SB-464 California Dignity in Pregnancy and Childbirth Act. (2019-2020)

Date Published: 10/08/2019 02:00 PM

Senate Bill No. 464

CHAPTER 533

An act to amend Sections 1262.6 and 102875 of, and to add Article 4.6 (commencing with Section 123630) to Chapter 2 of Part 2 of Division 106 of, the Health and Safety Code, relating to maternal health.

[Approved by Governor October 07, 2019. Filed with Secretary of State October 07, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 464, Mitchell. California Dignity in Pregnancy and Childbirth Act.

(1) Existing law requires the State Department of Public Health to maintain a program of maternal and child health, which may include, among other things, facilitating services directed toward reducing infant mortality and improving the health of mothers and children. Existing law requires the Office of Health Equity within the department to serve as a resource for ensuring that programs collect and keep data and information regarding ethnic and racial health statistics, and strategies and programs that address multicultural health issues, including, but not limited to, infant and maternal mortality.

This bill would make legislative findings relating to implicit bias and racial disparities in maternal mortality rates. The bill would require a hospital that provides perinatal care, and an alternative birth center or a primary clinic that provides services as an alternative birth center, to implement an evidence-based implicit bias program, as specified, for all health care providers involved in perinatal care of patients within those facilities. The bill would require the health care provider to complete initial basic training through the program and a refresher course every 2 years thereafter, or on a more frequent basis if deemed necessary by the facility. The bill would require the facility to provide a certificate of training completion upon request, to accept certificates of completion from other facilities, and to offer training to physicians not directly employed by the facility.

The bill would require the department to track and publish data on pregnancy-related death and severe maternal morbidity, as specified.

(2) Existing law requires that each death be registered with the local registrar of births and deaths in the district in which the death was officially pronounced or the body was found. Existing law sets forth the persons responsible for completing the certificate of death and requires certain medical and health content on the certificate, including information indicating whether the decedent was pregnant at the time of death or within the year prior to the death, if known. Certain violations of these requirements are a crime.

This bill would require the certificate to indicate additional information regarding the pregnancy status of the decedent, as specified. By changing the definition of existing crimes, the bill would impose a state-mandated local program.

(3) Existing law requires hospitals to provide specified information regarding patient's rights to each patient upon admission or as soon thereafter as reasonably practical, including, among other things, information about the right to be informed of continuing health care requirements following discharge from the hospital. Existing law makes violations of these requirements a crime.

This bill would require the hospital to additionally provide patients with information on the patient's right to be free of discrimination on the basis of race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, citizenship, primary language, or immigration status. The bill would additionally require the hospital to provide patients with information on how to file a complaint with specified state entities. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.
Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

---

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1262.6 of the Health and Safety Code is amended to read:

1262.6. (a) Each hospital shall provide each patient, upon admission or as soon thereafter as reasonably practical, written information regarding the patient's right to the following:

(1) To be informed of continuing health care requirements following discharge from the hospital.

(2) To be informed that, if the patient so authorizes, that a friend or family member may be provided information about the patient's continuing health care requirements following discharge from the hospital.

(3) Participate actively in decisions regarding medical care. To the extent permitted by law, participation shall include the right to refuse treatment.

(4) Appropriate pain assessment and treatment consistent with Sections 124960 and 124961.

(5) To be free of discrimination on the basis of race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, citizenship, primary language, or immigration status as set forth in Section 51 of the Civil Code.

(6) Information on how to file a complaint with the following:

(A) The State Department of Public Health, in accordance with Section 1288.4.

(B) The Department of Fair Employment and Housing.

(C) The Medical Board of California.

(b) A hospital may include the information required by this section with other notices to the patient regarding patient rights. If a hospital chooses to include this information along with existing notices to the patient regarding patient rights, any newly required information shall be provided when the hospital exhausts its existing inventory of written materials and prints new written materials.

SEC. 2. Section 102875 of the Health and Safety Code is amended to read:

102875. The certificate of death shall be divided into two sections.

(a) The first section shall contain those items necessary to establish the fact of the death, including all of the following and those other items as the State Registrar may designate:

(1) (A) Personal data of decedent including full name, sex, color or race, marital status, name of spouse, date of birth and age at death, birthplace, usual residence, occupation and industry or business, and whether the decedent was ever in the Armed Forces of the United States.

(B) A person completing the certificate shall record the decedent's sex to reflect the decedent's gender identity. The decedent's gender identity shall be reported by the informant, unless the person completing the certificate is presented with a birth certificate, a driver's license, a social security record, a court order approving a name or gender change, a passport, an advanced health care directive, or proof of clinical treatment for gender transition, in which case the person completing the certificate shall record the decedent's sex as that which corresponds to the decedent's gender identity as indicated in that document. If none of these documents are presented and the person with the right, or a majority of persons who have equal rights, to control the disposition of the remains pursuant to Section 7100 is in disagreement with the gender identity

reported by the informant, the gender identity of the decedent recorded on the death certificate shall be as reported by that person or majority of persons.

(C) If a document specified in subparagraph (B) is not presented and a majority of persons who have equal rights to control the disposition of the remains pursuant to Section 7100 do not agree with the gender identity of the decedent as reported by the informant, any one of those persons may file a petition, in the superior court in the county in which the decedent resided at the time of the decedent's death, or in which the remains are located, naming as a party to the action those persons who otherwise have equal rights to control the disposition and seeking an order of the court determining, as appropriate, who among those parties shall determine the gender identity of the decedent.

(D) A person completing the death certificate in compliance with subparagraph (B) is not liable for any damages or costs arising from claims related to the sex of the decedent as entered on the certificate of death.

(E) A person completing the death certificate shall comply with the data and certification requirements described in Section 102800 by using the information available to the person prior to the deadlines for completion specified in that section.

(2) Date of death, including month, day, and year.

(3) Place of death.

(4) Full name of father and birthplace of father, and full maiden name of mother and birthplace of mother.

(5) Informant.

(6) Disposition of body information, including signature and license number of embalmer, if the body is embalmed, or name of embalmer if affixed by attorney-in-fact; name of funeral director, or person acting as such; and date and place of interment or removal. Notwithstanding any other law, an electronic signature substitute, or some other indicator of authenticity, approved by the State Registrar may be used in lieu of the actual signature of the embalmer.

(7) Certification and signature of attending physician and surgeon or certification and signature of coroner when required to act by law. Notwithstanding any other law, the person completing the portion of the certificate setting forth the cause of death may attest to its accuracy by use of an electronic signature substitute, or some other indicator of authenticity, approved by the State Registrar in lieu of a signature.

(8) Date accepted for registration and signature of local registrar. Notwithstanding any other law, the local registrar may elect to use an electronic signature substitute, or some other indicator of authenticity, approved by the State Registrar in lieu of a signature.

(b) The second section shall contain those items relating to medical and health data, including all of the following and other items as the State Registrar may designate:

(1) Disease or conditions leading directly to death and antecedent causes.

(2) Operations and major findings thereof.

(3) Accident and injury information.

(4) Information indicating whether the decedent was pregnant at the time of death, or within a year prior to the death, if known, as determined by observation, autopsy, or review of the medical record. The electronic death registration system shall capture additional information regarding the pregnancy status of the decedent consistent with the data elements on the U.S. Standard Certificate of Death. This paragraph shall not be interpreted to require the performance of a pregnancy test on a decedent, or to require a review of medical records in order to determine pregnancy.

SEC. 3. Article 4.6 (commencing with Section 123630) is added to Chapter 2 of Part 2 of Division 106 of the Health and Safety Code, to read:

Article 4.6. California Dignity in Pregnancy and Childbirth Act

123630. This article shall be known, and may be cited, as the California Dignity in Pregnancy and Childbirth Act.

123630.1. The Legislature hereby finds and declares all of the following:

(a) Every person should be entitled to dignity and respect during and after pregnancy and childbirth. Patients should receive the best care possible regardless of their race, gender, age, class, sexual orientation, gender identity, disability, language proficiency, nationality, immigration status, gender expression, or religion.

(b) The United States has the highest maternal mortality rate in the developed world. About 700 women die each year from childbirth, and another 50,000 suffer from severe complications. In California, since 2006, the rate of maternal death has decreased 55 percent, in contrast to the steady increase in the United States as a whole.

(c) However, for women of color, particularly Black women, the maternal mortality rate remains three to four times higher than White women. Black women make up 5 percent of the pregnancy cohort in California, but 21 percent of the pregnancy-related deaths.

(d) Forty-one percent of all pregnancy-related deaths had a good to strong chance of preventability. California has a responsibility to decrease the number of preventable pregnancy-related deaths.

(e) Pregnancy-related deaths among Black women are also more likely to be miscoded. Thirty-five percent of pregnancy-related deaths among Black women in California were miscoded, misidentifying pregnancy-related deaths as other deaths.

(f) Access to prenatal care, socioeconomic status, and general physical health do not fully explain the disparity seen in Black women's maternal mortality and morbidity rates. There is a growing body of evidence that Black women are often treated unfairly and unequally in the health care system.

(g) Implicit bias is a key cause that drives health disparities in communities of color. At present, health care providers in California are not required to undergo any implicit bias testing or training. Nor does there exist any system to track the number of incidents where implicit prejudice and implicit stereotypes have led to negative birth and maternal health outcomes.

(h) It is the intent of the Legislature to reduce the effects of implicit bias in pregnancy, childbirth, and postnatal care so that all people are treated with dignity and respect by their health care providers.

123630.2. For the purposes of this article, the following terms have the following meanings:

(a) "Pregnancy-related death" is the death of a person while pregnant or within 365 days of the end of a pregnancy, irrespective of the duration or site of the pregnancy, from any cause related to, or aggravated by, the pregnancy or its management, but not from accidental or incidental causes.

(b) "Implicit bias" is a bias in judgment or behavior that results from subtle cognitive processes, including implicit prejudice and implicit stereotypes that often operate at a level below conscious awareness and without intentional control.

(c) "Implicit prejudice" is prejudicial negative feelings or beliefs about a group that a person holds without being aware of them.

(d) "Implicit stereotypes" are the unconscious attributions of particular qualities to a member of a certain social group. Implicit stereotypes are influenced by experience and are based on learned associations between various qualities and social categories, including race or gender.

(e) "Perinatal care" is the provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods.

123630.3. (a) A hospital as defined in subdivision (a) or (f) of Section 1250 that provides perinatal care, and an alternative birth center or primary care clinic subject to Section 1204.3, shall implement an evidence-based implicit bias program for all health care providers involved in the perinatal care of patients within those facilities.

(b) An implicit bias program implemented pursuant to subdivision (a) shall include all of the following:

(1) Identification of previous or current unconscious biases and misinformation.

(2) Identification of personal, interpersonal, institutional, structural, and cultural barriers to inclusion.

(3) Corrective measures to decrease implicit bias at the interpersonal and institutional levels, including ongoing policies and practices for that purpose.

(4) Information on the effects, including, but not limited to, ongoing personal effects, of historical and contemporary exclusion and oppression of minority communities.

(5) Information about cultural identity across racial or ethnic groups.

(6) Information about communicating more effectively across identities, including racial, ethnic, religious, and gender identities.

(7) Discussion on power dynamics and organizational decisionmaking.

(8) Discussion on health inequities within the perinatal care field, including information on how implicit bias impacts maternal and infant health outcomes.

(9) Perspectives of diverse, local constituency groups and experts on particular racial, identity, cultural, and provider-community relations issues in the community.

(10) Information on reproductive justice.

(c) (1) A health care provider described in subdivision (a) shall complete initial basic training through the implicit bias program based on the components described in subdivision (b).

(2) Upon completion of the initial basic training, a health care provider shall complete a refresher course under the implicit bias program every two years thereafter, or on a more frequent basis if deemed necessary by the facility, in order to keep current with changing racial, identity, and cultural trends and best practices in decreasing interpersonal and institutional implicit bias.

(d) A facility described in subdivision (a) shall provide a certificate of training completion to another facility or a training attendee upon request. A facility may accept a certificate of completion from another facility described in subdivision (a) to satisfy the training requirement described in subdivision (c) from a health care provider who works in more than one facility.

(e) Notwithstanding subdivisions (a) to (d), inclusive, if a physician involved in the perinatal care of patients is not directly employed by a facility, the facility shall offer the training to the physician.

123630.4. (a) The State Department of Public Health shall track data on severe maternal morbidity, including, but not limited to, all of the following health conditions:

(1) Obstetric hemorrhage.

(2) Hypertension.

(3) Preeclampsia and eclampsia.

(4) Venous thromboembolism.

(5) Sepsis.

(6) Cerebrovascular accident.

(7) Amniotic fluid embolism.

(b) The data on severe maternal morbidity collected pursuant to subdivision (a) shall be published at least once every three years, after all of the following have occurred:

(1) The data has been aggregated by state regions, as defined by the State Department of Public Health, to ensure data reflects how regionalized care systems are or should be collaborating to improve maternal health outcomes, or other smaller regional sorting based on standard statistical methods for accurate dissemination of public health data without risking a confidentiality or other disclosure breach.

(2) The data has been disaggregated by racial and ethnic identity.

(c) The State Department of Public Health shall track data on pregnancy-related deaths, including, but not limited to, all of the conditions listed in subdivision (a), indirect obstetric deaths, and other maternal disorders predominantly related to pregnancy and complications predominantly related to the puerperium.

(d) The data on pregnancy-related deaths collected pursuant to subdivisions (a) and (c) shall be published, at least once every three years, after all of the following have occurred:

(1) The data has been aggregated by state regions, as defined by the State Department of Public Health, to ensure data reflects how regionalized care systems are or should be collaborating to improve maternal health outcomes, or other smaller regional sorting based on standard statistical methods for accurate dissemination of public health data without risking a confidentiality or other disclosure breach.

(2) The data has been disaggregated by racial and ethnic identity.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.