Stigma remains a major obstacle to ending the nation’s drug-overdose epidemic. And few people feel this stigma more than pregnant patients with a substance-use disorder (SUD) who are incarcerated.

While federal law makes clear that people with an SUD in jail or prison should get the same standard of care as patients who are not incarcerated, that is often not the case. Sometimes, pregnant patients who are incarcerated get medications for opioid-use disorder (MOUD) only to have it abruptly terminated postpartum—forcing them to endure painful withdrawal.

“They’re considered as something else,” said Josiah D. Rich, MD, MPH, “They’re not us. They're ‘the other,’ and it's OK to treat them poorly.”

That mindset makes mistreatment of patients needing treatment permissible, said Dr. Rich, professor of medicine and epidemiology at Brown University’s Warren Alpert Medical School.

“It's OK to lock them up, it's OK to put them through torture—it's OK to take their children away,” said Dr. Rich, describing this misguided viewpoint.

The senior medical advisor and co-founder of the Center for Health and Justice Transformation at Lifespan, Dr. Rich was a panelist in an AMA webinar produced with consulting firm Manatt Health to examine access to care for pregnant people with an SUD who are incarcerated or otherwise had interactions with the criminal justice system as a defendant.

Slowly moving in right direction

Though momentum appears to be shifting, policies for providing SUD treatment in the nation’s jails and prisons in general—and for incarcerated pregnant patients in particular—differ from institution to
institution. That is despite recent guidance from the Department of Justice that MOUD is the established medical standard of care for opioid-use disorder.

“Department of Justice guidance is saying that everyone who’s incarcerated and who has opioid-use disorder, should be getting medication for it—including pregnant women,” said Jocelyn Guyer, Manatt Health’s managing director.

“That is not by any stretch the universal situation that we’re confronting and seeing,” she added. “In fact, lots and lots of folks, including pregnant individuals, are not getting any medication for their opioid-use disorder.”

Guyer cited research led by Carolyn Sufrin, MD, PhD, a Johns Hopkins associate professor of gynecology and obstetrics who surveyed the practices in U.S. prisons and jails and reported her findings in *JAMA Network Open* and elsewhere.

Respondents at 60% of U.S. jails said they continued to provide MOUD to pregnant patients already on the medication before incarceration. By contrast, less than one-third (32%) “initiated MOUD during pregnancy. Most medication-providing jails discontinued MOUD during the postpartum period,” says the *JAMA Network Open* study published last year.

Guyer noted that these surveys showed pregnancy-associated overdose mortality grew 81% between 2017 and 2020.

State efforts to initiate MOUD in their prisons and jails were hampered by a federal prohibition on using Medicaid dollars to pay for treatment of incarcerated people—despite the passage of a federal law, the “Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act.”

The SUPPORT Act included a provision highlighting states can apply for waivers to bypass this prohibition and the Department of Health and Human Services (HHS) was directed to issue guidance on how to do so.

Fifteen states eager to take advantage of new opportunities applied for waivers with California’s request getting approved in January, said attorney Kinda Serafi, a partner at Manatt.

The HHS guidance was released last month and Serafi said it contains “a tremendous amount of flexibility for the states.” However, Serafi said guidance mandates these three services:

- Case management “to help set up the person’s medication, behavioral health treatment, chronic-condition treatment, and then connect to other social services and support.”

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MOUD for patients eligible for pre-release services, “which is a really big deal for the population that we’re talking about.”

- 30-day prescription supplies for people to have in hand upon release.

The AMA believes that science, evidence and compassion must continue to guide patient care and policy change as the nation’s opioid epidemic evolves into a more dangerous and complicated illicit drug overdose epidemic. Learn more at the AMA’s End the Epidemic website.

**Continuing treatment upon release**

Dr. Rich noted that in 2018, Rhode Island instituted programs at its central prison and jail campus to offer MOUD and to ensure follow-up treatment upon release. That is critical because the risk of fatal overdose is 126 times greater than for the rest of the population.

“We documented a 60% drop in overdose death in people in the first few weeks after being released from incarceration,” said Dr. Rich said, whose findings were published in *JAMA Psychiatry* and “really changed the landscape around the country.”

Dr. Rich is also active with an initiative called the Jail & Prison Opioid Project, and he encourages those interested in further changing this landscape to view and use the resources available at the group’s website.

In Kent County, Michigan, incarcerated pregnant patients with an SUD are sent to the Grand Rapids clinic of internist and addiction-medicine specialist Cara Poland, MD, an AMA member and a Michigan State University-affiliated physician.

Dr. Poland noted that every person incarcerated in the county jail is screened for SUD, regardless of gender or pregnancy status, and offered medication for addiction treatment.

Prior to release, arrangements are made to continue treatments and ensure access to mental health and social services to help with child support and finding employment.

In other counties, however, treatment ends with the birth of the person’s baby and little or no postpartum support is given.

“We really need to look at what are we trying to accomplish by doing this, because I don’t think that there’s anything positive coming out of the situation,” said Dr. Poland, whose lifesaving work was highlighted in an AMA-Manatt report, “The Fight to End the Nation’s Overdose Epidemic and Restore Compassionate Care: Profiles in Leadership” (PDF).
“Pregnancy and early parenting are also really motivating for treatment,” she said. “We know that the longer somebody is on medication, the longer somebody remains in treatment, the better their long-term outcome.”