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October 21, 2021

Kevin Aucoin
Acting Director
RI Dept. of Children, Youth and Families
101 Friendship Street
Providence, RI 02903

VIA MAIL AND EMAIL

Dear Director Aucoin:

Over the past few months, our office has received complaints from both attorneys and social workers about DCYF's apparently long-standing practices when it comes to taking infants from mothers who have been breastfeeding. Because we believe the complaints raise legitimate and serious concerns, I am writing to ask that DCYF take prompt action to adopt appropriate policies to protect the health of these children under the agency's custody and to provide reasonable accommodations to their lactating mothers.

First, and most basic, DCYF does not appear to have any formal policies governing this issue. As a result, it is at the sole discretion of case workers, with no official agency guidance, as to whether any arrangements are made to allow a mother to continue breastfeeding or, alternatively, to establish a process to ensure that the infant continues to be fed the mother's expressed breast milk. The lack of such guidance only encourages arbitrary, and often detrimental, decision-making by those workers and the Department.

The scenarios that have been brought to our attention are varied, but the harm to babies and their mothers is uniformly indisputable. Further, it is important to emphasize that the disruption to this medically beneficial activity is often taking place in situations where there has been no formal adjudication of the parent's unfitness and where breastfeeding has already begun.

DCYF's seemingly casual attitude towards the breastfeeding interests of mothers and children in the agency's care stands in stark contrast to the Rhode Island Department of Health's (RIDOH) commitment "to promoting breastfeeding, protecting a woman's right to breastfeed her child and ensuring the availability and quality of health care services for breastfeeding mothers."¹

Underlying that commitment is, we presume, the recognition that a failure to accommodate breastfeeding or the delivery of a mother's milk to her child has potentially severe health consequences, both physical and emotional, for the baby and mother. The RIDOH web page on breastfeeding refers users to the American Academy of Pediatrics (AAP) website for information on the topic. There, one is advised that children who are breastfed have a decreased risk of a variety

¹ <https://health.ri.gov/breastfeeding/>

of serious diseases and illnesses, including asthma, Crohn’s disease, diabetes, leukemia and obesity, and “experience improved dental health and neurodevelopmental outcomes.” The AAP further points out the health benefits to the mother, which include decreased risks of breast cancer, hypertension and rheumatoid arthritis.² Even more simply, as RIDOH notes: “Breast milk is the most complete form of nutrition for infants.”³

Conversely, sudden weaning from breastfeeding can have major negative consequences for the health of the mother and child.⁴

Indeed, *even in the prison setting*, there is an emerging consensus that, as a matter of public policy, penal institutions should meet the medical needs of women who are breastfeeding, either by giving them the ability to nurse their babies directly or by enabling them to express breast milk. For example, the American College of Obstetricians and Gynecologists has adopted a policy, *Reproductive Healthcare for Incarcerated Pregnant, Postpartum and Nonpregnant Individuals*, which advocates that

Given the benefits of breastfeeding to the woman and the infant, incarcerated individuals wishing to breastfeed should be allowed to breastfeed their infants directly, when possible, and express milk for delivery to the infant. If the individual is to express her milk, accommodations should be made for equipment and a private space to pump, safe storage, and transfer of the milk to the infant’s caregiver.⁵

The National Commission on Correctional Health Care similarly prescribes: “Wherever possible and not precluded by security concerns, correctional facilities that house pregnant and postpartum women should devise systems to enable postpartum women to express breast milk for their babies and to breastfeed them directly.”⁶ In light of the recognition of the importance of breastfeeding accommodations in the penal setting, DCYF’s routine failure to reasonably accommodate breastfeeding mothers and the children temporarily placed in the agency’s custody is all the more inexcusable.

Based on the complaints we have received, the visitation plans that are adopted by the Department frequently do not take into account in any consequential way the importance of the mother-child breastfeeding relationship. Authorized visits are often too little, too late, and fail to provide the flexibility needed to promote breastfeeding. The agency decisions that do not accommodate this activity can have irreversible consequences for the mother and the child regardless of the ultimate outcome of a petition. Indeed, based on DCYF’s data regarding the number of out-of-home placements,⁷ there are literally hundreds of children and their mothers every year who are potentially being denied a meaningful right to breastfeed and nurse while under the Department’s custody, and facing the adverse medical and social consequences that flow from that.

² <https://www.aap.org/en/patient-care/breastfeeding/breastfeeding-overview/>

³ <https://health.ri.gov/breastfeeding/>

⁴ See, e.g., <https://www.verywellfamily.com/sudden-weaning-from-breastfeeding-4140720>

⁵ <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2021/07/reproductive-health-care-for-incarcerated-pregnant-postpartum-and-nonpregnant-individuals>

⁶ <https://www.ncchc.org/breastfeeding-in-correctional-settings>

⁷ https://www.rikidscount.org/Portals/0/Uploads/Documents/Factbook%202021/fm6781_Factbook2021web.pdf.
2021 Rhode Island Kids Count Factbook, p. 111.

If there are, in fact, written Departmental policies that address this issue, we would appreciate receiving them. Based on the parental experiences that have been brought to our attention, however, any such policies that exist are clearly in need of significant revision. If none exist, we believe the Department has an obligation to begin the process of adopting such policies promptly, and to do so in a way that best promotes “the social well-being and development of children and their families” in accordance with the agency’s mission. R.I.G.L. § 42-72-2(5). The current situation, however, is deeply harmful and untenable.

Thank you in advance for your prompt attention to this, and I look forward to hearing back from you about it at your earliest opportunity.

Sincerely,

A handwritten signature in black ink that reads "Steven Brown". The signature is fluid and cursive, with the first name "Steven" and last name "Brown" clearly distinguishable.

Steven Brown
Executive Director

cc: Patricia Hessler, Legal Counsel, DCYF

Winsome Stone, Administrator, Family Services Division, DCYF

Stephanie Terry, Director, Child Protective Services, DCYF

The Hon. Michael Forte, Chief Judge of the Family Court

The Hon. Lia Stuhlsatz, Associate Justice of the Family Court, Safe and Secure Baby Court

Jennifer Griffith, Child Advocate

Womazetta Jones, Secretary, EOHHS

Lisa Martinelli, Executive Legal Counsel, EOHHS

Senator Louis DiPalma, Chair, Senate DCYF Oversight Committee

Rep. Patricia Serpa, Chair, House Oversight Committee

Dr. Nicole Alexander-Scott, Director, RIDOH