AB-2319 California Dignity in Pregnancy and Childbirth Act. (2023-2024)

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL NO. 2319

Introduced by Assembly Members Wilson and Weber
(Principal coauthors: Assembly Members Bonta, Bryan, Gipson, and Holden)
(Principal coauthor: Senator Bradford)
(Coauthors: Assembly Members Jackson, Jones-Sawyer, McCarty, and McKinnor)
(Coauthor: Senator Smallwood-Cuevas)

February 12, 2024

An act to amend Sections 123630.1, 123630.2, and 123630.3 of, and to add Section 123630.6 to, the Health and Safety Code, relating to maternal health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2319, as introduced, Wilson. California Dignity in Pregnancy and Childbirth Act.

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. Existing law makes legislative findings relating to implicit bias and racial disparities in maternal mortality rates. Existing law requires 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. Existing law requires 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. Existing law requires 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. Existing law requires the department to track and publish data on pregnancy-related death and severe maternal morbidity, as specified.

This bill would make a legislative finding that the Legislature recognizes all birthing people, including nonbinary persons and persons of transgender experience. The bill would extend the evidence-based implicit bias training

requirements to also include hospitals that provide perinatal or prenatal care, as defined. The bill would require an implicit bias program to include recognition of intersecting identities and the potential associated biases. The bill would require initial basic training for the implicit bias program to be completed by June 1, 2025, for current health care providers, and within 6 months of their start date for new health care providers, unless exempted. The bill would require, by February 1 of each year, that a facility provide the department with proof of compliance, with specified requirements. The bill would authorize the department to issue an administrative penalty if it determines that a facility has violated these provisions, and would require the department to annually post on its internet website a list of facilities that did not submit timely proof of compliance and have been issued administrative penalties. The bill would specify that, for these purposes, each health care provider that does not complete the required training constitutes a separate violation. The bill would vest the State Department of Public Health with full administrative power, authority, and jurisdiction to implement and enforce the California Dignity in Pregnancy and Childbirth Act. The bill would require the department to solicit participation and adopt regulations to further the purposes of the act, as specified.
Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 123630.1 of the Health and Safety Code is amended to read:

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.

(i) The Legislature recognizes all birthing people, including nonbinary persons and persons of transgender experience.

SEC. 2. Section 123630.2 of the Health and Safety Code is amended to read:

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.

(f) "Department" means the State Department of Public Health.

SEC. 3. Section 123630.3 of the Health and Safety Code is amended to read:

123630.3. (a) *(1)* A hospital as defined in subdivision (a) or (f) of Section 1250 that provides perinatal *or prenatal* 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.

(2) Health care providers involved in the perinatal care or prenatal care of patients includes:

(i) All persons licensed under Division 2 of the Business and Professions Code (commencing with Section 500) who may provide perinatal or prenatal care, including, but not limited to, those in primary care clinics, alternative birthing centers, outpatient clinics, or emergency departments.

(ii) All persons who may interact with perinatal patients, including, but not limited to, receptionists, housekeeping, orderlies, physician assistants, medical assistants, licensed vocational nurses, or doctors.

(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.

(11) Recognition of intersecting identities, including, but not limited to, nonbinary persons and persons of transgender experience, and the multiple layers of potential biases that could come into play, resulting in harm to patients and their infants.

(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). *This initial basic training must be completed by June 1, 2025, for all current health care providers. The initial basic training must be provided to new health care providers at all facilities within six months of their start at the new facility unless subdivision (d) applies.*

(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.

(f) By February 1 of each year, a facility described in subdivision (a) shall provide the department with proof of compliance. Proof of compliance shall include all of the following:

(1) A list of health care providers described in paragraph (1) of subdivision (a) that completed the training requirements outlined in subdivision (c).

(2) The dates that the training was completed for each health care provider.

(3) Written materials used in training.

(4) A description of the training, including format and duration.

(5) A list of health care providers described in paragraph (1) of subdivision (a) who did not participate in the training, if any.

(g) If the department determines that a facility described in paragraph (1) of subdivision (a) has violated these provisions, the department may assess an administrative penalty of up to ten thousand dollars ($10,000) for the first violation and twenty-five thousand dollars ($25,000) for the second and each subsequent violation. For purposes of this subdivision, each health care provider that does not timely complete the required training shall constitute a separate violation for purposes of determining whether the violation was a first, second, or subsequent violation. The department's ability to issue a penalty is not the exclusive means of enforcing the act. Remedies available to the Attorney General under any other statute remain available to enforce the provisions of this act.

(h) The department must annually post on its internet website by April of each year a list of all facilities that do not timely submit proof of compliance and have been issued administrative penalties as set forth in subdivision (g). In listing facilities that have been issued administrative penalties, the department must include all of the following:

(1) The date the penalty was issued.

(2) The amount of the penalty.

(3) The reason the penalty was issued.

(4) The percentage of untrained providers.

(5) The date of facility noncompliance.

(i) If the facility disputes a determination rendered by the department pursuant to subdivision (g), the facility may, within 10 working days, request a hearing pursuant to Section 131071. Penalties shall be paid when all appeals have been exhausted and the department's position has been upheld.

(j) Notwithstanding any other restriction, the department shall respond to any request made pursuant to the California Public Records Act (Chapter 1 (commencing with Section 7920.000) of Division 10 of Title 1 of the Government Code) for the following data, disaggregated by facility, race, and year:

(i) The number of individuals who died during labor.

(ii) The percentage of total individuals who gave birth that died during labor.

(iii) The number of individuals who had complications during birth.

(iv) The percentage of individuals who gave birth that had complications during birth.

(v) The number of miscarriages in the third trimester and stillbirths during labor.

(vi) The percentage of individuals who entered labor and had a miscarriage in the third trimester or stillbirth during labor.

SEC. 4. Section 123630.6 is added to the Health and Safety Code, immediately following Section 123630.5, to read:

123630.6. (a) The State Department of Public Health is vested with full administrative power, authority, and jurisdiction to implement and enforce the California Dignity in Pregnancy and Childbirth Act.

(b) On or before _____, the department shall solicit broad public participation and adopt regulations to further the purposes of the act, including, but not limited to, the following areas:

(1) The department shall issue guidance on training methodologies sufficient to address the findings specified in Section 123630.1.

(2) The department shall issue guidance on each of the categories of training specified in subdivision (b) of Section 123630.1.

(3) (A) The department may issue and revise or adopt existing trainings that it certifies as a model sufficient to comply with the requirements specified in Section 123630.3, current research, and best practices. The department shall make any certified training available on its internet website.

(B) The department shall review and ensure that the training continues to comply with the requirements of Section 123630.3. The department shall recertify training on an annual basis or the department shall withdraw its certification.

(4) The department may adopt additional regulations, as necessary, to further the purposes of the act.

(c) The department shall conduct a review of a facility subject to the requirements of subdivision (a) of Section 123630.3 under any of the following circumstances:

(1) Upon the death of a birthing parent or child during or one month after birth, unless the department had completed a review of the facility within one year prior to the death.

(2) Upon the department's receipt of at least three complaints of racial bias or quality of care against perinatal or prenatal care providers in a facility subject to the training requirements of subdivision (a) of Section 123630.3 by a patient or patients identifying as any race but White, not Hispanic or Latino.

(3) At any other time that the department deems appropriate.

(d) A facility review shall include a review of the facility's compliance with the training requirement of subdivision (a) of Section 123630.1, and review the substance of the facility's training program to assess compliance with the requirements of subdivision (b) of Section 123630.1, and any relevant regulation.

(e) The department shall publish a report outlining compliance data on a biannual basis. The report shall be posted on the department's internet website.