STATE OF NEW YORK

1306

2019-2020 Regular Sessions

IN SENATE

January 14, 2019

Introduced by Sens. SERINO, AMEDORE, CARLUCCI, FUNKE, HELMING, JACOBS, LAVALLE, LITTLE, O'MARA, RANZENHOFER, RITCHIE, SAVINO, SEWARD, TEDISCO -- 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 Assembly, do enact as follows:

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

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

[~~2.~~] **b.** The commissioner, upon a showing that there is a reasonable basis to believe that the order provided for herein has not been

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

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complied with, shall be entitled to apply to a justice of the supreme court for an order requiring any such physician to submit for the commissioner's consideration such records, charts or other pertinent data which will enable him to determine whether there has been full compliance with such order.

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

2. Pilot program for Lyme and tick-borne disease testing in children. a. Subject to appropriation, the commissioner is hereby authorized to establish a pilot program to test for Lyme and tick-borne diseases in children with qualifying diagnoses who present with similar symptoms. Such program, subject to the rules and regulations of the commissioner, shall provide for a test to rule out Lyme and tick-borne diseases in children with a qualifying diagnosis by an approved New York state qualified medical research institution or laboratory, at the request of a patient, medical provider, practitioner, hospital, or health care facility. The qualified medical research institution or laboratory shall be responsible for conducting serology testing, or other Lyme and tick-borne disease tests approved by the commissioner, to determine the estimated rate of misdiagnosis and co-infections in children and for the development of continuing graduate medical education curriculum addressing the symptoms and diagnostic tools that can assist in accurately identifying and testing for Lyme and tick-borne diseases in children. The qualified medical research institution or laboratory may work with not-for-profits, professional associations, or academic institutions to develop the continuing graduate medical education curriculum.

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

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

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

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

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

d. Participation in the pilot program shall be voluntary and subject to participation guidelines established by the department. Nothing in

this subdivision shall establish liability for any reasonable acts or omissions on the part of a hospital, health care institution, or provider participating in the program.

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