

SPONSOR: Rep. Maier & Sen. Blevins;
Reps. Miro, Ulbrich, Hall-Long; Sen. Sorenson

HOUSE OF REPRESENTATIVES

142nd GENERAL ASSEMBLY

HOUSE BILL NO. 67

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO MATERNAL MORTALITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 29 of the Delaware Code by adding thereto a new section to read:

"§7905B. Maternal Mortality Review Commission.

(a) The General Assembly finds that maternal mortality is a serious public concern and has a vast impact on families and society. No procedure exists in the State for the confidential identification, investigation, or dissemination of findings regarding maternal mortality. There is a need to establish a Maternal Mortality Review Commission to review pregnancy-related deaths and to develop strategies for the prevention of such deaths. To this end, the Maternal Mortality Review Commission, hereinafter 'Commission', is hereby established.

(b) (1) The Commission is composed of the following members: (i) the Secretary of the Department of Health and Social Services, or the Secretary's designee; (ii) the Director of the Office of Women's Health, or the Director's designee; (iii) the State Medical Examiner, or the Examiner's designee; (iv) a representative of the Medical Society of Delaware specializing in obstetrics, appointed by the Governor; (v) a representative of the Medical Society of Delaware specializing in obstetrics and maternal-fetal medicine, appointed by the Governor; (vi) a representative of the Medical Society of Delaware specializing in critical care, appointed by the Governor; (vii) a representative of the Delaware Nurses' Association, appointed by the Governor, and (viii) a practicing nurse midwife, appointed by the Governor.

(2) The term of a member appointed by the Governor is three years and terminates upon the Governor's appointment of a replacement member to the Commission.

(3) Members of the Commission serve without compensation.

(4) The Commission shall, by affirmative vote of a majority of all members of the Commission, appoint a chairperson from its membership for a term of one year. The Commission shall meet at least semi-annually.

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(5) Meetings of the Commission are closed to the public.

(c) Except as expressly provided herein, an affirmative vote of sixty percent of all members of the Commission is required to adopt any finding or recommendation of the Commission.

(d) (1) The Commission shall develop a system to identify Delaware pregnancy-related death cases; investigate and review the facts and circumstances of every pregnancy-related death which occurs in Delaware; and make recommendations based on its investigation and review. Pregnancy-related deaths include maternal deaths during pregnancy or within twelve months of delivery or termination of pregnancy. Pregnancy-related deaths are caused by one of the following: complications of the pregnancy itself; a chain of events initiated by the pregnancy; or the aggravation of an unrelated condition or event by the physiologic effects of pregnancy. Recommendations arising from an investigation and review conducted pursuant to this section must be submitted within 20 days of the completion of the investigation and review to the Governor and General Assembly, as well as to any member of the public requesting a copy of the recommendations. Recommendations made pursuant to this section must comply with applicable State and federal confidentiality provisions, including, but not limited to, those enumerated in this section and in 29 Del. C. §9017(d). Notwithstanding any provision of this section to the contrary, such recommendations may not specifically identify any individual or any non-government agency, organization, or entity.

(2) The Secretary of the Department of Health and Social Services or the Secretary's designee shall provide the Commission with a copy of the death certificate of any woman whose death is suspected to have been a pregnancy-related death.

(3) In connection with any investigation and review, the Commission may:

(i) administer oaths;

(ii) compel the attendance of witnesses whose testimony is related to the death under review and compel the production of records related to the death under review by filing, through the Attorney General or a Deputy Attorney General, a praecipe for a subpoena with the Prothonotary of any county of this State. The subpoena is effective throughout the State and service of the subpoena may be made by any sheriff of the State. Failure to obey the subpoena is punishable pursuant to the rules of the Superior Court;

(iii) review medical records and other relevant data;

(iv) consult with relevant experts to evaluate the records and data collected;

(v) make determinations regarding the preventability of pregnancy-related deaths; and

(vi) develop recommendations for the prevention of pregancy-related deaths.

(e) A health care provider or health care institution, as those terms are defined under 16 Del. C. §2501, shall provide the Commission reasonable access to all relevant medical records associated with a case under review by the Commission.

(f) (1) The records of the Commission, including original documents and documents produced in the review process, regarding the facts and circumstances of a pregancy-related death under review are confidential and may not be released to any person except as expressly provided herein. The Commission may use the records only in the exercise of the proper function of the Commission. The records are not public records and are not available for Court subpoena, nor are they subject to discovery. Aggregate statistical data compiled by the Commission, however, may be released at the discretion of the Commission as long as individuals and non-government agencies, organizations, or entities are not identifiable.

(2) Members of the Commission and their agents or employees are not subject to and are immune from claims, suits, liability, damages, and any other recourse, civil or criminal, arising from any act, proceeding, decision, or determination undertaken or performed or from any recommendation made, provided that the member, agent, or employee acted in good faith and without malice in carrying out his or her responsibilities, authority, duties, powers, or privileges of the office conferred by law, including provisions of Delaware law, Federal law or regulations, or rules and regulations of the Commission. A complainant bears the burden of proving malice or a lack of good faith to defeat the immunity provided herein.

(3) A person in attendance at a meeting of the Commission is not required to testify as to what transpired during the meeting. An organization, institution, individual, or government or non-government agency furnishing information, data, reports, or records to the Commission with respect to any subject examined or treated by the organization, institution, individual, or government or non-government agency is not liable in damages to any person or subject to any other recourse, civil or criminal, by reason of furnishing the information, data, reports, or records.

(g) On or before January 31 of each year, the Secretary of the Department of Health and Social Services, or the Secretary's designee, shall submit to the Governor and the General Assembly a report on the investigations, reviews, recommendations, and other activities of the Commission during the previous year.".

SYNOPSIS

This bill establishes the Maternal Mortality Review Commission to identify, investigate, and review pregnancy-related deaths, and to make recommendations regarding the prevention of those pregnancy-related deaths. Members of the Commission serve without compensation.

Meetings of the Commission are closed to the public for confidentiality purposes. The records of the Commission are not public records. They are not available for Court subpoena, nor are they subject to discovery. However, aggregate statistical data that does not identify individuals or entities may be released.