S T A T E O F N E W Y O R K

7355

I N S E N A T E

May 2, 2012

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

AN ACT to amend the public health law and the insurance law, in relation to defining perinatal depression, requiring the provision of perinatal depression education, and requiring the provision of a screening and data reporting plan for the state

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public health law is amended by adding a new section 2502-a to read as follows:

S 2502-A. PERINATAL DEPRESSION. 1. DEFINITIONS. AS USED IN THIS SECTION:

(A) PERINATAL DEPRESSION MEANS A WIDE RANGE OF EMOTIONAL AND PSYCHOLOGICAL REACTIONS A MOTHER MAY EXPERIENCE AFTER CHILDBIRTH. THESE REACTIONS MAY INCLUDE, BUT ARE NOT LIMITED TO, FEELINGS OF DESPAIR, PROLONGED SADNESS, EXTREME GUILT, THOUGHTS OF SUICIDE, LACK OF ENERGY, DIFFICULTY CONCENTRATING, FATIGUE, EXTREME CHANGES IN APPETITE, AND THOUGHTS OF SUICIDE AND/OR OF HARMING THE BABY. PERINATAL DEPRESSION IS COMMONLY CHARACTERIZED AS (1) "BABY BLUES"-THE MILDEST FORM; (2) POSTPARTUM DEPRESSION; OR (3) POSTPARTUM PSYCHOSIS-THE SEVEREST FORM. THE CHARACTERIZATION CORRESPONDS TO THE VARYING DEGREE TO WHICH THE MOTHER EXPERIENCES SYMPTOMS.

(B) "MATERNAL HEALTH PROFESSIONAL" MEANS A PHYSICIAN, MIDWIFE, OR OTHER AUTHORIZED PRACTITIONER ATTENDING A PREGNANT WOMAN.

2. DATA REPORTING FOR PERINATAL DEPRESSION. (A) THE DEPARTMENT SHALL DEVELOP STANDARDS FOR EFFECTIVE SCREENING OF PERINATAL DEPRESSION USING RECOGNIZED CLINICAL STANDARDS AND EVIDENCE-BASED PRACTICES. EFFECTIVE STANDARDIZED, VALIDATED DIAGNOSTIC TOOLS USED FOR PERINATAL DEPRESSION SCREENING MAY INCLUDE THE EDINBURGH POSTNATAL DEPRESSION SCALE (EPDS), THE POSTPARTUM DEPRESSION SCREEN (PPDS), THE BECK DEPRESSION INVENTORY-II (BDI-II), OR THE CENTER FOR EPIDEMIOLOGICAL STUDIES-DEPRESSION SCALE (CES-D).

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

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(B) THE DEPARTMENT SHALL MAKE RECOMMENDATIONS TO HEALTH PLAN AND HEALTH CARE PROVIDERS ON DATA REPORTING OF PERINATAL DEPRESSION SCREENING.

(C) THE DEPARTMENT SHALL ISSUE REGULATIONS THAT REQUIRE PROVIDERS AND CARRIERS TO REPORT DATA ON THE SCREENING FOR PERINATAL DEPRESSION, THE DIAGNOSED CASES OF PERINATAL DEPRESSION, AND RECOMMENDED OR PRESCRIBED TREATMENT OPTIONS OR REFERRALS MADE, TO THE DEPARTMENT'S BUREAU OF MATERNAL AND CHILD HEALTH.

(D) FOLLOWING THE RECEIPT OF THE SCREENING DATA, THE BUREAU OF MATERNAL AND CHILD HEALTH SHALL ISSUE AN ANNUAL SUMMARY OF ACTIVITIES RELATED TO SCREENING FOR PERINATAL DEPRESSION, INCLUDING BEST PRACTICES; THE SCREENING TOOLS USED OR IN CASES WHERE A VALIDATED TOOL WAS NOT USED, REPORT IF ANY QUESTIONNAIRE OR DISCUSSION TO INDICATE POSSIBLE DEPRESSION HAD BEEN OFFERED; THE NUMBERS OF DIAGNOSED AND TREATED CASES OF PERINATAL DEPRESSION REPORTED BY PROVIDERS AND CARRIERS; AND RESULTS OF ANY PRESCRIBED TREATMENT, INCLUDING THE OUTCOMES OF ANY REFERRALS FOR FURTHER TREATMENT. THE BUREAU OF MATERNAL AND CHILD HEALTH SHALL FILE THE SUMMARY ANNUALLY WITH THE COMMISSIONER AND WITH THE CLERKS OF THE SENATE AND THE ASSEMBLY NO LATER THAN JUNE THIRTIETH; PROVIDED, HOWEVER, THAT THE FIRST REPORT IS DUE NO LATER THAN JUNE THIRTIETH, TWO THOUSAND THIRTEEN.

3. PERINATAL DEPRESSION PUBLIC EDUCATION. (A) THE COMMISSIONER SHALL MAKE PERINATAL DEPRESSION INFORMATION LEAFLETS AVAILABLE ON THE HEALTH DEPARTMENT'S WEBSITE, ACCESSIBLE TO EVERY MATERNAL HEALTH PROFESSIONAL AND MATERNAL HEALTH CARE FACILITY, AS DESCRIBED IN SECTION TWENTY-EIGHT HUNDRED THREE-J OF THIS CHAPTER. THE COMMISSIONER SHALL PERFORM AN INITIAL REVIEW OF SUCH PERINATAL DEPRESSION INFORMATIONAL MATERIALS, IN COLLABORATION WITH THE STATE BOARD OF MEDICINE AND STATE BOARD OF MENTAL HEALTH PRACTITIONERS, TO EVALUATE THE CONTENTS FOR ADDRESSING ALL FORMS OF PERINATAL DEPRESSION, AND IDENTIFYING RESOURCES FOR OBTAINING HELP FOR THE INDIVIDUALS AND FAMILIES. ALL PERINATAL DEPRESSION INFORMATION OUTLINED IN THIS SECTION SHALL BE PROVIDED IN THE TOP SIX LANGUAGES OTHER THAN ENGLISH SPOKEN IN THE STATE ACCORDING TO THE LATEST AVAILABLE DATA FROM THE U.S. BUREAU OF CENSUS, AND SHALL ADOPT ANY RULES AND REGULATIONS NECESSARY TO ENSURE THAT SUCH PATIENTS, AND THEIR HEALTH INFORMATION, IS TREATED IN ACCORDANCE WITH THE PROVISIONS OF SUCH STATEMENT, INCLUDING THOSE RULES ASSOCIATED WITH THE HEALTH INFORMATION PORTABILITY AND ACCOUNTABILITY ACT. ALL MATERNAL HEALTH FACILITIES SHALL BE REQUIRED TO PROVIDE THE PERINATAL DEPRESSION INFORMATIONAL LEAFLETS TO THEIR PROFESSIONAL STAFF AND PATIENTS.

(B) THE COMMISSIONER SHALL BE AUTHORIZED TO GRANT AWARDS FOR THE SUPPORT OF ADDITIONAL APPROVED PERINATAL DEPRESSION EDUCATION GRANT PROGRAMS IN ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED TWENTY-TWO OF THIS ARTICLE.

4. PERINATAL DEPRESSION TRAINING FOR MATERNAL HEALTH PROFESSIONALS. (A) THE COMMISSIONER SHALL DEVELOP TUTORIAL TRAINING MATERIALS, IN COLLABORATION WITH THE STATE BOARD OF MEDICINE, THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS, AND THE STATE BOARD OF NURSING. THE DEPARTMENT SHALL PROVIDE TRAINING ON PERINATAL DEPRESSION SCREENING ON ITS WEBSITE. THE TRAINING SHALL BE AVAILABLE TO EVERY MATERNAL HEALTH PROFESSIONAL AND MATERNAL HEALTH CARE FACILITY.

(B) A TRAINED MATERNAL HEALTH PROFESSIONAL SHALL BE ABLE TO DO THE FOLLOWING:

(1) IDENTIFY AND ADMINISTER APPROPRIATE DEPRESSION DIAGNOSTIC TOOLS, SUCH AS THE EDINBURGH POSTNATAL DEPRESSION SCALE, TO ASSESS PERINATAL DEPRESSION, WHICH SHALL BE PROVIDED BY THE DEPARTMENT ONLINE;

(2) APPROPRIATELY MANAGE MATERNAL RESPONSES, INCLUDING PERINATAL AND MATERNAL DEPRESSION; AND

(3) UNDERSTAND HOW TO INTEGRATE SCREENINGS INTO ALL VISITS IN A ROUTINE MANNER.

(C) THE COMMISSIONER SHALL PERFORM AN INITIAL REVIEW OF THE TUTORIAL MATERIALS DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION, IN CONJUNCTION WITH THE STATE BOARD OF MEDICINE, THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS, AND THE STATE BOARD OF NURSING, TO EVALUATE THE CONTENTS FOR TRAINING MATERNAL HEALTH PROFESSIONALS TO APPROPRIATELY SCREEN FOR PERINATAL DEPRESSION. ALL TRAINING MATERIALS SHALL BE AVAILABLE FOR MATERNAL HEALTH FACILITIES TO VIEW AND/OR DOWNLOAD FOR TUTORIAL SESSIONS. AFTER SUCH TUTORIALS, MATERNAL HEALTH PROFESSIONALS SHALL COMPLETE A QUESTIONNAIRE TESTING THEIR ABILITY TO SCREEN MOTHERS; UPON SUCCESSFUL COMPLETION, THEY SHALL SIGN A SCREENING AUTHORIZATION LETTER PROVIDED BY THEIR HEALTH FACILITY.

5. SCREENING FOR PERINATAL DEPRESSION. (A) ALL QUALIFIED HEALTH PROFESSIONALS SHALL SCREEN PREGNANT MOTHERS FOR PERINATAL DEPRESSION; USING EFFECTIVE STANDARDIZED, VALIDATED DIAGNOSTIC TOOLS USED FOR PERINATAL DEPRESSION SCREENING SUCH AS THE EDINBURGH POSTNATAL DEPRESSION SCALE (EPDS), THE POSTPARTUM DEPRESSION SCREEN (PPDS), THE BECK DEPRESSION INVENTORY-II (BDI-II), OR THE CENTER FOR EPIDEMIOLOGICAL STUDIES-DEPRESSION SCALE (CES-D); OR EVEN WHERE SUCH SCREENING TOOLS MAY NOT BE USED, THEY SHALL OFFER A BASIC QUESTIONNAIRE OR BRIEF DISCUSSION TO INDICATE POSSIBLE DEPRESSION. THIS SHALL CONSIST OF THREE SCREENINGS IN AN OBSTETRICAL SETTING, INCLUDING: (1) ONE IN THE FIRST TRIMESTER, INCLUDING RISK ASSESSMENT BASED ON HISTORY OF PRIOR DEPRESSION; (2) ONE IN THE THIRD TRIMESTER; AND (3) ONE AT THE SIX-WEEK POSTPARTUM VISIT OR WITHIN THE FIRST MONTH OF LIFE. FURTHER, AFTER BIRTH, AT LEAST THREE ADDITIONAL REQUIRED SCREENINGS IN A PEDIATRIC SETTING SHALL OCCUR; THIS INCLUDES A RISK ASSESSMENT BASED ON HISTORY OF PRIOR DEPRESSION, AND THREE SCREENINGS AT ROUTINE WELL-CHILD VISITS DURING THE CHILD'S FIRST YEAR. ALL HEALTH CARE PROFESSIONALS SHALL ADHERE TO MANDATED CONFIDENTIALITY REQUIREMENTS WHEN ACCESSING, DISCUSSING, REPORTING OR TRANSMITTING THE RESULTS OF DEPRESSION SCREENS WHEN AVAILABLE IN A CHILD'S AND MOTHER'S MEDICAL RECORD.

(B) IF A MOTHER SWITCHES OBSTETRICIANS OR NURSE MIDWIVES DURING PREGNANCY THE NEW PROVIDER SHALL PERFORM A SCREENING AND RISK ASSESSMENT AT THE FIRST APPOINTMENT, AS WELL AS THE REMAINING SCREENINGS, AS OUTLINED IN THIS SECTION. IF A WOMAN SWITCHES HER CHILDREN'S PEDIATRICIAN DURING THE FIRST YEAR OF THE CHILD'S LIFE, THE NEW PEDIATRICIAN SHALL PERFORM A SCREENING AND RISK ASSESSMENT AT THE FIRST APPOINTMENT, AS WELL AS AT AS MANY OF THE REMAINING SCREENINGS AS POSSIBLE, AS OUTLINED IN THIS SECTION.

(C) THE COMMISSIONER, IN CONJUNCTION WITH THE STATE BOARD OF MEDICINE, THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS, AND THE STATE BOARD OF NURSING, SHALL RECOMMEND AND PROVIDE THE APPROPRIATE STANDARDIZED, VALIDATED DIAGNOSTIC TOOLS USED FOR ALL PERINATAL DEPRESSION SCREENING SUCH AS THE EDINBURGH POSTNATAL DEPRESSION SCALE (EPDS), THE POSTPARTUM DEPRESSION SCREEN (PPDS), THE BECK DEPRESSION INVENTORY-II (BDI-II), OR THE CENTER FOR EPIDEMIOLOGICAL STUDIES-DEPRESSION SCALE (CES-D).

(D) PHYSICIANS AND OTHER LICENSED HEALTH CARE WORKERS PROVIDING PRENATAL AND POSTNATAL CARE TO WOMEN SHALL INCLUDE FATHERS AND OTHER FAMILY MEMBERS, AS APPROPRIATE, IN BOTH THE EDUCATION AND TREATMENT PROCESSES TO HELP THEM BETTER UNDERSTAND THE NATURE AND CAUSES OF PERINATAL DEPRESSION.

(E) THE COMMISSIONER SHALL ENHANCE EXISTING REFERRAL LISTS FOR PROVIDERS; A LIST OF SERVICE PROVIDERS FOR INDIVIDUAL COUNSELING; AND A LIST OF SUPPORT GROUPS AROUND THE STATE, INCLUDING ADEQUATE ACCESSIBLE SERVICES OPERATED BY LOCAL NOT-FOR-PROFITS. SUCH ADDITIONAL REFERRALS SHALL BE DISCUSSED BETWEEN THE PROVIDERS AND THE MOTHERS, INCLUDING FATHERS AND OTHER FAMILY MEMBERS, WHEN APPROPRIATE.

S 2. Subdivision (g) of section 207 of the public health law, as amended by section 16 of part A of chapter 109 of the laws of 2010 and as relettered by chapter 331 of the laws of 2010, is amended to read as follows:

(g) Improving birth outcomes, including the importance of preconceptional care, early prenatal care, INCLUDING PERINATAL DEPRESSION, considerations of health risks during pregnancy, considerations of benefits and risks of labor and delivery options including, but not limited to, vaginal and cesarean section delivery, elective or repeat cesarean sections, and appropriate use of drugs during delivery.

S 3. Subparagraph (B) of paragraph 1 of subsection (c) of section 4303 of the insurance law, as amended by chapter 661 of the laws of 1997, is amended to read as follows:

(B) Maternity care coverage also shall include, at minimum, parent education, assistance and training in breast or bottle feeding, REPORTING SIGNS OF PERINATAL DEPRESSION, and the performance of any necessary maternal and newborn clinical assessments.

S 4. Subsection (a) of section 3217-c of the insurance law, as amended by chapter 219 of the laws of 2011, is amended to read as follows:

(a) No insurer subject to this article shall by contract, written policy or procedure limit a female insured's direct access to primary and preventive obstetric and gynecologic services, including annual examinations, care resulting from such annual examinations, and treatment of acute gynecologic conditions, from a qualified provider of such services of her choice from within the plan or for any care related to a pregnancy, INCLUDING PERINATAL DEPRESSION, provided that: (1) such qualified provider discusses such services and treatment plan with the insured's primary care practitioner in accordance with the requirements of the insurer; and (2) such qualified provider agrees to adhere to the insurer's policies and procedures, including any applicable procedures regarding referrals and obtaining prior authorization for services other than obstetric and gynecologic services rendered by such qualified provider, and agrees to provide services pursuant to a treatment plan (if any) approved by the insurer.

S 5. Item (ii) of subparagraph (A) of paragraph 10 of subsection (i) of section 3216 of the insurance law, as added by chapter 56 of the laws of 1996, is amended to read as follows:

(ii) Maternity care coverage shall also include, at minimum, parent education, assistance and training in breast or bottle feeding, PERINATAL DEPRESSION, and the performance of any necessary maternal and newborn clinical assessments.

S 6. Paragraph 1 of subsection (e) and subsection (f) of section 4804 of the insurance law, as added by chapter 705 of the laws of 1996, are amended to read as follows:

(1) If an insured's health care provider leaves the insurer's in-network benefits portion of its network of providers for a managed care product for reasons other than those for which the provider would not be eligible to receive a hearing pursuant to paragraph one of subsection (b) of section forty-eight hundred three of this [chapter] ARTICLE, the insurer shall permit the insured to continue an ongoing course of treat-

ment with the insured's current health care provider during a transitional period of (i) up to ninety days from the date of notice to the insured of the provider's disaffiliation from the insurer's network; or (ii) if the insured has entered the second trimester of pregnancy at the time of the provider's disaffiliation, for a transitional period that includes the provision of post-partum care directly related to the delivery, INCLUDING FOR PERINATAL DEPRESSION.

(f) If a new insured whose health care provider is not a member of the insurer's in-network benefits portion of the provider network enrolls in the managed care product, the insurer shall permit the insured to continue an ongoing course of treatment with the insured's current health care provider during a transitional period of up to sixty days from the effective date of enrollment, if: (1) the insured has a life-threatening disease or condition or a degenerative and disabling disease or condition or (2) the insured has entered the second trimester of pregnancy at the time of enrollment, in which case the transitional period shall include the provision of post-partum care directly related to the delivery INCLUDING FOR PERINATAL DEPRESSION. If an insured elects to continue to receive care from such health care provider pursuant to this paragraph, such care shall be authorized by the insurer for the transitional period only if the health care provider agrees: (A) to accept reimbursement from the insurer at rates established by the insurer as payment in full, which rates shall be no more than the level of reimbursement applicable to similar providers within the in-network benefits portion of the insurer's network for such services; (B) to adhere to the insurer's quality assurance requirements and agrees to provide to the insurer necessary medical information related to such care; and (C) to otherwise adhere to the insurer's policies and procedures including, but not limited to procedures regarding referrals and obtaining pre-authorization and a treatment plan approved by the insurer. In no event shall this subsection be construed to require an insurer to provide coverage for benefits not otherwise covered or to diminish or impair pre-existing condition limitations contained within the insured's contract.

S 7. The state and private insurers shall establish a reimbursement structure for perinatal depression screenings or where applicable follow provisions pursuant to section 2530 of the public health law.

S 8. This act shall take effect on the one hundred eightieth day next succeeding the date on which it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed by the commissioner of health on or before such effective date.