



Maryland  
Hospital Association

## **House Bill 1335 - Perinatal Care - Drug and Alcohol Testing and Screening - Consent**

**Position: *Support with Amendments***

March 11, 2022

House Health & Government Operations Committee

### **MHA Position**

On behalf of the Maryland Hospital Association's (MHA) 60 member hospitals and health systems, we appreciate the opportunity to comment on HB 1335.

Improving maternal health outcomes and reducing the disparity between Black Non-Hispanic and White mothers are priorities for the state and Maryland hospitals. According to the Maryland Maternal Mortality Review 2020 Annual Report, unintentional overdose and substance use was the leading cause of nonpregnancy related maternal deaths.

Maryland hospitals universally screen for drug and alcohol use upon admission to labor and delivery. Some hospitals universally test. Consent for testing is sometimes built into the overall consent for treatment process upon admission. The patient always has the right to decline testing. **HB 1335 presents several concerns that could impact the safety and well-being of the mother and newborn.**

#### **Safety and well-being of the mother.**

The bill does not recognize the distinction between screening and testing. Since all hospitals universally screen, there is concern that requiring a separate consent for screening could be burdensome and potentially make it harder to identify pregnant patients who could benefit from interventions and support services. The [Maryland Substance Exposed Newborn Toolkit](#) recommends screening for substance use throughout pregnancy.

The Department of Health launched a five-year [Maternal Opioid Misuse model](#) in 2020 to reduce fragmentation in the care of pregnant and post-partum Medicaid beneficiaries who are diagnosed with opioid use disorder. As one of 10 states receiving federal funding through this program, the Medicaid program is partnering to improve case management and support services offered to pregnant and post-partum women with opioid use disorder. A component of referral is having providers use evidence-based screening tools to identify eligible patients who elect to participate in the program.

#### **Safety and well-being of the newborn.**

By singling out drug and alcohol screening and testing, we are concerned this could serve as a barrier and lead more mothers to refuse screening and testing, which could result in no screening and testing for the newborn. When a patient declines this test, usually the hospital asks the patient to sign a declaration form stating they are declining. The form allows the patient to

consent to test the newborn. Since newborns are tested if the mother's test is positive and only with consent, there is concern newborns with neonatal abstinence syndrome, who may not exhibit symptoms in the hospital, could be sent home without the proper treatment.

If the mother tests positive, this alone does not meet the state's definition of a substance exposed newborn. The test result alone also does not trigger screening criteria for a substance exposed newborn risk of harm service case.<sup>1</sup> Maryland defines a substance exposed newborn as "a child under the age of 30 days who:

- Displays a positive toxicology screen for a controlled substance as evidenced by any appropriate test after birth;
- Displays the effects of controlled drug use or symptoms of withdrawal resulting from prenatal controlled drug exposure as determined by medical personnel; or
- Displays the effects of Fetal Alcohol Spectrum Disorder."

### **Risk for increased provider bias.**

The decision to screen universally aligns with the American College of Obstetricians & Gynecologists' recommendations and helps reduce provider bias and potential missed cases.<sup>2</sup> We are concerned HB 1335 could unintentionally reintroduce bias into this process and inhibit mothers and babies from receiving the care and support they need.

We recommend amending HB 1335 to remove the requirement that the Department of Health create a separate consent form for screening and testing. We also recommend removing the requirement that the screening be within the scope of the perinatal care provided to the patient since this could be open to interpretation and not align with ACOG's recommendation to universally screen. Additionally, instead of the Department of Health consent form, we recommend the creation of informational materials in partnership with the Department of Human Services and the Social Services Administration to complement the work already underway to support substance exposed newborns and their families.

Maryland hospitals are committed to improving maternal and child health outcomes. In 2021, the Center for Medicare and Medicaid Innovation approved Maryland's State Integrated Health Improvement Strategy (SIHIS), which is "a fundamental component of the [Maryland Total Cost of Care Model](#)."<sup>3</sup> SIHIS includes total population health goals specifically addressing maternal and child health.<sup>4</sup> The state committed to lower the severe maternal morbidity (SMM) rate by 19% by 2026, focusing on closing the racial gap by reducing the Black Non-Hispanic rate by

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<sup>1</sup> Maryland Department of Human Services, Social Services Administration and Maryland Department of Health, Behavioral Health Administration. (Feb. 6, 2020). "[Maryland Substance Exposed Newborn Tool Kit](#)."

<sup>2</sup> The American College of Obstetricians & Gynecologists. (August, 2017). "[Opioid Use and Opioid Use Disorder in Pregnancy](#),".

<sup>3</sup> Center for Medicare and Medicaid Innovation. (March 17, 2021). "[Statewide Integrated Health Improvement Strategy Proposal](#),".

<sup>4</sup> Maryland Health Services Cost Review Commission. (May, 2021). "[Final Recommendation on Use of Maternal and Child Health Funding](#)."

20%.<sup>5,6</sup> SMM events include complications such as heart attack, eclampsia, and sepsis that are “unintended outcomes of the process of labor and delivery that result in significant short-term or long-term consequences to a woman’s health.”<sup>7</sup>

Removing barriers that could inhibit mothers and babies from receiving appropriate care and treatment is paramount. We ask for the Committee’s consideration of our recommended amendments and look forward to working with the sponsors on this important issue.

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<sup>5</sup> Kaiser Family Foundation. (n.d.). “[State Facts: Births Financed by Medicaid](#)”.

<sup>6</sup> Maryland Health Services Cost Review Commission. (December 14, 2020). “[Statewide Integrated Health Improvement Strategy Proposal](#)”.

<sup>7</sup> The American College of Obstetricians and Gynecologists. (September, 2016). “[Severe Maternal Morbidity: Screening and Review](#)”.