

5148

2013-2014 Regular Sessions

I N S E N A T E

May 10, 2013

Introduced by Sens. LIBOUS, CARLUCCI -- read twice and ordered printed,
and when printed to be committed 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.

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

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1 2. "TRAUMATIC brain injury" means an acquired injury to the brain
2 caused by an external physical force resulting in total or partial disa-
3 bility or impairment and shall include but not be limited to damage to
4 the central nervous system from anoxic/hypoxic episodes or damage to the
5 central nervous system from allergic conditions, toxic substances and
6 other acute medical/clinical incidents. Such term shall include, but not
7 be limited to, open and closed brain injuries that may result in mild,
8 moderate or severe impairments in one or more areas, including cogni-
9 tion, language, memory, attention, reasoning, abstract thinking, judg-
10 ment, problem-solving, sensory perceptual and motor abilities, psycho-
11 social behavior, physical functions, information processing and speech.
12 Such term shall not include progressive dementias and other mentally
13 impairing conditions, depression and psychiatric disorders in which
14 there is no known or obvious central nervous system damage, neurologi-
15 cal, metabolic and other medical conditions of chronic, congenital or
16 degenerative nature or brain injuries induced by birth trauma.

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

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

23 2. to develop outreach services to provide coordinated information
24 regarding assistance available to persons with traumatic brain injury
25 and their families;

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

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

32 5. to develop innovative educational programs on the causes and
33 prevention of traumatic brain injuries, with an emphasis on outreach
34 campaigns. Such programs and information shall include, but not be
35 limited to, treatment and services for persons with traumatic brain
36 injury and their families;

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

41 7. to gather and disseminate statistics and conduct investigations and
42 research relating to the causes and prevention of traumatic brain inju-
43 ries and the treatment of such injuries, including the methods and
44 procedures for rehabilitation, including from time to time, such publi-
45 cations for distribution to appropriate scientific organizations;

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

48 9. to develop training programs for persons providing discharge plans
49 and case management; and

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

54 S 2743. Funding of traumatic brain injury services. 1. The [depart-
55 ment] OFFICE shall develop AND SUBMIT TO THE COMMISSIONER AND THE GOVER-
56 NOR, a biennial plan and priorities for the funding of services and

1 programs as authorized by this article, with emphasis on the development
2 and expansion of community-based services and programs.

3 2. Such plan shall provide for the development of services, dispersed
4 geographically to the extent feasible, which shall minimize the need for
5 out-of-state placements and promote the return of individuals currently
6 placed out-of-state to enhance family involvement and promote community
7 reintegration.

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

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

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

1 3. The members of the council shall receive no compensation for their
2 services, but shall be allowed their actual and necessary expenses
3 incurred in the performance of their duties [hereunder] PURSUANT TO THIS
4 ARTICLE, subject to the approval of the [commissioner] DIRECTOR OF THE
5 BUDGET.
6 S 2. This act shall take effect immediately.