

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1199 Session of
2010

INTRODUCED BY GREENLEAF, WASHINGTON, STOUT, RAFFERTY, GORDNER,
BAKER, BOSCOLA, FONTANA, O'PAKE, MUSTO, M. WHITE, ERICKSON,
COSTA, TARTAGLIONE, DINNIMAN, LEACH, ALLOWAY, BROWNE AND
FERLO, JANUARY 26, 2010

REFERRED TO BANKING AND INSURANCE, JANUARY 26, 2010

AN ACT

1 Establishing a task force on Lyme disease and related maladies;
2 and providing for powers and duties of the task force, the
3 Department of Health, the Department of Conservation and
4 Natural Resources and the Pennsylvania Game Commission to
5 execute prevention and education strategies and ensure
6 patient access to appropriate care and treatment.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Lyme and
11 Related Tick-Borne Disease Education, Prevention and Treatment
12 Act.

13 Section 2. Findings.

14 The General Assembly finds that:

15 (1) Lyme disease and other tick-borne diseases are
16 carried primarily by ticks and pose a serious threat to the
17 health and quality of life of many citizens of this
18 Commonwealth.

19 (2) The most common way to acquire Lyme disease is to be

1 bitten by a tick that carries the spirochete.

2 (3) In 2007, 3,994 cases of Lyme disease were reported
3 in Pennsylvania.

4 (4) Lyme disease is most prevalent in Southeastern
5 Pennsylvania, but it is found across this Commonwealth.

6 (5) With proper precautions taken while engaged in
7 outdoor activities, people can greatly reduce their chances
8 of tick pathogen transmission by making sure that frequent
9 tick checks are made and ticks are removed and disposed of
10 promptly and properly.

11 (6) The early clinical diagnosis and appropriate
12 treatment of these tick-borne disorders and diseases can
13 greatly reduce the risks of continued, diverse and chronic
14 signs and symptoms which can affect every system and organ of
15 the human body and often every aspect of life.

16 (7) Left untreated, Lyme disease can cause a number of
17 signs and symptoms which can become quite severe.

18 (8) Because of differences in the rate of progress of
19 the disease and in individual responses to the disease and
20 treatment, some patients may have signs and symptoms for
21 months or years.

22 Section 3. Legislative intent.

23 It is the intent of the General Assembly:

24 (1) To provide the public with information and education
25 to create greater public awareness of the dangers of and
26 measures available to prevent, diagnose and treat Lyme
27 disease and related maladies.

28 (2) To ensure that:

29 (i) Physicians, insurers, patients and governmental
30 agencies are educated that multiple standards of care

1 exist.

2 (ii) Physicians and other medical professionals
3 provide patients with sufficient information about all
4 standards of care to enable patients to make an informed
5 choice as part of informed consent and respect the
6 autonomy of that choice.

7 (iii) Insurance reimbursement be provided for
8 treatment rendered in accordance with the standard of
9 care chosen.

10 (iv) Pennsylvania government agencies provide
11 unbiased information regarding multiple standards of
12 care.

13 Section 4. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Board." The State Board of Medicine or the State Board of
18 Osteopathic Medicine.

19 "Department." The Department of Health of the Commonwealth.

20 "Licensee." A licensed physician or doctor of osteopathy.

21 "Long-term antibiotic or antimicrobial therapy."

22 Administration of oral, intramuscular or intravenous antibiotics
23 or antimicrobial medications, singly or in combination, for
24 periods of more than four weeks.

25 "Lyme disease." The clinical diagnosis of the presence in a
26 patient of signs and symptoms compatible with acute infection
27 with *Borrelia burgdorferi* or related *Borrelioses*, or with the
28 signs and symptoms of late stage or chronic infection with
29 *Borrelia burgdorferi*, or with complications related to such an
30 infection. The term includes infection which meets the

surveillance criteria set forth by the United States Centers for Disease Control and Prevention and also includes other acute and chronic manifestations of such an infection as determined by the treating physician.

"Related tick-borne illnesses." Cases of Bartonella, babesiosis/piroplasmosis, anaplasmosis, ehrlichiosis and other tick-transmissible illnesses. The terms do not include Lyme disease.

"Standard of care." All established recognized clinical practice guidelines for the treatment of Lyme disease listed in the National Guideline Clearinghouse or subsequent database.

"Therapeutic purpose." The use of antibiotics to control a patient's symptoms or signs determined by the treating physician as reasonably related to Lyme disease and related tick-borne illnesses.

Section 5. Task force.

(a) Establishment.--The department shall establish a task force on Lyme disease and related tick-borne diseases.

(b) Purpose.--The task force shall investigate and make recommendations to the department regarding:

(1) The prevention of Lyme disease and related tick-borne illnesses in this Commonwealth.

(2) Raising awareness about the long-term effects of the misdiagnosis of Lyme disease.

(3) Development of a program of general public information and education regarding Lyme disease which shall include the broad spectrum of scientific and treatment views regarding Lyme disease and related tick-borne illnesses, including multiple standards of care available for all stages of Lyme disease and related tick-borne illnesses.

1 (4) Cooperation with the Pennsylvania Game Commission to
2 disseminate the information required under paragraph (3) to
3 licensees of the commission and the general public.

4 (5) Cooperation with the Department of Conservation and
5 Natural Resources to disseminate the information required
6 under paragraph (3) to the general public and visitors of
7 State parks and lands.

8 (6) Cooperation with the Department of Education to:

9 (i) Disseminate the information required under
10 paragraph (3) to school officials, teachers, staff,
11 parents, guardians and students.

12 (ii) Determine what role schools may play in the
13 prevention of Lyme disease, including, but not limited
14 to, prompt removal and reporting of tick removals to
15 State officials.

16 (iii) Adopt policies to recognize chronic Lyme
17 disease as a health condition potentially requiring
18 accommodations.

19 (c) Composition.--The task force shall be composed of the
20 following individuals:

21 (1) The Secretary of Health or a designee.

22 (2) The Insurance Commissioner or a designee.

23 (3) The Secretary of Education or a designee.

24 (4) The Deputy Secretary for Conservation and
25 Engineering Services in the Department of Conservation and
26 Natural Resources or a designee.

27 (5) The Director of the Bureau of Information and
28 Education of the Pennsylvania Game Commission or a designee.

29 (6) Two physicians licensed in this Commonwealth who are
30 knowledgeable concerning treatment of early and late stage

1 chronic or persistent Lyme disease and who are members of the
2 International Lyme and Associated Diseases Society.

3 (7) An epidemiologist licensed in this Commonwealth who
4 has expertise in spirochetes and related infectious diseases.

5 (8) Two individuals who represent Lyme disease patient
6 groups who may be a Lyme disease patient or a family member
7 of a Lyme disease patient.

8 (9) One individual who is a Lyme disease patient or
9 family member of a Lyme disease patient.

10 (d) Convening.--The task force shall convene within 90 days
11 after all appointments have been made and shall meet at least
12 quarterly.

13 (e) Compensation and expenses.--The members of the task
14 force shall receive no compensation for their services but shall
15 be allowed their actual and necessary expenses incurred in
16 performance of their duties. Reimbursement shall be provided by
17 the department.

18 (f) Department.--The department shall have the following
19 powers and duties:

20 (1) Develop a program of general public information and
21 education regarding Lyme disease which shall include the
22 broad spectrum of scientific and treating views regarding
23 Lyme disease and related tick-borne illnesses, including
24 multiple standards of care available for all stages of Lyme
25 disease and related tick-borne illnesses.

26 (2) Cooperate with the Pennsylvania Game Commission to
27 disseminate the information required under paragraph (1) to
28 licensees of the Pennsylvania Game Commission and the general
29 public.

30 (3) Cooperate with the Department of Conservation and

1 Natural Resources to disseminate the information required
2 under paragraph (1) to the general public and visitors of
3 State parks and lands.

4 (4) Cooperate with the Department of Education to:

5 (i) Disseminate the information required under
6 paragraph (1) to school officials, teachers, staff,
7 parents, guardians and students.

8 (ii) Determine what role schools may play in the
9 prevention of Lyme disease, including, but not limited
10 to, prompt removal and reporting of tick removals to
11 State officials.

12 (iii) Adopt policies to recognize chronic Lyme
13 disease as a health condition potentially requiring
14 accommodations.

15 (5) Cooperate with the professional associations of
16 health care professionals to provide the education program
17 for professionals required under paragraph (1).

18 Section 6. Required coverage.

19 (a) General rule.--Except as provided in subsection (b),
20 every health care policy which is delivered, issued for
21 delivery, renewed, extended or modified in this Commonwealth by
22 a health insurer must cover prescribed treatment for Lyme
23 disease and related tick-borne illness rendered in accordance
24 with the standard of care and documented in the physician's
25 medical record for that patient and with the informed choice and
26 consent of the patient.

27 (b) Exception.--Subsection (a) shall not apply to any of the
28 following types of insurance:

29 (1) Hospital indemnity.

30 (2) Accident.

- 1 (3) Specified disease.
- 2 (4) Disability income.
- 3 (5) Dental.
- 4 (6) Vision.
- 5 (7) Civilian Health and Medical Program of the Uniformed
- 6 Services (CHAMPUS) supplement.
- 7 (8) Medicare supplement.
- 8 (9) Long-term care.
- 9 (10) Other limited insurance benefit plans.

10 Section 7. Licensee's right to diagnose and treat lyme disease
11 and related tick-borne illnesses.

12 (a) Rights included.--

13 (1) A licensee may prescribe, administer or dispense
14 antibiotic or antimicrobial therapy for therapeutic purposes
15 to a person diagnosed with and having symptoms or signs of
16 Lyme disease or related tick-borne illnesses if the diagnosis
17 and standard of care have been documented in the licensee's
18 medical record for that patient.

19 (2) No licensee shall be subject to professional
20 misconduct proceedings or to disciplinary action by the board
21 solely for prescribing, administering or dispensing long-term
22 antibiotic or antimicrobial therapy for a therapeutic purpose
23 for a patient clinically diagnosed with Lyme disease or
24 related tick-borne illnesses if the diagnosis and standard of
25 care have been documented in the licensee's medical record
26 for that patient.

27 (b) Denial, revocation or suspension of license or
28 discipline of licensee.--Nothing in this section shall diminish
29 the right of the board to deny, revoke or suspend the license of
30 a licensee or discipline a licensee who:

1 (1) prescribes, administers or dispenses long-term
2 antibiotic or antimicrobial therapy for a nontherapeutic
3 purpose;

4 (2) fails to monitor the ongoing care of a patient
5 receiving long-term antibiotic or antimicrobial therapy; or

6 (3) fails to keep complete and accurate ongoing records
7 of the diagnosis and treatment of a patient receiving long-
8 term antibiotic or antimicrobial therapy.

9 Section 8. Professional misconduct proceedings.

10 (a) General rule.--Whenever the board initiates, or has
11 initiated, investigations or professional misconduct proceedings
12 against a licensee as a result of a complaint filed by an
13 insurance company, pharmacy benefit manager or comprehensive
14 health services plan under this act, which in whole or in part
15 concerns the licensee's diagnosis or treatment of Lyme disease
16 or a related tick-borne illness, a copy of the complaint shall
17 be provided to the licensee within ten days after the licensee's
18 request.

19 (b) Requirements of charges.--Whenever charges are made
20 which, in whole or in part, concern a licensee's diagnosis or
21 treatment of Lyme disease or a related tick-borne illness, the
22 charges shall contain a statement of facts sufficient to allow a
23 judicial determination as to whether the charges are proper
24 under this section.

25 (c) Notice of hearing.--Whenever a notice of hearing is
26 served in which the charges or allegations against the licensee,
27 in whole or in part, concern the licensee's diagnosis or
28 treatment of Lyme disease or a related tick-borne illness or the
29 administration of long-term antibiotic or antimicrobial therapy
30 or concern any patient who has been diagnosed with Lyme disease

1 or a related tick-borne illness, the notice shall contain the
2 identity of any expert consulted by the board or to be called to
3 testify by the board and the substance of the opinion of the
4 expert.

5 Section 9. Applicability.

6 This act shall apply to proceedings pending on or after the
7 effective date of this section.

8 Section 10. Effective date.

9 This act shall take effect immediately.