

Committee Report

CONSENT CALENDAR

February 7, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Health, Human Services and Elderly
Affairs to which was referred HB 200,**

**AN ACT relative to serologic testing including Lyme
disease. Having considered the same, report the same
with the following resolution: RESOLVED, that it is
INEXPEDIENT TO LEGISLATE.**

Rep. William Marsh

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Health, Human Services and Elderly Affairs
Bill Number:	HB 200
Title:	relative to serologic testing including Lyme disease.
Date:	February 7, 2019
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill was an attempt to mediate a compromise which proved unacceptable to all parties. It is therefore recommended inexpedient to legislate.

Vote 20-0.

Rep. William Marsh
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Health, Human Services and Elderly Affairs

HB 200, relative to serologic testing including Lyme disease. **INEXPEDIENT TO LEGISLATE.**

Rep. William Marsh for Health, Human Services and Elderly Affairs. This bill was an attempt to mediate a compromise which proved unacceptable to all parties. It is therefore recommended inexpedient to legislate. **Vote 20-0.**

Original: House Clerk

Cc: Committee Bill File

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COMMITTEE REPORT

COMMITTEE: Health

BILL NUMBER: HB 200

TITLE: relative to serologic testing including
Lyme disease

DATE: _____ CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____


STATEMENT OF INTENT:

This bill was an attempt to mediate a compromise which
proved unacceptable to all parties. It is therefore recommended
inexpedient to legislate.

COMMITTEE VOTE: 20-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep.  WILLIAM MARSLEY
For the Committee

Voting Sheets

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 200

BILL TITLE: relative to serologic testing including Lyme disease.

DATE: February 7, 2019

LOB ROOM: 205

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Marsh

Seconded by Rep. Salloway

Vote: 20-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep Susan Ticehurst, Clerk

Respectfully submitted: Susan Ticehurst
Rep Susan Ticehurst, Clerk



2019 SESSION

Health, Human Services and Elderly Affairs

Bill #: HB 200 Motion: ITL AM #: _____ Exec Session Date: 2-7-19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Weber, Lucy M. Chairman	✓		
Campion, Polly Kent Vice Chairman	✓		
MacKay, James R.	✓		
Snow, Kendall A.			
Freitas, Mary C.	✓		
Ticehurst, Susan J. Clerk	✓		
Knirk, Jerry L.	✓		
Salloway, Jeffrey C.	✓		
Cannon, Gerri D.	✓		
Nutter-Upham, Frances E.	✓		
Osborne, Richard G.	✓		
Schapiro, Joe	✓		
Woods, Gary L.	✓		
McMahon, Charles E.	✓		
Nelson, Bill G.	✓		
Guthrie, Joseph A.	✓		
Fothergill, John J.	✓		
Marsh, William M.	✓		
Pearson, Mark A.	✓		
Acton, Dennis F.	✓		
DeClercq, Edward			



1/14/2019 3:22:00 PM
Roll Call Committee Registers
Report

2019 SESSION

Health, Human Services and Elderly Affairs

Bill #: _____ Motion: _____ AM #: _____ Exec Session Date: _____

Stapleton, Walter A.

TOTAL VOTE:

		✓		
		20	0	

Sub-
Committee
Actions

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 200

BILL TITLE: relative to serologic testing including Lyme disease.

DATE: February 7, 2019

Subcommittee Members: Reps. Weber, Campion, McMahon, Nelson, M. Pearson, Knirk, Freitas, R. Osborne, Woods, DeClercq, Stapleton and Salloway

Comments and Recommendations:

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Rep. Salloway

Seconded by Rep. Rep. Woods

Vote: 10-0

Respectfully submitted,

Rep. Lucy Weber
Subcommittee Chairman

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 200

BILL TITLE: relative to serologic testing including Lyme disease.

DATE: 2/7/19

Subcommittee Members: Reps. Weber, Campion, McMahon, Nelson, M. Pearson, Knirk, Freitas, R. Osborne, Woods, DeClercq, Salloway and Stapleton

Comments and Recommendations:

Three horizontal lines for writing comments and recommendations.

MOTIONS: OTP, OTP/A (ITL) Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. Salloway Seconded by Rep. Woods AM Vote: 10/0

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. _____ Seconded by Rep. _____ AM Vote: _____

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

Respectfully submitted,

Rep. _____ Subcommittee Chairman/Clerk



2019 SESSION

Health, Human Services and Elderly Affairs

Bill #: HB 200 Motion: ITL AM #: ✓ ^{Subcommittee} Exe-Session Date: 2/7/19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
✓ Neber, Lucy M. Chairman	✓		
✓ Campion, Polly Kent Vice Chairman	✓		
MacKay, James R.			
Snou, Kendall A.			
✓ Freitas, Mary C.	✓		
Picehurst, Susan J. Clerk			
✓ Kirk, Jerry L.	✓		
✓ Salloway, Jeffrey C.	✓		
Cannon, Gerri D.			
Nutter-Upham, Frances E.			
✓ Osborne, Richard G.	✓		
Schapiro, Joe			
✓ Woods, Gary L.	✓		
✓ McMahon, Charles E.	✓		
Nelson, Bill G.			
Guthrie, Joseph A.			
Fothergill, John J.			
✓ Marsh, William M.			
✓ Pearson, Mark A.	✓		
Acton, Dennis F.			
DeClercq, Edward			

OFFICE OF THE HOUSE CLERK



1/14/2019 3:22:00 PM
Roll Call Committee Registers
Report

2019 SESSION

Health, Human Services and Elderly Affairs

Bill #: HB 200 Motion: ITL AM #: ✓ *Subcommittee* Exec Session Date: 2/7/19

✓ Stapleton, Walter A.

TOTAL VOTE:

✓	✓	
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Hearing Minutes

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON HB 200

BILL TITLE: relative to serologic testing including Lyme disease.

DATE: January 17, 2019

LOB ROOM: 205 **Time Public Hearing Called to Order:** 1:15 PM

Time Adjourned: 3:02 PM

Committee Members: Reps. Weber, Campion, Ticehurst, MacKay, Snow, Freitas, Knirk, Cannon, Nutter-Upham, R. Osborne, Schapiro, McMahon, Woods, Nelson, Guthrie, Fothergill, Marsh, M. Pearson, Acton, DeClercq and Stapleton

Bill Sponsors:

Rep. Marsh
Rep. Salloway
Rep. Stapleton

Rep. Guthrie
Rep. Edwards
Sen. Bradley

Rep. Knirk
Rep. Kotowski

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Sponsor/Introduced By: Rep. Marsh -

A negative test for Lyme disease antibodies does not rule out that Lyme disease exists. The purpose of the bill is to state that the General court recognizes that confusion exists and gives the Department of Health and Human Services rule making authority.

Kathie Fife – Opposes -

Has personal experience with Lyme disease, the diagnosis of which took a long time. Current testing for Lyme is done by the Centers for Disease Control guidelines, but the CDC excludes certain bands that are specific to Lyme. These were excluded when a Lyme vaccine came out. There are alternative guidelines available. Today there are no resources at the Dept. of Health and Human Services website for people who have been bitten by a tick.

Dana Myskowski -

Was misdiagnosed and did not get the correct diagnosis or receive the medication she needed until years later. The CDC tests did not indicate Lyme but the tests that she paid for privately did. Public needs more awareness. The bill does not go far enough but she would accept it as a first step.

Rep. Knirk -

Problem is that the provider relied on lab testing and did not listen to the patient. Rules that are being requested are not about how to practice medicine but are about how to report results. The bill would help to educate the providers. There are other models for this kind of statement that are currently in use.

*** 1 Dr. Benjamin Chan & Beth Daly, Bureau Chief of the Bureau of Infectious Control
Dept of health -**

Recognizes that Lyme disease is a problem and there is gap in the care people are receiving. Problem is primarily one of educating providers. Education of health care providers should be done through the Medical Society and Board of Medicine. Questions whether the rule making process is the best way to address this problem.

Beth Daley -

Rules have the weight of law. It's not appropriate to include general statements in rules, since

rules must be stated in specific terms such as "shall". The department's focus is on education of the public. It also provides education to providers. A Lyme disease diagnosis is too complex for rules, due to differences in patients, time of testing, etc. Each lab has different tests and interpretations. It's already best practice that providers use available information. It is unlikely that providers will consult the state website.

Respectfully submitted,

A handwritten signature in cursive script that reads "Susan Ticehurst". The signature is written in black ink and is positioned above the typed name.

Rep. Susan Ticehurst, Clerk

House Committee on Health, Human Services & Elderly Affairs
Public Hearing on HB 200

Bill Title:	Relative to serologic testing including Lyme disease.		
Date:	1/17/19		
Room:	Reps. Hall	Time Public Hearing Called to Order:	1:15
		Time Adjourned:	3:02

Committee Members Present:

X	Shapiro
X	Cannon
X	Stapleton
X	Nutter-Upham
X	Marsh
	Salloway
X	Fothergill
X	Freitas
X	MacKay
X	Ticehurst
X	Weber

X	DeClerq
X	Osborne
X	Acton
X	Woods
X	Pearson
X	Knirk
X	Guthrie
X	Snow
X	McMahon
X	Campion

Testimony

* Use asterisk if written testimony and/or amendments are submitted.

*	Attch #	Name	Testimony:
		Sponsor/Introduced By: Rep. Marsh	A negative test for Lyme disease antibodies does not rule out that Lyme disease exists. The purpose of the bill is to state that the General court recognizes that confusion exists and gives the Department of Health and Human Services rule making authority.
		Kathie Fife	Opposes; Has personal experience with Lyme disease, the diagnosis of which took a long time. Current testing for Lyme is done by the Centers for Disease Control

			<p>guidelines, but the CDC excludes certain bands that are specific to Lyme. These were excluded when a Lyme vaccine came out. There are alternative guidelines available. Today there are no resources at the Dept. of Health and Human Services website for people who have been bitten by a tick.</p>
		Dana Myskowski	<p>Was misdiagnosed and did not get the correct diagnosis or receive the medication she needed until years later. The CDC tests did not indicate Lyme but the tests that she paid for privately did. Public needs more awareness. The bill does not go far enough but she would accept it as a first step.</p>
		Rep. Knirk	<p>Problem is that the provider relied on lab testing and did not listen to the patient. Rules that are being requested are not about how to practice medicine but are about how to report results. The bill would help to educate the providers. There are other models for this kind of statement that are currently in use.</p>
*	1	Dr. Benjamin Chan & Beth Daly, Bureau Chief of the Bureau of Infectious Control	<p>Dept of health recognizes that Lyme disease is a problem and there is gap in the care people are receiving. Problem is primarily one of educating providers. Education of health care providers should be done through the Medical Society and Board of medicine. Questions whether the rule making process is the best way to address this problem.</p>
		Beth Daley	<p>Rules have the weight of law. It's not appropriate to include general statements in rules, since rules must be stated in specific terms such as "shall". The department's focus is on education of the public. It also provides education to providers. A Lyme disease diagnosis is too complex for rules, due to differences in patients, time of testing, etc. Each lab has different tests and interpretations. It's already best practice that providers use available information. It is unlikely</p>

			that providers will consult the state website.

Respectfully submitted,

Rep. Susan Ticehurst, Clerk

Testimony



Jeffrey A. Meyers
Commissioner

Lisa Morris
Director

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES

29 HAZEN DRIVE, CONCORD, NH 03301-6503
603-271-4501 1-800-852-3345 Ext. 4501
Fax: 603-271-4827 TDD Access: 1-800-735-2964



January 17, 2019

Representative Lucy Weber, Chairman
House Health and Human Services and Elderly Affairs Committee
Legislative Office Building, Room 205
Concord, NH 03301

SUBJECT: HB 200, relative to serologic testing including Lyme disease

Dear Representative Weber:

We are writing to provide information regarding HB 200, which would require the commissioner of the department of health and human services (the Department) to adopt rules clarifying serologic testing (i.e. testing for the presence of antibodies) for communicable diseases and for Lyme disease. We appreciate that HB 200 acknowledges the complexity surrounding disease diagnosis and agree that there is a roll for continued education of clinicians about diseases that have a high-impact on the health of our New Hampshire population, including Lyme disease. HB 200 brings up several separate but related issues that we would like to comment on further including, 1) disease diagnosis, 2) laboratory testing and interpretation of tests, and 3) disease reporting to the Department.

Regarding disease diagnosis, HB 200 incorrectly states that Lyme disease is a “clinical diagnosis and laboratory tests are... for surveillance purposes only.” Diagnosis of any disease, including Lyme disease, is a complex process whereby a clinician performs an evaluation of their patient (taking a history of symptoms and performing a physical exam), and then determines if laboratory tests are needed to help diagnose disease. For example, when infected with Lyme disease, many people will develop a characteristic “bull’s-eye” rash within 1-2 weeks after a tick bite. This characteristic rash by itself is usually sufficient to make a diagnosis of and treat for Lyme disease. If left untreated, however, later symptoms of Lyme disease are not unique enough to Lyme disease to make a diagnosis as many other diseases can exhibit these same symptoms; Lyme antibody blood tests then are necessary to help make a diagnosis of Lyme disease.

Regarding interpretation of these antibody-based laboratory tests, we acknowledge that interpretation can be confusing, but understanding how to interpret medical test results in the context of a patient’s presenting symptoms is a basic part of delivering medical care and not something that the Department should be, or even is able to, make rules for. Laboratory test interpretation is dependent on many different factors including, the specific disease being tested for, the type of test (including manufacturer of the test kit), and the test characteristics (called test “specificity” and “sensitivity”). Any laboratory test, including those for Lyme disease, is able to produce false-positive or false-negative results. This is why interpretation of any test result needs to be performed in the context of a clinical evaluation taking into account the limitations of each test. There is already guidance from a variety of expert professional organizations to assist healthcare providers with interpreting clinical tests and diagnosing diseases like Lyme disease. It would not be feasible, nor appropriate, for the Department to provide such guidance through the administrative rules process for each disease, testing options, and manufacturer test kit.

Finally, many diseases are required by State law to be reported to the Department under RSA 141-C, whether it is a clinically diagnosed disease (based on symptoms), or a positive laboratory test for a specific disease. The Department maintains administrative rules to specify which diseases must be reported (He-P 301) and distributes a poster summarizing reporting requirements for healthcare providers and laboratories, which can be found at: <https://www.dhhs.nh.gov/dphs/cdcs/documents/reportablediseases.pdf>. Lyme disease diagnoses and positive laboratory tests are already required to be reported to the Department.

In summary, HB 200 asks the department to "...clarify reporting of serologic tests... to reflect that many serologic tests only test for the presence of antibodies to antigens, and not for specific diseases." Such a statement is not a "rule" or "regulation" that could be incorporated into an administrative rule, but rather a general principle of medical testing that applies to all antibody-based tests. The Department would find such a statement difficult to incorporate into our administrative rules, should we be required to. We do, however, agree that there remains confusion around medical test interpretation, including with Lyme disease, and agree that continued provider education should be conducted in coordination with the Department, the New Hampshire Medical Society, and the New Hampshire Boards of Nursing and Medicine. Thank you very much for the opportunity to provide information relative to HB 200 and we would be happy to answer any questions.

Respectfully submitted,



Benjamin Chan, MD, MPH
State Epidemiologist



Elizabeth R. Daly, MPH
Chief, Bureau of Infectious
Disease Control



Lisa Morris, MSSW
Director, Division of Public
Health Services

Bill as Introduced

HB 200 - AS INTRODUCED

2019 SESSION

19-0196
01/05

HOUSE BILL **200**

AN ACT relative to serologic testing including Lyme disease.

SPONSORS: Rep. Marsh, Carr. 8; Rep. Guthrie, Rock. 13; Rep. Knirk, Carr. 3; Rep. Salloway, Straf. 5; Rep. Edwards, Rock. 4; Rep. Kotowski, Merr. 24; Rep. Stapleton, Sull. 5; Sen. Bradley, Dist 3

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill requires the commissioner of the department of health and human services to adopt rules clarifying serologic testing for communicable diseases and for Lyme disease.

.....

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to serologic testing including Lyme disease.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Statement of Intent.

2 I. The general court hereby finds that:

3 (a) Lyme disease is increasingly prevalent in New Hampshire.

4 (b) Lyme disease is a clinical diagnosis and laboratory tests are, according to current
5 Centers for Disease Control and Prevention protocols, for surveillance purposes only.

6 (c) Delay in diagnosis and treatment due to misinterpretation of laboratory tests can be
7 tragic.

8 (d) The department of health and human services, the New Hampshire Medical Society,
9 and others have been making considerable efforts to educate the public and medical practitioners
10 about Lyme disease and are to be commended for these efforts.

11 (e) Nevertheless considerable confusion about Lyme disease persists.

12 II. Therefore the general court hereby intends this act to clarify testing for Lyme disease.

13 2 New Paragraph; Communicable Disease; Rulemaking; Serologic Tests; Lyme Disease. Amend
14 RSA 141-C:6 by inserting after paragraph XXII the following new paragraph:

15 XXIII. Clarifying the reporting of serologic tests, both done in accordance with RSA 141-
16 C:19 and by facilities licensed under RSA 151, including serologic tests confirming the diagnosis of
17 Lyme disease, to reflect that many serologic tests only test for the presence of antibodies to
18 antigens, and not for specific diseases. When such rules are written or changed, the commissioner
19 shall use reasonable means to educate the public and health care providers to minimize confusion
20 regarding Lyme disease, methods of diagnosis, and testing affected.

21 3 Effective Date. This act shall take effect upon its passage.