

FLOOR AMENDMENT STATEMENT:

No

LEGISLATIVE FISCAL ESTIMATE:

Yes 7/29/2020
3/3/2021

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

RH/CL

§1 –
C.26:2H-12.108
§2 - C.45:9-7.9
§3 –
C.45:9-27.25c
§4 - C.45:9-1a
§5 - C.45:11-26.4
§6 - C.45:11-24b
§7 - C.45:10-23
§§8,9 - Notes

P.L. 2021, CHAPTER 79, *approved May 11, 2021*
Senate, No. 703 (*Third Reprint*)

1 AN ACT concerning ³**[implicit]**³ bias training and supplementing
2 Title 26 ³and Title 45³ of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. a. Every hospital that provides inpatient maternity services
8 and every birthing center licensed in the State pursuant to P.L.1971,
9 c.136 (C.26:2H-1 et seq.) shall implement an evidence-based
10 ³explicit and³ implicit bias training program for ¹;

11 (1)¹ all health professionals who provide perinatal treatment
12 and care to pregnant ²**[women]** persons² at the hospital or birthing
13 center ²regardless of the compensation agreement, contractual
14 status, or privilege status that may exist between the health
15 professional and the hospital or birthing center² ¹; and

16 (2) all ³**[administrative and clerical]** supportive services³ staff
17 members ², as defined by the Department of Health,² who interact
18 with pregnant ²**[women]** persons² at the hospital or birthing center

19 A hospital or birthing center that implements an³explicit and³
20 implicit bias training program pursuant to this section shall ensure
21 that the program is structured in a manner that permits health care
22 professionals to be eligible to receive continuing education credits
23 for participation in the program¹.

24 b. The training program shall include, but not be limited to:

25 (1) identifying previous and current unconscious biases and
26 misinformation when providing perinatal treatment and care to ¹, or
27 interacting with,¹ pregnant ²**[women]** persons²;

28 (2) identifying ³environmental,³ personal, interpersonal,
29 institutional, and cultural barriers to inclusion;

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:

¹Senate SHH committee amendments adopted July 22, 2020.

²Senate SBA committee amendments adopted August 25, 2020.

³Assembly AAP committee amendments adopted February 24, 2021.

- 1 (3) information on the effects of historical and contemporary
 2 exclusion and oppression of minority communities;
- 3 (4) information about cultural identity across racial ³[and]₂³
 4 ethnic³, and other marginalized³ groups;
- 5 (5) information about communicating more effectively across
 6 racial, ethnic, religious, and gender identities;
- 7 (6) information about reproductive justice;
- 8 (7) a discussion on power dynamics and organizational
 9 decision-making and their effects on ³explicit and³ implicit bias;
- 10 (8) a discussion on ³[health]³ inequities and racial ³[and]₁³
 11 ethnic ³and other³ disparities within the field of perinatal care, and
 12 how ³explicit and³ implicit bias may contribute to pregnancy-
 13 related deaths and maternal and infant health outcomes; ²[and]²
- 14 (9) corrective measures to decrease ³explicit and³ implicit bias
 15 at the interpersonal and institutional levels²; and
- 16 (10) review of the annual report of the New Jersey Maternal
 17 Mortality Review Committee.²

18 ²The Department of Health shall identify an ³explicit and³
 19 implicit bias training tool to be utilized by the ³explicit and³
 20 implicit bias training program implemented by a hospital or birthing
 21 center pursuant to this section. The use of the department's training
 22 tool by a hospital or birthing center shall not preclude the hospital
 23 or birthing center from utilizing additional or customized training
 24 tools in addition to the department's training tool.²

25 c. A health care professional who provides perinatal treatment
 26 and care to pregnant ²[women] persons² at a hospital that provides
 27 inpatient maternity services or a birthing center licensed in the State
 28 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) ¹and all
 29 ³[administrative and clerical] supportive³ staff members who
 30 interact with pregnant ²[women] persons² at the hospital or
 31 birthing center¹ shall:

- 32 (1) complete the training program on ³explicit and³ implicit bias
 33 at such times and intervals as the hospital or birthing center shall
 34 require;
- 35 (2) complete a refresher course under the training program,
 36 designed to provide the health care professional ¹or
 37 ³[administrative or clerical] supportive³ staff member¹ with
 38 updated information about racial, ethnic, and cultural identity, and
 39 best practices in decreasing interpersonal and institutional implicit
 40 bias, every two years or on a more frequent basis, if deemed
 41 necessary by the hospital or birthing center ; and
- 42 (3) receive a certification ²of completion² from the hospital or
 43 birthing center upon successful completion of the training program.

44 d. ¹A health care professional who completes a continuing
 45 education course on ³explicit and³ implicit bias pursuant to section

1 2, 3, ²[or]² 4 ³[², or 5²], 5, or 7³ of P.L. , c. (C. , C. ,
 2 or C.) (pending before the Legislature as this bill) shall be
 3 deemed to have satisfied the ³explicit and³ implicit bias training
 4 requirement set forth in subsection c. of this section for the
 5 licensure or certification period in which the continuing education
 6 course was completed.

7 e.¹ ²In the event that a hospital or birthing center fails to
 8 implement an ³explicit and³ implicit bias training program pursuant
 9 to this section, the Department of Health shall invoke penalties or
 10 take administrative action against the hospital or birthing center.
 11 Any penalties imposed or administrative actions taken by the
 12 department pursuant to this subsection may be imposed in a
 13 summary proceeding.

14 f.² As used in this section:

15 ³“Explicit bias” means attitudes and beliefs about a person or
 16 group on a conscious level.³

17 ²“Health care professional” means a person licensed or certified
 18 to practice a health care profession pursuant to Title 45 of the
 19 Revised Statutes.²

20 “Implicit bias” means a bias in judgment or behavior that results
 21 from subtle cognitive processes, including implicit prejudice and
 22 implicit stereotypes, that often operate at a level below conscious
 23 awareness and without intentional control.

24 “Implicit stereotypes” means the unconscious attributions of
 25 particular qualities to a member of a certain social group,
 26 influenced by experience, and based on learned associations
 27 between various qualities and social categories, including race and
 28 gender.

29 ²“Perinatal care” means the provision of care during pregnancy,
 30 labor, delivery, postpartum and neonatal periods.²

31
 32 ¹2. The State Board of Medical Examiners shall require that the
 33 number of credits of continuing medical education required of each
 34 person licensed as a physician who provides ²[prenatal or]²
 35 perinatal treatment and care to pregnant ²[women] persons², as a
 36 condition of biennial registration pursuant to section 1 of P.L.1971,
 37 c.236 (C.45:9-6.1), include one credit of educational programs or
 38 topics concerning ³explicit and³ implicit bias, which educational
 39 programs and topics shall meet the requirements for a training
 40 program set forth in subsection b. of section 1 of
 41 P.L. , c. (C.) (pending before the Legislature as this bill).
 42 The continuing medical education requirement in this subsection
 43 shall be subject to the provisions of section 10 of P.L.2001, c.307
 44 (C.45:9-7.1) ²[, including, but not limited to, the authority of the
 45 board to waive the provisions of this section for a specific
 46 individual if the board deems it is appropriate to do so]^{2,1}

1 ¹3. The State Board of Medical Examiners shall require that the
 2 number of credits of continuing medical education required of each
 3 person licensed as a physician assistant who provides
 4 ²[prenatal or]² perinatal treatment and care to pregnant ²[women]
 5 persons², as a condition of biennial renewal pursuant to section 4 of
 6 P.L.1991, c.378 (C.45:9-27.13), include one credit of educational
 7 programs or topics concerning ³explicit and³ implicit bias, which
 8 educational programs and topics shall meet the requirements for a
 9 training program set forth in subsection b. of section 1 of
 10 P.L. , c. (C.) (pending before the Legislature as this bill).
 11 The continuing medical education requirement in this subsection
 12 shall be subject to the provisions of section 16 of P.L.1991, c.378
 13 (C.45:9-27.25) ²[, including, but not limited to, the authority of the
 14 board to waive the provisions of this section for a specific
 15 individual if the board deems it is appropriate to do so]².¹

16
 17 ²4. As a condition of being appointed as a member of the State
 18 Board of Medical Examiners, or the member's continued
 19 appointment to the board, a board member shall complete an
 20 evidence-based ³explicit and³ implicit bias training program
 21 approved by the Division of Consumer Affairs in the Department of
 22 Law and Public Safety ³that is equivalent to the training program
 23 provided for in subsection b. of section 1 of P.L. , c. (C.)
 24 (pending before the Legislature as this bill)³. The board member
 25 shall complete, and acknowledge the completion of, the training
 26 program at a frequency determined by the division.²

27
 28 ²[¹4.] ⁵.² The New Jersey Board of Nursing shall require that
 29 the number of credits of continuing education required of each
 30 person licensed as a professional nurse or a practical nurse who
 31 provides ²[prenatal or]² perinatal treatment and care to pregnant
 32 ²[women] persons², as a condition of biennial license renewal,
 33 include one credit of educational programs or topics concerning
 34 ³explicit and³ implicit bias, which educational programs and topics
 35 shall meet the requirements for a training program set forth in
 36 subsection b. of section 1 of P.L. , c. (C.) (pending before
 37 the Legislature as this bill). ²[The board may, in its discretion,
 38 wave the continuing education requirement set forth in this section
 39 on an individual basis for reasons of hardship, such as illness or
 40 disability, retirement of the license, or other good cause. A waiver
 41 shall apply only to the current biennial renewal period at the time of
 42 board issuance.¹]²

43
 44 ²6. As a condition of being appointed as a member of the New
 45 Jersey Board of Nursing, or the member's continued appointment to
 46 the board, a board member shall complete an evidence-based

1 ³explicit and³ implicit bias training program approved by the
2 Division of Consumer Affairs in the Department of Law and Public
3 Safety ³that is equivalent to the training program provided for in
4 subsection b. of section 1 of P.L. , c. (C.) (pending before
5 the Legislature as this bill)³. The board member shall complete,
6 and acknowledge the completion of, the training program at a
7 frequency determined by the division.²
8

9 ²7. A certified nurse midwife, certified professional midwife, or
10 certified midwife who was licensed prior to the effective date of
11 this act shall, as a condition of license renewal, complete at least
12 one credit of educational programs or topics concerning ³explicit
13 and³ implicit bias, which educational programs and topics shall
14 meet the requirements for a training program set forth in subsection
15 b. of section 1 of P.L. , c. (C.) (pending before the Legislature as
16 this bill).²
17

18 ¹[2.] ²[5.1] 8.² The Department of Health ¹and the Director of
19 the Division of Consumer Affairs in the Department of Law and
20 Public Safety¹ shall adopt rules and regulations, pursuant to the
21 provisions of the "Administrative Procedure Act," P.L.1968, c.410
22 (C.52:14B-1 et seq.), to effectuate the purposes of this act.
23

24 ¹[3.] ²[6.1] 9.² This act shall take effect on the first day of the
25 sixth month next following the date of enactment.
26

27
28
29
30 Requires certain health care professionals to undergo explicit and
31 implicit bias training.

SENATE, No. 703

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

Co-Sponsored by:

Senator Scutari

SYNOPSIS

Requires certain health care professionals to undergo implicit bias training.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 7/22/2020)

1 AN ACT concerning implicit bias training and supplementing Title
2 26 of the Revised Statutes.

3

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

6

7 1. a. Every hospital that provides inpatient maternity services
8 and every birthing center licensed in the State pursuant to P.L.1971,
9 c.136 (C.26:2H-1 et seq.) shall implement an evidence-based
10 implicit bias training program for all health professionals who
11 provide perinatal treatment and care to pregnant women at the
12 hospital or birthing center.

13 b. The training program shall include, but not be limited to:

14 (1) identifying previous and current unconscious biases and
15 misinformation when providing perinatal treatment and care to
16 pregnant women;

17 (2) identifying personal, interpersonal, institutional, and cultural
18 barriers to inclusion;

19 (3) information on the effects of historical and contemporary
20 exclusion and oppression of minority communities;

21 (4) information about cultural identity across racial and ethnic
22 groups;

23 (5) information about communicating more effectively across
24 racial, ethnic, religious, and gender identities;

25 (6) information about reproductive justice;

26 (7) a discussion on power dynamics and organizational
27 decision-making and their effects on implicit bias;

28 (8) a discussion on health inequities and racial and ethnic
29 disparities within the field of perinatal care, and how implicit bias
30 may contribute to pregnancy-related deaths and maternal and infant
31 health outcomes; and

32 (9) corrective measures to decrease implicit bias at the
33 interpersonal and institutional levels.

34 c. A health care professional who provides perinatal treatment
35 and care to pregnant women at a hospital that provides inpatient
36 maternity services or a birthing center licensed in the State pursuant
37 to P.L.1971, c.136 (C.26:2H-1 et seq.) shall:

38 (1) complete the training program on implicit bias at such times
39 and intervals as the hospital or birthing center shall require;

40 (2) complete a refresher course under the training program,
41 designed to provide the health care professional with updated
42 information about racial, ethnic, and cultural identity, and best
43 practices in decreasing interpersonal and institutional implicit bias,
44 every two years or on a more frequent basis, if deemed necessary by
45 the hospital or birthing center; and

46 (3) receive a certification from the hospital or birthing center
47 upon successful completion of the training program.

1 d. As used in this section:

2 “Implicit bias” means a bias in judgment or behavior that results
3 from subtle cognitive processes, including implicit prejudice and
4 implicit stereotypes, that often operate at a level below conscious
5 awareness and without intentional control.

6 “Implicit stereotypes” means the unconscious attributions of
7 particular qualities to a member of a certain social group,
8 influenced by experience, and based on learned associations
9 between various qualities and social categories, including race and
10 gender.

11

12 2. The Department of Health shall adopt rules and regulations,
13 pursuant to the provisions of the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
15 this act.

16

17 3. This act shall take effect on the first day of the sixth month
18 next following the date of enactment.

19

20

21

STATEMENT

22

23 This bill requires every hospital that provides inpatient maternity
24 services and every birthing center licensed in the State pursuant to
25 P.L.1971, c.136 (C.26:2H-1 et seq.) to implement an evidence-
26 based implicit bias training program for all health professionals
27 who provide perinatal treatment and care to pregnant women at the
28 hospital or birthing center.

29 The training program would include, but not be limited to:
30 identifying previous and current unconscious biases and
31 misinformation when providing perinatal treatment and care to
32 pregnant women; identifying personal, interpersonal, institutional,
33 and cultural barriers to inclusion; information about the effects of
34 historical and contemporary exclusion and oppression of minority
35 communities; information about cultural identity across racial and
36 ethnic groups; information about communicating more effectively
37 across racial, ethnic, religious, and gender identities; information
38 about reproductive justice; discussions on power dynamics and
39 organizational decision-making and their effects on implicit bias,
40 and on health inequities and racial and ethnic disparities within the
41 field of perinatal care, and how implicit bias may contribute to
42 pregnancy-related deaths and maternal and infant health outcomes;
43 and corrective measures to decrease implicit bias at the
44 interpersonal and institutional levels.

45 A health care professional who provides perinatal treatment and
46 care to pregnant women at a hospital or birthing center would be
47 required to complete the training program and a refresher course,

S703 RUIZ, CUNNINGHAM

1 every two years. The refresher course would be designed to provide
2 the health care professional with updated information about racial,
3 ethnic, and cultural identity, and best practices in decreasing
4 interpersonal and institutional implicit bias. Upon successful
5 completion of the training program, the health care professional
6 would receive a certification from the hospital or birthing center.

7 As defined in the bill, “implicit bias” means a bias in judgment
8 or behavior that results from subtle cognitive processes, including
9 implicit prejudice and implicit stereotypes, that often operate at a
10 level below conscious awareness and without intentional control.
11 “Implicit stereotypes” means the unconscious attributions of
12 particular qualities to a member of a certain social group,
13 influenced by experience, and based on learned associations
14 between various qualities and social categories, including race and
15 gender.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE, No. 703

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2021

The Assembly Appropriations Committee reports favorably and with committee amendments Senate Bill No. 703 (2R).

As amended, this bill would require every hospital that provides inpatient maternity services and every birthing center licensed in the State pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) to implement an evidence-based explicit and implicit bias training program for all health professionals that who provide perinatal treatment and care to pregnant persons at the hospital or birthing center, regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the hospital or birthing center, and all supportive staff members, as defined by the Department of Health (DOH) who interact with pregnant persons at the hospital or birthing center.

The training program would include, but not be limited to: identifying previous and current unconscious biases and misinformation when providing perinatal treatment and care to, or interacting with, pregnant women; identifying environmental, personal, interpersonal, institutional, and cultural barriers to inclusion; information about the effects of historical and contemporary exclusion and oppression of minority communities; information about cultural identity across racial, ethnic, and other marginalized groups; information about communicating more effectively across racial, ethnic, religious, and gender identities; information about reproductive health; discussions on power dynamics and organizational decision-making and their effects on explicit and implicit bias, and on inequities and racial, ethnic, and other disparities within the field of perinatal care, and how explicit and implicit bias may contribute to pregnancy-related deaths and maternal and infant health outcomes; corrective measures to decrease explicit and implicit bias at the interpersonal and institutional levels; and review of the annual report of the New Jersey Maternal Mortality Review Committee.

A health care professional who provides perinatal treatment and care to, and a supportive staff member who interacts with, pregnant persons at a hospital or birthing center would be required to complete

the training program and a refresher course, every two years. The refresher course would be designed to provide the health care professional with updated information about racial, ethnic, and cultural identity, and best practices in decreasing interpersonal and institutional explicit and implicit bias. Upon successful completion of the training program, the health care professional or administrative or clerical staff member would receive a certification from the hospital or birthing center.

Under the bill, a hospital or birthing center that implements an explicit and implicit bias training program is to ensure that the program is structured in a manner that permits health care professionals to be eligible to receive continuing education credits for participation in the program.

As amended, the bill requires the DOH to identify an explicit and implicit bias training tool to be utilized by the explicit and implicit bias training program implemented by a hospital or birthing center. The use of DOH's training tool by a hospital or birthing center would not preclude the hospital or birthing center from utilizing additional or customized training tools in addition to the DOH's training tool.

As amended, the bill provides that in the event that a hospital or birthing center fails to implement an explicit and implicit bias training program, the DOH would invoke penalties or take administrative action against the hospital or birthing center. Any penalties imposed or administrative actions taken by the DOH may be imposed in a summary proceeding.

As amended, the bill establishes a requirement for physicians, physician assistants, nurses, nurse midwives, certified professional midwives, or certified midwives who provide prenatal or perinatal care to pregnant women to complete one credit of continuing education in explicit and implicit bias training, which explicit and implicit bias training course is to meet the requirements for an explicit and implicit bias training course required for physicians and staff providing perinatal care in a hospital or birthing center. A health care professional who completes a continuing education course in explicit and implicit bias training will be deemed to have satisfied the explicit and implicit bias training requirement required for health care professionals providing perinatal care in a hospital or birthing center.

The bill, as amended by the committee, requires that as a condition of being appointed as a member of the Board of State Medical Examiners or the New Jersey Board of Nursing, or the member's continued appointment to the board, as applicable, a board member would complete an evidence-based explicit and implicit bias training program approved by the Division of Consumer Affairs in the Department of Law and Public Safety that is equivalent to the training program provided for in subsection b. of section 1 of this bill. The board member would be required to complete, and acknowledge the

completion of, the training program at a frequency determined by the division.

As defined in the bill, “health care professional” means a person licensed or certified to practice a health care profession pursuant to Title 45 of the Revised Statutes. “Explicit bias” means attitudes and beliefs about a person or group on a conscious level. “Implicit bias” means a bias in judgment or behavior that results from subtle cognitive processes, including implicit prejudice and implicit stereotypes, that often operate at a level below conscious awareness and without intentional control. “Implicit stereotypes” means the unconscious attributions of particular qualities to a member of a certain social group, influenced by experience, and based on learned associations between various qualities and social categories, including race and gender. “Perinatal care” means the provision of care during pregnancy, labor, delivery, postpartum and neonatal periods.

As amended and reported by the committee, Senate Bill No. 703 (2R) is identical to Assembly Bill No. 1079 (1R) which also was amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments provide for the inclusion of explicit bias training to the implicit bias training programs, refresher course, training tool, and continuing medical education credit educational programs and topics required by the bill.

The committee amendments update references of “administrative and clerical staff members” to “supportive staff members.”

The committee amendments clarify that the program will also identify environmental barriers to inclusion and include information about cultural identity across other marginalized groups and a discussion on inequities and racial, ethnic, and other disparities.

The committee amendments define “explicit bias” as attitudes and beliefs about a person or group on a conscious level.

The committee amendments clarify that the explicit and implicit bias training program, required as a condition of being appointed as a member of the New Jersey Board of Nursing, or the member’s continued appointment to the board, is equivalent to the training program provided for in subsection b. of section 1 of this bill.

The committee amendments provide technical changes to the synopsis and title.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that this bill will result in an indeterminate, and likely minimal, increase in State costs for the Department of Health (DOH) to develop regulations requiring hospitals that provide inpatient maternity services and licensed birthing centers to implement an evidence-based explicit and implicit bias training program for health professionals who provide perinatal

treatment and care, regardless of the health professional's compensation agreement or contractual or privilege status with the hospital or birthing center, and all supportive services staff, as defined by the DOH, who interact with pregnant persons at the hospital or birthing center.

The Division of Consumer Affairs in the Department of Law and Public Safety will realize an indeterminate increase in costs associated with a requirement that the New Jersey Board of Medical Examiners, the Midwifery Committee of the State Board of Medical Examiners, and the New Jersey Board of Nursing ensure that all licensed physicians, physician assistants, professional nurses and practical nurses who provide perinatal services take, on a biennial basis, one credit of continuing education programs concerning explicit and implicit bias that meet the requirements established under the bill. Certified nurse midwives, certified professional midwives and certified midwives who were licensed prior to the effective date of this bill would be required to complete at least one credit of educational programs concerning explicit and implicit bias as a condition of license renewal.

A provision requiring the DOH to impose penalties or take administrative action against a hospital or birthing center that fails to implement an explicit and implicit bias training program may increase State revenues by an indeterminate amount. Without information regarding the schedule of penalties, or the number of hospitals or birthing centers that may be penalized, the OLS is unable to calculate the value of any revenue increase.

University Hospital, an independent non-profit legal entity that is an instrumentality of the State, will experience an indeterminate increase in expenditures to develop and implement the requisite evidence-based training program, and the refresher course. In addition, should University Hospital fail to implement the explicit and implicit bias training program required pursuant to this bill, the hospital would be required to pay certain financial penalties to the Department of Health.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 703

with committee amendments

STATE OF NEW JERSEY

DATED: JULY 20, 2020

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 703.

As amended, this bill would require every hospital that provides inpatient maternity services and every birthing center licensed in the State pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) to implement an evidence-based implicit bias training program for all health professionals who provide perinatal treatment and care to pregnant women at the hospital or birthing center and all administrative and clerical staff members who interact with pregnant women at the hospital or birthing center.

The training program would include, but not be limited to: identifying previous and current unconscious biases and misinformation when providing perinatal treatment and care to, or interacting with, pregnant women; identifying personal, interpersonal, institutional, and cultural barriers to inclusion; information about the effects of historical and contemporary exclusion and oppression of minority communities; information about cultural identity across racial and ethnic groups; information about communicating more effectively across racial, ethnic, religious, and gender identities; information about reproductive justice; discussions on power dynamics and organizational decision-making and their effects on implicit bias, and on health inequities and racial and ethnic disparities within the field of perinatal care, and how implicit bias may contribute to pregnancy-related deaths and maternal and infant health outcomes; and corrective measures to decrease implicit bias at the interpersonal and institutional levels.

A health care professional who provides perinatal treatment and care to, and an administrative or clerical staff member who interacts with, pregnant women at a hospital or birthing center would be required to complete the training program and a refresher course, every two years. The refresher course would be designed to provide the health care professional with updated information about racial, ethnic, and cultural identity, and best practices in decreasing

interpersonal and institutional implicit bias. Upon successful completion of the training program, the health care professional or administrative or clerical staff member would receive a certification from the hospital or birthing center.

Under the bill, a hospital or birthing center that implements an implicit bias training program is to ensure that the program is structured in a manner that permits health care professionals to be eligible to receive continuing education credits for participation in the program

As amended, the bill establishes a requirement for physicians, physician assistants, and nurses who provide prenatal or perinatal care to pregnant women to complete one credit of continuing education in implicit bias training, which implicit bias training course is to meet the requirements for an implicit bias training course required for physicians and staff providing perinatal care in a hospital or birthing center. A health care professional who completes a continuing education course in implicit bias training will be deemed to have satisfied the implicit bias training requirement required for health care professionals providing perinatal care in a hospital or birthing center.

As defined in the bill, “implicit bias” means a bias in judgment or behavior that results from subtle cognitive processes, including implicit prejudice and implicit stereotypes, that often operate at a level below conscious awareness and without intentional control. “Implicit stereotypes” means the unconscious attributions of particular qualities to a member of a certain social group, influenced by experience, and based on learned associations between various qualities and social categories, including race and gender.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments require that all administrative and clerical staff members at a hospital or birthing center who interact with pregnant women will be required to complete the implicit bias training program and a refresher course. As introduced, the bill limited the implicit bias training requirement to health professionals.

The committee amendments provide that a hospital or birthing center that implements an implicit bias training program is to ensure that the program is structured in a manner that permits health care professionals to be eligible to receive continuing education credits for participation in the program.

The committee amendments establish a new continuing education requirement for physicians, physician assistants, and

nurses who provide prenatal or perinatal care to pregnant women which will comprise one credit of implicit bias training that meets the requirements for an implicit bias training course established under the bill. A health care professional who completes a continuing education course in implicit bias training will be deemed to have satisfied the implicit bias training requirement for hospitals and birthing centers for the licensure or certification period in which the continuing education credit was completed.

The committee amendments revise the rulemaking provision in the bill require that the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in addition to the Department of Health, adopt rules and regulations to effectuate the purposes of the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 703

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 703 (1R).

As amended, this bill would require every hospital that provides inpatient maternity services and every birthing center licensed in the State pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) to implement an evidence-based implicit bias training program for all health professionals that who provide perinatal treatment and care to pregnant persons at the hospital or birthing center, regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the hospital or birthing center, and all administrative and clerical staff members, as defined by the Department of Health (DOH) who interact with pregnant persons at the hospital or birthing center.

The training program would include, but not be limited to: identifying previous and current unconscious biases and misinformation when providing perinatal treatment and care to, or interacting with, pregnant women; identifying personal, interpersonal, institutional, and cultural barriers to inclusion; information about the effects of historical and contemporary exclusion and oppression of minority communities; information about cultural identity across racial and ethnic groups; information about communicating more effectively across racial, ethnic, religious, and gender identities; information about reproductive health; discussions on power dynamics and organizational decision-making and their effects on implicit bias, and on health inequities and racial and ethnic disparities within the field of perinatal care, and how implicit bias may contribute to pregnancy-related deaths and maternal and infant health outcomes; corrective measures to decrease implicit bias at the interpersonal and institutional levels; and review of the annual report of the New Jersey Maternal Mortality Review Committee.

A health care professional who provides perinatal treatment and care to, and an administrative or clerical staff member who interacts with, pregnant persons at a hospital or birthing center would be required to complete the training program and a refresher course, every two years. The refresher course would be designed to provide

the health care professional with updated information about racial, ethnic, and cultural identity, and best practices in decreasing interpersonal and institutional implicit bias. Upon successful completion of the training program, the health care professional or administrative or clerical staff member would receive a certification from the hospital or birthing center.

Under the bill, a hospital or birthing center that implements an implicit bias training program is to ensure that the program is structured in a manner that permits health care professionals to be eligible to receive continuing education credits for participation in the program.

As amended, the bill requires the DOH to identify an implicit bias training tool to be utilized by the implicit bias training program implemented by a hospital or birthing center. The use of DOH's training tool by a hospital or birthing center would not preclude the hospital or birthing center from utilizing additional or customized training tools in addition to the DOH's training tool.

As amended, the bill provides that in the event that a hospital or birthing center fails to implement an implicit bias training program, the DOH would invoke penalties or take administrative action against the hospital or birthing center. Any penalties imposed or administrative actions taken by the DOH may be imposed in a summary proceeding.

As amended, the bill establishes a requirement for physicians, physician assistants, nurses, nurse midwives, certified professional midwives, or certified midwives who provide prenatal or perinatal care to pregnant women to complete one credit of continuing education in implicit bias training, which implicit bias training course is to meet the requirements for an implicit bias training course required for physicians and staff providing perinatal care in a hospital or birthing center. A health care professional who completes a continuing education course in implicit bias training will be deemed to have satisfied the implicit bias training requirement required for health care professionals providing perinatal care in a hospital or birthing center.

The bill, as amended by the committee, requires that as a condition of being appointed as a member of the Board of State Medical Examiners or the New Jersey Board of Nursing, or the member's continued appointment to the board, as applicable, a board member would complete an evidence-based implicit bias training program approved by the Division of Consumer Affairs in the Department of Law and Public Safety. The board member would be required to complete, and acknowledge the completion of, the training program at a frequency determined by the division.

As defined in the bill, "health care professional" means a person licensed or certified to practice a health care profession pursuant to Title 45 of the Revised Statutes. "Implicit bias" means a bias in judgment or behavior that results from subtle cognitive processes,

including implicit prejudice and implicit stereotypes, that often operate at a level below conscious awareness and without intentional control. “Implicit stereotypes” means the unconscious attributions of particular qualities to a member of a certain social group, influenced by experience, and based on learned associations between various qualities and social categories, including race and gender. “Perinatal care” means the provision of care during pregnancy, labor, delivery, postpartum and neonatal periods.

COMMITTEE AMENDMENTS:

The committee amendments update references of “pregnant women” to “pregnant persons.”

The committee amendments clarify that the bill’s provisions would apply to all administrative and clerical staff members, as defined by the DOH, who interact with pregnant persons at the hospital or birthing center.

The committee amendments stipulate that hospitals and birthing are required to implement the implicit bias training program for all health professionals who provide perinatal treatment and care to pregnant persons at hospitals or birthing centers regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the hospital or birthing center.

The committee amendments provide that the implicit bias training program include a review of the annual report of the New Jersey Maternal Mortality Commission, and clarify that the program will include information on reproductive health, instead of reproductive justice, as originally provided in the bill.

The committee amendments mandate that the Department of Health identify an implicit bias training tool to be utilized by the implicit bias training program implemented by a hospital or birthing center. The amendments further mandate that the use of the department’s training tool by a hospital or birthing center would not preclude the hospital or birthing center from utilizing additional or customized training tools in addition to the department’s training tool.

The committee amendments provide that in the event that a hospital or birthing center fails to implement an implicit bias training program, the Department of Health would invoke penalties or take administrative action against the hospital or birthing center. Any penalties imposed or administrative actions taken by the department may be imposed in a summary proceeding.

The committee amendments define “health care professional” as a person licensed or certified to practice a health care profession pursuant to Title 45 of the Revised Statutes and “perinatal care” means as the provision of care during pregnancy, labor, delivery, postpartum, and neonatal periods.

The committee amendments expand the continuing education requirement to include certified nurse midwives, certified professional midwives, and certified midwives. As introduced, the bill limited the continuing education requirement to physicians, physician assistants, and nurses.

The committee amendments require that as a condition of being appointed as a member of the Board of State Medical Examiners or the New Jersey Board of Nursing, or the member's continued appointment to the board, as applicable, a board member would complete an evidence-based implicit bias training program approved by the Division of Consumer Affairs in the Department of Law and Public Safety. The amendments further require that the board member would complete, and acknowledge the completion of, the training program at a frequency determined by the division.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that this bill will result in an indeterminate, and likely minimal, increase in State costs for the Department of Health to develop regulations requiring hospitals that provide inpatient maternity services and licensed birthing centers to implement an evidence-based implicit bias training program for all health professionals who provide perinatal treatment and care, and all administrative and clerical staff who interact with pregnant women at the hospital or birthing center.

The Division of Consumer Affairs in the Department of Law and Public Safety will realize an indeterminate increase in costs associated with a requirement that the New Jersey Board of Medical Examiners and the New Jersey Board of Nursing ensure that all licensed physicians, physician assistants, professional nurses and practical nurses who provide prenatal or perinatal services take, on a biennial basis, one credit of continuing education programs concerning implicit bias that meet the requirements established under the bill.

The OLS also concludes that University Hospital, an independent non-profit legal entity that is an instrumentality of the State, will experience an indeterminate increase in expenditures to develop and implement the evidence-based training program, and the biennial refresher course, required under the bill.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 703

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: AUGUST 21, 2020

SUMMARY

- Synopsis:** Requires certain health care professionals to undergo implicit bias training.
- Type of Impact:** State Cost Increase.
- Agencies Affected:** Department of Health.
Department of Law and Public Safety, Division of Consumer Affairs.
University Hospital.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill will result in an indeterminate, and likely minimal, increase in State costs for the Department of Health (DOH) to develop regulations requiring hospitals that provide inpatient maternity services and licensed birthing centers to implement an evidence-based implicit bias training program for all health professionals who provide perinatal treatment and care, and all administrative and clerical staff who interact with pregnant women at the hospital or birthing center.
- The Division of Consumer Affairs in the Department of Law and Public Safety will realize an indeterminate increase in costs associated with a requirement that the New Jersey Board of Medical Examiners and the New Jersey Board of Nursing ensure that all licensed physicians, physician assistants, professional nurses and practical nurses who provide prenatal or perinatal services take, on a biennial basis, one credit of continuing education programs concerning implicit bias that meet the requirements established under the bill.
- The OLS also concludes that University Hospital, an independent non-profit legal entity that is an instrumentality of the State, will experience an indeterminate increase in expenditures to develop and implement the evidence-based training program, and the biennial refresher course, required under the bill.

BILL DESCRIPTION

This bill would require every hospital that provides inpatient maternity services and every birthing center licensed in the State to implement an evidence-based implicit bias training program for all health professionals who provide perinatal treatment and care to pregnant women at the hospital or birthing center and all administrative and clerical staff members who interact with pregnant women at the hospital or birthing center. The bill defines “implicit bias” as a bias in judgement or behavior that results from subtle cognitive processes, including implicit prejudice and implicit stereotypes, which often operate at a level below conscious awareness and without intentional control.

All health care professionals who provide perinatal treatment and care to pregnant women at a hospital or birthing center, and all administrative and clerical staff who interact with pregnant women at such facilities, would be required to complete the training program as well as a biennial refresher course designed to provide updated information about racial, ethnic, and cultural identity, and best practices in decreasing interpersonal and institutional implicit bias. Upon successful completion of the training program, the health care professional or administrative or clerical staff member would receive a certification from the hospital or birthing center.

This bill also directs the New Jersey Board of Medical Examiners and the New Jersey Board of Nursing to require all licensed physicians, physician assistants, professional nurses and practical nurses who provide prenatal or perinatal care or treatment to complete one credit of continuing education programs concerning implicit bias that meet the requirements established under the bill. In addition, a hospital or birthing center that implements an implicit bias training program would be required to structure the program in a manner that would permit participating health care professionals to be eligible to receive continuing education credits.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill will result in an indeterminate, although likely minimal, increase in State costs for the Department of Health to develop regulations governing the development and implementation, by hospitals that provide inpatient maternity services and licensed birthing centers, of an evidence-based implicit bias training program, as well as a biennial refresher course, for all health professionals who provide perinatal treatment and care at the facility, as well as all administrative and clerical staff who interact with pregnant women at the hospital or birthing center.

The OLS also concludes that the New Jersey Board of Medical Examiners and the New Jersey Board of Nursing, both of which operate under the purview of the Division of Consumer Affairs in the Department of Law and Public Safety, would incur an indeterminate increase in costs to oversee a new requirement that all State-licensed physicians, physician assistants, professional nurses and practical nurses who provide prenatal and perinatal care take one credit of educational programs concerning implicit bias on a biennial basis. However, pursuant to P.L.2005, c.53 (C.45:9-7.2 et seq.), New Jersey medical schools are required to make cultural competency training a prerequisite for graduation. To the extent that this coursework can be adapted to meet the

requirements of this bill, and can be replicated in continuing education curricula for the relevant health professionals, costs to the Board of Medical Examiners, the Board of Nursing and the Division of Consumer Affairs would be reduced. To further limit State costs, the Division of Consumer Affairs could potentially adapt the regulations governing the cultural competency course requirement for medical students, as outlined at N.J.A.C. 13:35-6.25, as the division implements implicit bias training requirements for licensed physicians, physician assistants, professional nurses and practical nurses.

University Hospital, an independent non-profit legal entity that is an instrumentality of the State, will experience an indeterminate increase in expenditures to develop and implement the evidence-based training program, and the refresher course, required under the bill. However, pursuant to State law, each New Jersey hospital and birthing facility must require its health care professionals who provide labor, delivery, and postpartum care to complete a “standardized maternal patient discharge education module,” designed to educate staff on the complications, and associated warning signs, of childbirth. To the extent that University Hospital has completed development of this maternal patient discharge educational model, and can expand the module to meet the implicit bias training requirements mandated under this bill, costs to University Hospital could potentially be minimized.

Section: Human Services

*Analyst: Anne Cappabianca
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 703

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: SEPTEMBER 1, 2020

SUMMARY

- Synopsis:** Requires certain health care professionals to undergo implicit bias training.
- Type of Impact:** Increase in State Costs and Revenues.
- Agencies Affected:** Department of Health.
Department of Law and Public Safety, Division of Consumer Affairs.
University Hospital.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill will result in an indeterminate, and likely minimal, increase in State costs for the Department of Health (DOH) to develop regulations requiring hospitals that provide inpatient maternity services and licensed birthing centers to implement an evidence-based implicit bias training program for all health professionals who provide perinatal treatment and care, regardless of the health professional's compensation agreement or contractual or privilege status with the hospital or birthing center, and all administrative and clerical staff, as defined by the DOH, who interact with pregnant persons at the hospital or birthing center.
- The Division of Consumer Affairs in the Department of Law and Public Safety will realize an indeterminate increase in costs associated with a requirement that the New Jersey Board of Medical Examiners, the Midwifery Committee of the State Board of Medical Examiners, and the New Jersey Board of Nursing ensure that all licensed physicians, physician assistants, professional nurses and practical nurses who provide perinatal services take, on a biennial basis, one credit of continuing education programs concerning implicit bias that meet the requirements established under the bill. Certified nurse midwives, certified professional midwives and certified midwives who were licensed prior to the effective date of this bill would be required to complete, as a condition of license renewal, at least one credit of

educational programs concerning implicit bias that meet the requirements established under the bill.

- A provision requiring the DOH to impose penalties or take administrative action against a hospital or birthing center that fails to implement an implicit bias training program, as required under this bill, may increase State revenues by an indeterminate amount. Without information regarding the schedule of penalties, or the number of hospitals or birthing centers that may be penalized for failing to implement the requisite training program, the OLS is unable to calculate the value of any revenue increase.

BILL DESCRIPTION

This bill would require hospitals that provides inpatient maternity services and birthing centers licensed in the State pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) to implement an evidence-based implicit bias training program for all health professionals who provide perinatal treatment and care to pregnant persons at the hospital or birthing center, regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the hospital or birthing center, and all administrative and clerical staff members, as defined by the DOH, who interact with pregnant persons at the hospital or birthing center. The bill defines “implicit bias” as a bias in judgment or behavior that results from subtle cognitive processes, including implicit prejudice and implicit stereotypes, which often operate at a level below conscious awareness and without intentional control.

A health care professional who provides perinatal treatment and care to, and an administrative or clerical staff member who interacts with, pregnant persons at a hospital or birthing center would be required to complete the training program as well as a biennial refresher course designed to provide the health care professional with updated information about racial, ethnic, and cultural identity, and best practices in decreasing interpersonal and institutional implicit bias.

Under this bill, the DOH is required to identify an implicit bias training tool to be utilized by the implicit bias training program implemented by a hospital or birthing center. The use of the DOH training tool by a hospital or birthing center would not preclude the hospital or birthing center from utilizing additional or customized training tools in addition to the DOH’s training tool.

The bill also provides that, in the event that a hospital or birthing center fails to implement an implicit bias training program, the DOH would impose penalties or take administrative action against the hospital or birthing center. Any penalties imposed or administrative actions taken by the DOH may be imposed in a summary proceeding.

Moreover, the bill directs the New Jersey Board of Medical Examiners and the New Jersey Board of Nursing to require all licensed physicians, physician assistants, professional nurses, practical nurses, nurse midwives, certified professional midwives, and certified midwives who provide perinatal care to pregnant persons to complete one credit of continuing education programs concerning implicit bias that meet the requirements established under the bill. A hospital or birthing center that implements an implicit bias training program would be required to structure the program in a manner that would permit participating health care professionals to be eligible to receive continuing education credits.

Under the bill, members of the Board of State Medical Examiners or the New Jersey Board of Nursing, as a condition of appointment or continued appointment, as applicable, would be required to complete an evidence-based implicit bias training program approved by the Division of Consumer Affairs in the Department of Law and Public Safety. The board member would be required to complete the training program at a frequency determined by the division.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill will result in an indeterminate, although likely minimal, increase in State costs for the DOH to develop regulations governing the development and implementation, by hospitals that provide inpatient maternity services and licensed birthing centers, of an evidence-based implicit bias training program, as well as a biennial refresher course, for all health professionals who provide perinatal treatment and care at the facility, as well as all administrative and clerical staff who interact with pregnant persons at the hospital or birthing center.

A provision requiring the department to impose penalties or take administrative action against a hospital or birthing center that fails to implement an implicit bias training program, as required under this bill, may increase State revenues by an indeterminate amount. Without information concerning the schedule of penalties, or the number of hospitals or birthing centers that may be penalized for failing to implement the requisite training program, the OLS is unable to calculate the precise value of any revenue increase.

The OLS also concludes that the New Jersey Board of Medical Examiners and the New Jersey Board of Nursing, both of which operate under the purview of the Division of Consumer Affairs in the Department of Law and Public Safety, would incur an indeterminate increase in costs to oversee a new requirement that all State-licensed physicians, physician assistants, professional nurses, practical nurses, certified nurse midwives, certified professional midwives, and certified midwives who provide perinatal care take one credit of educational programs concerning implicit bias on a biennial basis. However, pursuant to P.L.2005, c.53 (C.45:9-7.2 et seq.), New Jersey medical schools are required to make cultural competency training a prerequisite for graduation. To the extent that this coursework can be adapted to meet the requirements of this bill, and can be replicated in continuing education curricula for the relevant health professionals, costs to the Board of Medical Examiners, the Board of Nursing and the Division of Consumer Affairs would be reduced. To further limit State costs, the Division of Consumer Affairs could potentially adapt the regulations governing the cultural competency course requirement for medical students, as outlined at N.J.A.C. 13:35-6.25, as the division implements implicit bias training requirements for licensed physicians, physician assistants, professional nurses, practical nurses, certified nurse midwives, certified professional midwives and certified midwives.

University Hospital, an independent non-profit legal entity that is an instrumentality of the State, will experience an indeterminate increase in expenditures to develop and implement the evidence-based training program, and the refresher course, required under the bill. However, pursuant to State law, each New Jersey hospital and birthing facility must require its health care professionals who provide labor, delivery, and postpartum care to complete a “standardized maternal patient discharge education module,” designed to educate staff on the complications, and associated warning signs, of childbirth. To the extent that University Hospital has completed development of this maternal patient discharge educational model, and can expand the module to meet the implicit bias training requirements mandated under this bill, costs to University Hospital could potentially be minimized. In addition, should University Hospital fail to implement the implicit bias training program required pursuant to this bill, the hospital would be required to pay certain financial penalties to the DOH

Section: Human Services

*Analyst: Anne H. Cappabianca
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.)

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 703

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: MARCH 3, 2021

SUMMARY

- Synopsis:** Requires certain health care professionals to undergo explicit and implicit bias training.
- Type of Impact:** Increase in State Costs and Revenues.
- Agencies Affected:** Department of Health.
Department of Law and Public Safety, Division of Consumer Affairs.
University Hospital.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill will result in an indeterminate, and likely minimal, increase in State costs for the Department of Health (DOH) to develop regulations requiring hospitals that provide inpatient maternity services and licensed birthing centers to implement an evidence-based explicit and implicit bias training program for all health professionals who provide perinatal treatment and care, regardless of the health professional's compensation agreement or contractual or privilege status with the hospital or birthing center, and all supportive services staff, as defined by the DOH, who interact with pregnant persons at the hospital or birthing center.
- The Division of Consumer Affairs in the Department of Law and Public Safety will realize an indeterminate increase in costs associated with a requirement that the New Jersey Board of Medical Examiners, the Midwifery Committee of the State Board of Medical Examiners, and the New Jersey Board of Nursing ensure that all licensed physicians, physician assistants, professional nurses and practical nurses who provide perinatal services take, on a biennial basis, one credit of continuing education programs concerning explicit and implicit bias that meet the requirements established under the bill. Certified nurse midwives, certified professional midwives and certified midwives who were licensed prior to the effective date of

this bill would be required to complete, as a condition of license renewal, at least one credit of educational programs concerning explicit and implicit bias that meet the requirements established under the bill.

- A provision requiring the DOH to impose penalties or take administrative action against a hospital or birthing center that fails to implement an explicit and implicit bias training program, as required under this bill, may increase State revenues by an indeterminate amount. Without information regarding the schedule of penalties, or the number of hospitals or birthing centers that may be penalized for failing to implement the requisite training program, the OLS is unable to calculate the value of any revenue increase.

BILL DESCRIPTION

This bill would require hospitals that provides inpatient maternity services and birthing centers licensed in the State to implement an evidence-based explicit and implicit bias training program for all health professionals who provide perinatal treatment and care to pregnant persons at the hospital or birthing center, regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the hospital or birthing center, and all supportive services staff, as defined by the DOH, who interact with pregnant persons at the hospital or birthing center.

A health care professional who provides perinatal treatment and care to, and all supportive staff members who interact with, pregnant persons at a hospital or birthing center would be required to complete the training program as well as a biennial refresher course designed to provide the health care professional or supportive staff member with updated information about racial, ethnic, and cultural identity, and best practices in decreasing interpersonal and institutional explicit and implicit bias.

Under this bill, the DOH is required to identify an explicit and implicit bias training tool to be utilized by the explicit and implicit bias training program implemented by a hospital or birthing center. The use of the DOH training tool by a hospital or birthing center would not preclude the hospital or birthing center from utilizing additional or customized training tools in addition to the DOH's training tool.

The bill also provides that, in the event that a hospital or birthing center fails to implement an explicit and implicit bias training program, the DOH would impose penalties or take administrative action against the hospital or birthing center. Any penalties imposed or administrative actions taken by the DOH may be imposed in a summary proceeding.

Moreover, the bill directs the New Jersey Board of Medical Examiners and the New Jersey Board of Nursing to require all licensed physicians, physician assistants, professional nurses, practical nurses, nurse midwives, certified professional midwives, and certified midwives who provide perinatal care to pregnant persons to complete one credit of continuing education programs concerning explicit and implicit bias that meet the requirements established under the bill. A hospital or birthing center that implements an explicit and implicit bias training program would be required to structure the program in a manner that would permit participating health care professionals to be eligible to receive continuing education credits. Additionally, a health care professional who completes a continuing education course on specific explicit and implicit bias topics would be deemed to have met the training requirement for the licensure or certification period in which the continuing education course was completed.

Under the bill, members of the Board of State Medical Examiners or the New Jersey Board of Nursing, as a condition of appointment or continued appointment, as applicable, would be required

to complete an evidence-based explicit and implicit bias training program approved by the Division of Consumer Affairs in the Department of Law and Public Safety that is equivalent to the training program provided for under this bill. The board member would be required to complete the training program at a frequency determined by the division.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill will result in an indeterminate, although likely minimal, increase in State costs for the DOH to develop regulations governing the development and implementation, by hospitals that provide inpatient maternity services and licensed birthing centers, of an evidence-based explicit and implicit bias training program, as well as a biennial refresher course, for all health professionals who provide perinatal treatment and care at the facility, as well as all supportive services staff who interact with pregnant persons at the hospital or birthing center.

A provision requiring the department to impose penalties or take administrative action against a hospital or birthing center that fails to implement an explicit and implicit bias training program, as required under this bill, may increase State revenues by an indeterminate amount. Without information concerning the schedule of penalties, or the number of hospitals or birthing centers that may be penalized for failing to implement the requisite training program, the OLS is unable to calculate the precise value of any revenue increase.

The OLS also concludes that the New Jersey Board of Medical Examiners and the New Jersey Board of Nursing, both of which operate under the purview of the Division of Consumer Affairs in the Department of Law and Public Safety, would incur an indeterminate increase in costs to oversee a new requirement that all State-licensed physicians, physician assistants, professional nurses, practical nurses, certified nurse midwives, certified professional midwives, and certified midwives who provide perinatal care take one credit of educational programs concerning explicit and implicit bias on a biennial basis. However, pursuant to State law, New Jersey medical schools are required to make cultural competency training a prerequisite for graduation. To the extent that this coursework can be adapted to meet the requirements of this bill, and can be replicated in continuing education curricula for the relevant health professionals, costs to the Board of Medical Examiners, the Board of Nursing and the Division of Consumer Affairs would be reduced. To further limit State costs, the Division of Consumer Affairs could potentially adapt the regulations governing the cultural competency course requirement for medical students as the division implements explicit and implicit bias training requirements for licensed physicians, physician assistants, professional nurses, practical nurses, certified nurse midwives, certified professional midwives and certified midwives.

University Hospital, an independent non-profit legal entity that is an instrumentality of the State, will experience an indeterminate increase in expenditures to develop and implement the evidence-based training program, and the refresher course, required under the bill. However, pursuant to State law, each New Jersey hospital and birthing facility must require its health care professionals who provide labor, delivery, and postpartum care to complete a “standardized maternal patient discharge education module,” designed to educate staff on the complications, and associated warning signs, of childbirth. To the extent that University Hospital has completed

development of this maternal patient discharge educational model, and can expand the module to meet the explicit and implicit bias training requirements mandated under this bill, costs to University Hospital could potentially be minimized. In addition, should University Hospital fail to implement the explicit and implicit bias training program required pursuant to this bill, the hospital would be required to pay certain financial penalties to the DOH.

Section: Human Services

*Analyst: Anne H. Cappabianca
Assistant Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 1079

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

**Assemblywoman Murphy, Assemblyman Holley, Assemblywoman
Timberlake and Assemblyman Danielsen**

SYNOPSIS

Requires certain health care professionals to undergo implicit bias training.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/5/2020)

1 AN ACT concerning implicit bias training and supplementing Title
2 26 of the Revised Statutes.

3

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

6

7 1. a. Every hospital that provides inpatient maternity services
8 and every birthing center licensed in the State pursuant to P.L.1971,
9 c.136 (C.26:2H-1 et seq.) shall implement an evidence-based
10 implicit bias training program for all health professionals who
11 provide perinatal treatment and care to pregnant women at the
12 hospital or birthing center.

13 b. The training program shall include, but not be limited to:

14 (1) identifying previous and current unconscious biases and
15 misinformation when providing perinatal treatment and care to
16 pregnant women;

17 (2) identifying personal, interpersonal, institutional, and cultural
18 barriers to inclusion;

19 (3) information on the effects of historical and contemporary
20 exclusion and oppression of minority communities;

21 (4) information about cultural identity across racial and ethnic
22 groups;

23 (5) information about communicating more effectively across
24 racial, ethnic, religious, and gender identities;

25 (6) information about reproductive justice;

26 (7) a discussion on power dynamics and organizational
27 decision-making and their effects on implicit bias;

28 (8) a discussion on health inequities and racial and ethnic
29 disparities within the field of perinatal care, and how implicit bias
30 may contribute to pregnancy-related deaths and maternal and infant
31 health outcomes; and

32 (9) corrective measures to decrease implicit bias at the
33 interpersonal and institutional levels.

34 c. A health care professional who provides perinatal treatment
35 and care to pregnant women at a hospital that provides inpatient
36 maternity services or a birthing center licensed in the State pursuant
37 to P.L.1971, c.136 (C.26:2H-1 et seq.) shall:

38 (1) complete the training program on implicit bias at such times
39 and intervals as the hospital or birthing center shall require;

40 (2) complete a refresher course under the training program,
41 designed to provide the health care professional with updated
42 information about racial, ethnic, and cultural identity, and best
43 practices in decreasing interpersonal and institutional implicit bias,
44 every two years or on a more frequent basis, if deemed necessary by
45 the hospital or birthing center; and

46 (3) receive a certification from the hospital or birthing center
47 upon successful completion of the training program.

48 d. As used in this section:

1 “Implicit bias” means a bias in judgment or behavior that results
2 from subtle cognitive processes, including implicit prejudice and
3 implicit stereotypes, that often operate at a level below conscious
4 awareness and without intentional control.

5 “Implicit stereotypes” means the unconscious attributions of
6 particular qualities to a member of a certain social group,
7 influenced by experience, and based on learned associations
8 between various qualities and social categories, including race and
9 gender.

10

11 2. The Department of Health shall adopt rules and regulations,
12 pursuant to the provisions of the "Administrative Procedure Act,"
13 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
14 this act.

15

16 3. This act shall take effect on the first day of the sixth month
17 next following the date of enactment.

18

19

20

STATEMENT

21

22 This bill requires every hospital that provides inpatient maternity
23 services and every birthing center licensed in the State pursuant to
24 P.L.1971, c.136 (C.26:2H-1 et seq.) to implement an evidence-
25 based implicit bias training program for all health professionals
26 who provide perinatal treatment and care to pregnant women at the
27 hospital or birthing center.

28 The training program would include, but not be limited to:
29 identifying previous and current unconscious biases and
30 misinformation when providing perinatal treatment and care to
31 pregnant women; identifying personal, interpersonal, institutional,
32 and cultural barriers to inclusion; information about the effects of
33 historical and contemporary exclusion and oppression of minority
34 communities; information about cultural identity across racial and
35 ethnic groups; information about communicating more effectively
36 across racial, ethnic, religious, and gender identities; information
37 about reproductive justice; discussions on power dynamics and
38 organizational decision-making and their effects on implicit bias,
39 and on health inequities and racial and ethnic disparities within the
40 field of perinatal care, and how implicit bias may contribute to
41 pregnancy-related deaths and maternal and infant health outcomes;
42 and corrective measures to decrease implicit bias at the
43 interpersonal and institutional levels.

44 A health care professional who provides perinatal treatment and
45 care to pregnant women at a hospital or birthing center would be
46 required to complete the training program and a refresher course,
47 every two years. The refresher course would be designed to provide
48 the health care professional with updated information about racial,

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1 ethnic, and cultural identity, and best practices in decreasing
2 interpersonal and institutional implicit bias. Upon successful
3 completion of the training program, the health care professional
4 would receive a certification from the hospital or birthing center.

5 As defined in the bill, “implicit bias” means a bias in judgment
6 or behavior that results from subtle cognitive processes, including
7 implicit prejudice and implicit stereotypes, that often operate at a
8 level below conscious awareness and without intentional control.
9 “Implicit stereotypes” means the unconscious attributions of
10 particular qualities to a member of a certain social group,
11 influenced by experience, and based on learned associations
12 between various qualities and social categories, including race and
13 gender.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1079

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 5, 2020

The Assembly Health Committee reports favorably and with committee amendments to Assembly Bill No. 1079.

As amended, this bill requires every hospital that provides inpatient maternity services and every birthing center licensed in the State pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) to implement an evidence-based implicit bias training program for all health professionals who regularly provide perinatal treatment and care to pregnant women at the hospital or birthing center.

The training program would include, but not be limited to: identifying previous and current unconscious biases and misinformation when providing perinatal treatment and care to pregnant women; identifying personal, interpersonal, institutional, and cultural barriers to inclusion; information about the effects of historical and contemporary exclusion and oppression of minority communities; information about cultural identity across racial and ethnic groups; information about communicating more effectively across racial, ethnic, religious, and gender identities; information about reproductive justice; discussions on power dynamics and organizational decision-making and their effects on implicit bias, and on health inequities and racial and ethnic disparities within the field of perinatal care, and how implicit bias may contribute to pregnancy-related deaths and maternal and infant health outcomes; and corrective measures to decrease implicit bias at the interpersonal and institutional levels.

A health care professional who regularly provides perinatal treatment and care to pregnant women at a hospital or birthing center would be required to complete the training program and a refresher course, every two years. The refresher course would be designed to provide the health care professional with updated information about racial, ethnic, and cultural identity, and best practices in decreasing interpersonal and institutional implicit bias. Upon successful completion of the training program, the health care professional would receive a certification from the hospital or birthing center.

Under the bill, a hospital that implements an implicit bias training program is to ensure that the program is structured in a manner that permits physicians to be eligible to receive continuing education credits for participation in the program.

As defined in the bill, “implicit bias” means a bias in judgment or behavior that results from subtle cognitive processes, including implicit prejudice and implicit stereotypes, that often operate at a level below conscious awareness and without intentional control. “Implicit stereotypes” means the unconscious attributions of particular qualities to a member of a certain social group, influenced by experience, and based on learned associations between various qualities and social categories, including race and gender.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments provide that a hospital that implements an implicit bias training program is to ensure that the program is structured in a manner that permits physicians to be eligible to receive continuing education credits for participation in the program. The amendments also provide that the training program be for health care professionals who regularly provide perinatal treatment and care to pregnant women at the hospital or birthing center.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1079

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2021

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 1079 (1R).

As amended, this bill would require every hospital that provides inpatient maternity services and every birthing center licensed in the State pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) to implement an evidence-based explicit and implicit bias training program for all health professionals that who provide perinatal treatment and care to pregnant persons at the hospital or birthing center, regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the hospital or birthing center, and all supportive staff members, as defined by the Department of Health (DOH) who interact with pregnant persons at the hospital or birthing center.

The training program would include, but not be limited to: identifying previous and current unconscious biases and misinformation when providing perinatal treatment and care to, or interacting with, pregnant women; identifying environmental, personal, interpersonal, institutional, and cultural barriers to inclusion; information about the effects of historical and contemporary exclusion and oppression of minority communities; information about cultural identity across racial, ethnic, and other marginalized groups; information about communicating more effectively across racial, ethnic, religious, and gender identities; information about reproductive health; discussions on power dynamics and organizational decision-making and their effects on explicit and implicit bias, and on inequities and racial, ethnic, and other disparities within the field of perinatal care, and how explicit and implicit bias may contribute to pregnancy-related deaths and maternal and infant health outcomes; corrective measures to decrease explicit and implicit bias at the interpersonal and institutional levels; and review of the annual report of the New Jersey Maternal Mortality Review Committee.

A health care professional who provides perinatal treatment and care to, and a supportive staff member who interacts with, pregnant persons at a hospital or birthing center would be required to complete

the training program and a refresher course, every two years. The refresher course would be designed to provide the health care professional with updated information about racial, ethnic, and cultural identity, and best practices in decreasing interpersonal and institutional explicit and implicit bias. Upon successful completion of the training program, the health care professional or administrative or clerical staff member would receive a certification from the hospital or birthing center.

Under the bill, a hospital or birthing center that implements an explicit and implicit bias training program is to ensure that the program is structured in a manner that permits health care professionals to be eligible to receive continuing education credits for participation in the program.

As amended, the bill requires the DOH to identify an explicit and implicit bias training tool to be utilized by the explicit and implicit bias training program implemented by a hospital or birthing center. The use of DOH's training tool by a hospital or birthing center would not preclude the hospital or birthing center from utilizing additional or customized training tools in addition to the DOH's training tool.

As amended, the bill provides that in the event that a hospital or birthing center fails to implement an explicit and implicit bias training program, the DOH would invoke penalties or take administrative action against the hospital or birthing center. Any penalties imposed or administrative actions taken by the DOH may be imposed in a summary proceeding.

As amended, the bill establishes a requirement for physicians, physician assistants, nurses, nurse midwives, certified professional midwives, or certified midwives who provide prenatal or perinatal care to pregnant women to complete one credit of continuing education in explicit and implicit bias training, which explicit and implicit bias training course is to meet the requirements for an explicit and implicit bias training course required for physicians and staff providing perinatal care in a hospital or birthing center. A health care professional who completes a continuing education course in explicit and implicit bias training will be deemed to have satisfied the explicit and implicit bias training requirement required for health care professionals providing perinatal care in a hospital or birthing center.

The bill, as amended by the committee, requires that as a condition of being appointed as a member of the Board of State Medical Examiners or the New Jersey Board of Nursing, or the member's continued appointment to the board, as applicable, a board member would complete an evidence-based explicit and implicit bias training program approved by the Division of Consumer Affairs in the Department of Law and Public Safety that is equivalent to the training program provided for in subsection b. of section 1 of this bill. The board member would be required to complete, and acknowledge the

completion of, the training program at a frequency determined by the division.

As defined in the bill, “health care professional” means a person licensed or certified to practice a health care profession pursuant to Title 45 of the Revised Statutes. “Explicit bias” means attitudes and beliefs about a person or group on a conscious level. “Implicit bias” means a bias in judgment or behavior that results from subtle cognitive processes, including implicit prejudice and implicit stereotypes, that often operate at a level below conscious awareness and without intentional control. “Implicit stereotypes” means the unconscious attributions of particular qualities to a member of a certain social group, influenced by experience, and based on learned associations between various qualities and social categories, including race and gender. “Perinatal care” means the provision of care during pregnancy, labor, delivery, postpartum and neonatal periods.

As reported by this committee, Assembly Bill No. 1079 (1R) is identical to Senate Bill No. 703 (2R) which also was amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments require that supportive staff members, as defined by the DOH, who interact with pregnant persons at a hospital or birthing center will be required to complete the explicit and implicit bias training program and a refresher course. As introduced, the bill limited the explicit and implicit bias training requirement to health professionals.

The committee amendments stipulate that hospitals and birthing are required to implement the explicit and implicit bias training program for all health professionals who provide perinatal treatment and care to pregnant persons at hospitals or birthing centers regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the hospital or birthing center.

The committee amendments provide that a hospital or birthing center that implements an explicit and implicit bias training program is to ensure that the program is structured in a manner that permits health care professionals to be eligible to receive continuing education credits for participation in the program.

The committee amendments provide that the explicit and implicit bias training program will also include, but not be limited to:

(1) identifying previous and current unconscious biases and misinformation when providing perinatal treatment and care to, or interacting with, pregnant persons;

(2) identifying environmental, personal, interpersonal, institutional, and cultural barriers to inclusion;

(3) information on the effects of historical and contemporary exclusion and oppression of minority communities;

(4) information about cultural identity across racial, ethnic, and other marginalized groups;

(5) information about communicating more effectively across racial, ethnic, religious, and gender identities;

(6) information about reproductive justice;

(7) a discussion on power dynamics and organizational decision-making and their effects on explicit and implicit bias;

(8) a discussion on health inequities and racial and ethnic disparities within the field of perinatal care, and how explicit and implicit bias may contribute to pregnancy-related deaths and maternal and infant health outcomes;

(9) corrective measures to decrease explicit and implicit bias at the interpersonal and institutional levels; and

(10) review of the annual report of the New Jersey Maternal Mortality Review Committee.

The committee amendments mandate that the Department of Health identify an explicit and implicit bias training tool to be utilized by the explicit and implicit bias training program implemented by a hospital or birthing center. The amendments further mandate that the use of the department's training tool by a hospital or birthing center would not preclude the hospital or birthing center from utilizing additional or customized training tools in addition to the department's training tool.

The committee amendments provide that in the event that a hospital or birthing center fails to implement an explicit and implicit bias training program, the Department of Health would invoke penalties or take administrative action against the hospital or birthing center. Any penalties imposed or administrative actions taken by the department may be imposed in a summary proceeding.

The committee amendments provide definitions for "explicit bias," "health care professional," "implicit bias," "implicit stereotypes," and "perinatal care."

The committee amendments establish a new continuing education requirement for physicians, physician assistants, nurses who provide prenatal or perinatal care to pregnant women, certified nurse midwives, certified professional midwives, and certified midwives, which will comprise one credit of explicit and implicit bias training that meets the requirements for an explicit and implicit bias training course established under the bill. A health care professional who completes a continuing education course in explicit and implicit bias training will be deemed to have satisfied the explicit and implicit bias training requirement for hospitals and birthing centers for the licensure or certification period in which the continuing education credit was completed.

The committee amendments revise the rulemaking provision in the bill require that the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in addition to the Department of

Health, adopt rules and regulations to effectuate the purposes of the bill.

The committee amendments provide technical changes to the synopsis and title.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that this bill will result in an indeterminate, and likely minimal, increase in State costs for the Department of Health (DOH) to develop regulations requiring hospitals that provide inpatient maternity services and licensed birthing centers to implement an evidence-based explicit and implicit bias training program for health professionals who provide perinatal treatment and care, regardless of the health professional's compensation agreement or contractual or privilege status with the hospital or birthing center, and all supportive services staff, as defined by the DOH, who interact with pregnant persons at the hospital or birthing center.

The Division of Consumer Affairs in the Department of Law and Public Safety will realize an indeterminate increase in costs associated with a requirement that the New Jersey Board of Medical Examiners, the Midwifery Committee of the State Board of Medical Examiners, and the New Jersey Board of Nursing ensure that all licensed physicians, physician assistants, professional nurses and practical nurses who provide perinatal services take, on a biennial basis, one credit of continuing education programs concerning explicit and implicit bias that meet the requirements established under the bill. Certified nurse midwives, certified professional midwives and certified midwives who were licensed prior to the effective date of this bill would be required to complete at least one credit of educational programs concerning explicit and implicit bias as a condition of license renewal.

A provision requiring the DOH to impose penalties or take administrative action against a hospital or birthing center that fails to implement an explicit and implicit bias training program may increase State revenues by an indeterminate amount. Without information regarding the schedule of penalties, or the number of hospitals or birthing centers that may be penalized, the OLS is unable to calculate the value of any revenue increase.

University Hospital, an independent non-profit legal entity that is an instrumentality of the State, will experience an indeterminate increase in expenditures to develop and implement the requisite evidence-based training program, and the refresher course. In addition, should University Hospital fail to implement the explicit and implicit bias training program required pursuant to this bill, the hospital would be required to pay certain financial penalties to the Department of Health.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 1079

**STATE OF NEW JERSEY
219th LEGISLATURE**

DATED: JULY 29, 2020

SUMMARY

- Synopsis:** Requires certain health care professionals to undergo implicit bias training.
- Type of Impact:** Indeterminate, likely minimal increase in State costs.
- Agencies Affected:** Department of Health, University Hospital.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill will result in an indeterminate, and likely minimal, increase in State costs for the Department of Health (DOH) to develop regulations requiring every hospital that provides inpatient maternity services and every licensed birthing center to implement an evidence-based implicit bias training program for all health professionals who regularly provide perinatal treatment and care at the facility.
- The OLS also concludes that University Hospital, an independent non-profit legal entity that is an instrumentality of the State, will experience an indeterminate increase in expenditures to develop and implement the evidence-based training program, and the biennial refresher course, required under the bill.

BILL DESCRIPTION

This bill would require every hospital that provides inpatient maternity services and every birthing center licensed in the State to implement an evidence-based implicit bias training program for all health professionals who routinely provide perinatal treatment and care to pregnant women at the hospital or birthing center. The bill defines “implicit bias” as a bias in judgment or behavior that results from subtle cognitive processes, including implicit prejudice and implicit stereotypes, which often operate at a level below conscious awareness and without intentional control.

The bias training program would include, but not be limited to: identifying previous and current unconscious biases and misinformation when providing perinatal treatment and care to pregnant women; identifying personal, interpersonal, institutional, and cultural barriers to inclusion; information about cultural identity across racial and ethnic groups; information about communicating more effectively across racial, ethnic, religious, and gender identities; discussions on power dynamics and organizational decision-making and their effects on implicit bias, and on health inequities and racial and ethnic disparities within the field of perinatal care, and how implicit bias may contribute to pregnancy-related deaths and maternal and infant health outcomes; and corrective measures to decrease implicit bias at the interpersonal and institutional levels.

All health care professionals who regularly provide perinatal treatment and care to pregnant women at a hospital or birthing center would be required to complete the training program, as well as a biennial refresher course designed to provide updated information about racial, ethnic, and cultural identity, and best practices in decreasing interpersonal and institutional implicit bias. Upon successful completion of the training program, the health care professional would receive a certification from the hospital or birthing center.

Under the bill, a hospital that implements an implicit bias training program would be required to structure the program in a manner that would permit participating physicians to be eligible to receive continuing education credits.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill will result in an indeterminate, although likely minimal, increase in State costs for the DOH to develop regulations governing the development and implementation, by hospitals that provide maternity services and licensed birthing centers, of an evidence-based implicit bias training program, as well as a biennial refresher course, for all health professionals that regularly provide perinatal treatment and care to pregnant women. To the extent that the DOH can adapt existing regulations to meet the requirements under the bill, State costs are expected to be minimal.

In addition, University Hospital, an independent non-profit legal entity that is an instrumentality of the State, will experience an indeterminate increase in expenditures to develop and implement the evidence-based training program, and the refresher course, required under the bill. However, pursuant to State law, each New Jersey hospital and birthing facility must require its health care professionals who provide labor, delivery, and postpartum care to complete a “standardized maternal patient discharge education module,” designed to educate staff on the complications, and associated warning signs, of childbirth. To the extent that University Hospital has completed development of this maternal patient discharge educational model, and can expand the module to meet the implicit bias training requirements mandated under this bill, costs to University Hospital could potentially be minimized.

Section: Human Services

*Analyst: Anne Cappabianca
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 1079

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: MARCH 3, 2021

SUMMARY

- Synopsis:** Requires certain health care professionals to undergo explicit and implicit bias training.
- Type of Impact:** Increase in State Costs and Revenues.
- Agencies Affected:** Department of Health.
Department of Law and Public Safety, Division of Consumer Affairs.
University Hospital.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that this bill will result in an indeterminate, and likely minimal, increase in State costs for the Department of Health (DOH) to develop regulations requiring hospitals that provide inpatient maternity services and licensed birthing centers to implement an evidence-based explicit and implicit bias training program for all health professionals who provide perinatal treatment and care, regardless of the health professional's compensation agreement or contractual or privilege status with the hospital or birthing center, and all supportive services staff, as defined by the DOH, who interact with pregnant persons at the hospital or birthing center.
- The Division of Consumer Affairs in the Department of Law and Public Safety will realize an indeterminate increase in costs associated with a requirement that the New Jersey Board of Medical Examiners, the Midwifery Committee of the State Board of Medical Examiners, and the New Jersey Board of Nursing ensure that all licensed physicians, physician assistants, professional nurses and practical nurses who provide perinatal services take, on a biennial basis, one credit of continuing education programs concerning explicit and implicit bias that meet the requirements established under the bill. Certified nurse midwives, certified professional midwives and certified midwives who were licensed prior to the effective date of this bill would be required to complete, as a condition of license renewal, at least one credit of

educational programs concerning explicit and implicit bias that meet the requirements established under the bill.

- A provision requiring the DOH to impose penalties or take administrative action against a hospital or birthing center that fails to implement an explicit and implicit bias training program, as required under this bill, may increase State revenues by an indeterminate amount. Without information regarding the schedule of penalties, or the number of hospitals or birthing centers that may be penalized for failing to implement the requisite training program, the OLS is unable to calculate the value of any revenue increase.

BILL DESCRIPTION

This bill would require hospitals that provides inpatient maternity services and birthing centers licensed in the State to implement an evidence-based explicit and implicit bias training program for all health professionals who provide perinatal treatment and care to pregnant persons at the hospital or birthing center, regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the hospital or birthing center, and all supportive services staff, as defined by the DOH, who interact with pregnant persons at the hospital or birthing center.

A health care professional who provides perinatal treatment and care to, and all supportive staff members who interact with, pregnant persons at a hospital or birthing center would be required to complete the training program as well as a biennial refresher course designed to provide the health care professional or supportive staff member with updated information about racial, ethnic, and cultural identity, and best practices in decreasing interpersonal and institutional explicit and implicit bias.

Under this bill, the DOH is required to identify an explicit and implicit bias training tool to be utilized by the explicit and implicit bias training program implemented by a hospital or birthing center. The use of the DOH training tool by a hospital or birthing center would not preclude the hospital or birthing center from utilizing additional or customized training tools in addition to the DOH's training tool.

The bill also provides that, in the event that a hospital or birthing center fails to implement an explicit and implicit bias training program, the DOH would impose penalties or take administrative action against the hospital or birthing center. Any penalties imposed or administrative actions taken by the DOH may be imposed in a summary proceeding.

Moreover, the bill directs the New Jersey Board of Medical Examiners and the New Jersey Board of Nursing to require all licensed physicians, physician assistants, professional nurses, practical nurses, nurse midwives, certified professional midwives, and certified midwives who provide perinatal care to pregnant persons to complete one credit of continuing education programs concerning explicit and implicit bias that meet the requirements established under the bill. A hospital or birthing center that implements an explicit and implicit bias training program would be required to structure the program in a manner that would permit participating health care professionals to be eligible to receive continuing education credits. Additionally, a health care professional who completes a continuing education course on specific explicit and implicit bias topics would be deemed to have met the training requirement for the licensure or certification period in which the continuing education course was completed.

Under the bill, members of the Board of State Medical Examiners or the New Jersey Board of Nursing, as a condition of appointment or continued appointment, as applicable, would be required to complete an evidence-based explicit and implicit bias training program approved by the

Division of Consumer Affairs in the Department of Law and Public Safety that is equivalent to the training program provided for under this bill. The board member would be required to complete the training program at a frequency determined by the division.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that this bill will result in an indeterminate, although likely minimal, increase in State costs for the DOH to develop regulations governing the development and implementation, by hospitals that provide inpatient maternity services and licensed birthing centers, of an evidence-based explicit and implicit bias training program, as well as a biennial refresher course, for all health professionals who provide perinatal treatment and care at the facility, as well as all supportive services staff who interact with pregnant persons at the hospital or birthing center.

A provision requiring the department to impose penalties or take administrative action against a hospital or birthing center that fails to implement an explicit and implicit bias training program, as required under this bill, may increase State revenues by an indeterminate amount. Without information concerning the schedule of penalties, or the number of hospitals or birthing centers that may be penalized for failing to implement the requisite training program, the OLS is unable to calculate the precise value of any revenue increase.

The OLS also concludes that the New Jersey Board of Medical Examiners and the New Jersey Board of Nursing, both of which operate under the purview of the Division of Consumer Affairs in the Department of Law and Public Safety, would incur an indeterminate increase in costs to oversee a new requirement that all State-licensed physicians, physician assistants, professional nurses, practical nurses, certified nurse midwives, certified professional midwives, and certified midwives who provide perinatal care take one credit of educational programs concerning explicit and implicit bias on a biennial basis. However, pursuant to State law, New Jersey medical schools are required to make cultural competency training a prerequisite for graduation. To the extent that this coursework can be adapted to meet the requirements of this bill, and can be replicated in continuing education curricula for the relevant health professionals, costs to the Board of Medical Examiners, the Board of Nursing and the Division of Consumer Affairs would be reduced. To further limit State costs, the Division of Consumer Affairs could potentially adapt the regulations governing the cultural competency course requirement for medical students as the division implements explicit and implicit bias training requirements for licensed physicians, physician assistants, professional nurses, practical nurses, certified nurse midwives, certified professional midwives and certified midwives.

University Hospital, an independent non-profit legal entity that is an instrumentality of the State, will experience an indeterminate increase in expenditures to develop and implement the evidence-based training program, and the refresher course, required under the bill. However, pursuant to State law, each New Jersey hospital and birthing facility must require its health care professionals who provide labor, delivery, and postpartum care to complete a “standardized maternal patient discharge education module,” designed to educate staff on the complications, and associated warning signs, of childbirth. To the extent that University Hospital has completed development of this maternal patient discharge educational model, and can expand the module to

meet the explicit and implicit bias training requirements mandated under this bill, costs to University Hospital could potentially be minimized. In addition, should University Hospital fail to implement the explicit and implicit bias training program required pursuant to this bill, the hospital would be required to pay certain financial penalties to the DOH.

Section: Human Services

*Analyst: Anne H. Cappabianca
Assistant Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Signs Legislation Requiring Maternal Health Care Professionals to Undergo Explicit and Implicit Bias Training

05/11/2021

TRENTON – Governor Phil Murphy today signed S703/A1079, requiring all health care professionals who provide perinatal treatment and care to pregnant persons at a hospital or birthing center undergo explicit and implicit bias training. The requirement of the explicit and implicit bias training will help to improve New Jersey’s high rates of Black maternal and infant mortality and the racial disparities that drive this crisis.

“The health of our Black mothers and babies is critical to the health of our state – period,” **said Governor Murphy**. “This value is reflected in my Fiscal Year 2021 budget through the full funding of explicit and implicit bias training for all staff at our labor and delivery hospitals and Federally Qualified Health Centers. I am grateful and proud that my colleagues in the Legislature share this value and I am committed to continuing our work to eliminate the racial disparities that fuel the Black maternal and infant and mortality crisis in New Jersey.”

“For the past three years, Nurture NJ has been laser focused on transforming a system that has historically failed Black women and babies,” **said First Lady Tammy Murphy**. “The Nurture NJ Maternal and Infant Health Statewide Strategic Plan is our blueprint to address the core factor at the heart of our Black maternal and infant health crisis – implicit bias and systemic racism. This is a massive undertaking that requires collaboration across all levels of government and industries, and I am grateful that the Governor and Legislature recognize the kind of systemic change needed to ensure a healthy start for every New Jersey mother and baby.”

The bill was sponsored by Senators Ruiz and Cunningham and Assemblywomen Speight, Pintor Marin, and Reynolds-Jackson.

“It is unacceptable that New Jersey has the fourth highest maternal mortality rate in the country, with Black women being nearly four times more likely than white women to lose their life during or after childbirth,” **said Senator Ruiz**. “By unpacking the implicit biases healthcare workers may hold, we can begin to improve outcomes across racial demographics and provide more equitable care to our mothers around the state. While the signing of this legislation is a significant step in the right direction, it is crucial we continue to do everything we can to ensure all of our residents are receiving the highest quality of care.”

“Far too often we hear stories of Black women’s complaints about pain or discomfort being ignored or brushed aside, only to result in serious complications or death,” **said Senator Cunningham**. “Doctors may not be intentionally treating Black women differently, but the maternal mortality data makes it clear that there are systemic issues resulting in vast disparities in outcomes. The signing of this legislation is the first step in addressing the implicit biases that may be impacting the quality of care women of color receive.”

“Government officials and healthcare professionals alike have been making a concerted effort to improve maternal health outcomes in our state,” **said Assemblywoman Speight**. “But this endeavor ultimately cannot succeed unless every mother receives the same standards of treatment. That means we have to address the underlying biases that are serving as a barrier to quality healthcare for far too many women of color in New Jersey.”

“As we examine maternal and infant mortality disparities in New Jersey, my colleagues and I have heard some genuinely heart-rending stories that shine a spotlight directly on the role implicit bias plays in impacting the quality of care,” **said Assemblywoman Pintor Marin.** “The key to solving this problem lies in understanding that implicit bias means the provider doesn’t even realize they are treating certain patients differently based on unconscious thought processes. Training to recognize and overcome that is not just necessary, but critical.”

“Every patient deserves to be treated with dignity and respect, regardless of their race, ethnicity or background,” **said Assemblywoman Reynolds-Jackson.** “Equality of care can mean the difference between life and death for black women in particular, who are nearly **seven** times more likely to die from pregnancy than white women. Implementing these training programs would help health professionals identify, understand and overcome their biases to help prevent these disparities going forward.”