

Testimony on Substance Exposed Infants

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Good morning Chairwoman Boback, Chairman Petrarca, members of the committee, and staff. My name is Cathy Utz, and I am honored to serve as the Deputy Secretary for the Office of Children, Youth and Families in the Department of Human Services (DHS). I would like to thank you for the opportunity to testify today regarding how the state is responding to the new federal requirements surrounding infants born affected by prenatal substance use.

Developing policies and procedures for supporting infants born affected by substance use and their families is a complex issue that requires a community approach crossing over multiple systems. We have learned over the past several years that this issue is not confined to one population and there is no “one size fits all” or even “one size fits most” solution. The 2016 amendments to the federal Child Abuse and Prevention Treatment Act, known as CAPTA, mirrored by our own Act 54 of 2018 (Act 54), shifted the focus from the use of illegal substances by a pregnant woman to the use of any substance that affects an infant. With this change, we are now engaging with a much broader population of mothers and babies. This includes women who are using legally prescribed medications for chronic pain or other disorders who do not have a substance use disorder; women who are receiving medication-assisted treatment for an opioid use disorder and are actively engaged in treatment; and women who are misusing prescription drugs, or are using legal or illegal drugs, who have not yet been assessed for a substance use disorder and are not actively engaged in a treatment program.

Following the federal CAPTA amendments, DHS brought together a team of stakeholders with expertise in the fields most relevant to the aforementioned populations to begin thinking through our approach and compliance with the law. The Multi-Disciplinary Workgroup on Infants Born Substance Exposed (MDWISE) has met regularly for more than two years to discuss how best to meet the needs of infants and their families. The workgroup is comprised of experts from the medical field, including neonatologists, obstetricians, pediatric and family physicians, and nurses, representatives from the child welfare field, courts, law enforcement officials, substance use disorder specialists, child advocates, legislative staff, and partners from the state Departments of Health (DOH) and Drug and Alcohol Programs (DDAP). The intent of the workgroup was defined early: to develop a Pennsylvania policy agenda supported by multiple system partners that addresses prevention, substance use screening, referral to treatment, coordination of care for both the infant and family, development of protocols for the federally

required plans of safe care for the infant, and tracking of referral outcomes to better inform our work moving forward.

The workgroup has assisted in the development of state guidance to inform health care providers, substance use treatment providers, child welfare professionals, and others who will join multidisciplinary teams for plans of safe care regarding primary prevention, substance use screening and referral to treatment, coordination of care for the infant and family, development of protocols for plans of safe care for the infant and tracking of referral outcomes. The guidance will be jointly released by DHS, DOH, and DDAP in the coming weeks and serves as a resource to help professionals understand their roles in ensuring Pennsylvania is compliant with CAPTA requirements. This is a true collaborative effort that was not undertaken solely by DHS or created in a vacuum. The workgroup modeled the guidance off a national example from the National Center on Substance Abuse and Child Welfare. The guidance document includes definitions of terms included in Act 54 to provide as much clarity as possible to those working directly with infants and their families. The guidance document also provides direction for county-level teams as they begin the work of developing plans of safe care for infants identified as substance exposed. These plans of safe care, as required by CAPTA, will be developed for any infant born and identified as affected by substance use, including alcohol, and will be monitored by a multidisciplinary team. Each plan will be unique to the child and family and will include the supports or services necessary to ensure everyone's safety and stability.

DHS, DOH, and DDAP have worked collaboratively with workgroup members to develop the guidance from a public health perspective. The guidance recommends that health care providers universally screen all pregnant women through use of evidence-based tools to support early identification of potential risk to infants and to ensure that pregnant women are connected with necessary services and supports to address identified needs. Consistent with the federal statutory requirements, health care providers are required to notify ChildLine, DHS' statewide hotline that accepts referrals of child abuse and general well-being concerns, when an infant is born exposed to substances and notice will be provided to the county children and youth agency. Additionally, hospitals will initiate the convening of a local multidisciplinary team (MDT) prior to the infant's discharge from the hospital. The MDT will identify which agency is best suited to lead, implement, and monitor the plan of safe care on an ongoing basis. Team members could

include home visitors, substance use disorder treatment providers, pain management specialists, Center of Excellence staff, or a county children and youth agency professional.

Developing and monitoring individualized plans of safe care for infants born substance-exposed and their families requires intentional collaboration as multiple systems will be working toward the safety of the child and stability of the family. The lead agency will be responsible for convening the team, monitoring implementation of the plan, and ensuring progress is being made toward all identified needs. If at any time a member of the team is concerned for the child's safety, a child protective services or general protective services referral may be made to ChildLine for further assessment or investigation by the county children and youth agency when they are not identified as the safe plan of care lead entity.

To assist counties in meeting the new requirements, DHS, DOH, and DDAP have partnered with the Governor's Institute to provide five regional in-person work sessions to begin the process of operationalizing new policies and procedures in their own counties. These sessions are scheduled between March and June of this year.

We know addiction does not discriminate and affects individuals and families across Pennsylvania. Rather than treating the addiction alone, DHS recognizes the need to treat the entire person through a team-based approach, integrating behavioral health, primary care, and, when appropriate, evidence-based medication-assisted treatment. This approach allows treatment to address an individual's substance use disorder and underlying physical and behavioral health issues that are often the root cause of addiction. Our Centers of Excellence across the commonwealth have begun this critical work as a response to the opioid crisis. Furthermore, as I mentioned previously, Act 54 also affects those who may be at risk due to chronic pain or other disorders that require the use of medications throughout a pregnancy. Whether a pregnant woman is under the care of a physician or not, any infant born exposed to substances deserves our attention to ensure the child's safety and provide support to the parents and caregivers.

The Pennsylvania Supreme Court has ruled that a woman's use of opioids while pregnant, which results in a child born suffering from neonatal abstinence syndrome (NAS), does not constitute child abuse as defined by the Child Protective Services Law. In light of the recent decision, many individuals have expressed concern for the safety of infants whose mothers have knowingly exposed them to substances prenatally. As we learn more about the physiological effects of the disease of addiction and instances in which a child may be born substance exposed,

DHS supports CAPTA and Act 54's focus on creating unique plans of safe care in an effort to connect these infants and their families to the appropriate systems and provide them with the most relevant supports, rather than face criminal charges. Some instances may result in formal child welfare involvement and placement into the foster care system; but others may simply require the support of a physician as a woman manages a chronic disorder while pregnant. The shift from a punitive approach to a supportive one is crucial. We do not want mothers to feel isolated when trying to maintain a healthy pregnancy, birth, and infancy for her child while struggling with the disease of addiction.

DHS believes that protecting Pennsylvania's children and supporting their families is a shared responsibility that does not rest solely with the formal child welfare system, and we are glad to have the support of our colleagues across disciplines in this endeavor. We believe the public health approach to the issue of infants born substance exposed will enable families to receive the help they need to raise safe and healthy infants, obtain necessary treatment, and connect with the community services and supports that safeguard the health and stability of their families.

I would like to thank the committee for your dedication to ensuring the safety and well-being of Pennsylvania's children and their families and for the opportunity to testify today.