



2019 Annual Meeting & Conference

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OCTOBER 28-29, 2019
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Healthy Mothers, Healthy Babies. In That Order.

Centering Mother's Voices in Maternal Care.

The Public Health Case for Pregnancy Accommodations

*a better
balance*

the work and family legal center

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October 29, 2019



DEPARTMENT OF
PUBLIC HEALTH
AND WELLNESS





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About A Better Balance: The Work and Family Legal Center

Objectives

1. Become familiar with the political & legal landscape surrounding workplace pregnancy accommodations, both nationally & at the state level.
2. Examine the Pregnant Workers Health Impact Assessment, published by the Louisville Department of Public Health & Wellness, to understand the public health case for reasonable workplace pregnancy accommodations.
3. Learn how healthcare & social service providers can best advocate for the rights of pregnant workers & new parents.

Framing the Issue

- Many pregnant individuals are able to continue working with no changes.
- However, some pregnant workers, especially those in physically demanding jobs, need reasonable job modifications to stay safe & healthy on the job.

Framing the Issue

- Examples of reasonable accommodations:
 - Ability to sit for periods of time while on a shift
 - Extra bathroom breaks
 - Food or drink breaks
 - Ability to carry a water bottle
 - Flexibility around dress code requirements
 - Limits on lifting requirements
 - Transfer to a less-strenuous shift, position, or work location
 - Altered work schedule for medical visits
 - Reduced schedule

Framing the Issue

- Without robust legal protections, pregnant workers who request accommodations are pushed off their jobs or forced to risk their health.
- Each year, an estimated **250,000+** pregnant workers are denied accommodations.
- Many more do not even request changes at work, likely because of a fear of retaliation.

Framing the Issue



Lyndi's Story:

<https://www.cbsnews.com/video/pregnant-police-officer-files-discrimination-lawsuit/>



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Framing the Issue

Ceeadria's story



After becoming pregnant, Ceeadria Walker of Memphis brought a doctor's note into work stating that she should not lift more than 15 pounds. Her supervisor continued to direct her to lift boxes that weighed up to 45 pounds. After a long shift of handling these heavier boxes, Ceeadria sadly miscarried.

“This was going to be my first,”

Ceeadria told *The New York Times*.

(Photo credit: *The New York Times*)

Federal Law: Americans with Disabilities Act Amendments Act (ADAAA)

- The ADAAA guarantees reasonable accommodations for workers with pregnancy-related disabilities.
- Examples may include hypertension, gestational diabetes, placenta previa, and hyperemesis.
- The ADAAA likely does not apply to those with healthy pregnancies who need minor accommodations to prevent problems before they begin.

Federal Law: Pregnancy Discrimination Act (PDA)

- The PDA prohibits unfair treatment of women because of their pregnancy, childbirth, or related medical conditions.
- The law prohibits an employer from discriminating against an employee in any aspect of the terms or conditions of employment (including harassment).
- The PDA does not provide clear guidance around reasonable accommodations for pregnancy & related conditions.

Federal Law: Pregnancy Discrimination Act (PDA)

- Under the PDA:
 - An employer **may not fire** an employee because of pregnancy.
 - An employee **cannot be denied a job opportunity** because of pregnancy.
 - **Other bad treatment** because an employee is pregnant is illegal, like **cutting hours or reprimands**.

Supreme Court Ruling: *Young v. UPS* (2015)

- Peggy Young worked as a driver at UPS, delivering letters. After becoming pregnant, she was ordered to bring in a doctor's note to continue working, even though she rarely did heavy lifting.
- Her provider's note indicated she had a lifting restriction.
- UPS refused to accommodate her, and she was placed on unpaid leave, losing her health insurance.
- However, UPS maintained a policy of accommodating many other groups of workers, including those injured on the job.

Supreme Court Ruling: *Young v. UPS* (2015)

Question before the court: Under what circumstances are employers required to provide reasonable accommodations to pregnant workers under the PDA?

Supreme Court Ruling: *Young v. UPS* (2015)

- The Court's ruling:
 - Employers must provide accommodations to pregnant workers if they already provide accommodations to others “similar in their ability or inability to work.”
 - Employers may not place a “significant burden” on pregnant workers.
- Advocates hoped this would provide stronger protections for pregnant workers who need accommodations, but unfortunately, it did not.

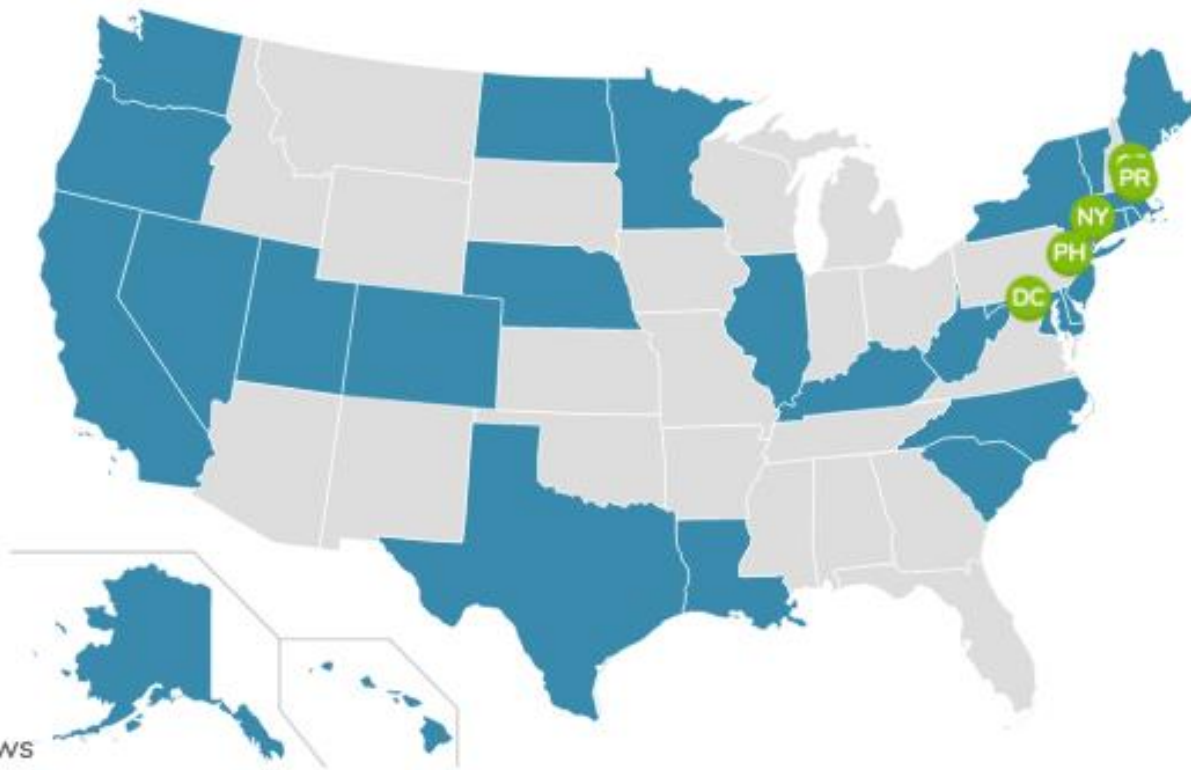
The Need for Stronger Legal Protections

- A Better Balance report: in over two-thirds of cases decided since *Young v. UPS*, courts held that employers were permitted to **deny pregnant workers accommodations** under the PDA.
- Over 40 years after the PDA was passed, pregnant workers, especially those in low-wage and physically demanding jobs, are still being **forced to choose between their job and a healthy pregnancy**.

State & Local Momentum

- **27 states and 5 cities** have passed laws requiring employers to provide **reasonable accommodations for pregnant employees** when needed, unless it would impose an **undue hardship** on the employer.
- Nearly all of these laws passed with **bipartisan support**, and many had backing from the **business community** as well.

State & Local Momentum



- State Laws
- Local Laws

Federal Momentum

- In May 2019, the federal Pregnant Workers Fairness Act was introduced in the House of Representatives with bipartisan support.
- This bill would provide a clear legal right to reasonable accommodations for pregnancy & related conditions when needed, unless it would be very difficult or expensive for the employer.

The Public Health Case

- Policymakers have recognized the importance of guaranteeing reasonable accommodations for pregnancy & related conditions in order to:
 - Promote healthy pregnancies and babies
 - Reduce complications and poor health outcomes for mothers and babies
 - Ensure that women are able to attend pre- and post-natal doctor's appointments

The Public Health Case

- Policymakers have recognized the importance of guaranteeing reasonable accommodations for pregnancy & related conditions in order to:
 - Lower healthcare costs
 - Reduce the rate of preterm births and miscarriages
 - Encourage breastfeeding by ensuring accommodations for pumping & lactation in the workplace

Questions?

Comments?

Pregnant Workers Health Impact Assessment

Health Impact Assessment (HIA)

- Combination of procedures, methods, and tools by which a **policy, program, or project may be judged as to its potential effects on the health** of a population, and the distribution of those effects within the population.



Pregnant Workers Health Impact Assessment

Health Impact Assessment (HIA)

- Actively engages stakeholders to inform the process and recommendations
- Is a flexible tool that can be adjusted to available resources and time
- Provides timely information to a decision



Pregnant Workers Health Impact Assessment

HIA Process:

Screening

- Is the HIA needed?

Scoping

- What health impacts should be considered?

Assessment

- What is the current status?
- What are the health effects of potential impacts?

Recommendations

- What actions can be taken to improve health or manage health effects?

Reporting

- Sharing results and recommendations with decision makers

Monitoring & Evaluation

- What are the changes in health?
- What are the outcomes of an HIA?



Pregnant Workers Health Impact Assessment

Health Impact Assessment
of the Kentucky Pregnant
Workers Act



Pregnant Workers Health Impact Assessment

2019

The Kentucky Pregnant Workers' Rights Act (KYPWRA) (SB18) works to clarify that Kentucky law protects women who need reasonable modifications in the workplace due to their pregnancy. SB18 ensures all pregnant workers have equal access to safe and healthy working conditions. The Pregnant Workers Health Impact Assessment works to inform decision making around the policy as a measure to improve the health outcomes of Kentucky's pregnant workers and their developing children.



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Pregnant Workers Health Impact Assessment

Findings

- The majority of Kentucky's female workforce does not have an advanced education. Level of education can impact the type of work available which ultimately impacts their health.
- Those with less than a high school or college diploma may work in positions that require more physical labor such as that found in factory jobs.



(Photo credit: *Pregnant Workers Health Impact Assessment*,
Louisville Department of Public Health & Wellness)



Pregnant Workers Health Impact Assessment

Findings

- Women of color experience differences in working environments due to racial inequities which may act as an additional barrier to acquiring basic measures to protect their health and the health of their infants.
- Nearly one-third of Kentucky's population identifies as a race other than white.

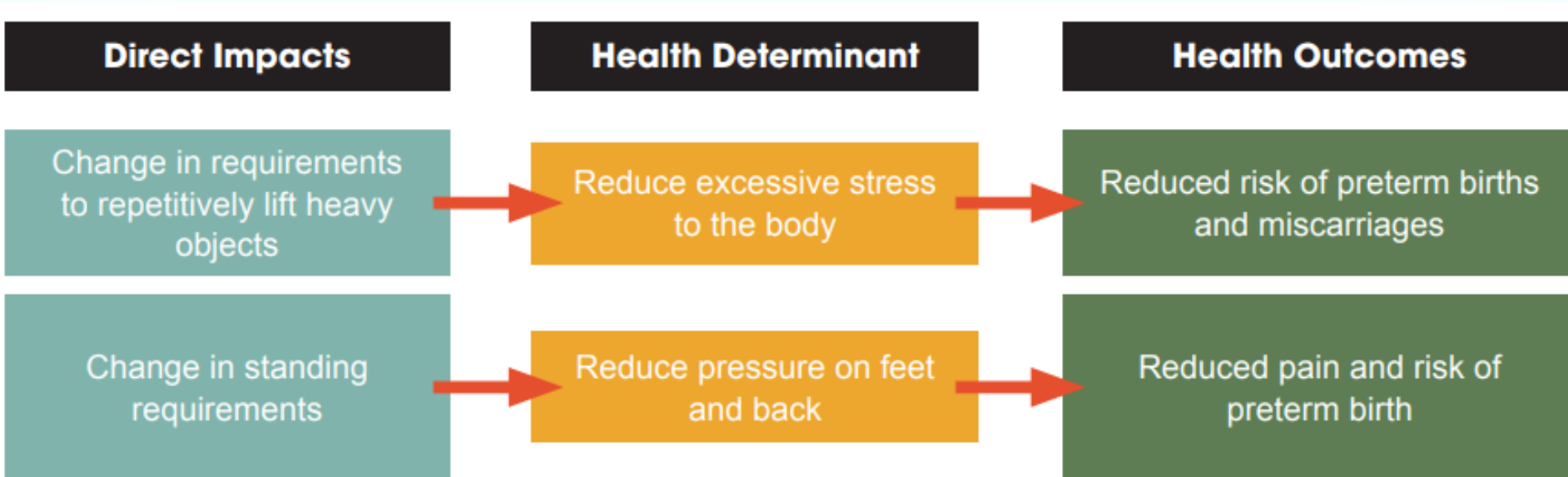


(Photo credit: *Pregnant Workers Health Impact Assessment*, Louisville Department of Public Health & Wellness)



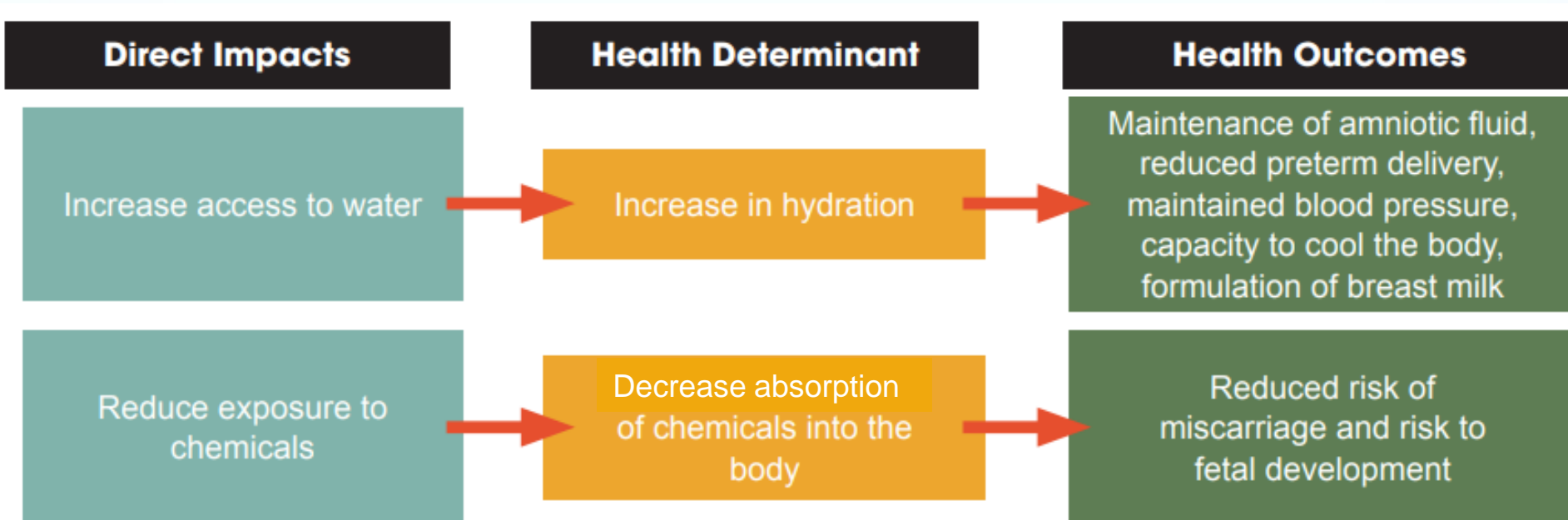
Pregnant Workers Health Impact Assessment

Pathway to better health through workplace accommodations



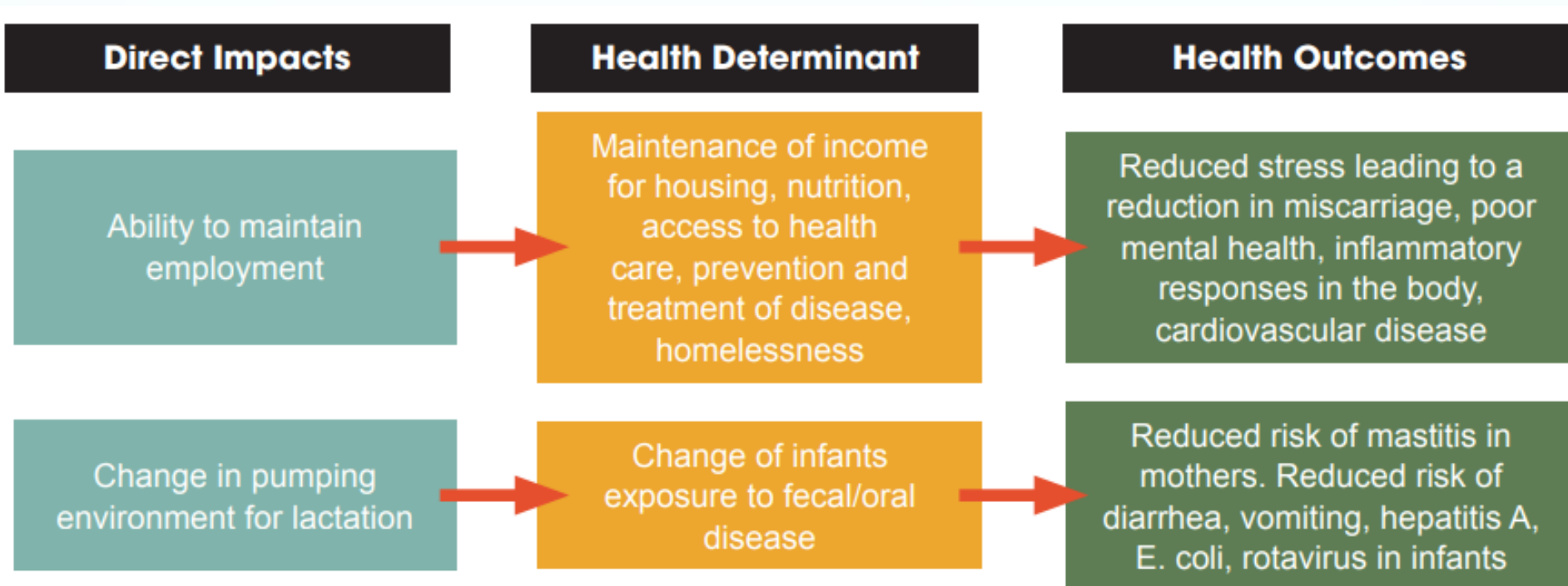
Pregnant Workers Health Impact Assessment

Pathway to better health through workplace accommodations



Pregnant Workers Health Impact Assessment

Pathway to better health through workplace accommodations



Pregnant Workers Health Impact Assessment

Results:

- Bill signed into law on April 9, 2019
- Effective June 27, 2019

SB 18

SIGNED INTO LAW!!!

requires employers to
provide **reasonable
accommodations for
pregnant workers**



Pregnant Workers Health Impact Assessment

- How can the health department inform policy?
 - The health department **can advocate** for public health. For example: educational campaigns, letters to the editor that highlight health, and informing advocacy groups on the health benefits of a policy.
 - As government agencies, health department employees **cannot lobby**. This includes active pressure on a politician to vote a certain way on a policy.



Thank you to Deborah Payne & Taylor
Ingram with the Louisville Metro
Department of Public Health &
Wellness!

Questions? Comments?



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For Healthcare Providers: Writing Effective Notes

- Healthcare providers can play an important role in ensuring pregnant workers get the accommodations they need to continue working & support their family.
- Even well-intentioned provider's notes can sometimes have the opposite effect, causing a woman to be forced onto unpaid leave, or even fired.

For Healthcare Providers: Writing Effective Notes

- Tips:
 - Be as specific as possible about your patient's medical conditions and limitations
 - Clearly state that your patient is able to continue working with accommodation(s)
 - Recommend specific reasonable accommodations, when possible
 - Think carefully before recommending leave or a reduced schedule
 - Include the estimated duration of the limitation

For Healthcare Providers: Writing Effective Notes

- Resources from the Center for WorkLife Law's Pregnant @ Work website:
 - State-by-state note-writing guidelines & interactive note-writing tool
 - Video training for prenatal care providers
 - Visit www.pregnantatwork.org/healthcare-professionals/pregnancy for more info

VIDEO TRAINING FOR PRENATAL CARE PROVIDERS



Please Don't Fire My Patient: How to Support Your Pregnant Patients' Ability to Earn an Income and Stay Healthy on the Job

Pregnant Workers: Know Your Rights

- State-by-State guidance:
babygate.abetterbalance.org/Georgia

Working While Pregnant & Parenting: Georgia



Georgia



Pregnant Workers: Know Your Rights

- Talking to your boss about your bump:
<https://www.abetterbalance.org/resources/pregnancy-in-the-workplace-georgia/>
- Talking to your boss about your pump:
www.abetterbalance.org/resources/talking-to-your-boss-about-your-pump-georgia/



Pregnant Workers: Know Your Rights



the work and family legal center

Free Legal Help from A Better Balance

A Better Balance is a national, non-profit legal advocacy organization. Our free and confidential legal helpline can help you understand your workplace rights around caring for yourself and your loved ones.

Call our helpline at 1-833-NEED-ABB (1-833-633-3222).

For more information, visit www.abetterbalance.org.



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Questions?

Comments?

Thank you!

Southern Office: (615) 915 2417

Legal Hotline: 1-833-NEED-ABB (1-833-633-3222)

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