SENATE, No. 3233

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 7, 2020

Sponsored by:
Senator JOSEPH P. CRYAN
District 20 (Union)

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 introduced.

AN ACT concerning clinical laboratories, certain hospitals, and certain electronic medical records and supplementing Title 45 of the Revised Statutes

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

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

2. a. (1) A clinical laboratory shall 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.

(2) Race and ethnicity selections shall include, but shall not 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.

(3) Sexual orientation selections shall include, but shall not be limited to: bisexual, do not know, heterosexual, homosexual, gay, lesbian, something else, straight, and does not wish to disclose.

(4) Gender identity selections shall include, but shall not be limited to: male, female, transgender-female, transgender-male, non-binary, other, and does not wish to disclose.

b. 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 shall include any corresponding gender identity, sexual orientation, and racial and ethnic data recorded pursuant to this section, and shall be incorporated into the corresponding disease surveillance reporting system of the local or State governmental entity.

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

d. Race and ethnicity, sexual orientation, and gender identity information that is required to be recorded or reported pursuant to this section shall 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.

e. A clinical laboratory that fails to comply with the provisions of this section shall 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).

3. Any electronic medical records or laboratory information management systems used in this State, on or after the effective date of this act, shall 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 shall be included in laboratory orders generated by electronic medical record systems.

4. Nothing in this act shall 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.

5. a. As used in this section:

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

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

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

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

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

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

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

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

d. Each healthcare professional, independent contractor, consultant, and other staff member who is employed by a clinical laboratory or hospital and is responsible for collecting race and

ethnicity, sexual orientation, and gender identity information from patients shall:

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

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

6. The Commissioner of Health shall adopt rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate the provisions of this act.

7. This act shall take effect 120 days after the date of enactment except that section 5 shall take effect immediately.

STATEMENT

Under the bill, 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.