

**MEDICAL SOCIETY**  
of the  
**STATE OF NEW YORK**

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*Division of Governmental Affairs*  
**MEMORANDUM IN OPPOSITION**

**On Assembly Calendar**

**A. 10930 (BARRETT)**

**AN ACT to amend the public health law, in relation to charges of professional misconduct by health care professionals in the treatment or diagnosis of patients for Lyme disease**

The purpose of this bill is to include diagnosis, in addition to treatment, in existing standards that direct the Office of Professional Medical Conduct (OPMC) must follow in relation to identifying, investigating, or charging a practitioner on their recommendation of a modality that is currently not universally accepted by the medical community. **The Medical Society of the State of New York opposes this measure and urges that it be defeated.**

This legislation amends public health law to include diagnosis and long term antibiotic treatment of Lyme disease in existing standards that the Office of Professional Misconduct (OPMC) follows in relation to what a physician cannot be charged with misconduct for doing. Under this measure, no health care professional shall be subject to professional discipline for prescribing long-term antibiotic therapy for a patient diagnosed with or treated for Lyme disease or other tick borne illness.

MSSNY is sympathetic to the difficult situation for which this legislation is trying to address. There may be patients that have symptoms after being treated for Lyme disease and the Medical Society of the State of New York recognizes that there are different opinions within the medical community as to how these patients are treated. There is still no medical consensus on how those patients are to be treated. However, medicine is in an era of increasing antibiotic resistance, as many bacteria have become much more difficult to treat and, in some cases, lethal. Prudent antibiotic prescribing, in terms of approved indications and duration of these life-saving medications, is demanded of all licensed prescribers. Prolonged antibiotic regimens for unproven or unsupportable indications will exacerbate this public health threat. The New York State Department of Health is so concerned with increasing antibiotic resistance that it has created the Antimicrobial Resistance Prevention and Control Task Force and has listed antibiotic resistance as one of the state's public health priorities.

In 2015, the New York State Legislature amended the statute by putting into place existing principles that were being followed by OPMC regarding the investigation of physicians, physician assistants and specialist assistants who use treatment modalities that are not universally accepted by the medical profession, such as the varying modalities used in the treatment of Lyme disease and other tick-borne diseases. These principles had existed since 2005. At that time, according to officials from OPMC, there has only been one physician who has ever lost his or her license for misconduct related to the use of antibiotics, and that occurred in the mid- 1990s. To our knowledge, there has not been any other professional who has been reviewed on antibiotic use.

The Medical Society of the State of New York has, for over last 20 years, has worked with the Department of Health and the New York State Legislature to enhance due process protections for physicians under the OPMC statute. We believe that those protections already preserve the freedom of physicians to exercise their clinical judgment in the treatment of their patients. **For all the reasons cited above, the Medical Society of the State of New York opposes this measure and urges that it be defeated.**

Respectfully submitted,

Division of Governmental Affairs

PFC/oppose  
6/7/18