S T A T E O F N E W Y O R K

2140

2011-2012 Regular Sessions

I N A S S E M B L Y

January 14, 2011

Introduced by M. of A. BENEDETTO -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to establishing the New York state head injury awareness and prevention act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The education law is amended by adding a new article 62 to read as follows:

ARTICLE 62

NEW YORK STATE HEAD INJURY AWARENESS AND PREVENTION ACT

SECTION 3050. SHORT TITLE.
3051. LEGISLATIVE INTENT.
3052. CONCUSSION MANAGEMENT ADVISORY BOARD.
3053. NEW YORK STATE HEAD INJURY AWARENESS PROGRAM.
3054. DEFINITIONS.
3055. INTERSCHOLASTIC SPORTS HEAD INJURY AWARENESS PROGRAM.
3056. ALL ACTIVITY HEAD INJURY AWARENESS AND OUTREACH PROGRAM.
3057. TRAINING COURSE DEVELOPMENT AND IMPLEMENTATION.

S 3050. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "NEW YORK STATE HEAD INJURY AWARENESS AND PREVENTION ACT".

S 3051. LEGISLATIVE INTENT. 1. IT IS AND HAS BEEN THE LONG-STANDING POLICY OF THE STATE OF NEW YORK THAT THE WELL-BEING OF OUR CHILDREN IS PARAMOUNT. THE STATE ALSO HAS A PROUD HISTORY OF PROMOTING THE DEVELOPMENT OF HEALTHY MINDS AND BODIES IN OUR CHILDREN BY INVOLVEMENT IN SPORTS, WHICH STATE POLICY HAS SUPPORTED AT ALL LEVELS OF OUR EDUCATION AND HIGHER EDUCATION SYSTEMS. REPORTED MILD TRAUMATIC BRAIN INJURIES (TBIS), COMMONLY KNOWN AS CONCUSSIONS, OCCUR AT ALL LEVELS OF SPORTS PLAY. THE NEW YORK STATE DEPARTMENT OF HEALTH REPORTS THAT BETWEEN THE YEARS TWO THOUSAND SIX AND TWO THOUSAND EIGHT MORE THAN TWENTY-THREE THOUSAND SCHOOL AGED YOUTH VISITED THE EMERGENCY DEPARTMENT OR WERE

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

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HOSPITALIZED FOR CONCUSSIONS ANNUALLY WITH THE COST OF THEIR MEDICAL CARE APPROACHING EIGHTY MILLION DOLLARS. THE THREE YEAR TOTAL COST OF BOTH HOSPITALIZATION AND EMERGENCY DEPARTMENT VISITS IN THE SAME PERIOD FOR ALL AGE GROUPS IN THE STATE FOR TREATMENT OF TBIS WAS OVER A BILLION DOLLARS.

2. THE LEGISLATURE FURTHER FINDS THAT EARLY INTERVENTION, RESPONSE, AND THE PROPER EVALUATION AND MANAGEMENT OF CONCUSSIONS WILL LESSEN THE EFFECTS OF THIS POTENTIALLY LIFE THREATENING INJURY. IT IS ESSENTIAL TO EDUCATE PARENTS AND GUARDIANS, STUDENTS, COACHES AND SCHOOL PERSONNEL ON THE EARLY AND ACCURATE RECOGNITION OF THE SIGNS AND SYMPTOMS OF CONCUSSIONS AND THE POTENTIAL HARMFUL EFFECTS OF HEAD INJURIES NOT JUST ON A CHILD'S PHYSICAL WELL-BEING BUT ON HIS OR HER ACADEMIC PERFORMANCE AS WELL.

3. THE LEGISLATURE HEREBY DECLARES THAT AN ADVISORY BOARD COMPOSED OF EXPERTS IN THE AREA OF CONCUSSION DIAGNOSIS, TREATMENT AND MANAGEMENT, WHO WILL SERVE AS ADVISORS TO THE DEPARTMENT AND SCHOOL DISTRICTS, IS CRITICAL TO THE SUCCESS OF THIS LEGISLATION AND TO IMPLEMENTATION OF A STANDARDIZED STATEWIDE PROGRAM, CONSISTENT ACROSS ALL SCHOOL DISTRICTS AND REGIONS OF THE STATE.

4. THE ADVISORY BOARD MEMBERS, ARMED WITH CURRENT KNOWLEDGE OF BEST PRACTICES AND INFORMATION RESOURCES THAT MAY BE DEPLOYED, WILL ADVISE THE DEPARTMENT ON THE CONTENTS FOR A WEB-BASED INFORMATION KIT, FORMS, AND EDUCATIONAL MATERIALS, THAT SHALL BE MADE AVAILABLE TO SCHOOLS FREE OF CHARGE THROUGHOUT THE STATE SUCH THAT THEY MAY EFFECTIVELY IMPLEMENT PROGRAMS TO PROTECT PARTICIPANTS IN INTERSCHOLASTIC SPORTS, AND OTHER ACTIVITIES WHERE HEAD INJURIES MAY OCCUR.

S 3052. CONCUSSION MANAGEMENT ADVISORY BOARD. 1. THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT A STATE CONCUSSION MANAGEMENT ADVISORY BOARD TO ADVISE THE DEPARTMENT IN IMPLEMENTATION OF BEST PRACTICES AS RELATED TO CONCUSSION MANAGEMENT.

2. MEMBERS OF THE CONCUSSION MANAGEMENT PROFESSIONAL ADVISORY BOARD, HEREAFTER REFERRED TO AS THE "BOARD", SHALL INCLUDE DESIGNATED REPRESENTATIVES FROM THE FOLLOWING ORGANIZATIONS:

A. NEW YORK STATE PUBLIC HIGH SCHOOL ATHLETIC ASSOCIATION (NYSPHSAA);

B. STONY BROOK UNIVERSITY - ATHLETIC TRAINING PROGRAM;

C. MOUNT SINAI SCHOOL OF MEDICINE - RESEARCH AND TRAINING CENTER ON COMMUNITY INTEGRATION OF INDIVIDUALS WITH TRAUMATIC BRAIN INJURY;

D. UNIVERSITY OF BUFFALO SCHOOL OF PUBLIC HEALTH - ATHLETIC TRAINING PROGRAM;

E. ATHLETIC TRAINER FOR A PROFESSIONAL FOOTBALL TEAM FROM WESTERN NEW YORK;

F. NATIONAL ATHLETIC TRAINERS' ASSOCIATION'S CONCUSSION COUNCIL;

G. NEW YORK STATE ATHLETIC TRAINERS' ASSOCIATION;

H. NEW YORK STATE SCHOOL NURSES' ASSOCIATION;

I. SCHOOL DISTRICT REPRESENTATIVE;

J. NEW YORK STATE DEPARTMENT OF EDUCATION;

K. NEW YORK STATE DEPARTMENT OF HEALTH; AND

L. MEDICAL SOCIETY.

3. THE BOARD SHALL MEET AT LEAST THREE TIMES A YEAR AND SHALL FACILITATE AS PRACTICABLE AS POSSIBLE WITHOUT ADDITIONAL COSTS TO SCHOOL DISTRICTS THE IMPLEMENTATION OF THE PROVISIONS OF THIS ARTICLE.

THE COMMISSIONERS MAY DETAIL FROM TIME TO TIME, FOR THE ASSISTANCE OF THE ADVISORY BOARD, SUCH EMPLOYEES OF THE DEPARTMENTS AS THEY DEEM NECESSARY.

THE ADVISORY BOARD SHALL REVIEW EXISTING AND PROPOSED STATE HEAD INJURY AWARENESS AND PREVENTION LAWS AND REGULATIONS. THE ADVISORY BOARD

SHALL REVIEW EXISTING AND PROPOSED STATE HEAD INJURY AWARENESS AND PREVENTION LAWS AND REGULATIONS. THE ADVISORY BOARD SHALL MAKE RECOMMENDATIONS TO THE COMMISSIONER OF HEALTH AND THE COMMISSIONER OF EDUCATION AS TO ANY REGULATORY CHANGES THAT MAY BE NECESSARY FOR THE IMPLEMENTATION OF THIS ARTICLE.

THE ADVISORY BOARD FURTHER, SHALL REVIEW EXISTING AND PROPOSED STATE HEAD INJURY AWARENESS AND PREVENTION LAWS AND SHALL MAKE RECOMMENDATIONS TO THE GOVERNOR, THE LEADERS OF THE SENATE AND ASSEMBLY, AS WELL AS THE ASSEMBLY AND SENATE CHAIRS OF THE STANDING COMMITTEES ON HEALTH AND EDUCATION, ANY NECESSARY CHANGES OR ADDITIONS TO LAWS AND PROGRAMS TO IMPROVE HEAD INJURY AWARENESS AND PREVENTION.

THE ADVISORY BOARD SHALL REPORT THE EFFECTIVENESS OF THE DEPARTMENTS' ACTIVITIES.

4. ADDITIONAL RESPONSIBILITIES OF THE ADVISORY BOARD SHALL INCLUDE, BUT NOT BE LIMITED TO, ADVICE AND COUNSEL TO THE DEPARTMENT AS WELL AS ASSISTANCE TO THE DEPARTMENT IN THE DEVELOPMENT AND RECOMMENDATIONS FOR BEST PRACTICES REGARDING THE FOLLOWING:

A. CONTENTS OF TRAINING AND INFORMATIONAL MATERIALS;

B. RELEASE FORMS;

C. CONTENTS OF WEBSITES;

D. REQUIREMENTS FOR GAME DAY COVERAGE FOR INTERSCHOLASTIC PLAY;

E. REQUIRED TRAINING FOR COACHES AND SCHOOL OFFICIALS;

F. PROTOCOLS FOR RETURN TO PRACTICE OR PLAY OR RETURN TO SCHOOL AND/OR SCHOOL ACTIVITIES;

G. POST INJURY INFORMATION SHEETS AND GUIDELINES; AND

H. OVERSEE ANNUAL COACH TRAINING REQUIREMENTS AND SUGGEST ADDITIONAL COACH TRAINING REQUIREMENTS AS NEEDED.

5. A. MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES. THEY SHALL BE ENTITLED TO REASONABLE AND NECESSARY EXPENSES ACCRUED DURING THE PERFORMANCE OF THEIR DUTIES.

B. MEMBERS OF THE ADVISORY BOARD SHALL NOT BE HELD INDIVIDUALLY OR AS A GROUP LEGALLY RESPONSIBLE FOR ANY ACTIONS TAKEN BY THEM OR THE BOARD ABSENT A FINDING OF GROSS NEGLIGENCE.

6. PRELIMINARY RECOMMENDATIONS OF THE ADVISORY BOARD FOR IMPLEMENTATION OF POLICIES SHALL BE SUBMITTED TO THE GOVERNOR, STATE EDUCATION AND HEALTH DEPARTMENTS AND TO THE HEALTH AND EDUCATION COMMITTEES OF BOTH HOUSES OF THE LEGISLATURE BY A DATE NO LATER THAN ONE HUNDRED EIGHTY DAYS FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE.

S 3053. NEW YORK STATE HEAD INJURY AWARENESS PROGRAM. 1. THE DEPARTMENT, IN CONSULTATION WITH OTHER STATE AGENCIES, SHALL BE RESPONSIBLE FOR IMPLEMENTING REGULATORY RECOMMENDATIONS OF THE ADVISORY BOARD AS WELL AS THE STATUTORY PROVISIONS OF THIS ARTICLE WITH RESPECT TO GUIDELINES AND STANDARDS FOR:

A. STUDENT ATHLETES PARTICIPATING IN INTERSCHOLASTIC COMPETITIONS; AND

B. ALL SCHOOL DISTRICTS, BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AND NONPUBLIC SCHOOLS RELATING TO THE TRAINING OF SCHOOL PERSONNEL AND PROVIDING INFORMATION TO PARENTS REGARDING THE TREATMENT AND MONITORING OF STUDENTS WHO SUFFER OR ARE SUSPECTED OF SUFFERING CONCUSSIONS AND HEAD INJURIES.

2. THE DEPARTMENT IN CONSULTATION WITH THE ADVISORY BOARD SHALL PROMULGATE RULES AND REGULATIONS, INCLUDING PROVISION OF UNIFORM GUIDELINES, PROTOCOLS AND FORMS THAT SHALL BE USED BY ALL SCHOOL DISTRICTS THROUGHOUT THE STATE.

3. THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN A DEDICATED CONCUSSION MANAGEMENT WEBSITE THAT SHALL INCLUDE LINKS TO RELEVANT MATERIALS, EDUCATIONAL PROGRAMS AND READILY DOWNLOADABLE FORMS OF ALL MATERIALS

REQUIRED TO COMPLY WITH THE RULES, REGULATIONS AND GUIDELINES SET FORTH HEREIN.

4. THE DEPARTMENT, ON AT LEAST AN ANNUAL BASIS PRIOR TO THE START OF THE NEW SCHOOL YEAR, SHALL UPDATE MATERIALS AS NEEDED TO REFLECT BEST PRACTICES AND MOST CURRENT INFORMATION.

5. FORMS AND INFORMATIONAL MATERIALS SHALL INCLUDE, BUT NOT BE LIMITED TO:

A. PARENTAL AND STUDENT HEAD INJURY INFORMATION PACKETS;

B. RELEASE FORMS FOR PARENTS AND STUDENTS;

C. ANNUAL TRAINING CERTIFICATION FORMS FOR ALL SCHOOL DISTRICT STAFF AND VOLUNTEER CERTIFIED HEALTH CARE PROVIDERS;

D. ACCIDENT REPORTING AND OBSERVATION FORMS WHICH INCLUDE A CONCUSSION SIGNS AND SYMPTOMS CHECKLIST;

E. TEAM MEDICAL STAFFING RECORDKEEPING FORMS;

F. RETURN TO ACTIVITY PROTOCOL FORMS TO BE USED BY HEALTH CARE PROVIDERS;

G. INFORMATION REGARDING HEALTH CARE PROVIDERS TRAINED IN THE RECOGNITION OF HEAD INJURIES AND CARE;

H. POST INJURY FACT SHEETS FOR PARENTS/GUARDIANS AND STUDENTS; AND

I. SCHOOL "CONCUSSION MANAGEMENT POINT PERSON" INFORMATION AND TRAINING KITS.

6. EACH SCHOOL DISTRICT SHALL DESIGNATE A CONCUSSION MANAGEMENT POINT PERSON, WHO IS A FULL-TIME EMPLOYEE OF THE SCHOOL DISTRICT, WHO SHALL HAVE QUALIFICATIONS ESTABLISHED BY THE DEPARTMENT UPON THE ADVICE AND COUNSEL OF THE ADVISORY BOARD AND WHO WILL MANAGE INFORMATION AND RECORDS AS REQUIRED RELATING TO THE NEW YORK STATE HEAD INJURY AWARENESS PROGRAM FOR EACH SCHOOL WITHIN THE SCHOOL DISTRICT. INFORMATION AND TRAINING KITS SHALL BE PROVIDED TO SUPPORT THIS POSITION THROUGH THE DEPARTMENT'S CONCUSSION MANAGEMENT WEBSITE.

S 3054. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "LICENSED HEALTH CARE PROVIDER" SHALL MEAN A PHYSICIAN LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE OF THIS CHAPTER, A PHYSICIAN ASSISTANT LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE-B OF THIS CHAPTER, A CERTIFIED NURSE PRACTITIONER CERTIFIED PURSUANT TO SECTION SIXTY-NINE HUNDRED TEN OF THIS CHAPTER. IN ALL CASES THE HEALTH CARE PROVIDER SHOULD PRACTICE IN A SPECIALTY RELEVANT TO THE CARE AND TREATMENT OF HEAD INJURIES AS DETERMINED BY THE BOARD.

2. "SCHOOL ATHLETIC ACTIVITY" SHALL MEAN A SANCTIONED COMPETITION.

3. "SCHOOL PERSONNEL" SHALL MEAN TEACHER, COACH, CLUB, INTRAMURAL SPORT OR ACTIVITY SUPERVISOR, SCHOOL ADMINISTRATOR, SCHOOL GUIDANCE COUNSELOR, SCHOOL PSYCHOLOGIST, SCHOOL DRUG COUNSELOR, SCHOOL NURSE, CLASSROOM AIDES.

4. "QUALIFIED CONCUSSION MANAGEMENT TRAINING" SHALL MEAN TRAINING EQUIVALENT TO THAT WHICH IS OFFERED THROUGH THE DEPARTMENT AS PART OF ITS FIRST AID TRAINING COURSE.

5. "RETURN TO ACTIVITY PROTOCOL" SHALL MEAN A STEP BY STEP PROGRESSION FROM INJURY TO FULL PARTICIPATION, BASED ON MONITORING THE RESOLUTION OF CONCUSSION SIGNS AND SYMPTOMS.

S 3055. INTERSCHOLASTIC SPORTS HEAD INJURY AWARENESS PROGRAM. 1. COACH TRAINING. REQUIRED CERTIFICATION FOR ALL COACHES MUST INCLUDE A FIRST AID TRAINING COURSE AND COMPLETION OF A QUALIFIED CONCUSSION MANAGEMENT TRAINING SECTION OR PROGRAM. ADDITIONAL ANNUAL CONCUSSION MANAGEMENT TRAINING REQUIREMENTS FOR COACHES OF SCHOOL SANCTIONED COMPETITIVE SPORTS SHALL BE DETERMINED BY THE DEPARTMENT UPON THE ADVICE AND COUNSEL OF THE ADVISORY BOARD.

2. PRIOR TO PARTICIPATION IN EACH SCHOOL SANCTIONED COMPETITIVE SPORT THE ATHLETE AND HIS OR HER PARENT OR GUARDIAN MUST SIGN AND RETURN TO THE SCHOOL DISTRICT AN ACKNOWLEDGEMENT AND A CONCUSSION AND HEAD INJURY FACT AND INFORMATION FORM.

3. A. ANY ATHLETE DETERMINED TO SHOW SIGNS, SYMPTOMS OR BEHAVIORS OF A CONCUSSION OR HEAD INJURY DURING PRACTICE OR PLAY SHALL IMMEDIATELY BE REMOVED FROM PARTICIPATION.

B. THE ACTION REMOVING THE ATHLETE FROM PLAY SHALL BE DOCUMENTED USING A CONCUSSION SIGNS AND SYMPTOMS CHECKLIST BY THE COACH, ATHLETIC TRAINER OR LICENSED HEALTH CARE PROVIDER.

C. THE ATHLETE SHALL NOT RETURN TO PLAY OR PRACTICE UNTIL HE OR SHE:

(I) HAS BEEN EVALUATED BY A LICENSED HEALTH CARE PROVIDER;

(II) HAS RECEIVED WRITTEN CLEARANCE TO RETURN TO PARTICIPATION FROM THAT LICENSED HEALTH CARE PROVIDER; AND

(III) HAS SUCCESSFULLY COMPLETED A RETURN TO ACTIVITY PROTOCOL.

S 3056. ALL ACTIVITY HEAD INJURY AWARENESS AND OUTREACH PROGRAM. 1. SCHOOL PERSONNEL TRAINING REQUIREMENTS SHALL BE DETERMINED BY THE BOARD.

2. AT THE BEGINNING OF EACH SCHOOL YEAR PARENTS AND/OR GUARDIANS OF A STUDENT IN GRADES KINDERGARTEN THROUGH SIX MUST SIGN AND RETURN TO THE SCHOOL DISTRICT A CONCUSSION AND HEAD INJURY FACT AND INFORMATION FORM. FOR GRADES SEVEN THROUGH TWELVE BOTH THE STUDENT AND HIS OR HER PARENT OR GUARDIAN MUST SIGN AND RETURN TO THE SCHOOL DISTRICT A CONCUSSION AND HEAD INJURY FACT AND INFORMATION FORM.

3. WHEN A HEAD INJURY IS SUSPECTED OR OBSERVED:

(A) ANY STUDENT DETERMINED TO SHOW SIGNS OR SYMPTOMS OR BEHAVIORS OF A CONCUSSION OR HEAD INJURY DURING AN ACTIVITY SHALL BE IMMEDIATELY REMOVED FROM PARTICIPATION.

(B) THE ACTION REMOVING THE STUDENT FROM AN ACTIVITY SHALL BE DOCUMENTED USING A CONCUSSION SIGNS AND SYMPTOMS CHECKLIST BY THE SCHOOL PERSONNEL OR LICENSED HEALTH CARE PROVIDER.

(C) THE STUDENT SHALL NOT RETURN TO SCHOOL OR ACTIVITIES UNTIL (I) THEY HAVE BEEN EVALUATED BY A LICENSED HEALTH CARE PROVIDER; (II) THEY HAVE RECEIVED WRITTEN CLEARANCE TO RETURN TO PARTICIPATION FROM THAT LICENSED HEALTH CARE PROVIDER; AND (III) THEY HAVE SUCCESSFULLY COMPLETED A RETURN TO ACTIVITY PROTOCOL AS DETERMINED BY A LICENSED HEALTH CARE PROVIDER.

S 3057. TRAINING COURSE DEVELOPMENT AND IMPLEMENTATION. 1. TRAINING MATERIALS SHALL BE MADE AVAILABLE TO SCHOOLS AND SCHOOL DISTRICTS FREE OF CHARGE ON THE CONCUSSION MANAGEMENT WEBSITE. WHERE POSSIBLE EXISTING TRAINING PROGRAM MATERIALS WILL BE EVALUATED AND INCORPORATED INTO THE APPROVED TRAINING PROGRAMS. TRAINING MATERIALS SHALL INCLUDE A POST-TEST AND CERTIFICATE TO VERIFY AN EDUCATION, UNDERSTAND, COMPLETION CYCLE.

2. FUNDING FOR DEVELOPMENT AND DELIVERY OF TRAINING PROGRAMS SHALL BE SOUGHT FROM FOUNDATIONS, PRIVATE DONORS AND DONATIONS AND IN-KIND CONTRIBUTIONS FROM COLLEGES AND UNIVERSITIES AND OTHER NOT-FOR-PROFIT ENTITIES IN THE STATE WITH RELEVANT SPECIALTIES.

3. THE STATE UNIVERSITY OF NEW YORK SHALL BE RESPONSIBLE FOR IMPLEMENTING RECOMMENDATIONS OF THE BOARD WITH RESPECT TO ADVANCED TRAINING PROGRAMS. COURSES FOR ADVANCED CERTIFICATION OF COACHES AND CERTIFICATION OF HEALTH CARE AND MEDICAL PROFESSIONALS SHALL BE MADE AVAILABLE TO STATE RESIDENTS THROUGH THE STATE UNIVERSITY OF NEW YORK LEARNING NETWORK FOR A NOMINAL CHARGE TO COVER COSTS OF PROGRAM DELIVERY AND SUPPORT.

S 2. This act shall take effect immediately.