

LEGISLATIVE FISCAL ESTIMATE
[First Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4253
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: AUGUST 5, 2020

SUMMARY

- 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.
- Type of Impact:** Increase in State costs; Increase in County costs; Increase in State revenues.
- Agencies Affected:** Department of Health, University Hospital, Bergen New Bridge Medical Center.

Office of Legislative Services Estimate

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

- This bill would result in an indeterminate increase in costs incurred by University Hospital, an independent non-profit legal entity that is an instrumentality of the State, and Bergen New Bridge Medical Center (formerly the Bergen Regional Medical Center) in Paramus due to the implementation of an evidence-based cultural competency training program for certain employees mandated under the bill.
- State revenues may also increase marginally under a provision that would impose financial penalties on clinical laboratories that fail to comply with the reporting requirements established under this bill.

BILL DESCRIPTION

This bill requires clinical laboratories operating in the State to electronically record the race, ethnicity, sexual orientation, and gender identity of each patient who presents with a non-electronic

order for testing at a clinical laboratory patient service center. If a clinical laboratory processes a specimen without the presence of a patient, the clinical laboratory would not be responsible for recording and reporting the patient's gender identity, sexual orientation, and racial and ethnic information.

The bill specifies that any health care data that clinical laboratories are legally required to report to a local or State governmental entity should also include gender identity, sexual orientation, and racial and ethnic data. Correspondingly, a local or State governmental entity is also required to incorporate gender identity, sexual orientation, and racial and ethnic data into the disease surveillance reporting systems utilized by the local or State governmental entity.

Under the bill, a non-electronic specimen collection and analysis requisition form distributed by a clinical laboratory is to contain a section for the manual entry of the patient's racial, ethnic, sexual orientation, and gender identity information on the form. Moreover, clinical laboratories are required to report race and ethnicity, sexual orientation, and gender identity information via a program that is compatible with the State's disease surveillance reporting system or is equivalent to Health Level Seven International recording and reporting standards. A clinical laboratory that fails to comply with the provisions of this section is to be liable to a penalty in accordance with the provisions of sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and C.26:2H-14).

On or after the effective date of the bill, any electronic medical records or laboratory information management systems used in the State are required to be configured in a manner that prevents an authorized user from saving or storing a patient's demographic information into the electronic medical records or laboratory information management systems unless the patient's gender identity, sexual orientation, and racial and ethnic information is recorded. The gender identity, sexual orientation, and racial and ethnic information of a patient is also to be included in laboratory orders generated by electronic medical record systems.

The bill also requires each State-licensed acute care general hospital and clinical laboratory to implement an evidence-based cultural competency training program for all facility employees who are healthcare professionals, independent contractors, consultants, and other staff who are responsible for collecting race and ethnicity, sexual orientation, and gender identity information from patients. The cultural competency training program is to encompass a broad range of topics, including:

- common terminology for race and ethnicity, sexual orientation, and gender identity data;
- information on the relationship between patient health and collecting race and ethnicity, sexual orientation, and gender identity data;
- information on how race and ethnicity, sexual orientation, and gender identity data will be used;
- information on how to navigate discomfort in patients and staff when asking patients for race and ethnicity, sexual orientation, and gender identity information; and,
- information on how to create an inclusive and affirming environment for all patients.

The bill would require each hospital or clinical laboratory employee who is required to undergo cultural competency training to complete the training program on a schedule to be determined by the hospital or clinical laboratory. Moreover, if deemed necessary by the hospital or clinical laboratory, an employee may be required to complete a cultural competency refresher course at least biennially.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill would result in an indeterminate increase in costs incurred by University Hospital, an independent non-profit legal entity that is an instrumentality of the State, and Bergen New Bridge Medical Center (formerly the Bergen Regional Medical Center) in Paramus due to the requirement that acute care general hospitals and clinical laboratories operating in the State implement an evidence-based cultural competency training program for all employees who are healthcare professionals, consultants, independent contractors, and staff responsible for collecting information on race, ethnicity, sexual orientation and gender identity from patients. Each hospital and clinical lab would determine the frequency that staff should undergo cultural competency training, as well as a biennial refresher course, if deemed necessary. However, without information concerning the cost of developing or purchasing a cultural competency training curriculum, or the number of training sessions or refresher courses that University Hospital and Bergen New Bridge Medical Center would hold annually to meet the requirements under this bill, the OLS cannot determine the precise cost to the State or to Bergen County.

The OLS also finds that this bill may increase State revenues, albeit marginally, through a provision that imposes financial penalties on clinical laboratories that fail to comply with the reporting requirements established under the bill. The statutory penalties include, but are not limited to: revocation or suspension of a clinical laboratory’s license, monetary penalties, or denial of a license application. Financial penalties for violations range from \$2,500 per day for each day that a clinical laboratory is out of compliance with these reporting requirements, to \$5,000 per day for subsequent violations. However, the OLS concludes that any revenue increase resulting from penalties collected would likely be marginal.

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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.).