



## **Drug Use and Human Milk: Legal and Child Welfare Considerations**

We believe that breast/chest feeding families who use substances are best served by evidence-based, harm reduction practices provided through the healthcare system, not the legal or child welfare system.

There is no evidence to suggest that simple exposure to a substance through human milk equals child abuse or endangerment. In fact, breastfeeding has been shown to be protective against child abuse and neglect through the attachment, sensitivity and responsivity that results from breastfeeding.

### **Breastfeeding should be considered a protective factor in a family with substance use and/or child welfare concerns.**

- Breastfeeding reduces the incidence of child abuse and neglect<sup>1</sup>.
- Breastfeeding increases bonding and attachment<sup>2</sup>.
- Breastfeeding reduces the experiences of physical and emotional stress<sup>3</sup>.
- Breastfeeding as an infant increases cognitive ability in school-aged children<sup>4</sup>.

### **There are significant, well-documented, personal and public health risks to *not* breastfeeding.**

- Interrupting breastfeeding initiation (the first 72 hours of an infant's life) or breastfeeding establishment (weeks 1-6) often eliminates any possibility of eventual breastfeeding. Compromising breastfeeding during these critical windows has long term consequences.
- Mothers who don't breastfeed face increased rates of premenopausal breast cancer, ovarian cancer, and type 2 diabetes.
- Infants who are not breastfed face an increased incidence of childhood obesity, asthma, type 1 and type 2 diabetes, leukemia, and sudden infant death syndrome (SIDS).
- The introduction of artificial milk substitutes (formula) comes with financial costs not associated with breastfeeding (i.e. the cost of buying formula).
- The economic cost of not breastfeeding exceeds \$18 billion annually in the United States<sup>5</sup>.

### **The legality of a substance is not correlated to the harm it may cause a breastfed baby.**

- Legal substances like caffeine, cigarettes and alcohol all have the potential to harm a breastfed baby<sup>6,7</sup>.
- The harm of these legal substances can exceed the harm posed by illegal substances in some cases<sup>7</sup>.

### **Substance use in families, whether legal or illegal, is best addressed by the health care system, not the judicial system.**

- Substance use disorders are medical/behavioral health conditions and are best addressed with treatment<sup>8</sup>.
- Parents with a substance use disorder cannot simply stop without health intervention<sup>9</sup>.
- Threats of arrest or criminalization do not increase a parent's ability to stop drug dependency<sup>9,10</sup>.
- Not all substance use is substance abuse, and not all people who use or misuse a substance have a substance use disorder<sup>11</sup>. Alone, perinatal use and/or a positive drug test does not determine whether the user has a problem.

### **Every leading medical organization with a position on this issue has concluded that perinatal substance use disorders should be addressed with education and evidence-based treatment, not the criminal justice system.**

- This includes the American College of Obstetricians and Gynecologists, the American College of Nurse Midwives, the American Academy of Pediatrics, the March of Dimes, the Association of Women's Health, Obstetric and Neonatal Nurses, the National Perinatal Association, and the National Organization on Fetal Alcohol Syndrome<sup>8</sup>.

### **Each drug has a different set of chemical properties; risks must be evaluated individually.**

- There are very few drugs that are contraindicated for use while breastfeeding. These include anticancer drugs, lithium, oral retinoids, iodine, amiodarone and gold salts.
- InfantRisk, an evidence-based database of drugs used by lactating parents, demonstrates that many substances, when used appropriately, are compatible with breastfeeding.
- The American Academy of Pediatrics states, "Not all drugs are present in clinically significant amounts in human milk or pose a risk to the infant."
- A particular drug's chemical properties influence how much of the parental dose reaches the breastmilk and its oral bioavailability when consumed via human milk. A particular individual's metabolism influences how it processes what's available.
- For many drugs, infants are exposed to a much smaller dose than their parent.
- The amount of drug/medication measured in the bloodstream is generally also in the breastmilk, often without any time delay. In other words, what happens in the bloodstream, happens in breastmilk.
- All drugs and medications are metabolized (broken down) by the body in some way. The metabolic process of the nursing parent and the infant are both relevant to determining the impact of a consumed substance (infant metabolism changes throughout the first year). Consumption increases the concentration of the drug in the bloodstream/milk and metabolism (removal) of the drug then begins to decrease the concentration of drug in the bloodstream/milk. Alcohol, for example, is metabolized from the bloodstream in about 2 hours for each drink, so nursing parents are often advised they can nurse when the amount of alcohol left to be transmitted through the milk has diminished (after 2 hours).
- The bioavailability and metabolic information of many drugs and medications is known, can be found at LactMed (CDC) and the InfantRisk Center, and can be used to create individualized family plans.
- The relative infant dose (RID) = the infant dose received via milk (mg/kg/day) / the mother's dose (mg/kg/day). It is expressed as a percentage. A drug with an RID less than 10% is considered safe to use while breastfeeding, a RID of more than 10% is rare (for example the RID of cannabis = 2.5%<sup>12</sup>).
- A drug test does not indicate the mother's dose or the RID. Drug tests do not identify the amount, duration or regularity of use and should not be used to assess drug levels in human milk or the RID.
- The U.S. Department of Justice Office of Justice Programs Bureau of Justice Statistics reports that, "A positive test result, even when confirmed, only indicates that a particular substance is present in the test subject's body tissue. It does not indicate abuse or addiction; recency; frequency, or amount of use; or impairment<sup>13</sup>."
- The difference between occasional and regular use by the nursing parent is relevant to dose information. The risk to nursing infants varies depending on frequency of exposure through human milk.

### **Families in which a parent uses illegal substances during breastfeeding are harmed by criminal prosecution<sup>9</sup>.**

- Data shows that parents are less likely to be honest with their care providers about substance use in states with punitive laws<sup>9</sup>.
- The fear of criminal punishment deters parents from talking about their substance use with their care provider.
- This fear decreases the chance they will seek treatment if they need it.
- The use of the criminal justice system to address substance use and parenting causes harm for children and their families<sup>10</sup>.

**References:** 1. Strathearn, L., et al. *Pediatrics* **123** (2009). 2. Strathearn, L. *J. Neuroendocrinol.* (2011). 3. Groer, M. W. *Biol. Res. Nurs.* (2005). 4. Dykes, F. & Hall-Moran, V. (John Wiley & Sons, 2009). 5. Bartick, M. C. et al. *Matern. Child Nutr.* (2016). 6. Gibson, L. & Porter, M. *Pediatrics* (2018). 7. May, P. A. et al. *Reprod. Toxicol.* (2016). 8. ACOG, AAP ASAM, March of Dimes, ACOG. (2018). 9. Stone, R. *Heal. Justice* (2015). 10. Akesson, B. et al. *Soc. Work Public Health* (2012). 11. Wright, T. E. et al. *Am. J. Obstet. Gynecol.* (2016). 12. Baker, T. et al. *Obstet. Gynecol.* (2018). 13. Department of Bureau of Justice Statistics. *Drugs, Crime, and the Justice System: A National Report from the Bureau of Justice Statistics.* (1992).