4.8)	117 (42.1)	1.57 (1.11-2.22)	.01
Other	61 (1.1)	18 (29.5)	0.84 (0.46-1.54)	.58

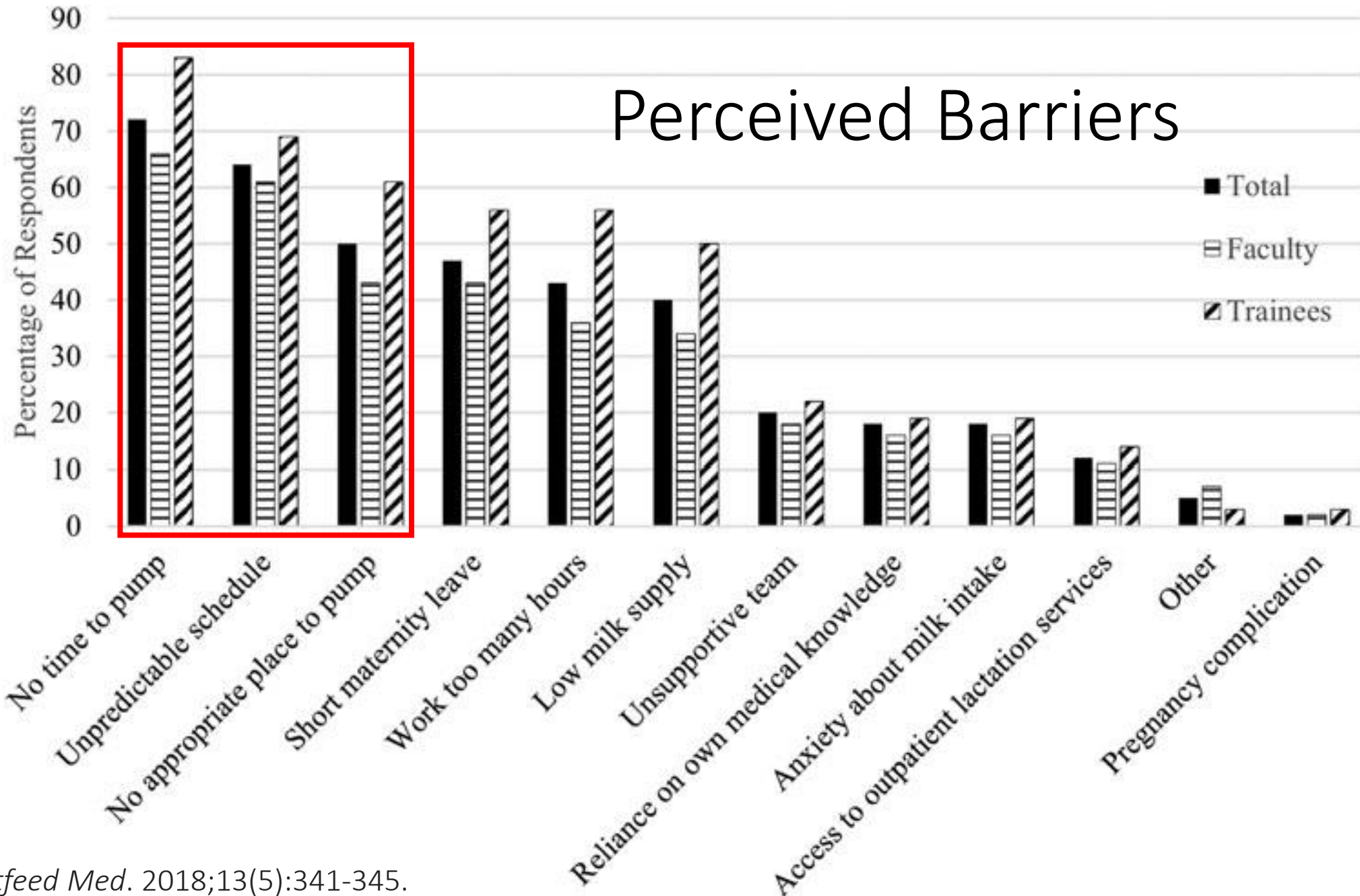
JAMA Intern Med. 2017;177(7):1033-1036.

Perceived Barriers



Anesth Analg. 2020 Oct;131(4):1304-1307.

Perceived Barriers



Breastfeed Med. 2018;13(5):341-345.

Federal Law: PUMP Act



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

Break Time to Pump Breast Milk

Most employees have the right to take reasonable break time to express breast milk for their nursing child. For **one year after the child's birth**, covered employees may take reasonable break time **"each time such employee has need to express the milk."** An employer may not deny a covered employee a needed break to pump.

The frequency and duration of breaks needed to express milk will likely vary depending on factors related to the nursing employee and the child.

Factors such as the location of the space and the steps reasonably necessary to express breast milk, such as pump setup, can also affect the duration of time an employee will need to express milk.

Employees who telework are eligible to take pump breaks under the FLSA.

Private Space to Pump Breast Milk

Covered employees must be provided with "a place, other than a bathroom and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk." Under the FLSA, a bathroom, even if private, is not a place that the employer to provide for pumping breast milk.

The location provided must be functional as a space for expressing breast milk. If the space is not dedicated to the nursing employee's use, it must be available when needed by the nursing employee to meet the statutory requirement. A space temporarily created or converted for the use of expressing breast milk or made available when needed by the nursing employee provided that the space is shielded from view and free from any intrusion from coworkers and the public.

Workers who telework must also be free from observation by any employer using a video system, including computer camera, security camera, or web camera.

Covered Employees

As of December 29, 2022, nearly all FLSA-covered employees have the right to access an appropriate space to express breast milk for a nursing child for one year after the child's birth. For more information about FLSA coverage, see [Fact Sheet #9](#).

Certain employees of airlines, railroads, and motorcoach carriers are exempt from the protections under the FLSA. Employees who are exempted may be entitled to similar protections under State or local laws.

Employers with fewer than 50 employees are not subject to the FLSA requirements if compliance with the provision would impose an undue hardship. Compliance would be an undue hardship is determined by looking at the size, financial resources, and the structure of the employer's business. All employees who work for the covered employer, regardless of their work site, are counted when determining whether this exemption may apply.

Examples

- Julia cleans guest rooms at hotels on weekends. Julia is entitled to break time and space under the FLSA for one year after the birth of a child.
- Sam is a registered nurse who is exempt from receiving overtime pay under the FLSA. Beginning on December 29, 2022, Sam is entitled to break time and space for one year after the birth of a child.
- Irina is the shift manager at a fast-food restaurant with several locations and meets all requirements to be exempt from overtime pay requirements under the FLSA. When Irina returns to work after the birth of her child in March of 2023, in order to comply with the law, her employer provides an office to take four breaks a day of 25 minutes each to pump breast milk for the nursing child.

Compensation for Break Time to Pump Breast Milk

Under the FLSA, when an employee is using break time at work to express breast milk they either:

- Must be completely relieved from duty; or
- Must be paid for the break time.

Further, when employers provide paid breaks, an employee who uses such break time to express breast milk must be compensated in the same way that other employees are compensated for break time.

For more information about time that must be compensated, see [Fact Sheet #9](#).

Examples

- Madison works on a farm. Madison's employer provides all employees with rest breaks each day. Madison chooses to use both of the paid 15-minute breaks to express breast milk for her 6-month-old infant. If Madison needs additional breaks to pump breast milk, her break time does not have to be compensated as long as Madison does not work during the breaks.
- Peyton is a third-grade teacher. Under the FLSA, Peyton is entitled to time to express breast milk in a private space. Peyton chooses to grade papers and complete student work during the break. Peyton must be compensated for the time spent pumping breast milk. Peyton must be compensated for the time spent pumping breast milk at the same time.
- Lauren's employer requires all employees to attend a team-building meeting every Thursday. Lauren requests break time to pump during the Thursday meeting. If the employer denies her request in violation of the FLSA, Lauren must be paid for the time spent attending the meeting and must be permitted time and space to pump.

FLSA Prohibitions on Retaliation

It is a violation of the FLSA for any person to "discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, or has served or is about to serve on an industry committee." Employees are protected regardless of whether the complaint is made orally or in writing. Complaints made to the Wage and Hour Division are protected, and most courts have ruled that internal complaints to an employer are also protected.

Example

- Leslie is a delivery truck driver for a department store and takes breaks to pump breast milk a couple of times each day. The supervisor complains that the breaks are interfering with the delivery schedule and moves Leslie to a lower-paying job as a result.

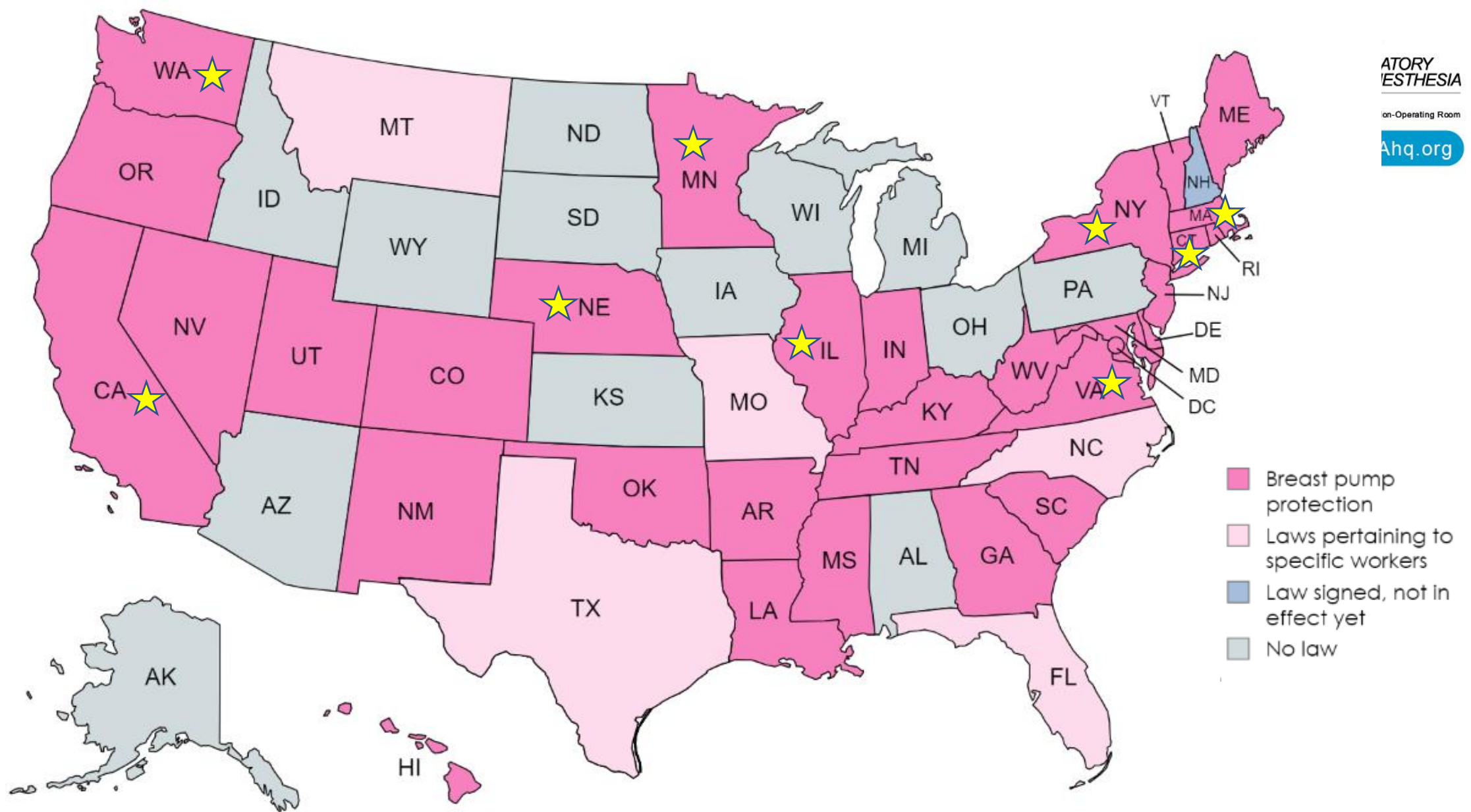
In this example, Leslie has experienced unlawful retaliation under the FLSA.

Remedies for Violations

Beginning April 28, 2023, an employer who violates an employee's right to reasonable break time and space to pump breast milk will be liable for appropriate legal or equitable remedies under the FLSA. Remedies may include employment, reinstatement, promotion, and the payment of wages lost and an additional equal amount as liquidated damages, compensatory damages and make-whole relief, such as economic losses that resulted from violations, and punitive damages where appropriate. These remedies are available regardless of whether the employee has also experienced retaliation.*

An employee may file a complaint with the Wage and Hour Division or may file a private cause of action seeking appropriate remedies. Special procedures may apply to filing a private action where an employer has failed to provide an employee with an appropriate space to pump. Special procedures **do not apply** before an employee or other party can file a complaint with the Wage and Hour Division or when an employee brings a private suit to enforce the reasonable break time requirement.

*Please Note: Before April 28, 2023, remedies for violations of the reasonable break time and space requirements of the FLSA are limited to unpaid minimum or overtime wages. An employee who experienced retaliation may also seek additional remedies including, but not limited to, employment, reinstatement, lost wages and an additional equal amount as liquidated damages, compensatory damages, and punitive damages.



<https://pregnantatwork.org/workplace-lactation-laws/?location=nc#fedlaw> <https://www.ncsl.org/health/breastfeeding-state-laws> <https://www.pregnantatwork.org/wp-content/uploads/State-Workplace-Breastfeeding-Laws-Printable.pdf>

Statement on Lactation Among Anesthesia Clinicians

Developed by: Committee on Young Physicians

Approved by: ASA House of Delegates on October 13, 2021

[Download PDF](#)

The ASA recognizes the needs of women physician anesthesiologists, anesthesiology residents and fellows, anesthesiologist assistants, and nurse anesthetists who are breastfeeding. Breast milk is the recommended source of nutrition for infants, and breastfeeding has independent benefits for the physical and psychological health of both parent and child. To continue producing an adequate breast milk supply and to avoid complications associated with delays in expressing milk, an individual who is breastfeeding and pumping should have the same freedom in the clinical workplace to address lactation-related needs as any person has to address other medical conditions.

Employers should develop lactation policies that, at minimum, comply with applicable state, local, and federal laws. When possible, the ASA supports the following recommendations regarding lactation:

1. Physician anesthesiologists, trainees, anesthesiologist assistants or nurse anesthetists who intend to breastfeed must be allowed flexibility to support expressing breast milk while at work ("pumping"). Reasonable break time for pumping and a location (other than a bathroom) that is shielded from view and free from intrusion from coworkers and the public to express breast milk should be provided when needed.
2. Lactation rooms should be clean, with a sink and a refrigerator for breast milk storage. They should be located in close proximity to clinical responsibilities and/or the operating room (OR), to allow individuals to be near to clinical care and reduce transit time. If possible, the rooms should have a phone and a computer that may allow the clinician to continue communication regarding clinical care, if necessary, while pumping.
3. Members of the anesthesia care team working in the OR may require break relief and/or coverage to allow for pumping sessions that are adequate in length and frequency, as determined by the nursing individual. Those who require time for pumping must inform their department, program director, and/or break coordinator to allocate personnel and resources for the necessary lactation sessions.
4. Some physician anesthesiologists, trainees, anesthesiologist assistants, or nurse anesthetists may utilize a wearable breast pump in a clinical setting or the OR. According to both the Occupational Safety and Health Administration (OSHA) and the Center for Disease Control and Prevention (CDC), contact with human breast milk is not an infectious hazard. Standard OR attire (scrubs, mask, hair covering, gloves) should be used if the pump is worn in the OR and the wearable pump should be placed and removed in a non-clinical environment. A wearable breast pump is not a source of distraction from patient care nor does it interfere with the individual's ability to participate in clinical care or respond to an emergency. While a wearable breast pump is convenient, its performance is inferior to traditional pumps and may not be an appropriate device for some lactating individuals. Additionally, the availability of a wearable breast pump is not a valid reason to reduce or deny sufficient breaks or facilities for pumping or ensuring milk supply.
5. A supportive work culture for individuals who are breastfeeding and pumping must be established by providing education about lactation and the needs of lactating clinicians.

All institutions and practices should evaluate their clinical operations to comply with these recommendations when possible in order to assist breastfeeding individuals. These recommendations are consistent with those from other specialty societies including the American College of Surgeons, Association of Women Surgeons, American Academy of Family Physicians, American College of Emergency Physicians, American Academy of Pediatrics, and Society of Interventional Radiology.

“A **supportive** work **culture** for individuals who are breastfeeding and pumping must be established by providing **education** about lactation and the **needs** of lactating clinicians.”

<https://www.asahq.org/standards-and-practice-parameters/>

Flexibility & Support!



DEMAND

SUPPLY



Break Coordination:

Adequate

- ✓ Length
- ✓ Frequency

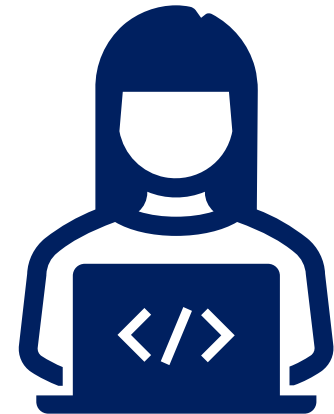
Where



Where



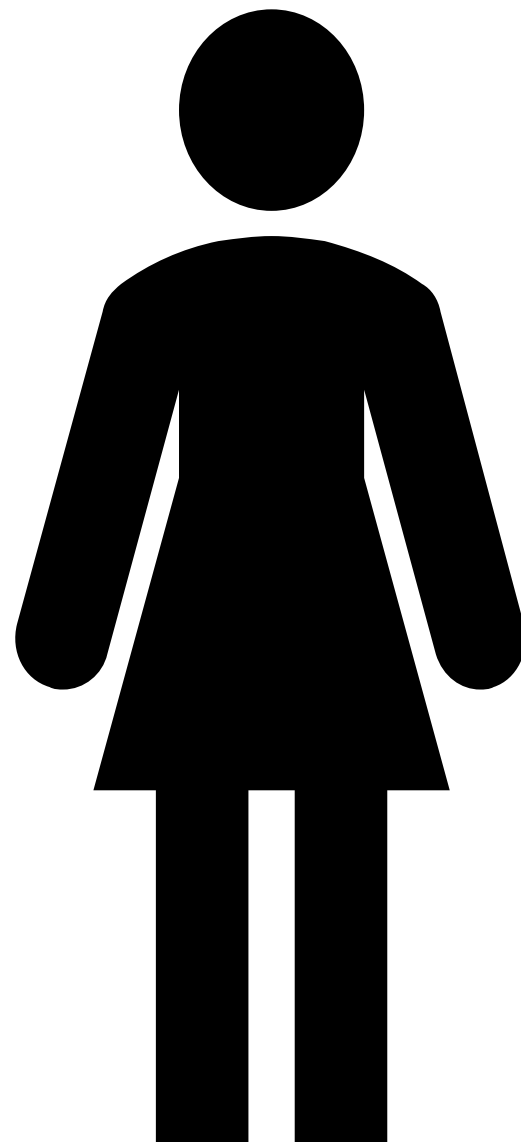
Close to Clinical Areas!



Wearable Pumps:



A long time ago in a galaxy far,
far away....





Workplace Interventions

↑ Duration of
Breastfeeding



↓ Early Intro of
BM Substitutes

Int J Equity Health. 2021;20(1):110.

Summary

