



LAW1199.COM NEWSLETTER™

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safetyofficerattorneys.com ★ www.law1199.com ★ SCOTT O'MARA, RICK PINCKARD & BRAD FIELD

COVID/LONG HAULERS/LONG COVID

By Scott A. O'Mara

In two of my previous Law1199.com Newsletters – 2020 Issues 8 and 14 – I discussed the long-term impact of COVID and the fact that conditions associated with the virus may continue even after a change in symptomatology to the point where individuals who have been infected believe they are once again functioning at a higher level.

On March 23, 2021, New York State Senator Brad Hoylman proposed legislation (effective only in the state of New York [S 5927 A]) which would create a COVID-19 Health Registry. The registry drafted is modeled after the World Trade Center Health Registry and would be for the purpose of obtaining information regarding the impact of COVID-19 on people who have been exposed and their current state of health.

The information currently available regarding COVID-19 infections – particularly with regard to LONG COVID and the people referred to as “long haulers” – is very narrow and does not provide a complete picture as to the cure rate and the impact of the disease in view of the latent manifestation of impairments or limitations.

In my two newsletters cited – again, 2020 Issues 8 and 14 – I addressed the latency of the virus’s long-term impact, which includes problems related to the heart, memory, pulmonary system and other body parts. The registry being proposed by New York State Senator Brad Hoylman, as mentioned, is for the purpose of obtaining information – information which is more clinically

directed to help LONG COVID patients so that a medical plan is in place to deal with their symptomatology and restrictions, and to ensure there is no minimization of the virus's impact on workers and/or their families.

I have attached the legislation regarding the registry proposed by New York State Senator Brad Hoylman. It is important to note that participation by COVID patients in the proposed registry designed to monitor the long-term health impact of COVID-19 would be on a voluntary basis. The information garnered will be for both the physical and mental impacts of COVID-19, and it will provide some empirical data for the medical community to identify and provide appropriate care to cure or relieve the impact of COVID on affected individuals.

The thought is that consideration should be given to the creation of a voluntary COVID registry. The language used in the proposed legislation may meet the threshold of acceptability for California legislation as well. This legislation will help to protect ALL California workers and demonstrate the continued movement to protect all workers in California.

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NOTICE: *Making a false or fraudulent Workers' Compensation claim is a felony subject to up to 5 years in prison or a fine of up to \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment and fine.*

STATE OF NEW YORK

5927--A

2021-2022 Regular Sessions

IN SENATE

March 23, 2021

Introduced by Sens. HOYLMAN, RIVERA, BIAGGI, BRISPORT, BROUK, COMRIE, COONEY, HARCKHAM, HINCHEY, JACKSON, KAVANAGH, LIU, MANNION, MAY, MAYER, MYRIE, PERSAUD, RAMOS, REICHLIN-MELNICK, SALAZAR, SANDERS, SERRANO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to enacting the New York State COVID-19 Health Registry Act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 21 of the public health law is amended by adding a
2 new title 9 to read as follows:

3 TITLE 9

4 New York State COVID-19 Health Registry

5 Section 2185. Legislative findings and purpose.

6 2185-a. Definitions.

7 2185-b. New York state COVID-19 health registry.

8 2185-c. Enrollment and eligibility.

9 2185-d. Confidentiality.

10 2185-e. Annual report.

11 § 2185. Legislative findings and purpose. 1. The legislature hereby
12 finds, determines and declares that COVID-19 has had a devastating
13 impact on the state of New York. Since the first recorded death of a
14 New York resident from the virus on March fourteenth, two thousand twen-
15 ty, tens of thousands of New Yorkers have lost their lives to COVID-19,
16 and over one and a half million confirmed cases have been diagnosed as
17 of the effective date of this article. The sudden emergence and rapid
18 spread of COVID-19 around the world has led to an evolving understanding
19 of the transmissibility, virulence, and symptoms of the virus by scien-
20 tists and public health experts that continues to this day. Questions

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD09897-02-1

1 remain as to why approximately eighty percent of those infected with
2 COVID-19 experience mild to no symptoms, while the remainder experience
3 a more severe response that can result in hospitalization or death, and
4 weeks-long recoveries for those who survive. There is also growing
5 awareness and concern about post-COVID conditions, sometimes referred to
6 as "long COVID," in which a small but significant percentage of patients
7 experience persistent symptoms weeks or months after recovering from
8 their initial infection.

9 It is vital that the state of New York commit to monitoring and track-
10 ing the long-term health impacts of COVID-19, even as effective vaccines
11 become more widely available. The establishment of a voluntary registry
12 of New Yorkers who survived COVID-19 infection holds the promise of
13 providing public health experts with a database of information that may
14 lead to a better understanding of trends in long-term illness and recov-
15 ery, and the needs of survivors, particularly those suffering from
16 post-COVID conditions.

17 § 2185-a. Definitions. As used in this title:

18 1. "COVID-19" means infection with or the disease caused by the severe
19 acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

20 2. "Registry" means the COVID-19 health registry established by this
21 title.

22 § 2185-b. New York state COVID-19 health registry. The department is
23 hereby authorized and directed to establish a voluntary statewide
24 COVID-19 health registry for the purpose of monitoring the long-term
25 health impacts of the virus. The registry shall serve, and shall be
26 administered consistent with, the following public health purposes:

27 1. Monitoring the long-term physical and mental health impacts of
28 COVID-19 infections, including, but not limited to, post-COVID condi-
29 tions;

30 2. Periodically surveying registry enrollees to gather relevant infor-
31 mation for the purposes of monitoring the long-term physical and mental
32 health impacts of COVID-19 infections;

33 3. Sharing, subject to the confidentiality requirements of section
34 twenty-one hundred eighty-five-d of this title and any other applicable
35 state or federal laws or regulations, de-identified survey data or other
36 registry information with researchers for the purpose of medical, public
37 health or other scientific research. As a condition of sharing such data
38 or information, any subsequently published studies, reports or findings
39 that used such data or information shall be made available at no charge
40 to the public on the department's website; and

41 4. Providing enrollees with information about COVID-19-related health
42 studies, programs, benefits, and other relevant information.

43 § 2185-c. Enrollment and eligibility. 1. The initial enrollment period
44 for the registry shall begin ninety days after the effective date of
45 this section. The commissioner may set a date upon which the initial
46 enrollment period ends, but such date shall not be prior to one year
47 after the initial enrollment period begins.

48 2. The commissioner may, at his or her discretion, order additional
49 enrollment periods subsequent to the initial enrollment period, of such
50 lengths as he or she determines.

51 3. The commissioner shall promulgate regulations to establish eligi-
52 bility for enrollment in the registry. Eligible participants shall, at a
53 minimum, include New York residents who receive a diagnosis of post-CO-
54 VID conditions made by an individual licensed to provide health care
55 services within the state of New York.

1 § 2185-d. Confidentiality. 1. All registry information shall be kept
2 confidential by the department and may not be disclosed except for a
3 permitted purpose.

4 2. The commissioner shall promulgate regulations establishing permit-
5 ted purposes and uses of registry information.

6 (a) All such regulations shall maintain the anonymity of individuals
7 enrolled in the registry and govern access to information maintained by
8 the registry.

9 (b) It shall not be a permitted purpose for the department or any
10 authorized user of the registry to provide information contained in the
11 registry with immigration authorities.

12 3. The registry shall comply with all state and federal laws and regu-
13 lations related to maintaining the privacy and confidentiality of
14 records contained with the registry.

15 § 2185-e. Annual report. The commissioner shall submit on or before
16 December first, an annual report to the governor and the legislature
17 concerning the operation of the registry. The first such report required
18 under this section shall be published on December first of the calendar
19 year following the commencement of the initial enrollment period for the
20 registry, and shall include strategies for implementation of the regis-
21 try and for promoting the registry to the general public, with a partic-
22 ular focus on eligible enrollees belonging to racial or ethnic groups
23 that have been disproportionately impacted by the COVID-19 pandemic.
24 Subsequent annual reports shall include the findings of any surveys
25 conducted by the department of registry enrollees, the findings of any
26 scientific studies, papers, or reports produced using data or informa-
27 tion collected in the registry, and recommendations for state action to
28 address health issues or trends identified by the department.

29 § 2. This act shall take effect on the ninetieth day after it shall
30 have become a law.