

HEALTH SERVICES BRANCH

CERTIFICATE OF NEED AND LICENSING DIVISION

OFFICE OF CERTIFICATE OF NEED AND HEALTHCARE FACILITY LICENSURE

HEALTH FACILITIES EVALUATION AND LICENSING DIVISION

General Licensure Procedures and Standards Applicable to All Licensed Facilities

Manual of Standards for Licensing of Ambulatory Care Facilities

Hospital Licensing Standards

Explicit and Implicit Bias Training

Proposed Amendment: N.J.A.C. 8:43E-3.4

Proposed New Rules: N.J.A.C. 8:43A-28.14 and 8:43G-19.39

Authorized By: Kaitlan Baston, MD, MSc, DFASAM, Commissioner, Department of Health, with the approval of the Health Care Administration Board.

Authority: P.L. 2021, c. 79, § 8 and N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2025-045.

Submit written comments by July 4, 2025, electronically to

<http://www.nj.gov/health/legal/ecomments.shtml>, or by regular mail postmarked by July

4, 2025, to:

Kimberly E. Jenkins, Director

Office of Legal and Regulatory Compliance

Office of the Commissioner

New Jersey Department of Health

PO Box 360

Trenton, NJ 08625-0360

The agency proposal follows:

Summary

On May 11, 2021, Governor Phil Murphy approved P.L. 2021, c. 79 (effective November 1, 2021), “An Act concerning bias training and supplementing Title 26 and Title 45 of the Revised Statutes” (Act), codified in part at N.J.S.A. 26:2H-12.108. The Act requires hospitals providing inpatient maternity services and birthing centers that the Department of Health (Department) licenses pursuant to the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and, respectively, N.J.A.C. 8:43G and 8:43A (hereinafter, respectively referred to as “hospitals” and “birthing centers”) to implement an explicit and implicit bias training program for health care 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,” and for all “supportive services staff members,” who interact with pregnant persons at the hospital or birthing center. P.L. 2021, c. 79, §1, codified at N.J.S.A. 26:2H-12.108. The Act requires hospitals and birthing centers 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,” and identifies the topics that the training program is to address. *Id.*

The Act directs the Department to define the term, “supportive services staff members” and to identify an explicit and implicit bias training tool that hospitals and

birthing centers are to use for their explicit and implicit bias training programs, while also permitting hospitals and birthing centers to use supplemental customized training tools in providing training, in addition to the Department's training tool. *Id.*

The Act directs the Department to promulgate implementing rules and to establish penalties or an appropriate administrative action to impose against a hospital or birthing center that fails to implement an explicit and implicit bias training program. N.J.S.A. 26:2H-12.108(e); P.L. 2021, c. 79, § 8.

The Department is proposing new rules at N.J.A.C. 8:43A and 8:43G, and an amendment at N.J.A.C. 8:43E, to implement its rulemaking obligations pursuant to the Act. The proposed amendment and new rules would identify a training tool that a hospital or birthing center is to use for its explicit and implicit bias training program; define the term "supportive services staff members"; establish standards for hospitals or birthing centers to ensure that all persons whom the Act requires to undergo explicit and implicit bias training do so; and identify the penalties and administrative actions that the Department may invoke in a summary proceeding against a hospital or birthing center that fails to implement an explicit and implicit bias training program, pursuant to the Act. The Department has informed hospitals and birthing centers of the tool's availability by communication through electronic mail, in addition to other outreach efforts.

Proposed new N.J.A.C. 8:43A-28.14, Explicit and implicit bias training, would require a birthing center to implement the Act using an evidence-based explicit and implicit bias training program for health care professionals and supportive services staff members providing inpatient maternity services. Proposed new N.J.A.C. 8:43A-28.14(a) would identify the personnel who must complete the training.

Proposed new N.J.A.C. 8:43A-28.14(b) would establish a definition of the term “supportive services staff member.”

Proposed new N.J.A.C. 8:43A-28.14(c) would define terms that the section uses, including the following terms that the Act defines: “explicit bias,” “health care professional,” “implicit bias,” “implicit stereotypes,” and “perinatal care.”

Proposed new N.J.A.C. 8:43A-28.14(d) would identify the written policies and procedures that each birthing center must have in place by which it would identify the persons who must complete explicit and implicit bias training and maintain training records.

Proposed new N.J.A.C. 8:43A-28.14(e) would identify the minimum explicit and implicit bias training tool that a birthing center is to use in implementing its training program and how a facility can obtain access to the tool.

Proposed new N.J.A.C. 8:43A-28.14(f) would reflect the authority of a birthing center to supplement this training.

Proposed new N.J.A.C. 8:43A-28.14(g) would require a birthing center to ensure that eligible health care professionals receive continuing professional education credits for the successful completion of its implicit and explicit bias training program.

Proposed new N.J.A.C. 8:43A-28.14(h) and (i) would specify the respective dates by which a birthing center must ensure that health care professionals and supportive services staff members complete the explicit and implicit bias training program and the refresher course.

Proposed new N.J.A.C. 8:43A-28.14(j) would indicate that the Department will require the Department’s selected training vendor to issue a certificate of completion to

individuals who complete the training and would identify the information that the certificate must contain.

Proposed new N.J.A.C. 8:43A-28.14(k) would allow a person who completes a professional continuing education course on explicit and implicit bias to substitute that training for the training the Act requires.

Proposed new N.J.A.C. 8:43A-28.14(l) would establish a birthing center's obligation to identify health care professionals and supportive services staff members who must complete explicit and implicit bias training and maintain records to memorialize their completion of the required training.

Proposed new N.J.A.C. 8:43A-28.14(m) would require a birthing center to submit a certification, upon Department request, reporting the percentage of relevant health care professionals and supportive services staff members who have completed the required training, and the subsequent refresher training, within the timelines the chapter establishes.

Proposed new N.J.A.C. 8:43A-28.14(n) would identify the Department's website where a birthing center can obtain the required certification form.

Proposed new N.J.A.C. 8:43A-28.14(o) would specify the manner in which the Department may monitor a birthing center to ensure its compliance with, and fulfillment of, the obligation to ensure that staff receive explicit and implicit bias training, including random training record audits.

Proposed new N.J.A.C. 8:43A-28.14(p) would require a birthing center to cooperate with audits and identify the criteria by which the Department would consider a

request for extension of the time by which a birthing center must comply with the section.

Proposed new N.J.A.C. 8:43A-28.14(q) would identify the Department's authority to engage in administrative enforcement actions and impose penalties for a birthing center's noncompliance.

Proposed new N.J.A.C. 8:43G-19.39, Explicit and implicit bias training, would require a hospital to implement the Act by using an evidence-based explicit and implicit bias training program for health care professionals and supportive services staff members providing inpatient maternity services.

Proposed new N.J.A.C. 8:43G-19.39(a) would identify the personnel who must complete the training.

Proposed new N.J.A.C. 8:43G-19.39(b) would define the term "supportive services staff member."

Proposed new N.J.A.C. 8:43G-19.39(c) would define terms that the section uses, including the following terms that the Act defines, "explicit bias," "health care professional," "implicit bias," "implicit stereotypes," and "perinatal care."

Proposed new N.J.A.C. 8:43G-19.39(d) would identify the written policies and procedures that each hospital must have in place to identify the persons who must complete the explicit and implicit bias training and maintain training records.

Proposed new N.J.A.C. 8:43G-19.39(e) would identify the minimum explicit and implicit bias training tools that a hospital is to provide in implementing its training program and how a facility can obtain access to the tools.

Proposed new N.J.A.C. 8:43G-19.39(f) would reflect the authority of a hospital to supplement this training.

Proposed new N.J.A.C. 8:43G-19.39(g) would require a hospital to ensure that eligible health care professionals receive continuing professional education credits for the successful completion of its implicit and explicit bias training program.

Proposed new N.J.A.C. 8:43G-19.39(h) and (i) would specify the respective dates by which a hospital must ensure that health care professionals and supportive services staff members complete the explicit and implicit bias training program and the refresher course.

Proposed new N.J.A.C. 8:43G-19.39(j) would indicate that the Department will require the Department's selected training vendor to issue a certificate of completion to individuals who complete the training and would identify the information that the certificate must contain.

Proposed new N.J.A.C. 8:43G-19.39(k) would allow a person who completes a professional continuing education course on explicit and implicit bias to substitute that training for the training the Act requires.

Proposed new N.J.A.C. 8:43G-19.39(l) would establish a hospital's obligations to identify health care professionals and supportive services staff members who must complete explicit and implicit bias training and maintain records to memorialize their completion of the training.

Proposed new N.J.A.C. 8:43G-19.39(m) would require a hospital to submit a certification, upon Department request, reporting the percentage of relevant health care professionals and supportive services staff members who have completed the required

training, and the subsequent refresher training, within the timelines the chapter establishes.

Proposed new N.J.A.C. 8:43G-19.39(n) would identify the Department's website at which a hospital can obtain the required certification form.

Proposed new N.J.A.C. 8:43G-19.39(o) would specify the manner in which the Department may monitor a hospital to ensure its compliance with, and fulfillment of, the obligation to ensure that staff receive explicit and implicit bias training, including random training record audits.

Proposed new N.J.A.C. 8:43G-19.39(p) would require a hospital to cooperate with audits and identify the criteria by which the Department would consider a request for an extension of the date by which a hospital must comply with the subsection.

Proposed new N.J.A.C. 8:43G-19.39(q) would identify the Department's authority to engage in administrative enforcement actions and impose penalties for a hospital's noncompliance.

Existing N.J.A.C. 8:43E, General Licensure Procedures and Standards Applicable to All Licensed Facilities, addresses, at Subchapter 3, Enforcement Remedies. The Department proposes to amend existing N.J.A.C. 8:43E-3.4, Civil monetary penalties, to add new paragraph (a)22, which would establish a civil monetary penalty of up to \$1,000 per violation, assessable for each day of noncompliance, which the Department would impose on a hospital or a birthing center that is subject to, and noncompliant with, proposed new N.J.A.C. 8:43A-28.14 and 8:43G-19.39.

As the Department is providing a 60-day comment period for this notice of proposal, pursuant to N.J.A.C. 1:30-3.3(a)5, the notice is excepted from the rulemaking calendar requirement.

Social Impact

The proposed amendment and new rules would have a positive impact on society. Health care providers who hold explicit and implicit biases against marginalized groups, such as racial and ethnic minoritized populations, affect patient care, patient-to-clinician communication, clinical decision-making, and institutionalized practices. Addressing biases through the proposed rulemaking would implement a fundamental professional responsibility to hold hospitals, birthing centers, and health care professionals accountable for their actions, while improving the health and wellness of minoritized populations, while mitigating health disparities and health inequities.

The proposed amendment and new rules would directly address the high maternal mortality rate in New Jersey amongst Black pregnant people by raising the awareness of health professionals and supportive services staff members of their own explicit and implicit biases, so that they may strive to establish egalitarian goals for the provision of equitable healthcare delivery to all pregnant persons. New Jersey currently has the fourth-highest maternal mortality rate in the country, with Black pregnant people being nearly seven times more likely than White pregnant people to lose their lives during or after childbirth.

The proposed amendment and new rules would advance the goals of Nurture NJ, a Statewide initiative committed to transforming New Jersey into the safest and most equitable State in the nation to deliver and raise a baby, which First Lady Tammy

Murphy launched in 2019, to reduce the maternal and infant mortality epidemic in New Jersey and ensure equitable care among pregnant people and children of all races and ethnicities.

Economic Impact

The proposed amendment and new rules would require hospitals and birthing centers to ensure that appropriate staff satisfy the compulsory explicit and implicit bias training requirements by accessing the on-line training, without charge, through a website the Department designates. These hospitals and birthing centers may incur costs associated with compensating workers for the time they spend completing the online training (approximately 120 minutes), administering the training, maintaining training records, and, upon Department request, reporting training status data be sent to the Department. These hospitals and birthing centers typically maintain internet access and have the information technology that is needed to provide staff with access to view the training and would not incur additional costs to comply with the proposed amendment and new rules.

Additionally, the Department will provide access to the training modules that a hospital or birthing center could upload to its learning management system, which would ensure that these facilities would incur no cost associated with this process.

The proposed amendment and new rules would not require a hospital or birthing center to retain the services of professionals to comply, although facilities may incur legal fees if they elect to retain the services of legal counsel to defend against a Department enforcement action in response to noncompliance. Noncompliant facilities may incur civil monetary penalties, as the Summary describes.

The Department will incur costs to administer, oversee, and enforce facilities' compliance with the Act and the proposed amendment and new rules, which it expects to subsume within existing staff and administrative resources. The State may realize revenues from the collection of monetary penalties from a noncompliant hospital or birthing center.

The proposed amendment and new rules would have a positive economic impact on the State by helping to avoid potential health care costs, household income losses, and funeral expenses resulting from the morbidity or mortality of pregnant persons due to lapses in the provision of appropriate pre- and post-delivery care stemming from explicit and implicit biases of health care professionals and supportive services staff members.

Federal Standards Statement

The Department is proposing the amendment and new rules to fulfill its rulemaking obligation pursuant to the Act and not pursuant to the authority of, or to implement, comply with, or participate in, a program established pursuant to Federal law or pursuant to a State statute that incorporates or refers to Federal law, standards, or requirements. Therefore, no Federal standards analysis is required.

Jobs Impact

The Department does not anticipate that the proposed amendment and new rules would result in an increase or decrease in the number of jobs available in the State.

Agriculture Industry Impact

The proposed amendment and new rules would not have an impact on the State agriculture industry.

Regulatory Flexibility Analysis

The proposed amendment and new rules would impose reporting, recordkeeping, and compliance requirements on hospitals and birthing centers, and would impose administrative and enforcement obligations on the Department. Of these, only birthing facilities may be “small businesses” within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The Summary describes these requirements and the Economic Impact describes the costs of compliance. The proposed amendment and new rules would not require small businesses to retain the services of professionals to comply. The Department proposes no lesser or differing standards for small businesses because it has determined that the proposed amendment and new rules would establish the minimum standards necessary to implement its rulemaking obligations pursuant to the Act and promote public health and safety by raising awareness of the existence of, and the need to eliminate, explicit and implicit bias among health care facility personnel involved in providing perinatal care.

Housing Affordability Impact Analysis

The proposed amendment and new rules would have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that they would evoke a change in the average costs associated with housing because the proposed amendment and new rules would establish training standards applicable to certain hospitals and birthing centers and would have no bearing on housing costs.

Smart Growth Development Impact Analysis

The proposed amendment and new rules would have an insignificant impact on smart growth and there is an extreme unlikelihood that they would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the proposed amendment and new rules would establish training standards applicable to certain hospitals and birthing centers, and would have no bearing on housing production or development activities.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 43A

MANUAL OF STANDARDS FOR LICENSING OF AMBULATORY CARE FACILITIES

SUBCHAPTER 28. BIRTH CENTERS

8:43A-28.14 Explicit and implicit bias training

(a) A birthing center that the Department licenses pursuant to N.J.S.A. 26:2H-1, shall implement an evidence-based explicit and implicit bias training program for:

1. All health professionals who provide perinatal treatment and care to pregnant persons at the birthing center, regardless of the compensation

agreement, contractual status, or privilege status that may exist between the health professional and the birthing center; and

2. All supportive services staff members who interact with pregnant persons at the birthing center.

(b) As used in this section, “supportive services staff member” means any person who directly interacts routinely with pregnant persons at a birthing center, regardless of whether the pregnant person has been admitted. Examples of a “supportive services staff member” include, but are not limited to, the following regardless of status as full-time, part-time, compensated, volunteer, or contracted and as determined at the discretion of the birthing center:

1. Admissions and intake services;

2. Clergy, spiritual, and pastoral care services;

3. Patient transport services;

4. Patient care services;

5. Food services;

6. Security services;

7. Medical billing services; and

8. Telephone operator, “help desk,” and patient and family information services.

(c) As used in this section, the following words and terms have the meanings established at N.J.S.A. 26:2H-12.108:

“Explicit bias”;

“Health care professional”;

“Implicit bias”;

“Implicit stereotypes”; and

“Perinatal care.”

(d) A birthing center shall establish and implement written policies and procedures that address, at a minimum, the manner in which the birthing center shall:

1. Identify healthcare professionals and supportive services staff members who have, or are likely to have, direct contact and/or interaction with patients and/or the visitors of facility patients, who are pregnant;

2. Ensure that persons the birthing center identifies, pursuant to (d)1 above, receive training in accordance with the Act; and

3. Maintain training records pursuant to (l) below.

(e) A birthing center shall use the following as the minimum explicit and implicit bias training tool to implement an explicit and implicit bias training program pursuant to N.J.S.A. 26:2H-12.108 (designated training tool):

1. The course entitled, Maternal Health Provider Training: Reproductive Justice for Equitable Maternal Health, which is incorporated herein by reference, as amended and supplemented, which the Center for Continuing Education of Rutgers University Behavioral Health Care (UHBHC) administers, for which it provides continuing education credits upon a participant’s successful completion of training and maintains related training records, and which it makes available and accessible:

i. For viewing and administration on the website at <https://ubhc.rutgers.edu/education/center-for-continuing-education/continuing-education-at-ubhc.xml>; and

ii. For downloading by a facility into its learning management system, in which case the facility shall monitor training completion, manage the issuance of certificates of completion and continuing education credits, and maintain related records in accordance with (l) below.

(f) A birthing center may supplement the designated training tool with additional or customized bias training and information.

(g) A birthing center shall take any steps necessary to ensure that a health care professional is eligible to receive continuing professional education credits for the successful completion of the birthing center's implicit and explicit bias training program.

(h) A birthing center shall ensure that health care professionals and supportive services staff members complete explicit and implicit bias training, either by successful completion of the designated training tool or in accordance with N.J.S.A. 26:2H-12.108(d):

1. By (six months from the effective date of this rulemaking), for existing personnel; and

2. Within six months of the starting date of work at the facility by a newly retained health care professional or supportive services staff member.

(i) A birthing center shall ensure that health care professionals and supportive services staff members receive a refresher training course on explicit and implicit bias at least every two years, or more frequently, as deemed necessary by the birthing center.

1. A birthing center shall deem a refresher training course necessary when:

i. There is a record of one or more documented complaints by patients against an individual in their personnel record involving implicit and explicit bias; or

ii. There is a record of one or more documented incidents involving implicit and explicit bias in which a supervisor has reprimanded the individual.

(j) The Department shall ensure that the vendor under contract with the Department issues a certificate of completion to each person who successfully completes the designated training tool:

1. Identifying:

i. The name of the course;

ii. The duration of the training; and

iii. The date the person completes the training; and

2. Demonstrating the conformity of the course content to N.J.S.A. 26:2H-108(b).

(k) A person who completes a continuing education course on explicit and implicit bias pursuant to P.L. 2021, §§ 2, 3, 4, or 5, or consistent with N.J.S.A. 45:9-1a, 45:9-7.9, 45:9-27.25c, 45:10-23, or 45:11-26.4, shall be deemed to have satisfied

the explicit and implicit bias training requirement upon submitting proof of completion of the course to the birthing center.

(l) A birthing center shall establish, and maintain in its personnel records, documentation that identifies:

1. The name and position of each health care professional and supportive services staff member who must receive training pursuant to the Act; and

2. For each person a birthing center identifies pursuant to (l)1 above:

i. The date on which the person successfully completes explicit and implicit bias training in accordance with the Act; and

ii. The date on which the applicable training provider issues a certificate confirming the person's successful completion of the training.

(m) Upon Department request, a birthing center shall submit a certification that the birthing center certifies to be true and correct under penalty of law, containing the following information:

1. The registered business name of the birthing center;

2. The mailing address of the birthing center on file with the Department;

3. The date of the certification;

4. The number of facility personnel who must complete explicit and implicit bias training;

5. The percentage of the personnel who have completed the training within the timelines established at (h) above;

6. The percentage of the personnel who have completed the required refresher training course within the timelines established at (h) above; and

7. The name, electronic signature, electronic mailing address, and telephone number of a person who has authority to issue the certification on behalf of the birthing center.

(n) The certification form required at (m) above is available on the Department's website at <https://www.nj.gov/health/forms>.

(o) The Department may audit a birthing center at any time to ensure its compliance with the Act by:

1. Requesting a random audit of the birthing center's records, which shall include:

i. Records of the dates of completion of explicit and implicit training by health care professionals and supportive services staff members whom the birthing center identifies pursuant to (d) above; and

ii. Records of the continuing education credits that a health care professional receives for completion of explicit and implicit bias training; or.

2. Requesting the birthing center to provide, upon request, the records it maintains pursuant to (l) above.

(p) A birthing center shall cooperate with a Department audit and provide the information the Department requests pursuant to this section by the date that the Department specifies.

1. A birthing center may submit a written request for an extension of the time within which it must comply with this subsection in which it identifies the

reasons for which it needs the extension, in which case, the Department may grant or deny an extension of time based on the following considerations:

i. Evidence of a personnel shortage in the office of the birthing center that is tasked with responding to audits;

ii. Past record of the birthing center's compliance and cooperation with audit requests; or

ii. Unforeseen circumstances that impede the birthing center's practical ability to comply with a request by the date the Department specifies, such as technical problems with any computer software, programs, or equipment necessary for the retrieval of documentation responsive to the audit.

(q) A birthing center may be subject to administrative action, pursuant to N.J.A.C. 8:43E-3.1, and/or civil monetary penalties, pursuant to N.J.A.C. 8:43E-3.4(a)22, upon its:

1. Failure to implement an explicit and implicit bias training program;
2. Failure to submit the certification in accordance with (l) above;
3. Submission of a certification in accordance with (m) above that indicates the birthing center's noncompliance with this section;
4. Failure to cooperate with an audit or provide requested information or documentation to the Department by the deadline the Department specifies; or
5. Failure to comply with the provisions of the Act and this section.

CHAPTER 43E

GENERAL LICENSURE PROCEDURES AND STANDARDS APPLICABLE TO ALL LICENSED FACILITIES

SUBCHAPTER 3. ENFORCEMENT REMEDIES

8:43E-3.4 Civil monetary penalties

(a) Pursuant to N.J.S.A. 26:2H-13 and 14, the Commissioner may assess a penalty for violation of licensure rules in accordance with the following standards:

1.-19. (No change.)

20. For other violations of N.J.A.C. 8:43E-12 not resulting in harm, as set forth [in] **at** (a)19 above, \$1,000 per violation, which may be assessed for each day noncompliance is found; [and]

21. For violations of N.J.A.C. 8:43E-14, governing human trafficking handling and response training, \$1,000 per violation, which may be assessed for each day noncompliance is found[.]; **and**

22. For violations of N.J.A.C. 8:43A-28.14 and 8:43G-19.39, governing explicit and implicit bias training, \$1,000 per violation, which may be assessed for each day noncompliance is found.

(b)-(c) (No change.)

CHAPTER 43G

HOSPITAL LICENSING STANDARDS

SUBCHAPTER 19. OBSTETRICS

8:43G-19.39 Explicit and implicit bias training

(a) A hospital that the Department licenses pursuant to N.J.S.A. 26:2H-1, shall implement an evidence-based explicit and implicit bias training program for:

1. All health professionals who provide perinatal treatment and care to pregnant persons at the hospital, regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the hospital; and

2. All supportive services staff members who interact with pregnant persons at the hospital.

(b) As used in this section, “supportive services staff member” means any person who directly interacts routinely with pregnant persons at a hospital, regardless of whether the pregnant person has been admitted. Examples of a “supportive services staff member” include, but are not limited to, the following, regardless of status as full-time, part-time, compensated, volunteer, or contracted and as determined at the discretion of the hospital:

- 1. Admissions and intake services;**
- 2. Clergy, spiritual, and pastoral care services;**
- 3. Patient transport services;**
- 4. Patient care services;**
- 5. Food services;**

- 6. Security services;**
- 7. Medical billing services; and**
- 8. Telephone operator, “help desk,” and patient and family information services.**

(c) As used in this section, the following words and terms shall have the meanings established at N.J.S.A. 26:2H-12.108:

- “Explicit bias”;**
- “Health care professional”;**
- “Implicit bias”;**
- “Implicit stereotypes”; and**
- “Perinatal care.”**

(d) A hospital shall establish and implement written policies and procedures that address, at a minimum, the manner in which the hospital shall:

- 1. Identify healthcare professionals and supportive services staff members who have, or are likely to have, direct contact and/or interaction with patients and/or the visitors of facility patients, who are pregnant;**
- 2. Ensure that persons whom the hospital identifies pursuant to (d)1 above, receive training in accordance with the Act; and**
- 3. Maintain training records pursuant to (l) below.**

(e) A hospital shall use the following as the minimum explicit and implicit bias training tool to implement an explicit and implicit bias training program pursuant to N.J.S.A. 26:2H-12.108 (designated training tool):

1. The course entitled, “Maternal Health Provider Training: Reproductive Justice for Equitable Maternal Health,” as amended and supplemented, incorporated herein by reference, which the Center for Continuing Education of Rutgers University Behavioral Health Care (UHBHC) administers, for which it provides continuing education credits upon a participant’s successful completion of training and maintains related training records, and which it makes available and accessible:

i. For viewing and administration on the website at

<https://ubhc.rutgers.edu/education/center-for-continuing-education/continuing-education-at-ubhc.xml>; and

ii. For downloading by a facility into its learning management system, in which case, the facility shall monitor training completion, manage the issuance of certificates of completion and continuing education credits, and maintain related records in accordance with (l) below.

(f) A hospital may supplement the designated training tool with additional or customized bias training and information.

(g) A hospital shall take any steps necessary to ensure that a health care professional is eligible to receive continuing professional education credits upon successful completion of its implicit and explicit bias training program.

(h) A hospital shall ensure that health care professionals and supportive services staff members complete explicit and implicit bias training, either by successful completion of the designated training tool or in accordance with (e) above:

1. By (six months from the effective date of this rulemaking), for existing personnel; and

2. Within six months of the starting date of work at the facility by a newly retained health care professional or supportive services staff member.

(i) A hospital shall ensure that health care professionals and supportive services staff members receive a refresher training course on explicit and implicit bias at least every two years, or more frequently, as the hospital deems necessary.

1. A hospital shall deem a refresher training course necessary when the individual's personnel record contains:

i. One or more documented patient complaints against the individual involving implicit and explicit bias; or

ii. One or more documented incidents involving implicit and explicit bias in which a supervisor has reprimanded the individual.

(j) The Department shall ensure that the vendor under contract with the Department issues a certificate of completion to each person who successfully completes the designated training tool:

1. Identifying:

i. The name of the course;

ii. The duration of the training; and

iii. The date the person completes the training; and

2. Demonstrating the conformity of the course content to N.J.S.A. 26:2H-108(b).

(k) A person who completes a continuing education course on explicit and implicit bias pursuant to P.L. 2021, §§ 2, 3, 4, or 5, or consistent with N.J.S.A. 45:9-1a, 45:9-7.9, 45:9-27.25c, 45:10-23, or 45:11-26.4, shall be deemed to have satisfied the explicit and implicit bias training requirement upon submitting proof of completion to the hospital.

(l) A hospital shall establish, and maintain in its personnel records, documentation that identifies:

1. The name and position of each health care professional and supportive services staff member who must receive training pursuant to the Act; and

2. For each person a hospital identifies pursuant to (l)1 above:

i. The date on which the person successfully completes explicit and implicit bias training in accordance with the Act; and

ii. The date on which the applicable training provider issues a certificate confirming the person's successful completion of the training.

(m) Upon Department request, a hospital shall submit a certification that the hospital certifies to be true and correct under penalty of law, containing the following information:

1. The registered business name of the hospital;

2. The mailing address of the hospital on file with the Department;

3. The date of the certification;

4. The number of hospital personnel who must complete explicit and implicit bias training;

5. The percentage of the personnel who have completed the training within the timelines established at N.J.A.C. 8:43G-19.39(h);

6. The percentage of the personnel who have completed the required refresher training course within the timelines established at (i) above; and

7. The name, electronic signature, electronic mailing address, and telephone number of a person who has authority to issue the certification on behalf of the hospital.

(n) The certification form required at (m) above is available on the Department's website at <https://www.nj.gov/health/forms>.

(o) The Department may audit a hospital at any time to ensure its compliance with the Act by:

1. Requesting a random audit of the hospital's records, which shall include:

i. Records of the dates of completion of explicit and implicit training by health care professionals and supportive services staff members; and

ii. Records of the continuing education credits that a health care professional receives for completion of explicit and implicit bias training;

or

2. Requesting the hospital to provide, upon request, the records it maintains pursuant to (l) above.

(p) A hospital shall cooperate with a Department's audit and provide the information that the Department requests pursuant to this section by the date that the Department specifies.

1. A hospital may submit a written request for an extension of the time within which it must comply with this subsection, in which the hospital identifies the reasons for which it needs the extension, in which case, the Department may grant or deny such extension of time based on the following considerations:

i. Evidence of a personnel shortage in the office of the hospital that is tasked with responding to audits;

ii. Past record of compliance or non-compliance with cooperating with audit requests; or

iii. Unforeseen circumstances that impede the hospital's practical ability to comply with a request by the date the Department specifies, such as technical problems with any computer software, programs, or equipment necessary for the retrieval of documentation responsive to the audit.

(q) A hospital may be subject to administrative action, pursuant to N.J.A.C. 8:43E-3.1, and/or civil monetary penalties, pursuant to N.J.A.C. 8:43E-3.4(a)22, upon its:

1. Failure to implement an explicit and implicit bias training program;

2. Failure to submit the certification in accordance with (m) above;

3. Submission of a certification in accordance with (m) above that indicates the hospital's noncompliance with this section;

4. Failure to cooperate with an audit or provide requested information or documentation to the Department by the date the Department specifies; or

5. Failure to comply with the provisions of the Act and this section.