Chapter 451

(House Bill 399)

AN ACT concerning

Lyme Disease – Laboratory Test – Required Notice

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

BY adding to
Article – Health – General
Section 20–1701 to be under the new subtitle "Subtitle 17. Lyme Disease Information"
Annotated Code of Maryland
(2015 Replacement Volume)

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

Article – Health – General

SUBTITLE 17. LYME DISEASE INFORMATION.

20–1701.

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

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

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

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

~~**(B) A HEALTH CARE PROVIDER WHO PROVIDES THE NOTICE REQUIRED BY SUBSECTION (A) OF THIS SECTION SHALL BE IMMUNE FROM CIVIL LIABILITY FOR PROVIDING THE NOTICE UNLESS THE PHYSICIAN ACTS WITH GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.**~~

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

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

Approved by the Governor, May 10, 2016.