



1250 Eye Street, NW • Suite 700 • Washington, DC 20005-3930  
Tel: (Office) 202/289-4926 • (Cell) 202/528-2721 • Fax: 202/289-1915 • E-mail: [rmalson@dcha.org](mailto:rmalson@dcha.org) • Web: [www.dcha.org](http://www.dcha.org)

**Robert A. Malson**  
President

August 9, 2010

James Toscano  
General Counsel  
Child and Family Services Agency  
400 6<sup>th</sup> Street, SW  
Washington, DC 20024

Dear Mr. Toscano:

The District of Columbia Hospital Association (DCHA) thanks you for the opportunity to provide comments on the proposed rulemaking that will establish the rules and procedures through which parents may surrender their newborns to authorized receiving facilities under the Newborn Safe Haven Act. Our hospitals appreciate your efforts to ensure the fair and compassionate treatment of both parents and surrendered children under the proposed rulemaking. After a comprehensive review of the regulations, however, our hospitals have expressed concerns with certain sections of the proposed language and their impact on a parent's ability to surrender a child in a truly anonymous manner.

Our chief concern is the definition of "surrender" in Section 8399.1. The proposed language requires that a parent "leave the newborn with personnel of the authorized receiving facility," which is too narrow to allow for the most common forms of surrender. This definition eliminates the opportunity for a parent to simply leave the child in a safe place in the authorized receiving facility, such as an emergency room, as did the parent in the case at United Medical Center which prompted the call for this legislation. The goal of the legislation is to preserve the safety of the child; to do so, we must preserve the anonymity of the parent. We recommend that the definition of "surrender" be changed to "to bring a newborn to an authorized receiving facility during its hours of operation and to leave the newborn with personnel of the authorized receiving facility or in a safe location within the authorized receiving facility." This language would allow for the surrender of a child to a facility while neither requiring nor precluding interaction between the parent and the facility's personnel, ensuring that the facility truly is a safe haven for both parent and child.

Of similar concern is the language in Section 8306, which requires that the surrendered child be the child of a District resident in order to be eligible for surrender under the Newborn Safe Haven Act. This restrictive definition again inhibits parental anonymity and places an unreasonable burden on the authorized receiving facility. If a surrender is truly anonymous, the personnel of the authorizing facility will have no way of knowing whether or not the parent is a District resident. Section 8302.6 allows that a parent may surrender a child without acknowledging if he or she is a resident of the District of Columbia, which is entirely possible in a truly anonymous surrender. The language in Sections 8306 and 8302.6 are in conflict and should be changed.

In order to further preserve the anonymity of the surrendering parent and the safety of the child, additional changes in the language are required as follows:

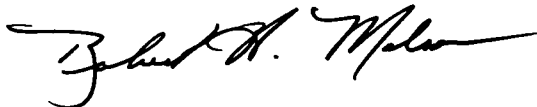
- Section 8302.2 should be changed to read “*when a newborn is surrendered to an authorized receiving facility, the facility shall make reasonable efforts to obtain an acknowledgment from the surrendering parent...*”
- Section 8302.4 should be changed to read “when possible, the authorized receiving facility shall provide information on adoption and counseling services to the surrendering parent.” In the case of a truly anonymous surrender, a parent may not remain within the facility long enough for the personnel of the authorized receiving facility to provide this information; and
- Section 8302.5 should be changed to read “the authorized receiving facility receiving a newborn shall notify the Child and Family Services Agency (“CFSA”) that a newborn has been surrendered within one (1) hour after the surrender *or discovery of the surrendered child.*” Again, if the parent simply leaves the child in a safe place at the authorized receiving facility, the receiving facility cannot technically comply with the one hour requirement.

Finally, the information required by CFSA in Section 8302.6 should be compiled by the agency into a common form and distributed to the authorized receiving facilities so that the information may be collected in a uniform and acceptable manner, whenever possible.

DCHA believes that the Newborn Safe Haven Act is a critical law and that it should be implemented in a manner consistent with the spirit of the legislation. Safe haven legislation is designed to allow for the truly anonymous, safe surrender of a child to the State. Our regulations should reflect this intent and allow for such surrenders. We urge you to consider the above comments in drafting the final iteration of the proposed regulations.

Thank you for the opportunity to provide comments on the proposed safe haven regulations. Please feel free to contact me or Stefanie Jones, Government Relations Analyst, at DCHA at (202) 289-6212 if you need additional information.

Sincerely,



Robert A. Malson  
President