STATE OF NEW YORK

8640

2019-2020 Regular Sessions

IN ASSEMBLY

October 2, 2019

Introduced by M. of A. BARRETT, LUPARDO -- read once and referred to the Committee on Health

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:

Section 1. Short title. This act shall be known and may be cited as the "Demos Ford Act".

§ 2. 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. 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~~] **the state of New York** 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**, neurological and neuropsychiatric disorders or other musculoskeletal pain syndromes of unexplained origin** 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~~] **bacteria in the Borrelia genus**, which disease is transmitted by [~~the Ixodes dammini tick~~] **ticks** and is commonly referred to as "Lyme disease" **and/or additional tick borne infections known to cause co-morbid diseases, in particular, any species of Bartonella and Babesia microtti and Babesia duncanii**. 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 institu-

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

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tion 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~~] **in this subdivision** has not been 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 **or she** deems necessary to inform such patient or in the case of a minor, his or her parent or guardian of his **or her** findings, conduct additional tests, administer other necessary treatments or refer such patient to another physician for further diagnosis and/or treatment.

2. (a) The commissioner shall, in consultation with health care providers, research experts, relevant advisory bodies, patient representatives and other stakeholders with diverse perspectives, develop a standardized protocol for the diagnosis and treatment of Lyme disease and such other tick borne diseases that may be identified by the commissioner. Such protocol shall include, but not be limited to, guidance to be utilized by health care providers when an erythema migrans rash is absent and a serological test comes back negative but symptoms of any such disease persist. The protocol shall be updated upon any advancements in the field of Lyme disease, or other identified tick borne disease, testing and treatment. As part of the protocol, the commissioner shall develop, update as necessary and ensure providers distribute to each person under their care being tested for Lyme disease or other identified tick borne disease, a standardized notification form, which shall explain, in plain non-technical language, the following:

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

(ii) the available methods for the detection and diagnosis of Lyme disease and such other identified tick borne disease, including information on the relative clinical utility of the available detection and diagnostic techniques;

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

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

The commissioner shall have the protocol and standardized notification form, required by this subdivision, developed and prepared for distribution within one hundred twenty days of the effective date of this subdivision.

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

§ 3. This act shall take effect immediately.