

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

### **SENATE, No. 703**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: AUGUST 24, 2020

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 703 (1R).

As amended, this bill would require every hospital that provides inpatient maternity services and every birthing center licensed in the State pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) to implement an evidence-based implicit bias training program for all health professionals that who provide perinatal treatment and care to pregnant persons at the hospital or birthing center, regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the hospital or birthing center, and all administrative and clerical staff members, as defined by the Department of Health (DOH) who interact with pregnant persons at the hospital or birthing center.

The training program would include, but not be limited to: identifying previous and current unconscious biases and misinformation when providing perinatal treatment and care to, or interacting with, pregnant women; identifying personal, interpersonal, institutional, and cultural barriers to inclusion; information about the effects of historical and contemporary exclusion and oppression of minority communities; information about cultural identity across racial and ethnic groups; information about communicating more effectively across racial, ethnic, religious, and gender identities; information about reproductive health; discussions on power dynamics and organizational decision-making and their effects on implicit bias, and on health inequities and racial and ethnic disparities within the field of perinatal care, and how implicit bias may contribute to pregnancy-related deaths and maternal and infant health outcomes; corrective measures to decrease implicit bias at the interpersonal and institutional levels; and review of the annual report of the New Jersey Maternal Mortality Review Committee.

A health care professional who provides perinatal treatment and care to, and an administrative or clerical staff member who interacts with, pregnant persons at a hospital or birthing center would be required to complete the training program and a refresher course, every two years. The refresher course would be designed to provide

the health care professional with updated information about racial, ethnic, and cultural identity, and best practices in decreasing interpersonal and institutional implicit bias. Upon successful completion of the training program, the health care professional or administrative or clerical staff member would receive a certification from the hospital or birthing center.

Under the bill, a hospital or birthing center that implements an implicit bias training program is to ensure that the program is structured in a manner that permits health care professionals to be eligible to receive continuing education credits for participation in the program.

As amended, the bill requires the DOH to identify an implicit bias training tool to be utilized by the implicit bias training program implemented by a hospital or birthing center. The use of DOH's training tool by a hospital or birthing center would not preclude the hospital or birthing center from utilizing additional or customized training tools in addition to the DOH's training tool.

As amended, the bill provides that in the event that a hospital or birthing center fails to implement an implicit bias training program, the DOH would invoke penalties or take administrative action against the hospital or birthing center. Any penalties imposed or administrative actions taken by the DOH may be imposed in a summary proceeding.

As amended, the bill establishes a requirement for physicians, physician assistants, nurses, nurse midwives, certified professional midwives, or certified midwives who provide prenatal or perinatal care to pregnant women to complete one credit of continuing education in implicit bias training, which implicit bias training course is to meet the requirements for an implicit bias training course required for physicians and staff providing perinatal care in a hospital or birthing center. A health care professional who completes a continuing education course in implicit bias training will be deemed to have satisfied the implicit bias training requirement required for health care professionals providing perinatal care in a hospital or birthing center.

The bill, as amended by the committee, requires that as a condition of being appointed as a member of the Board of State Medical Examiners or the New Jersey Board of Nursing, or the member's continued appointment to the board, as applicable, a board member would complete an evidence-based implicit bias training program approved by the Division of Consumer Affairs in the Department of Law and Public Safety. The board member would be required to complete, and acknowledge the completion of, the training program at a frequency determined by the division.

As defined in the bill, "health care professional" means a person licensed or certified to practice a health care profession pursuant to Title 45 of the Revised Statutes. "Implicit bias" means a bias in judgment or behavior that results from subtle cognitive processes,

including implicit prejudice and implicit stereotypes, that often operate at a level below conscious awareness and without intentional control. “Implicit stereotypes” means the unconscious attributions of particular qualities to a member of a certain social group, influenced by experience, and based on learned associations between various qualities and social categories, including race and gender. “Perinatal care” means the provision of care during pregnancy, labor, delivery, postpartum and neonatal periods.

#### COMMITTEE AMENDMENTS:

The committee amendments update references of “pregnant women” to “pregnant persons.

The committee amendments clarify that the bill’s provisions would apply to all administrative and clerical staff members, as defined by the DOH, who interact with pregnant persons at the hospital or birthing center.

The committee amendments stipulate that hospitals and birthing are required to implement the implicit bias training program for all health professionals who provide perinatal treatment and care to pregnant persons at hospitals or birthing centers regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the hospital or birthing center.

The committee amendments provide that the implicit bias training program include a review of the annual report of the New Jersey Maternal Mortality Commission, and clarify that the program will include information on reproductive health, instead of reproductive justice, as originally provided in the bill.

The committee amendments mandate that the Department of Health identify an implicit bias training tool to be utilized by the implicit bias training program implemented by a hospital or birthing center. The amendments further mandate that the use of the department’s training tool by a hospital or birthing center would not preclude the hospital or birthing center from utilizing additional or customized training tools in addition to the department’s training tool.

The committee amendments provide that in the event that a hospital or birthing center fails to implement an implicit bias training program, the Department of Health would invoke penalties or take administrative action against the hospital or birthing center. Any penalties imposed or administrative actions taken by the department may be imposed in a summary proceeding.

The committee amendments define “health care professional” as a person licensed or certified to practice a health care profession pursuant to Title 45 of the Revised Statutes and “perinatal care” means as the provision of care during pregnancy, labor, delivery, postpartum, and neonatal periods.

The committee amendments expand the continuing education requirement to include certified nurse midwives, certified professional midwives, and certified midwives. As introduced, the bill limited the continuing education requirement to physicians, physician assistants, and nurses.

The committee amendments require that as a condition of being appointed as a member of the Board of State Medical Examiners or the New Jersey Board of Nursing, or the member's continued appointment to the board, as applicable, a board member would complete an evidence-based implicit bias training program approved by the Division of Consumer Affairs in the Department of Law and Public Safety. The amendments further require that the board member would complete, and acknowledge the completion of, the training program at a frequency determined by the division.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that this bill will result in an indeterminate, and likely minimal, increase in State costs for the Department of Health to develop regulations requiring hospitals that provide inpatient maternity services and licensed birthing centers to implement an evidence-based implicit bias training program for all health professionals who provide perinatal treatment and care, and all administrative and clerical staff who interact with pregnant women at the hospital or birthing center.

The Division of Consumer Affairs in the Department of Law and Public Safety will realize an indeterminate increase in costs associated with a requirement that the New Jersey Board of Medical Examiners and the New Jersey Board of Nursing ensure that all licensed physicians, physician assistants, professional nurses and practical nurses who provide prenatal or perinatal services take, on a biennial basis, one credit of continuing education programs concerning implicit bias that meet the requirements established under the bill.

The OLS also concludes that University Hospital, an independent non-profit legal entity that is an instrumentality of the State, will experience an indeterminate increase in expenditures to develop and implement the evidence-based training program, and the biennial refresher course, required under the bill.