REPORTING REQUIREMENTS & DRUG TESTING

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CONFLICTS OF INTEREST

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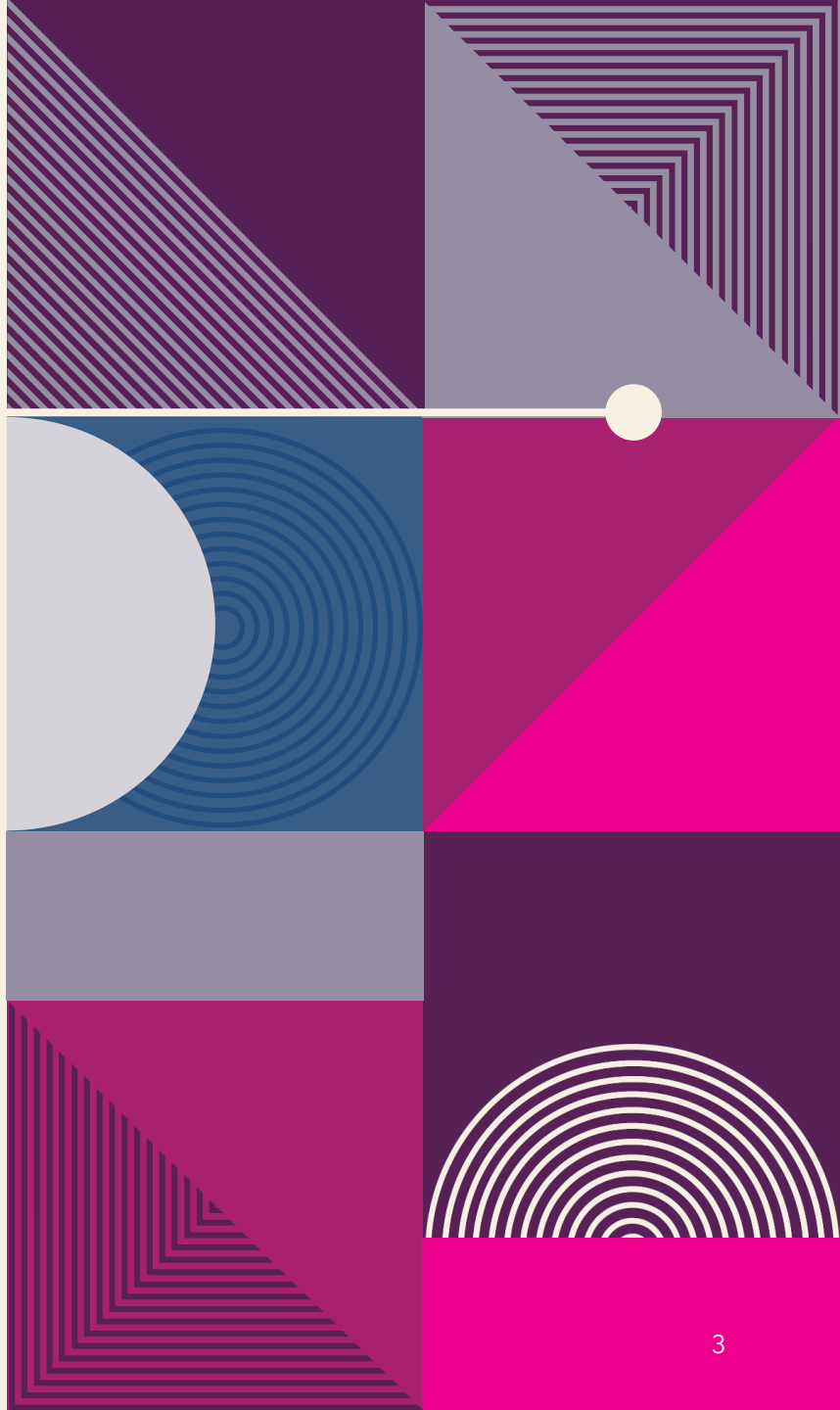
GRATITUDE

CRESTA JONES

REBEKAH BUTZ



OBJECTIVES

1. REVIEW CURRENT STATE & FEDERAL STATUTES AFFECTING PREGNANT PATIENTS WITH SUBSTANCE USE

2. CONSIDERATIONS FOR DRUG TESTING

3. DISCUSS PATHWAYS FOR PERINATAL CARE IN THIS CONTEXT

PERSPECTIVES

Leaves without scheduling follow up

PERSPECTIVES

Caring for young child

Late to initiate prenatal care

Know she needs help

Scared to ask about insurance coverage

Using opioids daily

Mandated reporter

How could I trust this person? I thought I was getting help

Leaves without scheduling follow up

Not planning to be pregnant

Doesn't want to initiate treatment now

Are they going to take away my other kid?

Full time job & hard to get time off

MISCONCEPTIONS

- Continued drug use does not mean a lack of desire to quit using drugs
- Limited insurance coverage does impact substance use treatment
- Treatment is expensive and takes time -- not always accommodating childcare/work responsibilities

BARRIERS TO CARE

STIGMA

Intense shame and guilt: how did I let myself get pregnant?
How am I treating my baby this way?

Fear disclosure

LEGAL

Concern about drug possession
Concern about civil commitment
Concern that children will be removed

Inconsistent

HEALTH CARE

Limited treatment options equipped to care for pregnant people
Few OB providers with SUD experience
Addiction medicine practices can be uncomfortable treating pregnancy

WHITE HOUSE: OFFICE OF THE NATIONAL DRUG CONTROL POLICY

FIVE KEY VALUES

1. Having SUD in pregnancy is **not**, by itself, child abuse or neglect
2. Criminalizing SUD in pregnancy is **ineffective and harmful**
3. **Everyone** has a right to effective treatment

OCTOBER 21, 2022

4. Pregnant people using substances should be **encouraged to access support**
5. **Improving coordination** of public health, criminal justice systems, treatment and early childhood systems can optimize outcomes and reduce disparities

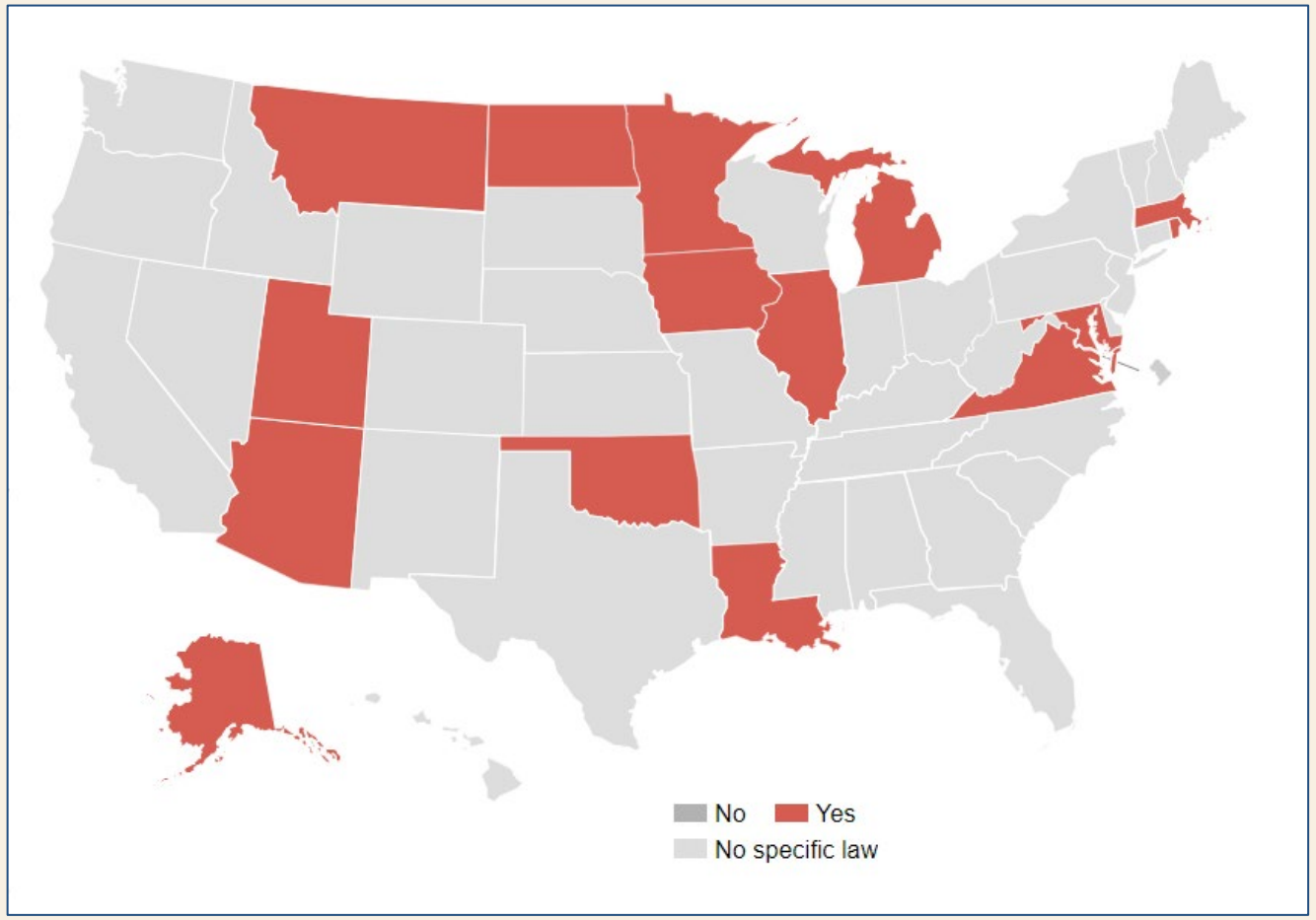
https://www.whitehouse.gov/ondcp/briefingroom/2022/10/21/ondcp-releases-report-on-substance-use-disorder-treatment-during-pregnancy/

REPORTING

HEALTH CARE WORKERS MUST REPORT DRUG ABUSE DURING PREGNANCY

IN 2015…

- 15 states had laws requiring reporting
- 18 states had laws that say drug use during pregnancy is child abuse (including Minnesota)



https://projects.propublica.org/graphics/maternity-drug-policies-by-state

MINNESOTA MANDATORY PERINATAL REPORTING

PRIOR TO JULY 2021

- Perinatal substance us reporting was mandated, except for alcohol and cannabis

- Barrier to universal substance use screening
- Mandatory reporting led to decreased prenatal care access & untreated substance use disorders
- Decreased prenatal care is associated with adverse pregnancy outcomes

https://doh.sd.gov/statistics/maternalmortality.aspx

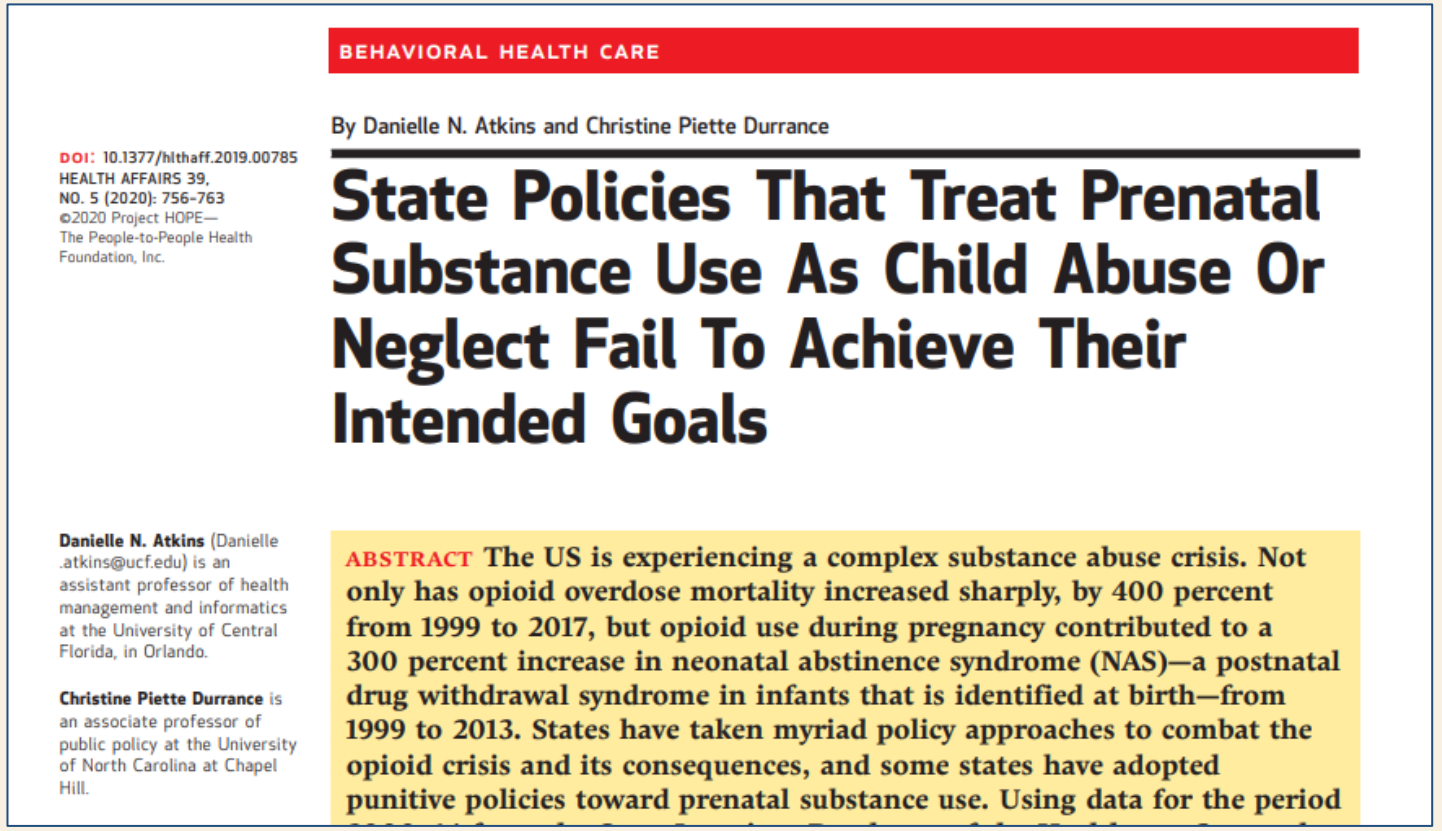
ANY PRENATAL CARE IMPROVES OUTCOMES

EVEN WITH ONGOING SUBSTANCE USE:

- Prenatal care reduces preterm birth
- Prenatal care improves infant birthweight

El-Mohandes et al 2003

MANDATORY REPORTING DOES NOT IMPROVE HEALTH OUTCOMES



BEHAVIORAL HEALTH CARE

By Danielle N. Atkins and Christine Piette Durrance

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NO. 5 (2020): 756–763

State Policies That Treat Prenatal Substance Use As Child Abuse Or Neglect Fail To Achieve Their Intended Goals

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Christine Piette Durrance is an associate professor of public policy at the University of North Carolina at Chapel Hill.

ABSTRACT **The US is experiencing a complex substance abuse crisis. Not only has opioid overdose mortality increased sharply, by 400 percent from 1999 to 2017, but opioid use during pregnancy contributed to a 300 percent increase in neonatal abstinence syndrome (NAS)—a postnatal drug withdrawal syndrome in infants that is identified at birth—from 1999 to 2013. States have taken myriad policy approaches to combat the opioid crisis and its consequences, and some states have adopted punitive policies toward prenatal substance use. Using data for the period**

"There is no evidence that state punitive prenatal substance use policies reduce rates of NAS or maternal narcotic exposure at birth."

Atkins et al 2020; Maclean 2022

MN MANDATORY REPORTING LAW

2022 Minnesota Statutes

260E.31 REPORTING OF PRENATAL EXPOSURE TO CONTROLLED SUBSTANCES.

Subdivision 1. **Reports required.** (a) Except as provided in paragraph (b), a person mandated to report under this chapter shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including but not limited to tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.

(b) A health care professional or a social service professional who is mandated to report under this chapter is exempt from reporting under paragraph (a) if the professional is providing or collaborating with other professionals to provide the woman with prenatal care, postpartum care, or other health care services, including care of the woman's infant. If the woman does not continue to receive regular prenatal or postpartum care, after the woman's health care professional has made attempts to contact the woman, then the professional is required to report under paragraph (a).

WHAT CHANGED IN MN?

PROVIDERS ARE NOT REQUIRED TO REPORT PREGNANT PATIENTS WHEN THEY FIRST LEARN OF SUBSTANCE USE

- Time to develop a therapeutic relationship
- Time to get a patient in treatment if/when they are ready
- Patients can come for care even if not ready for treatment
- Always an option to report

WHAT CHANGED IN MN?

PROVIDERS ARE NOT REQUIRED TO REPORT PREGNANT PATIENTS WHEN THEY FIRST LEARN OF SUBSTANCE USE

- Conditional requirement to report
- "If the women does not continue to receive regular prenatal or postpartum care, after… attempts to contact the woman, then the professional is required to report."
  - What does "continue" mean?

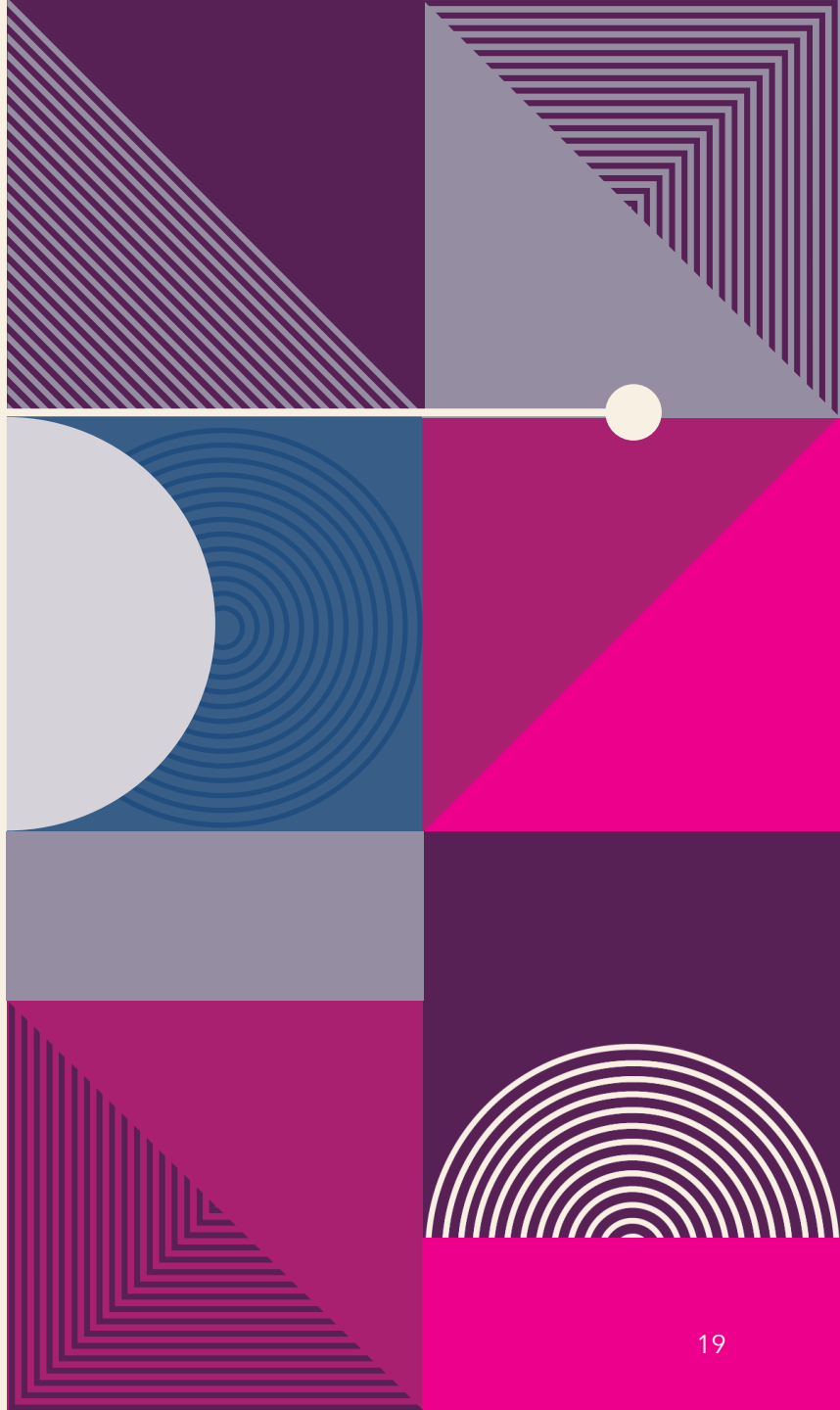
OPTIONS FOR CPS "DIVERSIONARY PROGRAM"

COUNTY BASED

- If less than ~34 weeks, can refer to this program instead of CPS
  - Project CHILD (Hennepin)
  - Mother's First (Ramsey)
  - Dakota
  - Anoka
- Emphasis on case management and preparation during pregnancy to keep family together
- Support and resource options
- Varying degrees of harm reduction
- May be option for urine testing

PRENATAL VS. POSTPARTUM / NEWBORN

- Legislation change only addresses mandatory reporting of substance use in pregnancy
- It does not change legislation related to toxicology testing after delivery or of infants



TOXICOLOGY TESTS REQUIRED

2022 Minnesota Statutes

260E.32 TOXICOLOGY TESTS REQUIRED.

Subdivision 1. **Test; report.** (a) A physician shall administer a toxicology test to a pregnant woman under the physician's care or to a woman under the physician's care within eight hours after delivery to determine whether there is evidence that she has ingested a controlled substance if the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose.

(b) If the test results are positive, the physician shall report the results under section 260E.31. A negative test result does not eliminate the obligation to report under section 260E.31 if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.

AMBIGUITY...

AND CREATES SPACE FOR IMPLICIT BIAS

TOXICOLOGY TESTS REQUIRED

Subd. 2. **Newborns.** (a) A physician shall administer to each newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance if the physician has reason to believe, based on a medical assessment of the mother or the infant, that the mother used a controlled substance for a nonmedical purpose during pregnancy.

(b) If the test results are positive, the physician shall report the results as neglect under section 260E.03. A negative test result does not eliminate the obligation to report under this chapter if other medical evidence of prenatal exposure to a controlled substance is present.

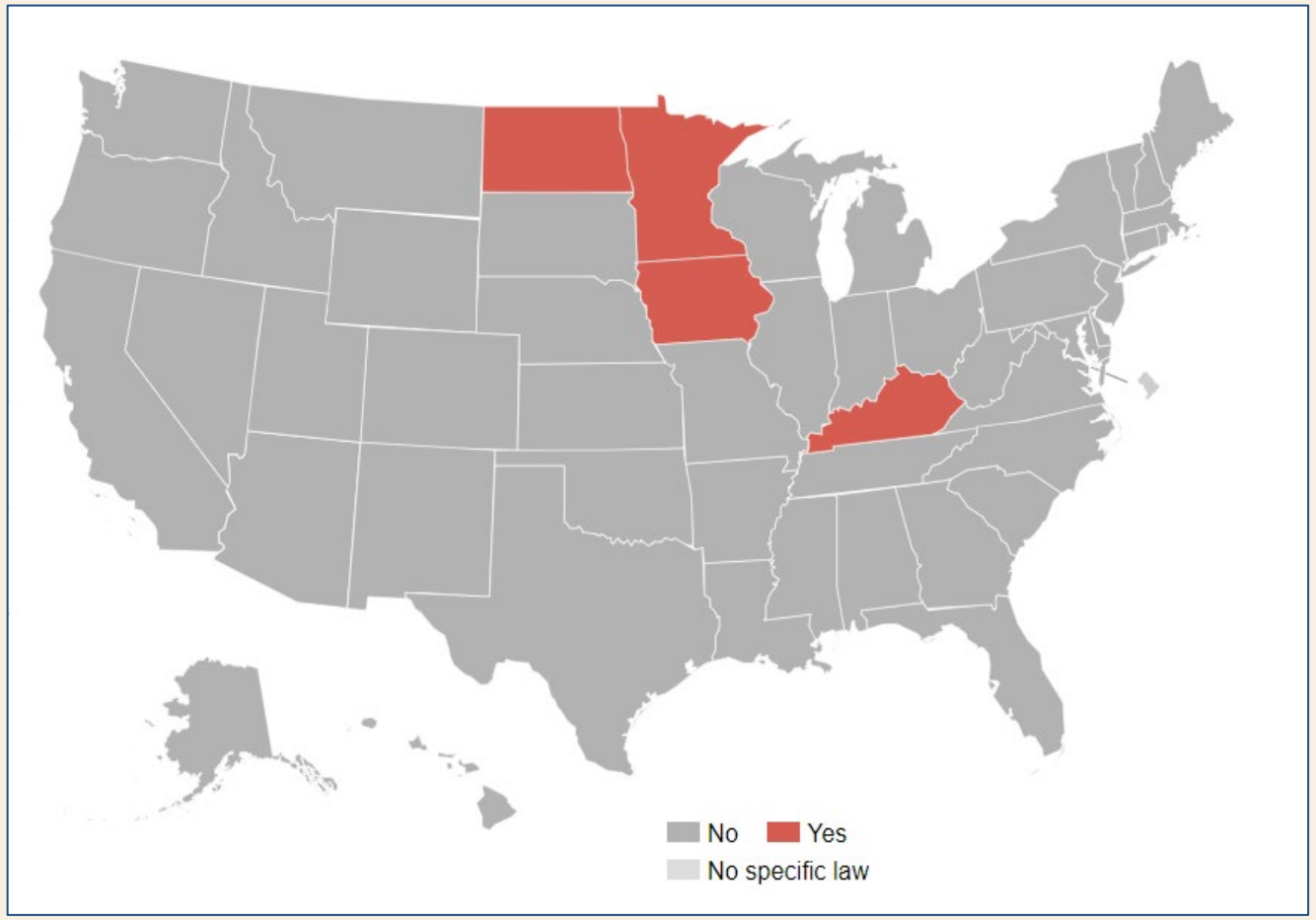
REQUIREMENT TO TEST THE NEWBORN

MUST PERFORM CONFIRMATORY TESTING

TESTING IS REQUIRED IF DRUG USE DURING PREGNANCY IS SUSPECTED

IN 2015…

- Most states do not have this
- MN & ND the test is required if "drug related complications at birth"



https://projects.propublica.org/graphics/maternity-drug-policies-by-state

DRUG TESTING

TYPES OF DRUG TESTING

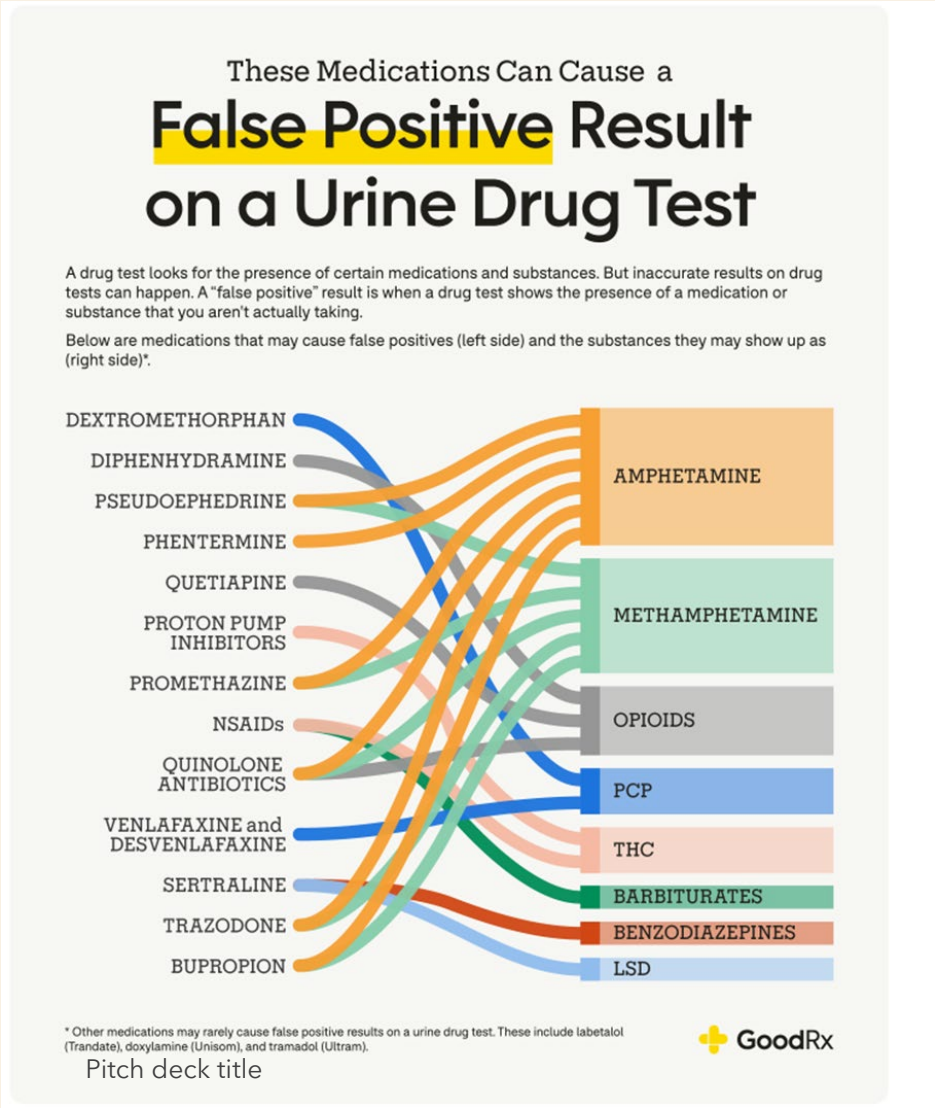
- Urine
- Saliva / Oral swab
- Meconium
- Blood
- Hair

CONSIDERATIONS:

- Sensitivity/Specificity
- Observed/ Nonobserved

LIMITATIONS OF DRUG TESTING

- Short detection window for most substances
- Does not test for tobacco or alcohol
- May or may not capture intermittent use
- Not a trust building way to discuss use
- Not linked to next step in care / treatment
- False negatives or positives occur
- Mandatory reporting, criminalization of use during pregnancy



CONSIDERATIONS

A UDS requires consent except in certain situations (abruption, IUFD, etc)

UDS w/o confirmation can have **false positives**

UDS w/o confirmation should NOT be used to make clinical decisions

UDS w/o confirmation SHOULD NEVER BE REPORTED

HOW CAN HEALTH CARE TEAMS NAVIGATE THIS?

HOW HAVE SYSTEMS NAVIGATED WHO NEEDS DRUG SCREENING?

DIFFERENT SYSTEMS HAVE DIFFERENT APPROACHES

- **Some hospitals have established specific protocols, with qualifying criteria for pregnant patients:**
  - Altered mental status
  - Respiratory arrest
  - Seizure of unknown etiology
  - Stroke
  - MI or cardiac arrest
  - Illicit drug use, unprescribed use, or excessive/habitual alcohol use during this pregnancy, including maternal self-report or positive tox testing during pregnancy
  - Enrollment in an SUD treatment program during this pregnancy
- **Important to reflect on how many of these criteria are medical vs barriers due to Social & Structural Determinants of Health**
  - ?poor oral health
  - ?Tobacco use during pregnancy
  - ?History of incarceration
- **What about cannabis/THC?**
- **Do you need patient consent to obtain the toxicology testing?**

WITHOUT GUIDANCE, IMPLICIT BIAS ALTERS WHO IS SCREENED

INDICATION FOR TESTING NOT ASSOCIATED WITH POSITIVE RESULTS

- **Study from 2021 aimed to evaluate if these indications were associated with a positive toxicology test:**
  - No indication for drug testing was associated with a positive result except current or previous substance use
- **Were indications for toxicology testing applied consistently to different groups?**
  - Compared to White patients:
    - Black patients were 4.26 (CI 2.55-7.09) x more likely to have toxicology testing
    - Hispanic women 5.75 (CI 2.89-11.43) x more likely to have toxicology testing

Perlman et al 2021

HOW CAN WE DO THIS BETTER

CREATE SHARED PROTOCOLS ON WHO SHOULD BE SCREENED AT DELIVERY

- More consistent birth experience across hospital systems
- Improve communication between the CNM/OB team and the pediatrics team
- Enhance knowledge of treatment programs / peer recovery

URINE TOXICOLOGY IS NOT AN APPROPRIATE WAY TO SCREEN FOR USE

TRANSPARENTLY SHARE WITH PATIENTS WHAT TO EXPECT DURING THEIR PREGNANCY & AT DELIVERY

MN TASK FORCE ON PREGNANCY & SUBSTANCE USE DISORDERS

REVIEW & RECOMMEND CHANGES AROUND EXPOSURE REPORTING REQUIREMENTS

- The Task Force on Pregnancy Health and Substance Use Disorders (TFPSUD) is established to recommend protocols for when physicians, advanced practice registered nurses, and physician assistants should administer a toxicology test and requirements for reporting for prenatal exposure to a controlled substance. Established through legislation beginning July 1, 2023, and will end December 1, 2024.

Task Force on Pregnancy Health and Substance Use Disorders - MN Dept. of Health (state.mn.us)

SUMMARY

- It's important to understand the statutes guiding care for pregnant people with substance use in MN
- While there are not requirements to report patients with substance use during pregnancy, this is inconsistently addressed.
- At the time of delivery, there is often misunderstanding and misconceptions about when testing will occur (and the implications)
- Without consensus or shared protocols, implicit bias will affect who is screened/reported.
- Advocacy is important!

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PERINATAL SUBSTANCE USE ECHO SPRING 2024 SCHEDULE

WHEN

2nd and 4th Wednesdays | 12:15 - 1:15 PM

February 28th thru June 26th, 2024

WHAT

Brief didactics, protocol and template review, case discussions

WHO

Teams consisting of:

- Labor and delivery/antepartum nurses
- Nursing leadership (e.g charge nurse)
- Unit/Service Line administrator
- Obstetric care professionals (OB/family med/peds, physicians and APPs)

ECHO Minnesota – Perinatal Substance Use

Co-directed by Drs. Cresta Jones and Lauren Graber

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Sign up for more info by scanning QR Code:

HennepinHealthcare

THANK YOU

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