

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 629 Session of 2019

INTRODUCED BY RAPP, KAUFFMAN, BOROWICZ, HERSHEY, OWLETT, ZIMMERMAN, SAYLOR, REESE, ROTHMAN, GLEIM, STRUZZI, HARKINS, MURT, STURLA, QUINN, READSHAW, T. DAVIS, JAMES, STAATS, PEIFER, BARRAR, McNEILL, D. MILLER, JOZWIAK, FREEMAN, BOBACK, MACKENZIE, OTTEN, DeLUCA, CAUSER, PICKETT, LAWRENCE, B. MILLER, GILLEN, GABLER, MASSER, ECKER, RAVENSTAHL, HANBIDGE, MILLARD, EVERETT, EMRICK, FRITZ, SAPPEY, F. KELLER, HELM AND HENNESSEY, FEBRUARY 28, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 9, 2019

AN ACT

1 Providing for patient access to diagnostics and treatments for
2 Lyme disease and related tick-borne illnesses; and requiring
3 health care policies to provide certain coverage.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Lyme Disease
8 and Related Tick-Borne Illness Diagnosis and Treatment Act.

9 Section 2. Findings.

10 The General Assembly finds as follows:

11 (1) From 1990 to 2017, Pennsylvania reported 116,824
12 confirmed cases of Lyme disease and in 2017 reported 11,900
13 new cases, ranking highest in the nation in confirmed cases
14 for the last seven years. Because the United States
15 Department of Health and Human Services Centers for Disease

1 Control and Prevention estimates cases may be underreported
2 by a factor of 10, it is estimated that the number of Lyme
3 disease cases in Pennsylvania in 2017 was closer to 119,000.

4 (2) In 2015, the Department of Environmental Protection
5 published a study that confirmed a high risk of Lyme disease
6 in every county of this Commonwealth and noted that 67
7 counties had the blacklegged tick.

8 (3) Early diagnosis and treatment of these tick-borne
9 illnesses and diseases can greatly reduce the risks of
10 continued symptoms which can affect every system and organ of
11 the human body and often every aspect of life.

12 (4) Between 10% to 40% of Lyme disease patients may go
13 on to suffer from a complex, chronic/persistent ~~disease~~ <--
14 CONDITIONS which ~~is much~~ MAY BE more difficult to treat. <--

15 (5) There are multiple diagnostic and treatment
16 guidelines for diagnosis and treatment of Lyme disease and
17 tick-borne illness.

18 (6) A 2013 Centers for Disease Control and Prevention
19 (CDC) study found that only 39% of individuals with Lyme
20 disease were treated using short-term antibiotics. The
21 majority of the individuals were treated for longer periods.

22 (7) Scientific understanding of these complex tick-borne
23 illnesses is expected to evolve rapidly in the next decade,
24 including diagnosis and treatment options.

25 Section 3. Definitions.

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

29 "Health care practitioner." A health care practitioner as
30 defined in section 103 of the act of July 19, 1979 (P.L.130,

1 No.48), known as the Health Care Facilities Act, who is
2 authorized to prescribe medication in this Commonwealth.

3 "Health insurance policy."

4 (1) An individual or group health, sickness or accident
5 policy, or subscriber contract or certificate offered, issued
6 or renewed by an entity subject to one of the following:

7 (i) The act of May 17, 1921 (P.L.682, No.284), known
8 as The Insurance Company Law of 1921, including section
9 630 and Article XXIV of the act.

10 (ii) The act of December 29, 1972 (P.L.1701,
11 No.364), known as the Health Maintenance Organization
12 Act.

13 (iii) The provisions of 40 Pa.C.S. Ch. 61 (relating
14 to hospital plan corporations) or 63 (relating to
15 professional health services plan corporations).

16 (2) The term does not include accident only, fixed
17 indemnity, limited benefit, credit, dental, vision, specified
18 disease, Medicare supplement, Civilian Health and Medical
19 Program of the Uniformed Services (CHAMPUS) supplement, long-
20 term care or disability income, workers' compensation or
21 automobile medical payment insurance.

22 "Lyme disease." Signs or symptoms compatible with acute,
23 late-stage, persistent infection with *Borrelia burgdorferi* or
24 complications related to the infection or with other strains of
25 *Borrelia*, including, but not limited to, *B. miyamotoi*, *B.*
26 *mayonii*, *B. garinii* and *B. afzelii*, that are recognized by the
27 Centers for Disease Control and Prevention as a cause of Lyme
28 disease. The term includes infection that meets the surveillance
29 criteria established by the Centers for Disease Control and
30 Prevention and other acute and persistent manifestations of the

1 infection as determined by a health care practitioner.

2 "Related tick-borne illness." The presence of signs or
3 symptoms compatible with infection with bartonella,
4 babesiosis/piroplasmiasis, anaplasmosis, ehrlichiosis, Rocky
5 Mountain spotted fever, rickettsiosis or other tick-
6 transmissible illness or complications related to the
7 infections. The term does not include Lyme disease.

8 Section 4. Treatment.

9 (A) OPTIONS.--A health care practitioner may order <--
10 diagnostic testing and prescribe, administer or dispense
11 antibiotic therapy for the duration the health care practitioner
12 determines appropriate for a patient, for the therapeutic
13 purpose of eliminating or controlling a patient's infection or
14 symptoms, upon making a clinical diagnosis that the patient has
15 Lyme disease or a related tick-borne illness or displays
16 symptoms consistent with a clinical diagnosis of Lyme disease or
17 related tick-borne illness. The health care practitioner must
18 document the diagnosis and treatment in the patient's medical
19 records.

20 (B) REQUIRED DISCLOSURE.--A HEALTH CARE PRACTITIONER SHALL <--
21 FULLY DISCLOSE ALL RISKS AND BENEFITS ASSOCIATED WITH ANY
22 RECOMMENDED TREATMENT OPTION. THE DISCLOSURE SHALL INCLUDE
23 ALTERNATIVES THAT A REASONABLE PRUDENT PATIENT WOULD REQUIRE TO
24 MAKE AN INFORMED DECISION. THE DISCLOSURE OF THE INFORMATION
25 UNDER THIS SUBSECTION SHALL BE RECORDED IN THE PATIENT'S MEDICAL
26 RECORD.

27 Section 5. Coverage requirement.

28 The following apply:

29 (1) Every health insurance policy which is delivered,
30 issued for delivery, renewed, extended or modified in this

1 Commonwealth shall ~~cover the prescribed treatment for Lyme~~ <--
2 ~~disease and related tick borne illnesses if the diagnosis and~~
3 ~~treatment plan are documented in the patient's medical~~
4 ~~record. Treatment plans may include short or longer durations~~
5 ~~of antibiotic or antimicrobial treatments, as prescribed by~~
6 ~~the patient's attending health care practitioner.~~

7 ~~(2) Coverage of longer term antibiotic treatment may not~~
8 ~~be denied solely because the treatment may be characterized~~
9 ~~as unproven, experimental or investigational in nature for~~
10 ~~the treatment of Lyme disease and related tick borne~~

11 ~~illnesses.~~ PROVIDE COVERAGE FOR LONG-TERM ANTIBIOTIC AND <--
12 ANTIMICROBIAL THERAPY FOR A PATIENT WITH LYME DISEASE AND
13 RELATED TICK-BORNE ILLNESSES WHEN DETERMINED BY A HEALTH CARE
14 PRACTITIONER TO BE MEDICALLY NECESSARY AND ORDERED BY A
15 HEALTH CARE PRACTITIONER AFTER MAKING A THOROUGH EVALUATION
16 OF THE PATIENT'S SYMPTOMS, DIAGNOSTIC TEST RESULTS OR
17 RESPONSE TO TREATMENT.

18 (2) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS
19 LIMITING A HEALTH INSURER'S ABILITY TO USE UTILIZATION
20 MANAGEMENT TOOLS.

21 Section 6. ~~Immunity~~ LICENSING AUTHORITY. <--

22 (a) General rule.--No health care practitioner shall be
23 subject to disciplinary action by the health care
24 practitioner's licensing board solely for diagnosing Lyme
25 disease or a related tick-borne illness, ~~or for prescribing,~~ <--
26 ~~administering or dispensing longer term antibiotic therapies for~~
27 ~~the therapeutic purpose of eliminating infection or controlling~~
28 ~~a patient's symptoms when the patient is clinically diagnosed~~
29 ~~with Lyme disease or a related tick borne illness if the~~
30 ~~diagnosis, treatment plan and ongoing monitoring has been~~

1 ~~documented in the patient's medical record.~~ AND RECOMMENDING A <--
2 TREATMENT PROTOCOL WHICH THE HEALTH CARE PRACTITIONER DEEMS
3 MEDICALLY NECESSARY BASED ON THE PATIENT'S NEEDS AND RESPONSES
4 TO OTHER CLINICAL MEASURES.

5 (b) Construction.--Nothing in this section shall be
6 construed to deny the right of a licensing board to deny, revoke
7 or suspend the license of or to discipline any health care
8 practitioner who:

9 (1) prescribes, administers or dispenses longer-term
10 antibiotic therapy for a nontherapeutic purpose;

11 (2) fails to monitor ongoing care of a patient receiving
12 longer-term antibiotics; or

13 (3) fails to keep complete and accurate records of the
14 diagnosis, treatment and response to treatment of a patient
15 receiving longer-term antibiotic treatment relating to Lyme
16 disease or a related tick-borne illness.

17 Section 7. Applicability.

18 (a) Health insurance policies.--This act shall apply to
19 health insurance policies as follows:

20 (1) For a health insurance policy for which either rates
21 or forms are required to be filed with the Federal Government
22 or the Insurance Department, this act shall apply to any
23 policy for which a form or rate is first filed on or after
24 180 days after the date of enactment of this act.

25 (2) For a health insurance policy for which neither
26 rates nor forms are required to be filed with the Federal
27 Government or the Insurance Department, this act shall apply
28 to any policy issued or renewed on or after 180 days after
29 the date of enactment of this act.

30 (b) Contracts.--This act shall apply to contracts between

1 health care practitioners and insurers that are executed or
2 renewed on or after 180 days after the date of enactment of this
3 act.

4 Section 8. Effective date.

5 This act shall take effect in ~~180~~ 60 days.

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