STATE OF NEW YORK

7204

2023-2024 Regular Sessions

IN ASSEMBLY

May 12, 2023

Introduced by M. of A. BICHOTTE HERMELYN, ANDERSON, WALKER -- read once and referred 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:

Section 1. This act shall be known and may be cited as the "Kennedy Grey Law".

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

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

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

(i) protocols for assigning primary responsibility to one physician, who shall communicate the condition of the fetus to the mother and family, and inform and coordinate staff to assist with labor, delivery, and postmortem procedures;

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

(iii) the establishment of a bereavement checklist, and an informational pamphlet to be given to a family experiencing a stillbirth that includes information about funeral and cremation options;

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

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

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

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

(vii) protocols to ensure that the physician assigned primary responsibility for communicating with the family discusses the importance of an autopsy for the family, including the significance of autopsy findings on future pregnancies and the significance that data from the autopsy may have for other families;

(viii) protocols to ensure coordinated visits to the family by a hospital staff trained to address the psychosocial needs of a family experiencing a stillbirth, provide guidance in the bereavement process, assist with completing any forms required in connection with the stillbirth and autopsy, and offer the family the opportunity to meet with the hospital chaplain or other individual from the family's religious community; and

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

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

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

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

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

(A) if the parents consent to a complete autopsy: the weight of the fetus and placenta, head circumference, length of fetus, foot length if stillbirth occurred before twenty-three weeks of gestation, and notation of any dysmorphic feature; photograph of the whole body, frontal and profile of face, extremities and palms, close-up of any specific abnor-

malities; examination of the placenta and umbilical cord; and gross and microscopic examination of membranes and umbilical cord; or

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

(aa) shall establish and maintain a database that contains a confidential record of all data obtained pursuant to paragraph (z) of this subdivision. The data shall be made available to the public through the department website, except that no data shall identify any person to whom the data relate.

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

§ 4. This act shall take effect sixty days after it shall have become a law; provided, however, that no later than five years after the effective date of this act, the commissioner of health shall report to the governor, and to the legislature, on the findings of the evaluation required pursuant to section three of this act, and shall include in the report any recommendations for legislative action that the commissioner deems appropriate. 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 date.