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

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2015-2016 Regular Sessions

I N S E N A T E

April 27, 2015

Introduced by Sen. LIBOUS -- 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 establishing the office of brain injury

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

Section 1. Article 27-CC of the public health law, as added by chapter 196 of the laws of 1994, section 2741 and subdivisions 3, 5 and 7 of section 2742 as amended and subdivision 4 of section 2744 as added by chapter 312 of the laws of 2014, is amended to read as follows:

ARTICLE 27-CC

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

Section 2740. [Traumatic] OFFICE OF brain injury [program].
2741. Definitions.
2742. Functions, powers and duties of the [department] OFFICE.
2743. Funding of [traumatic] brain injury services.
2744. [The traumatic brain] BRAIN injury services coordinating council.

S 2740. [Traumatic] OFFICE OF brain injury [program]. [The] THERE IS HEREBY ESTABLISHED, IN THE department AN OFFICE OF BRAIN INJURY WHICH shall have the central responsibility for administering the provisions of this article and otherwise coordinating the state's policies with respect to [traumatic] brain injury, in consultation with the office [of mental retardation and] FOR PEOPLE WITH developmental disabilities, the office of mental health, the [department of] education DEPARTMENT, the office of alcoholism and substance abuse services, the [department of social services, the office of the advocate for the disabled] OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, THE OFFICE OF CHILDREN AND FAMILY

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

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SERVICES and the [commission on quality of care for the mentally disabled] JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS. THE OFFICE SHALL REPORT DIRECTLY TO THE GOVERNOR. THE HEAD AND STAFF OF THE OFFICE SHALL BE REFLECTIVE OF THE PEOPLE THEY SERVE AND SHALL INCLUDE LICENSED AND/OR CREDENTIALED INDIVIDUALS WITH SUBSTANTIAL EXPERIENCE IN BRAIN INJURY REHABILITATION.

S 2741. Definitions. As used in this article:

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

["Traumatic brain] 2. "BRAIN injury" means A TRAUMATIC OR an acquired injury to the brain caused by EITHER an external physical force OR INTERNAL ACTION resulting in total or partial disability or impairment and shall include but not be limited to damage to the central nervous system from anoxic/hypoxic episodes or damage to the central nervous system from allergic conditions, toxic substances and other acute medical/clinical incidents. Such term shall include, but not be limited to, open and closed brain injuries that may result in mild, moderate or severe impairments in one or more areas, including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory perceptual and motor abilities, psycho-social behavior, physical functions, information processing and speech. Such term shall not include progressive dementias and other mentally impairing conditions, depression and psychiatric disorders in which there is no known or obvious central nervous system damage, neurological, metabolic and other medical conditions of chronic, congenital or degenerative nature or brain injuries induced by birth trauma.

[2] 3. "Concussion" [means a mild] OR "MILD traumatic [injury to the brain that is characterized by immediate and transient alteration of mental status and level of consciousness, resulting from mechanical force or trauma] INJURY" MEANS A COMPLEX PATHOPHYSIOLOGIC PROCESS AFFECTING THE BRAIN, INDUCED BY TRAUMATIC BIOMECHANICAL FORCES SECONDARY TO DIRECT OR INDIRECT FORCES TO THE HEAD THAT DISRUPTS THE FUNCTION OF THE BRAIN. IT RESULTS IN A CONSTELLATION OF PHYSICAL, COGNITIVE, EMOTIONAL AND/OR SLEEP RELATED SYMPTOMS, AND MAY OR MAY NOT INVOLVE A LOSS OF CONSCIOUSNESS.

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

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

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

3. to develop and maintain a clearinghouse of information on [traumatic] brain injuries and concussions, including but not limited to, resources that support the development and implementation of community-based services and rehabilitation;

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

5. to develop innovative educational programs on the causes and prevention of [traumatic] brain injuries and concussions, with an emphasis on outreach campaigns. Such programs and information shall include, but not be limited to, treatment and services for persons with [traumatic] brain injury and/or a concussion and their families;

6. to accept and expend any grants, awards of other funds or appropriations as may be available for these purposes, subject to limitations as

to the approval of expenditures and audits as prescribed for state funds by the state finance law;

7. to gather and disseminate statistics and conduct investigations and research relating to the causes and prevention of [traumatic] brain injuries and concussions and the treatment of such injuries, including the methods and procedures for rehabilitation, including from time to time, such publications for distribution to appropriate scientific organizations;

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

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

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

S 2743. Funding of [traumatic] brain injury services. 1. The [department] OFFICE shall develop AND SUBMIT TO THE COMMISSIONER AND THE GOVERNOR, a biennial plan and priorities for the funding of services and programs as authorized by this article, with emphasis on the development and expansion of community-based services and programs.

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

3. The [department] OFFICE shall, to the extent feasible, utilize existing organizations with demonstrated interest and expertise in serving persons with [traumatic] brain injuries and shall, within funds available, enter into contracts with such organizations.

S 2744. [The traumatic brain] BRAIN injury services coordinating council. 1. The [traumatic] brain injury services coordinating council is hereby established and shall consist of the following persons or their designees: the commissioner, the commissioner of [mental retardation and] developmental disabilities, the [office] COMMISSIONER of mental health, the commissioner of education, the commissioner of alcoholism and substance abuse services, the commissioner of [social services, the state advocate for the disabled] TEMPORARY AND DISABILITY ASSISTANCE, THE COMMISSIONER OF CHILDREN AND FAMILY SERVICES, A REPRESENTATIVE OF THE BRAIN INJURY ASSOCIATION OF NEW YORK STATE, A REPRESENTATIVE OF THE PROTECTION AND ADVOCACY ENTITY IN THIS STATE and the [commission on quality of care for the mentally disabled] EXECUTIVE DIRECTOR OF THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS. In addition, the council shall consist of the following persons: five persons appointed by the governor, three of whom shall be persons with [traumatic] brain injury and two of whom shall be representative of the public and have a demonstrated expertise and interest in [traumatic] brain injury; two persons appointed by the temporary president of the senate, one of whom shall be a person with [traumatic] brain injury and one of whom shall be representative of the public and have a demonstrated expertise and interest in [traumatic] brain injury; two persons appointed by the speaker of the assembly, one of whom shall be a person with [traumatic] brain injury and one of whom shall be representative of the public and have a demonstrated expertise and interest in [traumatic] brain injury, one person appointed by the minority leader of the senate who shall be a person with [traumatic] brain injury or be representative

of the public and have a demonstrated expertise and interest in [traumatic] brain injury; and one person appointed by the minority leader of the assembly who shall be a person with [traumatic] brain injury or be representative of the public and have a demonstrated expertise and interest in [traumatic] brain injury. Of the five persons appointed by the governor, three shall serve for a term of one year, one shall serve for a term of two years and one shall serve for a term of three years. Of the two persons appointed by the temporary president of the senate, one shall serve for a term of two years and one shall serve for a term of three years. Of the two persons appointed by the speaker of the assembly, one shall serve for a term of two years and one shall serve for a term of three years. The person appointed by the minority leader of the senate and the person appointed by the minority leader of the assembly shall serve for a term of one year. Subsequent appointments for vacancies shall be for a term of three years and shall be filled in the same manner as the original appointment.

2. The council shall be charged with recommending to the [department] GOVERNOR long range objectives, goals and priorities. It shall also provide advice on the planning, coordination and development of needed services. IT SHALL ALSO CONSIDER AND MAKE RECOMMENDATIONS ON THE DEVELOPMENT OF REGULATIONS FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS ARTICLE AND THE ESTABLISHMENT OF THE OFFICE.

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

4. (a) Within the [traumatic] brain injury services coordinating council there shall be established a concussion management advisory committee which shall develop recommendations specific to concussion management, academic scholarship, and public awareness for submission to the [traumatic] brain injury services coordinating council for consideration. The committee shall consist of members appointed from the membership of the [traumatic] brain injury services coordinating council by a majority vote of the council. Additional committee members may be appointed by the commissioner and shall have demonstrated experience with or expertise in one of the following areas: public health expertise related to mild traumatic brain injuries and concussions, academic research in the area of MILD traumatic brain injuries and concussion management, and public awareness experience related to the recognition of mild traumatic brain injuries and concussions. Committee membership shall not exceed twelve members. The committee may consult with a member or members of the public who have demonstrated expertise and interest in mild traumatic brain injuries and concussions.

(b) The recommendations of the advisory committee shall include, but not be limited to:

(i) methods to raise public awareness of mild traumatic brain injuries and concussions;

(ii) the development of outreach services to provide coordinated information regarding the recognition and management of mild traumatic brain injuries and concussions; and

(iii) the development of a clearinghouse of academic research and scientific findings related to the recognition, management, and treatment of mild traumatic injuries and concussions.

S 2. This act shall take effect immediately.