

[First Reprint]

SENATE, No. 3233

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED DECEMBER 7, 2020

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

SYNOPSIS

Requires certain electronic medical programs to include demographic data entry feature; requires certain laboratories to record patients' demographic information; requires certain hospitals and laboratories to implement cultural competency training program.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on December 7, 2020, with amendments.



1 AN ACT concerning clinical laboratories, certain hospitals, and
 2 certain electronic medical records ^{1,1} and supplementing Title
 3 ¹**[45]** 26¹ of the Revised Statutes ¹and P.L.1975, c.166 (C.45:9-
 4 42.26 et seq.)¹ .

5
 6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 7 *of New Jersey:*

8
 9 ¹**[1.** As used in this act, “clinical laboratory” means a
 10 laboratory licensed by the Department of Health, pursuant to the
 11 "New Jersey Clinical Laboratory Improvement Act," P.L.1975,
 12 c.166 (C.45:9-42.26 et seq.).¹**]**¹

13
 14 ¹1. a. Each general acute care hospital that collects data
 15 concerning patient race, ethnicity, sexual orientation, or gender
 16 identity for any reason shall implement an evidence-based cultural
 17 competency training program for all employees who are healthcare
 18 professionals, independent contractors, consultants, and other staff
 19 members who have direct contact with patients and are responsible
 20 for collecting race and ethnicity, sexual orientation, and gender
 21 identity information from patients.

22 b. The cultural competency training program shall include
 23 training on the following topics:

24 (1) common terminology for race and ethnicity, sexual
 25 orientation, and gender identity data;

26 (2) information on the relationship between patient health and
 27 collecting race and ethnicity, sexual orientation, and gender identity
 28 data;

29 (3) information on how race and ethnicity, sexual orientation,
 30 and gender identity data will be used;

31 (4) information on how to navigate discomfort in patients and
 32 staff when asking patients for their race and ethnicity, sexual
 33 orientation, and gender identity information; and

34 (5) information on how to create an inclusive and affirming
 35 environment for all patients.

36 c. Each healthcare professional, independent contractor,
 37 consultant, and other staff member who is employed by a general
 38 acute care hospital, has direct contact with patients, and is
 39 responsible for collecting race and ethnicity, sexual orientation, and
 40 gender identity information from patients, shall:

41 (1) complete the cultural competency training program
 42 developed pursuant to subsection b. of this section at such times and
 43 intervals as the hospital shall require; and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted December 7, 2020.

1 (2) complete a cultural competency refresher course at least
2 once biennially if completion of the course is deemed necessary by
3 the hospital.¹

4
5 2. a. (1) A clinical laboratory shall electronically record the
6 race, ethnicity, sexual orientation, and gender identity of each
7 patient who presents with a non-electronic order for testing at a
8 clinical laboratory patient service center. If a clinical laboratory
9 processes a specimen without the presence of a patient, the clinical
10 laboratory shall not be responsible for recording and reporting the
11 patient's gender identity, sexual orientation, and racial and ethnic
12 information.

13 (2) Race and ethnicity selections shall include, but shall not be
14 limited to: African American, Alaska Native, American Indian,
15 Asian, Black, Hispanic, Latino, more than one race, Native
16 Hawaiian, Other Pacific Islander, White, and does not wish to
17 disclose.

18 (3) Sexual orientation selections shall include, but shall not be
19 limited to: bisexual, do not know, heterosexual, homosexual, gay,
20 lesbian, something else, straight, and does not wish to disclose.

21 (4) Gender identity selections shall include, but shall not be
22 limited to: male, female, transgender-female, transgender-male,
23 non-binary, other, and does not wish to disclose.

24 b. Any health care related data that is required under State law
25 to be reported by a clinical laboratory to a local or State
26 governmental entity shall include any corresponding gender
27 identity, sexual orientation, and racial and ethnic data recorded
28 pursuant to this section, and shall be incorporated into the
29 corresponding disease surveillance reporting system of the local or
30 State governmental entity.

31 c. A non-electronic specimen collection and analysis
32 requisition form distributed by a clinical laboratory shall contain a
33 section for the manual entry of the patient's racial, ethnic, sexual
34 orientation, and gender identity information on the form.

35 d. Race and ethnicity, sexual orientation, and gender identity
36 information that is required to be recorded or reported pursuant to
37 this section shall be recorded or reported using a program that is
38 compatible with the State's disease surveillance reporting system
39 ¹or equivalent to using such data fields as may be available or
40 necessary in the version of¹ Health Level Seven International
41 recording and reporting standards ¹or equivalent standards adopted
42 by the laboratory¹.

43 ¹e. A clinical laboratory that fails to comply with the
44 provisions of this section shall be liable to a penalty in accordance
45 with the provisions of sections 13 and 14 of P.L.1971, c.136
46 (C.26:2H-13 and C.26:2H-14).¹

1 3. Any electronic medical records or laboratory information
2 management systems used in this State, on or after the effective
3 date of this act, shall be configured in a manner that prevents an
4 authorized user from saving or storing a patient's demographic
5 information into the electronic medical records or laboratory
6 information management systems unless a patient's gender identity,
7 sexual orientation, and racial and ethnic information is recorded.
8 The gender identity, sexual orientation, and racial and ethnic
9 information of a patient shall be included in laboratory orders
10 generated by electronic medical record systems. ¹A vendor of
11 electronic medical records or laboratory information management
12 systems that fails to comply with the provisions of this section shall
13 be liable to a civil penalty of up to \$1,000 for each day during
14 which the vendor's system is out of compliance. A civil penalty
15 assessed pursuant to this section shall be collected by and in the
16 name of the Department of Health in summary proceedings before a
17 court of competent jurisdiction pursuant to the provisions of the
18 "Penalty Enforcement Law of 1999," P.L.1999, c.174 (C.2A:58-
19 10 et seq.).¹

20
21 4. Nothing in this act shall be construed to compel a patient to
22 disclose the patient's race, ethnicity, sexual orientation, or gender
23 identity to a clinical laboratory, health care provider, or any other
24 entity.

25
26 5. a. ¹**[As used in this section:**

27 "Hospital" means an acute care general hospital licensed
28 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)

29 b.]¹ Each clinical laboratory ¹**[and hospital]**¹ shall implement
30 an evidence-based cultural competency training program for all
31 employees who are healthcare professionals, independent
32 contractors, consultants, and other staff members who ¹have direct
33 contact with patients and¹ are responsible for collecting race and
34 ethnicity, sexual orientation, and gender identity information from
35 patients.

36 ¹**[c.] b.**¹ The cultural competency training program shall
37 include training on the following topics:

38 (1) common terminology for race and ethnicity, sexual
39 orientation, and gender identity data;

40 (2) information on the relationship between patient health and
41 collecting race and ethnicity, sexual orientation, and gender identity
42 data;

43 (3) information on how race and ethnicity, sexual orientation,
44 and gender identity data will be used;

45 (4) information on how to navigate discomfort in patients and
46 staff when asking patients for their race and ethnicity, sexual
47 orientation, and gender identity information; and

1 (5) information on how to create an inclusive and affirming
2 environment for all patients.

3 ¹**[d.] c.**¹ Each healthcare professional, independent contractor,
4 consultant, and other staff member who is employed by a clinical
5 laboratory ¹**[or hospital]** , has direct contact with patients,¹ and is
6 responsible for collecting race and ethnicity, sexual orientation, and
7 gender identity information from patients ¹,¹ shall:

8 (1) complete the cultural competency training program
9 developed pursuant to subsection ¹**[c.] b.**¹ of this section at such
10 times and intervals as the clinical laboratory ¹**[or hospital]**¹ shall
11 require; and

12 (2) complete a cultural competency refresher course at least
13 once biennially if completion of the course is deemed necessary by
14 the clinical laboratory ¹**[or hospital]**¹ .
15

16 6. The Commissioner of Health shall adopt rules and
17 regulations, in accordance with the “Administrative Procedure Act,”
18 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate
19 the provisions of this act.
20

21 7. This act shall take effect 120 days after the date of
22 enactment except that ¹**[section]** sections 1 and¹ 5 ¹of this act¹
23 shall take effect ¹**[immediately]** 60 days after the date of
24 enactment¹ .