

CHAPTER 247

AN ACT concerning human milk banks and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.26:2A-17 Definitions relative to human milk banks.

1. For the purposes of this act:

"Collection" means the obtaining of donated human breast milk.

"Commissioner" means the Commissioner of Health.

"Department" means the Department of Health.

"Distribution" means the removal of donated human breast milk from a human milk bank to any other location for processing or storage or for the purpose of providing breast milk to a hospital or selling breast milk to a parent.

"Human milk bank" means an organized service that provides for the selection of a donor of human breast milk, the collection, processing, storage, and marketing of donated human breast milk, and the distribution of donated human breast milk to a hospital for use by low birth weight babies or new mothers with delayed lactation, or directly to a parent, with a physician's prescription order, who is unable to nurse, or is in need of additional breast milk to feed, the parent's child.

"Marketing" means the use of suitable media to advertise the availability of, promote the appropriate use of, and provide information on how to safely procure, donated human breast milk. "Person" means a person, partnership, association, agency, organization, or other similar entity.

"Processing" means the technical stages required to prepare and identify donated human breast milk as to its suitability.

"Storage" means the holding of donated human breast milk in connection with collection or processing prior to its distribution.

C.26:2A-18 Criteria for operation of a human milk bank.

2. a. A person shall not operate a human milk bank that is located in this State or distributes donated human milk in this State unless the human milk bank is accredited by, and registered with, the department pursuant to this act.

b. Any person desiring to operate a human milk bank shall:

(1) adhere to the guidelines for the establishment and operation of a donor human milk bank as required by the department;

(2) adhere to the best practices for expressing, storing, and handling human milk in hospitals, homes, and child care settings as required by the department;

(3) undergo a yearly assessment by the department, to provide evidence of adherence to the most recent edition of guidelines for the establishment and operation of a human milk bank;

(4) comply with any other provisions required by the department;

(5) register with the department in a form and manner prescribed by the department; and

(6) pay to the department an annual registration fee established by the department in order to offset the department's administrative costs incurred in executing its responsibilities under this act.

C.26:2A-19 On-site facility inspections.

3. The department shall conduct an on-site facility inspection of each registered human milk bank at least once every five years, and shall inspect documents, records, files, or other

data maintained by a human milk bank during normal operating hours and without prior notice. If the department's inspection finds that a human milk bank is not in compliance with the department's requirements and guidelines for the accreditation of human milk banks, the department shall revoke the human milk bank's accreditation.

C.26:2A-20 Civil actions authorized under certain circumstances; additional relief; appeal.

4. a. The commissioner is authorized to institute a civil action in a court of competent jurisdiction for injunctive relief to enjoin the operation of a human milk bank whenever the commissioner determines that:

(1) a condition exists or has occurred at the human milk bank that is dangerous to the public health;

(2) the human milk bank has repeatedly violated the provisions of this act; or

(3) a human milk bank has opened or is operating without complying with the provisions of this act.

b. The commissioner may, in addition, request such other relief as is deemed necessary. In any such action the court may proceed in a summary manner.

c. Any person aggrieved by a final decision of the commissioner shall be entitled to seek judicial review in the Appellate Division of the Superior Court. All petitions for review shall be filed in accordance with the Rules of the Court.

C.26:2A-21 Violations, penalties.

5. a. Any person who operates a human milk bank that is not accredited and registered pursuant to this act, or who has used fraud or misrepresentation in obtaining accreditation or registration or in the subsequent operation of a human milk bank, or who violates any other provision of this act shall be subject to a penalty of not less than \$100 or more than \$1,000 for the first offense and not less than \$500 or more than \$5,000 for the second or any subsequent offense.

b. The department shall have the jurisdiction to enforce and collect any penalty imposed because of a violation of this act in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Process shall be in the nature of a summons or warrant and shall issue only at the suit of the commissioner as plaintiff.

c. A penalty recovered pursuant to the provisions of this section shall be recovered by the commissioner and paid into the State treasury.

C.26:2A-22 Rules, regulations.

6. The commissioner, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations necessary to effectuate the purposes of this act.

7. This act shall take effect on the 180th day after the date of enactment but the commissioner may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 8, 2018.