Office of the Child Advocate
Mandated Reporter Commission Meeting Minutes
Monday, October 5, 2020
10:00am-12:00pm

Meeting held virtually via WebEx pursuant to the Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, s. 20 signed by Governor Baker on March 12, 2020.

Mandated Reporter Commission Members Present:
Maria Mossaides, - Child Advocate - Chair
Lisa Hewitt - Chief Counsel, CPCS
Officer Elizabeth Fleming- Waltham School Resource Officer
Ann Reale-Undersecretary of Education, EOE
Andrew Rome - General Counsel, DCF
Anne Conners - Associate Commissioner for Field Investigations, EEC
Katherine Ginnis- Sr. Director of Child, Youth & Family Policy Program, EOHHS
Angela Brooks- Dir. Child and Youth Protection Unit, AGO
DA Marian Ryan- Middlesex District Attorney, MDAA
Spencer Lord - Special Counsel, EOPSS
John High - Chief of Staff, DPL
Nina Marchese- Director of Approved Special Education Schools, DESE

Guest Participant: Dierdre Calvert- DPH Director of Bureau of Substance Addiction Services

OCA Staff:
Cristine Goldman (OCA)
Alix Rivière (OCA)
Lily Powell (OCA Legal Intern)

Members of the Public who introduced themselves via the Chat Function:
Cecely Reardon- DYS General Counsel
Lisa Beatty- Norfolk DA's Office
Dr. Alice Newton -- Medical Director of the Child Protection Program, MGH
Dr. Peter Friedman -- President, Massachusetts Society of Addiction Medicine
Aine Blanchard- Child Protection Program Manager at MGH
Cathy Rutkowski- Co-Executive Director, Children's Advocacy Center of Bristol County
Debra Bercuvitz- Perinatal Substance Use Coordinator, MA DPH
Deidre Hussey – PsyD, Victim Services Supervisor, Baystate Family Advocacy Center
Ruth Jacobson-Hardy- Wester MA Regional Manager, DPH-BSAS
Terri Bogage- Director of Family and Children's Services, Institute for Health and Recovery
Latisha Goullaud- Member of the public- mother in recovery from Opiate Use Disorder
Dr. Kelley Saia- Director of Project RESPECT, Substance Use Disorder in Pregnancy Treatment Clinic at Boston Medical Center
Dr. Davida Schiff- Pediatrician and Medical Director at the MGH Hope Clinic
Tracy DeFusco- Worcester County Child Advocacy Center Director

Dr. Lili Peacock-Chambers-Pediatrician, Baystate Medical Center, UMMS-Baystate
Miriam Harris- Women's Health and Addiction Provider at Boston Medicine Center
Nicole Bell- CEO Living In Freedom Together- LIFT
Dr. Jessica Gray- MGH Hope Clinic
Katharine Folger- Middlesex DA's Child Protection Unit
Katherine Dudich- Associate Director, MA DPH SANE Program

Other members of the public attended the meeting, they are not named here as they chose not to identify themselves via the chat function.

MRC= Mandated Reporter Commission
OCA= Office of the Child Advocate
DCF= Department of Children and Families

Meeting Commenced: 10:03am

Welcome and Introductions:

Maria Mossaides, Chair of the Mandated Reporter Commission, called the meeting to order and reviewed the agenda. She explained that the Commission would review and vote on the minutes from previous meetings at the end of the meeting. Cristine Goldman, OCA's Director of Policy and Legal Counsel, explained that members of the public can participate in the meeting only through using the chat function unless the Chair of the Commission approves verbal participation. Members of the Commission participate verbally and can participate via the chat function.

Discussion based on meeting document titled "Definition of Child Abuse and Neglect as it Relates to 51A Focus on Substance Exposed Newborns/Neonatal Abstinence Syndrome and Plans of Safe Care."

The OCA presented an overview of the topic as it was laid out in the accompanying meeting materials available to the Commission and to the public prior to the meeting. The current 51A(a) law requires reporting of newborns who are born with a physical dependence upon an addictive drug at birth. The Child Abuse Prevention and Treatment Act (CAPTA) is a federal funding program that requires that the number of infants born affected by substance abuse, withdrawal symptoms, or Fetal Alcohol Spectrum Disorder be reported to child protective services and then to the federal government by child protective services. The reporting requires also that DCF identify how many children who are reported in this manner have a Plan of Safe Care. Plans of Safe Care are developed by mothers in collaboration with providers to address above-mentioned circumstances. The Plans of Safe Care address medical needs of the newborn, the medical, mental, and behavioral health needs of the mother and family, and identifies any necessary services.

The federal government requires that DCF provide information on how many children were born substance-exposed and whether those children had Plans of Safe Care in place, but does not require that the reports be allegations of abuse or neglect. However, the federal government guidance notes that it is incumbent on DCF to determine whether the circumstances that come to their attention constitute child abuse or neglect under state law.

The Commission recognized that this reporting of children born with a physical dependence of an addictive drug could apply to many newborns who are born affected by medication that is prescribed to their mothers by physicians and are recommended that the mother continue through pregnancy and birth. The Commission noted that the CAPTA language specifically includes drugs that are not illegal (which includes medications). The primary discussion at this Commission meeting focused on newborns affected by the substance use disorder medication prescribed to mothers by physicians. The conversation presumed that we are talking about mothers and parents for whom there are no other medications or drugs which cause an effect on the newborn and no concerns of child abuse or neglect in the home.

The Commission reviewed information in the provided materials which noted concerns with the current 51A reporting structure which requires that newborns born affected in this manner be reported as abuse and neglect filings even if those newborns are born to parents who are solely adhering to a prescribed medication treatment and the mandated reporter making the report to DCF has no concerns that the child is at substantial risk of abuse and neglect. These concerns include the understanding that mothers may wean themselves from their provider-prescribed medication for substance use disorders prior to giving birth for fear of DCF involvement. The result of this policy, some providers and families have argued, is a stigmatization of drug recovery and substance use disorder. Further, a parent who has chosen not to pursue their prescribed medicated treatment may increase the risk to a newborn and cause instability within the family.

Examples of other state models were provided in the meeting materials. The examples focused on states that are geographically close to Massachusetts who use a two-track system for reporting these newborns to child protective services: the first track is under an abuse and neglect filing if there are concerns for abuse and neglect, the second track permits the report of a child born substance exposed but there is a Plan of Safe Care in place and there is no concern for abuse and neglect where the identity of the mother and the child are kept anonymous.

Commission member discussion focused around the role of DCF in screening cases that come to their attention in this way, the importance of prioritizing the safety of newborns, the possible unintended consequences of the current system in Massachusetts, and the lack of data on how well the models in other states work.

The Commission invited Ms. Calvert, the DPH Director of Bureau of Substance Addiction Services, to speak. Ms. Calvert noted her concerns included that mothers fear DCF intervention as well as the stigmatization of their disorder in hospitals and this can lead them to discontinue their prescribed medications. She highlighted the inequity of race and gender in those situations. She argued that women need to know that they have an opportunity to grow and change. Also, she pointed out that children are safer with their families and flourish thanks to the bonding experience with their parents. She advocated for a two-track system akin to those described in the meeting materials.

Commission members raised the questions around the effectiveness of Plans of Safe Care, the coordinator's role in Plans of Safe Care, and the availability of support systems for mothers and families.

Members discussed the fact that for the most part, people who are treating mothers with prescribed medications are not delivering their baby and therefore not the persons who are making the report to DCF, so a model that includes a decision-making tool or a consultative model may be the most helpful.

Ms. Mossaides, Chair of the Commission invited some providers and other public participants to speak to the Commission. Dr. Davida Schiff was invited to speak to the Commission. She expressed that in her experience many patients are fearful of medication to treat their opiate use disorder during the pregnancy and even after because of stigma and highlighted why this is very dangerous for the child.

Ms. Mossaides asked Ms. Nicole Bell if she would like to share her experience as a mother. Ms. Bell began her testimony by discussing her professional experience running a substance use disorder program. In her personal life, she has successfully coped with her substance use history and had two children while receiving prescribed medication for substance use disorder. She shared with the Commission that she has been sober for six years, has built an organization from the ground up, and has bought a home with her husband. She argued that the current law unfairly affects women, as fathers are not the subject of 51A reports, even though they share parenting responsibilities. She shared her fear of DCF involvement in her life and how it affected her during her pregnancies and after the birth of her children. She noted that despite all the work she had put into recovery and despite how well she was doing in her sobriety, DCF still screened-in and investigated a case when her child was born. That investigation can not only be invasive, but also terrifying, especially noting that a parent is still recovering from the trauma of childbirth and focused on the needs of bonding with her child. Ms. Bell noted that DCF workers interpret cases differently. She hoped the Commission would consider changing the language of the law, as she did not consider that her child was exposed to a substance, but rather that he was exposed to medication. She urged the Commission to understand that the unnecessary stress may push women to relapse. She has seen many women in her community refuse to go on prescribed medication and overdose during pregnancy because they feared state intervention. Members thanked her for sharing her story. They added that stories like hers help the Commission understand the nuances of the topic at hand.

Next, Ms. Mossaides asked Ms. Calvert to introduce colleagues who would like to testify at this meeting. Ms. Calvert invited Ms. Julia Reddy, who suggested an alternative to 51A reports: screening for family services. She mentioned that the Family First federal legislation provided unlimited funds for prevention services. She argued that many women would benefit from the services DCF offers. She added that the state should work with families who need wrap-around care without the threat of DCF involvement. Ms. Mossaides offered technical information about the federal funding aspect of certain services. Members agreed that regardless of the details of the funding, the Commonwealth does fund and value the types of services being discussed.

Ms. Mossaides then called on Ms. Debra Bercuvitz, DPH Perinatal Substance Use Coordinator, who explained that the state needs to think about this topic in broader terms- that the problem goes beyond medication for substance use disorder and affects women using other substances, such as marijuana. She also argued that one cannot advocate for children without advocating for their mothers, as they are a dyad. The attachment between the infant and the mother is central to the child's needs. She argued that providers know how to support mothers experiencing challenges with substances to maximize safety for the child. Finally, she argued that the current law assumes mothers' guilt before innocence. She explained that DCF caseworkers are not the most qualified to assess the parent's situations, medical professionals are, and the knowledge and experience of the professionals needs to be leveraged and utilized in these cases.

Ms. Mossaides called on Ms. Aine Blanchard, Child Protection Program Manager at Massachusetts General Hospital, to speak to Commission members. Ms. Blanchard explained that the program

provides medical consultation around cases of child abuse and neglect and that many calls are about this issue. She explained that they are usually not concerned with women in recovery like Ms. Bell, but regardless of their medical opinion, they are mandated to report them to DCF. However, medical professionals may be more concerned about women who are only newly engaged in recovery efforts . She explained one of the program's main considerations is whether there are other children in the home. She added that she is concerned about the blanket reassurance that a Plan of Safe Care is sufficient to alleviate all concerns. She argued that Plans of Safe Care are not always developed by those who have extensively worked with the mother through her pregnancy.

Ms. Mossaides explained that the Commission will form a smaller working group to discuss this issue further with the goal that the working group could present information to the full Commission at a later date. Members expressed their understanding of the complexity of the issue at hand. Members asked to hear more on Rhode Island's model.

Commission members would like more information on DPH's role in drafting Plans of Safe Care and the involvement of Plans of Safe Care Coordinators past the day of the child's birth. Members discussed the possibility that Plan of Safe Care Coordinators could be added to the list of mandated reporters.

In response to some of the comments in the chat box from members of the public, the Commission explained that this topic is one being addressed under the Commission's role to review the current definition of abuse and neglect as it relates to 51A and is one of the many issues that the Commission is reviewing through their statutory mandate. Ms. Mossaides expressed that persons wishing to continue this conversation can also reach out to her or to Cristine Goldman.

Commission members also agreed there should be a working group on the topic of possible recommendations to change the statutory penalties as laid out in 51A. Members noted that the topic of consensual underage sexual relations still required further discussion as did the possible exclusion of persons on legal defense teams from the definition of mandated reporter.

Approval of August and September Meeting Minutes:

Formal discussion was opened on the August 6, September 15, and September 22, 2020 meeting minutes- no member had any comments for discussion. A roll call vote was held. Those voting in favor of approval of the August 6 meeting minutes: Maria Mossaides, Lisa Hewitt, Andrew Rome, Ann Reale, Nina Marchese, Spencer Lord, John High, DA Ryan. No votes were cast in objection to the minutes. All other members present at the meeting abstained from voting due to not being present at the August 6th meeting.

Those voting in favor of the September 15 meeting minutes: Maria Mossaides, Lisa Hewitt, Andrew Rome, Anne Conners, Ann Reale, Nina Marchese, Kate Ginnis, Angela Brooks, Officer Fleming, DA Ryan. No votes were cast in objection to the minutes. All other members present at the meeting abstained from voting due to not being present at the September 15th meeting.

Those voting in favor of approval of the September 22 meeting minutes: Maria Mossaides, Lisa Hewitt, Andrew Rome, Anne Conners, Kate Ginnis, Spencer Lord, John High, Angela Brooks, Officer Fleming, DA Ryan. The minutes from the August and September meetings were approved. No votes were cast in objection to the minutes. All other members present at the meeting abstained from voting due to not being present at the September 22nd meeting.

Closing Comments:

With the meeting nearing its end, the OCA thanked members of the public and of the Commission for their testimony and input. The next meeting will be held virtually on October 15, 2020 from 10am to 12noon.

Adjournment: 11.50pm