



Commissioner Brad Avakian
Bureau of Labor and Industries

**EXPRESSION OF MILK
ADVISORY COMMITTEE (EMAC)**

DRAFT Minutes
July 18, 2008
10:00-12:00pm

Members present: Maye Thompson, Connie Ashbrook, Diane Garrett, Tricia Yates, Katelyn Oldham

Alternates present for: BethAnne Darby (Lindsay Capps), Susan Woodbury (Krisin Sasseen)

Members absent: Bill Perry, Ryan Deckert

BOLI Staff present: Amy K. Klare, Christie Hammond, Marcia Ohlemiller, Kate Newhall, Bob Estabrook

The Advisory Committee was welcomed to its first meeting at 10:08am by Oregon Labor Commissioner Brad Avakian. The Commissioner thanked EMAC members for their willingness to serve on EMAC and consider new and complex issues related to the implementation of the new law; he also emphasized how important the work of EMAC is going to be in continuing efforts to bring equality to the workplace.

Overview of HB 2372: C. Hammond reviewed the bill that established EMAC and expression of milk breaks in Oregon. She highlighted several important features of the law, including:

- Expression break time is paid time inasmuch as a standard rest break is required to be paid (generally about 10 of the max. 30 minutes per 4 hour shift).
- Mothers are only eligible for expression breaks until their child reaches 18 months.
- The law only applies to employers of 25 or more employees.
- Even executive, administrative, and professional employees exempt from the standard rest break laws are covered by this law.

OARs and Rulemaking: M. Ohlemiller discussed the experience of writing administrative rules for expression of milk in the workplace.

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The process included an advisory committee far larger than is usually convened by BOLI. In addition to describing the established rules, she noted:

- Rules regarding expression breaks are closely interrelated to the standard rest break rules.
- Employers are required to make a “reasonable effort” in providing a safe, private location for expression. She noted that many employers lack existing facilities that meet the established standards.
- Employers need not provide a refrigerator for storing expressed milk, but if one is provided to employees for general use, employers must allow use of it to store milk. The employee must also be permitted the option of using a personal cooler or other appropriate storage for expressed milk.
- During the public comment period of rulemaking, several issues were raised, related to: collective bargaining agreements, use of paid leave time and what constitutes a “public” restroom (i.e. restrooms open only to employees and not the general public are still considered “public”).

Accommodation Issues: A. Klare discussed the concepts of reasonable accommodation and undue hardship under the Americans with Disabilities Act and the Oregon disability law, which are probably the most analogous laws in terms of accommodation requirements. She emphasized that the standard for “undue hardship” is based not on assumptions, but requires an employer to define the cost of the specific accommodation and show why it’s too great a burden.

Update on Complaints Filed: C. Hammond reported that, to date, one complaint has been filed with BOLI regarding an employer (RiteAid) failing to make accommodations for an employee under this law. There were a series of miscommunications between employee and employer, caused in large part by employer’s lack of awareness and understanding of the new law’s requirements. Employer has signed a compliance agreement with BOLI, and the case is closed.

Outreach Update: Amelia Psmythe, Executive Director of Nursing Mother’s Counsel and Coordinator for the Breastfeeding Coalition of Oregon, provided a written report to the Committee describing outreach and education efforts related to the new law and its requirements. She also presented the new “Business Case for Breastfeeding Toolkit”, which contains information resources for working with employers to

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achieve compliance and reasonable accommodations. She also noted that they are developing a statewide system of training coordinators to help educate employers.

Review/Adoption of Committee Policies: K. Newhall presented the draft policies for Committee consideration. Committee discussion included:

- Clarification that draft minutes will be posted in a reasonable time after a Committee meeting, and adopted officially at the following Committee meeting. Language amended.
- Consensus that Committee members would like to have authority to designate an alternate(s) separate from simply sending a stand-in to a meeting. Language amended.

Motion by C. Ashbrook to adopt Committee policies as amended, seconded by Katelyn Oldham, passed unanimously. K. Newhall to send revised policies to members via email. She requested that members alert her if they saw anything inaccurate in the adopted revisions by July 16, 2008.

Motion by Lindsey Capps to elect Diane Garrett and Maye Thompson as EMAC Co-Chairs, seconded by Tricia Yates, passed unanimously.

Consideration of New Appointment: Shelby Nemecek, a manager at Standard Insurance (approximately 2,000 employees), described her experiences as a nursing mother both before and after Standard implemented an accommodation policy. She answered brief Committee questions.

Motion by Tricia Yates to recommend appointment of Shelby Nemecek to EMAC, seconded by Katelyn Oldham, passed unanimously.

Motion at 11:59am by Connie Ashbrook to adjourn the meeting, seconded by Tricia Yates, passed unanimously.