

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

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

with committee amendments

STATE OF NEW JERSEY

DATED: JULY 27, 2020

The Assembly Appropriations Committee reports favorably and with committee amendments the Assembly Committee Substitute for Assembly Bill No. 4253.

Under the amended committee substitute, a clinical laboratory is 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 shall not be responsible for recording and reporting the patient's gender identity, sexual orientation, and racial and ethnic information.

Race and ethnicity selections are to include, but are not to be limited to: African American, Alaska Native, American Indian, Asian, Black, Hispanic, Latino, more than one race, Native Hawaiian, Other Pacific Islander, White, and does not wish to disclose. Sexual orientation selections are to include, but are not to be limited to: bisexual, do not know, heterosexual, homosexual, gay, lesbian, something else, straight, and does not wish to disclose. Gender identity selections are to include, but are not to be limited to: male, female, transgender-female, transgender-male, non-binary, other, and does not wish to disclose.

Any health care related data that is required under State law to be reported by a clinical laboratory to a local or State governmental entity is to include any corresponding gender identity, sexual orientation, and racial and ethnic data recorded pursuant to the bill's provisions, and is to be incorporated into the corresponding disease surveillance reporting system of 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. 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).

Any electronic medical records or laboratory information management systems used in this State, on or after the effective date of this bill, is 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 a 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 to be included in laboratory orders generated by electronic medical record systems.

Nothing in the bill's provisions is to be construed to compel a patient to disclose the patient's race, ethnicity, sexual orientation, or gender identity to a clinical laboratory, health care provider, or any other entity.

Under the bill, race and ethnicity, sexual orientation, and gender identity information that is required to be recorded or reported pursuant to bill's provisions is to be recorded or reported using a program that is compatible with the State's disease surveillance reporting system or equivalent to Health Level Seven International recording and reporting standards. Clinical laboratories and acute care general hospitals are required to establish a cultural competency training program for certain employees as provided for in the bill.

COMMITTEE AMENDMENTS:

The committee amendments provide that race and ethnicity, sexual orientation, and gender identity information that is required to be recorded or reported pursuant to bill's provisions is to be recorded or reported using a program that is compatible with the State's disease surveillance reporting system or equivalent to Health Level Seven International recording and reporting standards. The amendments require clinical laboratories and acute care general hospitals to establish a cultural competency training program for certain employees as provided for in the bill.

The amendments make technical changes, including changes to the title and synopsis and as to punctuation and usage. The amendments add and remove gender identity and sexual orientation selections as provided for in the bill. The amendments also change the bill's effective date from 90 days to 120 days after the date of enactment, except that the cultural competency training program provision is to take effect immediately.

FISCAL IMPACT:

The Office of Legislative Services concludes that this bill would result in an indeterminate increase in costs for 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). Under the bill, State hospitals and clinical laboratories are directed to 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. The comprehensive training program mandated under this bill would cover a broad range of topics, including, but not limited to: information on common terms for sexual orientation, gender identity, race and ethnicity; information on ways to navigate discomfort in patients and staff when asking patients for gender identity, sexual orientation, ethnicity, and racial information; and, information on how to create an inclusive and affirming environment for all patients. Each hospital and clinical lab would determine the frequency that staff should undergo the cultural competency training program, as well as a biennial refresher course, if deemed necessary. Without information concerning the cost of developing or purchasing a cultural competency training curriculum or the number of training sessions that a University Hospital and Bergen New Bridge Medical Center would hold annually to meet the requirements of this bill, OLS cannot determine the precise cost to the State or to Bergen County.

Finally, the Office of Legislative Services concludes that this bill may increase State revenues, albeit marginally, through a provision that would impose financial penalties for clinical laboratories that fail to comply with the reporting requirements established under this bill. The statutory penalties include, but are not limited to: revocation or suspension of a 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 the hospital or facility 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.