

STATE OF NEW YORK

6926

2017-2018 Regular Sessions

IN SENATE

October 20, 2017

Introduced by Sens. HANNON, SERINO, HELMING, AMEDORE, AVELLA, BONACIC, BOYLE, CARLUCCI, DeFRANCISCO, GOLDEN, LANZA, LARKIN, LAVALLE, LITTLE, MARCELLINO, O'MARA, RITCHIE, TEDISCO, VALESKY, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public health law, in relation to the diagnosis and treatment of Lyme disease and other tick borne diseases

The People of the State of New York, represented in Senate and Assembly, 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. Special requirements with respect to Lyme disease diagnosis.
4 1. (a) Within thirty days after the effective date of this section, the
5 commissioner shall, in writing, order every physician practicing in
6 Suffolk, Westchester and Nassau counties to review the medical records
7 of any patient such physician treated during the period commencing Janu-
8 ary first, nineteen hundred seventy-five and ending on the date of such
9 order wherein such physician made a diagnosis of juvenile rheumatoid
10 arthritis and to review the circumstances of such diagnosis to reconsid-
11 er whether such patient has suffered, or is suffering, from the complex,
12 multi-system disorder caused by the bacterium *Borrelia burgdorferi*,
13 which disease is transmitted by the *Ixodes dammini* tick and is commonly
14 referred to as "Lyme disease". In any case where a hospital or other
15 health care institution or provider has custody or control of the
16 medical records for a patient so diagnosed, upon request such physician
17 shall be entitled to review such medical records for purposes of comply-
18 ing with such order or the commissioner may order any such hospital or
19 other health care institution or provider wherever situated within the
20 state to review such records to reconsider a diagnosis of Lyme disease.
21 ~~[2-]~~ (b) The commissioner, upon a showing that there is a reasonable
22 basis to believe that the order provided for ~~[herein]~~ in this subdivi-

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

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1 sion has not been complied with, shall be entitled to apply to a justice
2 of the supreme court for an order requiring any such physician to submit
3 for the commissioner's consideration such records, charts or other
4 pertinent data which will enable him to determine whether there has been
5 full compliance with such order.

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

14 2. (a) The commissioner shall, in consultation with health care
15 providers, research experts, relevant advisory bodies and other stake-
16 holders, develop a standardized protocol for the diagnosis and treatment
17 of Lyme disease and such other tick borne diseases that may be identi-
18 fied by the commissioner. Such protocol shall include, but not be limit-
19 ed to, guidance to be utilized by health care providers when a serologi-
20 cal test comes back negative but symptoms of any such disease persist.
21 The protocol shall be updated upon any advancements in the field of Lyme
22 disease, or other identified tick borne disease, testing and treatment.
23 As part of the protocol, the commissioner shall develop, update as
24 necessary and ensure providers distribute to each person under their
25 care being tested for Lyme disease or other identified tick borne
26 disease, a standardized notification form, which shall explain, in plain
27 non-technical language, the following:

28 (i) the symptoms and risk factors for Lyme disease and such other
29 identified tick borne diseases;

30 (ii) the available methods for the detection and diagnosis of Lyme
31 disease and such other identified tick borne disease, including informa-
32 tion on the relative accuracy of the available detection and diagnostic
33 techniques;

34 (iii) the medical protocol adopted under this subdivision; and

35 (iv) relevant medical information deemed necessary by the commissioner
36 and shall contain information on Lyme disease and such other identified
37 tick borne diseases risk, possible co-infections and other pertinent
38 information.

39 The commissioner shall have the protocol and standardized notification
40 form, required by this subdivision, developed and prepared for distrib-
41 ution within one hundred twenty days of the effective date of this
42 subdivision.

43 (b) Nothing in this subdivision shall be construed to create a cause
44 of action for lack of informed consent in any instance in which such
45 cause of action would be limited by section twenty-eight hundred five-d
46 of this chapter.

47 § 2. This act shall take effect immediately.