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I N   A S S E M B L Y

May 22, 2014

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Introduced by M. of A. JAFFEE -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing the office of brain injury

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

1     Section 1. Article 27-CC of the public health law, as added by chapter  
2 196 of the laws of 1994, is amended to read as follows:

3                                 ARTICLE 27-CC

4                                 [NEW YORK STATE TRAUMATIC] OFFICE OF  
5                                         BRAIN INJURY [PROGRAM]

6 Section 2740. [Traumatic] OFFICE OF brain injury [program].

7         2741. Definitions.

8         2742. Functions, powers and duties of the [department] OFFICE.

9         2743. Funding of traumatic brain injury services.

10        2744. [The traumatic] TRAUMATIC brain injury services coordinat-  
11                                 ing council.

12     S 2740. [Traumatic] OFFICE OF brain injury [program]. [The] THERE IS  
13 HEREBY ESTABLISHED, IN THE department AN OFFICE OF BRAIN INJURY WHICH  
14 shall have the central responsibility for administering the provisions  
15 of this article and otherwise coordinating the state's policies with  
16 respect to traumatic brain injury, in consultation with the office [of  
17 mental retardation and] FOR PEOPLE WITH developmental disabilities, the  
18 office of mental health, the department of education, the office of  
19 alcoholism and substance abuse services, the [department of social  
20 services, the office of the advocate for the disabled] OFFICE OF TEMPO-  
21 RARY AND DISABILITY ASSISTANCE, THE OFFICE OF CHILDREN AND FAMILY  
22 SERVICES and the [commission on quality of care for the mentally disa-  
23 bled] JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS.

24     S 2741. Definitions. As used in this article[, the term "traumatic"]:

25        1. "OFFICE" MEANS THE OFFICE OF BRAIN INJURY.

26        2. "TRAUMATIC brain injury" means an acquired injury to the brain  
27 caused by an external physical force resulting in total or partial disa-  
28 bility or impairment and shall include but not be limited to damage to  
29 the central nervous system from anoxic/hypoxic episodes or damage to the  
30 central nervous system from allergic conditions, toxic substances and  
31 other acute medical/clinical incidents. Such term shall include, but not

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

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1 be limited to, open and closed brain injuries that may result in mild,  
2 moderate or severe impairments in one or more areas, including cogni-  
3 tion, language, memory, attention, reasoning, abstract thinking, judg-  
4 ment, problem-solving, sensory perceptual and motor abilities, psycho-  
5 social behavior, physical functions, information processing and speech.  
6 Such term shall not include progressive dementias and other mentally  
7 impairing conditions, depression and psychiatric disorders in which  
8 there is no known or obvious central nervous system damage, neurologi-  
9 cal, metabolic and other medical conditions of chronic, congenital or  
10 degenerative nature or brain injuries induced by birth trauma.

11 S 2742. Functions, powers and duties of the [department] OFFICE. The  
12 [department] OFFICE shall have the following powers and duties:

13 1. to develop a comprehensive statewide program that includes medical,  
14 housing, vocational, educational, transportation, social, personal care,  
15 family support, day program services, community re-entry services,  
16 outpatient rehabilitation services and other essential services;

17 2. to develop outreach services to provide coordinated information  
18 regarding assistance available to persons with traumatic brain injury  
19 and their families;

20 3. to develop and maintain a clearinghouse of information on traumatic  
21 brain injuries, including but not limited to, resources that support the  
22 development and implementation of community-based services and rehabili-  
23 tation;

24 4. to track the amount of and cost of services provided to persons  
25 with traumatic brain injury placed in out-of-state treatment settings;

26 5. to develop innovative educational programs on the causes and  
27 prevention of traumatic brain injuries, with an emphasis on outreach  
28 campaigns. Such programs and information shall include, but not be  
29 limited to, treatment and services for persons with traumatic brain  
30 injury and their families;

31 6. to accept and expend any grants, awards of other funds or appropri-  
32 ations as may be available for these purposes, subject to limitations as  
33 to the approval of expenditures and audits as prescribed for state funds  
34 by the state finance law;

35 7. to gather and disseminate statistics and conduct investigations and  
36 research relating to the causes and prevention of traumatic brain inju-  
37 ries and the treatment of such injuries, including the methods and  
38 procedures for rehabilitation, including from time to time, such publi-  
39 cations for distribution to appropriate scientific organizations;

40 8. to contract with independent consultants to conduct assessments of  
41 the needs of persons with traumatic brain injury;

42 9. to develop training programs for persons providing discharge plans  
43 and case management; and

44 10. to develop standards for licensing or certifying residential and  
45 non-residential services for persons with traumatic brain injury to the  
46 extent that such services are not otherwise subject to the jurisdiction  
47 of another state agency.

48 S 2743. Funding of traumatic brain injury services. 1. The [depart-  
49 ment] OFFICE shall develop AND SUBMIT TO THE COMMISSIONER AND THE GOVER-  
50 NOR, a biennial plan and priorities for the funding of services and  
51 programs as authorized by this article, with emphasis on the development  
52 and expansion of community-based services and programs.

53 2. Such plan shall provide for the development of services, dispersed  
54 geographically to the extent feasible, which shall minimize the need for  
55 out-of-state placements and promote the return of individuals currently

1 placed out-of-state to enhance family involvement and promote community  
2 reintegration.

3 3. The [department] OFFICE shall, to the extent feasible, utilize  
4 existing organizations with demonstrated interest and expertise in serv-  
5 ing persons with traumatic brain injuries and shall, within funds avail-  
6 able, enter into contracts with such organizations.

7 S 2744. [The traumatic] TRAUMATIC brain injury services coordinating  
8 council. 1. The traumatic brain injury services coordinating council is  
9 hereby established and shall consist of the following persons or their  
10 designees: the commissioner, the commissioner of [mental retardation  
11 and] developmental disabilities, the [office] COMMISSIONER of mental  
12 health, the commissioner of education, the commissioner of alcoholism  
13 and substance abuse services, the commissioner of [social services, the  
14 state advocate for the disabled] TEMPORARY AND DISABILITY ASSISTANCE,  
15 THE COMMISSIONER OF CHILDREN AND FAMILY SERVICES and the [commission on  
16 quality of care for the mentally disabled] EXECUTIVE DIRECTOR OF THE  
17 JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS. In  
18 addition, the council shall consist of the following persons: five  
19 persons appointed by the governor, three of whom shall be persons with  
20 traumatic brain injury and two of whom shall be representative of the  
21 public and have a demonstrated expertise and interest in traumatic brain  
22 injury; two persons appointed by the temporary president of the senate,  
23 one of whom shall be a person with traumatic brain injury and one of  
24 whom shall be representative of the public and have a demonstrated  
25 expertise and interest in traumatic brain injury; two persons appointed  
26 by the speaker of the assembly, one of whom shall be a person with trau-  
27 matic brain injury and one of whom shall be representative of the public  
28 and have a demonstrated expertise and interest in traumatic brain inju-  
29 ry, one person appointed by the minority leader of the senate who shall  
30 be a person with traumatic brain injury or be representative of the  
31 public and have a demonstrated expertise and interest in traumatic brain  
32 injury; and one person appointed by the minority leader of the assembly  
33 who shall be a person with traumatic brain injury or be representative  
34 of the public and have a demonstrated expertise and interest in traumat-  
35 ic brain injury. Of the five persons appointed by the governor, three  
36 shall serve for a term of one year, one shall serve for a term of two  
37 years and one shall serve for a term of three years. Of the two persons  
38 appointed by the temporary president of the senate, one shall serve for  
39 a term of two years and one shall serve for a term of three years. Of  
40 the two persons appointed by the speaker of the assembly, one shall  
41 serve for a term of two years and one shall serve for a term of three  
42 years. The person appointed by the minority leader of the senate and the  
43 person appointed by the minority leader of the assembly shall serve for  
44 a term of one year. Subsequent appointments for vacancies shall be for a  
45 term of three years and shall be filled in the same manner as the  
46 original appointment.

47 2. The council shall be charged with recommending to the [department]  
48 GOVERNOR long range objectives, goals and priorities. It shall also  
49 provide advice on the planning, coordination and development of needed  
50 services.

51 3. The members of the council shall receive no compensation for their  
52 services, but shall be allowed their actual and necessary expenses  
53 incurred in the performance of their duties [hereunder] PURSUANT TO THIS  
54 ARTICLE, subject to the approval of the [commissioner] DIRECTOR OF THE  
55 BUDGET.

56 S 2. This act shall take effect immediately.