STATE OF NEW YORK

2564--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

Introduced by M. of A. FALL, SIMON, O'DONNELL, TAYLOR, ENGLEBRIGHT, BENEDETTO -- read once and referred to the Committee on Education -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to updating school concussion management and response protocols and increasing concussion data collection and reporting

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "concussion management and awareness improvement act of 2022".

§ 2. Subdivision 42 of section 305 of the education law, as added by chapter 496 of the laws of 2011, is amended to read as follows:

42. a. The commissioner, in conjunction with the commissioner of health, shall promulgate and review as necessary rules and regulations relating to pupils who suffer mild traumatic brain injuries, also referred to as a "concussion," while receiving instruction or engaging in any school sponsored [~~or~~], school related activity, or competitive, travel youth sport on school district property. In developing such rules and regulations, the commissioner shall consider comments from stakeholders and other interested parties including but not limited to parents, teachers, students, school administrators, school athletic trainers, sport coaches, medical and health professionals, the public schools athletic league (PSAL), the New York state public high school athletic association (NYSPHSAA), and other athletic associations. Such regulations shall include, but not be limited to:

(i) requiring a course of instruction relating to recognizing the symptoms of mild traumatic brain injuries and monitoring and seeking proper medical treatment for pupils who suffer mild traumatic brain injuries. Such course of instruction shall be required to be completed

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

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on a biennial basis by all school coaches, physical education teachers, nurses [~~and~~], athletic trainers**, medical directors, physicians, nurse practitioners, and physician assistants employed by or under contract to a school or school district**. The course of instruction required by this subparagraph shall include, but not be limited to, the definition of a "concussion," signs and symptoms of mild traumatic brain injuries, how such injuries may occur, practices regarding prevention, and the guidelines for the return to school and to certain school activities after a pupil has suffered a mild traumatic brain injury regardless of whether such injury occurred outside of school. Such training may be completed by means of courses of instruction, including but not limited to, courses provided online and by teleconference approved by the department;

(ii) providing that the department and the department of health shall post on their internet websites information relating to mild traumatic brain injuries, which shall include but not be limited to, the definition of a "concussion," signs and symptoms of mild traumatic brain injuries, how such injuries may occur, and the guidelines for the return to school and to certain school activities after a pupil has suffered a mild traumatic brain injury regardless of whether such injury occurred outside of school. Schools shall be required to include such information in any permission form or parent or person in parental relation consent form or similar document that may be required for a pupil's participation in interscholastic sports and shall also include such information, or reference how to obtain such information from the department and the department of health internet websites, on the school's internet website, if one exists;

(iii) requiring the immediate removal from athletic activities of any pupil believed to have sustained or who has sustained a mild traumatic brain injury. In the event that there is any doubt as to whether a pupil has sustained a concussion, it shall be presumed that he or she has been so injured until proven otherwise. No such pupil shall resume athletic activity until he or she shall have been symptom free for not less than twenty-four hours, **has returned to a full class schedule without academic adjustments or accommodations made due to the mild traumatic brain injury,** and has been evaluated by and received written and signed authorization from a licensed physician. Such authorization shall be kept on file in the pupil's permanent health record. Furthermore, such rules and regulations shall provide guidelines for limitations and restrictions on school attendance and activities**, as well as athletic attendance and activities,** for pupils who have sustained mild traumatic brain injuries, consistent with the directives of the pupil's treating physician.

(iv) [~~authorizing~~] **requiring** each school or school district[~~, in its discretion,~~] to establish a concussion management team which may be composed of the athletic director (if any), a school nurse, **the school principal, a school guidance counselor, a school teacher,** the school physician, a coach of an interscholastic team, an athletic trainer or such other appropriate personnel as designated by **a collective bargaining organization of the employee or** the school or school district **if no such collective bargaining organization exists**. The concussion management team shall oversee the implementation of the rules and regulations promulgated pursuant to this subdivision as it pertains to their associated school including the requirement that all school coaches, physical education teachers, nurses and athletic trainers that work with and provide instruction to pupils engaged in school sponsored athletic activities complete training relating to mild traumatic brain injuries.

Furthermore, every concussion management team may establish and implement a program which provides information on mild traumatic brain injuries to parents and persons in parental relation throughout each school year. **Every concussion management team shall report annually to their applicable district superintendent or chief school officer, board of education or governing body, and to the department the following information: (a) the number, sex, age and grade of pupils who sustain a mild traumatic brain injury each year, regardless of the setting in which such injury is sustained; (b) the cause of such injuries; (c) the duration of symptoms of such injuries; and (d) any modifications or accommodations made for pupils that have sustained such injuries.**

(v) recommending that schools retain access to an athletic trainer to provide services to students.

b. The rules and regulations established pursuant to this subdivision shall be deemed to be the minimum standards that must be complied with by every public **and nonpublic** school **and every group or organization that uses property or facilities owned by a school district for competitive, travel youth sports** relating to mild traumatic brain injuries. [~~**Such rules and regulations may also be implemented by nonpublic schools if they so authorize.**~~] Nothing in this subdivision shall prohibit any public school or nonpublic school from adopting and implementing more stringent standards.

§ 3. This act shall take effect on the first of July next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment, and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made on or before such date.