

STATE OF NEW YORK

9140--B

IN ASSEMBLY

February 8, 2024

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

AN ACT to amend the public health law and the administrative code of the
city of New York, in relation to establishing fetal and infant mortal-
ity review boards

The People of the State of New York, represented in Senate and Assem-
bly, 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

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

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1 develop and disseminate strategies for reducing the risk of fetal and
2 infant mortality and morbidity, including risk resulting from racial,
3 economic, or other disparities. The commissioner may delegate the
4 authority to conduct fetal and infant mortality reviews.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 4. (a) The commissioner may request and shall receive upon request
55 from any department, division, board, bureau, commission, local health
56 departments or other agency of the state or political subdivision there-

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

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

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

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

40 **5. Each board:**

41 (a) shall collect and perform case reviews of fetal and infant deaths;
42 (b) shall make and report findings and recommendations to the commis-
43 sioner, and in the case of the city board to the commissioner and the
44 city commissioner regarding the cause of death, factors leading to
45 death, and preventability of each fetal or infant death case, and each
46 case of severe fetal or infant morbidity reviewed by the board, by
47 reviewing relevant information for each case in the state or the city of
48 New York, as the case may be, and consulting with experts as needed to
49 evaluate the information for each death; provided that no information
50 which, alone or in combination, would permit an individual who experi-
51 enced a pregnancy loss or infant death to be identified may be requested
52 or shared with consulting experts, and that information reviewed or
53 findings made by the board shall not be admissible in any civil, admin-
54 istrative, criminal, or family court proceeding and shall not be used as
55 a basis of a report to the statewide central register of child abuse and
56 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 tices 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. The administrative code of the city of New York is amended by
4 adding a new section 17-166.1 to read as follows:

5 § 17-166.1 Fetal and infant mortality review board. a. For the
6 purposes of this section, unless the context requires otherwise:

7 (1) "Review board" means the fetal and infant mortality review board
8 established by this section.

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

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

14 b. There is hereby established in the department the fetal and infant
15 mortality review board for the purpose of reviewing fetal and infant
16 deaths and fetal and infant morbidity and developing and disseminating
17 findings, recommendations, and best practices to contribute to the
18 prevention of fetal and infant mortality and morbidity. The review
19 board shall assess the cause of death, factors leading to death and
20 preventability for each fetal and infant death reviewed and, in the
21 discretion of the review board, cases of severe fetal and infant
22 morbidity, and shall develop and disseminate strategies for reducing
23 the risk of fetal and infant mortality and morbidity, including
24 risk resulting from racial, economic, or other disparities. The
25 commissioner may delegate the authority to conduct fetal and infant
26 mortality reviews.

27 c. (1) The members of the review board shall be comprised of multidis-
28 ciplinary experts in the field of fetal and infant mortality, fetal,
29 neonatal and infant health and public health, maternal health, obstet-
30 rics and gynecology, and shall include health care professionals or
31 other experts who serve and are representative of the racial, ethnic,
32 and socioeconomic diversity of the city of New York and, to the extent
33 possible, the medically underserved areas of the city of New York or
34 areas of the city of New York with disproportionately high occurrences
35 of fetal and infant mortality or morbidity.

36 (2) The review board shall be composed of nine members, all of whom
37 shall be appointed by the commissioner.

38 (3) The terms of the review board members shall be three years. The
39 commissioner may choose to reappoint review board members to additional
40 three-year terms.

41 (4) A majority of the appointed membership of the review board, but no
42 less than five, shall constitute a quorum.

43 (5) When any member of the review board fails to attend three consec-
44 utive regular meetings, unless good cause is shown for such absence,
45 that membership may be deemed vacant for purposes of the appointment of
46 a successor.

47 (6) Meetings of the review board shall be held at least twice a year
48 but may be held more frequently as deemed necessary, subject to request
49 of the department.

50 (7) Members of the review board shall be indemnified under section
51 seventeen of the public officers law or section fifty-k of the general
52 municipal law, as the case may be.

53 (8) Members of the review board shall not be compensated for their
54 participation on the review board but shall receive reimbursement for
55 their ordinary and necessary expenses of participation.

1 (9) Membership on the review board shall not disqualify any person
2 from holding any public office or employment.

3 d. (1) The commissioner may request and shall receive upon request
4 from any department, division, board, bureau, commission, local health
5 department or other agency of the state or political subdivision thereof
6 or any public authority, such information, including but not limited to
7 death records, medical records, autopsy reports, toxicology reports,
8 hospital discharge records, birth records and any other information that
9 will help the department under this section to properly carry out its
10 functions, powers and duties. The commissioner may request and shall
11 receive upon request from any department, division, board, commission or
12 other agency under the authority of the city of New York as well as
13 hospitals established pursuant to article twenty-eight of the public
14 health law, birthing facilities, medical examiners, coroners and coroner
15 physicians and any other facility providing services associated with
16 fetal and infant mortality or fetal and infant morbidity, such informa-
17 tion, including, but not limited to, death records, medical records,
18 autopsy reports, toxicology reports, hospital discharge records, birth
19 records and any other information that will help the department under
20 this section to properly carry out its functions, powers and duties.

21 (2) The commissioner shall receive and may solicit voluntary informa-
22 tion, including oral or written statements, relating to any fetal and
23 infant death and case of severe fetal and infant morbidity, from any
24 family member or other interested party relating to any case that may
25 come before the review board. Oral statements received under this para-
26 graph shall be transcribed or summarized in writing. The commissioner
27 shall transmit that information to the review board considering the
28 case.

29 (3) Before transmitting any information to the review board, the
30 commissioner shall remove all personal identifying information of the
31 fetus or infant, individuals experiencing pregnancy loss or parents of
32 the infant, health care practitioner or practitioners, or anyone else
33 individually named in such information, as well as the hospital or
34 facility that treated the fetus or infant, and any other information
35 such as geographic location that may inadvertently identify the fetus or
36 infant, fetus or infant's family, practitioner, or facility.

37 (4) Information received or transmitted under this section is not
38 admissible in any civil, administrative, criminal, or family court
39 proceeding that seeks to punish or prosecute the pregnant or birthing
40 person and shall not be used as a basis of a report to the Statewide
41 Central Register of Child Abuse and Maltreatment.

42 e. The review board:

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

44 (2) shall make and report findings and recommendations to the commis-
45 sioner regarding the cause of death, factors leading to death, and
46 preventability of each fetal or infant death case, and each case of
47 severe fetal or infant morbidity reviewed by the review board, by
48 reviewing relevant information for each case in the city of New York and
49 consulting with experts as needed to evaluate the information for each
50 death provided that no information which, alone or in combination, would
51 permit an individual who experienced a pregnancy loss or infant death to
52 be identified may be requested or shared with consulting experts, and
53 that information reviewed or findings made by the board shall not be
54 admissible in any civil, administrative, criminal, or family court
55 proceeding and shall not be used as a basis of a report to the Statewide
56 Central Register of Child Abuse and Maltreatment;

1 (3) shall develop and deliver to the commissioner recommendations on:
2 (A) issues of severe fetal and infant morbidity;
3 (B) addressing social determinants of fetal and infant health, includ-
4 ing racial, economic or other historical and contemporary injustices
5 which lead to disparities in fetal and infant outcomes;
6 (C) policies, best practices, and strategies to reduce fetal and
7 infant mortality and morbidity;
8 (D) methods of improving services and resources; and
9 (E) methods of implementing continuous quality improvement in fetal
10 and infant mortality and morbidity;
11 (4) shall issue an annual public report on its findings and recommen-
12 dations and may also issue public reports more frequently;
13 (5) shall identify and address systemic community conditions contrib-
14 uting to fetal and infant deaths;
15 (6) shall implement a surveillance system to monitor incidence, etiol-
16 ogies, and contributing factors and which can describe effects of health
17 care system change;
18 (7) shall identify system wide challenges to improving fetal and
19 infant health care;
20 (8) may, in addition to the findings and recommendations made under
21 this subdivision, and consistent with all applicable confidentiality
22 protections, bring any particular matter to the attention of the commis-
23 sioner; and
24 (9) may request and shall receive the assistance of the commissioner
25 in carrying out its functions.

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

49 g. The commissioner may use the recommendations and findings of the
50 review board to develop guidance and other actions relating to best
51 practices, and shall disseminate information relating to that guidance
52 and other actions to appropriate health care providers.

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