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I N S E N A T E

January 27, 2016

Introduced by Sen. DeFRANCISCO -- 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 ASSEM-
BLY, 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, section 2741 and subdivisions 3, 5 and 7 of
3 section 2742 as amended and subdivision 4 of section 2744 as added by
4 chapter 312 of the laws of 2014, is amended to read as follows:

5 ARTICLE 27-CC

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

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

9 2741. Definitions.

10 2742. Functions, powers and duties of the [department] OFFICE.

11 2743. Funding of [traumatic] brain injury services.

12 2744. [The traumatic brain] BRAIN injury services coordinating
13 council.

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

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

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1 INCLUDE LICENSED AND/OR CREDENTIALLED INDIVIDUALS WITH SUBSTANTIAL EXPE-
2 RIENCE IN BRAIN INJURY REHABILITATION.

3 S 2741. Definitions. As used in this article:

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

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

22 [2] 3. "Concussion" [means a mild] OR "MILD traumatic [injury to the
23 brain that is characterized by immediate and transient alteration of
24 mental status and level of consciousness, resulting from mechanical
25 force or trauma] INJURY" MEANS A COMPLEX PATHOPHYSIOLOGIC PROCESS
26 AFFECTING THE BRAIN, INDUCED BY TRAUMATIC BIOMECHANICAL FORCES SECONDARY
27 TO DIRECT OR INDIRECT FORCES TO THE HEAD THAT DISRUPTS THE FUNCTION OF
28 THE BRAIN. IT RESULTS IN A CONSTELLATION OF PHYSICAL, COGNITIVE,
29 EMOTIONAL AND/OR SLEEP RELATED SYMPTOMS, AND MAY OR MAY NOT INVOLVE A
30 LOSS OF CONSCIOUSNESS.

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

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

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

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

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

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

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

55 7. to gather and disseminate statistics and conduct investigations and
56 research relating to the causes and prevention of [traumatic] brain

1 injuries and concussions and the treatment of such injuries, including
2 the methods and procedures for rehabilitation, including from time to
3 time, such publications for distribution to appropriate scientific
4 organizations;

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

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

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

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

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

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

27 S 2744. [The traumatic brain] BRAIN injury services coordinating coun-
28 cil. 1. The [traumatic] brain injury services coordinating council is
29 hereby established and shall consist of the following persons or their
30 designees: the commissioner, the commissioner of [mental retardation
31 and] developmental disabilities, the [office] COMMISSIONER of mental
32 health, the commissioner of education, the commissioner of alcoholism
33 and substance abuse services, the commissioner of [social services, the
34 state advocate for the disabled] TEMPORARY AND DISABILITY ASSISTANCE,
35 THE COMMISSIONER OF CHILDREN AND FAMILY SERVICES, A REPRESENTATIVE OF
36 THE BRAIN INJURY ASSOCIATION OF NEW YORK STATE, A REPRESENTATIVE OF THE
37 PROTECTION AND ADVOCACY ENTITY IN THIS STATE and the [commission on
38 quality of care for the mentally disabled] EXECUTIVE DIRECTOR OF THE
39 JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS. In
40 addition, the council shall consist of the following persons: five
41 persons appointed by the governor, three of whom shall be persons with
42 [traumatic] brain injury and two of whom shall be representative of the
43 public and have a demonstrated expertise and interest in [traumatic]
44 brain injury; two persons appointed by the temporary president of the
45 senate, one of whom shall be a person with [traumatic] brain injury and
46 one of whom shall be representative of the public and have a demon-
47 strated expertise and interest in [traumatic] brain injury; two persons
48 appointed by the speaker of the assembly, one of whom shall be a person
49 with [traumatic] brain injury and one of whom shall be representative of
50 the public and have a demonstrated expertise and interest in [traumatic]
51 brain injury, one person appointed by the minority leader of the senate
52 who shall be a person with [traumatic] brain injury or be representative
53 of the public and have a demonstrated expertise and interest in [trau-
54 matic] brain injury; and one person appointed by the minority leader of
55 the assembly who shall be a person with [traumatic] brain injury or be
56 representative of the public and have a demonstrated expertise and

1 interest in [traumatic] brain injury. Of the five persons appointed by
2 the governor, three shall serve for a term of one year, one shall serve
3 for a term of two years and one shall serve for a term of three years.
4 Of the two persons appointed by the temporary president of the senate,
5 one shall serve for a term of two years and one shall serve for a term
6 of three years. Of the two persons appointed by the speaker of the
7 assembly, one shall serve for a term of two years and one shall serve
8 for a term of three years. The person appointed by the minority leader
9 of the senate and the person appointed by the minority leader of the
10 assembly shall serve for a term of one year. Subsequent appointments for
11 vacancies shall be for a term of three years and shall be filled in the
12 same manner as the original appointment.

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

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

24 4. (a) Within the [traumatic] brain injury services coordinating coun-
25 cil there shall be established a concussion management advisory commit-
26 tee which shall develop recommendations specific to concussion manage-
27 ment, academic scholarship, and public awareness for submission to the
28 [traumatic] brain injury services coordinating council for consider-
29 ation. The committee shall consist of members appointed from the
30 membership of the [traumatic] brain injury services coordinating council
31 by a majority vote of the council. Additional committee members may be
32 appointed by the commissioner and shall have demonstrated experience
33 with or expertise in one of the following areas: public health expertise
34 related to mild traumatic brain injuries and concussions, academic
35 research in the area of MILD traumatic brain injuries and concussion
36 management, and public awareness experience related to the recognition
37 of mild traumatic brain injuries and concussions. Committee membership
38 shall not exceed twelve members. The committee may consult with a member
39 or members of the public who have demonstrated expertise and interest in
40 mild traumatic brain injuries and concussions.

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

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

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

48 (iii) the development of a clearinghouse of academic research and
49 scientific findings related to the recognition, management, and treat-
50 ment of mild traumatic injuries and concussions.

51 S 2. This act shall take effect immediately.