



April 15, 2019

Wayne A. Smith
President & CEO

The Honorable Ernesto B. Lopez
411 Legislative Avenue
Dover, DE 19901

Opposition to SB 15.

*Alfred I. duPont Hospital
for Children*

Roy Proujansky, MD,
Chief Executive of
Nemours Delaware
Valley Operations

Bayhealth

Terry Murphy,
President & CEO

Beebe Healthcare

Jeffrey M. Fried
President & CEO

*Christiana Care Health
System*

Janice E. Nevin, M.D.
MPH
President & CEO

Nanticoke Health Services

Steven A. Rose, RN, MN
President & CEO

Saint Francis Healthcare

Daniel Sinnott
President & CEO

*Delaware Healthcare
Association*

Wayne A. Smith
President & CEO

Dear Senator Lopez,

The Delaware Healthcare Association (DHA) has concerns with Senate Bill 15, which amends Chapter 30, Title 16 of the Delaware code. Lyme Disease is a significant health issue deserving of more attention and education. SB 15, which mandates a specific communication related to testing for Lyme Disease, is not consistent with how medicine is practiced and would substitute the judgement of lawmakers for that of highly trained health care providers regarding how test and test results should be characterized with individual patients. We must oppose SB 15.

DHA represents hospitals and health care delivery systems in Delaware and advocates for policies that create an environment for enabling every Delawarean to be as healthy as they can be. Lyme disease is of particular concern to Delaware, as we are one of ten states with the highest incidence rates of the disease in the nation.

SB 15 states that the *health-care provider who draws the blood of a patient to perform a laboratory test for Lyme disease* shall provide a written notice stating that the results of the test can be problematic. The statement would explain that the test could present a false negative or false positive result and also warn patients that even if they test negative, they could still have Lyme disease. While we understand the intent of the legislation to communicate the limitations of Lyme disease testing, we have several concerns with the bill as currently written.

The legislation requires the person performing the blood test to provide the statement of limitations on the test. The individual performing such a blood test, a phlebotomist, is not the health care provider who would have ordered the test. Test ordering is done by a physician or nurse practitioner – a professional who has examined the patient, is familiar with their symptoms and has had the opportunity to manage expectations related to tests ordered. Furthermore, the statement of limitations required by SB 15 is ambiguous and will likely raise more questions from patients, questions a phlebotomist would not be qualified to answer. DHA believes it is inappropriate for the phlebotomist to provide the statement of limitations.

Our concern is not limited to which health care professional would provide the written notification contemplated by SB 15. DHA is also concerned with the larger issue of legislating specific language regarding laboratory testing. Best practices in testing and treatment of diseases change with new research and innovations. New discoveries and

data driven practice changes happen faster than any legislative process. Thus, language like that which is required in SB 15 would in all likelihood become outdated and not reflective of best practices and current knowledge.

On a different level, we take very seriously the nature of the patient/practitioner relationship and the need to support that relationship to best address the individual needs of individual patients according to the patient's unique characteristics, the history of the patient as known by their practitioner, and the relationship the practitioner has formed with their patient. Mandating the specific wording a health professional must give to a patient in law violates this key tenet of the patient/practitioner relationship and is inconsistent with how the medicine that benefits so many individuals is practiced.

It is also my understanding in Virginia, one of the two states that has enacted this legislation, the law was allowed to expire due to concerns the concerns we discuss in this letter.

We appreciate the opportunity to review and comment on the legislation but cannot support SB 15.

Sincerely,

A handwritten signature in black ink that reads "Wayne A. Smith". The signature is written in a cursive style with a large, stylized 'W' and 'S'.

Wayne A. Smith
President & CEO