

STATE OF NEW YORK

6045--A

2023-2024 Regular Sessions

IN SENATE

March 27, 2023

Introduced by Sens. BAILEY, FERNANDEZ, JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1 -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the administrative code of the city of New York, in relation to establishing a fetal and infant mortality review board

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

1 Section 1. The administrative code of the city of New York is amended
2 by adding a new section 17-166.1 to read as follows:

3 § 17-166.1 Fetal and infant mortality review board. a. For the
4 purposes of this section, unless the context requires otherwise:

5 (1) "Review board" means the fetal and infant mortality review board
6 established by this section.

7 (2) "Fetal and infant death" means pregnancy loss that ends in miscar-
8 riage or stillbirth, or infant deaths within one year of birth.

9 (3) "Severe fetal and infant morbidity" or "morbidity" means unantic-
10 ipated outcomes of pregnancy, labor, or delivery that result in signif-
11 icant short- or long-term consequences to a child's health.

12 b. There is hereby established in the department the fetal and infant
13 mortality review board for the purpose of reviewing fetal and infant
14 deaths and fetal and infant morbidity and developing and disseminating
15 findings, recommendations, and best practices to contribute to the
16 prevention of fetal and infant mortality and morbidity. The review board
17 shall assess the cause of death, factors leading to death and preventa-
18 bility for each fetal and infant death reviewed and, in the discretion
19 of the review board, cases of severe fetal and infant morbidity, and
20 shall develop and disseminate strategies for reducing the risk of fetal
21 and infant mortality and morbidity, including risk resulting from

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

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1 racial, economic, or other disparities. The commissioner may delegate
2 the authority to conduct fetal and infant mortality reviews.

3 c. (1) The members of the review board shall be comprised of multidis-
4 ciplinary experts in the field of fetal and infant mortality, fetal,
5 neonatal and infant health and public health, maternal health, obstet-
6 rics and gynecology, and shall include health care professionals or
7 other experts who serve and are representative of the racial, ethnic,
8 and socioeconomic diversity of the city of New York and, to the extent
9 possible, the medically underserved areas of the city of New York or
10 areas of the city of New York with disproportionately high occurrences
11 of fetal and infant mortality or morbidity.

12 (2) The review board shall be composed of nine members, all of whom
13 shall be appointed by the commissioner.

14 (3) The terms of the review board members shall be three years. The
15 commissioner may choose to reappoint review board members to additional
16 three-year terms.

17 (4) A majority of the appointed membership of the review board, but no
18 less than five, shall constitute a quorum.

19 (5) When any member of the review board fails to attend three consec-
20 utive regular meetings, unless good cause is shown for such absence,
21 that membership may be deemed vacant for purposes of the appointment of
22 a successor.

23 (6) Meetings of the review board shall be held at least twice a year
24 but may be held more frequently as deemed necessary, subject to request
25 of the department.

26 (7) Members of the review board shall be indemnified under section
27 seventeen of the public officers law or section fifty-k of the general
28 municipal law, as the case may be.

29 (8) Members of the review board shall not be compensated for their
30 participation on the review board but shall receive reimbursement for
31 their ordinary and necessary expenses of participation.

32 (9) Membership on the review board shall not disqualify any person
33 from holding any public office or employment.

34 d. (1) The commissioner may request and shall receive upon request
35 from any department, division, board, bureau, commission, local health
36 department or other agency of the state or political subdivision thereof
37 or any public authority, such information, including but not limited to
38 death records, medical records, autopsy reports, toxicology reports,
39 hospital discharge records, birth records and any other information that
40 will help the department under this section to properly carry out its
41 functions, powers and duties. The commissioner may request and shall
42 receive upon request from any department, division, board, commission or
43 other agency under the authority of the city of New York as well as
44 hospitals established pursuant to article twenty-eight of the public
45 health law, birthing facilities, medical examiners, coroners and coroner
46 physicians and any other facility providing services associated with
47 fetal and infant mortality or fetal and infant morbidity, such informa-
48 tion, including, but not limited to, death records, medical records,
49 autopsy reports, toxicology reports, hospital discharge records, birth
50 records and any other information that will help the department under
51 this section to properly carry out its functions, powers and duties.

52 (2) The commissioner shall receive and may solicit voluntary informa-
53 tion, including oral or written statements, relating to any fetal and
54 infant death and case of severe fetal and infant morbidity, from any
55 family member or other interested party relating to any case that may
56 come before the review board. Oral statements received under this para-

1 graph shall be transcribed or summarized in writing. The commissioner
2 shall transmit that information to the review board considering the
3 case.

4 (3) Before transmitting any information to the review board, the
5 commissioner shall remove all personal identifying information of the
6 fetus or infant, individuals experiencing pregnancy loss or parents of
7 the infant, health care practitioner or practitioners, or anyone else
8 individually named in such information, as well as the hospital or
9 facility that treated the fetus or infant, and any other information
10 such as geographic location that may inadvertently identify the fetus or
11 infant, fetus or infant's family, practitioner, or facility.

12 (4) Information received or transmitted under this section is not
13 admissible in any civil, administrative, criminal, or family court
14 proceeding that seeks to punish or prosecute the pregnant or birthing
15 person and shall not be used as a basis of a report to the Statewide
16 Central Register of Child Abuse and Maltreatment.

17 e. The review board:

18 (1) shall collect and perform case reviews of fetal and infant deaths;

19 (2) shall make and report findings and recommendations to the commis-
20 sioner regarding the cause of death, factors leading to death, and
21 preventability of each fetal or infant death case, and each case of
22 severe fetal or infant morbidity reviewed by the review board, by
23 reviewing relevant information for each case in the city of New York and
24 consulting with experts as needed to evaluate the information for each
25 death provided that no information which, alone or in combination, would
26 permit an individual who experienced a pregnancy loss or infant death to
27 be identified may be requested or shared with consulting experts, and
28 that information reviewed or findings made by the board shall not be
29 admissible in any civil, administrative, criminal, or family court
30 proceeding and shall not be used as a basis of a report to the Statewide
31 Central Register of Child Abuse and Maltreatment;

32 (3) shall develop and deliver to the commissioner recommendations on:

33 (A) issues of severe fetal and infant morbidity;

34 (B) addressing social determinants of fetal and infant health, includ-
35 ing racial, economic or other historical and contemporary injustices
36 which lead to disparities in fetal and infant outcomes;

37 (C) policies, best practices, and strategies to reduce fetal and
38 infant mortality and morbidity;

39 (D) methods of improving services and resources; and

40 (E) methods of implementing continuous quality improvement in fetal
41 and infant mortality and morbidity;

42 (4) shall issue an annual public report on its findings and recommen-
43 dations and may also issue public reports more frequently;

44 (5) shall identify and address systemic community conditions contrib-
45 uting to fetal and infant deaths;

46 (6) shall implement a surveillance system to monitor incidence, etiolo-
47 gies, and contributing factors and which can describe effects of health
48 care system change;

49 (7) shall identify system wide challenges to improving fetal and
50 infant health care;

51 (8) may, in addition to the findings and recommendations made under
52 this subdivision, and consistent with all applicable confidentiality
53 protections, bring any particular matter to the attention of the commis-
54 sioner; and

55 (9) may request and shall receive the assistance of the commissioner
56 in carrying out its functions.

1 f. The commissioner and the review board shall each keep confidential
2 any information collected or received under this section that includes
3 personal identifying information of the fetus or infant, the fetus or
4 infant's parents, health care practitioner or practitioners, or anyone
5 else individually named in such information, as well as the hospital or
6 facility that treated the fetus or infant, and any other information
7 such as geographic location that may inadvertently identify the fetus or
8 infant, the fetus or infant's parents, practitioner, or facility, and
9 shall use the information provided or received under this section solely
10 for the purposes of improvement of the quality of fetal and infant
11 health care and to prevent fetal and infant mortality and morbidity.
12 This subdivision shall not preclude the transmitting of information to
13 the review board that is reasonably necessary to enable the review board
14 to perform an appropriate review under this section. All records
15 received, meetings conducted, reports, except those public reports
16 required to be issued by the review board by this section, and records
17 made and maintained and all books and papers obtained by the review
18 board shall be confidential and shall not be made open or available,
19 including under article six of the public officers law, and shall be
20 limited to review board members as well as those authorized by the
21 commissioner. Such information shall not be discoverable or admissible
22 as evidence in any action in any court or before any other tribunal,
23 board, agency or person.

24 g. The commissioner may use the recommendations and findings of the
25 review board to develop guidance and other actions relating to best
26 practices, and shall disseminate information relating to that guidance
27 and other actions to appropriate health care providers.

28 § 2. This act shall take effect one year after it shall have become a
29 law.