STATE OF NEW YORK

2871--A

2021-2022 Regular Sessions

IN SENATE

January 26, 2021

Introduced by Sens. KAVANAGH, BIAGGI, GOUNARDES, HARCKHAM, HOYLMAN, KAPLAN, KRUEGER, MYRIE, PALUMBO, PARKER, RIVERA, SANDERS, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law and the state finance law, in relation to protecting medically important antimicrobials for human public health

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

Section 1. Legislative findings. The legislature declares that the overuse and misuse of medically important antimicrobials poses a serious public health threat.

The World Health Organization has stated that "without urgent, coordinated action by many stakeholders, the world is headed for a post-antibiotic era, in which common infections and minor injuries which have been treatable for decades can once again kill." In 2016, members of the UN General Assembly adopted a political declaration acknowledging that "the resistance of bacterial, viral, parasitic and fungal microorganisms to antimicrobial medicines that were previously effective for treatment of infections is mainly due to: the inappropriate use of antimicrobial medicines in public health, animal, food, agriculture and aquaculture sectors; ... resistance to antibiotics, which are not like other medicines ... is the greatest and most urgent global risk, requiring increased attention and coherence at the international, national and regional levels."

The legislature further finds that overuse and misuse of medically important antimicrobials in livestock production is a significant component of the threat posed. The United States Food and Drug Administration and the Centers for Disease Control and Prevention have stated that there is a definitive link between the routine use of medically important antimicrobials on industrial farms and the crisis of antimicrobial-resistant infections in humans.

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

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The issue of antimicrobial misuse and overuse, whether in people or animals, is a significant and urgent public health matter.

It has been estimated that seventy percent of all antimicrobials sold in the United States are for use in food-producing animals, often to compensate for the effects of unsanitary and overcrowded conditions on farms.

Many of the antimicrobials provided to food-producing animals are identical to, or from the same class as, drugs used in human medicine to treat serious conditions (i.e., medically important drugs). Thus, antimicrobial-resistant bacteria that emerge and spread from food-producing animals in farm settings to infect humans can be very dangerous because the antibiotics usually used to treat the infections in humans may no longer be effective against them.

The legislature further finds that, as with any use of medically important antimicrobials in animals, such use must be closely supervised by a New York state licensed veterinarian or those veterinarians authorized to practice within the state. Moreover, that it is the licensed veterinarian who must ensure that the use of medically important antimicrobials is appropriate and necessary.

The legislature therefore intends to place appropriate restrictions on the misuse and overuse of medically important antimicrobials in food-producing animals by ensuring that veterinarians have the clear authority to control the use of medically important antimicrobials in food-producing animals in New York state and that their practices are following the best scientific evidence.

The purpose of this act is to protect public health by preserving the effectiveness of medically important antimicrobials now and for future generations by eliminating the use of those medicines in food-producing animals for disease prevention, resulting in a reduction in the rise and spread of antimicrobial-resistant bacteria and antimicrobial-resistant infections in humans.

§ 2. The education law is amended by adding a new article 135-A to read as follows:

ARTICLE 135-A

COMBATING ANTIMICROBIAL RESISTANCE ACT

Section 6720. Short title.
6721. Definitions.
6722. Prohibition of certain antimicrobial administration.
6723. Authorization of certain antimicrobial administration.
6724. Annual reports.
6725. Antimicrobial stewardship guidelines.
6726. Implementation.
6727. Authority to receive Veterinary Feed Directives.
6728. Violations.

§ 6720. Short title. This act shall be known and may be cited as the "combating antimicrobial resistance act of 2021."

§ 6721. Definitions. As used in this section:

1. "Antimicrobial" means any substance of natural, semi-synthetic, or synthetic origin that at in vivo concentrations kills or inhibits the growth of microorganisms by interacting with a specific target. The term antimicrobial is a collective for antiviral, antibacterial, antifungal, antiparasitic, and antiprotozoal agents.

2. "Antimicrobial class" means antimicrobial agents with related molecular structures, often with a similar mode of action because of interaction with a similar target and thus subject to a similar mechanism of resistance.

3. "Antimicrobial resistance (AMR)" means the ability of a microorganism to multiply or persist in the presence of an increased level of an antimicrobial relative to the susceptible counterpart of the same species.

4. "Disease control" means administration of antimicrobial agents to a group of animals containing sick and healthy individuals (presumed to be infected), to minimize or resolve clinical signs of infectious disease and to prevent further spread of the disease.

5. "Disease prevention" means administration of antimicrobial agents to an individual or a group of animals at risk of acquiring a specific infection or in a specific situation where infectious disease is likely to occur if the antimicrobial agent is not administered.

6. (a) "Disease treatment" means administration of antimicrobial agents to an individual or group of animals showing clinical signs of infectious disease or that test positive for a disease.

(b) Disease treatment includes selective dry cow therapy, whereby individual dairy cows within a herd are determined, when entering a dry cycle, to be likely infected with mastitis based on key indicators including their previous history of disease, somatic cell counts and/or cell cultures, and are administered antibiotics as prescribed by a licensed veterinarian.

7. "Food-producing animal" means:

(a) All cattle, swine, or poultry, regardless of whether the specific animal is raised for the purpose of producing food for human consumption; or

(b) Any animal of a type that the department of agriculture and markets identifies by rule as livestock typically used to produce food for human consumption, including aquatic and amphibian species.

8. "Livestock producer" means a person raising a food-producing animal for commercial purposes.

9. "Medically important antimicrobial" means a drug that is composed in whole or in part of:

(a) A form of the antibiotic classes of penicillin, tetracyline, macrolide, lincosamide, streptogramin, aminoglycoside, sulfonamide, or cephalosporin; or

(b) A drug from an antimicrobial class that is categorized as critically important, highly important, or important in the World Health Organization list of Critically Important Antimicrobials for Human Medicine (5th Revision, 2016), or a subsequent revision or successor document issued by the World Health Organization that is recognized by rule by the department of health.

10. "Veterinary Feed Directive" has the same definition as in section 558.3 of title 21 of the code of federal regulations.

§ 6722. Prohibition of certain antimicrobial administration. Beginning January first, two thousand twenty-three, medically important antimicrobials shall not be administered to a food-producing animal unless ordered by a licensed veterinarian who has visited the farm operation within the previous six months, through a prescription or Veterinary Feed Directive, pursuant to a veterinarian-client-patient relationship that meets the requirements as defined by the New York state office of professions.

§ 6723. Authorization of certain antimicrobial administration. 1. Beginning January first, two thousand twenty-three, a livestock producer may provide a medically important antimicrobial to a food-producing animal only if a licensed veterinarian, in the exercise of professional

judgment, determines that the provision of the medically important antimicrobial to the animal is necessary:

(a) To control the spread of a disease or infection;

(b) To treat a disease or infection; or

(c) In relation to surgical or other medical procedures.

2. (a) Medically important antimicrobials shall not be administered by any person to food-producing animals solely for the purposes of promoting weight gain, improving feed efficiency, or disease prevention.

(b) Blanket dry cow therapy, whereby all dairy cows in a herd entering a dry cycle are routinely administered an antibiotic to prevent clinical mastitis, is considered a method of disease prevention, and is not authorized.

3. A veterinarian who determines that the provision of a medically important antimicrobial to a food-producing animal is necessary for a purpose described in this section shall specify an end date for the provision of the antimicrobial to the animal.

4. A livestock producer may administer a medically important antimicrobial to a food-producing animal only for the purpose as determined by a licensed veterinarian under this article. The livestock producer may provide the antimicrobial only for the duration specified by the veterinarian.

§ 6724. Annual reports. 1. Veterinarians licensed to practice in New York state, or who are licensed in a bordering state and practice in the state, and who prescribe medically important antimicrobials or write a Veterinary Feed Directive for one or more sets of food-producing animals must file an annual report under this section in a form and manner required by the department by rule. This report will be submitted to the commissioner, the commissioner of health, the commissioner of agriculture and markets, the temporary president of the senate, the senate minority leader, the speaker of the assembly, and the minority leader of the assembly. If any medically important antimicrobials were prescribed to, provided to, or administered to food-producing animals during the reporting period, the annual report must contain the following information:

(a) The total number of food-producing animals provided with medically important antimicrobials;

(b) The name of each medically important antimicrobial provided;

(c) The species of food-producing animals that were provided with each medically important antimicrobial;

(d) The quantity of each medically important antimicrobial prescribed to each species of food-producing animal;

(e) The number of days that each medically important antimicrobial was intended to be provided to a food-producing animal;

(f) The dosage of each medically important antimicrobial that was intended to be provided to a food-producing animal;

(g) The method for providing each medically important antimicrobial to a food-producing animal;

(h) The purpose for providing each medically important antimicrobial to a food-producing animal; and

(i) The disease or infection, if any, that was intended to be controlled due to the provision of each medically important antimicrobial.

2. For the purposes of paragraph (h) of subdivision one of this section, the purpose for providing a medically important antimicrobial to a food-producing animal must be reported as:

(a) Disease control; or

(b) Disease treatment; or

(c) Necessary for surgical or other medical procedures.

3. Information reported under this section should be made publicly available by the department of health annually in an online searchable database of aggregated data. Such database shall protect the identity of a licensed veterinarian, an individual farm or business.

4. Information reported under this section is a public record and is not subject to exemption from public disclosure as required under the New York state freedom of information law.

5. The state board of veterinary medicine, the department of health and the department of agriculture and markets will consult as necessary to fulfill the requirements of this section.

§ 6725. Antimicrobial stewardship guidelines. 1. The state board of veterinary medicine, in consultation with the department of agriculture and markets, the department of health, universities, and cooperative extensions, shall develop antimicrobial stewardship guidelines and best management practices for veterinarians, livestock owners, and their employees who are involved with the administering of medically important antimicrobials on the proper use of medically important antimicrobials for disease treatment and control. The guidelines shall include scientifically validated practical alternatives to the use of medically important antimicrobials, including, but not limited to, good hygiene and management practices. The guidelines shall be reviewed and updated periodically, as necessary.

2. The state board of veterinary medicine shall consult with livestock producers, licensed veterinarians, and other relevant stakeholders on ensuring that livestock grown in rural areas with limited access to veterinary care have timely access to treatment.

3. For the purposes of this section, "antimicrobial stewardship" is a commitment to do all of the following:

(a) To use medically important microbials only when necessary to treat or control disease;

(b) To select the appropriate medically important microbial and the appropriate dose, duration, and route of administration; and

(c) To use medically important microbials for the shortest duration necessary and allowable, and to administer them to the fewest animals necessary.

§ 6726. Implementation. 1. The state board of veterinary medicine, the department of health, and the department of agriculture and markets shall coordinate with the United States Department of Agriculture, the United States Food and Drug Administration, and the Centers for Disease Control and Prevention to implement the expanded antimicrobial resistance surveillance efforts included in the National Action Plan for Combating Antibiotic-Resistant Bacteria, and that the information gathered through this effort will help lead to a better understanding of the links between antimicrobial use patterns in livestock and the development of antimicrobial-resistant bacterial infections.

2. (a) The department of health, the state board of veterinary medicine, the department of agriculture and markets, veterinarians, and livestock producers shall gather information on medically important antimicrobial sales and usage as well as antimicrobial-resistant bacteria and livestock management practice data. Monitoring efforts shall not be duplicative of the National Animal Health Monitoring System or the National Antimicrobial Resistance Monitoring System, and, to the extent feasible, will coordinate with the United States Department of Agriculture, the Centers for Disease Control and Prevention, and the

United States Food and Drug Administration in the development of these efforts.

(b) In coordinating with the National Animal Health Monitoring System and the National Antimicrobial Resistance Monitoring System, the department of health, the state board of veterinary medicine and the department of agriculture and markets shall gather representative samples of biological isolates from all of the following:

(i) New York state's major livestock segments;

(ii) regions with considerable livestock production; and

(iii) representative segments of the food production chain.

(c) The department of health, the state board of veterinary medicine and the department of agriculture and markets shall report to the legislature by January first, two thousand twenty-four, the results of their outreach activities and monitoring efforts.

§ 6727. Authority to receive Veterinary Feed Directives. The department of agriculture and markets has the authority to request and receive copies of all Veterinary Feed Directives issued in the state from veterinarians, livestock owners, feed mills, or distributors to fully implement the provisions of this article.

§ 6728. Violations. 1. A person or entity who violates this article shall be liable for a civil penalty of not more than two hundred and fifty dollars per farm operation for each day a violation occurs.

2. (a) For a second or subsequent violation, a person or entity who violates this article shall be punishable by an administrative fine in the amount of five hundred dollars per farm operation for each day a violation occurs.

(b) In addition to the administrative fine, the violator shall attend an educational program to be jointly developed by the department of health and the state board of veterinary medicine on the judicious use of medically important antimicrobials. The violator shall successfully complete the program and provide proof to the board within ninety days from the occurrence of the violation.

3. Subdivisions one and two of this section shall not apply to licensed veterinarians. A veterinarian who violates this section is subject to discipline as defined in subarticle three of article one hundred thirty of title eight of this chapter.

4. The moneys collected pursuant to this article shall be deposited into the antibiotics education fund established pursuant to section ninety-seven-j of the state finance law and be available for expenditure upon appropriation by the legislature.

§ 3. The state finance law is amended by adding a new section 97-j to read as follows:

§ 97-j. Antibiotics education fund. 1. There is hereby established in the custody of the state comptroller a special fund to be known as the "antibiotics education fund".

2. Such fund shall consist of all monies recovered from the assessment of any penalty authorized by article one hundred thirty-five-A of the education law.

3. Moneys of the fund shall be deposited to the credit of the fund and shall, in addition to any other moneys made available for such purpose, be available to the department for the purpose of antibiotics educational programs. All payments from the antibiotics education fund shall be made on the audit and warrant of the state comptroller on vouchers certified and submitted by the commissioner.

§ 4. This act shall take effect January 1, 2023.