

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1079

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2021

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 1079 (1R).

As amended, this bill would require every hospital that provides inpatient maternity services and every birthing center licensed in the State pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) to implement an evidence-based explicit and implicit bias training program for all health professionals that who provide perinatal treatment and care to pregnant persons at the hospital or birthing center, regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the hospital or birthing center, and all supportive staff members, as defined by the Department of Health (DOH) who interact with pregnant persons at the hospital or birthing center.

The training program would include, but not be limited to: identifying previous and current unconscious biases and misinformation when providing perinatal treatment and care to, or interacting with, pregnant women; identifying environmental, personal, interpersonal, institutional, and cultural barriers to inclusion; information about the effects of historical and contemporary exclusion and oppression of minority communities; information about cultural identity across racial, ethnic, and other marginalized groups; information about communicating more effectively across racial, ethnic, religious, and gender identities; information about reproductive health; discussions on power dynamics and organizational decision-making and their effects on explicit and implicit bias, and on inequities and racial, ethnic, and other disparities within the field of perinatal care, and how explicit and implicit bias may contribute to pregnancy-related deaths and maternal and infant health outcomes; corrective measures to decrease explicit and implicit bias at the interpersonal and institutional levels; and review of the annual report of the New Jersey Maternal Mortality Review Committee.

A health care professional who provides perinatal treatment and care to, and a supportive staff member who interacts with, pregnant persons at a hospital or birthing center would be required to complete

the training program and a refresher course, every two years. The refresher course would be designed to provide the health care professional with updated information about racial, ethnic, and cultural identity, and best practices in decreasing interpersonal and institutional explicit and implicit bias. Upon successful completion of the training program, the health care professional or administrative or clerical staff member would receive a certification from the hospital or birthing center.

Under the bill, a hospital or birthing center that implements an explicit and implicit bias training program is to ensure that the program is structured in a manner that permits health care professionals to be eligible to receive continuing education credits for participation in the program.

As amended, the bill requires the DOH to identify an explicit and implicit bias training tool to be utilized by the explicit and implicit bias training program implemented by a hospital or birthing center. The use of DOH's training tool by a hospital or birthing center would not preclude the hospital or birthing center from utilizing additional or customized training tools in addition to the DOH's training tool.

As amended, the bill provides that in the event that a hospital or birthing center fails to implement an explicit and implicit bias training program, the DOH would invoke penalties or take administrative action against the hospital or birthing center. Any penalties imposed or administrative actions taken by the DOH may be imposed in a summary proceeding.

As amended, the bill establishes a requirement for physicians, physician assistants, nurses, nurse midwives, certified professional midwives, or certified midwives who provide prenatal or perinatal care to pregnant women to complete one credit of continuing education in explicit and implicit bias training, which explicit and implicit bias training course is to meet the requirements for an explicit and implicit bias training course required for physicians and staff providing perinatal care in a hospital or birthing center. A health care professional who completes a continuing education course in explicit and implicit bias training will be deemed to have satisfied the explicit and implicit bias training requirement required for health care professionals providing perinatal care in a hospital or birthing center.

The bill, as amended by the committee, requires that as a condition of being appointed as a member of the Board of State Medical Examiners or the New Jersey Board of Nursing, or the member's continued appointment to the board, as applicable, a board member would complete an evidence-based explicit and implicit bias training program approved by the Division of Consumer Affairs in the Department of Law and Public Safety that is equivalent to the training program provided for in subsection b. of section 1 of this bill. The board member would be required to complete, and acknowledge the

completion of, the training program at a frequency determined by the division.

As defined in the bill, “health care professional” means a person licensed or certified to practice a health care profession pursuant to Title 45 of the Revised Statutes. “Explicit bias” means attitudes and beliefs about a person or group on a conscious level. “Implicit bias” means 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. “Implicit stereotypes” means the unconscious attributions of particular qualities to a member of a certain social group, influenced by experience, and based on learned associations between various qualities and social categories, including race and gender. “Perinatal care” means the provision of care during pregnancy, labor, delivery, postpartum and neonatal periods.

As reported by this committee, Assembly Bill No. 1079 (1R) is identical to Senate Bill No. 703 (2R) which also was amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments require that supportive staff members, as defined by the DOH, who interact with pregnant persons at a hospital or birthing center will be required to complete the explicit and implicit bias training program and a refresher course. As introduced, the bill limited the explicit and implicit bias training requirement to health professionals.

The committee amendments stipulate that hospitals and birthing are required to implement the explicit and implicit bias training program for all health professionals who provide perinatal treatment and care to pregnant persons at hospitals or birthing centers regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the hospital or birthing center.

The committee amendments provide that a hospital or birthing center that implements an explicit and implicit bias training program is to ensure that the program is structured in a manner that permits health care professionals to be eligible to receive continuing education credits for participation in the program.

The committee amendments provide that the explicit and implicit bias training program will also include, but not be limited to:

- (1) identifying previous and current unconscious biases and misinformation when providing perinatal treatment and care to, or interacting with, pregnant persons;
- (2) identifying environmental, personal, interpersonal, institutional, and cultural barriers to inclusion;
- (3) information on the effects of historical and contemporary exclusion and oppression of minority communities;

(4) information about cultural identity across racial, ethnic, and other marginalized groups;

(5) information about communicating more effectively across racial, ethnic, religious, and gender identities;

(6) information about reproductive justice;

(7) a discussion on power dynamics and organizational decision-making and their effects on explicit and implicit bias;

(8) a discussion on health inequities and racial and ethnic disparities within the field of perinatal care, and how explicit and implicit bias may contribute to pregnancy-related deaths and maternal and infant health outcomes;

(9) corrective measures to decrease explicit and implicit bias at the interpersonal and institutional levels; and

(10) review of the annual report of the New Jersey Maternal Mortality Review Committee.

The committee amendments mandate that the Department of Health identify an explicit and implicit bias training tool to be utilized by the explicit and implicit bias training program implemented by a hospital or birthing center. The amendments further mandate that the use of the department's training tool by a hospital or birthing center would not preclude the hospital or birthing center from utilizing additional or customized training tools in addition to the department's training tool.

The committee amendments provide that in the event that a hospital or birthing center fails to implement an explicit and implicit bias training program, the Department of Health would invoke penalties or take administrative action against the hospital or birthing center. Any penalties imposed or administrative actions taken by the department may be imposed in a summary proceeding.

The committee amendments provide definitions for "explicit bias," "health care professional," "implicit bias," "implicit stereotypes," and "perinatal care."

The committee amendments establish a new continuing education requirement for physicians, physician assistants, nurses who provide prenatal or perinatal care to pregnant women, certified nurse midwives, certified professional midwives, and certified midwives, which will comprise one credit of explicit and implicit bias training that meets the requirements for an explicit and implicit bias training course established under the bill. A health care professional who completes a continuing education course in explicit and implicit bias training will be deemed to have satisfied the explicit and implicit bias training requirement for hospitals and birthing centers for the licensure or certification period in which the continuing education credit was completed.

The committee amendments revise the rulemaking provision in the bill require that the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in addition to the Department of

Health, adopt rules and regulations to effectuate the purposes of the bill.

The committee amendments provide technical changes to the synopsis and title.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that this bill will result in an indeterminate, and likely minimal, increase in State costs for the Department of Health (DOH) to develop regulations requiring hospitals that provide inpatient maternity services and licensed birthing centers to implement an evidence-based explicit and implicit bias training program for health professionals who provide perinatal treatment and care, regardless of the health professional's compensation agreement or contractual or privilege status with the hospital or birthing center, and all supportive services staff, as defined by the DOH, who interact with pregnant persons at the hospital or birthing center.

The Division of Consumer Affairs in the Department of Law and Public Safety will realize an indeterminate increase in costs associated with a requirement that the New Jersey Board of Medical Examiners, the Midwifery Committee of the State Board of Medical Examiners, and the New Jersey Board of Nursing ensure that all licensed physicians, physician assistants, professional nurses and practical nurses who provide perinatal services take, on a biennial basis, one credit of continuing education programs concerning explicit and implicit bias that meet the requirements established under the bill. Certified nurse midwives, certified professional midwives and certified midwives who were licensed prior to the effective date of this bill would be required to complete at least one credit of educational programs concerning explicit and implicit bias as a condition of license renewal.

A provision requiring the DOH to impose penalties or take administrative action against a hospital or birthing center that fails to implement an explicit and implicit bias training program may increase State revenues by an indeterminate amount. Without information regarding the schedule of penalties, or the number of hospitals or birthing centers that may be penalized, the OLS is unable to calculate the value of any revenue increase.

University Hospital, an independent non-profit legal entity that is an instrumentality of the State, will experience an indeterminate increase in expenditures to develop and implement the requisite evidence-based training program, and the refresher course. In addition, should University Hospital fail to implement the explicit and implicit bias training program required pursuant to this bill, the hospital would be required to pay certain financial penalties to the Department of Health.