SENATE HEALTH, HUMAN SERVICES AND SENIOR CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 3233

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 7, 2020

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 3233.

Under the bill as amended, clinical laboratories will be required to electronically record each patient's race, ethnicity, sexual orientation, and gender identity, if the patient 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 will 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 provisions of the bill, and is to be incorporated into the corresponding disease surveillance reporting system of the local or State governmental entity.

Non-electronic specimen collection and analysis requisition forms distributed by a clinical laboratory are to contain a section for the manual entry of the patient's racial, ethnic, sexual orientation, and gender identity information.

Any electronic medical records or laboratory information management system 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. The vendor of an electronic medical records or laboratory information management system that is not in compliance with the requirements of the bill will be subject to a civil penalty of $1,000 for each day the vendor's system is noncompliant.

Nothing in the bill 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 under the bill is to be recorded or reported using a program that is compatible with the State's disease surveillance reporting system using data fields as are available or necessary using the version of the Health Level Seven International recording and reporting standards or equivalent adopted by the clinical laboratory.

All clinical laboratories, and hospitals that collect data concerning patient race, ethnicity, sexual orientation, and gender identity, will be required to establish cultural competency training programs for employees who have direct contact with patients and who collect this demographic information, which programs will provide information concerning issues related to race and ethnicity, sexual orientation, and gender identity and how to engage in conversations with patients regarding these subjects.

As reported by the committee with amendments, Senate Bill No. 3233 is identical to Assembly Bill 4253 ACS (1R), which the committee also reported on this date with amendments.

COMMITTEE AMENDMENTS:

The committee amendments revise the requirement for hospitals to establish a cultural competency program to move it to a separate section and provide that it only applies to hospitals that collect data concerning patient race, ethnicity, sexual orientation, or gender identity.

The committee amendments revise the requirements for cultural competency programs for both hospitals and clinical laboratories to make the programs mandatory only for employees, contractors, and other individuals who have direct contact with patients.

The committee amendments revise the bill to provide that the provisions related to clinical laboratories will supplement the "New Jersey Clinical Laboratory Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.) rather than Title 45 of the Revised Statutes

generally. This change means it is not necessary to define "clinical laboratory" or reference certain penalty provisions, as the definitions and penalties set forth in the "New Jersey Clinical Laboratory Improvement Act" will automatically apply to the provisions of the bill.

The committee amendments provide that programs used by clinical laboratories to collect the demographic information required under the bill are to use data fields as are available or necessary using the version of Health Level Seven International recording and reporting standards or equivalent that the laboratory has adopted.

The committee amendments establish a civil penalty of up to $1,000 per day for vendors of electronic medical records and laboratory information management systems whose systems are noncompliant with the requirements of the bill.

The committee amendments revise the effective date for the requirement for clinical laboratories and certain hospitals to establish cultural competency programs from immediately upon enactment to 60 days after the date of enactment.

The committee amendments make various technical changes to reflect these amendments.