



Successful Initiatives to Limit Formula Marketing in Health Care Facilities

Strategic Approaches and Case Studies

Acknowledgments

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Introduction

Across the United States, infant formula makers have been able to freely market formula inside health care facilities as attempts to regulate the industry's marketing practices have been largely unsuccessful.¹ This report shows how local, state and national grassroots initiatives led by nonprofit organizations and government agencies have successfully persuaded thousands of hospitals to end or limit formula promotion to new mothers, particularly through the distribution of infant formula company-sponsored discharge bags with samples in maternity wards.² Although a 2011 Centers for Disease Control and Prevention (CDC) survey and report shows that over half of U.S. hospitals continue to distribute formula bags, the accelerating trend is for hospitals to forbid them.³ Grassroots efforts are driving this public health progress.

There is overwhelming consensus among major health professional organizations and governmental public health agencies that exclusive breastfeeding for the first six months of a baby's life offers significant health and economic benefits for mothers, children and families.^{4,5} Numerous studies show that women are likely to breastfeed less, and for shorter durations, if they receive formula company-sponsored discharge packs with formula samples and promotional materials.⁶ Formula bag distribution effectively influences new mothers to use formula because it sends a powerful message that health care providers endorse formula feeding, even where breastfeeding in hospitals is promoted.

Evidence of the dangers of formula marketing is so strong that the World Health Organization's (WHO) International Code of Marketing of Breast-milk Substitutes (International Code), established in 1981, prohibits formula promotion in health care facilities, among other provisions.⁷ "The U.S. Surgeon General's Call to Action to Support Breastfeeding" and the CDC also specifically recommend against in-hospital formula advertising and marketing.^{8,9} However, none of these recommendations carry the force of law.

National, state and local campaigns and initiatives have largely been responsible for convincing hospitals to adopt the best practice of ending commercial formula promotion. The Baby-Friendly Hospital Initiative, the Ban the Bags campaign and the campaign to Keep Formula Marketing Out of Health Care Facilities launched by Public Citizen and assisted by the United States Breastfeeding Committee, among others, have brought national attention to the issue of



Mead Johnson's discharge bag with Enfamil formula sample for "nursing moms," Courtesy MotherBaby Summit

formula marketing. City and state breastfeeding coalitions and government agencies have also led efforts on the local level.

The Baby-Friendly Hospital Initiative (BFHI)¹⁰ is a global program of the WHO and the United Nations Children's Fund (UNICEF), established in 1991 to encourage and recognize hospitals and birthing centers that offer an optimal level of care for infant feeding and mother/baby bonding. BFHI hospitals must implement the 'Ten Steps to Successful Breastfeeding'¹¹ and comply with the WHO International Code which requires eliminating commercial formula promotion and rejecting free formula and other supplies from sponsoring formula companies.

Ban the Bags is a national campaign, launched in 2006, to stop the distribution of formula discharge bags in maternity hospitals. It grew out of the efforts of the Massachusetts Breastfeeding Coalition (MBC) to stop aggressive formula company marketing tactics in hospitals throughout the state and became a project of the MBC.¹² The campaign maintains a website that enables hospitals to report that they have banned the bags, and includes a toolkit to assist local activists in local initiatives.¹³ Local breastfeeding coalitions have created state and city specific Ban the Bags campaigns, building off of Massachusetts' success.



Courtesy Ban the Bags

Public Citizen's campaign seeks to end infant formula marketing in health care facilities by supporting local initiatives, focusing public attention on state and national leading hospitals and targeting formula manufacturers directly. Public Citizen has used research, direct hospital, legal and policy advocacy and an effective communications strategy to meet goals. The United States Breastfeeding Committee has also played an essential role in campaign coordination with local breastfeeding coalitions.

National and local governmental and non-governmental groups have employed a variety of creative strategies to urge hospitals to voluntarily curb formula marketing, where legislative or regulatory strategies have been unsuccessful. These initiatives and campaigns have led to significant progress among hospitals. The CDC Maternity Practices in Infant Nutrition and Care (mPINC) survey shows that in 2007, 72 percent of hospitals distributed formula discharge packs to breastfeeding mothers but by 2011 the number jumped down to 55.5 percent.¹⁴ A 2013 Public Citizen and Ban the Bags report found that only 18 percent of the U.S. News and World Report's nationally top-ranked hospitals reported distributing the bags to any mothers, along with less than one-third of the highest ranked hospitals in gynecological care.¹⁵

Effective strategies and tactics employed by advocacy groups to change hospital practices include:

- Developing presentations, fact sheets and other educational materials documenting in-hospital formula marketing's correlation with lower exclusive breastfeeding rates; the correlating negative health and economic effects on women, infants and families; and the potential legal risks associated with formula sample distribution.
- Educating hospital personnel on the common misconception that hospitals are obligated to distribute formula company-sponsored bags to mothers if they receive free formula supplies from sponsoring formula manufacturers.
- Showing under-resourced hospitals, unable to immediately undergo the process of Baby-Friendly designation, that ending formula marketing is one important step toward improving breastfeeding support.
- Engaging governmental health departments and prominent doctors to encourage hospitals to end formula marketing through letter writing campaigns, model policy development and regulatory enforcement.
- Engaging a diverse range of local and national groups in advocacy efforts while using both internal and external pressure to urge change.
- Taking advantage of regional hospital competition by publicly acknowledging and awarding hospitals that have ended or limited formula marketing.
- Publicly singling out hospitals that have failed to end formula marketing, where the majority of competing state and city-wide hospitals have already done so.
- Presenting the case to nurse leaders at perinatal forums.
- Reaching out to communications channels including blogs and press to publicize the issue.

Case Studies

Rhode Island

Strategy highlight: *Ask the state's department of health for advocacy support.*

Rhode Island was the first state to ban commercial infant formula discharge bags in hospitals statewide. Regional competition among hospitals largely inspired hospitals to "ban the bags."¹⁶

The effort began in 2000 as the Rhode Island Breastfeeding Coalition (RIBC) was one the first breastfeeding coalitions to work with the U.S. Department of Health and Human Services (DHHS) on encouraging hospitals to engage in the BFHI, and end infant formula marketing by default.¹⁷ South County Hospital in Wakefield, Rhode Island, received national attention when former U.S. Surgeon General David Satcher presented it with an award for being the first in the state to receive Baby-Friendly designation. The DHHS simultaneously launched its “Blueprint for Action on Breastfeeding” at the hospital awards ceremony. The “Blueprint for Action on Breastfeeding” is a science-based action plan — calling for research, education, awareness and support — to increase breastfeeding rates in the United States.¹⁸ The awards ceremony brought regional and national attention to the BFHI and to the RIBC.

By 2006, the Rhode Island Department of Health (DOH) had become actively engaged on the BFHI. The DOH sent a joint letter with the RIBC to all of the non-BFHI birthing hospitals, encouraging them to join the BFHI. Rhode Island’s largest birthing hospitals then decided to pilot a non-formula bag initiative, to end formula marketing without disappointing mothers who expect gifts at discharge. The DOH offered the hospital a \$5,000 matching grant using Title V funds, through a CDC-sponsored anti-obesity initiative, to implement the program. Another hospital in the same health system followed suit, committing to eliminating formula discharge bags. Yet another signed a certificate of intent to be part of the BFHI around the same time. By 2007, three out of the state’s nine hospitals had applied for Baby-Friendly designation.¹⁹

In 2010, representatives from a number of Rhode Island birthing hospitals were presented with the case to “ban the bags” at the Massachusetts Mother Baby Summit, a gathering of health care professionals to share research, ideas and strategies to improve hospital breastfeeding support and other aspects of maternal newborn care. The event encouraged Rhode Island hospitals to follow suit in order to remain competitive in providing quality care.

In 2011, the RIBC and the DOH convened the first Maternity Care Practices Collaborative, a highly effective initiative that created a space for formal collaboration and informal cooperation between the state’s birthing hospitals. A number of hospitals were still marketing infant formula at that point. But at the Massachusetts Breastfeeding Coalition’s announcement that it intended to become the first formula “bag-free” state, the RIBC decided to ramp up its efforts to compete. Vice President and Chief Nursing Officer of Newport Hospital then challenged Rhode Island to become the first bag-free state in the U.S. by way of the Rhode Island’s Maternity Care Practices Collaborative listserv. Hospital involvement with the Collaborative and pressure from the RIBC and the DOH paved the way for the remaining hospitals to eliminate their formula bags.²⁰

Rhode Island became the first bag-free state in November of 2011 after all six of its birthing facilities eliminated the bags.

Massachusetts

Strategy highlight: *Maintain persistence, gain media attention and use peer pressure to single out hospitals.*



Marsha Walker, co-chair of Ban the Bags.
Courtesy Ban the Bags

The Massachusetts Breastfeeding Coalition (MBC) created and led the Ban the Bags campaign locally and nationally. In July 2012, Massachusetts followed Rhode Island, to become the second — and largest — state to end the practice of distributing commercial discharge bags in all birthing hospitals.

The long battle to “ban the bags” throughout the state started with the Massachusetts Department of Public Health’s (DPH) initiative to update its perinatal regulations required for hospital licensure, which had not been updated since

1988.²¹ The Public Health Council of the DPH invited experts and advocates, including the MBC, to weigh in on the regulations. The MBC proposed the inclusion of a provision to cease commercial discharge bag distribution in hospitals. Members of the MBC and allies commented on the provision and testified in support of a complete ban on commercial formula marketing materials.

The Public Health Council initially decided to keep most of what was proposed, including the commercial discharge bag proposal. However, an outside party made a strong push to weaken the provision to allow bags to be distributed at the request of the mother, or if the doctor allowed it. The MBC organized to oppose the proposed weakening of commercial bag provision. The measure gained broad public support from the public health and medical establishments, as letters from major organizations, including the Massachusetts Hospital Association, were sent directly to the Governor.²² In December 2005, the Public Health Council unanimously voted to propose rules that included a complete ban on commercial bags.²³

The Ban the Bags campaign launched following Massachusetts Governor Mitt Romney’s opposition to the DPH proposed regulations that would have required all hospitals to eliminate the commercial bags.²⁴ The MBC organized a demonstration at the state house, delivered a petition with thousands of signatures and submitted further testimony on a petition, among other public actions.

But Governor Romney still forced the DPH to rescind its proposed perinatal regulations on formula marketing and fired three vocal members of the Public Health Council, who publicly objected to his actions and limited the debate on the regulation.²⁵ Critics believe Romney may have been politically influenced by formula companies in deciding to overturn the provision requiring a full ban on commercial marketing materials.²⁶ The press covered the issue widely, which paved the way for a grassroots Ban the Bags campaign.²⁷

In July of 2006, the Ban the Bags campaign was launched as an initiative to urge hospitals to voluntarily eliminate formula bags throughout the state, despite the regulatory setback. Hospitals continued to hand out the commercial bags to most or all mothers given the loophole in the new regulatory provision.²⁸

Campaign co-chairs Marsha Walker and Anne Merewood, among others, developed public education materials and a website solely devoted to the campaign while engaging in press outreach to attract public attention around the issue. In September of 2010, the DPH sent letters to lagging hospitals throughout the state urging them to eliminate formula bags.²⁹ These hospitals also received letters from a number of prominent physicians.³⁰

Massachusetts' annual Mother Baby Summits, starting in April 2009, were instrumental in disseminating Ban the Bags messages and strategies. Massachusetts pioneered the idea of a statewide summit of maternity health stakeholders from maternity facilities throughout the state. The summits bring together lactation consultants, doctors, administrators and other health care professionals to share research, ideas and strategies to improve hospital breastfeeding support and other aspects of maternal newborn care. As the summits became more well-known, attendance and hospital representation increased. Speakers presented the Ban the Bags movement at the summits and shared ideas on how to move forward. The Mother Baby Summit website, which now includes information on summits in a variety of states, includes a Ban the Bags webpage.³¹



Demonstration protesting then-Governor Mitt Romney's decision to quash the ban on formula marketing proposed by the Massachusetts Department of Health. Courtesy Ban the Bags

In 2005, only seven hospitals in the state had eliminated the gift bags, but by 2010 the number rose to 27. A middle group of hospitals followed the leaders after the MBC was able to meet with hospital CEOs and other personnel. Many of these meetings came at the urging of the hospitals' own lactation consultants and their "quality improvement" departments. The campaign publicly acknowledged these hospitals for their steps forward with positive press. By the beginning of 2012, only 12 hospitals gave out formula bags.³²

At the 2011 Mother Baby Summit, the Ban the Bags campaign published a “shaming”³³ list of procrastinating hospitals alongside the list acknowledging those that had banned the bags. With 45 of Massachusetts’ 49 birthing facilities represented at the summit, and 172 attendees, the Ban the Bags campaign was able to send a message loud and clear to hospitals distributing bags.³⁴ Doctors used the event to engage in “peer pressure” to urge the remaining hospitals to go bag-free.³⁵ Administrators from the final hospitals expressed their desire to be removed from the list at the next summit in 2012.

By July 2012, all 49 birthing facilities had voluntarily eliminated bags. Massachusetts became the second state after Rhode Island to eliminate the bags statewide.

North Carolina

Strategy highlight: Publicly award hospitals that end infant formula marketing.

North Carolina has engaged in the most successful Ban the Bags campaign in southern region of the United States. Emily Taylor initiated the campaign as part of a graduate school project at the University of North Carolina School of Public Health, volunteering with the North Carolina Breastfeeding Coalition (“NCBC”) in 2006. She started the campaign by adapting the Massachusetts Ban the Bags Toolkit for the North Carolina setting, and

GOLDEN BOW AWARDS 2009		GOLDEN BOW AWARDS 2012	
Carolina Medical Center	Pineville	Ashe Memorial	Jefferson
Forsyth Medical Center	Winston Salem	Cape Fear Valley Medical Center	Fayetteville
Gaston Memorial Hospital	Gastonia	CarolinaEast Medical Center	New Bern
Mission St Joseph’s Health System	Asheville	Carolinas Medical Center - Union	Monroe
Nash General Hospital	Rocky Mount	Carolinas Medical Center - University	Charlotte
Naval Hospital at Camp Lejeune	Camp Lejeune	Cleveland Regional Medical Center	Shelby
Parkridge Hospital	Fletcher	Duke University Medical Center	Durham
Vidant Medical Center	Greenville	Durham Regional Hospital	Durham
University of North Carolina Hospital	Chapel Hill	Women’s Hospital of Greensboro	Greensboro
Women’s Birth and Wellness Center	Chapel Hill	Lenoir Memorial Hospital	Kinston
GOLDEN BOW AWARDS 2010		Margaret R. Pardee Memorial Hospital	Hendersonville
Carolina Medical Center-Main	Charlotte	Maria Parham Medical Center	Henderson
Carolina Medical Center-Huntersville	Huntersville	Natural Beginnings Birth & Wellness Center	Statesville
Carolina Medical Center-Lincoln	Charlotte	New Hanover Regional Medical Center	Wilmington
Johnston Medical Center	Smithfield	Presbyterian Hospital	Huntersville
Presbyterian Hospital	Charlotte	Presbyterian Hospital	Matthews
GOLDEN BOW AWARDS 2011		Randolph Hospital	Asheboro
Rex Hospital	Raleigh	The Outer Banks Hospital	Nags Head
WakeMed Cary Campus	Cary	Vidant Edgecombe	Tarboro
WakeMed Raleigh Campus	Raleigh	Wayne Memorial Hospital	Goldsboro
		Womack Army Medical Center	Fort Bragg

Courtesy North Carolina Breastfeeding Coalition

training volunteers to use it to engage in outreach to hospitals. The NCBC found that the toolkit was most utilized by NCBC members who were also hospital personnel — namely lactation consultants and nurses — interested in making the case to ban the bags to their own nurse managers.

After a slow start, NCBC initiated the Golden Bow Awards program to incentivize hospitals to ban the bags and notify NCBC when they did so. Golden Bow Awards are given to hospitals where “no commercial infant formula gift bags are distributed, whether or not they have samples, all gifts to maternity patients are free of infant formula advertising of all varieties (coupons, samples, infant feeding information published by a formula company, etc.) and a 24-hour supply of infant formula is given at discharge only if it is medically indicated by the infant’s health care provider.” Another NCBC leader, Kathy Parry, sought contact information for hospital nurse managers across the state and contacted each one individually. This process revealed that many hospitals had already eliminated the bags but had not reported doing so. And, she was able to note the current status of all hospitals for future reference. This data collection was immensely important for the campaign.³⁶

The Awards became a “big deal” among hospitals in North Carolina. Hospitals responded with enthusiasm, issuing press releases and proudly displaying the certificates in highly trafficked areas of the facilities. Many hospitals that were far from reaching Baby-Friendly designation were thrilled to be acknowledged for at least one step in improving their breastfeeding support policies.³⁷ Some said that the positive attention inspired senior administrative leaders to encourage further improvements in breastfeeding policy and practice.

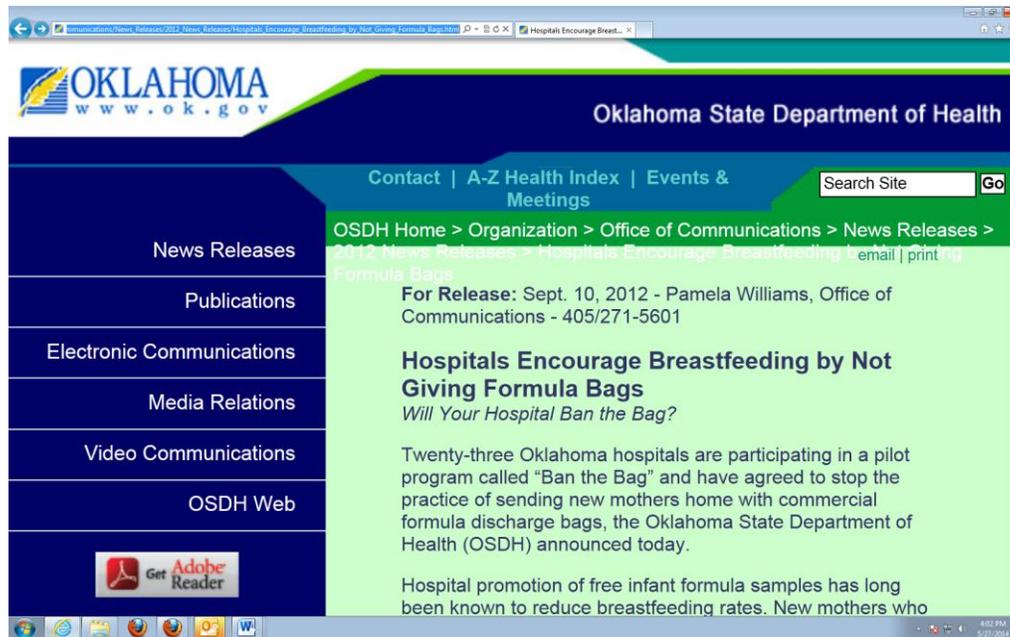
NCBC is now developing a Golden Bow Awards program for outpatient practices that eliminate formula marketing in their offices.

NCBC has given 39 Golden Bow Awards to hospitals since the project launch in 2009.³⁸ The great majority of hospitals that have yet to ban the bags serve very small numbers of maternity patients each year. As a result, more than 80 percent of births in North Carolina occur in facilities free from formula marketing.³⁹

In 2014, students from North Carolina State University will advance the Golden Bow Award initiative as part of an Advocacy Field Practicum. They will repeat the work of Kathy Parry, assessing the current status of all birthing facilities in the state. They will update the Ban the Bags Toolkit and use it to advocate for a selection of facilities to stop marketing infant formula. The goal is to become a bag-free state by 2015.

Oklahoma

Strategy highlight: Take advantage of statewide hospital competition, issue periodic press releases and maintain a public list of bag-free hospitals.



Courtesy Oklahoma State Department of Health

Half of Oklahoma's birthing hospitals have banned the bags, thanks to the Coalition of Oklahoma Breastfeeding Advocates' (COBA) efforts. At the end of 2011, a few hospitals had eliminated formula marketing so COBA decided to make a more concerted effort to get a large group of hospitals to follow their lead.⁴⁰

A COBA member first presented the issue at the statewide Oklahoma Perinatal Nurses Forum in 2011, which met quarterly and included nursing leadership from approximately 24 hospitals. The Coalition presented their rationale for banning the bags, hoping nurse leaders would take the message back to their hospitals' leadership and staff.

COBA made the case that banning the bags was one easy step hospitals could take in improving breastfeeding support. Their arguments for eliminating formula marketing included its negative impact on breastfeeding rates, risks to patient safety in the event of formula recalls for contamination and violation of many hospitals' own vendor policies. The Coalition provided suggested talking points for nurses who were worried about patient complaints for eliminating the bags.⁴¹ They also informed nurse leaders that accepting free formula from formula companies is not always contingent on distributing discharge bags

but prepared them for persuasion from formula company representatives. Representatives from COBA met directly with some hospital leadership teams if requested.

COBA published on their website a list of the hospitals that banned the bags and helped draft a press release from the Oklahoma State Department of Health (OSDH) to encourage others to follow. The “peer pressure” approach was successful and other hospitals followed, seeking to be included on the “list,” particularly after the campaign and public list of hospitals was covered by major Oklahoma news outlets.⁴²

The Oklahoma Ban the Bags movement received additional press attention after COBA and OSDH issued another recent press release announcing that 50 percent of hospitals in the state are now bag-free.⁴³ The current list of bag-free hospitals and the rationale for banning the bags was also recently re-sent to the remaining hospitals.

Currently, 28 of Oklahoma’s 56 birthing hospitals have eliminated commercial formula bags.

Maryland

Strategy highlight: Write letters and send educational materials to every hospital in the state, inform hospitals of government-developed model hospital breastfeeding support policy recommendations.

Maryland has made substantial progress on its Ban the Bags campaign over the last year as more than half (23 of 32) of its birthing hospitals have eliminated commercial infant formula discharge bags.⁴⁴ The campaign took off by building on the Maryland Department of Health and Mental Hygiene (DHMH) voluntary initiative to encourage hospitals to commit to adopting its Model Hospital Breastfeeding Support Policy Recommendations. The recommendations include a provision to prohibit formula marketing and promotion.⁴⁵ A number of hospitals banned the bags soon after receiving and committing to the DHMH policy recommendations.

Shortly after the DHMH policy launch, the Maryland Breastfeeding Coalition (MBC) contacted hospitals in Maryland, created a number of campaign and public education materials and devoted a page of its website to the issue.⁴⁶ MBC’s current then Vice-President, Dr. Dana Silver sent a letter to each Maryland hospital’s CEO, along with the head of mother-baby nursing, and the Pediatrics and Obstetrics Department chairs as both a representative of MBC and as the Breastfeeding Coordinator for the Maryland Chapter of the American Academy of Pediatrics (MDAAP). Other members of the MBC also signed on.



Courtesy Maryland Breastfeeding Coalition

The letter⁴⁷ sent by MBC/MDAAP discussed DHMH's policy recommendations and provided a YouTube link to the presentation,⁴⁸ which was used as a tool to make the case to ban the bags. The letter also detailed why some specific hospitals had already stopped distributing formula bags. For example, Johns Hopkins Medical Center changed its policy as part of a larger effort to end the marketing of pharmaceuticals within its facilities. Others discontinued distribution at the advice of their risk management departments upon investigating their liability in the event of a formula recall or a baby getting sick from expired or contaminated formula. Some hospitals created substitute "gift" bags without formula, but most did not. No hospital reported complaints from patients about not receiving a formula discharge bag.

By August of 2013, all 32 of Maryland's birthing hospitals had formally committed to adopting the DHMH policy recommendations or to become Baby-Friendly, both of which should eliminate formula marketing.⁴⁹ It is unclear what their timeline is for adopting and implementing the policies, but at least 23 of these hospitals have already "banned the bags."

The combination of governmental support and grassroots advocacy has made Maryland a nationwide leader in the movement to end formula marketing in health care facilities.

Florida

Strategy highlight: *Engage a diverse range of local and national advocacy groups.*

South Florida has a vibrant and growing movement to improve hospital breastfeeding support policies. Four distinctly different nonprofit advocacy groups — Foundation for a Breastfeeding Culture, the Florida Breastfeeding Coalition, Power U Center for Social Change (“Power U”) and Public Citizen — are working together to improve breastfeeding support and eliminate infant formula marketing in South Florida Hospitals, particularly in marginalized communities.

The Foundation for a Breastfeeding Culture (“the Foundation”) is an initiative to reduce the gap in disparities among breastfeeding services provided in Miami-Dade County and complement existing services. Heidi C. Agostinho, director of the Foundation for a Breastfeeding Culture has spent years engaging with South Florida hospitals on breastfeeding support. She is providing information and support to hospitals on the benefits of adopting the Ten Steps to Successful Breastfeeding of the Baby-Friendly Hospital Initiative. She directly communicates with hospitals, urging them to work towards Baby-Friendly designation and to eliminate formula marketing in the process.

The Florida Breastfeeding Coalition (FBC) is a statewide multidisciplinary group of individuals, businesses and organizations working towards improving the health of Floridians by working collaboratively to protect, promote and support breastfeeding.⁵⁰ The FBC serves as an essential coordinating body for efforts to curb formula marketing in Florida.

Power U’s Powerful Women and Families program is focused on “Birth Justice” for low-income and black women, given health care and breastfeeding support disparities among those populations. Power U is a member-led grassroots organization based in Miami, Florida. Power U recognizes “the role of corporations, the health care industry and pharmaceutical companies in masking the harmful effects of infant formula and their aggressive targeting of low-income and Black moms.”⁵¹ Power U recently published a report finding scarce breastfeeding support and significant infant formula marketing in health care institutions serving black communities.⁵² It hopes to build on the findings of the report by urging more hospitals in marginalized communities to seek Baby-Friendly designation and end the advertisement of formula to mothers. It seeks to “build leadership and people power to transform families and communities” by reaching out to members and community organizations in the region.

Public Citizen is a consumer protection organization based in Washington, D.C., with more than 300,000 members and supporters. Through research, national media attention, coalition building and online organizing, Public Citizen has developed a national campaign

to end infant formula marketing in health care facilities using a variety of strategies. In 2012, Public Citizen sent a letter — signed by over 100 organizations — to 2,600 hospitals nationwide that makes the case for an end to in-hospital formula marketing. Public Citizen also published a report in 2013 showing that the vast majority of nationally top-ranked hospitals have ended the distribution of commercial formula bags. A follow-up letter and the report have been sent to regionally top-ranked hospitals in targeted areas, including Miami. Both the report and the sign-on letter brought significant media attention to the issue of formula marketing.

The FBC, the Foundation, Power U and Public Citizen are working together to tackle in-hospital formula marketing in South Florida. The Foundation's close relationships with health care facilities and the Department of Health, Power U's strong relationships with local community leaders and public officials and Public Citizen's national experience with health advocacy campaigns make for a powerful and effective partnership.



Courtesy Power U Center for
Social Change

Recently, the groups have collaborated around changing policy at Jackson Memorial Hospital, the country's largest public hospital and the largest hospital in Miami. The facility largely serves low-income, underserved communities. Heidi Agostinho of the Foundation was originally contacted by administrators at Jackson after they received Public Citizen's 2012 sign-on letter, urging the hospital to eliminate formula bags. Public Citizen's 2014 follow-up letter, which including its report on top-ranked hospitals, sent Jackson a message that outside groups were continuing to monitor progress. Power U's members were also calling on Jackson to move towards Baby-Friendly designation. Agostinho introduced Public Citizen and Power U to hospital administrators to discuss a timeline for moving forward. A few weeks later, all hospitals within the Jackson Health System, Jackson Memorial's parent organization, decided to eliminate its formula bags with samples in all of its hospitals and replace them with non-commercial formula-free bags. It fully implemented its policy in May 2014.

Jackson Health System's actions are likely to encourage other hospitals to follow, since Jackson is a regional and national leader. After Jackson publicly announced its policy change, Power U Center for Social Change and Public Citizen issued a statement of congratulations and reached out to press. Miami's largest media outlets covered the story in a positive light.⁵³

Indiana

Strategy highlight: *Use internal and external pressure to target the state's leading hospitals.*

The Indiana Breastfeeding Coalition (IBC) has worked with Public Citizen to make much needed progress in Indiana on improving breastfeeding rates. The CDC has specifically recommended that Indiana hospitals do more to “protect patients from formula marketing.”⁵⁴ For example, Public Citizen's advocacy had an important impact on Franciscan St. Francis Hospital — Indianapolis' recent decision to eliminate the formula discharge bags. Franciscan St. Francis is one of the state's most reputable hospitals and is on the pathway to Baby-Friendly designation. Franciscan St. Francis lactation consultants had urged the hospital to eliminate the bags for many years, but they needed some outside pressure to make change.

IBC leaders obtained the names and contact information of appropriate hospital administrators including the chief nursing officer and the corporate compliance officer. Public Citizen then emailed a letter to administrators, urging the hospital to act immediately, attaching its recent report on top hospitals and its initial letter signed by over 100 organizations. Within a month, hospital officials met about the issue and decided to almost immediately eliminate the bags.

Soon after Franciscan's announcement, IBC invited Public Citizen to its next “Breastfeeding Conference Call” to present a webinar on eliminating formula marketing in hospitals. Lactation consultants and perinatal nurses joined the call and shared ideas. The two groups plan to build off of Franciscan's success to change hospital practices throughout Indiana.

New York

Strategy highlight: *Enact and implement laws and regulations that limit in-hospital formula marketing.*

New York state and city lawmakers and agencies, with the help of non-governmental organizations, have been leaders on limiting formula marketing in hospitals. The New York state health commissioner first adopted perinatal regulations in 2005 that included a provision on the distribution of formula discharge bags.⁵⁵ Among other breastfeeding support provisions, the regulations require hospitals to ensure the “distribution of discharge packs of infant formula upon only a specific order by the attending practitioner or at the request of the mother.”⁵⁶

The regulations were not being fully implemented and hospitals were working around loopholes, so legislators decided to push for a stronger Breastfeeding Mothers' Bill of Rights.⁵⁷ New York state Sen. Liz Krueger (D-Manhattan) sponsored the bill, which was introduced three times before its final passage in July of 2009.⁵⁸ Nonprofit organizations, health experts and others weighed in on the bill and organized for its passage.

New York state's Breastfeeding Mothers' Bill of Rights supports women's breastfeeding efforts by giving them information about breastfeeding before they give birth and after, "free of commercial interest" and influence.⁵⁹ The Bill of Rights is required to be posted in a public place in each maternal health care facility and leaflets must be available for distribution to pregnant women and new mothers.⁶⁰ The law provides for a formal mechanism to file a complaint if the hospital does not honor these rights.

The Bill of Rights provides:

- **Before You Deliver:** The right to information free from commercial interests, good information on the nutritional, medical and psychological benefits of breastfeeding; an explanation of some of the problems a mother may encounter, and how to avoid or solve them.
- **When You Leave the Maternal Health care Facility:** The right to refuse any gifts or take-home packets from the care facility that contain formula advertising or product samples; access to breastfeeding resources in one's community.⁶¹

Unfortunately, the regulations and the Bill of Rights have weak enforcement mechanisms. Therefore, New York City and state agencies have had to initiate specific programs to encourage hospital compliance.

New York City

Strategy highlight: Urge all public hospitals to limit formula marketing and expand the initiative to private hospitals.

New York City is the nationwide model of how a government initiative to end formula marketing can tangibly improve breastfeeding rates. In May of 2012, the New York City Health Commissioner Thomas Farley, launched Latch On NYC, a city-wide initiative to "support mothers who breastfeed their infants by asking city maternity hospitals to voluntarily sign on to support a mother's choice to breastfeed and limit the promotion of infant formula in their facilities, which can interfere with that decision."⁶² The goal of the initiative is to improve breastfeeding rates by reducing formula supplementation among breastfed infants.⁶³

The initiative calls on hospitals to provide additional breastfeeding support and education to breastfeeding mothers, discontinue the supplementation of breastfed infants unless medically indicated or at the specific request of the mother, and "end the distribution of promotional formula and materials during the hospital stay and at discharge."⁶⁴ The initiative was launched based on New York City's public hospitals' experience. When the city's public hospitals, within New York City Health and Hospitals Corporation (HHC), discontinued providing infant formula samples routinely at discharge and implemented

other practices to support breastfeeding, the exclusive breastfeeding rate at eight weeks following delivery increased by 21 percent, with no change in rates for mothers delivering at non-HHC facilities.⁶⁵

At the start of Latch On NYC, all 11 public and 12 private New York City hospitals had already committed to limiting infant formula promotion during the hospital stay and at discharge. By October 2013, 28 of New York's 39 maternity hospitals, or 72 percent of maternity hospitals had signed on to the commitment. At participating hospitals, there are approximately 5,100 – 6,800 eligible births per month.⁶⁶

Latch On NYC encourages hospitals to train staff on new policies and encourages city officials make an effort to periodically check-in with facilities to ensure compliance. The city also collects monthly data from hospitals on formula distribution and infant feeding, and shares the results with hospitals via mailings and webinars. Additionally, it has staff available for consultation, hosts an initiative listserv, provides hospitals with technical assistance webinars every three to four months, and convenes peer-to-peer learning opportunities designed to encourage hospitals to share practices and protocols.

Professional organizations, trade and nonprofit groups were also essential to the initiative's success. The Greater New York Hospital Association and local chapters of the American Academy of Pediatrics were instrumental at the launch of the initiative in encouraging hospital CEOs to sign on. Other nonprofits helped by dispelling myths and correcting inaccurate information circulated by the media.

Latch On NYC has proudly reported a 5.3 percent increase in exclusive breastfeeding rates during the hospital stay among pledging hospitals from the observed periods of June – August 2012 to June-August 2013. During the same period, there was no change in exclusive breastfeeding rates within the hospitals that did not sign on.⁶⁷ Latch On NYC shows that hospitals can improve their maternal/newborn services by taking the relatively simple steps of ending formula marketing and reducing formula supplementation.

New York State

Strategy highlight: Expand a successful city-wide initiative throughout the state.

The state has been able to further breastfeeding support, including formula marketing limitations in hospitals, through data collection mechanisms. Hospitals are required to submit data on newborn infants, including infant feeding (breastfeeding), within five days of giving birth. This has allowed the state to rank hospitals on its website, according to breastfeeding performance.⁶⁸ This has created greater public accountability of hospitals.

The Department of Health also recently launched a quality improvement “learning collaborative” with the lowest performing hospitals in breastfeeding. Hospitals reported

that eliminating commercial bags was easier than expected, a fact which provided confidence and strategies to motivate other hospitals to eliminate the bags.⁶⁹

New York State's initiative, Great Beginnings NY: The Future Starts with Breastfeeding, launched in September 2013 following on Latch On NYC's successful outcomes. Like Latch On NYC, the program is an effort to enforce New York's perinatal regulations that require hospitals to eliminate formula marketing and supplementation unless it is medically required. As part of the program, New York State Health Commissioner Dr. Nirav Shah sent a letter to all New York state hospitals and called on hospital leaders to commit to implementing the regulations.⁷⁰

From February 2010 through December 2011, the New York State Department of Health (NYDOH) worked with 12 hospitals across the state to pilot Breastfeeding Quality Improvement in Hospitals. The hospitals established a timeline to increase breastfeeding support by implementing the New York state perinatal regulations and train staff accordingly. The NYDOH continues to provide technical assistance to the pilot hospitals and support improvement of breastfeeding policies and practices statewide. Orange Regional Medical Center, among others, has seen a notable decrease in formula supplementation since implementing the launch of Great Beginnings NY.

Since the passage of the Breastfeeding Mothers' Bill of Rights, the NYDOH also provides non-commercial breastfeeding information as part of a "prenatal brochure" to hospitals on its website and in print for hospital distribution.

As of 2011, 89 percent of New York state hospitals (112 of 126) reported they had stopped distributing commercial formula bags to breastfeeding mothers and the 2013 numbers are likely to be higher.⁷¹

California

Strategy highlight: *Enact comprehensive in-hospital breastfeeding support legislation that paves the way for the elimination of formula marketing in hospitals.*

In October 2013, California became the first state to adopt comprehensive hospital-based breastfeeding support legislation that will pave the way for an end to formula marketing in most hospitals statewide. SB 402 requires all general acute care hospitals and special hospitals that have a perinatal unit to adopt the Ten Steps to Successful Breastfeeding,⁷² per the Baby-Friendly Hospital Initiative, or an alternate process that includes evidence-based policies and practices and targeted



Courtesy California WIC Association

outcomes, or California's Model Hospital Policy Recommendations.⁷³ California hospitals have until 2025 to adopt one of the breastfeeding support measures.

While the legislation does not explicitly require hospitals to eliminate formula marketing, it requires hospitals to employ model, evidence-based breastfeeding support policies and practices. Limiting the distribution of commercial infant formula samples and discharge packs is a key element of evidence-based model breastfeeding support policies and practices.⁷⁴ One of California's Model Hospital Policy Recommendations for discharge support states, "commercial advertising of artificial infant milk or promotional packs should not be given to breastfeeding mothers."⁷⁵

The California WIC Association (CWA)⁷⁶ drafted, lobbied for and mobilized around the passage of SB 402 using a carefully crafted approach.⁷⁷ The CWA made a strategic decision to exclude explicit language requiring an end to formula marketing in health care facilities in order to avoid major backlash from the largest, most powerful formula companies. SB 402 instead focused on evidence-based, comprehensive breastfeeding support policies. The formula lobby did not attempt to oppose the bill as it feared it would tarnish their image by opposing breastfeeding.

The CWA used past experience to guide their decision — a bill to explicitly eliminate formula marketing in hospitals was quickly defeated by formula manufacturers a few years ago. The CWA will use SB 402 as a starting point for eliminating formula marketing in hospitals by updating model policies over time to build in strong protections for patients against commercial formula promotion.⁷⁸

The campaign to pass SB 402 was largely successful because of CWA's communications strategy, which allowed it to gain support among a variety of groups — including health equity, anti-hunger, anti-obesity and anti-poverty groups — not simply breastfeeding advocates. The CWA worked with the Berkeley Studies Group to frame its press releases and guide media interviews. The frames dominating CWA's news coverage included "Successful Breastfeeding Requires Support," "Breastfeeding Benefits Women's Health" and "Well Supported Breastfeeding Brings Well-being to All."⁷⁹ The CWA urged lawmakers to support the bill because women have the "right to know the costs and benefits" of their infant feeding decisions.

The CWA also drew support from a wide variety of groups and lawmakers by referring to strong evidence of disparities in breastfeeding rates at hospitals serving low-income and minority communities. California hospitals with the lowest in-hospital exclusive breastfeeding rates — and inadequate breastfeeding support policies — generally have high numbers of low-income patients while in-hospital exclusive breastfeeding rates are highest at hospitals with few low-income patients.⁸⁰ Exclusive breastfeeding rates are

highest at California's Baby-Friendly designated hospitals, no matter what population they serve.⁸¹ This difference demonstrates that hospital breastfeeding support policies tangibly improve breastfeeding rates among low-income women.

California state Sen. Kevin De León sponsored SB 402 largely to improve breastfeeding rates among low-income women.⁸² He also considered that the measure would ultimately save money for the state and taxpayers since a 2010 study found that the United States would save \$13 billion per year if 90 percent of infants were breastfed exclusively for six months.⁸³ SB 402 was an expansion of SB 502 (Pavley & De León) legislation that was signed into law in 2011, which requires all perinatal hospitals in California to have an infant feeding policy in place by January 1, 2014.⁸⁴

Conclusion

These case studies demonstrate how nonprofit organizations and government agencies have leveraged a diverse range of tactics and strategies to persuade thousands of hospitals to end or limit formula promotion to new mothers. While initiatives have ranged from legislative and regulatory advocacy to media outreach and public pressure, state and city-wide efforts to eliminate in-hospital formula marketing have gained momentum as organizations learn from one another and build on past victories. Despite challenges to enacting federal legislation to implement the WHO International Code of Marketing of Breast-milk Substitutes in the U.S., a nationwide end to formula marketing in health care facilities is achievable if local, state and national organizations continue to utilize and adapt the above-mentioned successful approaches.

Appendix A

Oklahoma Hospitals Banning the Bags (Fact Sheet and Talking Points)

1. Evidence-Based Care

- a. The Surgeon General's Call to Action to Support Breastfeeding states numerous times that distribution of commercial discharge bags to new mothers is a negative practice that creates a significant barrier to breastfeeding duration. See p. 15, 24, 72 and 73.
 - i. Action 6: "Ensure that health care clinicians do not serve as advertisers for infant formula"
 - ii. Action 7: "Establish systems to control the distribution of infant formula in hospitals and ambulatory care facilities"
- b. The CDC in its 2011 August Vital Signs has called on hospitals to stop distributing formula samples and give-aways to breastfeeding mothers. See: <http://www.cdc.gov/VitalSigns/pdf/2011-08-vitalsigns.pdf>
- c. Commercial discharge bags are also documented to increase early introduction of solids in all infants (as early as 1 month of life).
- d. The CDC is now monitoring and reporting this practice via its biennial mPINC survey (Maternity Practices in Infant Nutrition and Care).
- e. The Sample Hospital Breastfeeding Policy for Newborns published by the AAP in 2009 called for the elimination of this practice, stating:
 - i. "The hospital will not provide formula marketing materials to mothers and will discourage promotional paraphernalia and marketing efforts in all areas accessible to patients."
- f. The Model Hospital Breastfeeding Policy published by COBA (Coalition of Oklahoma Breastfeeding Advocates) called for the elimination of this practice.
 - i. The COBA policy was endorsed by OSDH, OKAFP, ACNM-OK, AWHONN-OK, ODA, Muscogee Creek Nation WIC Program, Wichita,

Caddo and Delaware Tribes, and OK Health Mothers, Healthy Babies Coalition.

2. For the state of Oklahoma's health

- a. We continue to rank at the bottom of most health indicators and are currently 43rd in the nation for overall health status.
- b. Oklahoma was listed in a recent Pediatrics article as a state with one of the worst records for this practice. See Sadacharan et al, 2011. (this was when we only had 3-4 bag-free hospitals)
- c. *If the remaining Oklahoma hospitals banned the bags, we could become the third state to be entirely bag-free.***
- d. Oklahoma hospitals would lead the way for other states outside of the east coast.

3. Patient Safety

- a. Does your facility track/monitor the lot numbers of the free formula sent home in these bags? There are formula recalls every year and you cannot contact mothers to notify them that they have recalled the formula they received in a hospital bag.
- b. Some hospitals have developed policies requiring the logging and tracking of all formula lot numbers given to patients.

4. Ethics

- a. Does your facility have a vendor policy prohibiting solicitation directly to patients? Giving out commercial gift bags violates this type of policy.
- b. The formula in these packs is a name-brand formula which ends up costing families who are formula-feeding at least \$700 more per year for each baby. Families are more likely to use what the hospital "recommended" to them. (Hospital staff are a powerful influence on their choices!)
- c. Is your hospital monitoring the Joint Commission's Perinatal Care Core Measure on exclusive breast milk feeding (EBF) at discharge? Many hospitals are working to improve their EBF rates and staff who have worked hard to encourage EBF with their patients are undermined in their efforts by the mixed message that the commercial formula gift packs send.

- d. Public Citizen launched a national campaign in 2012 and your hospital CEO received a letter calling on your facility to stop this unethical practice. (see sample at end of this document)

Other Points to consider:

1. Families do not choose to have their baby at your facility because they will get a free, cheap diaper bag. You give great service!
2. Patients on other hospital units do not expect to receive a free gift. How about a healthy baby?
3. Banning the bags can raise a hospital's mPINC score by 7 points.
4. Oklahoma and your hospital will get more publicity statewide and even nationwide. We can do a press release, TV interviews and promos for World Breastfeeding Week.
5. Patient satisfaction is not affected. Oklahoma University Medical Center has been bag-free for over five years and patient satisfaction has increased during that time.
6. Time spent by staff on stocking, ordering and tracking the bags.
7. Space for storing/stocking the bags. In larger facilities, this is a considerable amount of space.

What staff might say to patients:

1. Don't say anything unless the mother asks.
2. If mom asks, consider:
 - a. "We stopped advertising to our patients. We know you get bombarded with enough ads and commercials as it is."
 - b. "We provide care and service to our families. We do not promote other companies to you."
 - c. "We are setting the example for other hospitals to follow and for new doctors and nurses to learn from."
 - d. "Most of the hospitals in Oklahoma have stopped this practice because it's not good for our families."

- e. “We don’t want our nurses to be sales reps for commercial industry.”
- f. Other ideas??

What hospital leaders can say to formula company sales representatives:

1. Expect to hear that “your contract requires you to pay for formula if you do not give out our discharge bags”
2. “That’s fine. We will go out for bid for a new contract then.”
3. “I know other hospitals that do not give out the bags and they are not paying for formula.”

¹ According to advocacy groups, legislation restricting in-hospital formula marketing failed in California, purportedly due to formula manufacturers' lobbying efforts and formula manufactures influenced the blockage of similar regulations in Massachusetts. Marketing formula is in violation of various provisions of the World Health Organization's "International Code of Marketing of Breast-Milk Substitutes," though U.S. lawmakers have not enacted legislation to implement the Code. Available at http://www.who.int/nutrition/publications/code_english.pdf.

² The Centers for Disease Control and Prevention (CDC) "Maternity Practices in Infant Nutrition and Care (mPINC) Survey" figures have shown significant changes in the percentage of hospitals distributing formula company-sponsored bags with formula samples to breastfeeding mothers at discharge, the most common form of in-hospital marketing. In 2007, 27.4 percent of hospitals had discontinued the formula bag distribution but by 2011, 45.5 percent had ended the practice, according to the CDC's survey. See CDC mPINC Survey Results, available at <http://www.cdc.gov/breastfeeding/data/mpinc/results-tables.htm>. Furthermore, a recent report showed that 82% of the nation's overall top-hospitals and 67% of nationally top-ranked hospitals in gynecological care reported ending commercial formula bag and sample distribution. See Public Citizen and Ban the Bags, "Top Hospitals Formula for Success: No Marketing of Infant Formula" (2013). Available at <http://www.citizen.org/documents/Best-Hospitals-End-Infant-Formula-Marketing-to-Support-Breastfeeding-Report.pdf>.

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⁵ U.S. Department of Health and Human Services. "The Surgeon General's Call to Action to Support Breastfeeding." U.S. Department of Health and Human Services, Office of the Surgeon General (2011): 3. Available at www.surgeongeneral.gov/topics/breastfeeding/calltoactiontosupportbreastfeeding.pdf. (Women save up to \$1500 per year in formula costs if they exclusively breastfeed.)

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⁷ World Health Organization. "International Code of Marketing of Breast-Milk Substitutes." Available at http://www.who.int/nutrition/publications/code_english.pdf.

⁸ U.S. Department of Health and Human Services. "The Surgeon General's Call to Action to Support Breastfeeding." U.S. Department of Health and Human Services, Office of the Surgeon General (2011): 21-22, 43. Available at www.surgeongeneral.gov/topics/breastfeeding/calltoactiontosupportbreastfeeding.pdf.

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¹² See Ban the Bags. Available at <http://banthebags.org/>.

¹³ Id.

¹⁴ U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. "CDC National Survey of Maternity Care Practices in Infant Nutrition and Care (mPINC) 2011" Table 5.2a, Retrieve 9 October 2013 from http://www.cdc.gov/breastfeeding/data/mpinc/data/2011/tables5_1a-5_2a.htm.

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²⁵ Id.

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²⁷ Personal correspondence with Marsha Walker, Co-Chair of the Ban the Bags campaign, Member of Board of Directors, Massachusetts Breastfeeding Coalition. (November 15, 2013); See also <http://massbreastfeeding.org/2012/07/23/romney-and-banning-the-bags-the-back-story/>.

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- ⁶⁹ *Id.*
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- ⁷¹ Personal correspondence with Barbara A. Dennison, MD, Director, Policy and Research Translation Unit, Division of Chronic Disease Prevention, NYSDOH (February 27, 2014).
- ⁷² Baby Friendly USA, “The Ten Steps to Successful Breastfeeding,” *available at* <http://www.babyfriendlyusa.org/about-us/baby-friendly-hospital-initiative/the-ten-steps>.
- ⁷³ California Senate Bill No. 042, Approved by Governor October 9, 2013. *available at* http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB402.
- ⁷⁴ Inland Empire Breastfeeding Coalition and Inland Empire Breastfeeding Coalition, “Providing Breastfeeding Support: Model Hospital Policy Recommendations,” June 2005. *Available at* <http://www.cdph.ca.gov/programs/breastfeeding/Documents/MO-05ModelHospitalPolicyRecommend.pdf>.
- ⁷⁵ *Id.*

⁷⁶ The CWA advocates for California's Women, Infant and Children (WIC) program.

⁷⁷ Personal Correspondence with Laurie True, Executive Director, California WIC Association, January 22, 2014.

⁷⁸ Id.

⁷⁹ Berkeley Media Studies Group, "Issue 18: Talking About Breastfeeding: Why the Health Argument Isn't Enough," May 1, 2010. Available at <http://www.bmsg.org/resources/publications/issue-18-talking-about-breastfeeding-why-the-health-argument-isnt-enough>.

⁸⁰ California WIC Association and University of California Davis Human Lactation Center, "A Policy Update on California Breastfeeding and Hospital Performance, California Fact Sheet: 2012 Data." Available at <http://calwic.org/storage/documents/factsheets2013/statefactsheet2013FINALrevised.pdf>.

⁸¹ Baby-Friendly designation is considered to be the "gold standard" for maternal hospital care. See www.babyfriendlyusa.org.

⁸² Kevin De Leon, "RELEASE: Breastfeeding Equity for Mothers and Infants in California Hospitals - SB 402 signed by Governor Jerry Brown," (September 10, 2013). Available at <http://sd22.senate.ca.gov/news/2013-10-09-release-breastfeeding-equity-mothers-and-infants-california-hospitals-sb-402-signed-#sthash.0519OfSJ.dpuf>.

⁸³ Id.

⁸⁴ Id.