

Introduced by Senator Wiggins
(Principal coauthor: Assembly Member Wolk)

February 23, 2007

An act to amend Sections 104190, 104192, and 104193 of, and to repeal and add Section 104191 of, the Health and Safety Code, relating to Lyme disease.

LEGISLATIVE COUNSEL'S DIGEST

SB 772, as introduced, Wiggins. Lyme disease.

(1) Existing law creates the Lyme Disease Advisory Committee within the State Department of Health Services, composed of, but not limited to, 5 members who are required to be appointed by, and serve at the pleasure of, the Director of Health Services.

Effective July 1, 2007, responsibility for the administration of the above-mentioned provisions will be transferred to the State Department of Public Health.

This bill would revise the membership of the committee and make changes in, and add provisions relating to, the committee's travel expenses, meetings, duties, and terms of committee membership.

(2) Existing law requires the committee to advise and make recommendations to the department regarding Lyme disease.

This bill would, instead, authorize the committee to make recommendations to the department and Senate and Assembly Committees on Health regarding Lyme disease.

(3) Existing law requires the department to establish a Lyme disease information program that provides educational materials and information services on Lyme disease to the general public and the medical community, provide detailed information regarding Lyme disease and its treatment to physicians and surgeons in affected areas, identify those

segments of the population that are especially at risk of contracting Lyme disease, and provide information to the Occupational Safety and Health Standards Board about risk factors for exposure to Lyme disease.

This bill would, in addition, require the director and consultants from the Senate and Assembly Committees on Health to, among other things, provide the detailed treatment information to other health care providers, work in close collaboration with and consider the recommendations of the committee, and encourage the conduction of research and its funding to identify the risk of Lyme disease in areas where it is considered to be endemic.

(4) Existing law authorizes the Occupational Safety and Health Standards Board to determine which employees should be required to receive a Lyme disease vaccine as a condition of employment in order to reduce the potential liability of employers and protect the health of employees.

This bill would delete that provision.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The enactment of Senate Bill 1115 (Chapter 668 of the
4 Statutes of 1999) established the Lyme Disease Advisory
5 Committee and information program in order to publicize Lyme
6 disease, a bacterial infection, and address this major and increasing
7 public health hazard in California.

8 (b) Senate Bill 1115 specified five member representatives, but
9 did not limit the committee to that number. Four more members
10 were added in 2000 and a 10th in 2001 by the Director of Health
11 Services. All of those members serve at the pleasure of the director.
12 This act would add another representative to the committee, who
13 is a licensed physician, and who would also serve at the pleasure
14 of the director.

15 (c) While they serve without compensation, nonpractitioner,
16 nonscientist members may be reimbursed for travel and necessary
17 expenses incurred in the performance of their duties. This act would
18 provide some travel costs to committee meetings, only if essential

1 for a particular member's attendance, but collectively not to exceed
2 five thousand dollars (\$5,000) per meeting, through 2008.

3 (d) For the committee to proceed in its formulation of
4 constructive solutions to the debilitation caused by the growing
5 epidemic of Lyme disease, it is essential that it be composed of
6 the best scientific, professional, and patient expertise possible. For
7 this fundamental reason, it is the intent of this act to specify the
8 expertise expected of each member to be appointed to the
9 committee or remain on it after 2008. All appointments to fill
10 vacancies should meet the membership requirements of this act.
11 The intent is to gain the best expertise possible within the
12 committee membership.

13 (e) Though established in 1999, the committee met only once
14 in 2000, three times in the years 2001 and 2002, and one time in
15 each of the years between 2003 to 2006, inclusive. Thus, in the
16 seven years between 2000 to 2006, inclusive, the full committee
17 has met once a year for five of those years. Recently, a
18 subcommittee had a telephone conference meeting, but these kinds
19 of meetings essentially preclude any active public participation.
20 Basically, with one meeting a year, the committee is essentially
21 moribund and has an unfortunate lack of involvement of its
22 extraordinary expertise.

23 (f) Lyme disease is caused by a spirochete (*Borrelia burgdorferi*),
24 a spiral shaped bacterium that may persist in the human body for
25 years if not treated properly with antibiotics. *Borrelia burgdorferi*
26 is genetically more complex than the bacterium for syphilis and
27 can invade any organ in the body.

28 (g) The United States Centers for Disease Control and
29 Prevention (CDC) reports that Lyme disease is the most rapidly
30 emerging infectious disease, and in 2002, the number of cases
31 reported increased by 40 percent over the prior year to 23,763
32 cases. Moreover, because the CDC estimates that only 10 percent
33 of Lyme disease cases are actually reported, the true annual number
34 of new cases may exceed 237,630, or close to a quarter million
35 new cases a year. This only includes patients who were correctly
36 diagnosed and who would meet the outdated CDC surveillance
37 criteria, not the many misdiagnosed with other diseases. Of the
38 total number of Lyme disease patients, about 25 percent are under
39 15 years of age. Lyme disease is now a reportable disease in all
40 50 states and accounts for more than 95 percent of all vector-borne

1 illness. In California, the ticks and nymphs that transmit this disease
2 are most common in the humid coastal areas and on the western
3 slope of the Sierra Nevada range, including areas in Southern
4 California.

5 (h) In the initial phase, antibiotics may cure Lyme disease, but
6 if not diagnosed and successfully treated in this early stage, severe
7 physical, sensory, and cognitive complications can occur, and
8 treatment of persistent Lyme disease is more difficult and
9 prolonged.

10 (i) Antibiotics are recognized as the only effective and essential
11 treatment for Lyme disease. A number of different antibiotics may
12 be necessary to treat the varied complications and symptoms of
13 the disease.

14 (j) Some persons affected by the advanced stages of Lyme
15 disease have suffered irreparable damage to their health, career,
16 and family. Many victims suffer permanent physical or mental
17 damage due to misdiagnosis or ignorance of the disease. Lyme
18 disease can be fatal.

19 (k) Lyme disease patients have identified fewer than 30
20 California physicians who regularly diagnose and prescribe
21 effective treatment for persistent Lyme disease. Access to care is
22 a serious problem for the patient who often must travel long
23 distances or wait months for an appointment with a Lyme disease
24 specialist. Many physicians hold that there is no Lyme disease in
25 California or that it is rare. This false impression is caused by
26 failure to recognize, and a gross underreporting of, the disease.

27 (l) Opinion within the medical community is deeply divided
28 regarding the best approach for treating Lyme disease, particularly
29 persistent Lyme disease that is not cured by shorter term protocols.
30 This split has resulted in two standards of care. Both viewpoints
31 are recognized by a substantial part of the medical community and
32 are reflected in peer reviewed, evidence-based guidelines. Some
33 physicians treat patients for 30 days only and assume that
34 remaining symptoms reflect a self-perpetuating autoimmune
35 response or that the patient does not have Lyme disease. Other
36 physicians assume that the persistent symptoms reflect ongoing
37 infection and gauge the duration of treatment by the patient's
38 individual clinical response. It is the intent of the Legislature that
39 government materials provide information on both standards of
40 care. Recent cogent scientific and clinical experience reviews of

1 Lyme disease have documented that long-term antibiotic therapy,
2 varied by clinical symptoms has, in general, substantially improved
3 patient health and that discontinuation of such therapy while
4 clinical symptoms remain commonly results in relapse and further
5 disability.

6 SEC. 2. This act may be cited as the Lyme Disease Advisory
7 Committee Vitalization Act.

8 SEC. 3. Section 104190 of the Health and Safety Code is
9 amended to read:

10 104190. As used in this article the following definitions apply:

11 (a) "Disease" means Lyme disease recognized by the presence
12 of the spirochete (*Borrelia burgdorferi*), a spiral-shaped bacterium,
13 in the human body, *or coinfection with tick-borne diseases such*
14 *as Babesiosis, Ehrlichiosis, or Bartonella. The Lyme spirochete*
15 *is genetically more complex than syphilis and if not treated*
16 *promptly and properly with antibiotics may persist in the human*
17 *body for years and cause substantial debilitation, even death.*

18 (b) "Lyme Disease Support Network" means the groups
19 organized through hospitals and volunteer organizations to counsel
20 and provide support to those individuals who have contracted the
21 disease.

22 (c) "*Medically viable*" as applied to treatment alternatives
23 means a mode of treatment recognized by a substantial part of the
24 medical profession to be within the scope of current, acceptable
25 standards, including the longer term treatment approach reflected
26 in the treatment guidelines of the International Lyme and
27 Associated Diseases Society (ILADS), "*ILADS Evidence-Based*
28 *guidelines for the Management of Lyme Disease.*"

29 SEC. 4. Section 104191 of the Health and Safety Code is
30 repealed.

31 ~~104191. (a) There is hereby created in the state department~~
32 ~~the Lyme Disease Advisory Committee composed of , but not~~
33 ~~limited to, the following members:~~

34 ~~(1) One from the Lyme Disease Resource Center.~~

35 ~~(2) One from the Lyme Disease Support Network.~~

36 ~~(3) One from the California Medical Association.~~

37 ~~(4) One county public health official designated by the State~~
38 ~~Department of Health Services.~~

39 ~~(5) One from the department.~~

1 ~~(b) Members shall be appointed by, and serve at the pleasure~~
2 ~~of, the director.~~

3 ~~(c) Members of the committee shall serve without compensation,~~
4 ~~but may be reimbursed for travel and necessary expenses incurred~~
5 ~~in the performance of their duties on the committee.~~

6 SEC. 5. Section 104191 is added to the Health and Safety Code,
7 to read:

8 104191. (a) There is hereby established in the State Department
9 of Public Health the Lyme Disease Advisory Committee composed
10 of, at a minimum, the following members:

11 (1) One from the Board of Directors of the California Lyme
12 Disease Association, to be nominated by that board.

13 (2) One who is a patient coordinator of an active Lyme Disease
14 Support Network in California which meets on a regular basis.

15 (3) Two members of the California Medical Association who
16 are in active clinical practice in California in the treatment of both
17 early and late stage Lyme disease, each of whom personally
18 examines and treats 150 or more Lyme disease patients annually,
19 at least 100 of whom were diagnosed with and treated for late stage
20 Lyme disease.

21 (4) One county public health officer familiar with Lyme disease
22 reporting, designated by the State Public Health Officer.

23 (5) The Deputy Director of Prevention Services within the
24 department.

25 (6) One who has a doctoral degree in science or medicine and
26 is the president or director of a laboratory in California that meets
27 the standards of the Federal Clinical Laboratory Improvement Act
28 (CLIA; Section 263a of Title 42 of the United States Code), or is
29 Medicare approved, and which regularly tests for Lyme disease.

30 (7) One who is a California university or research scientist, with
31 acknowledged expertise in the entomology of the Western
32 blacklegged tick, and who has conducted field research on the
33 carrier of this infectious agent, *Borrelia burgdorferi*, the Lyme
34 disease spirochete.

35 (8) One who is a California university or medical center
36 immunology or research scientist, preferably one with
37 acknowledged expertise in spirochetes and related infectious
38 diseases.

1 (9) One who contracted Lyme disease as an occupational injury
2 in California and who is, or has been, under workers' compensation
3 coverage.

4 (10) One who is both a California licensed nurse practitioner
5 and a member of the California Association of Nurse Practitioners
6 with specialized expertise in the treatment of Lyme disease in both
7 its early and persistent disease stages.

8 (b) (1) Except for the members appointed pursuant to
9 paragraphs (1) and (5) of subdivision (a), members shall be
10 appointed by the State Public Health Officer, who shall also fill
11 vacancies as they occur in a manner that maintains the level of
12 expertise required.

13 (2) On an annual basis, the committee shall conduct an
14 assessment of its membership and recommend any needed changes
15 in composition to the officer. After considering these
16 recommendations, the officer may appoint additional members to
17 the committee.

18 (3) In making appointments, the State Public Health Officer
19 shall consider recommendations forwarded by the California Lyme
20 Disease Association.

21 (4) All of the members appointed, reappointed, or nominated
22 pursuant to this section shall commence their membership on
23 January 1, 2008.

24 (c) Members of the committee shall serve without compensation.
25 Commencing January 1, 2008, the nonpractitioner, nonscientist
26 members may be reimbursed for travel and necessary expenses
27 incurred in the performance of their duties on the committee.
28 During the 2008 calendar year, annual travel expense
29 reimbursement to all committee members when essential to
30 attendance shall not exceed one thousand dollars (\$1,000) per
31 meeting.

32 (d) The Lyme Disease Advisory Committee shall hold
33 face-to-face meetings no less than two times in 2008, and
34 commencing 2009, shall meet quarterly. It will elect its chair and
35 secretary from its own membership. The chair, with the
36 concurrence of the Deputy Director of Prevention Services within
37 the department, may establish meeting dates for the year.

38 (1) The committee meetings shall be held on a Thursday or
39 Friday in Sacramento.

1 (2) Before the end of each calendar year, the committee shall
2 provide an update on its progress and activities to the chairs of the
3 Senate and Assembly Committees on Health.

4 (e) (1) To facilitate a cohesive working relationship among
5 committee members and provide added stability to the committee's
6 composition, each committee member appointed by the director
7 shall, except as provided in paragraph (3), be eligible to serve a
8 three-year term.

9 (2) The committee shall establish internal rules and procedures
10 related to intercommunications. All rules and procedures must be
11 agreed upon by a majority of the committee, and submitted to the
12 department.

13 (3) Of the members appointed on or after July 1, 2008, pursuant
14 to paragraphs (2) to (4), inclusive, and (6) to (10), inclusive, of
15 subdivision (a), the committee shall establish, in its last meeting
16 held in 2008, a system of staggered terms under which three of
17 the members' terms shall terminate on December 31, 2010, three
18 of the members' terms shall terminate on December 31, 2011, and
19 three of the members' terms shall terminate on December 31, 2012.

20 (4) (A) Commencing January 1, 2009, no member may be
21 appointed to more than two terms, and a member may not be
22 appointed to a third term except under the conditions specified in
23 subparagraph (B).

24 (B) If the committee determines that any member appointed
25 pursuant to paragraphs (2) to (4), inclusive, or paragraphs (6) to
26 (10), inclusive, of subdivision (a) has made a valuable contribution
27 to the committee's work or has expertise that is difficult to replace,
28 the committee may request, and upon that request, the officer may
29 reappoint the member to a new term that shall last no more than
30 three years in duration.

31 (f) In order to facilitate accomplishment of the committee's
32 activities using existing resources of the department and the Senate
33 and Assembly Committees on Health, as feasible, the committee
34 may consult with or advise department staff and legislative
35 committee members regarding the prioritization of Lyme
36 disease-related work, or the division of Lyme disease-related work
37 between the department and, on a voluntary basis, individual
38 committee members.

39 (g) The meetings of the committee shall be publicly announced
40 at least one month prior to a meeting, and all meetings shall be

1 open to the public and shall comply with the requirements of the
2 Bagley-Keene Open Meeting Act (Article 9 (commencing with
3 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
4 the Government Code). The purposes of these meetings shall be
5 to do both of the following:

6 (1) Conduct the formal business of the committee and to
7 consider new developments in the understanding of Lyme disease,
8 its treatment, laboratory evaluation, prevention measures, changes
9 in the incidence of the disease in California, and methods of
10 educating doctors and patients about Lyme disease.

11 (2) Provide a public forum in which Lyme disease patients may
12 alert the committee to key problems in their access to treatment
13 by physicians and other health care providers and to health care
14 coverage or insurance.

15 (h) In order to ensure that accurate minutes are taken, both the
16 formal part of the meeting and subsequent discussion with persons
17 in the audience shall be recorded and all substantive input shall be
18 part of the minutes of the meeting. Minutes of the meeting shall
19 be prepared within one month of the meeting and sent to all
20 members. The minutes shall be subject to the approval of the
21 committee.

22 (i) The committee may encourage the formation of
23 subcommittees of less than a majority of its members to develop
24 solutions for a specific problem relating to Lyme disease. Proposed
25 solutions developed by a subcommittee must be approved by the
26 committee before being implemented. If subcommittees are formed,
27 they shall address all of the following issues:

28 (1) The development of recommendations on protective clothing,
29 particularly for those who are at work in areas where they are
30 exposed to Lyme disease-carrying ticks. The subcommittee shall
31 review all protective clothing currently available, both through the
32 military and through the private market, for suitability and
33 reasonable availability.

34 (2) The advisability of gaining immediate treatment versus
35 waiting for symptoms or other forms of proof of infection to
36 surface, if an individual discovers a tick or nymph that carries
37 Lyme disease attached to his or her person.

38 (3) The development of a clinically based Lyme disease
39 reporting system as distinct from the United States Centers for
40 Disease Control and Prevention surveillance criteria. This clinical

1 reporting may include an unduplicated patient count of positive
2 laboratory tests for Lyme disease, and all available diagnoses of
3 Lyme disease from state licensed practitioners that cannot be
4 disputed or disregarded by a nonphysician or by a physician who
5 has not examined the patient.

6 SEC. 6. Section 104192 of the Health and Safety Code is
7 amended to read:

8 104192. The Lyme Disease Advisory Committee ~~shall advise~~
9 ~~and may~~ make recommendations to the department, *and the Senate*
10 *and Assembly Committees on Health* regarding subjects including,
11 but not limited to, all of the following:

- 12 (a) The content and geographic distribution of Lyme disease
13 educational materials.
- 14 (b) How best to provide information and outreach to the medical
15 community.
- 16 (c) How best to provide information and outreach to the general
17 public.
- 18 (d) Populations at risk of contracting Lyme disease.

19 SEC. 7. Section 104193 of the Health and Safety Code is
20 amended to read:

21 104193. ~~The department~~ *State Public Health Officer, or his or*
22 *her designee, and a consultant from both the Senate and Assembly*
23 *Committees on Health* shall do all of the following:

- 24 (a) *Work in close collaboration with the committee and consider*
25 *the recommendations of the committee.*
- 26 (a)
- 27 (b) Establish a Lyme disease information program that provides
28 educational materials and information services on Lyme disease
29 to the general public and the medical community. The Lyme
30 disease information program shall provide information on all of
31 the following:
 - 32 (1) The disease in general, including its symptoms.
 - 33 (2) Activities that increase one’s risk of contracting the disease.
 - 34 (3) ~~The~~ *If and when a safe and effective vaccine is developed,*
35 *the use of vaccines to prevent the disease.*
 - 36 (4) The ways to protect oneself from contracting the disease,
37 including the use of protective clothing, *acaricides*, and tick
38 repellants.
- 39 (b)

1 (c) Provide detailed, *broad, and inclusive* information regarding
2 Lyme disease ~~and its treatment~~, *its varied and common symptoms,*
3 *and all medically viable treatments, including the use of oral,*
4 *intramuscular, and intravenous antibiotics for early and later*
5 *stage Lyme disease, to physicians and surgeons in affected areas*
6 *and other health care providers in affected areas. The officer may*
7 *provide the information to professional associations representing*
8 *health care providers. If the officer provides the information to*
9 *professional associations, the officer shall request that the*
10 *professional associations make the information available to*
11 *association members who request the information or otherwise*
12 *distribute this information.*

13 ~~(e)~~

14 (d) Identify those segments of the population that are especially
15 at risk of contracting Lyme disease and may provide workshops,
16 with detailed information on the disease in those areas or
17 communities, ~~if recommended by the Lyme Disease Advisory~~
18 ~~Committee.~~

19 ~~(d)~~

20 (e) (1) Provide information to the Occupational Safety and
21 Health Standards Board about risk factors for exposure to Lyme
22 disease. ~~The Occupational Safety and Health Standards Board may~~
23 ~~determine which employees should be required to receive the~~
24 ~~vaccine as a condition of employment, in order to reduce the~~
25 ~~potential liability of employers and protect the health of employees.~~

26 (2) *For state employees whose worksite is a likely occupational*
27 *hazard for exposure to Lyme disease, develop recommendations*
28 *on the use of protective clothing, and effective prevention measures.*

29 (f) *With the recommendations of the Lyme Disease Advisory*
30 *Committee, and to the extent that departmental resources allow,*
31 *consider the potential of new diagnostic and treatment procedures,*
32 *particularly those that may be effective for persistent Lyme disease.*

33 (g) *Adopt diagnostic or treatment approaches that reflect all*
34 *medically viable treatment options, but are not rigid diagnostic*
35 *or treatment limitations.*

36 (h) *In collaboration with interested counties, communities,*
37 *research scientists, health care providers, or members of the Lyme*
38 *Disease Advisory Committee, encourage the conduction of research*
39 *and its funding to identify the risk of Lyme disease in counties or*

- 1 *areas of California where Lyme disease is considered to be*
- 2 *endemic.*

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