

Senate Human Services Committee
SB 2232
Monday February 3, 2025

Chair Lee and Committee Members, I am Dr Collette Lessard, a board-certified physician in Obstetrics and Gynecology. I have been practicing for nearly 12 years and have spent my entire career in Grand Forks, North Dakota. I am also writing as the Legislative Chair for the North Dakota section of the American College of Obstetricians and Gynecologists (ACOG).

I am writing in support of SB 2232. As we are all aware, substance and alcohol use disorders are serious health and social problem in our country. These affect women in pregnancy and the postpartum period. Our current state law mandates that health care professionals with knowledge of any substance or alcohol use in pregnancy are mandated to report that patient to child welfare services. Failure to report in these cases results in that health care professional being guilty of a class B misdemeanor (*"50-25.1-13. Penalty for failure to report - Penalty and civil liability for false reports. Any individual required by this chapter to report or to supply information concerning a case of known or suspected child abuse, neglect, or death resulting from abuse or neglect who willfully, as defined in section 12.1-02-02, fails to do so is guilty of a class B misdemeanor"*). This current law assumes that any substance use in pregnancy is directly equivalent to child abuse.

An important part of a physician-patient relationship is patient privacy. Patients need to feel that their clinician's office is a safe place where they can discuss their health care problems and needs openly. Substance use disorder is no different. Pregnancy is a highly motivating time for women with substance use disorder to take the necessary steps to maintain sobriety and make these changes for themselves and their family. However, they need to be able to be open and honest about their substance use disorder without fear of punishment. For example, when a woman establishes pregnancy care and endorses that she has recently used a controlled substance or alcohol, the healthcare system should be a safe and confidential place for her to do this. Currently with our state law, I am mandated to report her within a few days of that visit to Child Protective Services. This erodes the patient-physician relationship and her trust and privacy with her health care team. This will lead to hesitancy for some patients to return at all for prenatal care. Rather, she should be able to openly discuss her substance use. As the healthcare professional, I would counsel her on the danger of using in pregnancy and advise her stop using and assist her in getting the support and help she needs to do so. I would encourage her to come in for regular prenatal care, where we will continue to check in on her substance use disorder. If that woman continues to choose to use controlled substances or alcohol and puts herself and her pregnancy at risk, I can and will still report to child protective services. However, SB 2232 gives me the ability to work with my patient, develop trust and rapport with her and support her in her ability to maintain sobriety, without immediate mandated reporting for even one instance of substance use or alcohol use in the pregnancy.

The American College of Obstetricians and Gynecologists has stated that practitioners have an ethical responsibility to advocate against punitive laws and specifically to, “discourage the separation of parents from their children solely based on substance use disorder, either suspected or confirmed.”

We need change in cases of parental substance use (either history of use or positive toxicology test result) and mandated reporting. Clinicians should be able to complete an individualized assessment of protective factors and risks and make a good faith determination in their professional opinion that there is not concern for child abuse or neglect. In those instances, the clinician should not need to report to child protective services but should clearly document their assessment and plan and continue to provide regular prenatal care and support and resources for their patient’s needs.

I am requesting you all to give a “do pass” and support SB 2232 so that we can improve on our care for women suffering from substance and alcohol use disorders in pregnancy.

Respectfully,

Collette Lessard, MD, FACOG