

AMERICAN MEDICAL ASSOCIATION WOMEN PHYSICIANS SECTION

Resolution: Assigned by HOD  
(I-24)

Introduced by: Elizabeth Strauch

Subject: Protecting Infant and Young Child Feeding

Referred to: Reference Committee (Assigned by HOD)

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- 1    Whereas, more than half of all infants in the United States consume formula, either exclusively
- 2    or as a supplement, by three months of life;<sup>1</sup> and
- 3
- 4    Whereas, a recent investigation into Nestlé identified nutritional discrepancies between the
- 5    infant formula sold in high-income countries and low- and middle-income countries, specifically
- 6    elevated levels of sugar in formula sold in low- and middle-income countries;<sup>2</sup> and
- 7
- 8    Whereas, within the United States, infant formula is advertised as similar to breast milk, but
- 9    research has identified up to 7.7 g/100 kcal of added sugars in certain formulas which could
- 10   prime the developing brain's reward circuit to prefer high-sugary foods and contribute to the
- 11   significant rates of obesity in pediatric populations;<sup>4,5</sup> and
- 12
- 13   Whereas, numerous structural and systemic barriers prevent caregivers from pursuing
- 14   breastfeeding, and disproportionately affect marginalized groups;<sup>6</sup> and
- 15
- 16   Whereas, donor breast milk costs \$14.37/100 mL and formula costs \$3.30/100 mL, making
- 17   donor milk prohibitively expensive;<sup>7,8</sup> and
- 18
- 19   Whereas, in 2021, 16% of children in the United States lived below the poverty line, thus making
- 20   purchase of donor breast milk a nonviable option for many families;<sup>9</sup> and
- 21
- 22   Whereas, the use of donor breast milk is associated with decreased risk of early childhood
- 23   pathology and increased likelihood of continuation of breastfeeding relative to infant formula;<sup>10</sup>
- 24   and
- 25

26 Whereas, premature infants that are exclusively fed human breast milk have significantly  
27 reduced rates of necrotizing enterocolitis, one of the leading causes of death in premature  
28 infants;<sup>31</sup> and  
29  
30 Whereas, research conducted in Florida determined that, in addition to avoiding more infant  
31 deaths, using pasteurized donor human milk in neonatal intensive care units would avoid an  
32 estimated \$4 million in annual health care expenditures;<sup>32</sup> and  
33  
34 Whereas, seventeen states and the District of Columbia have passed legislation that requires  
35 Medicaid coverage of donor human milk;<sup>8</sup> and  
36  
37 Whereas, birthing parents who undergo chemotherapy, and those who have certain infections,  
38 are not able to breastfeed due to the impact of radiation and the risk of transmitting diseases to  
39 the infant;<sup>11,12</sup> and  
40  
41 Whereas, thousands of infants, older children, and adults with metabolic, gastrointestinal and  
42 allergic disorders rely on specialty formulas to meet their nutritional needs;<sup>13</sup> and  
43  
44 Whereas, four companies: Abbott Nutrition, Nestle, Mead Johnson, and Perrigo control nearly  
45 90% of the infant formula market in the United States;<sup>14</sup> and  
46  
47 Whereas, the dominant formula companies have further consolidated an already concentrated  
48 market by relying on just a few manufacturing facilities to produce the majority of their  
49 products;<sup>15</sup> and  
50  
51 Whereas, reports of bacterial contamination in the manufacturing facility responsible for  
52 producing 40% of Abbott Nutrition's products led to a mass formula recall and subsequent plant  
53 closure in 2022;<sup>16</sup> and  
54  
55 Whereas, Abbott Nutrition's 2022 formula recall and plant closure caused a mass shortage with  
56 the national out-of-stock rate for infant formula spiking to 74%;<sup>17</sup> and  
57  
58 Whereas, on average, formula companies with sole-source WIC contracts hold 84% of the  
59 market share in each of their respective states, resulting in highly concentrated individual state  
60 formula markets that are particularly vulnerable to supply disruptions and shortages;<sup>19</sup> and  
61  
62 Whereas, unsafe infant feeding practices including rationing, diluting, and using homemade  
63 formula rose from 8% to 48.5% during the 2022 formula shortage;<sup>22</sup> and  
64  
65 Whereas, despite introducing several bills that would address the underlying causes of the  
66 formula recall and subsequent shortage, the federal government's lack of action left the nation  
67 vulnerable and susceptible to future formula crises;<sup>23</sup> and  
68

69 Whereas, the U.S. Food and Drug Administration (FDA) and the U.S. Department of Agriculture  
70 (USDA) announced plans to enhance inspections of formula production facilities, promote new  
71 market entry, and support WIC agencies in the event of future formula crises but failed to  
72 address the issue of sole-source WIC contracts exacerbating market concentration;<sup>15</sup> and  
73  
74 Whereas, infant formula tariff rates reaching 17.5% serve as significant barriers to entry into the  
75 U.S. formula market for foreign manufacturers and further reduce healthy competition;<sup>24</sup> and  
76  
77 Whereas, the bipartisan “Formula Act” (H.R. 8351) that waived tariffs on imported infant  
78 formulas through January 1, 2023 helped replenish the national supply and doubled the number  
79 of manufacturers selling baby formula in the United States before expiring;<sup>25</sup> and  
80  
81 Whereas, the expiration of the “Formula Act” (H.R. 8351) and the return of import tariffs caused  
82 formula supply to drop again and led to price increases of as much as \$8.00 per can;<sup>26</sup> and  
83  
84 Whereas, competition and market diversity benefit consumers by keeping costs low, increasing  
85 the quality of goods, providing consumers with greater variety, and ensuring a reliable and  
86 sustainable infant formula supply for American families;<sup>27, 28, 29</sup> and  
87  
88 Whereas, the short-term solutions enacted in 2022, such as tariff reductions and amended  
89 regulatory requirements for imported formulas, alleviated the strain of the infant formula  
90 shortage but did not solve the underlying structural issues of limited suppliers, thus  
91 demonstrating the need for long-term solutions in order to prevent future formula crises;<sup>30</sup>  
92 therefore be it,  
93  
94 RESOLVED, that our AMA support Medicaid coverage of donor human breast milk; and be it  
95 further  
96  
97 RESOLVED, that our AMA advocate for an adequate supply and consistent sources of infant  
98 milk formula.

Fiscal Note: Assigned by HOD

Date Received: XX/XX/2024

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### **Relevant AMA Policy**

Collective Bargaining: Antitrust Immunity D-383.983

Our AMA will: (1) continue to pursue an antitrust advocacy strategy, in collaboration with the medical specialty stakeholders in the Antitrust Steering Committee, to urge the Department of Justice and Federal Trade Commission to amend the "Statements of Antitrust Enforcement Policy in Health Care" (or tacitly approve expansion of the Statements) and adopt new policy statements regarding market concentration that are consistent with AMA policy; and (2) execute a federal legislative strategy.

Adequate Funding of the WIC Program H-245.989

Our AMA urges the U.S. Congress to investigate recent increases in the cost of infant formula, as well as insure that WIC programs receive adequate funds to provide infant formula and foods for eligible children.