

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 210 Session of 2011

INTRODUCED BY GREENLEAF, ARGALL, TARTAGLIONE, BROWNE, RAFFERTY,
ERICKSON, COSTA, WAUGH, FONTANA, BOSCOLA, SMUCKER, PICCOLA,
BAKER AND McILHINNEY, JANUARY 31, 2011

REFERRED TO BANKING AND INSURANCE, JANUARY 31, 2011

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 2009, 5,722 cases of Lyme disease were reported
3 in this Commonwealth, the highest number of cases reported in
4 any state, and representing a 76% increase since 2006.

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

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

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

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

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

23 Section 3. Legislative intent.

24 It is the intent of the General Assembly:

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

29 (2) To ensure that:

30 (i) Physicians, certified registered nurse

1 practitioners, insurers, patients and governmental
2 agencies are educated that multiple standards of care
3 exist.

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

9 (iii) Physicians have the right to exercise their
10 clinical judgment in diagnosing and treating their
11 patients and in applying short-term or long-term
12 antibiotic therapies for a therapeutic purpose to
13 eliminate infection or to control a patient's symptoms as
14 reflected in the patient's medical record.

15 (iv) Insurance reimbursement be provided for
16 treatment rendered in accordance with the standard of
17 care chosen.

18 (v) Pennsylvania government agencies provide
19 unbiased information regarding multiple standards of
20 care.

21 Section 4. Definitions.

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

25 "Board." The State Board of Medicine or the State Board of
26 Osteopathic Medicine.

27 "CDC surveillance case definitions." Definitions that
28 establish uniform criteria for disease reporting and should not
29 be used as the sole criteria for establishing clinical
30 diagnoses, determining the standard of care necessary for a

particular patient, setting guidelines for quality assurance or providing standards for insurance reimbursement.

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

"Licensee." A licensed physician or doctor of osteopathy or a certified registered nurse practitioner.

"Long-term antibiotic or antimicrobial therapy."

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

"Lyme disease." The clinical diagnosis of the presence in a patient of signs and symptoms compatible with acute infection with *Borrelia burgdorferi* or related *Borrelioses*, or with the signs and symptoms of late stage or chronic infection with *Borrelia burgdorferi*, or with complications related to such an infection. The term includes infection which meets the CDC surveillance case definitions. It also includes other acute and chronic manifestations as clinically determined by the treating physician.

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

"Standard of care." Short-term or long-term antibiotic therapies prescribed by a licensed physician to a patient for a therapeutic purpose to eliminate infection or to control a patient's symptoms, provided the clinical diagnosis and treatment are documented in the patient's medical record by the licensed physician.

"Therapeutic purpose." The use of antibiotics to control a patient's symptoms or signs determined by the treating physician

1 as reasonably related to Lyme disease and related tick-borne
2 illnesses.

3 Section 5. Task force.

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

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

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

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

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

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

22 (5) Cooperation with the Department of Conservation and
23 Natural Resources to disseminate the information required
24 under paragraph (3) to the general public and visitors of
25 State parks and lands.

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

27 (i) Disseminate the information required under
28 paragraph (3) to school administrators, faculty and
29 staff, parents, guardians and students.

30 (ii) Determine what role schools may play in the

1 prevention of Lyme disease, including, but not limited
2 to, prompt removal and reporting of tick removals to
3 State officials.

4 (iii) Update policies to recognize chronic Lyme
5 disease and related tick-borne illnesses as health
6 conditions potentially requiring accommodations.

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

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

10 (2) The Insurance Commissioner or a designee.

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

12 (4) The Deputy Secretary for Conservation and
13 Engineering Services in the Department of Conservation and
14 Natural Resources or a designee.

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

17 (6) Two physicians licensed in this Commonwealth who are
18 knowledgeable concerning treatment of early and late stage
19 chronic or persistent Lyme disease and who are members of the
20 International Lyme and Associated Diseases Society.

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

23 (8) Two individuals who represent Lyme disease patient
24 groups who may be a Lyme disease patient or a family member
25 of a Lyme disease patient.

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

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

1 (e) Compensation and expenses.--The members of the task
2 force shall receive no compensation for their services but shall
3 be allowed their actual and necessary expenses incurred in
4 performance of their duties. Reimbursement shall be provided by
5 the department.

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

8 (1) Develop a program of general public information and
9 education regarding Lyme disease which shall include the
10 broad spectrum of scientific and treating views regarding
11 Lyme disease and related tick-borne illnesses, including
12 multiple standards of care available for all stages of Lyme
13 disease and related tick-borne illnesses.

14 (2) Cooperate with the Pennsylvania Game Commission to
15 disseminate the information required under paragraph (1) to
16 licensees of the Pennsylvania Game Commission and the general
17 public.

18 (3) Cooperate with the Department of Conservation and
19 Natural Resources to disseminate the information required
20 under paragraph (1) to the general public and visitors of
21 State parks and lands.

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

23 (i) Disseminate the information required under
24 paragraph (1) to school administrators, faculty and
25 staff, parents, guardians and students.

26 (ii) Determine what role schools may play in the
27 prevention of Lyme disease, including, but not limited
28 to, prompt removal and reporting of tick removals to
29 State officials.

30 (iii) Update policies to recognize chronic Lyme

disease and related tick-borne illnesses as health conditions potentially requiring accommodations.

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

Section 6. Required coverage.

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

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

(1) Hospital indemnity.

(2) Accident.

(3) Specified disease.

(4) Disability income.

(5) Dental.

(6) Vision.

(7) Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) supplement.

(8) Medicare supplement.

(9) Long-term care.

(10) Other limited insurance benefit plans.

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

(a) Rights included.--

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

7 (2) No licensee shall be subject to professional
8 misconduct proceedings or to disciplinary action by the board
9 solely for prescribing, administering or dispensing long-term
10 antibiotic or antimicrobial therapy for a therapeutic purpose
11 for a patient clinically diagnosed with Lyme disease or
12 related tick-borne illnesses if the diagnosis and standard of
13 care have been documented in the licensee's medical record
14 for that patient.

15 (b) Denial, revocation or suspension of license or
16 discipline of licensee.--Nothing in this section shall diminish
17 the right of the board to deny, revoke or suspend the license of
18 a licensee or discipline a licensee who:

19 (1) prescribes, administers or dispenses long-term
20 antibiotic or antimicrobial therapy for a nontherapeutic
21 purpose;

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

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

27 Section 8. Professional misconduct proceedings.

28 (a) General rule.--Whenever the board initiates, or has
29 initiated, investigations or professional misconduct proceedings
30 against a licensee as a result of a complaint filed by an

1 insurance company, pharmacy benefit manager or comprehensive
2 health services plan under this act, which in whole or in part
3 concerns the licensee's diagnosis or treatment of Lyme disease
4 or a related tick-borne illness, a copy of the complaint shall
5 be provided to the licensee within ten days after the licensee's
6 request.

7 (b) Requirements of charges.--Whenever charges are made
8 which, in whole or in part, concern a licensee's diagnosis or
9 treatment of Lyme disease or a related tick-borne illness, the
10 charges shall contain a statement of facts sufficient to allow a
11 judicial determination as to whether the charges are proper
12 under this section.

13 (c) Notice of hearing.--Whenever a notice of hearing is
14 served in which the charges or allegations against the licensee,
15 in whole or in part, concern the licensee's diagnosis or
16 treatment of Lyme disease or a related tick-borne illness or the
17 administration of long-term antibiotic or antimicrobial therapy
18 or concern any patient who has been diagnosed with Lyme disease
19 or a related tick-borne illness, the notice shall contain the
20 identity of any expert consulted by the board or to be called to
21 testify by the board and the substance of the opinion of the
22 expert.

23 Section 9. Applicability.

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

26 Section 10. Effective date.

27 This act shall take effect immediately.