STATE OF NEW YORK

4159

2023-2024 Regular Sessions

IN ASSEMBLY

February 10, 2023

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law and the public health law, in relation to enacting the "Healthy Cardiac Monitoring Act"

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

Section 1. Short title. This act shall be known and may be cited as the "Healthy Cardiac Monitoring Act".

§ 2. Section 305 of the education law is amended by adding a new subdivision 60 to read as follows:

60. a. The commissioner, in conjunction with the commissioner of health, shall promulgate and review, as necessary, rules and regulations relating to annual physical examinations of students nineteen years of age or younger. Each such examination shall be conducted by a physician, physician assistant, or nurse practitioner and shall include questions that evaluate such child's family history with respect to the cardiac conditions contained in the "Preparticipation Physical Evaluation" (PPE) form developed jointly by the American Academy of Family Physicians, American Academy of Pediatrics, American College of Sports Medicine, American Medical Society for Sports Medicine, American Orthopaedic Society for Sports Medicine, and American Osteopathic Academy of Sports Medicine and the American Heart Association's fourteen point screening for heart disease in the young.

b. The commissioner and the commissioner of health shall develop a statewide cardiac evaluation form for use in all such examinations which shall, in addition to the questions contained in the PPE form, include the following questions relating to the heart health history of the child:

"(i) Have you ever fainted, passed out, or had an unexplained seizure suddenly and without warning, especially during exercise or in response

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

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to sudden loud noises, such as doorbells, alarm clocks, or ringing telephones?

(ii) Have you ever had exercise related chest pain or shortness of breath?

(iii) Has anyone in your immediate family (parents, grandparents, siblings) or other, more distant relatives (aunts, uncles, cousins) died of heart problems or had an unexpected sudden death before age fifty? This would include unexpected drownings, unexplained auto crashes in which the relative was driving, or sudden infant death syndrome (SIDS).

(iv) Are you related to anyone with hypertrophic cardiomyopathy or hypertrophic obstructive cardiomyopathy, Marfan syndrome, arrhythmogenic cardiomyopathy, long QT syndrome, short QT syndrome, Brugada syndrome, or catecholaminergic polymorphic ventricular tachycardia, Wolff-Parkinson-White syndrome or anyone younger than fifty years of age with a pacemaker or implantable defibrillator?"

c. The commissioner and the commissioner of health shall develop a course of instruction in childhood cardiac screening for all physicians, physician assistants, or nurse practitioners who perform annual physical examinations pursuant to this subdivision and article nineteen of this chapter. Such course of instruction shall include a pamphlet published by the department and the department of health containing the information developed pursuant to section nine hundred twenty-three of this chapter and subdivision thirty-one of section two hundred six of the public health law. Such course of instruction shall be required to be completed every four years by all physicians, physician assistants, or nurse practitioners subject to the provisions of this subdivision. The commissioner shall issue a certificate upon successful completion of such course of instruction by such physician, physician assistant, or nurse practitioner, who shall maintain such certificate for not less than four years following completion of such course. Every physician, physician assistant, and nurse practitioner subject to this subdivision shall, in any application for renewal of such physician's, physician assistant's, or nurse practitioner's professional license or certification issued pursuant to this chapter, attest that such professional has completed such course of instruction and read the pamphlet described in this paragraph within the four-year period preceding such application.

d. The regulations promulgated pursuant to this subdivision shall also prohibit any student enrolled in any primary or secondary school from participating in an athletic program, as defined in subdivision nine of section thirty-two hundred eight-a of this chapter, unless such student shall have undergone the physical examination required by this subdivision, including the additional questions relating to such student's cardiac health history within the sixty days preceding the first practice of the applicable athletic season.

e. The pamphlet described in paragraph c of this subdivision shall be distributed, at no charge, to all public school districts in the state and shall be made available to all school districts in the state upon request. Beginning in the first school year that commences after the effective date of this subdivision, all school districts in receipt of such pamphlet shall disseminate it to all parents or guardians of students participating in athletic programs upon the completion of athletic program permission forms and as part of the student's preparticipation physical examination. Such student and such student's parent or guardian shall certify in writing that they received and reviewed

such pamphlet. Such pamphlet shall be updated by the commissioner and the commissioner of health as necessary.

§ 3. Subdivision 1 of section 903 of the education law, as amended by chapter 183 of the laws of 2017, is amended to read as follows:

1. A health certificate shall be furnished by each student in the public schools upon his or her entrance in such schools and upon his or her entry into the grades prescribed by the commissioner in regulations, provided that such regulations shall require such certificates [~~at least twice~~] annually during the elementary grades and [~~twice in the~~] secondary grades. An examination and health history of any child may be required by the local school authorities at any time in their discretion to promote the educational interests of such child. Each certificate shall be signed by a duly licensed physician, physician assistant, or nurse practitioner, who is authorized by law to practice in this state, and consistent with subdivision three of section [~~six thousand nine~~] sixty-nine hundred two of this chapter, or by a duly licensed physician, physician assistant, or nurse practitioner, who is authorized to practice in the jurisdiction in which the examination was given, provided that the commissioner has determined that such jurisdiction has standards of licensure and practice comparable to those of New York. Each such certificate shall describe the condition of the student when the examination was made, which shall not be more than twelve months prior to the commencement of the school year in which the examination is required, and shall state whether such student is in a fit condition of health to permit his or her attendance at the public schools. The examination may include a diabetes risk analysis. Each such certificate shall also state the student's body mass index (BMI) and weight status category. For purposes of this section, BMI is computed as the weight in kilograms divided by the square of height in meters or the weight in pounds divided by the square of height in inches multiplied by a conversion factor of 703. Weight status categories for children and adolescents shall be as defined by the commissioner of health. Each such certificate shall also include an evaluation of the child's family history with respect to cardiac conditions in accordance with the provisions of subdivision sixty of section three hundred five of this chapter and subdivision thirty-two of section two hundred six of the public health law. In all school districts such physician, physician assistant or nurse practitioner shall determine whether a one-time test for sickle cell anemia is necessary or desirable and he or she shall conduct such a test and the certificate shall state the results.

§ 4. Subdivision 1 of section 904 of the education law, as amended by section 12 of part B of chapter 58 of the laws of 2007, is amended to read as follows:

1. Each principal of a public school, or his or her designee, shall report to the director of school health services having jurisdiction over such school, the names of all students who have not furnished health certificates as provided in section nine hundred three of this article, or who are children with disabilities, as defined by article eighty-nine of this chapter, and the director of school health services shall cause such students to be separately and carefully examined and tested to ascertain whether any student has defective sight or hearing, or any other physical disability which may tend to prevent him or her from receiving the full benefit of school work, or from requiring a modification of such work to prevent injury to the student or from receiving the best educational results. Each examination shall also include a calculation of the student's body mass index (BMI) and weight

status category. For purposes of this section, BMI is computed as the weight in kilograms divided by the square of height in meters or the weight in pounds divided by the square of height in inches multiplied by a conversion factor of 703. Weight status categories for children and adolescents shall be as defined by the commissioner of health. In all school districts, such physician, physician assistant or nurse practitioner shall determine whether a one-time test for sickle cell anemia is necessary or desirable and he or she shall conduct such tests and the certificate shall state the results. If it should be ascertained, upon such test or examination, that any of such students have defective sight or hearing, or other physical disability, including sickle cell anemia, as above described, the principal or his or her designee shall notify the parents of, or other persons in parental relation to, the child as to the existence of such disability. If the parents or other persons in parental relation are unable or unwilling to provide the necessary relief and treatment for such students, such fact shall be reported by the principal or his or her designee to the director of school health services, whose duty it shall be to provide relief for such students. Each school and school district chosen as part of an appropriate sampling methodology shall participate in surveys directed by the commissioner of health pursuant to the public health law in relation to students' BMI and weight status categories as determined by the examination conducted pursuant to this section and which shall be subject to audit by the commissioner of health. Such surveys shall contain the information required pursuant to this subdivision in relation to students' BMI and weight status categories in aggregate. Parents or other persons in parental relation to a student may refuse to have the student's BMI and weight status category included in such survey. Each school and school district shall provide the commissioner of health with any information, records and reports he or she may require for the purpose of such audit. The BMI and weight status survey and audit as described in this section shall be conducted consistent with confidentiality requirements imposed by federal law. Data collection for such surveys shall commence on a voluntary basis at the beginning of the two thousand seven academic school year, and by all schools chosen as part of the sampling methodology at the beginning of the two thousand eight academic school year. The department shall also utilize the collected data to develop a report of child obesity and obesity related diseases. **Each examination shall also include an evaluation of the child's family history with respect to cardiac conditions in accordance with the provisions of subdivision sixty of section three hundred five of this chapter and subdivision thirty-two of section two hundred six of the public health law.**

§ 5. The education law is amended by adding a new section 925 to read as follows:

§ 925. Preparticipation physical examinations for participation in an athletic program. No school shall allow any student to participate in an athletic program, as defined in subdivision nine of section thirty-two hundred eight-a of this chapter until such student receives an examination conducted by a physician, physician assistant, or nurse practitioner and includes questions that evaluate such child's family history with respect to the cardiac conditions contained in the "Preparticipation Physical Evaluation" (PPE) form as described in subdivision sixty of section three hundred five of this chapter. Such physical examination shall be conducted by a physician, physician assistant, or nurse practitioner within six weeks of the first day of official practice in the applicable athletic season. No school shall permit a student to partic-

ipate in any athletic program unless it receives from such student a completed PPE form signed by the physician, physician assistant, or nurse practitioner who conducted such examination.

§ 6. The education law is amended by adding a new section 6541-a to read as follows:

§ 6541-a. Childhood cardiac screening requirements. 1. To qualify for a license as a physician assistant, if such person will be performing annual physical examinations of children nineteen years of age or younger, including examinations prior to a student's participation in a school and/or community-based organization sponsored interscholastic or intramural athletic team or squad, such person shall complete a childhood cardiac screening professional development module as established pursuant to paragraph c of subdivision sixty of section three hundred five of this chapter.

2. Every person who completes the childhood cardiac screening professional development module as required by subdivision one of this section shall retain on file at their place of employment a hard copy certificate of completion of such module. Such certificate shall be made available upon request.

3. Upon every request for renewal, the licensee shall attest to completing the childhood cardiac screening professional development module within the past four years.

4. Any person who is required under subdivision one of this section to fulfill the requirements of this section who is found to have not completed such requirements, or who is found to have falsely certified their completion of the requirements of this section shall be found guilty of professional misconduct pursuant to article one hundred thirty-one-A of this title and shall receive a penalty in accordance with section sixty-five hundred eleven of this title.

§ 7. The education law is amended by adding a new section 6524-a to read as follows:

§ 6524-a. Childhood cardiac screening requirements. 1. To qualify for a license as a physician, if such person will be performing annual physical examinations of children nineteen years of age or younger, including examinations prior to a student's participation in a school and/or community-based organization sponsored interscholastic or intramural athletic team or squad, such person shall complete a childhood cardiac screening professional development module as established pursuant to paragraph c of subdivision sixty of section three hundred five of this chapter.

2. Every person who completes the childhood cardiac screening professional development module as required by subdivision one of this section shall retain on file at their place of employment a hard copy certificate of completion of such module. Such certificate shall be made available upon request.

3. Upon every request for renewal, the licensee shall attest to completing the childhood cardiac screening professional development module within the past four years.

4. Any person who is required under subdivision one of this section to fulfill the requirements of this section who is found to have not completed such requirements, or who is found to have falsely certified their completion of the requirements of this section shall be found guilty of professional misconduct pursuant to article one hundred thirty-one-A of this title and shall receive a penalty in accordance with section sixty-five hundred eleven of this title.

§ 8. The education law is amended by adding a new section 6910-a to read as follows:

§ 6910-a. Childhood cardiac screening requirements. 1. To qualify for a license as a nurse practitioner, if such person will be performing annual physical examinations of children nineteen years of age or younger, including examinations prior to a student's participation in a school and/or community-based organization sponsored interscholastic or intramural athletic team or squad, such person shall complete a childhood cardiac screening professional development module as established pursuant to paragraph c of subdivision sixty of section three hundred five of this chapter.

2. Every person who completes the childhood cardiac screening professional development module as required by subdivision one of this section shall retain on file at their place of employment a hard copy certificate of completion of such module. Such certificate shall be made available upon request.

3. Upon every request for renewal, the licensee shall attest to completing the childhood cardiac screening professional development module within the past four years.

4. Any person who is required under subdivision one of this section to fulfill the requirements of this section who is found to have not completed such requirements, or who is found to have falsely certified their completion of the requirements of this section shall be found guilty of professional misconduct pursuant to article one hundred thirty-one-A of this title and shall receive a penalty in accordance with section sixty-five hundred eleven of this title.

§ 9. Section 206 of the public health law is amended by adding a new subdivision 32 to read as follows:

32. (a) The commissioner, in conjunction with the commissioner of education, shall promulgate rules and regulations to effectuate the provisions described in subdivision sixty of section three hundred five of the education law.

(b) When creating the pamphlet described in paragraph c of subdivision sixty of section three hundred five of the education law, the commissioner shall provide the commissioner of education with the following information which shall be included within such pamphlet:

(i) an explanation of sudden cardiac arrest and its incidence;

(ii) a description of early warning signs of sudden cardiac arrest; and

(iii) an overview of the options that are privately available to screen for cardiac conditions that may lead to sudden cardiac arrest, including a statement about the limitations of such options.

§ 10. This act shall take effect on the first of July next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.