



Opioid epidemic gives politicians chance to be bipartisan

Comprehensive addiction and recovery bill heads to conference to tackle tough decisions about funding and the fate of improving plans of safe care for substance-exposed infants

May 16th – Monday the New York Times included a story with the headline: [“Some Congressional Republicans See Re-election Path in Opioid Bills.”](#)

Back in Pennsylvania meanwhile, WITF’s Ben Allen [spent Monday morning interviewing](#) (for nearly a half hour), Pennsylvania Governor Tom Wolf about how the Wolf administration is responding to the prescription opioid and heroin epidemic.¹

In that interview, Allen questioned Wolf about whether the Governor has done enough and to what degree the entrenched budget battle diffused, even slightly, the one policy area that seems to invite bipartisanship – stemming the tide of heartache and lethality connected to the opioid epidemic.

Allen sought to compare Wolf’s actions in PA with those of Republican Governor Charlie Baker from Massachusetts. An early act by Baker was to create an 18-member Opioid Addiction Working Group. Baker, like Wolf, faces stiff and partisan push back in his legislature still Allen suggested Baker might have had had more luck or political persuasion than Governor Wolf given this working group issued a specific [“action plan”](#) last June.²

It is worth noting one element of Baker’s [working group’s findings from June 2015](#) related to “Pregnant women and mothers with a substance use disorder need specialized care.”³ The working group also focused on the data that showed continued growth in the number of substance exposed infants referred

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Neonatal Abstinence Syndrome on radar as U.S. House acts to “strengthen safety, protections, and interventions for infants and their families”

Where to next on legislation from Pennsylvania Congressman Lou Barletta will be among the decisions facing members of the Conference Committee for CARA.

¹ <https://www.governor.pa.gov/blog-watch-governor-wolfs-witf-interview-on-pennsylvanias-opioid-crisis/>

² <http://www.mass.gov/eohhs/gov/departments/dph/stop-addiction/recommendations-from-the-governors-opioid-addiction-working-group.html>

³ <http://www.mass.gov/eohhs/docs/dph/stop-addiction/recommendations-of-the-governors-opioid-working-group.pdf>

Barletta's bill Infant Plan of Safe Care Improvement Act ([H.R. 4843](#)), which unanimously passed the U.S. House last week, is very similar to U.S. Senator Bob Casey's Plan of Safe Care Improvement Act ([S. 2687](#)).

The Congressional Budget Office (CBO) released a cost estimate for H.R. 4843⁴ and separately for S. 2687.⁵ Each of the proposed bills led CBO to estimate that "implementing the legislation would cost less than \$500,000 annually for additional personnel to carry out the new requirements; such spending would be subject to the availability of appropriated funds." In arriving at its cost estimate, CBO described CAPTA as requiring states that want to be eligible for CAPTA funding to develop "a plan of safe care for any drug dependent infant."

The [Report from the United States House of Representatives Committee on Education and the Workforce \(E&W\) to accompany H.R. 4843](#)⁶ outlines the bill's purpose as "to strengthen safety, protections, and interventions for infants and their families or caregivers by improving accountability and transparency and encouraging administrative efficiency."

The legislation amends the Child Abuse Prevention and Treatment Act (CAPTA) "in order to address concerns about the growing number of infants born suffering from drug dependency, a condition known as Neonatal Abstinence Syndrome."

Pennsylvania Congressman Glenn "GT" Thompson, who co-sponsored H.R. 4843, spoke on the U.S. House floor about Neonatal Abstinence Syndrome (NAS).⁷ Thompson said, "NAS, is defined by the National Institutes of Health as a set of problems that occurs in a newborn who was exposed to addictive opiate drugs while in the mother's womb." He continued, "Infants experiencing NAS can endure fevers, rapid breathing, seizures, and even death."

NAS was also on the radar in the [U.S. Committee on Energy and Commerce when it issued its report to accompany H.R. 4978- the Nurturing and Supporting Healthy Babies Act](#).⁸ This Committee wrote, "Even infants are suffering as a result of the drug abuse crisis, as opioid use by pregnant women can lead to infants being born with NAS, a group of problems that occur in a newborn who was exposed to addictive

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Barletta's bill seeks to get to best practices, data and oversight

In the section-by-section analysis of H.R. 4843, the E&W Committee indicates the legislation "clarifies" for the federal Department of Health and Human Services (HHS) that the department is "to maintain and disseminate information relating to best practices and requirements for the development of plans of safe care of infants born and identified as being affected by one of the following: illegal substance abuse; withdrawal symptoms; or a Fetal Alcohol Spectrum Disorder."

The Committee Report indicates that states are already required, by CAPTA, to offer assurances that the state have established policies related to the "development of a plan of safe care for infants born with and identified as being affected by one of the following: illegal substance abuse; withdrawal symptoms; or a Fetal Alcohol Spectrum Disorder." H.R. 4843 then also would further require states to offer assurances as

⁴ <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/hr4843.pdf>

⁵ <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/s2687.pdf>

⁶ U.S. House of Representatives Committee on Education and the Workforce Report 114-548 prepared to accompany H.R. 4843. Retrieved at <https://www.congress.gov/114/crpt/hrpt548/CRPT-114hrpt548.pdf>

⁷ U.S. House of Representatives, May 11, 2016 Congressional Record, page 2251. Retrieved at <https://www.gpo.gov/fdsys/pkg/CREC-2016-05-11/pdf/CREC-2016-05-11-pt1-PgH2248.pdf#page=1>

⁸ U.S. House of Representatives Committee on Energy and Commerce Report 114-559 prepared to accompany H.R. 4978. Retrieved at <https://www.congress.gov/114/crpt/hrpt559/CRPT-114hrpt559.pdf>.

to how the plan of safe care provisions “address the health and addiction treatment needs of the infant and family or caregiver.”

The *Committee Views* section opens with a statement that CAPTA “requires health care providers to notify state child protective services agencies when an infant is born with withdrawal symptoms or illegal substance exposure.”

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“Minority Report” of Commission to Eliminate Child Abuse and Neglect Fatalities gets notice

While H.R. 4843 amends CAPTA, the E&W Committee advises that states “should not limit their efforts to address the needs of substance exposed infants and their families to funds available under CAPTA.”

The E&W Committee Report looks to recent work of the [Commission to Eliminate Child Abuse and Neglect Fatalities](#) specifically elements of a “minority report” prepared by Dr. Cassie Statuto Bevan.

The Commission, which included twelve commissioners and had a two-year life line that expired in March, recently offered its final report and recommendations. Specific to CAPTA’s plan of safe care provisions, the Commission wrote:

“CAPTA requires assurances from states that policies and procedures are in place regarding the development of a Plan of Safe Care for newborn infants identified as being affected by illegal substance abuse, withdrawal symptoms, or fetal alcohol spectrum disorder. The purpose of this requirement is to ensure that the infants do not leave the hospital without supports in place. The Commission heard from issue experts in the field and spoke with officials at HHS who noted the “lack of teeth” in the CAPTA Plan of Safe Care requirement and its uneven implementation across states. Many state agencies are unfamiliar with this requirement, and no state has designated a single accountable agency or person responsible for its implementation. States’ lack of understanding of the policy is reflected in questions submitted to federal officials through the HHS Child Welfare Policy Manual.”⁹

The Commission then recommended that Congress:

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Barletta enters Program Instruction (PI) to states into Congressional Record

The Committee uses its report on H.R. 4843 to ensure the legislation is intended to guard against “Federal overreach” including a provision that clarifies that the HHS Secretary is prohibited from adding new requirements to CAPTA. Still the Committee stipulates that the legislation “maintains the HHS Secretary’s ability to issue guidance, provide technical assistance, promulgate regulations, and enforce compliance with the requirements of CAPTA.”

As part of the May 11th debate on H.R. 4843, Congressman Barletta entered into the Congressional Record the contents of a Program Instruction (PI) provided to the states in April 2016.¹⁰ Barletta noted that E&W Committee Chairman Kline and Chairman Rokita of the Subcommittee on Early Childhood, Elementary, and Secondary Education received assurances from HHS that the agency “would request additional

⁹ Within Our Reach: A National Strategy to Eliminate Child Abuse and Neglect Fatalities, Page 112. Retrieved at <https://eliminatechildabusefatalities.sites.usa.gov/files/2016/03/CECANF-final-report.pdf>

¹⁰ U.S. House of Representatives, May 11, 2016 Congressional Record, page 2250. Retrieved at <https://www.gpo.gov/fdsys/pkg/CREC-2016-05-11/pdf/CREC-2016-05-11-pt1-PgH2248.pdf#page=1>

information from States regarding their child protective services notification processes and plans of safe care policies.” He indicated that through the PI (ACYF-CB-PI-16-03), “HHS has started this process.”

The PI, which Barletta placed in the Congressional Record, was expected since states have to provide ACF with an Annual Progress and Services Report (APSR) – essentially an update to the broad overview of the state’s child welfare policies and practices embodied in its 5-year Child and Family Services Plan (CFSP).

Unexpected, however, was that ACF included the most clear guidance, to date, that the CAPTA provisions about reporting of substance-exposed infants to children and youth services are applicable to those infants “demonstrating withdrawal symptoms due to prenatal drug exposure, whether the drugs were obtained legally or illegally.”

Many states, including Pennsylvania, have narrowed the scope of applicability forgoing the notification

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