

P.L. 2022, CHAPTER 44, *approved June 30, 2022*
Assembly, No. 4385

1 AN ACT concerning the recording of patients' demographic
2 information and amending P.L.2021, c.454.

3

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

6

7 1. Section 1 of P.L.2021, c.454 (C.26:2H-5.36) is amended to
8 read as follows:

9 1. a. Each general acute care hospital that collects data
10 concerning patient race, ethnicity, sexual orientation, or gender
11 identity for any reason shall implement an evidence-based cultural
12 competency training program for all staff members employed by or
13 working under the supervision of the general acute hospital who
14 have direct contact with patients and are responsible for collecting
15 race and ethnicity, sexual orientation, and gender identity
16 information from patients. **[The Department of Health shall
17 identify an evidence-based cultural competency training tool that
18 may be utilized by cultural competency training programs
19 implemented by general acute hospitals pursuant to this section.
20 The use of the department's approved training tool by a general
21 acute hospital shall not preclude the hospital from utilizing
22 additional or customized training tools in addition to or in lieu of
23 the department's approved training tool.]**

24 b. Each cultural competency training program implemented
25 pursuant to subsection a. of this section shall include training on
26 how to collect race, ethnicity, sexual orientation, and gender
27 identity in a culturally competent and sensitive manner. This may
28 include the following topics:

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

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

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

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

39 (5) information on how to create an inclusive and affirming
40 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.

1 c. Each staff member who is employed by or working under the
2 supervision of the general acute care hospital, has direct contact
3 with patients, and is responsible for collecting race and ethnicity,
4 sexual orientation, and gender identity information from patients,
5 shall:

6 (1) complete the cultural competency training program
7 implemented pursuant to subsection a. of this section at such times
8 and intervals as the hospital shall require; and

9 (2) complete a cultural competency refresher course at least once
10 biennially if completion of the course is deemed necessary by the
11 hospital.

12 (cf: P.L.2021, c.454, s.1)

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14 2. Section 2 of P.L.2021, c.454 (C.45:9-42.46) is amended to
15 read as follows:

16 2. a. (1) A clinical laboratory shall electronically record the
17 race, ethnicity, sexual orientation, and gender identity of each
18 patient who presents with a non-electronic order for testing at a
19 clinical laboratory patient service center. If a clinical laboratory
20 processes a specimen without the presence of a patient, the clinical
21 laboratory shall not be responsible for recording and reporting the
22 patient's gender identity, sexual orientation, and racial and ethnic
23 information and may record "not provided" in lieu of the other
24 selections provided under paragraphs (2) through (4) of this
25 subsection.

26 (2) Race and ethnicity selections shall include: **【African**
27 **American, Alaska Native, American Indian, Asian, Black, Hispanic,**
28 **Latino, more than one race, Native Hawaiian, Other Pacific**
29 **Islander, White, and does not wish to disclose】** Alaska Native or
30 American Indian, non-Hispanic; Asian, non-Hispanic; Black or
31 African American, non-Hispanic; Hispanic or Latino; Multiracial,
32 non-Hispanic; Native Hawaiian or other Pacific Islander, non-
33 Hispanic; other race, non-Hispanic; White, non-Hispanic; does not
34 wish to disclose; and not provided.

35 (3) Sexual orientation selections shall include: bisexual; **【do not**
36 **know; heterosexual or】** straight; **【homosexual,】** gay**【,】** or lesbian;
37 something else; **【and】** does not wish to disclose; and not provided.

38 (4) Gender identity selections shall include: male, female,
39 **【transgender-female, transgender-male, non-binary, other, and】**
40 gender nonconforming, transgender male-to-female, transgender
41 female-to-male, does not wish to disclose, and not provided.

42 b. Any health care related data that is required under State law
43 to be reported by a clinical laboratory to **【a local or State**
44 **governmental entity】** the Department of Health shall include any
45 corresponding gender identity, sexual orientation, and racial and
46 ethnic data recorded pursuant to this section, and shall be
47 incorporated into the **【corresponding】** appropriate disease

1 surveillance reporting system [of the local or State governmental
2 entity]. The Commissioner of Health shall issue guidance
3 concerning the health care related data that is subject to the
4 requirements of this subsection.

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

9 d. Race and ethnicity, sexual orientation, and gender identity
10 information that is required to be recorded or reported pursuant to
11 this section shall be recorded or reported using a program that is
12 compatible with the State's disease surveillance reporting system
13 using such data fields as may be available or necessary in the
14 version of Health Level Seven International recording and reporting
15 standards or equivalent standards adopted by the laboratory, or
16 using any other program or standard as may be designated by the
17 Commissioner of Health that produces superior data collection and
18 related benefits or that is otherwise in accordance with best
19 practice.

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

24 (cf: P.L.2021, c.454, s.2)

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26 3. Section 3 of P.L.2021, c.454 (C.45:9-42.47) is amended to
27 read as follows:

28 3. Any electronic medical records or laboratory information
29 management systems used by acute care hospitals and licensed
30 clinical laboratories in this State or sold by a vendor of such
31 systems in this State for use by acute care hospitals and licensed
32 clinical laboratories, on or after the effective date of this act, shall
33 be configured in a manner that prevents an authorized user from
34 saving or storing a patient's demographic information into the
35 electronic medical records or laboratory information management
36 systems unless a selection for a patient's gender identity, sexual
37 orientation, and racial and ethnic information is recorded. Nothing
38 in this act shall prohibit a clinical laboratory from receiving,
39 processing, or saving data related to specimens that are ordered or
40 received from outside of this State. The gender identity, sexual
41 orientation, and racial and ethnic information of a patient shall be
42 included in laboratory orders generated by electronic medical
43 record systems. The Department of Health may impose necessary
44 corrective actions to achieve compliance with the provisions of this
45 section, which may include, but need not be limited to, an
46 attestation to be completed by an acute care hospital or a licensed
47 clinical laboratory that: indicates specific steps that will be taken to
48 achieve compliance within 120 days following the date of

1 attestation; acknowledges legal obligations and penalties under this
2 section; and provides relevant vendor information. A vendor of
3 electronic medical records or laboratory information management
4 systems that fails to comply with the provisions of this section shall
5 be liable to a civil penalty of up to \$1,000 for each day during
6 which the vendor's system is out of compliance. A civil penalty
7 assessed pursuant to this section shall be collected by and in the
8 name of the Department of Health in summary proceedings before a
9 court of competent jurisdiction pursuant to the provisions of the
10 "Penalty Enforcement Law of 1999," P.L.1999, c.174 (C.2A:58-10
11 et seq.).

12 (P.L.2021, c.454, s.3)

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14 4. Section 5 of P.L.2021, c.454 (C.45:9-42.49) is amended to
15 read as follows:

16 5. a. Each clinical laboratory shall implement an evidence-
17 based cultural competency training program for all staff members
18 employed by or working under the supervision of the clinical
19 laboratory who have direct contact with patients and are responsible
20 for collecting race and ethnicity, sexual orientation, and gender
21 identity information from patients. **【The Department of Health**
22 **shall identify an evidence-based cultural competency training tool**
23 **that may be utilized by cultural competency training programs**
24 **implemented by clinical laboratories pursuant to this section. The**
25 **use of the department's approved training tool by a clinical**
26 **laboratory shall not preclude the clinical laboratory from utilizing**
27 **additional or customized training tools in addition to or in lieu of**
28 **the department's approved training tool.】**

29 b. Each cultural competency training program implemented
30 pursuant to subsection a. of this section shall include training on
31 how to collect race, ethnicity, sexual orientation, and gender
32 identity in a culturally competent and sensitive manner. This may
33 include 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
43 orientation, and gender identity information; and

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

46 c. Each staff member who is employed by or working under the
47 supervision of the clinical laboratory, has direct contact with

1 patients, and is responsible for collecting race and ethnicity, sexual
2 orientation, and gender identity information from patients, shall:

3 (1) complete the cultural competency training program
4 implemented pursuant to subsection a. of this section at such times
5 and intervals as the clinical laboratory shall require; and

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

9 (cf: P.L.2021, c.454, s.5)

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11 5. Section 6 of P.L.2021, c.454 is amended to read as follows:

12 6. The Commissioner of Health shall adopt rules and
13 regulations, in accordance with the “Administrative Procedure
14 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to
15 effectuate the provisions of this act, which rules and regulations
16 shall be effective immediately upon filing with the Office of
17 Administrative Law for a period not to exceed 18 months, and shall,
18 thereafter, be amended, adopted, or readopted in accordance with
19 the provisions of the "Administrative Procedure Act," P.L.1968,
20 c.410 (C.52:14B-1 et seq.).”

21 (cf: P.L.2021, c.454, s.6)

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23 6. Section 7 of P.L.2021, c.454 is amended to read as follows:

24 7. This act shall take effect **180 days** 12 months after the
25 date of enactment except that **sections 1 and 5** paragraphs (3) and
26 (4) of subsection a. of section 2 of this act shall take effect **120**
27 days 18 months after the date of enactment.

28 (cf: P.L.2021, c.454, s.7)

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30 7. This act shall take effect immediately and shall be
31 retroactive to January 18, 2022.

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STATEMENT

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36 This bill makes various revisions to P.L.2021, c.454, which
37 pertains to electronic medical records and recording patients’
38 demographic information.

39 Specifically, the bill provides that the cultural competency
40 training programs hospitals and clinical laboratories are required to
41 implement under P.L.2021, c.454 are to include training on how to
42 collect race, ethnicity, sexual orientation, and gender identity in a
43 culturally competent and sensitive manner.

44 The bill removes a provision of current law requiring the
45 Department of Health to identify an evidence-based cultural
46 competency training tool that may be utilized by cultural
47 competency training programs implemented by general acute

1 hospitals and clinical laboratories. The bill revises questionnaire
2 choices regarding demographics.

3 The bill provides that as an alternative to a requirement under
4 P.L.2021, c.454 that hospitals and clinical laboratories record
5 demographic information using a program that is compatible with
6 the State's disease surveillance reporting system using such data
7 fields as may be available or necessary in the version of Health
8 Level Seven International recording and reporting standards or
9 equivalent standards adopted by the laboratory, the Commissioner
10 of Health may designate the use of a different standard or program
11 that produces superior data collection and related benefits.

12 Under the bill, the Department of Health may impose necessary
13 corrective actions to achieve compliance with the provisions of with
14 the provisions of section 3 of P.L.2021, c.454, (C.45:9-42.47),
15 which may include, but need not be limited to, an attestation to be
16 completed by an acute care hospital or a licensed clinical laboratory
17 that: indicates specific steps that will be taken to achieve
18 compliance within 120 days following the date of attestation;
19 acknowledges legal obligations and penalties; and provides relevant
20 vendor information.

21 This bill revises the section of P.L.2021, c.454 that requires the
22 Commissioner of Health to adopt rules and regulations to
23 implement P.L.2021, c.454, to provide that the rules and regulations
24 will take effect immediately upon filing with the Office of
25 Administrative Law and will remain in effect for 18 months.
26 Thereafter, the rules and regulations may be amended, adopted, or
27 readopted in accordance with the provisions of the "Administrative
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

29 The bill makes technical changes and various revisions to the
30 effective date of P.L.2021, c.454.

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35 Makes various revisions to law pertaining to electronic medical
36 records and recording patients' demographic information.