

[Second 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 Huttler

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.

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

1 AN ACT concerning clinical laboratories ¹, certain hospitals,¹ and
2 certain electronic medical records ²,² and supplementing Title
3 ²[45] 26² of the Revised Statutes ²and P.L.1975, c.166 (C.45:9-
4 42.26 et seq.)² .
5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*
8

9 ²[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.).]²
13

14 ²1. 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:

¹Assembly AAP committee amendments adopted July 27, 2020.

²Senate 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.²

4
5 2. a. (1) A clinical laboratory shall electronically record the
6 race, ethnicity, sexual orientation, and gender identity of each
7 patient ¹‘[.]’ who presents with a non-electronic order for testing at
8 a 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 ¹‘[prefer not to say]
17 does not wish to disclose¹.

18 (3) Sexual orientation selections shall include, but shall not be
19 limited to: bisexual, ¹do not know,¹ heterosexual, ¹homosexual,¹
20 gay, lesbian, ¹‘[unsure, other] something else, straight¹, and
21 ¹‘[prefer not to say] does not wish to disclose¹.

22 (4) Gender identity selections shall include, but shall not be
23 limited to: male, female, ¹‘[transgender female] transgender-
24 female¹, ¹‘[transgender male] transgender-male¹, ¹non-binary,¹
25 other, and ¹‘[prefer not to say] does not wish to disclose¹.

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

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

37 d. ¹Race and ethnicity, sexual orientation, and gender identity
38 information that is required to be recorded or reported pursuant to
39 this section shall be recorded or reported using a program that is
40 compatible with the State’s disease surveillance reporting system
41 ²[or equivalent to] using such data fields as may be available or
42 necessary in the version of² Health Level Seven International
43 recording and reporting standards ²or equivalent standards adopted
44 by the laboratory².

45 ²[e.]¹ A clinical laboratory that fails to comply with the
46 provisions of this section shall be liable to a penalty in accordance

1 with the provisions of sections 13 and 14 of P.L.1971, c.136
2 (C.26:2H-13 and C.26:2H-14).¹²

3
4 3. Any electronic medical records or laboratory information
5 management systems used in this State, on or after the effective
6 date of this act, shall be configured in a manner that prevents an
7 authorized user from saving or storing a patient's demographic
8 information into the electronic medical records or laboratory
9 information management systems unless a patient's gender identity,
10 sexual orientation, and racial and ethnic information is recorded.
11 The gender identity, sexual orientation, and racial and ethnic
12 information of a patient shall be included in laboratory orders
13 generated by electronic medical record systems. ²A vendor of
14 electronic medical records or laboratory information management
15 systems that fails to comply with the provisions of this section shall
16 be liable to a civil penalty of up to \$1,000 for each day during
17 which the vendor's system is out of compliance. A civil penalty
18 assessed pursuant to this section shall be collected by and in the
19 name of the Department of Health in summary proceedings before a
20 court of competent jurisdiction pursuant to the provisions of the
21 "Penalty Enforcement Law of 1999," P.L.1999, c.174 (C.2A:58-
22 10 et seq.).²

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

28
29 ¹5. a. ²[As used in this section:
30 "Hospital" means an acute care general hospital licensed
31 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)

32 b.]² Each clinical laboratory ²[and hospital]² shall implement an
33 evidence-based cultural competency training program for all
34 employees who are healthcare professionals, independent
35 contractors, consultants, and other staff members who ²have direct
36 contact with patients and² are responsible for collecting race and
37 ethnicity, sexual orientation, and gender identity information from
38 patients.

39 ²[c.] b.² The cultural competency training program shall
40 include training on the following topics:

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

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

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

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

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

6 ²[d.] c.² Each healthcare professional, independent contractor,
7 consultant, and other staff member who is employed by a clinical
8 laboratory ²[or hospital] , has direct contact with patients,² and is
9 responsible for collecting race and ethnicity, sexual orientation, and
10 gender identity information from patients ²,² shall:

11 (1) complete the cultural competency training program
12 developed pursuant to subsection ²[c.] b.² of this section at such
13 times and intervals as the clinical laboratory ²[or hospital]² shall
14 require; and

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

18
19 ¹[5.] 6.¹ The Commissioner of Health shall adopt rules and
20 regulations, in accordance with the “Administrative Procedure Act,”
21 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate
22 the provisions of this act.

23
24 ¹[6.] 7.¹ This act shall take effect ¹[90] 120¹ days after the
25 date of enactment ¹except that ²[section] sections 1 and² 5 ²of this
26 act² shall take effect ²[immediately¹] 60 days after the date of
27 enactment².