

STATE OF NEW YORK

8375

IN SENATE

January 24, 2024

Introduced by Sen. BRISPORT -- read twice and ordered printed, and when printed to be committed to the Committee on Women's Issues

AN ACT to amend the public health law, in relation to requiring hospitals and other facilities that provide perinatal care to implement an evidence-based implicit bias program, to providing expectant mothers with written information regarding certain patient rights, and to including information related to pregnancy on death certificates

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

Section 1. Article 25 of the public health law is amended by adding a new title 9 to read as follows:

TITLE IX

NEW YORK DIGNITY IN PREGNANCY AND CHILDBIRTH ACT

Section 2599-e. Short title.

2599-f. Legislative findings.

2599-g. Definitions.

2599-h. Implicit bias program.

2599-i. Data collection.

§ 2599-e. Short title. This title shall be known and may be cited as the "New York dignity in pregnancy and childbirth act".

§ 2599-f. Legislative findings. 1. Every person should be entitled to dignity and respect during and after pregnancy and childbirth. Patients should receive the best care possible regardless of their race, gender, age, class, sexual orientation, gender identity, disability, language proficiency, nationality, immigration status, gender expression, or religion.

2. While maternal health continues to make great strides globally, the United States is one of the only nations in the world that has seen an increase in maternal mortality over the past several decades. Today, the United States has the highest maternal mortality rate in the developed world. According to the Centers for Disease Control and Prevention, more than one thousand two hundred women die of maternal cases each year, and another fifty thousand suffer from severe compli-

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

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1 cations. Nationally it is estimated that sixty percent (i.e., the
2 majority) of pregnancy-related deaths are preventable.

3 3. For women of color, particularly Black women, the maternal mortal-
4 ity rate remains three to four times higher than Caucasian women. In New
5 York, the mortality rate for Black women per one hundred thousand births
6 is 51.6, whereas for Caucasian women it is 15.9. New York has a respon-
7 sibility to decrease the number of preventable pregnancy- and child-
8 birth-related deaths.

9 4. Access to prenatal care, socioeconomic status, and general physical
10 health do not fully explain the disparity seen in Black women's maternal
11 mortality and morbidity rates. There is a growing body of evidence that
12 Black women are often treated unfairly and unequally in the health care
13 system.

14 5. Implicit bias is a driver of health disparities in communities of
15 color. At present, health care providers in New York are not required to
16 undergo any implicit bias testing or training. Nor does there exist any
17 system to track the number of incidents where implicit prejudice and
18 implicit stereotypes have led to negative birth and maternal health
19 outcomes.

20 6. It is the intent of the legislature to reduce the effects of
21 implicit bias in pregnancy, childbirth, and postnatal care so that all
22 people are treated with dignity and respect by their health care provid-
23 ers.

24 § 2599-g. Definitions. For the purposes of this title, the following
25 terms shall have the following meanings:

26 1. "Pregnancy-related death" means the death of a person while preg-
27 nant or within three hundred sixty-five days of the end of a pregnancy,
28 irrespective of the duration or site of the pregnancy, from any cause
29 related to, or aggravated by, the pregnancy or its management, but not
30 from accidental or incidental causes.

31 2. "Implicit bias" means a bias in judgment or behavior that results
32 from subtle cognitive processes, including implicit prejudice and
33 implicit stereotypes that often operate at a level below conscious
34 awareness and without intentional control.

35 3. "Implicit prejudice" means prejudicial negative feelings or beliefs
36 about a group that a person holds without being aware of them.

37 4. "Implicit stereotypes" mean the unconscious attributions of partic-
38 ular qualities to a member of a certain social group. Implicit stere-
39 otypes are influenced by experience and are based on learned associ-
40 ations between various qualities and social categories, including race
41 or gender.

42 5. "Perinatal care" means the provision of care during pregnancy,
43 labor, delivery, and postpartum and neonatal periods.

44 § 2599-h. Implicit bias program. 1. A hospital or other facility that
45 provides perinatal care shall implement an evidence-based implicit bias
46 program for all health care providers involved in the perinatal care of
47 patients within those facilities.

48 2. An implicit bias program implemented pursuant to subdivision one of
49 this section shall include all of the following:

50 (a) identification of previous or current unconscious biases and
51 misinformation;

52 (b) identification of personal, interpersonal, institutional, struc-
53 tural, and cultural barriers to inclusion;

54 (c) corrective measures to decrease implicit bias at interpersonal and
55 institutional levels, including ongoing policies and practices for that
56 purpose;

1 (d) information on the effects, including, but not limited to, ongoing
2 personal effects, of historical and contemporary exclusion and
3 oppression of minority communities;

4 (e) information about cultural identity across racial or ethnic
5 groups;

6 (f) information about communicating more effectively across identi-
7 ties, including racial, ethnic, religious, and gender identities;

8 (g) discussion on power dynamics and organizational decision making;

9 (h) discussion on health inequities within the perinatal care field,
10 including information on how implicit bias impacts maternal and infant
11 health outcomes;

12 (i) perspectives of diverse, local constituency groups and experts on
13 particular racial, identity, cultural, and provider-community relations
14 issues in the community; and

15 (j) information on reproductive justice.

16 3. A health care provider involved in the perinatal care of patients
17 in a hospital or other facility that provides perinatal care shall
18 complete initial training through the implicit bias program as imple-
19 mented pursuant to subdivision two of this section. Upon completion of
20 the initial training, a health care provider shall complete additional
21 training through the implicit bias program every two years thereafter,
22 or on a more frequent basis if deemed necessary by the hospital or
23 facility, in order to keep current with changing racial, identity, and
24 cultural trends and best practices in decreasing interpersonal and
25 institutional implicit bias.

26 4. A hospital or other facility that provides perinatal care shall
27 provide a certificate of training completion by a health care provider
28 involved in the perinatal care of patients to another facility or the
29 provider who attended the training upon request. A hospital or facility
30 may accept a certificate of training completion from another hospital or
31 other facility that provides perinatal care to satisfy the training
32 required of health care providers involved in the perinatal care of
33 patients pursuant to subdivision three of this section from a health
34 care provider who works in more than one facility.

35 5. Notwithstanding subdivisions one, two, three and four of this
36 section, if a health care provider involved in the perinatal care of
37 patients is not directly employed by a hospital or facility that
38 provides perinatal care, the hospital or facility where the health care
39 provider provides such care shall offer implicit bias training pursuant
40 to this section to such health care provider.

41 6. The commissioner shall monitor implementation of this section by
42 facilities that provide perinatal care and may inspect records from
43 implicit bias training programs or require such hospitals or facilities
44 to report to the commissioner on the implicit bias training program,
45 including continuing education curricula used and courses offered pursu-
46 ant to this section. Initial training provided pursuant to this section
47 shall be made available to health care providers involved in the perina-
48 tal care within one year of the effective date of this title.

49 § 2599-i. Data collection. 1. The department shall track data on
50 severe maternal morbidity, including, but not limited to, all of the
51 following health conditions:

52 (a) obstetric hemorrhage;

53 (b) hypertension;

54 (c) preeclampsia and eclampsia;

55 (d) venous thromboembolism;

56 (e) sepsis;

1 (f) cerebrovascular accident; and

2 (g) amniotic fluid embolism.

3 2. The data on severe maternal morbidity collected pursuant to subdivi-
4 vision one of this section shall be published at least once every two
5 years after both of the following have occurred:

6 (a) the data has been aggregated by state regions, as defined by the
7 department, to ensure data reflects how regionalized care systems are or
8 should be collaborating to improve maternal health outcomes, or other
9 smaller regional sorting based on standard statistical methods for accu-
10 rate dissemination of public health data without risking a confidential-
11 ity or other disclosure breach; and

12 (b) the data has been disaggregated by racial and ethnic identity.

13 3. The department shall track data on pregnancy-related deaths,
14 including, but not limited to, all of the conditions listed in subdivi-
15 sion one of this section, indirect obstetric deaths, and other maternal
16 disorders predominantly related to pregnancy and complications predomi-
17 nantly related to the puerperium.

18 4. The data on pregnancy-related deaths collected pursuant to subdivi-
19 sions one and three of this section shall be published at least once
20 every three years after both of the following have occurred:

21 (a) the data has been aggregated by state regions, as defined by the
22 department, to ensure data reflects how regionalized care systems are or
23 should be collaborating to improve maternal health outcomes, or other
24 smaller regional sorting based on standard statistical methods for accu-
25 rate dissemination of public health data without risking a confidential-
26 ity or other disclosure breach; and

27 (b) the data has been disaggregated by racial and ethnic identity.

28 § 2. Section 2803-n of the public health law is amended by adding two
29 new subdivisions 5 and 6 to read as follows:

30 5. Each hospital shall provide each expectant mother, upon admission
31 or as soon thereafter as reasonably practicable, written information
32 regarding the patient's right to the following:

33 (a) to be informed of continuing health care requirements following
34 discharge from the hospital;

35 (b) to authorize that a friend or family member may be provided infor-
36 mation about the patient's continuing health care requirements following
37 discharge from the hospital;

38 (c) to participate actively in decisions regarding medical care. To
39 the extent permitted by law, participation shall include the right to
40 refuse treatment;

41 (d) appropriate pain assessment and treatment;

42 (e) to be free from discrimination on the basis of race, color, reli-
43 gion, ancestry, national origin, disability, medical condition, genetic
44 information, marital status, sex, gender, gender identity, gender
45 expression, sexual orientation, citizenship, primary language, or immi-
46 gration status; and

47 (f) to file a complaint with the department of health and the medical
48 board of New York and information on how to file the complaint.

49 6. Each hospital shall provide each expectant mother, upon admission
50 or as soon thereafter as reasonably practicable, written information
51 regarding the hospital's policies and procedures for contacting next of
52 kin regarding pregnancy-related deaths, and how to seek legal counsel in
53 the event of any pregnancy-related deaths or injuries.

54 § 3. Subdivision 4 of section 4141 of the public health law is amended
55 by adding a new paragraph (e) to read as follows:

1 (e) The medical certificate shall include information indicating
2 whether the decedent was pregnant at the time of death, or within a year
3 prior to the death, if known, as determined by observation, autopsy, or
4 review of the medical record. This paragraph shall not be interpreted to
5 require the performance of a pregnancy test on a decedent, or to require
6 a review of medical records in order to determine pregnancy.

7 § 4. This act shall take effect immediately.