**PEDS Clerkship- Substance Exposed Newborns Reporting and Notifications**

The impact of in-utero exposure to substances on a newborn and their family can be detrimental.  With the increasing opioid epidemic, a new emphasis has been placed on the impact of these substances on newborns and their families.

Federal legislation requires that states address the needs of newborns affected by both legal and illegal substances. Prior to 2017, legislation required states to address only infants affected by the use of illegal substances and alcohol. The changes in requirements were made specifically to address the opioid epidemic that the nation is facing.

Louisiana's approach to addressing the needs of substance-exposed newborns is multi-faceted but primarily focuses on two approaches:

1-**Defining and addressing prenatal neglect**, including reporting mechanisms and investigative protocols by the Department of Children and Family Services (DCFS).

2-**Implementing a process for notifying DCFS** of those newborns not suspected of prenatal neglect but exhibiting withdrawal symptoms as a result of exposure to legally prescribed, lawfully used controlled dangerous substances. The Physician Notification is a new legislative requirement as defined in **LRS 40:1086.11**.

“**Newborn**” means a child who is not more than 30 days old, as determined within a reasonable degree of medical certainty by an examining physician.

"**Prenatal Neglect**" means exposure to chronic or severe use of alcohol or the unlawful use of any controlled dangerous substance, (opiates, opium derivatives, hallucinogenic drugs, depressants, stimulants…) or in a manner not lawfully prescribed, which results in symptoms of withdrawal in the newborn or the presence of a controlled substance or a metabolic thereof in his body, blood, urine or meconium that is not the result of medical treatment, or observable and harmful effects in his physical appearance or functioning.

A "**Mandatory Reporter**" is any of the following individuals:  a health practitioner; mental health/social service practitioner; member of the clergy; teacher or child care provider; police or law enforcement officer; commercial film or photographic print processor; mediator; parenting coordinator; court-appointed special advocate volunteer; organizational or youth activity provider; and/or school coach.

"**Physician Notification Form**" is the mechanism to provide notification to DCFS of a newborn who exhibits symptoms of withdrawal, or other observable and harmful effects in his physical appearance or functioning, that a physician believes are due to the use of controlled dangerous substance,supra, in a lawfully prescribed manner by the mother during pregnancy.  This notification shall not constitute a report of child abuse or prenatal neglect, nor shall it require prosecution for any illegal action.

**Required Elements of a Prenatal Neglect Report**

**1-Alcohol Affected Newborns**

Newborn must be 30 days old or less; **and**

Newborn must have either withdrawal symptoms or positive alcohol screen through blood, urine or meconium test **or** have observable and harmful effects in his physical appearance or functioning.

**2-Drug Affected Newborns** Newborn must be 30 days old or less; **and**

Newborn must have either withdrawal symptoms or positive toxicology screen through blood, urine or meconium test **or** have observable and harmful effects in his physical appearance or functioning; **and**

Mother must have unlawfully used a controlled dangerous substance, or in a manner not lawfully prescribed, during pregnancy.

**Tools to Assist in Decision Making**

If a physician has **cause to believe that the newborn was exposed in-utero to an unlawfully used controlled dangerous substance**, then the physician must **order a toxicology test** on the newborn without the parent's consent to determine if prenatal neglect is suspected. If the test results are positive, the physician must **make a report of suspected prenatal neglect**.

If the newborn **exhibits symptoms of withdrawal or other observable and harmful effects that are due to chronic or severe use of alcohol** by the mother**, or due to Fetal Alcohol Spectrum** **Disorder**, the physician must **make a report of suspected prenatal neglect**.

If prenatal neglect **is suspected, but test results cannot confirm exposure** to an unlawfully or lawfully used substance prior to the newborn's discharge from the hospital, the physician must **make a report of suspected prenatal neglect.**

If the **newborn exhibits withdrawal symptoms** that are believed to be due to the mother’s use of a controlled dangerous substance in a lawfully prescribed manner, without suspicion of prenatal neglect, the physician must **submit a Physician Notification Form.**

**Reporting/Notification Requirements**

Physicians are mandated to make a report of suspected prenatal neglect to the **Child Protection Hotline by calling 1-855-4LA-KIDS (1-855-452-5437).**

Physicians are required to notify the Department of a newborn exhibiting withdrawal symptoms or other observable and harmful effects in his physical appearance of a controlled dangerous substance used in a lawfully prescribed manner by the mother during pregnancy. This notification shall be made through the **completion of the form, "Physician Notification of Substance Exposed Newborns – No Prenatal Neglect Suspected**". The physician is required to submit a Physician Notification Form to DCFS that includes a Plan of Safe Care. The Physician Notification Form is to be faxed to Centralized Intake at **(225) 342-7768 and can be completed in either of the following manners:**

**If laboratory results are not known at the time of the newborn's discharge from the hospital, to determine whether prenatal neglect is suspected or the newborn was affected by a legally prescribed, appropriately used substance, the physician shall make a *report* of suspected prenatal neglect.**

**§LRS 40:1086.11. Physician notification**

            A. If a newborn exhibits symptoms of withdrawal or other observable and harmful effects in his physical appearance or functioning that a physician believes are due to the use of a controlled dangerous substance, as defined by R.S. 40:961 et seq., in a lawfully prescribed manner by the mother during pregnancy, the physician shall make a notification to the Department of Children and Family Services on a form developed by the department. Such notification shall not constitute a report of child abuse or prenatal neglect, nor shall it require prosecution for any illegal action.

            B. A healthcare provider shall be authorized to share any protected health information… with the Department of Children and Family Services for the purpose of complying with the notification requirement of this Subpart.

            C. The Department of Children and Family Services shall promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Subpart. Such rules shall include, at minimum, all of the following:

            (1) The manner in which the notification shall be made to the department.

            (2) The form and minimum required contents of the notification.

            (3) The plan to monitor the statewide system regarding the availability and delivery of appropriate services for newborns and affected families and caretakers.

            D. A physician who in good faith makes a notification to the Department of Children and Family Services in compliance with this Section shall have no civil or criminal liability for damage or injury arising from that notification, unless the damage or injury was caused by the physician's willful or wanton misconduct or gross negligence.

            Acts 2017, No. 359, §2.