

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 703

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: SEPTEMBER 1, 2020

SUMMARY

- Synopsis:** Requires certain health care professionals to undergo implicit bias training.
- Type of Impact:** Increase in State Costs and Revenues.
- Agencies Affected:** Department of Health.
Department of Law and Public Safety, Division of Consumer Affairs.
University Hospital.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- 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 implicit bias training program for all 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 administrative and clerical 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 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, as a condition of license renewal, at least one credit of

educational programs concerning implicit bias that meet the requirements established under the bill.

- A provision requiring the DOH to impose penalties or take administrative action against a hospital or birthing center that fails to implement an implicit bias training program, as required under this bill, 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 for failing to implement the requisite training program, the OLS is unable to calculate the value of any revenue increase.

BILL DESCRIPTION

This bill would require hospitals that provides inpatient maternity services and birthing centers licensed in the State pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) to implement an evidence-based implicit bias training program for all health professionals 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 administrative and clerical staff members, as defined by the DOH, who interact with pregnant persons at the hospital or birthing center. The bill defines “implicit bias” as a bias in judgment or behavior that results from subtle cognitive processes, including implicit prejudice and implicit stereotypes, which often operate at a level below conscious awareness and without intentional control.

A health care professional who provides perinatal treatment and care to, and an administrative or clerical staff member who interacts with, pregnant persons at a hospital or birthing center would be required to complete the training program as well as a biennial refresher course designed to provide the health care professional with updated information about racial, ethnic, and cultural identity, and best practices in decreasing interpersonal and institutional implicit bias.

Under this bill, the DOH is required to identify an implicit bias training tool to be utilized by the implicit bias training program implemented by a hospital or birthing center. The use of the DOH 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.

The bill also provides that, in the event that a hospital or birthing center fails to implement an implicit bias training program, the DOH would impose 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.

Moreover, the bill directs the New Jersey Board of Medical Examiners and the New Jersey Board of Nursing to require all licensed physicians, physician assistants, professional nurses, practical nurses, nurse midwives, certified professional midwives, and certified midwives who provide perinatal care to pregnant persons to complete one credit of continuing education programs concerning implicit bias that meet the requirements established under the bill. A hospital or birthing center that implements an implicit bias training program would be required to structure the program in a manner that would permit participating health care professionals to be eligible to receive continuing education credits.

Under the bill, members of the Board of State Medical Examiners or the New Jersey Board of Nursing, as a condition of appointment or continued appointment, as applicable, would be required to complete an evidence-based implicit bias training program approved by the Division of Consumer Affairs in the Department of Law and Public Safety. The board member would be required to complete the training program at a frequency determined by the division.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill will result in an indeterminate, although likely minimal, increase in State costs for the DOH to develop regulations governing the development and implementation, by hospitals that provide inpatient maternity services and licensed birthing centers, of an evidence-based implicit bias training program, as well as a biennial refresher course, for all health professionals who provide perinatal treatment and care at the facility, as well as all administrative and clerical staff who interact with pregnant persons at the hospital or birthing center.

A provision requiring the department to impose penalties or take administrative action against a hospital or birthing center that fails to implement an implicit bias training program, as required under this bill, may increase State revenues by an indeterminate amount. Without information concerning the schedule of penalties, or the number of hospitals or birthing centers that may be penalized for failing to implement the requisite training program, the OLS is unable to calculate the precise value of any revenue increase.

The OLS also concludes that the New Jersey Board of Medical Examiners and the New Jersey Board of Nursing, both of which operate under the purview of the Division of Consumer Affairs in the Department of Law and Public Safety, would incur an indeterminate increase in costs to oversee a new requirement that all State-licensed physicians, physician assistants, professional nurses, practical nurses, certified nurse midwives, certified professional midwives, and certified midwives who provide perinatal care take one credit of educational programs concerning implicit bias on a biennial basis. However, pursuant to P.L.2005, c.53 (C.45:9-7.2 et seq.), New Jersey medical schools are required to make cultural competency training a prerequisite for graduation. To the extent that this coursework can be adapted to meet the requirements of this bill, and can be replicated in continuing education curricula for the relevant health professionals, costs to the Board of Medical Examiners, the Board of Nursing and the Division of Consumer Affairs would be reduced. To further limit State costs, the Division of Consumer Affairs could potentially adapt the regulations governing the cultural competency course requirement for medical students, as outlined at N.J.A.C. 13:35-6.25, as the division implements implicit bias training requirements for licensed physicians, physician assistants, professional nurses, practical nurses, certified nurse midwives, certified professional midwives and certified midwives.

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 evidence-based training program, and the refresher course, required under the bill. However, pursuant to State law, each New Jersey hospital and birthing facility must require its health care professionals who provide labor, delivery, and postpartum care to complete a “standardized maternal patient discharge education module,” designed to educate staff on the complications, and associated warning signs, of childbirth. To the extent that University Hospital has completed development of this maternal patient discharge educational model, and can expand the module to meet the implicit bias training requirements mandated under this bill, costs to University Hospital could potentially be minimized. In addition, should University Hospital fail to implement the implicit bias training program required pursuant to this bill, the hospital would be required to pay certain financial penalties to the DOH

Section: Human Services

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.)