MASSACHUSETTS MEDICAL SOCIETY
Every physician matters, each patient counts.

April 18, 2025

Thomas P. Weierman
Deputy General Counsel, Department of Children and Families
One Ashburton Place, 3rd Floor
Boston, MA 02108

Re: MMS Comments regarding proposed 110 CMR 2.00

Dear Mr. Weierman:

The Massachusetts Medical Society (MMS) is a professional association of over 24,000 physicians, residents, and medical students across all clinical disciplines, organizations, and practice settings. The Medical Society is committed to advocating on behalf of patients, to give them a better health care system, and on behalf of physicians, to help them provide the best care possible. The MMS strives to advance policies that promote evidence-based strategies to understand, prevent, and mitigate long-term harms of adverse childhood experiences (ACEs). The MMS therefore appreciates the opportunity to provide comment on the Department of Children and Families' (DCF) proposed amendments to its Glossary regulations in 110 CMR 2.00.

Glossary - "Physical Injury (d)"

The MMS commends the critical work DCF undertakes every day to strengthen families and keep children safe from harm. As such, we strongly support the proposed amendment that eliminates "addiction to drug at birth" under subsection (d) of the "physical injury" definition. Mandated reporting has been well documented as a barrier and deterrent to pregnant individuals seeking and receiving both prenatal care and treatment for substance use disorder (SUD). This deterrence results in avoidable harm, as research consistently shows receiving prenatal care, maintaining engagement with the health care system, and having open conversations with a physician about substance issues improve birth outcomes.[1] This amendment is a meaningful and necessary step

[1] American College of Obstetricians and Gynecologists (ACOG). Policy Priorities. Substance Use Disorder in Pregnancy. https://www.acog.org/advocacy/policy-priorities/substance-use-disorder-in-pregnancy

toward reducing racial disparities and addressing systemic discrimination that exists in both the child welfare and health care systems.

However, the MMS has significant concerns regarding the proposed revision that redefines "addiction to drug at birth" as "exposure to harmful patterns of substance use." We believe this change undermines the spirit and intent of the reforms included in Chapter 285, which sought to clarify our mandated reporting laws and reduce unnecessary referrals to DCF based solely on prenatal substance exposure. **As such, and given the concerns outlined below, the MMS strongly urges DCF to strike subsection (d) under the definition of "Physical Injury" in its entirety.**

While such exposure may, in certain circumstances, contribute to outcomes that result in physical harm, the exposure itself does not constitute a physical injury. Unlike other criteria listed under this definition—such as fractures, soft tissue swelling, or subdural hematoma — "exposure to harmful patterns of substance use" is highly subjective and lacks a direct, observable physical manifestation. Moreover, DCF's existing definition of neglect already provides a sufficient framework for addressing concerns that may arise from a caregiver's substance use, such as the failure to meet a child's basic needs. Categorizing "harmful patterns of substance exposure" as a "physical injury" will unintentionally expand the net of mandated reporting without improving outcomes for children. This proposed change blurs critical distinctions between the legal and medical interpretation of harm and risks, reinforcing punitive responses rather than supportive interventions for families facing complex challenges. Adding a separate, ill-defined category under "physical injury" for this purpose is not only redundant but also potentially harmful.

Furthermore, the proposed language significantly broadens the scope from a specific, time-bound assessment to a much more ambiguous consideration of a child's exposure. This shift from a discrete moment in time (i.e., birth) to an undefined duration raises serious concerns about how and when this criterion would be applied in practice. In numerous conversations with our physician members across various medical specialties, there has been widespread confusion and concern expressed over the implications of this change—particularly around what constitutes a "harmful pattern" and how to apply this overbroad standard. Not only does this expanded definition risk increasing unnecessary referrals to DCF, but it could deter patients from seeking treatment, undermining both the physician-patient relationship and health outcomes.

Additionally, we strongly oppose singling out SUD in this manner. Specifically enumerating substance use, while omitting comparable risks related to exposure to other potentially harmful caregiver behaviors is both unnecessary and inconsistent with existing DCF regulations. From a clinical perspective, SUD is a brain disease that is both treatable and manageable, and it should be approached with compassion and access to evidence-based medicine.[2] Including such language in the regulation reinforces stigma and disproportionately targets pregnant and parenting individuals who are already vulnerable to discrimination and criminalization. The proposed change risks deepening existing disparities within a mandated reporting system that relies heavily on subjective determinations often influenced by implicit bias.

We urge DCF to adopt a regulatory approach that reflects clinical realities, advances health equity, and promotes the well-being of both children and families. Ensuring that definitions within the child welfare system are clear, evidence-based, and free from stigma is essential to building trust between families, providers, and state agencies. The MMS stands ready to collaborate with DCF and other stakeholders to support policies that prioritize child safety, family well-being, and patient-centered care.

Thank you for your consideration of these comments. For any questions, please contact Leda Anderson, Director of Advocacy & Government Relations, at landerson@mms.org.

[2] CDC. Treatment of Substance Use Disorder. https://www.cdc.gov/overdose-prevention/treatment/index.html