STATE OF NEW YORK

9140

IN ASSEMBLY

February 8, 2024

Introduced by M. of A. JACKSON -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing a fetal infant mortality review board

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

Section 1. The public health law is amended by adding a new section 2509-b to read as follows:

§ 2509-b. Fetal infant mortality review board. 1. As used in this section, unless the context requires otherwise:

(a) "Board" means a fetal infant mortality review board established by this section, referred to in this section as the "state board", or a board operating under this section established by the city of New York, with or without an agreement with the commissioner, referred to in this section as the "city board".

(b) "Fetal infant death" means fetal, neonatal, and infant deaths within one year of birth.

(c) "Severe fetal infant morbidity" or "morbidity" means unexpected outcomes of pregnancy, labor, or delivery that result in significant short- or long-term consequences to a child's health.

(d) "City commissioner" means the commissioner of the New York city department of health and mental hygiene.

2. (a) There is hereby established in the department the fetal infant mortality review board for the purpose of reviewing fetal infant deaths and fetal infant morbidity and developing and disseminating findings, recommendations, and best practices to contribute to the prevention of fetal infant mortality and morbidity. The board shall assess the cause of death, factors leading to death and preventability for each fetal infant death reviewed and, in the discretion of the board, cases of severe fetal infant morbidity, and shall develop and disseminate strategies for reducing the risk of fetal infant mortality and morbidity, including risk resulting from racial, economic, or other disparities. The commissioner may delegate the authority to conduct maternal mortality reviews.

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

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(b) The commissioner may enter into an agreement with the city of New York providing:

(i) that the functions of the state board relating to fetal infant deaths and severe fetal infant morbidity occurring within the city of New York shall be conducted by the city board;

(ii) the city board shall provide to the state board the results of its reviews, relevant information in the possession of the city board, and the recommendations of the city board; and

(iii) the department and the state board shall provide information and assistance to the city board for the performance of its functions.

(c) Nothing in this section shall prevent the city of New York from establishing, without an agreement with the commissioner, a board relating to fetal infant deaths and severe fetal infant morbidity occurring within the city of New York.

3. (a) The members of the state board shall be comprised of multidisciplinary experts in the field of fetal infant mortality, fetal, neonatal and infant health and public health, and shall include health care professionals or other experts who serve and are representative of the racial, ethnic, and socioeconomic diversity of the state and, to the extent possible, the medically underserved areas of the state or areas of the state with disproportionately high occurrences of fetal infant mortality or morbidity.

(b) The state board shall be composed of at least fifteen members, all of whom shall be appointed by the commissioner.

(c) The terms of the state board members shall be three years. The commissioner may choose to reappoint state board members to additional three-year terms.

(d) A majority of the appointed membership of the state board, but no less than three, shall constitute a quorum.

(e) When any member of the state board fails to attend three consecutive regular meetings, unless good cause is shown for such absence, that membership may be deemed vacant for purposes of the appointment of a successor.

(f) Meetings of the state board shall be held at least twice a year but may be held more frequently as deemed necessary, subject to request of the department.

(g) Members of the state and city boards shall be indemnified under section seventeen of the public officers law or section fifty-k of the general municipal law, as the case may be.

(h) Members of the state board shall not be compensated for their participation on the board but shall receive reimbursement for their ordinary and necessary expenses of participation.

(i) Membership on a board shall not disqualify any person from holding any public office or employment.

4. (a) The commissioner may request and shall receive upon request from any department, division, board, bureau, commission, local health departments or other agency of the state or political subdivision thereof or any public authority, such information, including but not limited to death records, medical records, autopsy reports, toxicology reports, hospital discharge records, birth records and any other information that will help the department under this section to properly carry out its functions, powers and duties. The commissioner, or the city commissioner for the fetal infant deaths or fetal infant morbidity occurring within the vital statistics registration district of the city of New York, may request and shall receive upon request from any department, division, board, commission or other agency under the authority of the city of New

York as well as hospitals established pursuant to article twenty-eight of this chapter, birthing facilities, medical examiners, coroners and coroner physicians and any other facility providing services associated with fetal infant mortality or fetal infant morbidity, such information, including, but not limited to, death records, medical records, autopsy reports, toxicology reports, hospital discharge records, birth records and any other information that will help the department under this section to properly carry out its functions, powers and duties.

(b) The commissioner and the city commissioner shall receive and may solicit voluntary information, including oral or written statements, relating to any fetal infant death and case of severe fetal infant morbidity, from any family member or other interested party relating to any case that may come before the board. Oral statements received under this paragraph shall be transcribed or summarized in writing. The commissioner and the city commissioner shall transmit that information to the board considering the case.

(c) Before transmitting any information to the board, the commissioner or the city commissioner shall remove all personal identifying information of the fetus or infant, parent's of the fetus or infant, health care practitioner or practitioners, or anyone else individually named in such information, as well as the hospital or facility that treated the fetus or infant, and any other information such as geographic location that may inadvertently identify the fetus or infant, practitioner, or facility. This paragraph shall not preclude the transmitting of information to the board that is reasonably necessary to enable the board to perform an appropriate review under this section.

5. Each board:

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

(b) shall make and report findings and recommendations to the commissioner, and in the case of the city board to the commissioner and the city commissioner regarding the cause of death, factors leading to death, and preventability of each fetal infant death case, and each case of severe fetal infant morbidity reviewed by the board, by reviewing relevant information for each case in the state or the city of New York, as the case may be, and consulting with experts as needed to evaluate the information for each death;

(c) shall develop and deliver to the commissioner, and in the case of the city board to the commissioner and the city commissioner for areas of focus, recommendations on:

(i) issues of severe fetal infant morbidity;

(ii) addressing social determinants of fetal infant health, including racial, economic or other historical and contemporary injustices which lead to disparities in fetal infant outcomes;

(iii) policies, best practices, and strategies to reduce fetal infant mortality and morbidity;

(iv) methods of improving services and resources; and

(v) methods of implementing continuous quality improvement in fetal infant mortality and morbidity;

(d) shall issue an annual public report on its findings and recommendations and may also issue public reports more frequently;

(e) shall implement needs assessment, quality assurance and policy development at the local level, which are essential to public health functions;

(f) shall identify and address systemic community conditions contributing to fetal infant deaths;

(g) shall implement a surveillance system to monitor incidence, etiologies, and contributing factors and which can describe effects of health care system change;

(h) shall identify system wide challenges to improving fetal infant health care;

(i) shall assess, plan, improve, and monitor the service systems and community resources that support and promote the health and well-being of women, fetuses, infants, and families;

(j) may, in addition to the findings and recommendations made under this subdivision, and consistent with all applicable confidentiality protections, bring any particular matter to the attention of the commissioner or the city commissioner, and in the case of the city board to the commissioner and the city commissioner; and

(k) may request and shall receive the assistance of the commissioner in the instance of the state board and the city commissioner in the instance of the city board in carrying out its functions.

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

7. The commissioner and the city commissioner, within their respective legal authority, may use the recommendations and findings of the boards to develop guidance and other actions relating to best practices, and shall disseminate information relating to that guidance and other actions to appropriate health care providers.

§ 2. This act shall take effect immediately.