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NAVIGATING THE OPIOID PROBLEM IN CHILD WELFARE CASES: PRACTICAL TIPS FOR SOCIAL WORKERS, GALS, PARENT COUNSEL, AND JUDGES

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GOALS OF PRESENTATION

- Understand the effects of opioid dependence
- Determine how Opioid Use Disorder (OUD) impacts parenting and the parent-child relationship
- Improve parent compliance through research-informed case management and court orders

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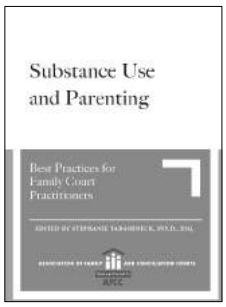
Available electronically on June 1 at no cost at http://www.maafcc.org/



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THE PROBLEM: UNCERTAINTY

- When cases with opioid dynamics come to family court, it can be unclear how to proceed.

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THE PROBLEM: UNCERTAINTY

- Is the parent still using opioids?
- When did the parent last use?
- If the parent is in recovery, for how long?
- Will the parent relapse?
- Will the relapse occur in front of the child or when the parent is caring for the child?
- How can the child be protected?
- What will happen after the relapse?

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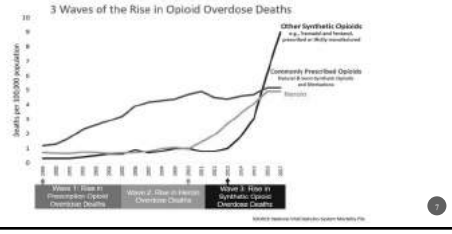
HISTORY OF PROBLEM

- First Wave (1990s): Increase in prescribing and co-prescribing of opioids
- Second Wave (2010): Prescription opioids harder to obtain → Heroin
- Third Wave (2013): Rise in synthetic opioids, including fentanyl



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HAWAII

In Hawaii in 2018, there were 33.4 opioid prescriptions written for every 100 persons.

….this was among the lowest opioid prescription rates in the United States for 2018.

Centers for Disease Control and Prevention. U.S. Opioid Prescribing Rate Maps. (2019, October 3). https://www.cdc.gov/drugoverdose/maps/rxrate-maps.html

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THIS PROBLEM BECOMES MORE COMPLEX WITHIN THE CONTEXT OF COVID-19…

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POTENTIAL IMPACT OF OPIOID USE DISORDERS (OUD) ON CHILDREN:

Born physiologically addicted to opioids	Parent fails to provide proper food, clothes, shelter	Observe parent under the influence	Buy drugs for a parent
Witness parent overdose	Preoccupied w/ worry about parent instead of school, friends	Placed in foster care	Death of a parent from overdose

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POLL #1

How challenging do you find cases with opioid use/addiction dynamics?

a) Extremely difficult
b) Moderately difficult
c) Slightly challenging
d) The easiest cases in your caseload

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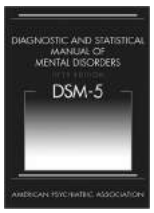
WHAT IS AN OPIOID USE DISORDER?



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Opioids are often taken in larger amounts or over a longer period of time than intended.
There is a persistent desire or unsuccessful efforts to cut down or control opioid use.
A great deal of time is spent in activities necessary to obtain the opioid, use the opioid, or recover from its effects.
Craving, or a strong desire to use opioids.
Recurrent opioid use resulting in failure to fulfill major role obligations at work, school or home.
Continued opioid use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of opioids.
Important social, occupational or recreational activities are given up or reduced because of opioid use.
Recurrent opioid use in situations in which it is physically hazardous
Continued use despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by opioids.
*Tolerance, as defined by either of the following: (a) a need for markedly increased amounts of opioids to achieve intoxication or desired effect (b) markedly diminished effect with continued use of the same amount of an opioid
*Withdrawal, as manifested by either of the following: (a) the characteristic opioid withdrawal syndrome (b) the same (or a closely related) substance are taken to relieve or avoid withdrawal symptoms

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CONSTRUCTIVE ADVOCACY V. ZEALOUS ADVOCACY

- Avoid assumptions
- Get more information
- Clarify the impact of substance use on parenting
- Determine the parent's level of acknowledgement of substance use issues
- Gather more information when a parent with substance use issues does not recognize that they have substance use issues
- Acknowledge difficulties and practical realities of taking on cases involving substance use

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ADOPTION AND SAFE FAMILIES ACT (1997)

- ASFA enacted in 1997 after an increase in child neglect cases
- Many children were languishing in foster care instead of placement in permanent homes.
- ASFA imposed strict time limits for resolving dependency cases.

Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, 111 Stat. 2115

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REQUIREMENTS OF ASFA

- Permanency hearing held within the earlier of: 12 months of a neglect finding or 14 months of the removal of the child.
- Parental rights must be terminated if a child is in foster care for 15 of the last 22 months and parent not ready for reunification.
- Challenge: the ASFA time limits are considerably shorter than the average time for an individual to reach a period of stable sobriety.

Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, 111 Stat. 2115

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1. All people who use drugs are addicted
2. People addicted to drugs use drugs to get high
3. People who use drugs can quit whenever they want
4. People need to hit "rock bottom" to get treatment
5. People need to want treatment for it to work
6. People need to 100% abstain from drug use to get treatment
7. "Interventions" are the best method to get a person into treatment
8. Treatment should only need to happen once
9. People who are addicted to drugs are bad, weak people
10. Relapse is a personal moral failure – they're not trying hard enough

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MYTH: IT'S ONLY PROGRESS IF THERE IS ABSTINENCE

- Goals should be reachable and should not revolve solely around abstinence
- Other important incremental goals may include:
  - a decrease in use
  - changes in frequency of use
  - decrease in potency of the drug used
  - increased safety of use
  - open communication about use
  - assuming responsibility for one's actions

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POLL #2

What is the most lethal commonly available opioid today?

a) Hydrocodone
b) Vicodin
c) Heroin
d) Morphine
e) Fentanyl
f) Carfentanil

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CARFENTANIL

- Multiple dosages of Narcan are often necessary to reverse carfentanil overdose
- A dosage less than the grain of salt is sufficient to be fatal
- 100 times more potent than Fentanyl

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KEY PRINCIPLES

- Consensus in medical and scientific communities that substance use disorders should be treated like other chronic conditions
- Like other chronic diseases such as heart disease or asthma, this is an issue with the chemicals and receptors in the brain
- There is a genetic component
- Treatment for drug addiction usually isn't a cure but addiction can be managed

AMA

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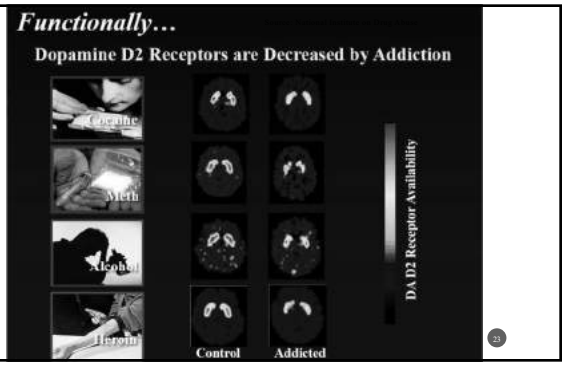

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KEY PRINCIPLES

- Relapse is often a part of SUD
- Improper treatment, stress, and unmanaged co-occurring conditions can increase relapse risk

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MEDICATION-ASSISTED TREATMENT (MAT)

- MATs are a safe and effective treatment for opioid, alcohol, and nicotine use disorders
- MATs mitigate cravings and reduce withdrawal symptoms
- A shortage of providers, cost, and stigma are significant barrier to treatment

"Studies show that people with opioid dependence who follow detoxification with no medication are very likely to return to drug use, yet many treatment programs have been slow to accept medications that have proven to be safe and effective."
-Director of the National Institute on Drug Abuse, Nora D. Volkow, M.D.

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BARRIERS TO OUD TREATMENT

- For adults with unmet treatment needs, those with a child living at home compared to those without had:
  - 2.9 times more likely to report treatment access barriers
  - 4.1 times more likely to report stigma as a barrier to treatment
  - Only 27% of those with OUD living with a child reported any treatment in the past year

Feder, K. A., Mojtabai, R., Musci, R. J., & Letourneau, E. J. (2018). US adults with opioid use disorder living with children: Treatment use and barriers to care. *Journal of substance abuse treatment*, *93*, 31-37.

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RELAPSE AND MATS

- Opioid addiction is typically a relapse-filled disease
- Less than 25% of people with OUD who receive abstinence-only counseling will remain in recovery for 2 years
- 40 – 60% of people who receive medication-assisted treatment are still in recovery two years later

Center, L. A. (2015). Confronting an epidemic: The case for eliminating barriers to medication-assisted treatment of heroin and opioid addiction
Connery, H. S. (2015). Medication-assisted treatment of opioid use disorder: review of the evidence and future directions. *Harvard review of psychiatry*, *23*(2), 63-75.

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POLL #3

Considering the scientific literature, what is the most expected disease course for individuals with addiction?

a) Abstinence
b) That the individual will attend a 30-day program and never use again
c) That the individual will relapse several times and then permanently stop using
d) That several relapses may occur and may include long periods of non-use of opioids

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WYATT V. WYATT, 689 SO. 2D 1140 (FLA. DIST. CT. APP. 1997)

"As a matter of policy, we decline to affirm a result which, under the facts of this case, effectively penalizes an otherwise fit, competent parent for the commendable action of recognizing an addiction to prescription drugs, seeking assistance with, and successfully completing treatment for that problem."

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POLL #4

You have a parent who is addicted to opioids and they have relapsed several times. The parent has been prescribed the opioid antagonist vivitrol by their provider. What are next steps?

a) Suggest to the judge that they tell the parent to stop relapsing
b) Have the parent get an appointment with a physician board certified in addiction medicine to explore whether they are on the correct medication
c) Send the parent to a 30-day rehab on the ocean with golf, daily massages, gourmet farm-to-table cuisine, and yoga
d) Refer to another attorney/therapist/quit your job

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FAMILY COURT INTERVENTIONS

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CLARIFY THE NATURE OF PARENT'S SUBSTANCE USE

- Active use without regard to consequences?
- Long periods of abstinence? (common)
- Substance use prioritized over family responsibilities?
- Harm reduction strategies?
  - Only use when children are at school, with the other parent, or when child not in the home?
  - Using less when with the child?
  - Giving custody to a family member?

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ESTABLISHING A NEXUS

How does the nature of this parent's substance use impact this specific child based on their age, development, and unique needs.

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POLL #5

If a parent has an active opioid use disorder what sort of contact should they have with their children?

a) None
b) Supervised contact
c) It depends on the parent's opioid use
d) It depends on the child and the child's needs
e) It depends on whether the parent is compliant with treatment
f) All of the above could be true

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RELAPSE PLAN: COMMUNICATION

- There must be a plan for if/when the parent relapses
- Who does the parent contact and when? E.g.:
  - Co-parent
  - Parent coordinator
  - NA/AA Sponsor
  - Sober coach/drug coach/drug counselor
  - Therapist
  - Nurse Practitioner/Physician/Medication prescriber
  - Other individuals in the parent's support system (*specify*)

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RELAPSE PLAN: DETERMINE LEVEL OF INTERVENTION AND SPECIFY HOW THE INTERVENTION IS DECIDED

- Parent consults with treatment team (therapist, physician, sober coach, drug counselor) (*specify*) to determine the level of treatment intervention that is appropriate.

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RELAPSE PLAN: DETERMINE INTERVENTION

- Parent consults with treatment team (therapist, physician, sober coach, drug counselor) (*specify*) to determine the level of treatment intervention that is appropriate.

Suggestions for Language

I. If an intensive outpatient program is recommended, then Parent will comply with the recommendations of the treatment team (therapist, physician, sober coach, drug counselor) (*specify*) and the recommendations of the program.
- Below is a list of three options for an intensive outpatient programs that Parent has identified as a good fit for his/her needs and preferences:
  - _____ _____ _____

II. In the event of a relapse of extended duration and if a detox program is recommended, then Parent will remain at the detox program for the duration recommended by the treating physician (Note: medically supervised detox is preferred).
- Below is a list of three options for a detox program that Parent has identified as a good fit for his/her needs and preferences:
  - _____ _____ _____

III. If an inpatient program is recommended then PARENT will comply with the recommendations of the treatment team (therapist, physician, sober coach, drug counselor) (*specify)* and the recommendations of the program.
- Below is a list of three options for a inpatient programs:
  - _____ _____ _____
- (Insurance issues should be troubleshooted ahead of time)

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PARENT CONTACT AND SUPERVISION

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SUPERVISION: CONSIDERATIONS

- Severity of the Substance Use Disorder
- Length of the Substance Use Disorder
- Nature of the parent's substance use, including whether the parent uses when the child is in the parent's care
- Current relationship between the parent and child
- Overdose history and whether the overdose occurred when the child was in the parent's care
- Nature of relapse
  - If a parent relapses one time or after an extended period of sobriety (e.g., 4 – 6 months) and immediately communicates the relapse to their therapist, other parent, sponsor, or support system, then prolonged supervised visitation is likely unnecessary. However, if a parent has a prolonged relapse (e.g., 2 weeks with failure to communicate relapse), supervised visitation may be required to ensure the safety of the child.

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SUPERVISION: CONTINUUM OF ACCESS

- Professionally supervised contact at a Visitation Center
- Professionally supervised contact in the community
- Parenting time supervised by a non-professional supervisor
- Parenting time in the community with restrictions on transporting the child
- Parenting time at a neutral family member's home with familial oversight
- Parenting time at a neutral family member's home including overnight visits
- Unsupervised parenting time paired with drug and/or alcohol testing

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SUPERVISION: COURT ORDERS

Court orders or stipulations for supervised visitation should include, at the minimum:

- Reason for the supervision
- Name of supervisor or parenting coordinator
- Frequency, duration, and restrictions (if any)
- Parenting schedule
- Communication and information sharing between parents
- Review date
- Assignment of responsibility for payment
- Location where the visits would take place
- Explicit criteria to modify, 'step up', or terminate supervision

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SUPERVISION: PLAN B

- There should always be a plan B and the steps for implementing plan B should be clear to everyone
- This plan can be implemented if the parent relapses, arrives at the visit under the influence of a substance, or the parent cancels the visit

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SUPERVISION: OTHER OPTIONS – GET CREATIVE

- If in-person parenting time is not a viable option, court practitioners should consider intermediary measures, such as:
  - drawing pictures
  - writing letters
  - reading the child a story over videoconferencing
  - engaging in parallel activities over videoconferencing (e.g., playdough, painting, dancing, singing, playing instruments)
  - sending a video of parent to the child with the video taken during a period where the parent is not using
  - phone call

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SUPERVISION: EXTENDED FAMILY AND OTHER SUPPORTS

- To the extent that extended family or other important people in the child's life are a positive influence, it is important that these relationships are maintained.

McEwen, B.S., & Morrison, J.H. (2013). The brain on stress: Vulnerability and plasticity of the prefrontal cortex over the life course. Neuron, 79(1), 16–29.

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FAMILY DRUG COURTS

- Use a multidisciplinary, collaborative approach to serve parents and families with SUDs
- Uses intensive judicial monitoring and interventions to treat parents' substance use disorders and other co-occurring risk factors
- Bring together SUD treatment, child welfare services, mental health, and social service agencies
- Non-adversarial

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RESOURCE LIST

- American Society of Addiction Medicine, www.asam.org
- Center for Disease Control and Prevention, www.cdc.gov
- Center on the Developing Child at Harvard University, www.developingchild.harvard.edu/
- Guidelines for Court Practices for Supervised Visitation, www.mass.gov/files/documents/2018/11/29/supervised-visitation-guidelinesfinal%20%281%29.pdf
- National Association for Children of Addiction: www.nacoa.org
- National Institute on Drug Abuse, www.drugabuse.gov
- National Institute of Mental Health, www.nimh.nih.gov
- Ruth Potee, M.D., www.ruthpotee.com/
- Smart Recovery, www.smartrecovery.org
- Standards for Supervised Visitation Practice, www.svnworldwide.org/attachments/standards.pdf
- Substance Abuse & Mental Health Services Administration, www.samhsa.gov
- Substance Use Disorders and Mental Health Interest Group, American Bar Association
- World Health Organization, www.who.int

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