

# STATE OF NEW YORK

7169

## IN SENATE

(Prefiled)

January 3, 2018

Introduced by Sens. SERINO, HANNON, AMEDORE, AVELLA, FUNKE, HELMING,  
LITTLE, MARCHIONE, O'MARA, PHILLIPS, RITCHIE, SEWARD, TEDISCO, VALESKY  
-- read twice and ordered printed, and when printed to be committed to  
the Committee on Health

AN ACT to amend the public health law, in relation to creating a pilot  
program for Lyme and tick-borne disease testing in children

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Section 206-b of the public health law, as added by chapter  
2 260 of the laws of 1988, is amended to read as follows:

3 § 206-b. Lyme and tick-borne disease. 1. Special requirements with  
4 respect to Lyme disease diagnosis. [~~1-~~] a. Within thirty days after the  
5 effective date of this section, the commissioner shall, in writing,  
6 order every physician practicing in Suffolk, Westchester and Nassau  
7 counties to review the medical records of any patient such physician  
8 treated during the period commencing January first, nineteen hundred  
9 seventy-five and ending on the date of such order wherein such physician  
10 made a diagnosis of juvenile rheumatoid arthritis and to review the  
11 circumstances of such diagnosis to reconsider whether such patient has  
12 suffered, or is suffering, from the complex, multi-system disorder  
13 caused by the bacterium *Borrelia burgdorferi*, which disease is transmit-  
14 ted by the *Ixodes dammini* tick and is commonly referred to as "Lyme  
15 disease". In any case where a hospital or other health care institution  
16 or provider has custody or control of the medical records for a patient  
17 so diagnosed, upon request such physician shall be entitled to review  
18 such medical records for purposes of complying with such order or the  
19 commissioner may order any such hospital or other health care institu-  
20 tion or provider wherever situated within the state to review such  
21 records to reconsider a diagnosis of Lyme disease.

22 [~~2-~~] b. The commissioner, upon a showing that there is a reasonable  
23 basis to believe that the order provided for herein has not been  
24 complied with, shall be entitled to apply to a justice of the supreme  
25 court for an order requiring any such physician to submit for the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[~~-~~] is old law to be omitted.

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1 commissioner's consideration such records, charts or other pertinent  
2 data which will enable him to determine whether there has been full  
3 compliance with such order.

4 ~~[3-]~~ c. In any case where a review of such records indicates that a  
5 patient may have been, or is, suffering from Lyme disease, such physi-  
6 cian shall, consistent with customary and acceptable medical standards,  
7 take such action he deems necessary to inform such patient or in the  
8 case of a minor, his or her parent or guardian of his findings, conduct  
9 additional tests, administer other necessary treatments or refer such  
10 patient to another physician for further diagnosis and/or treatment.

11 2. Pilot program for Lyme and tick-borne disease testing in children.

12 a. Subject to appropriation, the commissioner is hereby authorized to  
13 establish a pilot program to test for Lyme and tick-borne diseases in  
14 children with qualifying diagnoses who present with similar symptoms.  
15 Such program, subject to the rules and regulations of the commissioner,  
16 shall provide for a test to rule out Lyme and tick-borne diseases in  
17 children with a qualifying diagnosis by an approved New York state qual-  
18 ified medical research institution or laboratory, at the request of a  
19 patient, medical provider, practitioner, hospital, or health care facil-  
20 ity. The qualified medical research institution or laboratory shall be  
21 responsible for conducting serology testing, or other Lyme and tick-  
22 borne disease tests approved by the commissioner, to determine the esti-  
23 imated rate of misdiagnosis and co-infections in children and for the  
24 development of continuing graduate medical education curriculum address-  
25 ing the symptoms and diagnostic tools that can assist in accurately  
26 identifying and testing for Lyme and tick-borne diseases in children.  
27 The qualified medical research institution or laboratory may work with  
28 not-for-profits, professional associations, or academic institutions to  
29 develop the continuing graduate medical education curriculum.

30 b. For purposes of this subdivision, the following terms shall have  
31 the following meanings:

32 (i) "qualified medical research institution or laboratory" may include  
33 academic medical institutions, agencies, public or private organiza-  
34 tions, public or private laboratories or any other institution or labo-  
35 ratory approved by the department that is conducting Lyme and tick-borne  
36 disease research, including but not limited to, testing for the presence  
37 of such infections;

38 (ii) "qualifying diagnoses" shall mean juvenile rheumatoid arthritis  
39 or any other common medical diagnosis that presents with similar symp-  
40 toms to Lyme and tick-borne disease infections that the commissioner  
41 deems relevant; and

42 (iii) "children" shall mean all individuals under the age of eighteen  
43 who have a qualifying diagnosis.

44 c. The commissioner shall require the qualified medical research  
45 institution or laboratory under the pilot program to submit an annual  
46 report, which shall include data analyzing the cost, efficiency, and  
47 accuracy of tests provided under such program. The report shall also  
48 include estimated rates of misdiagnosis or co-infections of Lyme and  
49 tick-borne diseases of children with qualifying diagnoses. On or before  
50 December thirty-first, two thousand nineteen, and annually thereafter,  
51 the commissioner shall submit such report to the governor, the temporary  
52 president of the senate and the speaker of the assembly.

53 d. Participation in the pilot program shall be voluntary and subject  
54 to participation guidelines established by the department. Nothing in  
55 this subdivision shall establish liability for any reasonable acts or

1 omissions on the part of a hospital, health care institution, or provid-  
2 er participating in the program.

3 § 2. This act shall take effect on the ninetieth day after it shall  
4 have become a law.