

STATE OF NEW YORK

9168--A

IN ASSEMBLY

February 12, 2024

Introduced by M. of A. JACKSON -- 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 administrative code of the city of New York, 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 administrative code of the city of New York is amended
2 by adding a new section 17-166.1 to read as follows:

3 § 17-166.1 Fetal and infant mortality review board. a. For the
4 purposes of this section, unless the context requires otherwise:

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

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

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

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

24 c. (1) The members of the review board shall be comprised of multidis-
25 ciplinary experts in the field of fetal and infant mortality, fetal,
26 neonatal and infant health and public health, maternal health, obstet-
27 rics and gynecology, and shall include health care professionals or

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

LBD10351-03-4

1 other experts who serve and are representative of the racial, ethnic,
2 and socioeconomic diversity of the city of New York and, to the extent
3 possible, the medically underserved areas of the city of New York or
4 areas of the city of New York with disproportionately high occurrences
5 of fetal and infant mortality or morbidity.

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

8 (3) The terms of the review board members shall be three years. The
9 commissioner may choose to reappoint review board members to additional
10 three-year terms.

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

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

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

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

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

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

28 d. (1) The commissioner may request and shall receive upon request
29 from any department, division, board, bureau, commission, local health
30 department or other agency of the state or political subdivision thereof
31 or any public authority, such information, including but not limited to
32 death records, medical records, autopsy reports, toxicology reports,
33 hospital discharge records, birth records and any other information that
34 will help the department under this section to properly carry out its
35 functions, powers and duties. The commissioner may request and shall
36 receive upon request from any department, division, board, commission or
37 other agency under the authority of the city of New York as well as
38 hospitals established pursuant to article twenty-eight of the public
39 health law, birthing facilities, medical examiners, coroners and coroner
40 physicians and any other facility providing services associated with
41 fetal and infant mortality or fetal and infant morbidity, such informa-
42 tion, including, but not limited to, death records, medical records,
43 autopsy reports, toxicology reports, hospital discharge records, birth
44 records and any other information that will help the department under
45 this section to properly carry out its functions, powers and duties.

46 (2) The commissioner shall receive and may solicit voluntary informa-
47 tion, including oral or written statements, relating to any fetal and
48 infant death and case of severe fetal and infant morbidity, from any
49 family member or other interested party relating to any case that may
50 come before the review board. Oral statements received under this para-
51 graph shall be transcribed or summarized in writing. The commissioner
52 shall transmit that information to the review board considering the
53 case.

54 (3) Before transmitting any information to the review board, the
55 commissioner shall remove all personal identifying information of the
56 fetus or infant, individuals experiencing pregnancy loss or parents of

1 the infant, health care practitioner or practitioners, or anyone else
2 individually named in such information, as well as the hospital or
3 facility that treated the fetus or infant, and any other information
4 such as geographic location that may inadvertently identify the fetus or
5 infant, fetus or infant's family, practitioner, or facility.

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

11 e. The review board:

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

13 (2) shall make and report findings and recommendations to the commis-
14 sioner regarding the cause of death, factors leading to death, and
15 preventability of each fetal or infant death case, and each case of
16 severe fetal or infant morbidity reviewed by the review board, by
17 reviewing relevant information for each case in the city of New York and
18 consulting with experts as needed to evaluate the information for each
19 death provided that no information which, alone or in combination, would
20 permit an individual who experienced a pregnancy loss or infant death to
21 be identified may be requested or shared with consulting experts, and
22 that information reviewed or findings made by the board shall not be
23 admissible in any civil, administrative, criminal, or family court
24 proceeding and shall not be used as a basis of a report to the Statewide
25 Central Register of Child Abuse and Maltreatment;

26 (3) shall develop and deliver to the commissioner recommendations on:

27 (A) issues of severe fetal and infant morbidity;

28 (B) addressing social determinants of fetal and infant health, includ-
29 ing racial, economic or other historical and contemporary injustices
30 which lead to disparities in fetal and infant outcomes;

31 (C) policies, best practices, and strategies to reduce fetal and
32 infant mortality and morbidity;

33 (D) methods of improving services and resources; and

34 (E) methods of implementing continuous quality improvement in fetal
35 and infant mortality and morbidity;

36 (4) shall issue an annual public report on its findings and recommen-
37 dations and may also issue public reports more frequently;

38 (5) shall identify and address systemic community conditions contrib-
39 uting to fetal and infant deaths;

40 (6) shall implement a surveillance system to monitor incidence, etiolo-
41 gies, and contributing factors and which can describe effects of health
42 care system change;

43 (7) shall identify system wide challenges to improving fetal and
44 infant health care;

45 (8) may, in addition to the findings and recommendations made under
46 this subdivision, and consistent with all applicable confidentiality
47 protections, bring any particular matter to the attention of the commis-
48 sioner; and

49 (9) may request and shall receive the assistance of the commissioner
50 in carrying out its functions.

51 f. The commissioner and the review board shall each keep confidential
52 any information collected or received under this section that includes
53 personal identifying information of the fetus or infant, the fetus or
54 infant's parents, health care practitioner or practitioners, or anyone
55 else individually named in such information, as well as the hospital or
56 facility that treated the fetus or infant, and any other information

1 such as geographic location that may inadvertently identify the fetus or
2 infant, the fetus or infant's parents, practitioner, or facility, and
3 shall use the information provided or received under this section solely
4 for the purposes of improvement of the quality of fetal and infant
5 health care and to prevent fetal and infant mortality and morbidity.
6 This subdivision shall not preclude the transmitting of information to
7 the review board that is reasonably necessary to enable the review board
8 to perform an appropriate review under this section. All records
9 received, meetings conducted, reports, except those public reports
10 required to be issued by the review board by this section, and records
11 made and maintained and all books and papers obtained by the review
12 board shall be confidential and shall not be made open or available,
13 including under article six of the public officers law, and shall be
14 limited to review board members as well as those authorized by the
15 commissioner. Such information shall not be discoverable or admissible
16 as evidence in any action in any court or before any other tribunal,
17 board, agency or person.

18 g. The commissioner may use the recommendations and findings of the
19 review board to develop guidance and other actions relating to best
20 practices, and shall disseminate information relating to that guidance
21 and other actions to appropriate health care providers.

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