State of California
Office of the Attorney General

ROB BONTA
ATTORNEY GENERAL

August 23, 2021

[redacted]

Dear [redacted]:

The California Dignity in Pregnancy and Childbirth Act took effect January 1, 2020. A provision of the statute establishes anti-bias training requirements for perinatal care providers at covered hospitals, primary care clinics, and alternative birth centers. Specifically, the statute directs that covered facilities "shall implement an evidence-based implicit bias program for all health care providers involved in the perinatal care of patients within those facilities." (Health & Saf. Code, § 123630.3, subd. (a).) The purpose of this letter is to provide information about the new law, provide information about the importance of the required training, and collect certain information from you.

Implicit Racial Bias Training Requirement for Perinatal Care Providers

Over the last decade California's rate of maternal death has significantly decreased yet women of color are still dying at a disproportionate and unacceptable rate. The United States has the highest maternal mortality rate in the developed world.[1] In California, the rate of maternal death since 2006 has decreased 55 percent even while the rate in the United States as a whole has steadily increased.[2] However, for women of color, and in particular Black women, the rate remains three to four times higher than that for White women.[3] Black women account for five percent of those pregnant in California but account for 21 percent of the total pregnancy-related

[1] Health & Saf. Code, § 123630.1, subd. (b).

[2] *Ibid.*; California Maternal Quality Care Collaborative, *CA-PAMR (Maternal Mortality Review)* available at https://www.cmqcc.org/research/ca-pamr-maternal-mortality-review.

[3] Health & Saf. Code, § 123630.1, subd. (c); California Maternal Quality Care Collaborative, *CA-PAMR (Maternal Mortality Review)* available at https://www.cmqcc.org/research/ca-pamr-maternal-mortality-review.

deaths.[4] This disparity is particularly troubling given that the greater majority of these deaths were preventable.[5] The California Attorney General is committed to protecting the health and wellbeing of all of the state's residents and seeks to advance solutions to protect the health of California's residents.[6] The Attorney General's office would like to ascertain how providers and healthcare facilities are addressing the racial disparity in the perinatal mortality rate.

While there are a number of factors that account for the maternal death disparity, a body of evidence illustrates that implicit bias in the healthcare system is likely one key cause.[7] Implicit bias can automatically activate and influence human behavior without a person consciously understanding that it is bias leading their behavior.[8] Evidence shows that implicit bias significantly affects interactions between patients and providers, provider treatment decisions, adherence to treatments, and actual health outcomes.[9] In some testing, implicit attitudes have been more often significantly related to patient–provider interactions and health outcomes than treatment processes.[10] Preliminary evidence illustrates a strong correlation between a provider's level of bias and the quality of care they provide.[11]

In some controlled experiments, providers' perceptions and treatment recommendations for hypothetical Black patients differed significantly from those made for hypothetical White patients with identical symptoms.[12] Other studies have connected similar results to implicit bias and disparate treatment. In one study for example, medical residents who exhibited greater implicit racial bias were less likely to recommend a particular chest treatment for a Black patient than a White patient suffering from an identical symptom.[13] Another study which included pediatricians, found the participants recommended the ideal management of pain at lower rates for Black patients than White ones.[14] While it is likely that implicit bias does not affect all medical judgments, evidence suggests it can affect outcomes by hindering providers' ability to

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[4] Health & Saf. Code, § 123630.1, subd. (c); California Department of Public Health, Maternal, Child and Adolescent Health Division, *The California Pregnancy-Associated Mortality Review* (Spring 2018), p. 25.

[5] Petersen, et al., *Racial/Ethnic Disparities in Pregnancy-Related Deaths — United States, 2007–2016* (2019) 68 MMWR Morb Mortal Wkly Rep 762-765.

[6] Cal. Const., art. V, § 13.

[7] Hall, et al., *Implicit Racial/Ethnic Bias Among Health Care Professionals and Its Influence on Health Care Outcomes: A Systematic Review* (December 2015) 105(12) Am J Public Health e60–e76; Howell, *Reducing Disparities in Severe Maternal Morbidity and Mortality* (June 2018) 61(2) Clin Obstet Gynecol. 387–399.

[8] Hall, et al., *supra*, 105(12) Am J Public Health e60–e76.

[9] *Ibid*.

[10] *Ibid*.

[11] Fitzgerald and Hurst, *Implicit bias in healthcare professionals: a systematic review* (March 2017) 1 BMC Med Ethics. 18(1):19; Hagiwara, et. al., *A Call for Grounding Implicit Bias Training in Clinical and Translational Frameworks* (May 2020) 395(10234) Lancet 1457-1460.

[12] Zestcott, Blair and Stone, *Examining the presence, consequences, and reduction of implicit bias in health care: a narrative review* (2016) 19 Group Process Intergroup Relat 528–42.

[13] *Ibid.*

[14] Hall, et al., *supra*, 105(12) Am J Public Health e60–e76.

accurately assess patients' views on treatment, curtailing productive discussion, and undermining trust and engagement in care, leading to less follow-up and worse adherence to the treatment plan.[15] This is particularly true for psychosocial health outcomes. Changing the way that healthcare providers recognize and overcome their own implicit bias when treating women of color during pregnancy is a critical step in addressing the disparity in maternal morbidity among races.[16]

Recognizing as much, the Governor recently signed the California Dignity in Pregnancy and Childbirth Act (Sen. Bill No. 464 (2019-2020 Reg. Sess.)) (the "Act"). The Act, which received widespread support from stakeholders and legislators, requires that as of January 1, 2020, hospitals, alternative birth centers and primary care clinics conduct evidence based implicit bias trainings for all perinatal healthcare providers.[17] It also requires that such providers complete refresher trainings every two years thereafter.[18]

While studies examining the effectiveness of anti-implicit bias training among medical providers in the field are developing, there are a number of completed studies finding that such trainings, if grounded in a comprehensive, evidence based approach, can succeed in significantly reducing implicit stereotyping and prejudice in participants.[19] Such evidence supports the conclusion that comprehensive, multifaceted implicit bias trainings can help individuals become more attuned to their own spontaneous biases and lead to improved patient outcomes.[20]

Request for Information

The California Attorney General's Office is committed to addressing the racial disparity in maternal mortality and assuring compliance with the California Dignity in Pregnancy and Childbirth Act. To that end, please confirm with the California Attorney General's Office your compliance with the Act's training requirements. Specifically, please provide:

- Dates of any implicit bias trainings your providers have completed;
- Dates of implicit bias trainings planned for the future;
- Lists of attendees at each training;
- Copies of all written training materials used;

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[15] Zestcott, Blair and Stone, *supra*, 19 Group Process Intergroup Relat 528–42; Hall, et al., *supra*, 105(12) Am J Public Health e60–e76.

[16] Howell, *supra*, 61(2) Clin Obstet Gynecol. 387–399.

[17] Health & Saf. Code, § 123630.3.

[18] *Ibid.*

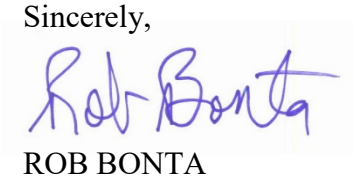
[19] Zestcott, Blair and Stone, *supra*, 19 Group Process Intergroup Relat 528–42; Devine, et al., *Long-term reduction in implicit race bias: a prejudice habit-breaking intervention* (2012) 48 J Exp Soc Psychol 1267–78; Stone, et al., *Testing active learning workshops for reducing implicit stereotyping of Hispanics by majority and minority group medical students* (2019) 5 Stigma Health 94–103; Howell, *supra*, 61(2) Clin Obstet Gynecol. 387–399.

[20] Devine, et al., *supra*, 48 J Exp Soc Psychol 1267–78; Howell, *supra*, 61(2) Clin Obstet Gynecol. 387–399; Hagiwara, et. al., *supra*, 395(10234) Lancet 1457-1460.

- A list of the perinatal healthcare workers at your facility who have yet to participate in any training; and
- A description of your efforts to reduce implicit bias among your perinatal health care providers.

Please provide the requested information and documents to Xiomara Thorburn at Xiomara.Thorburn@doj.ca.gov by September 20, 2021.

Sincerely,



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Attorney General