

STATE OF NEW YORK

9140--A

IN ASSEMBLY

February 8, 2024

Introduced by M. of A. JACKSON, GONZALEZ-ROJAS, TAPIA, ZINERMAN, SHRESTHA -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, 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 public health law is amended by adding a new section
2 2509-b to read as follows:

3 § 2509-b. Fetal and infant mortality review board. 1. For the purposes
4 of this section, unless the context requires otherwise:

5 (a) "Board" means a fetal and infant mortality review board estab-
6 lished by this section, referred to in this section as the "state
7 board", or a board operating under this section established by the city
8 of New York, with or without an agreement with the commissioner,
9 referred to in this section as the "city board".

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

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

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

17 2. (a) There is hereby established in the department the fetal and
18 infant mortality review board for the purpose of reviewing fetal and
19 infant deaths and fetal and infant morbidity and developing and dissem-
20 inating findings, recommendations, and best practices to contribute to
21 the prevention of fetal and infant mortality and morbidity. The board
22 shall assess the cause of death, factors leading to death and preventa-
23 bility for each fetal and infant death reviewed and, in the discretion
24 of the board, cases of severe fetal and infant morbidity, and shall
25 develop and disseminate strategies for reducing the risk of fetal and
26 infant mortality and morbidity, including risk resulting from racial,

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

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

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

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

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

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

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

17 3. (a) The members of the state board shall be comprised of multidis-
18 ciplinary experts in the field of fetal and infant mortality, fetal,
19 neonatal and infant health and public health, maternal health, obstet-
20 rics and gynecology, and shall include health care professionals or
21 other experts who serve and are representative of the racial, ethnic,
22 and socioeconomic diversity of the state and, to the extent possible,
23 the medically underserved areas of the state or areas of the state with
24 disproportionately high occurrences of fetal and infant mortality or
25 morbidity.

26 (b) The state board shall be composed of nine members, appointed as
27 follows: three members shall be appointed by the governor; two
28 members shall be appointed by the speaker of the assembly; two members
29 shall be appointed by the temporary president of the senate; one member
30 shall be appointed by the minority leader of the senate; and one
31 member shall be appointed by the minority leader of the assembly.

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

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

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

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

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

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

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

52 4. (a) The commissioner may request and shall receive upon request
53 from any department, division, board, bureau, commission, local health
54 departments or other agency of the state or political subdivision there-
55 of or any public authority, such information, including but not limited
56 to death records, medical records, autopsy reports, toxicology reports,

1 hospital discharge records, birth records and any other information that
2 will help the department under this section to properly carry out its
3 functions, powers and duties. The commissioner, or the city commissioner
4 for the fetal and infant deaths or fetal and infant morbidity occurring
5 within the vital statistics registration district of the city of New
6 York, may request and shall receive upon request from any department,
7 division, board, commission or other agency under the authority of the
8 city of New York as well as hospitals established pursuant to article
9 twenty-eight of this chapter, birthing facilities, medical examiners,
10 coroners and coroner physicians and any other facility providing
11 services associated with fetal and infant mortality or fetal and infant
12 morbidity, such information, including, but not limited to, death
13 records, medical records, autopsy reports, toxicology reports, hospital
14 discharge records, birth records and any other information that will
15 help the department under this section to properly carry out its func-
16 tions, powers and duties.

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

25 (c) Before transmitting any information to the board, the commissioner
26 or the city commissioner shall remove all personal identifying informa-
27 tion of the fetus or infant, individuals experiencing pregnancy loss or
28 parents of infant, health care practitioner or practitioners, or anyone
29 else individually named in such information, as well as the hospital or
30 facility that treated the fetus or infant, and any other information
31 such as geographic location that may inadvertently identify the fetus or
32 infant, practitioner, or facility.

33 (d) Information received or transmitted under this section is not
34 admissible in any civil, administrative, criminal, or family court
35 proceeding that seeks to punish or prosecute the pregnant or birthing
36 person and shall not be used as a basis of a report to the statewide
37 central register of child abuse and maltreatment.

38 **5. Each board:**

39 (a) shall collect and perform case reviews of fetal and infant deaths;
40 (b) shall make and report findings and recommendations to the commis-
41 sioner, and in the case of the city board to the commissioner and the
42 city commissioner regarding the cause of death, factors leading to
43 death, and preventability of each fetal or infant death case, and each
44 case of severe fetal or infant morbidity reviewed by the board, by
45 reviewing relevant information for each case in the state or the city of
46 New York, as the case may be, and consulting with experts as needed to
47 evaluate the information for each death; provided that no information
48 which, alone or in combination, would permit an individual who experi-
49 enced a pregnancy loss or infant death to be identified may be requested
50 or shared with consulting experts, and that information reviewed or
51 findings made by the board shall not be admissible in any civil, admin-
52 istrative, criminal, or family court proceeding and shall not be used as
53 a basis of a report to the statewide central register of child abuse and
54 maltreatment;

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

4 (i) issues of severe fetal and infant morbidity;

5 (ii) addressing social determinants of fetal and infant health,
6 including racial, economic or other historical and contemporary injus-
7 tics which lead to disparities in fetal and infant outcomes;

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

10 (iv) methods of improving services and resources; and

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

13 (d) shall issue an annual public report on its findings and recommen-
14 dations and may also issue public reports more frequently;

15 (e) shall identify and address systemic community conditions contrib-
16 uting to fetal and infant deaths;

17 (f) shall implement a surveillance system to monitor incidence, etiol-
18 ogies, and contributing factors and which can describe effects of health
19 care system change;

20 (g) shall identify system wide challenges to improving fetal and
21 infant health care;

22 (h) may, in addition to the findings and recommendations made under
23 this subdivision, and consistent with all applicable confidentiality
24 protections, bring any particular matter to the attention of the commis-
25 sioner or the city commissioner, and in the case of the city board to
26 the commissioner and the city commissioner; and

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

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

53 7. The commissioner and the city commissioner, within their respective
54 legal authority, may use the recommendations and findings of the boards
55 to develop guidance and other actions relating to best practices, and

1 shall disseminate information relating to that guidance and other
2 actions to appropriate health care providers.

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