

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 4253**

---

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

---

ADOPTED JUNE 22, 2020

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman NANCY J. PINKIN**

**District 18 (Middlesex)**

**Assemblywoman ANGELICA M. JIMENEZ**

**District 32 (Bergen and Hudson)**

**Co-Sponsored by:**

**Assemblywomen Reynolds-Jackson and Vainieri Huttie**

**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 Assembly Appropriations Committee on July 27, 2020, with amendments.

(Sponsorship Updated As Of: 7/30/2020)

1       AN ACT concerning clinical laboratories <sup>1</sup>, certain hospitals,<sup>1</sup> and  
2       certain electronic medical records and supplementing Title 45 of  
3       the Revised Statutes.

4  
5       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6       *of New Jersey:*

7  
8       1. As used in this act, “clinical laboratory” means a laboratory  
9       licensed by the Department of Health, pursuant to the "New Jersey  
10      Clinical Laboratory Improvement Act," P.L.1975, c.166 (C.45:9-  
11      42.26 et seq.).

12  
13      2. a. (1) A clinical laboratory shall electronically record the race,  
14      ethnicity, sexual orientation, and gender identity of each patient <sup>1</sup>**[.]**<sup>1</sup>  
15      who presents with a non-electronic order for testing at a clinical  
16      laboratory patient service center. If a clinical laboratory processes a  
17      specimen without the presence of a patient, the clinical laboratory shall  
18      not be responsible for recording and reporting the patient’s gender  
19      identity, sexual orientation, and racial and ethnic information.

20      (2) Race and ethnicity selections shall include, but shall not be  
21      limited to: African American, Alaska Native, American Indian, Asian,  
22      Black, Hispanic, Latino, more than one race, Native Hawaiian, Other  
23      Pacific Islander, White, and <sup>1</sup>**[prefer not to say]** does not wish to  
24      disclose<sup>1</sup>.

25      (3) Sexual orientation selections shall include, but shall not be  
26      limited to: bisexual, <sup>1</sup>do not know,<sup>1</sup> heterosexual, <sup>1</sup>homosexual,<sup>1</sup> gay,  
27      lesbian, <sup>1</sup>**[unsure, other]** something else, straight<sup>1</sup>, and <sup>1</sup>**[prefer not to**  
28      **say]** does not wish to disclose<sup>1</sup>.

29      (4) Gender identity selections shall include, but shall not be limited  
30      to: male, female, <sup>1</sup>**[transgender female]** transgender-female<sup>1</sup>,  
31      <sup>1</sup>**[transgender male]** transgender-male<sup>1</sup>, <sup>1</sup>non-binary,<sup>1</sup> other, and  
32      <sup>1</sup>**[prefer not to say]** does not wish to disclose<sup>1</sup>.

33      b. Any health care related data that is required under State law to  
34      be reported by a clinical laboratory to a local or State governmental  
35      entity shall include any corresponding gender identity, sexual  
36      orientation, and racial and ethnic data recorded pursuant to this  
37      section, and shall be incorporated into the corresponding disease  
38      surveillance reporting system of the local or State governmental entity.

39      c. A non-electronic specimen collection and analysis requisition  
40      form distributed by a clinical laboratory shall contain a section for the  
41      manual entry of the patient’s racial, ethnic, sexual orientation, and  
42      gender identity information on the form.

**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:

<sup>1</sup> Assembly AAP committee amendments adopted July 27, 2020.

1 d. <sup>1</sup>Race and ethnicity, sexual orientation, and gender identity  
2 information that is required to be recorded or reported pursuant to this  
3 section shall be recorded or reported using a program that is  
4 compatible with the State's disease surveillance reporting system or  
5 equivalent to Health Level Seven International recording and reporting  
6 standards.

7 e.<sup>1</sup> A clinical laboratory that fails to comply with the provisions of  
8 this section shall be liable to a penalty in accordance with the  
9 provisions of sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and  
10 C.26:2H-14).

11  
12 3. Any electronic medical records or laboratory information  
13 management systems used in this State, on or after the effective  
14 date of this act, shall be configured in a manner that prevents an  
15 authorized user from saving or storing a patient's demographic  
16 information into the electronic medical records or laboratory  
17 information management systems unless a patient's gender identity,  
18 sexual orientation, and racial and ethnic information is recorded.  
19 The gender identity, sexual orientation, and racial and ethnic  
20 information of a patient shall be included in laboratory orders  
21 generated by electronic medical record systems.

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

27  
28 5. <sup>1</sup>a. As used in this section:

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

31 b. Each clinical laboratory and hospital shall implement an  
32 evidence-based cultural competency training program for all  
33 employees who are healthcare professionals, independent  
34 contractors, consultants, and other staff members who are  
35 responsible for collecting race and ethnicity, sexual orientation, and  
36 gender identity information from patients.

37 c. The cultural competency training program shall include  
38 training on the following topics:

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

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

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

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

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

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

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

11    (2) complete a cultural competency refresher course at least once  
12    biennially if completion of the course is deemed necessary by the  
13    clinical laboratory or hospital.<sup>1</sup>

14  
15    <sup>1</sup>~~5.~~<sup>6.</sup> The Commissioner of Health shall adopt rules and  
16    regulations, in accordance with the “Administrative Procedure Act,”  
17    P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate  
18    the provisions of this act.

19  
20    <sup>1</sup>~~6.~~<sup>7.</sup> This act shall take effect <sup>1</sup>~~90~~<sup>120</sup> days after the date  
21    of enactment <sup>1</sup>except that section 5 shall take effect immediately<sup>1</sup>.