

# STATE OF NEW YORK

5857

2021-2022 Regular Sessions

## IN SENATE

March 19, 2021

Introduced by Sen. COMRIE -- 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 protocols for the handling of stillbirths by healthcare facilities and establishing a stillbirth research database

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

1 Section 1. Section 206 of the public health law is amended by adding a  
2 new subdivision 31 to read as follows:

3 31. (a) The commissioner, in consultation with the state board of  
4 medical examiners, the New York board of nursing, the state board for  
5 psychology, and the state board for social work, shall develop and  
6 prescribe by regulation comprehensive policies and procedures to be  
7 followed by health care facilities that provide birthing and newborn  
8 care services in the state when a stillbirth occurs.

9 (b) The commissioner shall require as a condition of licensure that  
10 each health care facility in the state that provides birthing and  
11 newborn care services adhere to the policies and procedures prescribed  
12 in this subdivision. The policies and procedures shall include, at a  
13 minimum:

14 (i) protocols for assigning primary responsibility to one physician,  
15 who shall communicate the condition of the fetus to the mother and fami-  
16 ly, and inform and coordinate staff to assist with labor, delivery, and  
17 postmortem procedures;

18 (ii) guidelines to assess a family's level of awareness and knowledge  
19 regarding the stillbirth;

20 (iii) the establishment of a bereavement checklist, and an informa-  
21 tional pamphlet to be given to a family experiencing a stillbirth that  
22 includes information about funeral and cremation options;

23 (iv) provision of one-on-one nursing care for the duration of the  
24 mother's stay at the facility;

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

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1 (v) training of physicians, nurses, psychologists, and social workers  
2 to ensure that information is provided to the mother and family experi-  
3 encing a stillbirth in a sensitive manner, including information about  
4 what to expect, the availability of grief counseling, the opportunity to  
5 develop a plan of care that meets the family's social, religious, and  
6 cultural needs, and the importance of an autopsy and thorough evaluation  
7 of the fetus;

8 (vi) best practices to provide psychological and emotional support to  
9 the mother and family following a stillbirth, including referring to the  
10 fetus by name, and offering the family the opportunity to cut the umbil-  
11 ical cord, hold the baby with privacy and without time restrictions, and  
12 prepare a memory box with keepsakes, such as a handprint, footprint,  
13 blanket, bracelet, lock of hair, and photographs, and provisions for  
14 retaining the keepsakes for one year if the family chooses not to take  
15 them at discharge;

16 (vii) protocols to ensure that the physician assigned primary respon-  
17 sibility for communicating with the family discusses the importance of  
18 an autopsy for the family, including the significance of autopsy find-  
19 ings on future pregnancies and the significance that data from the  
20 autopsy may have for other families;

21 (viii) protocols to ensure coordinated visits to the family by a  
22 hospital staff trained to address the psychosocial needs of a family  
23 experiencing a stillbirth, provide guidance in the bereavement process,  
24 assist with completing any forms required in connection with the still-  
25 birth and autopsy, and offer the family the opportunity to meet with the  
26 hospital chaplain or other individual from the family's religious commu-  
27 nity; and

28 (ix) guidelines for educating health care professionals and hospital  
29 staff on caring for families after stillbirth.

30 § 2. Subdivision 1 of section 201 of the public health law is amended  
31 by adding three new paragraphs (y), (z) and (aa) to read as follows:

32 (y) establish a fetal death evaluation protocol, which a hospital  
33 licensed shall follow in collecting data relevant to each stillbirth.  
34 The information required to be collected shall include, but not be  
35 limited to:

36 (i) the race, age of the mother, maternal and paternal family history,  
37 comorbidities, prenatal care history, antepartum findings, history of  
38 past obstetric complications, exposure to viral infections, smoking,  
39 drug and alcohol use, fetal growth restriction, placental abruption,  
40 chromosomal and genetic abnormalities obtained pre-delivery, infection  
41 in premature fetus, cord accident, including evidence of obstruction or  
42 circulatory compromise, history of thromboembolism, and whether the  
43 mother gave birth before; and

44 (ii) documentation of the evaluation of a stillborn fetus, placenta,  
45 and cytologic specimen that conform to the standards established by the  
46 American College of Obstetricians and Gynecologists and meet any other  
47 requirements deemed by the commissioner as necessary, including, but not  
48 limited to, the following components:

49 (A) if the parents consent to a complete autopsy: the weight of the  
50 fetus and placenta, head circumference, length of fetus, foot length if  
51 stillbirth occurred before twenty-three weeks of gestation, and notation  
52 of any dysmorphic feature; photograph of the whole body, frontal and  
53 profile of face, extremities and palms, close-up of any specific abnor-  
54 malities; examination of the placenta and umbilical cord; and gross and  
55 microscopic examination of membranes and umbilical cord; or

1 (B) if the parents do not consent to a complete autopsy, an evaluation  
2 of a fetus as set forth in clause (A) of this subparagraph, and appro-  
3 priate alternatives to a complete autopsy, including a placental exam-  
4 ination, external examination, selected biopsies, X-rays, MRI, and  
5 ultrasound.

6 (z) shall establish and maintain a database that contains a confiden-  
7 tial record of all data obtained pursuant to paragraph (y) of this  
8 subdivision. The data shall be made available to the public through the  
9 department website, except that no data shall identify any person to  
10 whom the data relate.

11 (aa) shall evaluate the data obtained pursuant to paragraph (y) of  
12 this subdivision for purposes of identifying the causes of, and ways to  
13 prevent, stillbirths, and may contract with a third party, including,  
14 but not limited to, a public institution of higher education in the  
15 state or a foundation, to undertake the evaluation.

16 § 3. This act shall take effect sixty days after it shall have become  
17 a law; provided, however, that no later than five years after the effec-  
18 tive date of this act, the commissioner of health shall report to the  
19 governor, and to the legislature, on the findings of the evaluation  
20 required pursuant to section two of this act, and shall include in the  
21 report any recommendations for legislative action that the commissioner  
22 deems appropriate. Effective immediately the addition, amendment and/or  
23 repeal of any rule or regulation necessary for the implementation of  
24 this act on its effective date are authorized to be made on or before  
25 such date.