North Carolina Pediatric Society

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To Whom It May Concern:

On behalf of the Committee on Child Abuse and Neglect (CCAN) of the NC Pediatric Society, we are writing to share physician questions and concerns regarding Plan of Safe Care (POSC). As pediatricians, we fully support the goals of the Plan of Safe Care, as these goals are to increase services to families of infants exposed to substances during pregnancy. Furthermore, we appreciate that the approach taken by the Department of Health and Human Services focuses on linking families with care. Finally, we certainly understand how complex the issues of child abuse and neglect can be.

Our concerns center around the implementation of the POSC as there are several resultant complications for hospitals, pediatricians and other newborn care providers.

- **Concerns about procedures relating to notifying and determining follow-up:** Prior to the POSC, hospitals and newborn care providers would refer families directly to CC4C for substance-affected infants or families with concerns for ongoing assistance. The implementation of POSC has resulted in a directive for hospitals/newborn care providers to refer to child welfare instead of directly to CC4C. Child welfare then would initiate a CC4C referral. In our experience, this leaves the medical care provider outside of the referral information, and it can therefore be unclear to the medical home whether CC4C is working with the family. This is potentially a missed opportunity for prevention, linking to services and/or encouraging the family to work with CC4C if initially declined by the family. We are interested in working together to create a mechanism by which to assure that the notification/report is part of the medical record within the hospital and that the primary care provider is aware of the POSC referral. We would also like to clarify whether the primary care provider needs to make a POSC referral if hospital has already done so.

- **Desire for more clarity on legal issues:** Another concern is the directive to have medical providers share protected health information (PHI) without legal protection. The Health Insurance Portability and Accountability Act (HIPAA) provides protection for health care providers who share PHI when they do so to make a report of suspected maltreatment or during an open investigation. The POSC asks providers to share PHI outside of suspected maltreatment or open investigation. It is critical that we clarify the legal issues around HIPAA (when sharing health information is not related to reporting abuse or neglect)
• **Challenges with implementation:** There have been several problems communicated to us from medical care providers who are attempting to implement POSC in their practices: 1) it has been taking a very long time in some counties for care providers to notify/refer to POSC when the concern does not relate to abuse or neglect. Some have reported calls taking 40 minutes or longer, and this is more time than most busy care providers have to spend on such reports. 2) There is confusion on the age of an infant who should be referred, particularly those children born outside of North Carolina. 3) We would also like to clarify which substances to notify about, especially now that “illicit” and “illegal” are no longer expressly highlighted. 4) Others have expressed concern that reporting will be used for criminal prosecution purposes and thus potentially harm the parent-child relationship. Written guidance such as FAQs on these and other issues could be helpful to newborn care providers in the state.

Ways that CCAN and/or the NC Pediatric Society may be able to help:

- Share updates/materials with membership
- Include DSS in invitations to CCAN meetings
- Work together on FAQs
- Survey membership (our survey or yours)
- Pull together a subgroup to meet with attorneys on legal questions

We also welcome other strategies for ways we can work together to improve the process. We stand ready to work with DSS and other appropriate entities towards resolving issues to protect children.

Thank you for your partnership. We look forward to working together to help that newborns get the care they need to grow up strong.

Sincerely,

[Signature]

Stacy Thomas, MD, FAAP,
Committee on Child Abuse and Neglect