

STATE OF NEW YORK

6044

2023-2024 Regular Sessions

IN SENATE

March 27, 2023

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to establishing a fetal infant mortality review board

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public health law is amended by adding a new section
2 2509-b to read as follows:

3 § 2509-b. Fetal infant mortality review board. 1. As used in this
4 section, unless the context requires otherwise:

5 (a) "Board" means a fetal infant mortality review board established by
6 this section, referred to in this section as the "state board", or a
7 board operating under this section established by the city of New York,
8 with or without an agreement with the commissioner, referred to in this
9 section as the "city board".

10 (b) "Fetal infant death" means fetal, neonatal, and infant deaths
11 within one year of birth.

12 (c) "Severe fetal infant morbidity" or "morbidity" means unexpected
13 outcomes of pregnancy, labor, or delivery that result in significant
14 short- or long-term consequences to a child's health.

15 (d) "City commissioner" means the commissioner of the New York city
16 department of health and mental hygiene.

17 2. (a) There is hereby established in the department the fetal infant
18 mortality review board for the purpose of reviewing fetal infant deaths
19 and fetal infant morbidity and developing and disseminating findings,
20 recommendations, and best practices to contribute to the prevention of
21 fetal infant mortality and morbidity. The board shall assess the cause
22 of death, factors leading to death and preventability for each fetal
23 infant death reviewed and, in the discretion of the board, cases of
24 severe fetal infant morbidity, and shall develop and disseminate strate-
25 gies for reducing the risk of fetal infant mortality and morbidity.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 including risk resulting from racial, economic, or other disparities.
2 The commissioner may delegate the authority to conduct maternal mortal-
3 ity reviews.

4 (b) The commissioner may enter into an agreement with the city of New
5 York providing:

6 (i) that the functions of the state board relating to fetal infant
7 deaths and severe fetal infant morbidity occurring within the city of
8 New York shall be conducted by the city board;

9 (ii) the city board shall provide to the state board the results of
10 its reviews, relevant information in the possession of the city board,
11 and the recommendations of the city board; and

12 (iii) the department and the state board shall provide information and
13 assistance to the city board for the performance of its functions.

14 (c) Nothing in this section shall prevent the city of New York from
15 establishing, without an agreement with the commissioner, a board relat-
16 ing to fetal infant deaths and severe fetal infant morbidity occurring
17 within the city of New York.

18 3. (a) The members of the state board shall be comprised of multidis-
19 ciplinary experts in the field of fetal infant mortality, fetal, neonat-
20 al and infant health and public health, and shall include health care
21 professionals or other experts who serve and are representative of the
22 racial, ethnic, and socioeconomic diversity of the state and, to the
23 extent possible, the medically underserved areas of the state or areas
24 of the state with disproportionately high occurrences of fetal infant
25 mortality or morbidity.

26 (b) The state board shall be composed of at least fifteen members, all
27 of whom shall be appointed by the commissioner.

28 (c) The terms of the state board members shall be three years. The
29 commissioner may choose to reappoint state board members to additional
30 three-year terms.

31 (d) A majority of the appointed membership of the state board, but no
32 less than three, shall constitute a quorum.

33 (e) When any member of the state board fails to attend three consec-
34 utive regular meetings, unless good cause is shown for such absence,
35 that membership may be deemed vacant for purposes of the appointment of
36 a successor.

37 (f) Meetings of the state board shall be held at least twice a year
38 but may be held more frequently as deemed necessary, subject to request
39 of the department.

40 (g) Members of the state and city boards shall be indemnified under
41 section seventeen of the public officers law or section fifty-k of the
42 general municipal law, as the case may be.

43 (h) Members of the state board shall not be compensated for their
44 participation on the board but shall receive reimbursement for their
45 ordinary and necessary expenses of participation.

46 (i) Membership on a board shall not disqualify any person from holding
47 any public office or employment.

48 4. (a) The commissioner may request and shall receive upon request
49 from any department, division, board, bureau, commission, local health
50 departments or other agency of the state or political subdivision there-
51 of or any public authority, such information, including but not limited
52 to death records, medical records, autopsy reports, toxicology reports,
53 hospital discharge records, birth records and any other information that
54 will help the department under this section to properly carry out its
55 functions, powers and duties. The commissioner, or the city commissioner
56 for the fetal infant deaths or fetal infant morbidity occurring within

1 the vital statistics registration district of the city of New York, may
2 request and shall receive upon request from any department, division,
3 board, commission or other agency under the authority of the city of New
4 York as well as hospitals established pursuant to article twenty-eight
5 of this chapter, birthing facilities, medical examiners, coroners and
6 coroner physicians and any other facility providing services associated
7 with fetal infant mortality or fetal infant morbidity, such information,
8 including, but not limited to, death records, medical records, autopsy
9 reports, toxicology reports, hospital discharge records, birth records
10 and any other information that will help the department under this
11 section to properly carry out its functions, powers and duties.

12 (b) The commissioner and the city commissioner shall receive and may
13 solicit voluntary information, including oral or written statements,
14 relating to any fetal infant death and case of severe fetal infant
15 morbidity, from any family member or other interested party relating to
16 any case that may come before the board. Oral statements received under
17 this paragraph shall be transcribed or summarized in writing. The
18 commissioner and the city commissioner shall transmit that information
19 to the board considering the case.

20 (c) Before transmitting any information to the board, the commissioner
21 or the city commissioner shall remove all personal identifying informa-
22 tion of the fetus or infant, parent's of the fetus or infant, health
23 care practitioner or practitioners, or anyone else individually named in
24 such information, as well as the hospital or facility that treated the
25 fetus or infant, and any other information such as geographic location
26 that may inadvertently identify the fetus or infant, practitioner, or
27 facility. This paragraph shall not preclude the transmitting of infor-
28 mation to the board that is reasonably necessary to enable the board to
29 perform an appropriate review under this section.

30 5. Each board:

31 (a) shall collect and perform case reviews of fetal and infant deaths;

32 (b) shall make and report findings and recommendations to the commis-
33 sioner, and in the case of the city board to the commissioner and the
34 city commissioner regarding the cause of death, factors leading to
35 death, and preventability of each fetal infant death case, and each case
36 of severe fetal infant morbidity reviewed by the board, by reviewing
37 relevant information for each case in the state or the city of New York,
38 as the case may be, and consulting with experts as needed to evaluate
39 the information for each death;

40 (c) shall develop and deliver to the commissioner, and in the case of
41 the city board to the commissioner and the city commissioner for areas
42 of focus, recommendations on:

43 (i) issues of severe fetal infant morbidity;

44 (ii) addressing social determinants of fetal infant health, including
45 racial, economic or other historical and contemporary injustices which
46 lead to disparities in fetal infant outcomes;

47 (iii) policies, best practices, and strategies to reduce fetal infant
48 mortality and morbidity;

49 (iv) methods of improving services and resources; and

50 (v) methods of implementing continuous quality improvement in fetal
51 infant mortality and morbidity;

52 (d) shall issue an annual public report on its findings and recommen-
53 dations and may also issue public reports more frequently;

54 (e) shall implement needs assessment, quality assurance and policy
55 development at the local level, which are essential to public health
56 functions;

1 (f) shall identify and address systemic community conditions contrib-
2 uting to fetal infant deaths;

3 (g) shall implement a surveillance system to monitor incidence, etiolo-
4 gies, and contributing factors and which can describe effects of health
5 care system change;

6 (h) shall identify system wide challenges to improving fetal infant
7 health care;

8 (i) shall assess, plan, improve, and monitor the service systems and
9 community resources that support and promote the health and well-being
10 of women, fetuses, infants, and families;

11 (j) may, in addition to the findings and recommendations made under
12 this subdivision, and consistent with all applicable confidentiality
13 protections, bring any particular matter to the attention of the commis-
14 sioner or the city commissioner, and in the case of the city board to
15 the commissioner and the city commissioner; and

16 (k) may request and shall receive the assistance of the commissioner
17 in the instance of the state board and the city commissioner in the
18 instance of the city board in carrying out its functions.

19 6. The commissioner and the city commissioner and the state and city
20 boards shall each keep confidential any information collected or
21 received under this section that includes personal identifying informa-
22 tion of the fetus or infant, fetus or infant's parents, health care
23 practitioner or practitioners, or anyone else individually named in such
24 information, as well as the hospital or facility that treated the fetus
25 or infant, and any other information such as geographic location that
26 may inadvertently identify the fetus or infant, the fetus or infant's
27 parents, practitioner, or facility, and shall use the information
28 provided or received under this section solely for the purposes of
29 improvement of the quality of fetal infant health care and to prevent
30 fetal infant mortality and morbidity. This subdivision shall not
31 preclude the transmitting of information to the board that is reasonably
32 necessary to enable the board to perform an appropriate review under
33 this section. All records received, meetings conducted, reports, except
34 those public reports required to be issued by the board by this section,
35 and records made and maintained and all books and papers obtained by the
36 board shall be confidential and shall not be made open or available,
37 including under article six of the public officers law, and shall be
38 limited to board members as well as those authorized by the commissioner
39 or city commissioner. Such information shall not be discoverable or
40 admissible as evidence in any action in any court or before any other
41 tribunal, board, agency or person.

42 7. The commissioner and the city commissioner, within their respective
43 legal authority, may use the recommendations and findings of the boards
44 to develop guidance and other actions relating to best practices, and
45 shall disseminate information relating to that guidance and other
46 actions to appropriate health care providers.

47 § 2. This act shall take effect immediately.