**Is There a Best Way to Reduce Prenatal Substance Abuse?**

We have been reviewing research on prenatal Substance Abuse Disorder (SUD) because of this legislation proposing a task force on the issue.

The American College of Gynecologists and similar organizations have issued statements opposing mandated reporting of SUD, which they believe deters women from getting prenatal care. This (open access) article on alcohol addiction supports that view.

However the organizations' statements don't address some nuances of the issue, and none mention the potential health consequences of SUD for children, particularly from alcohol use. As this article (shared with permission) demonstrates, those include that 61% of newborns who withdraw from alcohol or drugs are screened into child protection within a year, and 30% are placed in foster care.

Strategies to reduce prenatal SUD so children are born healthy and the family doesn't end up in the system are in everyone's interest.

**Script for Podcase on Prenatal Substance Abuse Disorder, or SUD**

The background for this blog is that legislation was proposed during the 2023 Minnesota state legislative session to significantly change reporting requirements related to pregnant women who have Substance Abuse Disorder, or SUD. That legislation was withdrawn in favor of a bill that proposed a task force on these issues. There is a link to the task force bill in this week's blog which is also included in the written script for this podcast, both of which will be on the website. Or you can look it up, it's SF 2139 or HF 2099. The numbers for the original bill are HF 2095 and SF 2543. To read them, just go to the Minnesota Legislature website and click on the "Bills" drop-down menu, and you can put either the House or Senate bill number in to get to the legislation. Both versions are the same for both bills.

As of this writing, the task force legislation passed in the Minnesota House but not in the Senate so it is currently being resolved in the conference committee. If the task force does not get approved, we expect that the original legislation to be reintroduced in 2024.

We were initially concerned about the first bill because it made reporting of child maltreatment next to impossible in cases of prenatal SUD. In addition the bill also made it next to impossible to report mothers to child protection if the child was born withdrawing from drugs or alcohol, or exhibited some developmental damage that would likely be attributed to the drug or alcohol use.

Since then we have done homework on prenatal SUD and wanted to share some of our findings and conclusions with you. On that point, we haven't finished our due diligence on these bills, so if anyone listening to or reading this podcast has information or expertise to share, please get in touch by going to the website and clicking on "contact us", or simply send an email to contactus@safepassageforchildren.org.

We found that there is a strong conviction among medical providers that requiring them to report prenatal SUD to child protection is counterproductive.  In our blog we have a link to a table which shows a number of associations such as the American College of Gynecology, the Academy of Pediatricians, the Centers for Disease Control, nursing associations and others which have policy statements opposing mandated reporting of women with SUD.  We checked this out with several physicians locally who confirmed their belief that research clearly supports this position, that they should not have to report prenatal SUD to child protection.

The doctors referred me to a number of articles and research papers on this topic, and here is what I came away with:

1. First, There is a lot of information regarding the adverse effects on infants of alcohol abuse during pregnancy, but no one we talked with was able to direct us to research on the impact of opioids or other drugs.  So we are still looking.
2. Secondly, the pronouncements of the College of Gynecology and their sister organizations are unequivocal.  They are convinced that the research supports their position 100%.  But here is how the authors summarize the state of knowledge in an article entitled "Consensus Guidelines and State Policies: The Gap Between Principle and Practice at the Intersection of Substance Use and Pregnancy".  They say: "There is overwhelming consensus on the principle of a non-punitive approach towards substance use in pregnancy. Experts universally endorse supportive policies, which reduce barriers to care, and oppose punitive policies, which can increase the fear of legal penalties, discouraging women from seeking prenatal care and addiction treatment during pregnancy.  Guidance documents and professional society committee opinions further suggest that punitive policies may lead to disengagement from care[13] and poor pregnancy outcomes, although few studies have examined this issue"[14].  It's that final phrase, "few studies have examined this issue", that surprised me.  It suggests that research is not as clear-cut as one would think from reading their policy statements.
3. Third, the research seems to indicate that civil commitment is one of several practices that in particular may drive pregnant women away from seeking prenatal care.  However we spoke with an Assistant County Attorney in Hennepin County who has done this work for years.  She explained that the civil commitment process has a life of its own independent from child protection or the medical world. It has legal requirements and its own infrastructure for determining when people are in need of involuntary inpatient commitment.  So even if all parties agreed to no longer threaten pregnant women with this option, it may not be easy to take off the table.

Let's talk first about whether mandated reporting particularly by medical providers of SUD women or related policies are in fact a disincentive for them to seek prenatal medical care, given that "few studies have examined this issue". On this point, we have a link in the blog to an article.  It is entitled "State Policies Targeting Alcohol Use during Pregnancy and Alcohol Use Among Pregnant Women 1985-2016: Evidence from the Behavioral Risk Factor Surveillance System".  I am going to restrain myself from commenting on the lengths of these academic titles and just say that this article takes a deep dive into alcohol abuse during pregnancy.

The authors break states down into three groups: mixed policies, supportive policies, and punitive policies. Supportive policies include preferential treatment for prenatal care for substance abusing women, no requirement to report child abuse and neglect to child protection, a prohibition against criminal sanctions, and public service campaigns regarding the negative impact of substance abuse. Punitive policies include mandated reporting, civil commitment, and simply having a law on the books or an official state policy statement that prenatal SUD is a form of maltreatment. They then go on to further organize the data under three models. The models are a bit complicated and probably not worth going into detail here, but in brief one model is around states that have either supportive, punitive, or mixed models as a whole, the second breaks out individual components of those policies separately, and the third is mixed. After an overview they conclude "Most policies targeting alcohol use during pregnancy do not appear to be associated with less alcohol consumption during pregnancy."

My take away from this section of the article was that the policy options that states are using aren't making much difference one way or another. However the details of this article tell a different story. They include data showing that in two out of the three models, elements of a punitive policy, mandated reporting and civil commitment, significantly increase binge drinking as well as heavy drinking, and heavy drinking is not necessarily less bad, it is associated with negative health outcomes for the children as well.

Another article entitled "Association of Punitive and Supportive State Policies Related to Substance Use in Pregnancy with Rates of Neonatal Abstinence Syndrome", or NAS. (NAS is essentially withdrawing from drugs or alcohol at birth). What this means in simpler terms is whether state policies have an impact on the number of children who are born having to withdraw from drugs or alcohol. The authors found that "Policies requiring reporting of suspected prenatal substance use were not associated with rates of NAS (Neonatal Abstinence Syndrome)." On the other hand, the authors found that "the odds of NAS among neonates living in states with punitive policies were significantly greater than among neonates in states without such policies". In other words, other than mandated reporting, punitive policies lead to more children having to withdraw from drugs or alcohol at birth. Punitive policies included criminalizing prenatal SUD, considering SUD to be grounds for civil commitment, and having laws on the books that defined prenatal SUD as child treatment.

So contrary to the other research, this article singles out mandated reporting and states that it does not increase the negative outcome of NAS, but agrees with the other articles that the other two policies do increase this negative outcome.

So in sum, there appears to be more evidence than not that punitive policies such as criminalizing prenatal SUD and civil commitments are counterproductive, but it's not as cut and dried as the official positions of the medical groups suggest.

Related to this, many years ago I did research on efforts by public health agencies to do outreach to high risk pregnant women, and get them into prenatal care. My documents from that work are lost in time. But I recall that the public health agencies were quite successful in this endeavor. So I or others should do a search to find out what are the best practices in this regard, and potentially propose that they be implemented here.

Another important element not to be overlooked is that the original legislation also made it nearly impossible to report NAS to child protection. As already mentioned, children who are born withdrawing from drugs or alcohol, or who have developmental damage that can be detected at birth or within the first few months of life, will probably end up being referred to child protection anyway because the risk factors associated with prenatal SUD are also often associated with other issues that get women reported to child protection, such as various forms neglect.

Where does this leave us in terms of taking a position on these bills? Well, we need to keep in mind that the ultimate objective here is to do everything possible to ensure children are not born with irreversible developmental damage, such as Fetal Alcohol Spectrum Disorder, or other conditions that make it necessary to report the case to child protection.

Politically, it seems to be futile to take a position requiring mandated reporting of prenatal SUD. Even if it was clear that was the right way to go, which clearly it isn't, we would not succeed by fighting all the doctors in the state. It seems the more likely to succeed strategy would be to emphasize the following:

- We agree not to advocate for continuing to require mandated reporting of prenatal SUD
- Insert a note of caution that the evidence is perhaps not yet as conclusive as people believe around the benefits of supportive policies or the harms of so-called punitive measures, at least regarding prenatal alcohol abuse, and encourage keeping an open mind about final policy or legislative decisions until more is known
- Encourage the task force not to sweep up prenatal drug abuse with alcohol abuse and make policy decisions or laws that conflate the two, since evidence on prenatal drug abuse is not very clear
- Encourage a deep dive into existing research on prenatal drug abuse
- Encourage the task force to keep the current practices regarding reporting of NAS or developmental damage to child protection at birth, so we don't require medical personnel to overlook obvious indicators of the need for oversight of essentially helpless infants
- Support efforts by physicians, particularly OB/GYNs and pediatricians, to help pregnant women with SUD be informed about the benefits to their baby of abstinence during pregnancy, and that while they may not be reported to child protection while they are pregnant, everything they can do to avoid substance abuse will help keep them from getting screened into child protection when the child is born
- Build awareness that civil commitment is an independent process that applies to everyone, not only pregnant women, and that it may not be possible to make them an exception

Overall this suggests that a role for Safe Passage could be to join with others in fostering an atmosphere of open-mindedness and experimentation (with whatever funding is needed) regarding efforts to engage pregnant women in prenatal care, but that Safe Passage should remain firm in opposition to proposals to put constraints on medical providers reporting children experiencing NAS to child protection.

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