

[Fourth Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4253

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED JUNE 22, 2020

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Assemblywoman ANGELICA M. JIMENEZ

District 32 (Bergen and Hudson)

Senator JOSEPH P. CRYAN

District 20 (Union)

Co-Sponsored by:

**Assemblywomen Reynolds-Jackson, Vainieri Huttie, McKnight and
Assemblyman Stanley**

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 General Assembly on December 20, 2021.

(Sponsorship Updated As Of: 12/2/2021)

1 AN ACT concerning clinical laboratories ¹, certain hospitals,¹ and
2 certain electronic medical records ²,² and supplementing Title
3 ²**[45]** 26² of the Revised Statutes ²and P.L.1975, c.166 (C.45:9-
4 42.26 et seq.)² .
5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*
8

9 ²**[1.** As used in this act, “clinical laboratory” means a
10 laboratory licensed by the Department of Health, pursuant to the
11 "New Jersey Clinical Laboratory Improvement Act," P.L.1975,
12 c.166 (C.45:9-42.26 et seq.).]²
13

14 ²1. a. Each general acute care hospital that collects data
15 concerning patient race, ethnicity, sexual orientation, or gender
16 identity for any reason shall implement an evidence-based cultural
17 competency training program for all ³**[employees who are**
18 healthcare professionals, independent contractors, consultants, and
19 other]³ staff members ³employed by or working under the
20 supervision of the general acute hospital³ who have direct contact
21 with patients and are responsible for collecting race and ethnicity,
22 sexual orientation, and gender identity information from patients.
23 ³The Department of Health shall identify an evidence-based cultural
24 competency training tool ⁴**[to]** that may⁴ be utilized by cultural
25 competency training programs implemented by general acute
26 hospitals pursuant to this section. The use of the department’s
27 approved training tool by a general acute hospital shall not preclude
28 the hospital from utilizing additional or customized training tools in
29 addition to ⁴or in lieu of⁴ the department’s approved training tool.³
30

31 b. ³**[The]** Each³ cultural competency training program
32 implemented pursuant to subsection a. of this section³ shall include
33 training on the following topics:

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

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

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

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

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:

¹Assembly AAP committee amendments adopted July 27, 2020.

²Senate SHH committee amendments adopted December 7, 2020.

³Senate floor amendments adopted June 21, 2021.

⁴Assembly floor amendments adopted December 20, 2021.

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

c. Each ³healthcare professional, independent contractor, consultant, and other³ staff member who is employed by ³[a] or working under the supervision of the³ 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 ³[developed pursuant to subsection b.] implemented pursuant to subsection a.³ 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.²

2. a. (1) A clinical laboratory shall electronically record the race, ethnicity, sexual orientation, and gender identity of each patient ¹[.]¹ 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 include⁴[, but shall not be limited to⁴: African American, Alaska Native, American Indian, Asian, Black, Hispanic, Latino, more than one race, Native Hawaiian, Other Pacific Islander, White, and ¹[prefer not to say] does not wish to disclose¹.

(3) Sexual orientation selections shall include⁴[, but shall not be limited to⁴: bisexual ⁴[.] ;⁴ ¹do not know ⁴[.] ;⁴ ¹heterosexual⁴[.] or straight;⁴ ¹homosexual,¹ gay, ⁴or⁴ lesbian ⁴[.] ;⁴ ¹[unsure, other] something else⁴[, straight¹],⁴ and ¹[prefer not to say] does not wish to disclose¹.

(4) Gender identity selections shall include⁴[, but shall not be limited to⁴: male, female, ¹[transgender female] transgender-female¹, ¹[transgender male] transgender-male¹, ¹non-binary,¹ other, and ¹[prefer not to say] does not wish to disclose¹.

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.

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

5 d. ¹Race and ethnicity, sexual orientation, and gender identity
6 information that is required to be recorded or reported pursuant to
7 this section shall be recorded or reported using a program that is
8 compatible with the State's disease surveillance reporting system
9 ²[or equivalent to] using such data fields as may be available or
10 necessary in the version of² Health Level Seven International
11 recording and reporting standards ²or equivalent standards adopted
12 by the laboratory² .

13 ²[e.¹ A clinical laboratory that fails to comply with the
14 provisions of this section shall be liable to a penalty in accordance
15 with the provisions of sections 13 and 14 of P.L.1971, c.136
16 (C.26:2H-13 and C.26:2H-14).]²

17 ⁴e. The Commissioner of Health may modify, by regulation, the
18 race, ethnicity, sexual orientation, and gender identity selections
19 provided in subsection a. of this section as appropriate or pursuant
20 to federal requirements.⁴

21
22 3. Any electronic medical records or laboratory information
23 management systems used in this State ⁴or sold by a vendor of such
24 systems in this State⁴, on or after the effective date of this act, shall
25 be configured in a manner that prevents an authorized user from
26 saving or storing a patient's demographic information into the
27 electronic medical records or laboratory information management
28 systems unless a patient's gender identity, sexual orientation, and
29 racial and ethnic information is recorded. ⁴Nothing in this act shall
30 prohibit a clinical laboratory from receiving, processing, or saving
31 data related to specimens that are ordered or received from outside
32 of this State.⁴ The gender identity, sexual orientation, and racial
33 and ethnic information of a patient shall be included in laboratory
34 orders generated by electronic medical record systems. ²A vendor
35 of electronic medical records or laboratory information
36 management systems that fails to comply with the provisions of this
37 section shall be liable to a civil penalty of up to \$1,000 for each day
38 during which the vendor's system is out of compliance. A civil
39 penalty assessed pursuant to this section shall be collected by and in
40 the name of the Department of Health in summary proceedings
41 before a court of competent jurisdiction pursuant to the provisions
42 of the "Penalty Enforcement Law of 1999," P.L.1999, c.174
43 (C.2A:58-10 et seq.).²

44
45 4. Nothing in this act shall be construed to compel a patient to
46 disclose the patient's race, ethnicity, sexual orientation, or gender

1 identity to a clinical laboratory, health care provider, or any other
2 entity.

3
4 ¹5. a. ²[As used in this section: “Hospital” means an acute care
5 general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
6 seq.)

7 b.]² Each clinical laboratory ²[and hospital]² shall implement an
8 evidence-based cultural competency training program for all
9 ³[employees who are healthcare professionals, independent
10 contractors, consultants, and other]³ staff members ³employed by
11 or working under the supervision of the clinical laboratory³ who
12 ²have direct contact with patients and² are responsible for collecting
13 race and ethnicity, sexual orientation, and gender identity
14 information from patients. ³The Department of Health shall
15 identify an evidence-based cultural competency training tool ⁴[to]
16 that may⁴ be utilized by cultural competency training programs
17 implemented by clinical laboratories pursuant to this section. The
18 use of the department’s approved training tool by a clinical
19 laboratory shall not preclude the clinical laboratory from utilizing
20 additional or customized training tools in addition to ⁴or in lieu of⁴
21 the department’s approved training tool.³

22 ²[c.] b.² ³[The] Each³ cultural competency training program
23 ³implemented pursuant to subsection a. of this section³ shall include
24 training on the following topics:

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

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

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

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

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

37 ²[d.] c.² Each ³[healthcare professional, independent
38 contractor, consultant, and other]³ staff member who is employed
39 by ³[a] or working under the supervision of the³ clinical laboratory
40 ²[or hospital] , has direct contact with patients,² and is responsible
41 for collecting race and ethnicity, sexual orientation, and gender
42 identity information from patients ²,² shall:

43 (1) complete the cultural competency training program
44 ³[developed pursuant to subsection ²[c.] b.²] implemented
45 pursuant to subsection a.³ of this section at such times and intervals
46 as the clinical laboratory ²[or hospital]² shall require; and

1 (2) complete a cultural competency refresher course at least
2 once biennially if completion of the course is deemed necessary by
3 the clinical laboratory ²or hospital ² . ¹
4
5 ¹[5.] 6. ¹ The Commissioner of Health shall adopt rules and
6 regulations, in accordance with the “Administrative Procedure Act,”
7 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate
8 the provisions of this act.
9
10 ¹[6.] 7. ¹ This act shall take effect ¹[90] ⁴[120] ¹ 180 ⁴ days
11 after the date of enactment ¹except that ²[section] sections 1 and ² 5
12 ²of this act ² shall take effect ²[immediately] ¹ ⁴[60] ⁴ 120 ⁴ days after
13 the date of enactment ².