STATE OF NEW YORK

1675

2023-2024 Regular Sessions

IN ASSEMBLY

January 17, 2023

Introduced by M. of A. L. ROSENTHAL, SIMON -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing an office of antibiotic-resistance control; to amend the state finance law, in relation to establishing the antibiotics education fund; and to amend the labor law, in relation to including methicillin-resistant staphylococcus aureus (MRSA) and other antibiotic-resistant infections in the definition of airborne infectious disease

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

Section 1. Legislative findings. Antibiotics are rightfully considered one of the medical miracles of the last century because of their powerful ability to fight illness and disease caused by bacteria. But the effectiveness of medically important antibiotics is now at great risk due to their misuse and overuse in medicine and agriculture. Many strains of bacteria have evolved resistance to antibiotics, meaning instead of being killed by the drugs, they survive, multiply, and spread. In fact, the more antibiotics are used, the faster antibiotic-resistant bacteria (aka "superbugs") emerge, increasing the risk of contracting an antibiotic-resistant infection. If effective policy measures are not soon adopted, some experts predict that by 2050, antibiotic-resistant infections will be responsible for more annual deaths than cancer.

In recognition of the serious public health threat posed by antibiotic-resistant infections, the United Nations General Assembly in 2016 committed to taking action. The World Health Organization (WHO) considers it to be one of the biggest threats to global health, food security, and international development today. The United States Centers for Disease Control and Prevention (CDC) has stated that fighting this threat is a public health priority and estimates that each year, antibiotic-resistant bacteria are responsible for at least 2.8 million

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

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infections in the United States and at least 35,000 deaths. A study commissioned by the United Kingdom government predicts that if action is not taken now to combat antibiotic resistance, by 2050 the annual death toll will have risen to 10 million globally. Most major medical and health groups in the United States, including the American Medical Association, American Academy of Pediatrics, and Infectious Diseases Society of America, have recognized the urgency of the antibiotic-resistance crisis. New York State, in its Prevention Agenda 2019-2024, established Antibiotic Resistance and Healthcare-Associated Infections as one of five major focus areas.

Antibiotic-resistant bacteria are bacteria that are immune to the effect of antibiotics. These so-called "superbugs" can infect humans and animals, and the infections they cause are harder and sometimes impossible to treat. Antibiotic resistance is a naturally occurring phenomenon, but the speed at which superbugs are emerging and spreading is accelerating due to overuse and misuse of antibiotics in humans and animals. Antibiotic-resistant bacteria are most prevalent in environments associated with high antibiotic use: healthcare settings and animal agriculture. Two-thirds of all medically important antibiotics are sold for use in animals. Bacteria that are resistant can spread from person to person, and from animal to person--via the natural environment or contaminated food--and resistance genes can transfer from bacteria to bacteria. Some bacteria have developed resistance to multiple antibiotics, making common infectious diseases such as tuberculosis, pneumonia, food poisoning, urinary tract infections (UTIs), and gonorrhea harder and sometimes impossible to treat. Everyone is at risk of exposure to antibiotic-resistant bacteria, but those who work in hospitals and nursing homes, patients in such facilities, and those who work in livestock farming, slaughterhouses, and large animal veterinarian practices have a greater risk of getting antibiotic-resistant infections.

Given the current and growing threat posed by antibiotic resistance, the state of New York must organize itself to adequately respond. The WHO and the CDC recommend taking a "One Health" approach, which recognizes the interconnectedness of humans and animals in achieving optimal health outcomes.

§ 2. Article 2 of the public health law is amended by adding a new title 9 to read as follows:

TITLE 9

ANTIBIOTIC-RESISTANCE CONTROL

Section 269-a. Statement of policy and purposes.
269-b. Definitions.
269-c. Office of antibiotic-resistance control.
269-d. Antibiotic-resistance control board.
269-e. Organization of antibiotic-resistance control board.
269-f. Meetings.
269-g. Functions, powers and duties.
269-h. Cooperation with other departments.
269-i. Evaluation requirements.
269-j. Antibiotic-resistance data collection.
269-k. Antibiotic stewardship implementation.
269-l. Antibiotic-resistance control in agriculture.
269-m. Reporting requirements.
269-n. Violations.

§ 269-a. Statement of policy and purposes. The purpose of this title is to codify the establishment of an office to organize the state's efforts to control the spread of antibiotic resistance, coordinate all

agencies' responses, and rely on best practices to comprehensively address the public health threat posed by antibiotic resistance.

§ 269-b. Definitions. As used in this section:

1. "Antibiotic" means a drug used to treat infections caused by bacteria. Antibiotics may either kill or inhibit the growth of bacteria.

2. "Antibiotic class" means antibiotic 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. "Antibiotic resistance" means the ability of a bacterium to multiply or persist in the presence of an increased level of an antibiotic relative to the susceptible counterpart of the same species.

4. "Antibiotic stewardship" means using the optimal selection, dosage, and duration of antibiotic treatment that results in the best clinical outcome for the treatment of infection, with minimal toxicity to the patient and minimal impact on subsequent resistance. Antibiotic stewardship may also include measures to prevent spread of infection in hospitals and animal husbandry practices that prevent spread of infections on farms.

5. "Board" means the antibiotic-resistance control board created pursuant to section two hundred sixty-nine-d of this title.

6. "Disease control" means administration of antibiotics to a group of animals once a proportion of the animals in the group have been diagnosed (based on clinical signs or other appropriate diagnostic methods) with an indicated disease.

7. "Disease prevention" means administration of antibiotics to a group of animals, none of which have been diagnosed with an indicated disease, when transmission of existing undiagnosed infections, or the introduction of pathogens, is anticipated based on history, clinical judgment, or epidemiological knowledge.

8. (a) "Disease treatment" means administration of an antibiotic only to animals diagnosed (based on clinical signs or other appropriate diagnostic methods) with an indicated disease.

(b) Disease treatment includes but is not limited to 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.

9. "Foodborne disease" (also referred to as foodborne illness or food poisoning): means any illness that results from the consumption of food, contaminated with pathogenic bacteria, viruses, or parasites.

10. "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.

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

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

(a) A form of the antibiotic classes of penicillin, tetracycline, macrolide, lincosamide, streptogramin, aminoglycoside, sulfonamide, fluoroquinolones, amphenicols, polymyxins, or cephalosporin; or

(b) A drug from an antibiotic class that is categorized as critically important, highly important, or important in the World Health Organization list of critically important antimicrobials for human medicine (6th revision, 2019), or a subsequent revision or successor document issued by the World Health Organization that is recognized by rule by the department.

13. "Office" means the office of antibiotic-resistance control created pursuant to section two hundred sixty-nine-c of this title.

14. "One Health" means taking a collaborative, multisectoral, and transdisciplinary approach to controlling antibiotic resistance, recognizing the interconnection between people, animals, plants, and their shared environment.

15. "Veterinary feed directive" has the same definition as in section 558.3 of title 21 of the code of federal regulations.

§ 269-c. Office of antibiotic-resistance control. There is hereby created within the department an office of antibiotic-resistance control. Such office shall:

1. Integrate and coordinate selected state health antibiotic-resistance monitoring, oversight, and education programs based on the centers for disease control's One Health approach to combating antibiotic resistance. As part of this function, the office shall develop a coordinated, comprehensive strategy and plan to end the misuse and reduce the overuse of antibiotics in medicine and agriculture in the state. In line with the National Action Plan 2020-2025 created by the Federal Task Force on Combating Antibiotic-Resistant Bacteria, the office shall have a goal for the state of reducing health care-associated antibiotic-resistant infections by twenty percent by two thousand twenty-five and community-acquired antibiotic-resistant infections by ten percent by two thousand twenty-five. It shall have a further goal, consistent with the existing goal of the European Union, of reducing use of medically important antibiotics in food animal production by fifty percent within five years after the effective date of this title, using a baseline established two years after the effective date of this title.

2. Apply for grants, and accept gifts from private and public sources, for research to improve the appropriate use of antibiotics.

3. Together with the antibiotic-resistance control board, serve as liaison and advocate on matters relating to the judicious use, unnecessary use, and misuse of antibiotics. This function shall include the provision of staff support to the antibiotic-resistance control board and the establishment of appropriate program linkages with related federal, state, and local agencies and programs.

4. Assist medical schools, veterinarian schools, agricultural schools, and state agencies in the development of antibiotic-resistance control training programs for doctors, veterinarians, medical and veterinary support staff, and farmers, and in the development of educational coursework for medical, veterinary, and agricultural students.

5. Promote community strategic planning and new or improved health care delivery systems to reduce the use of antibiotics in health care settings and agricultural settings.

6. Review the impact of antibiotic-resistance control programs and regulations on levels of antibiotic-resistant bacteria found in health care settings and agricultural settings, and that are foodborne.

§ 269-d. Antibiotic-resistance control board. 1. An antibiotic-resistance control board is hereby created. Such board shall have five voting members, who shall be the commissioners of health, agriculture and markets, environmental conservation, education, and a public member. In

addition, as advisory members, there shall be a dean of a New York state medical college, a dean of a New York state veterinary college, two epidemiologists with expertise in antibiotic resistance, and, six members, to be appointed by the governor, however, two shall be upon the recommendation of the speaker of the assembly and two shall be upon the recommendation of the temporary president of the senate. At least one of the six members shall be a representative of the pharmaceutical industry, one a representative of the farming community, and four representatives of the public with relevant expertise in, but not limited to, the fields of public health, patient experience, or antibiotic resistance. To the extent practicable, these public members shall be representative of the diversity of the state.

2. Advisory members appointed by the governor shall serve for terms of three years, such terms to commence on July first and to expire on June thirtieth; provided, however, that of the advisory members first appointed, two shall be appointed for a one-year term expiring one year after the effective date of this title, two shall be appointed for a two-year term expiring two years after the effective date of this title, and the remaining two shall be appointed for full three-year terms. Each such advisory member shall hold office until a successor shall have been appointed and qualified.

3. Each voting member and each advisory member of such board may, by official order filed in the office of the board, designate a deputy or other representative in their department to perform their duties under this article.

4. The members of the board or their respective designees shall receive no additional compensation for their services as members of the board, but shall be allowed their actual and necessary expenses incurred in the performance of their duties under this title.

§ 269-e. Organization of antibiotic-resistance control board. 1. The chair of the board shall be the commissioner.

2. The board shall appoint an executive secretary who shall act as the administrative agent of the board, keep a record of all meetings of the board and perform such other functions and duties as the board may direct.

3. The board may make and adopt by-laws to regulate its proceedings.

§ 269-f. Meetings. 1. The board shall meet at least once every three months. Special meetings shall be called by the chair on their own initiative or upon the written request of two voting members. Notice of the time, place, and purpose of each meeting shall be transmitted to all members of the board at least ten days prior to any meeting.

2. Three voting members of the board shall constitute a quorum to transact the business of the board. A majority vote of members present at the meeting shall be necessary for any action taken by the board. Meetings shall be open to public observers, and meeting records shall be publicly available.

§ 269-g. Functions, powers and duties. 1. The board (a) may prepare and recommend rules and regulations, or amendment or repeal thereof, for controlling the use of antibiotics in health care and agricultural settings consistent with the declared purpose of this title and (b) shall designate the department or departments by whom such rules or regulations shall be promulgated, administered, and enforced in accordance with the functions, powers, and duties of such department or departments prescribed by law. Such rules and regulations shall not be effective until filed in the office of the department of state. Any such action shall be taken only at a meeting upon the affirmative vote in

person, electronically or by mail of at least four voting members of the board, exclusive of any deputy or other representative, after a meeting with the advisory members of the board and consideration of available scientific evidence.

2. To further the declared purpose of this title, the board shall have the following functions, powers, and duties:

(a) To prepare and recommend rules and regulations regarding the use of antibiotics in health care and agricultural settings in order to prevent their misuse and overuse and control, and prevent antibiotic resistance.

(b) To coordinate the activities and programs of members' departments concerned with the use of antibiotics and the development and spread of antibiotic resistance.

(c) To promote and encourage training programs and practices, including innovative concepts, that can reduce antibiotic use in health care and agricultural settings.

(d) To cause such studies, research, and investigations to be made as it may deem advisable and necessary.

(e) To hold and appear at public hearings.

(f) To collect and compile information and data relating to the use, overuse, and misuse of antibiotics and development and spread of antibiotic resistance.

(g) To advise and assist state departments and agencies upon request.

(h) To inform the public concerning the state's efforts to regulate the use of antibiotics and to provide information concerning antibiotics, including those used in agriculture.

(i) To recommend, where appropriate, that the use of specific antibiotics be prohibited under specified conditions.

(j) To consult and cooperate with the appropriate agencies of the federal government or of other states or local governments to more effectively carry out its functions, powers, and duties under this title.

(k) To do all things necessary or reasonable to carry out the foregoing functions, powers, and duties.

§ 269-h. Cooperation with other departments. The board may request from any department, division, board, bureau, commission, or other agency of the state, and the same are authorized to provide, without additional compensation, such assistance, services and data as may be necessary to carry out the purpose of this title. The board may, within appropriations available therefore, employ such other personnel as may be necessary to carry out its responsibilities under this title.

§ 269-i. Evaluation requirements. 1. The commissioner shall evaluate the effectiveness of the efforts by the state government to reduce the overuse and misuse of antibiotics.

2. The commissioner shall ensure that, to the extent practicable, the most current research findings regarding mechanisms to reduce and change attitudes toward the use of antibiotics are incorporated into the education and training programs administered by the department.

3. To diminish the overuse and misuse of antibiotics and to ensure that the state's programs are effective, the office shall conduct an independent evaluation of the statewide antibiotic-resistance programs. The purpose of this evaluation is to direct the most efficient allocation of state resources devoted to controlling antibiotic-resistance within health care settings and agricultural settings. Such evaluation shall be made publicly available on the department's website and provided annually to the governor, the temporary president of the

senate, and the speaker of the assembly on or before October first of each calendar year. The comprehensive evaluation design shall be guided by the following:

(a) Sound evaluation principles including, to the extent feasible, elements of controlled experiments;

(b) An evaluation of the comparative effectiveness of individual program designs that shall be used in funding decisions and program modifications; and

(c) An evaluation of other programs identified by state agencies, local lead agencies, and federal agencies.

§ 269-j. Antibiotic-resistance data collection. 1. Notwithstanding any other law, all antibiotic-resistance and infection data collected by the department, and documents pertaining to antibiotic-resistance stewardship programs, veterinary reports required by federal or state laws, and any other related information as determined by the commissioner, shall be made available to the office.

2. The department 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 title.

3. The state board of veterinary medicine, the department, 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 United States centers for disease control and prevention to implement the expanded antibiotic resistance surveillance efforts included in the National Action Plan for Combating Antibiotic-Resistant Bacteria, to obtain a better understanding of the links between antibiotic use patterns in livestock and the development of antibiotic-resistant bacterial infections.

4. (a) The department, the state board of veterinary medicine, the department of agriculture and markets, veterinarians, and livestock producers shall gather information on medically important antibiotic sales and usage as well as antibiotic-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, 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, the state board of veterinary medicine, and the department of agriculture and markets shall report to the legislature three years from the effective date of this title the results of their outreach activities and monitoring efforts.

§ 269-k. Antibiotic stewardship implementation. 1. Notwithstanding any law to the contrary, the office may request and shall receive reports on hospitals' and nursing homes' antibiotic-resistance and infection stewardship programs.

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

3. The department, in consultation with the state board of veterinary medicine and the department of agriculture and markets, 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.

4. For the purposes of this section, "antibiotic stewardship" for food-producing animals is a commitment to do all of the following:

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

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

(c) to use medically important antibiotics for the shortest duration necessary and allowable, and to administer them to the fewest animals necessary; and

(d) to raise animals under conditions that minimize the need for medically important antibiotics by using vaccines, providing healthy diets, maintaining sanitary housing and other appropriate good husbandry practices.

§ 269-l. Antibiotic-resistance control in agriculture. 1. Beginning one year from the effective date of this title, medically important antibiotics 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 state office of professions.

2. (a) Beginning two years from the effective date of this title, a livestock producer may administer a medically important antibiotic to a food-producing animal only if a licensed veterinarian, in the exercise of professional judgment, determines that the administration of the medically important antibiotic to the animal is necessary:

(i) to control the ongoing spread of a diagnosed disease or infection;

(ii) to treat a diagnosed disease or infection; or

(iii) in relation to surgical or other medical procedures.

(b)(i) Medically important antibiotics 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.

(ii) 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 antibiotic to a food-producing animal is necessary for a purpose described in this section shall specify an end date for the provision of the antibiotic to the animal.

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

§ 269-m. Reporting requirements. 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 antibiotics or write a veterinary feed directive (VFD) for one or more sets of food-producing animals located in New York state, shall file an annual report under this section in a form and manner required by the department by rule. This report shall be submitted to the office. If medically important antibiotics were provided under VFDs, then copies of those VFDs issued during the year, prepared in the format recommended by the American Veterinary Medical Association, may constitute the annual report. Medically important antibiotics prescribed to, provided to, or administered to food-producing animals during the reporting period that are not covered by VFDs, shall also be included in the annual report and shall contain the following information for each such prescription or administration:

(a) Name and address of the livestock producer, and the location of the treated animal or animals;

(b) The number of food-producing animals provided with medically important antibiotics;

(c) The name of the medically important antibiotic provided;

(d) The species of food-producing animals that were provided the medically important antibiotic;

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

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

(g) The method of administration of the medically important antibiotic to a food-producing animal;

(h) The purpose for providing the medically important antibiotic 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 antibiotic.

2. For the purposes of paragraph (h) of subdivision one of this section, the purpose for providing a medically important antibiotic to a food-producing animal shall 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 shall be made publicly available by the department 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. The department, state board of veterinary medicine, and the department of agriculture and markets shall consult as necessary to fulfill the requirements of this section.

§ 269-n. Violations. 1. A person or entity who violates this title shall be liable for a civil penalty of not more than two hundred 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 title 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, the department of agriculture and markets, and the state board of veterinary medicine on the judicious use of medically important antibiotics. 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 the education law.

4. The moneys collected pursuant to this title shall be deposited into the antibiotics education fund established pursuant to section ninety-seven-aaaa 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-aaaa to read as follows:

§ 97-aaaa. 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 title nine of the public health 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 of health 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 of health.

§ 4. Paragraph (e) of subdivision 1 of section 218-b of the labor law, as amended by chapter 142 of the laws of 2021, is amended to read as follows:

(e) "Airborne infectious disease" shall mean any infectious viral, bacterial or fungal disease that is transmissible through the air in the form of aerosol particles or droplets and is designated by the commissioner of health a highly contagious communicable disease that presents a serious risk of harm to the public health. Such diseases shall include methicillin-resistant staphylococcus aureus (MRSA) and other antibiotic-resistant infections as established by the commissioner of health.

§ 5. This act shall take effect one year after it shall have become a law.