

# STATE OF NEW YORK

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1819

2019-2020 Regular Sessions

## IN SENATE

January 16, 2019

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Introduced by Sen. RIVERA -- 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 maternal mortality review boards and the maternal mortality and morbidity advisory council

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

1 Section 1. Legislative findings and intent. The legislature finds that  
2 maternal mortality and morbidity is a serious public health concern and  
3 has a serious family and societal impact. New York state has among the  
4 highest maternal mortality rates in the country and racial disparities  
5 remain significant. The U.S. Centers for Disease Control and Prevention  
6 has determined that a regular process for professional, multi-disciplinary,  
7 confidential review of all maternal deaths can help identify the  
8 causes of maternal mortality, and those findings can lead to clinical  
9 and social change that can help prevent maternal mortality. The same is  
10 true for severe maternal morbidity. Confidentiality is important to  
11 ensure that full information is made available in the review process to  
12 maximize protection of maternal health.

13 Section 3 of article 17 of the state constitution states: "The  
14 protection and promotion of the health of the inhabitants of the state  
15 are matters of public concern and provision therefor shall be made by  
16 the state and by such of its subdivisions and in such manner, and by  
17 such means as the legislature shall from time to time determine." The  
18 legislature finds that the creation of a state maternal mortality review  
19 board, and recognition and protection of a city of New York maternal  
20 mortality review board, are a matter of state concern and an important  
21 exercise of the legislature's constitutional mandate to protect the  
22 public health.

23 § 2. The public health law is amended by adding a new section 2509 to  
24 read as follows:

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

LBD00490-02-9

1     § 2509. Maternal mortality review board. 1. (a) There is hereby estab-  
2 lished in the department the maternal mortality review board for the  
3 purpose of reviewing maternal deaths and maternal morbidity and develop-  
4 ing and disseminating findings, recommendations, and best practices to  
5 contribute to the prevention of maternal mortality and morbidity. The  
6 board shall assess the cause of death, factors leading to death and  
7 preventability for each maternal death reviewed and, in the discretion  
8 of the board, cases of severe maternal morbidity, and shall develop and  
9 disseminate strategies for reducing the risk of maternal mortality and  
10 morbidity, including risk resulting from racial, economic, or other  
11 disparities. The commissioner may delegate the authority to conduct  
12 maternal mortality reviews.

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

15         (i) that the functions of the state board relating to maternal deaths  
16 and severe maternal morbidity occurring within the city of New York  
17 shall be conducted by the city board;

18         (ii) the city board shall provide to the state board the results of  
19 its reviews, relevant information in the possession of the city board,  
20 and the recommendations of the city board; and

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

23     (c) Nothing in this section shall prevent the city of New York from  
24 establishing, without an agreement with the commissioner, a board relat-  
25 ing to maternal deaths and severe maternal morbidity occurring within  
26 the city of New York.

27     2. As used in this section, unless the context requires otherwise:

28         (a) "Advisory council" and "council" mean the advisory council on  
29 maternal mortality and morbidity, established under this section.

30         (b) "Board" means a maternal mortality review board established by  
31 this section, referred to in this section as the "state board", or a  
32 board operating under this section established by the city of New York,  
33 with or without an agreement with the commissioner, referred to in this  
34 section as the "city board".

35         (c) "Maternal death" means the death of a woman during pregnancy or  
36 within a year from the end of pregnancy.

37         (d) "Severe maternal morbidity" means unexpected outcomes of pregnan-  
38 cy, labor, or delivery that result in significant short- or long-term  
39 consequences to a woman's health.

40         (e) "City commissioner" means the commissioner of the New York city  
41 department of health and mental hygiene.

42     3. (a) The members of the state board shall be comprised of multidis-  
43 ciplinary experts in the field of maternal mortality, women's health and  
44 public health, and shall include health care professionals or other  
45 experts who serve and are representative of the diversity of the women  
46 and mothers in medically underserved areas of the state or areas of the  
47 state with disproportionately high occurrences of maternal mortality or  
48 morbidity.

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

51         (c) The terms of the state board members shall be three years. The  
52 commissioner may choose to reappoint state board members to additional  
53 three year terms.

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

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

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

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

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

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

16 4. (a) The commissioner and the city commissioner, as the case may be,  
17 may request and shall receive upon request from any department, divi-  
18 sion, board, bureau, commission, local health departments or other agen-  
19 cy of the state or political subdivision thereof or any public authori-  
20 ty, as well as hospitals established pursuant to article twenty-eight of  
21 this chapter, birthing facilities, medical examiners, coroners and  
22 coroner physicians and any other facility providing services associated  
23 with maternal mortality, such information, including, but not limited  
24 to, death records, medical records, autopsy reports, toxicology reports,  
25 hospital discharge records, birth records and any other information that  
26 will help the department under this section to properly carry out its  
27 functions, powers and duties.

28 (b) The commissioner and the city commissioner shall receive and may  
29 solicit voluntary information, including oral or written statements,  
30 relating to any maternal death and case of severe maternal morbidity,  
31 from any family member or other interested party (including the patient  
32 in a case of severe maternal morbidity) relating to any case that may  
33 come before the board. Oral statements received under this paragraph  
34 shall be transcribed or summarized in writing. The commissioner and the  
35 city commissioner shall transmit that information to the board consider-  
36 ing the case.

37 (c) Before transmitting any information to the board, the commissioner  
38 or the city commissioner shall remove all personal identifying informa-  
39 tion of the woman, health care practitioner or practitioners or anyone  
40 else individually named in such information, as well as the hospital or  
41 facility that treated the woman, and any other information such as  
42 geographic location that may inadvertently identify the woman, practi-  
43 tioner or facility. This paragraph shall not preclude the transmitting  
44 of information to the board that is reasonably necessary to enable the  
45 board to perform an appropriate review under this section.

46 5. Each board:

47 (a) shall make and report findings and recommendations to the commis-  
48 sioner or city commissioner, as the case may be, regarding the cause of  
49 death, factors leading to death, and preventability of each maternal  
50 death case, and each case of severe maternal morbidity reviewed by the  
51 board, by reviewing relevant information for each case in the state or  
52 the city of New York, as the case may be, and consulting with experts as  
53 needed to evaluate the information for each death; and shall provide  
54 such findings and recommendations, including best practices and strate-  
55 gies for reducing the risk of maternal mortality and morbidity, to the  
56 advisory council; provided that material provided to the advisory coun-

1 cil shall not include any information that would be confidential under  
2 this section;

3 (b) shall develop recommendations to the commissioner or city commis-  
4 sioner, as the case may be, for areas of focus, including issues of  
5 severe maternal morbidity and issues of racial, economic or other  
6 disparities in maternal outcomes;

7 (c) may, in addition to the findings and recommendations made under  
8 this subdivision, and consistent with all applicable confidentiality  
9 protections, bring any particular matter to the attention of the commis-  
10 sioner or the city commissioner;

11 (d) shall issue a report on its findings and recommendations every two  
12 years, and may also issue reports more frequently. The reports shall be  
13 public documents; and

14 (e) may request and shall receive the assistance of the commissioner  
15 and the city commissioner in carrying out its functions.

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

36 7. The commissioner and the city commissioner, within their respective  
37 legal authority, may use the recommendations and findings of the boards  
38 to develop guidance and other actions relating to best practices, and  
39 shall disseminate information relating to that guidance and other  
40 actions to appropriate health care providers.

41 8. (a) There is hereby established in the department an advisory coun-  
42 cil on maternal mortality and morbidity.

43 (b) The advisory council:

44 (i) may review the findings of the boards;

45 (ii) may develop recommendations on policies, best practices, and  
46 strategies to prevent maternal mortality and morbidity;

47 (iii) may hold public hearings on those matters;

48 (iv) may make findings and issue reports, including an annual report,  
49 on such matters; and

50 (v) may request and shall receive the assistance of the commissioner,  
51 the city commissioner, and the boards in carrying out its functions.

52 (c) The advisory council shall consist of at least twenty members, to  
53 be determined by the commissioner. The commissioner and the city commis-  
54 sioner shall each appoint half of the members of the council. The  
55 commissioner shall appoint the chair of the council.

1     (d) The members of the council shall be comprised of multidisciplinary  
2 experts and lay persons knowledgeable in the field of maternal mortal-  
3 ity, women's health and public health and shall include members who  
4 serve and are representative of the diversity of the women and mothers  
5 in medically underserved areas of the state or areas of the state with  
6 disproportionately high occurrences of maternal mortality or morbidity.

7     (e) The terms of the council members shall be three years. The  
8 appointing official may choose to reappoint council members to addi-  
9 tional three-year terms. Vacancies on the council shall be filled by  
10 appointment by the appointing official. A majority of the appointed  
11 membership of the council shall constitute a quorum. When any member of  
12 the council fails to attend three consecutive regular meetings, unless  
13 such absence is for good cause, that membership may be deemed vacant for  
14 purposes of the appointment of a successor.

15     (f) Meetings of the council shall be held at least twice a year.

16     (g) Members of the council shall be indemnified under section seven-  
17 teen of the public officers law. Members of the council shall not be  
18 compensated for their participation on the council but shall receive  
19 reimbursement for their ordinary and necessary expenses of partic-  
20 ipation. Membership on the council shall not disqualify any person from  
21 holding any public office or employment.

22     § 3. This act shall take effect immediately.