

[Third Reprint]

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

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

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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)**

**Senator JOSEPH P. CRYAN**

**District 20 (Union)**

**Co-Sponsored by:**

**Assemblywomen Reynolds-Jackson, Vainieri Huttie, McKnight and  
Assemblyman Stanley**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As amended by the Senate on June 21, 2021.

(Sponsorship Updated As Of: 12/2/2021)

1 AN ACT concerning clinical laboratories <sup>1</sup>, certain hospitals,<sup>1</sup> and  
2 certain electronic medical records <sup>2</sup>,<sup>2</sup> and supplementing Title  
3 <sup>2</sup>**[45]** 26<sup>2</sup> of the Revised Statutes <sup>2</sup>and P.L.1975, c.166 (C.45:9-  
4 42.26 et seq.)<sup>2</sup> .  
5

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

9 <sup>2</sup>**[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.).<sup>2</sup>**]**<sup>2</sup>  
13

14 <sup>2</sup>1. 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 <sup>3</sup>**[employees who are**  
18 healthcare professionals, independent contractors, consultants, and  
19 other]<sup>3</sup> staff members <sup>3</sup>employed by or working under the  
20 supervision of the general acute hospital<sup>3</sup> who have direct contact  
21 with patients and are responsible for collecting race and ethnicity,  
22 sexual orientation, and gender identity information from patients.  
23 <sup>3</sup>The Department of Health shall identify an evidence-based cultural  
24 competency training tool to be utilized by cultural competency  
25 training programs implemented by general acute hospitals pursuant  
26 to this section. The use of the department’s approved training tool  
27 by a general acute hospital shall not preclude the hospital from  
28 utilizing additional or customized training tools in addition to the  
29 department’s approved training tool.<sup>3</sup>

30 b. <sup>3</sup>**[The]** Each<sup>3</sup> cultural competency training program  
31 implemented pursuant to subsection a. of this section<sup>3</sup> shall include  
32 training on the following topics:

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

35 (2) information on the relationship between patient health and  
36 collecting race and ethnicity, sexual orientation, and gender identity  
37 data;

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

40 (4) information on how to navigate discomfort in patients and  
41 staff when asking patients for their race and ethnicity, sexual  
42 orientation, and gender identity information; 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:

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

<sup>2</sup>Senate SHH committee amendments adopted December 7, 2020.

<sup>3</sup>Senate floor amendments adopted June 21, 2021.

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

3     c. Each <sup>3</sup>healthcare professional, independent contractor,  
4     consultant, and other<sup>3</sup> staff member who is employed by <sup>3</sup>[a] or  
5     working under the supervision of the<sup>3</sup> general acute care hospital,  
6     has direct contact with patients, and is responsible for collecting  
7     race and ethnicity, sexual orientation, and gender identity  
8     information from patients, shall:

9     (1) complete the cultural competency training program  
10    <sup>3</sup>[developed pursuant to subsection b.] implemented pursuant to  
11    subsection a.<sup>3</sup> of this section at such times and intervals as the  
12    hospital shall require; and

13    (2) complete a cultural competency refresher course at least  
14    once biennially if completion of the course is deemed necessary by  
15    the hospital.<sup>2</sup>

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

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

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

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

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

45    c. A non-electronic specimen collection and analysis  
46    requisition form distributed by a clinical laboratory shall contain a

1 section for the manual entry of the patient's racial, ethnic, sexual  
2 orientation, and gender identity information on the form.

3 d. <sup>1</sup>Race and ethnicity, sexual orientation, and gender identity  
4 information that is required to be recorded or reported pursuant to  
5 this section shall be recorded or reported using a program that is  
6 compatible with the State's disease surveillance reporting system  
7 <sup>2</sup>[or equivalent to] using such data fields as may be available or  
8 necessary in the version of<sup>2</sup> Health Level Seven International  
9 recording and reporting standards <sup>2</sup>or equivalent standards adopted  
10 by the laboratory<sup>2</sup> .

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

15  
16 3. Any electronic medical records or laboratory information  
17 management systems used in this State, on or after the effective  
18 date of this act, shall be configured in a manner that prevents an  
19 authorized user from saving or storing a patient's demographic  
20 information into the electronic medical records or laboratory  
21 information management systems unless a patient's gender identity,  
22 sexual orientation, and racial and ethnic information is recorded.  
23 The gender identity, sexual orientation, and racial and ethnic  
24 information of a patient shall be included in laboratory orders  
25 generated by electronic medical record systems. <sup>2</sup>A vendor of  
26 electronic medical records or laboratory information management  
27 systems that fails to comply with the provisions of this section shall  
28 be liable to a civil penalty of up to \$1,000 for each day during  
29 which the vendor's system is out of compliance. A civil penalty  
30 assessed pursuant to this section shall be collected by and in the  
31 name of the Department of Health in summary proceedings before a  
32 court of competent jurisdiction pursuant to the provisions of the  
33 "Penalty Enforcement Law of 1999," P.L.1999, c.174 (C.2A:58-  
34 10 et seq.).<sup>2</sup>

35  
36 4. Nothing in this act shall be construed to compel a patient to  
37 disclose the patient's race, ethnicity, sexual orientation, or gender  
38 identity to a clinical laboratory, health care provider, or any other  
39 entity.

40  
41 <sup>1</sup>5. a. <sup>2</sup>[As used in this section: "Hospital" means an acute care  
42 general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et  
43 seq.)

44 b.]<sup>2</sup> Each clinical laboratory <sup>2</sup>[and hospital]<sup>2</sup> shall implement an  
45 evidence-based cultural competency training program for all  
46 <sup>3</sup>[employees who are healthcare professionals, independent  
47 contractors, consultants, and other]<sup>3</sup> staff members <sup>3</sup>employed by

1 or working under the supervision of the clinical laboratory<sup>3</sup> who  
 2 <sup>2</sup>have direct contact with patients and<sup>2</sup> are responsible for collecting  
 3 race and ethnicity, sexual orientation, and gender identity  
 4 information from patients. <sup>3</sup>The Department of Health shall  
 5 identify an evidence-based cultural competency training tool to be  
 6 utilized by cultural competency training programs implemented by  
 7 clinical laboratories pursuant to this section. The use of the  
 8 department's approved training tool by a clinical laboratory shall  
 9 not preclude the clinical laboratory from utilizing additional or  
 10 customized training tools in addition to the department's approved  
 11 training tool.<sup>3</sup>

12 <sup>2</sup>[c.] b.<sup>2</sup> <sup>3</sup>[The] Each<sup>3</sup> cultural competency training program  
 13 <sup>3</sup>implemented pursuant to subsection a. of this section<sup>3</sup> shall include  
 14 training on the following topics:

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

17 (2) information on the relationship between patient health and  
 18 collecting race and ethnicity, sexual orientation, and gender identity  
 19 data;

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

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

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

27 <sup>2</sup>[d.] c.<sup>2</sup> Each <sup>3</sup>[healthcare professional, independent  
 28 contractor, consultant, and other]<sup>3</sup> staff member who is employed  
 29 by <sup>3</sup>[a] or working under the supervision of the<sup>3</sup> clinical laboratory  
 30 <sup>2</sup>[or hospital] , has direct contact with patients,<sup>2</sup> and is responsible  
 31 for collecting race and ethnicity, sexual orientation, and gender  
 32 identity information from patients <sup>2</sup>,<sup>2</sup> shall:

33 (1) complete the cultural competency training program  
 34 <sup>3</sup>[developed pursuant to subsection <sup>2</sup>[c.] b.<sup>2</sup>] implemented  
 35 pursuant to subsection a.<sup>3</sup> of this section at such times and intervals  
 36 as the clinical laboratory <sup>2</sup>[or hospital]<sup>2</sup> shall require; and

37 (2) complete a cultural competency refresher course at least  
 38 once biennially if completion of the course is deemed necessary by  
 39 the clinical laboratory <sup>2</sup>[or hospital]<sup>2</sup> .<sup>1</sup>

40  
 41 <sup>1</sup>[5.] 6.<sup>1</sup> The Commissioner of Health shall adopt rules and  
 42 regulations, in accordance with the "Administrative Procedure Act,"  
 43 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate  
 44 the provisions of this act.

1       <sup>1</sup>**6.** <sup>1</sup>7. This act shall take effect <sup>1</sup>**90** <sup>1</sup>120 days after the  
2       date of enactment <sup>1</sup>except that <sup>2</sup>**section** <sup>2</sup>sections 1 and 5 <sup>2</sup>of this  
3       act <sup>2</sup>shall take effect <sup>2</sup>**immediately** <sup>1</sup>60 days after the date of  
4       enactment <sup>2</sup>.