

# New Protocols for Addicted Pregnancies

In the year 2000, community partners from Memorial Hospital's Newborn Intensive Care Unit, the Perinatal Exposure Prevention Project (PEPP), the Prosecutor's Office, and Child Protective Services came together to talk about an issue of growing concern. At the time, this issue had been highlighted in national news as a controversy for community organizations and courtrooms alike. What was the best way to reduce the incidence and harm done to babies born to women who use drugs? It's this question that inspired the creation of an important protocol in St. Joseph County, a document which provides an additional tool for addressing the issue. The story of this protocol's development is also the story of Memorial's investment in the well-being of infants, of the growth of PEPP, the evolution of a Prosecutor's approach, and the expanded commitment of local Child Protective Services. More than that, it's a story of proactive community involvement, an effort of ongoing cooperation and partnership.

## The Case

In June 1999, St. Joseph Prosecutor Christopher Toth filed charges of child abuse against a mother whose baby tested positive for cocaine at birth. New to the Prosecutor's Office, Toth had taken an unprecedented step for the community. Julie Sellers, Director of PEPP, a program of Alcohol & Addictions Resource Center, Inc., says that prior to Toth's election, there had been an "unwritten" understanding that women who used illegal substances during pregnancy would be assisted in seeking treatment rather than prosecuted. In filing charges, Toth, who ran on a tough-on-crime platform, had made a strong statement that such an understanding no longer existed. Sellers, who was actively working with the woman charged to help her overcome her drug problem, was surprised by this new development.

Meanwhile Dr. Bob White, Medical Director of Memorial's Regional Newborn Program, also took note of the Prosecutor's charges. "Charging a mother with something that happens to a fetus is questionable," says Dr. White. "So, Mr. Toth's office was taking a pretty aggressive stance toward mothers using illegal drugs during pregnancy. At the same time, we were having increasing difficulty with Child Protective Services." In his work with newborns, Dr. White and his colleagues are required by law to report to Child Protective Services if a child has been exposed to drugs prior to delivery. The largest proof of such exposure is that the baby tests positive for an illegal substance. These tests however, are limited in their scope. A urine screen only picks up exposure if the mother has been using drugs two to three days prior to delivery. Another screening option, a meconium test, may only show a positive if the mother has been using particularly large amounts of a drug. "We would get mothers who clearly had been using drugs during pregnancy, by their own admission often, and by testing done on the mother...but, when the baby was born we may or may not have been able to get positive tests on the baby." Without a newborn testing positive, Child Protective Services wouldn't open a case, citing a lack of proof as a deterrent in any investigation, which could be frustrating to hospital staff. "We weren't insisting that all those kids had to be placed in foster care," explains White. "We were just asking [Child Protective Services] to open a case and explore the situation so we could see if the home setting was appropriate and follow-up could be done...So, on the one hand we had a Prosecutor's Office that was taking a very aggressive stance toward mothers that used drugs and

Child Protective Services was taking a very conservative stance. We thought it was time to get everybody together and talk about something we could all agree on.”

Sellers came to a similar conclusion. She had talked to Sharon Burden, Director of Alcohol & Addictions Resource Center, Inc. “Sharon said, ‘you need to talk to Chris [the Prosecutor].’ Then these dialogues began,” says Sellers. At the table were representatives from PEPP, the Neonatal unit of Memorial, Child Protective Services, and the Prosecutor's Office. “We decided to put together a team to discuss the issues.” This was the beginning of an effort that would ultimately lead to a more organized approach for addressing the complex issue of pregnancy and substance abuse in St. Joseph County .

### **PEPP: A Voice for Understanding Addiction**

An invaluable resource and leader in the events that followed, PEPP's own growth was closely linked to increasing community willingness to examine how the incidence of drug abuse during pregnancy might be lessened. Memorial also played a role in PEPP's development, working with the Alcohol & Addictions Resource Center to share ideas. A key early leader in this work was Julie Koza, then Director of Memorial's Healthy Babies program, who was extensively familiar with issues of infant mortality. At the time, infant mortality rates in St. Joseph County exceeded state and national averages, and many suspected substance abuse could be linked to these statistics. “We all knew [substance abuse and pregnancy] was a problem,” says Burden, “but it was hard to find the data to support that. It's still very difficult at times.”

In the early ‘90s, Koza formed and chaired a committee called Healthy Mothers, Healthy Babies, a grassroots effort to make a difference in the area of maternal and child health. Eventually she and Burden began to talk about the overlap in their missions, discussions that led them to co-write a grant for the Center for Substance Abuse Prevention. It was their hope that a team of community leaders would go to Washington , DC for the Community Team Training Institute, sessions that would focus the group around their identified issue, priming them for action when they returned to St. Joseph County . In their first year, their application was turned down because of the challenge of finding hard data to support their claim that substance abuse and pregnancy was a problem in their community. In 1992, after drawing more concrete conclusions from the data that was available, their grant was accepted. Along with Burden and Koza, eight local leaders, representing several community sectors, then spent an intense week in the nation's capitol, talking about drug use around the time of pregnancy, the harmful effects such use caused to the health of mothers and children, and how that harm could be prevented. When the team came home, they secured funding from the United Way to gather some of the research that hadn't yet been done, the first step to exploring the issue locally.

Burden speaks to the struggles inherent in collecting information about how many women might be abusing substances during their pregnancy. Although healthcare providers often have a system in place to identify such women, it's not always applied consistently. Stereotypes, along with the sensitivity of the subject, add to the difficulty of getting an accurate picture of the scope of the problem and who it affects. “There are a lot of misconceptions,” says Burden. “People make decisions based on gut feelings that often will take into consideration ethnicity and age, whether a woman's married or had prenatal care. We saw there were all these biases. We were

asking hospitals, 'how do you decide to do this [test for drugs]?'...Many of us had personal experiences of never being asked [about substance use]. Through prenatal care, it never came up. There's an assumption made that because we went to doctors' appointments, we had health insurance, and maybe our age and race or whatever, that it was a non-issue—to the point that the forms would be check marked without it even having been brought up for discussion. It was just a real learning experience for us.” This research process was the beginning of the Perinatal Exposure Prevention Project (PEPP), a program under the auspices of the Alcohol & Addictions Resource Center . Julie Koza, in becoming the program's first director, brought her background with Memorial as an additional benefit to the project. Today Reg Wagle, Vice President of the

#### **Perinatal Exposure Prevention Project (PEPP)**

Through community cooperation, support and collaboration our mission is to promote healthy birth outcomes and healthy lifestyles for women in relation to alcohol, tobacco and other drugs.

PEPP provides the following services:

- Professional education and community presentation on alcohol, tobacco, and the use of other drugs and pregnancy.
- A Resource Center with information about substance use and pregnancy, including videos, books and articles.
- Outreach services to link women to appropriate services for their particular needs.

Memorial Health Foundation, serves on the board of the Alcohol & Addictions Resource Center , one of many ongoing ties between Memorial and PEPP.

Sellers, the current PEPP director, carries on the dedication of its founders. As the program's only employee, her commitment sustains a difficult job. She tells how the early research Koza completed from five clinics serving pregnant women in town showed an 11% substance use rate, which was higher than the national average. When Sellers came on, PEPP was just beginning to look at what outreach services the program could provide. Currently, Sellers monitors the referral phone line, one way in which potential clients or doctors concerned that a patient might be using drugs, can contact her. She meets with women trying to address their drug problem, often finding them at a doctor's office after an appointment, or even in the hospital after they've delivered. Making this initial contact is only the very beginning however, of what can be a long relationship. Sellers helps women find treatment options, even assisting clients in identifying friends or relatives their children would be safe with while they themselves are in treatment, if necessary. “PEPP looks at each case individually and holistically,” says Sellers, a process that might consider the circumstances at a woman's job, or in her home life, whether those around her abuse substances, and the kind of treatment program she's best suited for. “The real work begins once they complete treatment,” says Sellers. “Once somebody's out of treatment they may not

want to do the aftercare work. And that's where the real work begins, when they're living back in their environment, trying to go to meetings and develop a lifestyle that will keep them clean and sober.”

PEPP receives referrals from both Memorial and St. Joseph hospitals, as well as several clinics and doctors' offices, and organizations like Women, Infants and Children (WIC). Another part of Sellers' job is to educate these community partners and others about the program, and ways they might better identify potential clients. Sellers cites increased understanding among new doctors about issues of addiction as a sign of greater general acceptance about the importance of facing the issue. Burden points to the fact that she and another staff member spent two hours with Family Practice Residents from Memorial recently, talking about how doctors can intervene with substance abuse, as indicative of Memorial's openness in addressing the complexities of addiction. “I think they [Memorial] recognize how pervasive this problem is. I mean, on any of their floors, no matter what the problem they're admitted for, there's a significant number of folks who are dealing with addictions. They've really been a partner with us, and it's not that I don't feel that way about St. Joe. I think we've just had more contact with Memorial because typically a lot of these babies, who are really, really sick, end up in the regional unit.” She says that Dr. White, in his role on this unit at Memorial has been a notable advocate for these infants.

PEPP finds itself in the unique position of offering support specifically to pregnant women and mothers fighting substance abuse. The stigma of “being an addict” is compounded by pregnancy, a circumstance that might leave a woman with very few supporters. Burden speaks to the distinction of PEPP's purpose: “Nobody wants to see a baby who is born with alcohol or drug related birth defects. And so the focus is on the baby. Typically providers, and all the people around, are very angry with the mom. And we're not. We're not mad at her. And if she tries to be abstinent and she relapses, we're still not mad at her, which is why a lot of the moms call back. They do have setbacks and ask for more help, because we're not going to holler at them, we're not going to get mad at them—we understand their addiction. So, we really are the advocate for the woman...It's hard to be nice to someone whose baby is down at the neonatal unit really struggling because of that person's addiction. Julie is the person who can strike that balance. While Child Protective Services is in there, and the social workers are taking the baby away, and all these things are happening, Julie's the one who can say, ‘what are we going to do for you?’ so that there's some care there. Because that woman's probably going to have more babies, and if we don't do something now, we're just going to be back in a couple years to try and help her then.”

In 2001 PEPP served 95 clients, a number Sellers says continues to grow the longer the program is in existence. What she hopes might also grow is the access to treatment options for women and children. “It's always a battle finding the best form of treatment for clients,” she says. The specific requirements of facilities can make it difficult to find the right treatment placement for every person. Sellers describes the case of one woman who had been drug-free for years, lived in a half-way house, and was working regularly. When she became pregnant with twins and the doctor ordered bed rest, she couldn't keep her job. Without a job the half-way house wouldn't allow her to stay, and despite the great progress she'd made in overcoming her addiction, there were very few choices available to her. In working with unique circumstances like these, Sellers tries to link clients to the services that support their health and success, but when the services

aren't there her job becomes even more challenging. She points to a lack of funding in this area as one possible cause. "Addiction is just not a real popular thing to put your money in, because the relapse rate is so high and people say, 'why should we put the money there when we can put it into building blocks for little children and teach them to read?'—that's a warm fuzzy." It's also a reason why the work of PEPP is so critical. When Dr. White and the Prosecutor's Office took up the issue of substance abuse and pregnancy, like today, PEPP was the only program in the area like it—a natural starting point for solutions.

### **Child Protective Services: The Balance of Authority and Accountability**

Chuck Smith, Director of the St. Joseph County Division of Child Protective Services, says with a smile that his involvement with the origins of "the Protocol" as it has come to be called, came from "mild confrontation, for lack of a better word." He speaks to the difficulty of Child Protective case workers in assessing a case of substance abuse during pregnancy, when the baby didn't test positive for drugs in his or her system. "We would get calls relating to these types of cases and they are not as straightforward as most of our complaints about abuse and neglect are, and as a result were initially...rejected by our Child Protective Service folks because they did not meet the usual criteria for the kinds of cases that we deal with. And of course those rejections brought concerns from the folks at the hospital...as a response [Dr. White] called me to sit down and talk about it."

Smith points out the unique position of Child Protective Services at the heart of any abuse or neglect complaint: it's that Child Protective Services has been given substantial power by the law, but with such power comes, rightfully, the pressure of accountability. "For us to get involved [in a case] at any point, we always have to present our information to the court. In other words, we have to show cause in court...We have some pretty significant authority through the law. That is, we have the ability to remove a child from their parents' custody and place that child in an alternative...situation. Removing a child from their parents is a pretty heavy authority. As a part of that authority comes the responsibility to go to court within 48 hours of any contention to show cause to the judge as to why we took that action. And as you know, in court, you've got to have facts." For this reason, a new mindset was required if caseworkers were going to look more closely at abuse and neglect complaints centered around the claim that a mother had taken drugs during pregnancy, but no test showed conclusively that drugs were in her infant's system. "Our authority begins with a complaint of abuse or neglect," explains Smith, "and the first thing we have to be able to do is substantiate or unsubstantiate that complaint. If it is unsubstantiated, our authority ends. We no longer have support of law to take any action." In Fiscal Year 2000, Child Protective Services in St. Joseph County substantiated 59% of claims for child abuse, and 55% of neglect charges, numbers very close to the state averages for substantiated claims.

"We are not a prevention agency, and nobody likes to hear us say that," says Smith. "We're like law enforcement. Law enforcement is not a crime prevention agency as such. They hope that they prevent crime, but they're there to investigate and arrest the culprit." Like many people involved in initial discussions about the Protocol, Smith recognizes that in the area of substance abuse and pregnancy, there's still much that needs to be defined—definitions, no doubt, that would help Child Protective Services in its role. He points out that debate remains about whether

a mother's admission of drug use during her pregnancy means that her baby has been harmed. “Philosophically we can all agree that's always a problem...you can even go so far as to say that shows some willfulness on the part of mom,” Smith says, adding that by and large society today recognizes that any drug use during a woman's pregnancy is bad for the baby. “But the result is not always that...drugs are also in the baby's system. Now, there are those who believe it always results in problems for their child, but there's really no factual evidence...Absent the specific drug test we're left with a little more tenuous situation in court.” With these concerns in mind, Smith became involved in the discussions that followed.

### **Finding Common Ground**

Diana Dibkey, Director of Special Projects at the Prosecutor's Office during this time, remembers Toth's initial reaction to the local woman whose baby had tested positive for cocaine. “When the case came through for review, he made some strong statements about the mother, that we needed to prosecute her. Dr. White took exception.” She describes a few articles in the paper that went “back and forth” about the issue. In the end, Dibkey acknowledges that Toth and White “wanted the same thing. They were both upset by the same thing.” Recognizing that the fields of law and medicine by their nature use different tools to address similar issues, Dibkey says that from a prosecution standpoint the likely tool for her office to apply was the filing of charges. When different stakeholders in the process came together, it shed light on the potential to look at the issue of pregnancy and substance abuse from several perspectives simultaneously. The question that could then be posed, says Dibkey, was, “Instead of being angry about it, was there a way we could fashion a response that would involve everybody?” She cites the helpfulness of Dr. White especially in making the problem clearer for the Prosecutor's Office. “I don't think [Toth] was fully aware how bad this problem was before he started seeing the cases come through his office,” says Dibkey.

Much of the discussion that followed in the next months centered on the critical component of awareness. “I found that [Toth] was very open to understanding the cycle of addiction,” says Sellers. “We did a lot of education.” Dr. White describes why he thought it was important to increase understanding between the Prosecutor's Office and other organizations that come in contact with pregnant women who use drugs: “If mothers knew during their pregnancy that they were going to get charged if someone found out they were using, they'd just quit coming in for prenatal care. The goal of protecting the baby would be counterproductive, because we wouldn't find out about any of those moms anymore—they would just disappear until they came into deliver their baby. [Prosecutor Toth] realized, I think, even before the state Supreme Court threw out the original case, that the punitive approach was going to be counterproductive...he just wanted to make sure the babies did get protected, and he was happy to support this more constructive, supportive approach.”

PEPP became a coordinating body for several meetings discussing a better approach, gatherings which came to involve a large cross-section of the community. “Everyone was so interested that we ended up assigning committees,” says Dibkey, describing the impressive community involvement. “The really interesting part to me was that once we had that first meeting...everybody enthusiastically embraced the idea to do something about this.”

People close to the project always mention the vital component of their open and committed work group, a surprising outcome to some extent considering the sensitivity of the issue. Dibkey says, "I kept thinking, 'oh, okay, now it's going to get tough.' But it didn't. Everybody went in focused with the idea that we had to something on this. There was no defensiveness...people just seemed genuinely interested in facing this problem." Now living in LaPorte, Dibkey cites her experience with this project as an example of healthy community development that she's carried with her. "I was very in awe of the way St. Joe County just came together."

From these meetings and discussions the "Protocol for Processing of Cases Involving Prenatally Exposed Infants" was drafted. A long name for a four page document, the Protocol spells out a series of steps that all parties who took part in its creation agreed would be a more cohesive plan for identifying mothers or expecting women who use drugs, both holding them accountable and prioritizing treatment, all the while finding the best options for their children as well. "We probably met over the course of two or three months, and developed a protocol that basically said that if women are using and they seek assistance for their substance use, they would go into something like a deferred prosecution," says Sellers. "And then, if they stayed clean and sober for that year, the case would be closed out." For Dr. White, the involvement of Child Protective Services in the protocol's development was crucial. "It was not going to be good for the Prosecutor's Office to be charging moms on one hand, and Child Protective Services turning them loose on the other... We agreed that if we had *any* evidence that the mother was using...then Child Protective Services would open up a case...Among other things they would require that mothers get treatment, and the PEPP program is the primary place in our community where that's available."

Smith points out that Child Protective Services caseworkers have become more knowledgeable about the wide variety of signals that might indicate an infant has been effected by his or her mother's drug use. "The baby might not test positive," he says, "but may have behaviors that [hospital staff] can say to us are not normal." Carolyn Wilson, who works in Memorial's Social Services Department names a few of the warning signs medical staff consider in determining if drug use might be a factor in a pregnancy: an abruption in the placenta, no or little prenatal care, or a particularly low birth weight with no other medical explanation. Along with maternal factors like level of prenatal care and whether the mother has previous known alcohol or drug abuse, the Protocol lists clinical signs and symptoms "typical of withdrawal in newborns," such as tremors, convulsions, abdominal distention and vomiting. Having a clearer idea about the symptoms that point to withdrawal allows Child Protective Services to continue to gather evidence, even if an infant's drug test be negative. "The existence and signing of the protocol has not eliminated the need for communication," says Smith. "It's still a process of people talking to each other, making sure that all of the information available is shared. The reality is that there's nothing automatic about it just because that protocol exists. People from the hospital and we ask the same questions we've always asked. The difference is that there is no haste to judgment, there is the effort to communicate more fully, to make sure we ask a few more questions and we don't come to that quick conclusion, 'Oh, this is not a case we deal with'...It has raised the level of awareness to the point that we take more time to communicate, we recognize and have learned the right questions to ask that will give us more information, our counterparts have all learned the right information to gather initially. It really has been a framework in which to work. It hasn't solved all the problems—the problem's not that simple, and the solution's not that simple—but practically it

works to set a standard of communication that goes well beyond what it used to. It means too, that when we make a decision not to take a case, that decision is based on a lot more information, a lot more detail, than it was prior to the protocol being in place.”

Smith admits that some of the process might, early on, have even be “painful,” but he points clearly to the final outcome as a success. “It was an interesting process because it seemed that at each meeting we came a little closer to understanding everyone else's position... We finally got to the point where we able to make enough concessions to actually come up with the Protocol itself and feel good about it.” Smith mentions the wide cross-section of community involvement as a sign of genuine local investment. “There were lots of folks involved giving input. It really turned out to be one of those things that you do, where it starts out to be very uncomfortable and ends up being something you feel good about. That's kind of where I was with it. It really was one of those very positive moments for all of us in that we were able to come to some agreement, in that we were all able to recognize the need to step outside of our comfort zones, where everything is a little more black and white, and to take a stand that's maybe more gray, and say, ‘Okay, these [cases] that don't fit in one way or another—we're going to work with those.’ And I think maybe that's all the Protocol does...it provides an environment in which we can work with those cases that are not black and white...it allows us a framework in which to deal with those cases were there may not be a positive drug test on the child, but there's an admission from mom [or other indications of drug use]...and it gives everyone a chance to kind of have a new start.”

Smith says the new start a parent might get is crucial, and he's grateful for the work of PEPP, saying that the more opportunities there are for “folks to work through their own problems and use the agencies that are there” the less Child Protective Services will ultimately have to become involved. “It really creates an environment in which people get a second chance. Because they've already made a mistake, a pretty serious one. But you know, we all make mistakes and this gives people a chance to try and change that, to move beyond that mistake.”

Wilson knows from working in the hospital that sometimes a second chance isn't enough, and she's seen many mothers return to the hospital to have additional children who might also be born effected by drug use. She recognizes that it comes with the territory to some extent, and that the Protocol is simply another avenue to try and address the problem. “I think it's been very helpful,” she says. “It gives us a tool to help parents look at the possibility that they even have a drug problem.” She says that mothers feel comfortable with Sellers, and that in having one central contact person the logistics of finding assistance for a mother who uses drugs is made easier at the hospital.

### **The Protocol at Work, Today and In the Future**

In the spring of 2000, the Protocol made its debut to a crowded auditorium at Memorial hospital. “We had tons of people,” says Burden, “a tremendous crowd.” Met with positive media and community attention, the Protocol was officially accepted at this event. The creation of the Protocol also inspired other positive developments. Prevent Child Abuse, another organization involved in discussions about the Protocol, sponsored an education campaign about issues of substance abuse and pregnancy in the following year. Many of the original work groups

continued to meet, even after the Protocol was in effect. “It was another opportunity for community learning,” says Burden.

PEPP developed fliers and cards, asking in one, “Prosecution or Help? You make the CALL!!!” The program tries to emphasize the better choice to the threat of prosecution—dealing with the problem of substance abuse. Sellers works to educate mothers using drugs that through treatment they can avoid prosecution, and, even more importantly, be a much better parent. “You can only be as good a parent to your children, as you are to yourself, and if you don't take care of yourself, you can't be there for your children,” says Sellers. “Taking care of yourself is getting clean and sober, and then doing those other pieces [attending meetings, evaluating life choices]. That's my philosophy.”

Since the development of the Protocol Sellers says there have been no further cases of prosecution against woman using drugs during pregnancy. This could be for a variety of reasons besides the Protocol—the fact that the state Supreme Court never held up Toth's initial case, or simply that the Prosecutor's Office became very busy as the year went on. “We really haven't put it to the true test yet,” says Sellers. Dickey acknowledges that putting it to that test may be difficult. She points to what she sees as perhaps the only weak spot in the Protocol from a Prosecutor's viewpoint, which is that prosecution doesn't seem to be successful in these cases, given the controversy surrounding the question of whether a mother can be punished for harming her unborn baby. For this reason, child abuse charges can be filed against a woman who uses drugs during pregnancy, but it's unlikely they'll be upheld. Burden points out that women still have the threat of being prosecuted under regular possession or use charges, and of course, they have the stigma of being a mother who harms her baby, both factors that might encourage a woman to seek treatment. Regardless of what might motivate clients to get help, there's no doubt that the Protocol has made that help easier to attain, from a provider and a client standpoint.

This fall a new St. Joseph County Prosecutor was elected. Sellers points to the Protocol as a template to start discussions about the issue with him. “I think that the lines of communication have really opened up,” says Sellers. “We as a community are addressing addictions in a much more holistic, proactive manner than punitive, so that's real positive. For clients, it opens doors to supportive networks for them that they may not know existed. For me, it gave credibility to the program...I think it's been a win-win.”

## Excerpts from “**Protocol for Processing of Cases Involving Prenatally Exposed Infants**”

### **Mission Statement**

To develop a coordinated approach for the education, prevention, treatment, intervention and prosecution of mothers of prenatally exposed infants in order to enhance the safety and welfare of the children of St. Joseph County .

### **Purpose of Protocol**

...To encourage coordination and cooperation among agencies who serve women to increase the effectiveness of these agencies to promote healthy birth outcomes by encouraging prenatal health care and appropriate substance abuse treatment for expectant mothers, particularly those who are or have been using illegal drugs.

## Goal

...To eliminate prenatal maternal use of controlled substances as defined by Indiana Code 35-48-1-9.

## Objectives

Launch an education and informational campaign regarding the negative consequences and effects of using illegal substances, particularly during pregnancy.

Encourage expectant mothers to abstain or seek treatment for abstaining from using illegal substances or be subject to criminal charges of neglect of a dependent (I.C. 35-46-1-4).

Develop and enhance community resources to provide treatment and assistance for women who are addicted to or have used illegal drugs before, during, or after pregnancy.

Develop treatment options for women and women with children, both residential and nonresidential.

## Process

The professional and ethical standards of the health care profession require a physician to be steadfastly loyal to the patient's best medical interests. The mandate forms the core of the physician-patient relationship. Recognizing this ethical mandate coupled with the physician's concern for the well being and health of both the mother and the child, the following is outlined.

Patients should be made aware of the increased likelihood of a beneficial clinical outcome of treatment for substance abuse and the importance of success in the treatment program. The pregnant woman should have no doubt her interests are foremost in the physician's mind, within the boundaries of the law. However, patients should be advised that if the child is born with an illegal drug present in their system, criminal prosecution and/or removal of that dependent is possible if they fail to adhere to the criteria of any treatment program that is required of them by the judicial system.

Health care will educate women about the benefits of reduction/abstinence of illegal drugs during pregnancy. They may refer the mother to an appropriate program for drug education, treatment, referral and assistance.

One purpose of this protocol is to provide a consistent approach to the identification of factors, which would suggest the likelihood of drug abuse during pregnancy so as to aid in both the specific medical management of the newborn and in the initiation of an appropriate developmental and social follow-up. These criteria may include a combination of the following:

1. Clinical signs and symptoms typical of withdrawal in newborns:

### NEUROLOGIC

Restlessness  
Tremors  
Sleep Disturbances  
Convulsions  
Irritability  
Hypertonicity  
Hypotonicity

### GASTROINTESTINAL

Poor feeding  
Vomiting  
Diarrhea  
Abdominal distention  
Increased sucking

### AUTONOMIC

Hyperactivity  
Staring Episodes  
Sneezing  
High-pitched cry

Clonus  
Nystagmus  
Unexplained rapid breathing  
Nasal discharge

Skin abrasions

2. Other maternal factors which may be considered:

A positive maternal drug screen

Presence of maternal indicators for drug abuse:

- Suspicious maternal behavior consistent with drug usage
- Unexplained placental abruption
- No prenatal care
- Late or limited prenatal care
- Pre-term labor of no obvious cause
- Pre-term labor of no obvious cause IUGR with no obvious cause
- Previous known drug or alcohol abuse

This is not to be considered an all-inclusive list and other signs/symptoms/findings may initiate a newborn drug screen depending on the specific clinical situation and current literature.

Whenever a child tests positive for the presence of illegal substances, a report will be made to Child Protective Services for investigation.

When appropriate, the hospital will refer the mother to an appropriate community-based service for assistance and treatment options.

Child Protective Services will act to protect the child according to their administrative guidelines. This process will include encouraging and referring the mother for assistance with her illegal drug use.

All reports to Child Protective Services of a positive test for drugs will be reported to the appropriate law enforcement agency. The law enforcement agency will either conduct a joint investigation with Child Protective Services or forward the case to the Family Violence Unit for a joint investigation with Child Protective Services.

Child Protective Services and the medical team will include in their reports the mother's degree of cooperation and willingness to get assistance regarding the use of the illegal substance.

The Family Violence Unit will present the case the Criminal Division of the Prosecuting Attorney's Office.

The Prosecuting Attorney will present each case to the Child Protection Team for Feedback.

The Prosecuting Attorney or his designee will decide whether criminal charges for neglect will be filed against the mother.

The Prosecuting Attorney may, when appropriate, request Deferred Judgment and referral to Drug Court or Deferred Prosecution.

Upon successful completion of programs mandated by the Court or the Prosecutor the original charges could be dismissed.

Failure by the mother to complete treatment and education programs as ordered may result in the incarceration of the mother.

The prosecuting attorney's office will work to create a community network of services to provide treatment and assistance to women who are at risk to use or have used illegal substances particularly during pregnancy.

**Agreed to and signed on March 21, 2000**