

HOUSE BILL 399

J1, J2

6lr0642
CF SB 926

By: Delegates Afzali and ~~K. Young~~, K. Young, Hammen, Angel, Barron, Bromwell, Cullison, Hayes, Hill, Kelly, Kipke, Krebs, McDonough, McMillan, Miele, Morgan, Morhaim, Oaks, Pena-Melnyk, Pendergrass, Rose, Saab, Sample-Hughes, and West

Introduced and read first time: January 28, 2016

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2016

CHAPTER _____

1 AN ACT concerning

2 **Lyme Disease – Laboratory Test – Required Notice**

3 FOR the purpose of requiring certain health care providers and certain medical laboratories
4 to provide a certain notice to a patient for whom the health care provider or the
5 medical laboratory ~~orders~~ performs a laboratory test for the presence of Lyme
6 disease; ~~providing immunity from liability, under certain circumstances, for certain~~
7 health care providers for providing the notice; authorizing the Department of Health
8 and Mental Hygiene to adopt certain regulations under certain circumstances;
9 requiring the Department to provide certain written notice to certain committees of
10 the General Assembly before submitting certain regulations for publication in the
11 Maryland Register; prohibiting the provision of a certain notice from being the sole
12 basis for a cause of action; and generally relating to laboratory tests for Lyme
13 disease.

14 BY adding to

15 Article – Health – General

16 Section 20–1701 to be under the new subtitle “Subtitle 17. Lyme Disease
17 Information”

18 Annotated Code of Maryland

19 (2015 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Health – General**

4 **SUBTITLE 17. LYME DISEASE INFORMATION.**

5 **20-1701.**

6 (A) ~~A HEALTH CARE PROVIDER LICENSED IN THE STATE SHALL PROVIDE~~
7 ~~THE FOLLOWING NOTICE TO EACH PATIENT FOR WHOM THE HEALTH CARE~~
8 ~~PROVIDER ORDERS A LABORATORY TEST FOR THE PRESENCE OF LYME DISEASE~~
9 ~~WHO DRAWS THE BLOOD OF A PATIENT TO PERFORM A LABORATORY TEST FOR LYME~~
10 ~~DISEASE OR A MEDICAL LABORATORY, AS DEFINED IN § 17-201 OF THIS ARTICLE,~~
11 ~~THAT PERFORMS A LABORATORY TEST FOR THE PRESENCE OF LYME DISEASE SHALL~~
12 ~~PROVIDE THE FOLLOWING WRITTEN NOTICE TO THE PATIENT AT THE TIME THE~~
13 ~~PATIENT'S BLOOD IS DRAWN:~~

14 “YOUR HEALTH CARE PROVIDER HAS ORDERED A LABORATORY TEST FOR THE
15 PRESENCE OF LYME DISEASE FOR YOU. CURRENT LABORATORY TESTING FOR LYME
16 DISEASE CAN BE PROBLEMATIC AND STANDARD LABORATORY TESTS OFTEN RESULT
17 IN FALSE NEGATIVE AND FALSE POSITIVE RESULTS AND, IF DONE TOO EARLY, YOU
18 MAY NOT HAVE PRODUCED ENOUGH ANTIBODIES TO BE CONSIDERED POSITIVE
19 BECAUSE YOUR IMMUNE RESPONSE REQUIRES TIME TO DEVELOP ANTIBODIES. IF
20 YOU ARE TESTED FOR LYME DISEASE AND THE RESULTS ARE NEGATIVE, THIS DOES
21 NOT NECESSARILY MEAN YOU DO NOT HAVE LYME DISEASE. IF YOU CONTINUE TO
22 EXPERIENCE UNEXPLAINED SYMPTOMS, YOU SHOULD CONTACT YOUR HEALTH CARE
23 PROVIDER AND INQUIRE ABOUT THE APPROPRIATENESS OF RETESTING OR INITIAL
24 OR ADDITIONAL TREATMENT.”.

25 (B) IF THE DEPARTMENT FINDS SIGNIFICANT DIFFERENCES BETWEEN THE
26 CONTENT OF THE NOTICE REQUIRED BY SUBSECTION (A) OF THIS SECTION AND
27 CURRENT MEDICAL EVIDENCE ON LYME DISEASE TESTING, THE DEPARTMENT MAY
28 ADOPT REGULATIONS THAT CHANGE THE CONTENT OF THE NOTICE.

29 (C) THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO THE SENATE
30 FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS
31 COMMITTEE BEFORE SUBMITTING ANY PROPOSED REGULATION UNDER
32 SUBSECTION (B) OF THIS SECTION TO THE MARYLAND REGISTER FOR
33 PUBLICATION.

34 ~~(B) A HEALTH CARE PROVIDER WHO PROVIDES THE NOTICE REQUIRED BY~~
35 ~~SUBSECTION (A) OF THIS SECTION SHALL BE IMMUNE FROM CIVIL LIABILITY FOR~~

1 ~~PROVIDING THE NOTICE UNLESS THE PHYSICIAN ACTS WITH GROSS NEGLIGENCE OR~~
2 ~~WILLFUL MISCONDUCT.~~

3 (D) THE PROVISION BY A HEALTH CARE PROVIDER OR MEDICAL
4 LABORATORY OF THE NOTICE REQUIRED BY SUBSECTION (A) OF THIS SECTION MAY
5 NOT BE THE SOLE BASIS FOR A CAUSE OF ACTION.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.