



# PLANS OF SAFE CARE IN NEW HAMPSHIRE

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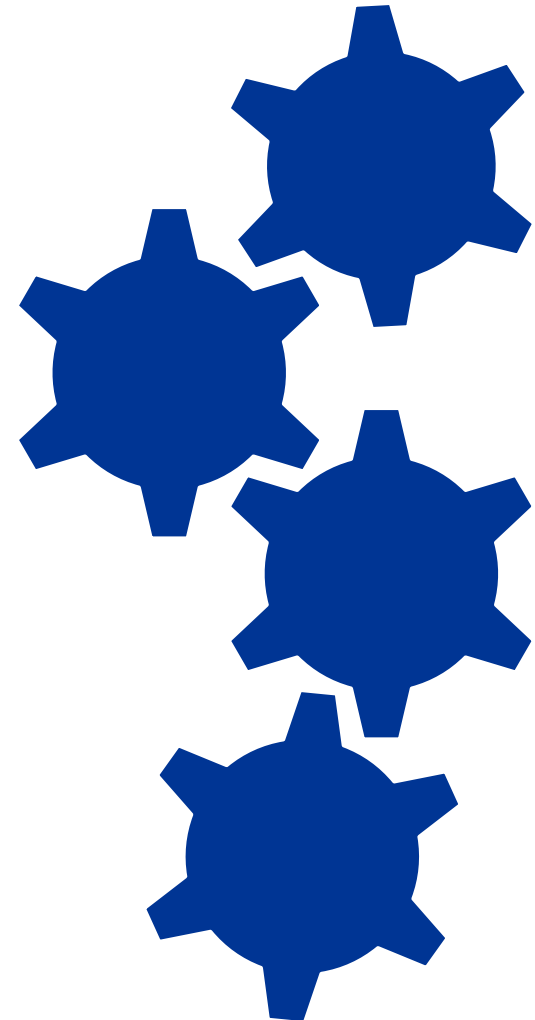
Dr. Steve Chapman, Dartmouth Hitchcock  
Kali Giovanditto, DCYF  
Lucy Hodder, JD, UNH School of Law  
Patricia Tilley, M.S.Ed., DPHS

**December 10, 2018**

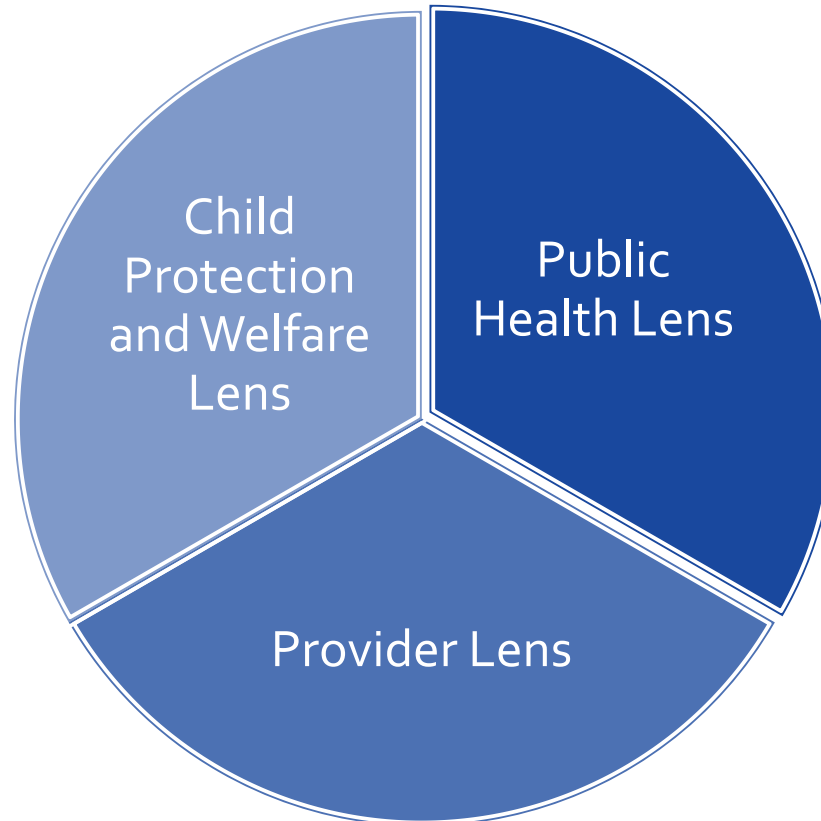
# Introductions

- Dr. Steve Chapman, Pediatrician with Dartmouth Hitchcock
- Kali Giovanditto, Community and Family Support Specialist, Division for Children, Youth and Families, DHHS
- Professor Lucy Hodder, JD, Director of Health Law and Policy, Professor of Law
- Patricia Tilley, Deputy Director, Division of Public Health Services, DHHS

*The information contained in this presentation is technical assistance, not legal advice.*



# Background on Substance Use Disorder in NH and Impact on Mothers and Infants



# What is a Plan of Safe Care and When is it Required?

- A Plan of Safe Care, developed collaboratively with the mother, coordinates existing supports and referrals to new supports to help infants and families stay safe and supported when they leave the hospital. The Plan of Safe Care is to be shared with the infant's and the mother's providers and supports.
- A plan of safe care is required for any infant "affected by" prenatal drug and/or alcohol exposure.

# Key Questions

- Why Does NH Use Plans of Safe Care?
- How is NH Determining Its Plan of Safe Care Process?
- How Will NH's Plan of Safe Care Process Help To Address Identified Issues?
- What Questions Remain?



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# Why Does NH Use Plans of Safe Care?

# Why Does NH Use Plans of Safe Care? *(legal requirements)*

## Federal Law

- Child Abuse Prevention and Treatment Act (CAPTA)
- Amended by the Comprehensive Addiction and Recovery Act of 2016 (CARA)
- CAPTA/CARA requires the development of a POSC

## State Law

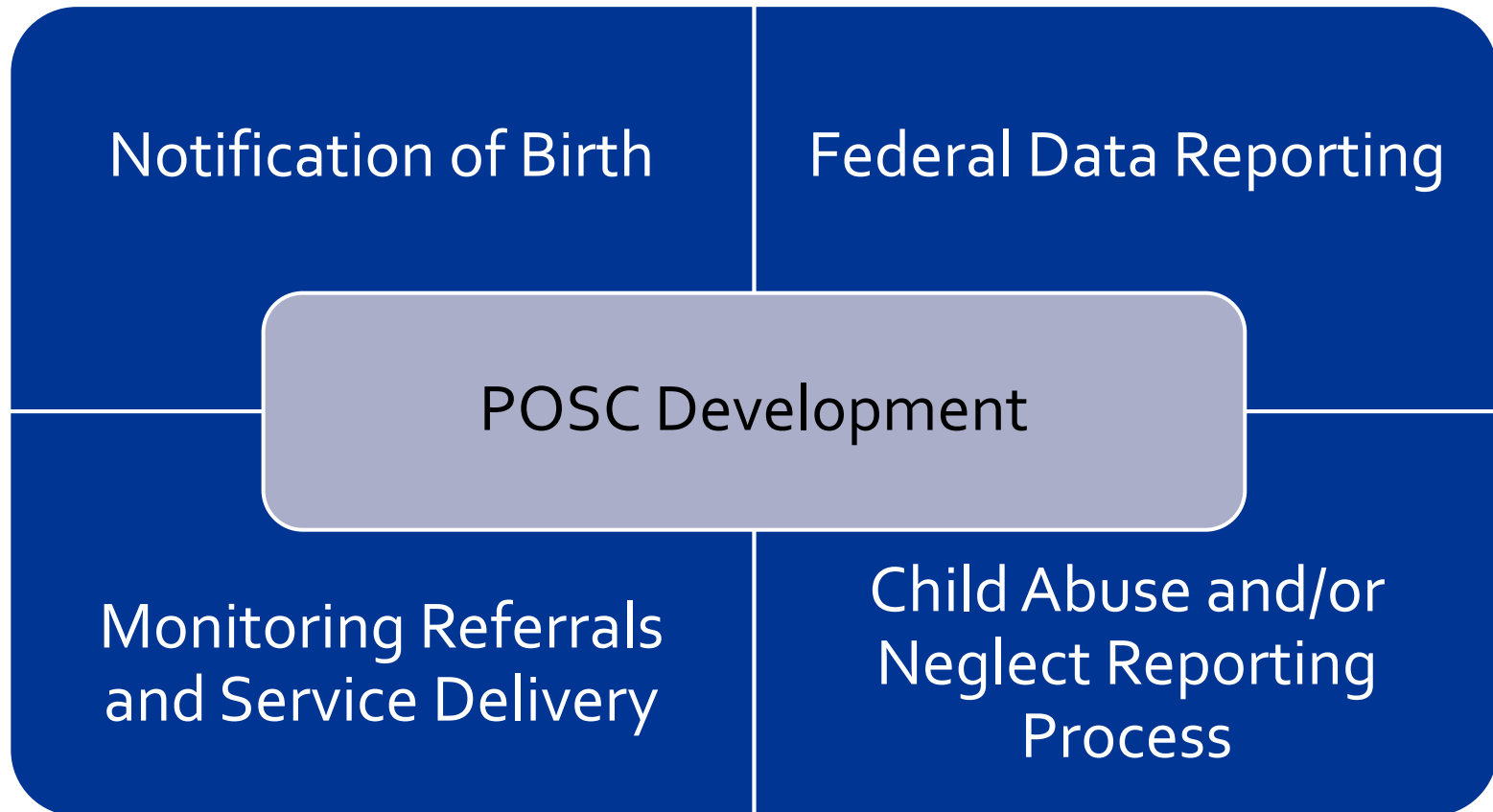
- NH RSA 132:10-e; 132:10-f
- SB 549 (2018) explains how POSC will be developed in NH

# Federal CAPTA/CARA Requirements (all)

| CAPTA/CARA Requirements                                     | Description of CAPTA/CARA State Requirements  |
|---|---|
| Notification  | Policies and procedures to notify child protective services system that an infant was born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder.   |
| Federal Data Reporting                                      | Reporting of the number of infants: <ul style="list-style-type: none"> <li>• identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder;</li> <li>• for whom a plan of safe care was developed; and</li> <li>• for whom a referral was made for appropriate services, including services for the affected family or caregiver.</li> </ul> |
| Plan of Safe Care Development                               | The development of a plan of safe care for each infant born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder, to address the needs of the infant and affected parent/caregiver, which includes referrals for and delivery of appropriate services.   |
| Monitoring Plan of Safe Care Referrals and Service Delivery | A monitoring system to determine “whether and in what manner” appropriate services are being referred and delivered under the plan of safe care.  |
| A Reporting Process for Child Abuse and/or Neglect          | A state law for mandatory reporting of child abuse and/or neglect and a reporting process to report “known and suspected instances” of child abuse and/or neglect.  |



# Federal CAPTA/CARA Requirements



# NH's SB 549 Requirements for POSC Development and Monitoring

## **132:10-e Development of a Plan of Safe Care.**

When an infant is born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder, the health care provider shall develop a plan of safe care, in cooperation with the infant's parents or guardians and the department of health and human services, division of public health services, as appropriate, to ensure the safety and well-being of the infant, to address the health and substance use treatment needs of the infant and affected family members or caregivers, and to ensure that appropriate referrals are made and services are delivered to the infant and affected family members or caregivers. The plan shall take into account whether the infant's prenatal drug exposure occurred as the result of medication assisted treatment, or medication prescribed for the mother by a health care provider, and whether the infant's mother is or will be actively engaged in ongoing substance use disorder treatment following discharge that would mitigate the future risk of harm to the infant. A copy of the plan of safe care shall be included in the instructions for the infant upon discharge from the hospital or from the health care provider involved in the development of the plan of safe care. The plan of safe care shall not be submitted to the department of health and human services unless it is pursuant to RSA 132:10-f or the department makes an official request for a copy of the plan in compliance with confidentiality requirements.

**132:10-f Mandatory Reporting.** When a health care provider suspects that an infant has been abused or neglected pursuant to RSA 169-C:3, the provider shall report to the department of health and human services in accordance with RSA 169-C:29. If the infant has a plan of safe care developed under RSA 132:10-e, a copy of the plan shall accompany the report.

336:2

Effective Date. This act shall take effect upon its passage.

# NH's SB 549 Requirements (all)

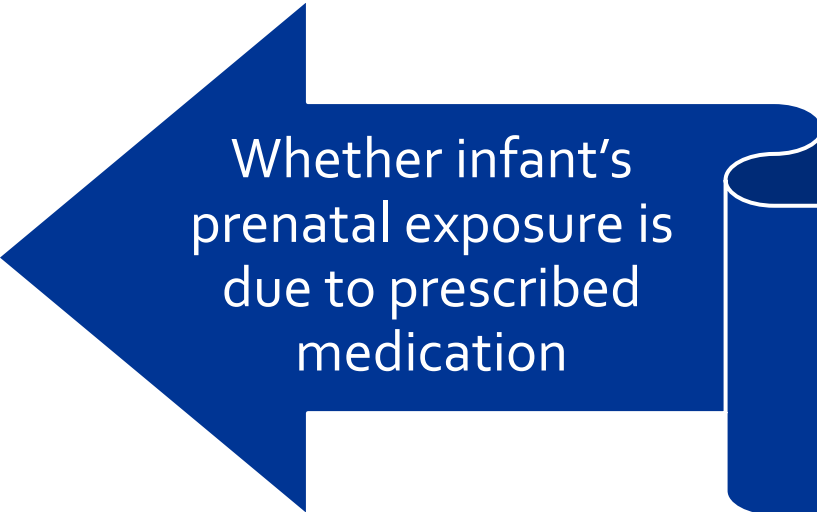
| POSC Process Requirements in SB 549   | POSC Content Requirements in SB 549  |
|---|--|
| <p><b>POSC Development</b></p> <p>The health care provider shall develop a plan of safe care, in cooperation with the infant's parents or guardians and the department of health and human services, division of public health services, as appropriate.</p>  | <p><b>POSC Purpose</b></p> <p>A plan of safe care shall be developed to ensure the safety and well-being of the infant, to address the health and substance use treatment needs of the infant and affected family members or caregivers, and to ensure that appropriate referrals are made and services are delivered to the infant and affected family members or caregivers.</p> |
| <p><b>POSC Submission to State of NH</b></p> <p>The plan of safe care shall not be submitted to the department of health and human services unless it is pursuant to RSA 132:10-f or the department makes an official request for a copy of the plan in compliance with confidentiality requirements.</p> | <p><b>Prescribed Medication?</b></p> <p>The plan of safe care shall take into account whether the infant's prenatal drug exposure occurred as the result of medication assisted treatment, or medication prescribed for the mother by a health care provider.</p>  |
| <p><b>Infant Discharge</b></p> <p>A copy of the plan of safe care shall be included in the instructions for the infant upon discharge from the hospital or from the health care provider involved in the development of the plan of safe care.</p>  | <p><b>Mother Engaged in Treatment</b></p> <p>The plan of safe care shall take into account whether the infant's mother is or will be actively engaged in ongoing substance use disorder treatment following discharge that would mitigate the future risk of harm to the infant.</p>   |
| <p><b>Mandatory Reporting of Child Abuse and/or Neglect</b></p> <p>When a health care provider suspects that an infant has been abused or neglected pursuant to RSA 169-C:3, the provider shall report to the department of health and human services in accordance with RSA 169-C:29.</p>                |  |
| <p><b>Mandatory Reporting of Child Abuse and/or Neglect</b></p> <p>If the infant has a plan of safe care developed under RSA 132:10-e, a copy of the plan shall accompany the report.</p>   |  |

# NH's SB 549 Requirements

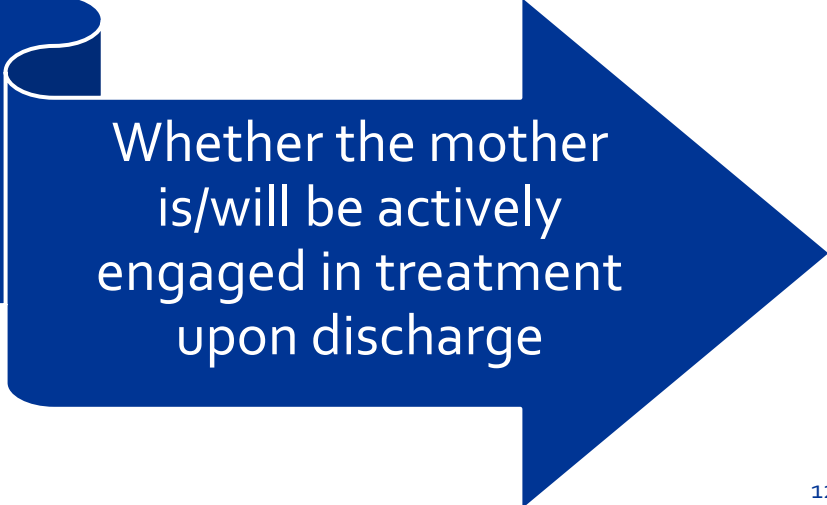
Goes with mother upon discharge

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POSC must take into account...



Whether infant's  
prenatal exposure is  
due to prescribed  
medication



Whether the mother  
is/will be actively  
engaged in treatment  
upon discharge



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# How is NH Determining Its Plan of Safe Care Process?

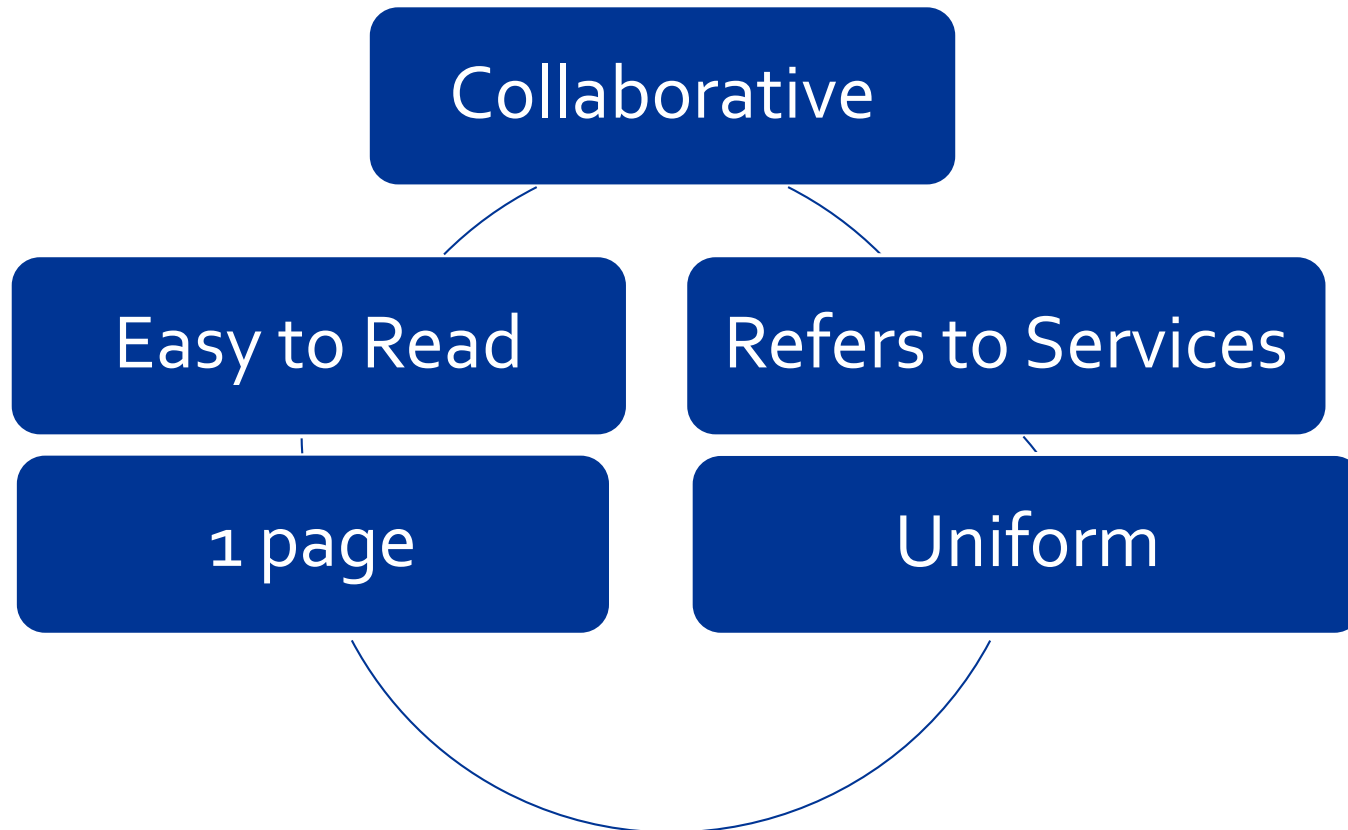
# NH's Plan of Safe Care Process Decision-Making

**Identified Need**  
for enhanced  
communication  
and coordination

**SB 549 (2018)**  
introduced,  
revised, and  
passed

**POSC Template  
Subcommittee**  
formed

# Goals for NH's Plan of Safe Care Template



**Supported Care for Mothers and Infants**

**Description:** This Plan of Safe Care, developed collaboratively with the mother, coordinates existing supports and referrals to new supports to help infants and families stay safe and supported when they leave the hospital. This Plan of Safe Care is to be shared with the infant's and the mother's providers and supports.

| I. DEMOGRAPHIC INFORMATION |  |                             |  |  |  |
|----------------------------|--|-----------------------------|--|--|--|
| Name of Mother:            |  | Mother's Medical Providers: |  |  |  |
| Name of Infant:            |  | Infant's Medical Providers: |  |  |  |
| Name of Father:            |  | Mother's Admission Date:    |  |  |  |
| Infant's DOB:              |  | Mother's Discharge Date:    |  |  |  |
| Mother's Phone Number:     |  | Infant's Discharge Date:    |  |  |  |
| Mother's Health Insurance: |  | Father's Phone Number:      |  |  |  |
| Current Address:           |  |                             |  |  |  |

| II. CURRENT SUPPORTS (e.g. partner/spouse, family/friends, counselor, spiritual faith/community, recovery community, etc.) |  |  |  |  |  |
|--|--|--|--|--|--|
|  |  |  |  |  |  |

| III. STRENGTHS AND GOALS (e.g. breastfeeding, parenting, housing, smoking cessation, recovery) |  |  |  |  |  |
|--|--|--|--|--|--|
|  |  |  |  |  |  |

| IV. HOUSEHOLD MEMBERS |                        |     |      |                        |     |
|-----------------------|------------------------|-----|------|------------------------|-----|
| Name                  | Relationship to Infant | Age | Name | Relationship to Infant | Age |
|                       |                        |     |      |                        |     |
|                       |                        |     |      |                        |     |
|                       |                        |     |      |                        |     |

| V. EMERGENCY CHILDCARE CONTACT/OTHER PRIMARY SUPPORTS |                        |              |
|---|------------------------|--------------|
| Name  | Relationship to Infant | Phone Number |
|   |                        |              |
|   |                        |              |
|   |                        |              |

| VI. NOTES/HELP NEEDED (please time/date entries) |
|--|
|  |

# What is in NH's Plan of Safe Care Template?

- ❖ Demographic Information
- ❖ Current Supports
- ❖ Strengths and Goals
- ❖ Household Members
- ❖ Emergency Childcare Contact/Other Primary Supports



# What is in NH's Plan of Safe Care Template?

| VII. SERVICES/SUPPORTS/TREATMENT/NEW REFERRALS               |           |        |          |              |                            |
|--|-----------|--------|----------|--------------|----------------------------|
|  | Discussed | Active | Referred | Contact Name | Organization/ Phone Number |
| Visiting Nurse Association (VNA)                             |           |        |          |              |                            |
| Women, Infants, and Children Program (WIC)                   |           |        |          |              |                            |
| health insurance enrollment                                  |           |        |          |              |                            |
| Family Resource Center (FRC)                                 |           |        |          |              |                            |
| parenting classes  |           |        |          |              |                            |
| safe sleep education/plan                                    |           |        |          |              |                            |
| childcare  |           |        |          |              |                            |
| other home visiting  |           |        |          |              |                            |
| Early Supports and Services                                  |           |        |          |              |                            |
| voluntary child welfare services                             |           |        |          |              |                            |
| mental health  |           |        |          |              |                            |
| smoking cessation/no smoke exposure                          |           |        |          |              |                            |
| housing assistance   |           |        |          |              |                            |
| Temporary Assistance for Needy Families (TANF)               |           |        |          |              |                            |
| financial assistance   |           |        |          |              |                            |
| transportation   |           |        |          |              |                            |
| legal assistance   |           |        |          |              |                            |
| personal security/DV   |           |        |          |              |                            |
| substance use  |           |        |          |              |                            |
| Medication Assisted Treatment                                |           |        |          |              |                            |
| recovery support services (e.g. recovery coaching, meetings) |           |        |          |              |                            |
| Drug Court participation                                     |           |        |          |              |                            |
| Other ( )  |           |        |          |              |                            |
| Other ( )  |           |        |          |              |                            |

| VIII. PRENATAL EXPOSURE  |     |       |
|--|-----|-------|
|  | Y/N | Notes |
| Does the infant have prenatal substance exposure?                          |     |       |
| Is the prenatal substance exposure a result of prescribed medication?      |     |       |
| Is there prenatal substance exposure in addition to prescribed medication? |     |       |

| IX. IS THE INFANT DISCHARGED IN THE CARE OF SOMEONE OTHER THAN THE MOTHER? |                         |                          |
|--|-------------------------|--------------------------|
| Name:  | Relationship to Infant: | Court Involvement (Y/N): |
| Phone Number/Address:  |                         |                          |

| X. PARENT/CAREGIVER SIGNATURE  |
|--|
| I acknowledge I have participated in the development of this Plan of Safe Care, I have a copy of the Plan of Safe Care, I will share the Plan of Safe Care with my baby's pediatrician and primary care provider, and I will make reasonable efforts to follow-up with the services and supports listed above. |
| Signature: _____ Date: _____   |

| XI. STAFF SIGNATURE  |
|--|
| I, _____ provided _____ with the Plan of Safe Care upon discharge. |
| Signature: _____ Date: _____                                       |

*This form complies with NH RSA 132:10(e) and NH RSA 132:10(f).*

- ❖ Services/Supports/Treatment /New Referrals
- ❖ Notes/Help Needed
- ❖ Prenatal Exposure
- ❖ Is the Infant Discharged in the Care of Someone Other Than the Mother?
- ❖ Parent/Caregiver and Staff Signatures



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# How Will NH's Plan of Safe Care Process Help to Address Identified Issues?

# Who Develops the Plan of Safe Care?

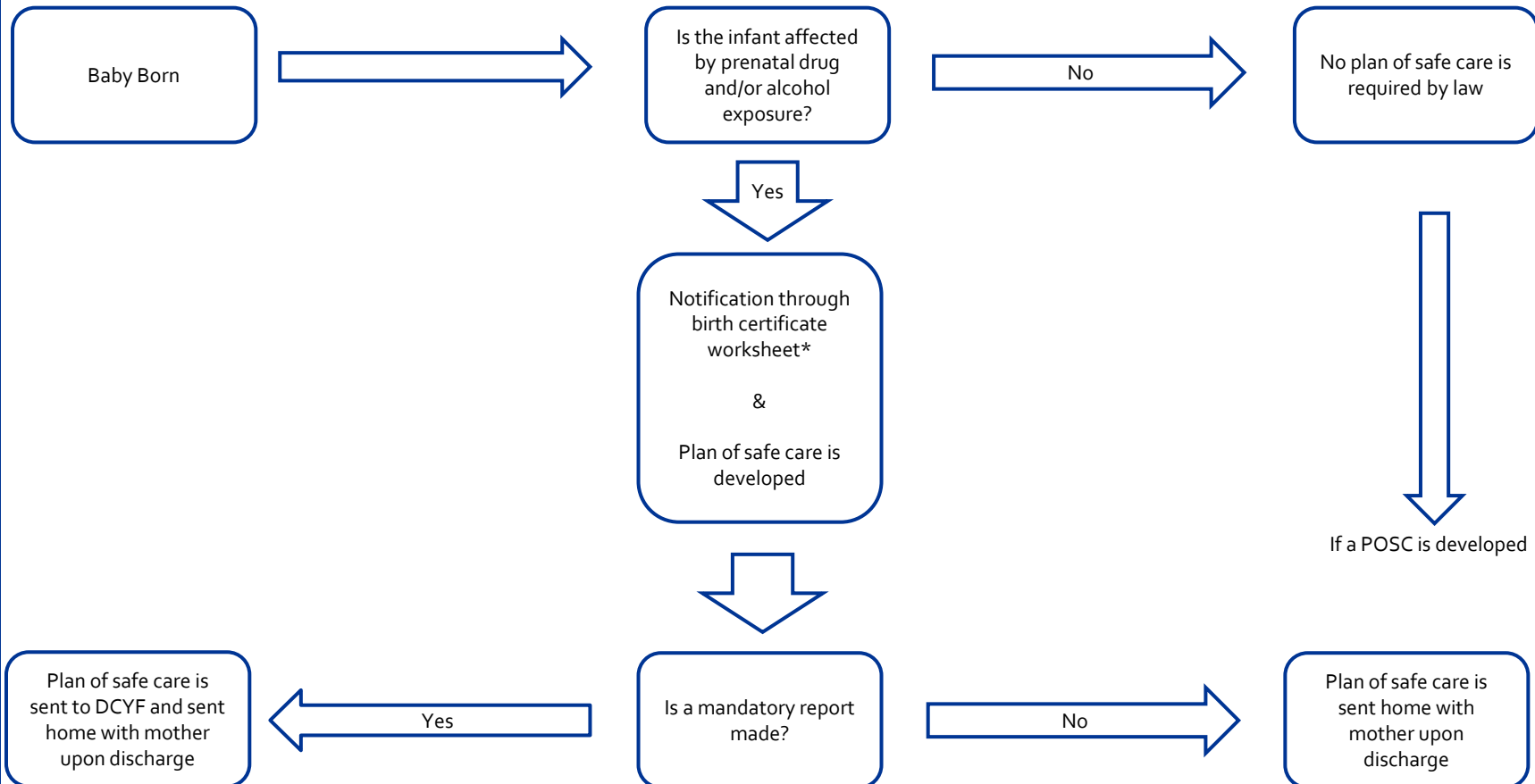
The Plan of Safe Care is developed collaboratively by a healthcare provider and the mother before the mother's discharge from the hospital

# Where Does the Plan of Safe Care Go?

- With the mother upon discharge
- To the infant's primary care provider along with the infant's other medical records
- Upon the mother's acceptance of a referral, to the appropriate Family Resource Center
- If there's a report of child abuse and/or neglect, to DCYF

# NH's Plan of Safe Care Flow (so far)

*It is best practice to begin developing a POSC prenatally.*



\* Currently notification is captured through 2 situational surveillance questions.

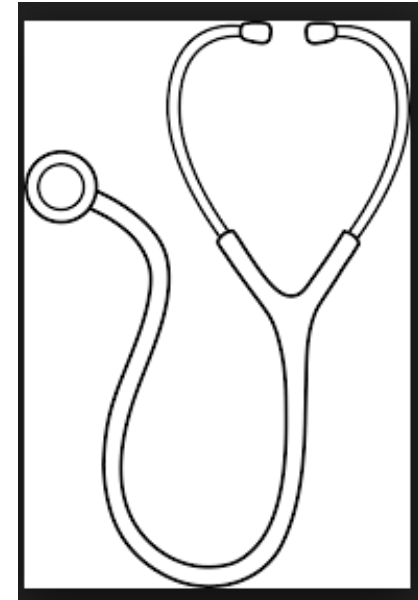
# How Does the Plan of Safe Care Help...?



Families



State of NH



Providers



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# POSC Walk Through

# Example

A woman with a long history of opioid use disorder is currently on maintenance therapy (MAT) and in sustained remission for six months. She is pregnant and used in the first trimester but has since been doing well in treatment. The woman, who has an older child with an open DCYF case related to substance use, meets with her OB provider for a prenatal visit before delivery.





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# Mandatory Reporting

# Mandatory Reporting of Child Abuse and/or Neglect in NH

- **NH RSA 169-C:29 Persons Required to Report.** “Any physician, surgeon, county medical examiner, psychiatrist, resident, intern, dentist, osteopath, optometrist, chiropractor, psychologist, therapist, registered nurse, hospital personnel (engaged in admission, examination, care and treatment of persons), Christian Science practitioner, teacher, school official, school nurse, school counselor, social worker, day care worker, any other child or foster care worker, law enforcement official, priest, minister, or rabbi or any other person having reason to suspect that a child has been abused or neglected shall report the same in accordance with this chapter.”
- **NH RSA 169-C:31 Immunity From Liability.** “Anyone participating in good faith in the making of a report pursuant to this chapter is immune from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant has the same immunity with respect to participation in any investigation by the department or judicial proceeding resulting from such report.”
- **NH RSA 132:10-f Mandatory Reporting.** “When a health care provider suspects that an infant has been abused or neglected pursuant to RSA 169-C:3, the provider shall report to the department of health and human services in accordance with RSA 169-C:29. If the infant has a plan of safe care developed under RSA 132:10-e, a copy of the plan shall accompany the report.”

# Mandatory Reporting of Child Abuse and/or Neglect in NH

## NH RSA 169-C:3 Definitions. –

- II. "**Abused child**" means any child who has been:
  - (a) Sexually abused; or
  - (b) Intentionally physically injured; or
  - (c) Psychologically injured so that said child exhibits symptoms of emotional problems generally recognized to result from consistent mistreatment or neglect; or
  - (d) Physically injured by other than accidental means.
  
- XIX. "**Neglected child**" means a child:
  - (a) Who has been abandoned by his or her parents, guardian, or custodian; or
  - (b) Who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, when it is established that the child's health has suffered or is likely to suffer serious impairment; and the deprivation is not due primarily to the lack of financial means of the parents, guardian, or custodian; or
  - (c) Whose parents, guardian or custodian are unable to discharge their responsibilities to and for the child because of incarceration, hospitalization or other physical or mental incapacity;

Provided, that no child who is, in good faith, under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to be a neglected child under this chapter.

# SB 549's Requirements for Mandatory Reporting of Child Abuse and/or Neglect in NH

## POSC Process Requirements in SB 549

### **Mandatory Reporting of Child Abuse and/or Neglect**

When a health care provider suspects that an infant has been abused or neglected pursuant to RSA 169-C:3, the provider shall report to the department of health and human services in accordance with RSA 169-C:29.

### **Mandatory Reporting of Child Abuse and/or Neglect**

If the infant has a plan of safe care developed under RSA 132:10-e, a copy of the plan shall accompany the report.

# NH's Rebuttable Presumption of Harm

- SB 515 (2016)
  - **NH RSA 169-C:12-e Rebuttable Presumption of Harm.** – “Evidence of a custodial parent's opioid drug abuse or opioid drug dependence, as defined in RSA 318-B:1, I or RSA 318-B:1, IX, shall create a rebuttable presumption that the child's health has suffered or is very likely to suffer serious impairment. The presumption may be rebutted by evidence of the parent's compliance with treatment for such use or dependence.”



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# Q&A and Concluding Remarks



# January 29, 2019 Plan of Safe Care Summit

## SAVE THE DATE

*Optimizing Care for Mothers & Babies Affected by Substances:  
Summit to Address Plans of Safe Care in New Hampshire*

*Tuesday, January 29, 2019*

*9:30 AM - 4:00 PM*

*Grappone Conference Center  
70 Constitution Avenue, Concord, NH*





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# Questions???