[Second Reprint]

SENATE, No. 3233

STATE OF NEW JERSEY

219th LEGISLATURE

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

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.

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

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

[1][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.).][1]

[1]1. a. Each general acute care hospital that collects data concerning patient race, ethnicity, sexual orientation, or gender identity for any reason shall implement an evidence-based cultural competency training program for all [2][employees who are healthcare professionals, independent contractors, consultants, and other][2] staff members [2]employed by or working under the supervision of the general acute hospital[2] who have direct contact with patients and are responsible for collecting race and ethnicity, sexual orientation, and gender identity information from patients. [2]The Department of Health shall identify an evidence-based cultural competency training tool to be utilized by cultural competency training programs implemented by general acute hospitals pursuant to this section. The use of the department's approved training tool by a general acute hospital shall not preclude the hospital from utilizing additional or customized training tools in addition to the department's approved training tool.[2]

b. [2][The] Each[2] cultural competency training program [2]implemented pursuant to subsection a. of this section[2] 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.

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:
[1]Senate SHH committee amendments adopted December 7, 2020.
[2]Senate floor amendments adopted June 21, 2021.

c. Each [2]⟦healthcare professional, independent contractor, consultant, and other⟧[2] staff member who is employed by [2]⟦a⟧ or working under the supervision of the[2] general acute care hospital, has direct contact with patients, and is responsible for collecting race and ethnicity, sexual orientation, and gender identity information from patients, shall:

(1) complete the cultural competency training program [2]⟦developed pursuant to subsection b.⟧ implemented pursuant to subsection a.[2] of this section at such times and intervals as the 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 hospital.[1]

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 [1][or equivalent to] using such data fields as may be available or necessary in the version of[1] Health Level Seven International recording and reporting standards [1]or equivalent standards adopted by the laboratory[1] .

[1][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).][1]

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. [1]A vendor of electronic medical records or laboratory information management systems that fails to comply with the provisions of this section shall be liable to a civil penalty of up to $1,000 for each day during which the vendor's system is out of compliance. A civil penalty assessed pursuant to this section shall be collected by and in the name of the Department of Health in summary proceedings before a court of competent jurisdiction pursuant to the provisions of the "Penalty Enforcement Law of 1999," P.L.1999, c.174 (C.2A:58-10 et seq.).[1]

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. [1][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.][1] Each clinical laboratory [1][and hospital][1] shall implement an evidence-based cultural competency training program for all [2][employees who are healthcare professionals, independent contractors, consultants, and other][2] staff members [2]employed by or working under the supervision of the clinical laboratory[2] who [1]have direct contact with patients and[1] are responsible for collecting race and ethnicity, sexual orientation, and gender identity information from patients. [2]The Department of Health shall identify an evidence-based

cultural competency training tool to be utilized by cultural competency training programs implemented by clinical laboratories pursuant to this section. The use of the department's approved training tool by a clinical laboratory shall not preclude the clinical laboratory from utilizing additional or customized training tools in addition to the department's approved training tool.[2]

[1][c.] b.[1] [2][The] Each[2] cultural competency training program [2]implemented pursuant to subsection a. of this section[2] 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.

[1][d.] c.[1] Each [2][healthcare professional, independent contractor, consultant, and other][2] staff member who is employed by [2][a] or working under the supervision of the[2] clinical laboratory [1][or hospital] , has direct contact with patients,[1] and is responsible for collecting race and ethnicity, sexual orientation, and gender identity information from patients [1],[1] shall:

(1) complete the cultural competency training program [2][developed pursuant to subsection [1][c.] b.[1]] implemented pursuant to subsection a.[2] of this section at such times and intervals as the clinical laboratory [1][or hospital][1] 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 [1][or hospital][1] .

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 [1][section] sections 1 and[1] 5 [1]of this act[1] shall take effect [1][immediately] 60 days after the date of enactment[1] .