

# STATE OF NEW YORK

6044--A

2023-2024 Regular Sessions

## IN SENATE

March 27, 2023

Introduced by Sens. BAILEY, COMRIE, FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- 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-

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

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1 bility for each fetal and infant death reviewed and, in the discretion  
2 of the board, cases of severe fetal and infant morbidity, and shall  
3 develop and disseminate strategies for reducing the risk of fetal and  
4 infant mortality and morbidity, including risk resulting from racial,  
5 economic, or other disparities. The commissioner may delegate the  
6 authority to conduct fetal and infant mortality reviews.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 5. Each board:

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

45 (b) shall make and report findings and recommendations to the commis-  
46 sioner, and in the case of the city board to the commissioner and the  
47 city commissioner regarding the cause of death, factors leading to  
48 death, and preventability of each fetal or infant death case, and each  
49 case of severe fetal or infant morbidity reviewed by the board, by  
50 reviewing relevant information for each case in the state or the city of  
51 New York, as the case may be, and consulting with experts as needed to  
52 evaluate the information for each death; provided that no information  
53 which, alone or in combination, would permit an individual who experi-  
54 enced a pregnancy loss or infant death to be identified may be requested  
55 or shared with consulting experts, and that information reviewed or  
56 findings made by the board shall not be admissible in any civil, admin-

1 istrative, criminal, or family court proceeding and shall not be used as  
2 a basis of a report to the statewide central register of child abuse and  
3 maltreatment;

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

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

8 (ii) addressing social determinants of fetal and infant health,  
9 including racial, economic or other historical and contemporary injus-  
10 tices which lead to disparities in fetal and infant outcomes;

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

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

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

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

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

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

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

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

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

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

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

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