

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1309
Senate Health Care Committee Substitute Adopted 6/3/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H1309-PCS30422-SQ-74

Short Title: TBI Residential Treatment Facil/TBI Council.

(Public)

Sponsors:

Referred to:

April 9, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT THE COMMISSION FOR MENTAL HEALTH, DEVELOPMENTAL
3 DISABILITIES, AND SUBSTANCE ABUSE SERVICES TO ADOPT RULES
4 PROVIDING FOR THE LICENSURE AND ACCREDITATION OF RESIDENTIAL
5 TREATMENT FACILITIES FOR PERSONS WITH TRAUMATIC BRAIN INJURY
6 AND TO MAKE CHANGES TO THE NORTH CAROLINA TRAUMATIC BRAIN
7 INJURY ADVISORY COUNCIL.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 122C-26 reads as rewritten:

10 "§ 122C-26. Powers of the Commission.

11 In addition to other powers and duties, the Commission shall exercise the following powers
12 and duties:

- 13 (1) Adopt, amend, and repeal rules consistent with the laws of this State and the
14 laws and regulations of the federal government to implement the provisions
15 and purposes of this Article;
- 16 (2) Issue declaratory rulings needed to implement the provisions and purposes
17 of this Article;
- 18 (3) Adopt rules governing appeals of decisions to approve or deny licensure
19 under this Article;
- 20 (4) Adopt rules for the waiver of rules adopted under this Article; and
- 21 (5) Adopt rules applicable to facilities licensed under this Article:
- 22 a. Establishing personnel requirements of staff employed in facilities;
- 23 b. Establishing qualifications of facility administrators or directors;
- 24 c. Establishing requirements for death reporting including
25 confidentiality provisions related to death reporting;
- 26 d. Establishing requirements for patient advocates; and
- 27 e. Requiring facility personnel who refer clients to provider agencies to
28 disclose any pecuniary interest the referring person has in the
29 provider agency, or other interest that may give rise to the
30 appearance of impropriety.

31 (6) Adopt rules providing for the licensure and accreditation of residential
32 treatment facilities that provide services to persons with traumatic brain
33 injury."



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1 **SECTION 2.** The Commission for Mental Health, Developmental Disabilities, and
 2 Substance Abuse Services may adopt temporary rules to carry out the provisions of Section 1
 3 of this act until July 1, 2010.

4 **SECTION 3.** Part 33 of Article 3 of Chapter 143B of the General Statutes reads as
 5 rewritten:

6 "Part 33. North Carolina ~~Traumatic~~-Brain Injury Advisory Council.

7 **"§ 143B-216.65. North Carolina ~~Traumatic~~-Brain Injury Advisory Council – creation and**
 8 **duties.**

9 There is established the North Carolina ~~Traumatic~~-Brain Injury Advisory Council in the
 10 Department of Health and Human ~~Services~~.Services to review traumatic and other acquired
 11 brain injuries in North Carolina. The Council shall have duties including the following:

- 12 (1) Review how the term "traumatic brain injury" is defined by State and federal
 13 regulations and to determine whether changes should be made to the State
 14 definition to include "acquired brain injury" or other appropriate conditions.
- 15 (2) Promote interagency coordination among State agencies responsible for
 16 services and support of individuals that have ~~sustained~~ traumatic brain
 17 injury.
- 18 (3) Study the needs of individuals with traumatic brain injury and their families.
- 19 (4) Make recommendations to the Governor, the General Assembly, and the
 20 Secretary of Health and Human Services regarding the planning,
 21 development, funding, and implementation of a comprehensive statewide
 22 service delivery system.
- 23 (5) Promote and implement injury prevention strategies across the State.

24 **"§ 143B-216.66. North Carolina ~~Traumatic~~-Brain Injury Advisory Council –**
 25 **membership; quorum; compensation.**

26 (a) The Council shall consist of ~~29 members~~,23 voting and 10 ex officio nonvoting
 27 members, appointed as follows:

- 28 (1) Three members by the General Assembly, upon the recommendation of the
 29 President Pro Tempore of the Senate, as follows:
 - 30 a. ~~The Executive Director, or designee thereof, of the Brain Injury~~
 31 ~~Association of North Carolina.~~A representative of the North Carolina
 32 Medical Society or other organization with interest in brain injury
 33 prevention or treatment.
 - 34 b. A nurse with expertise in trauma, neurosurgery, neuropsychology,
 35 physical medicine and rehabilitation, or emergency medicine.
 - 36 c. ~~A physician with expertise in trauma, neurosurgery,~~
 37 ~~neuropsychology, physical medicine and rehabilitation, or emergency~~
 38 ~~medicine.~~One at-large member who shall be a veteran or family
 39 member of a veteran who has suffered a brain injury.
- 40 (2) Three members by the General Assembly, upon the recommendation of the
 41 Speaker of the House of Representatives, as follows:
 - 42 a. ~~The Chair of the Board, or designee thereof, of the Brain Injury~~
 43 ~~Association of North Carolina.~~One at-large member who may have
 44 experience as a school nurse or rehabilitation specialist.
 - 45 b. ~~A nurse with expertise in trauma, neurosurgery, neuropsychology,~~
 46 ~~physical medicine and rehabilitation, or emergency medicine.~~A
 47 representative of the North Carolina Hospital Association or other
 48 organization interested in brain injury prevention or treatment.
 - 49 c. A physician with expertise in trauma, neurosurgery,
 50 neuropsychology, physical medicine and rehabilitation, or emergency
 51 medicine.

- 1 (3) ~~Eleven~~Fourteen members by the Governor, as follows:
- 2 a. Three survivors of brain injury, one each representing the eastern,
3 central, and western regions of the State.
- 4 b. ~~Three~~Four family members of persons with brain ~~injury~~injury with
5 consideration for geographic representation.
- 6 c. A brain injury service provider in ~~private practice~~the private sector.
- 7 d. The director of ~~an area program or county program~~ a local
8 management entity of mental health, developmental disabilities, and
9 substance abuse services.
- 10 e. The Executive Director, or designee thereof, of ~~the North Carolina~~
11 Academy of Trial LawyersNorth Carolina Advocates for Justice.
- 12 f. ~~The Executive Vice President, or designee thereof, of the North~~
13 Carolina Medical SocietyThe Executive Director, or designee
14 thereof, of the Brain Injury Association of North Carolina.
- 15 g. ~~The President, or designee thereof, of the North Carolina Hospital~~
16 AssociationThe Chair of the Board, or designee thereof, of the Brain
17 Injury Association of North Carolina.
- 18 h. The Executive Director, or designee thereof, of the North Carolina
19 Protection and Advocacy System.
- 20 i. One stroke survivor, as recommended by the American Heart
21 Association.
- 22 (4) ~~Eight~~Nine ex officio members by the Secretary of Health and Human
23 Services, ~~one from each of the following~~as follows:
- 24 a. ~~The~~One member from the Division of Mental Health,
25 Developmental Disabilities, and Substance Abuse Services.
- 26 b. ~~The~~One member from the Division of Vocational Rehabilitation.
- 27 c. ~~The~~One member from the Council on Developmental Disabilities.
- 28 d. ~~The~~One member from the Division of Medical Assistance.
- 29 e. ~~The~~Two members from the Division of Health Service Regulation.
- 30 f. ~~The~~One member from the Division of Social Services.
- 31 g. ~~The~~One member from the Office of Emergency Medical Services.
- 32 h. ~~The~~One member from the Division of Public Health.
- 33 (5) Two members by the Superintendent of Public Instruction, ~~at least~~ one of
34 whom is ex officio, nonvoting, and employed with ~~from~~ the Division of
35 Exceptional Children.
- 36 (6) One member by the Commissioner of ~~Insurance~~Insurance, or the
37 Commissioner's designee.
- 38 (7) One member by the Secretary of Administration representing veterans
39 affairs.

40 (b) The terms of the initial members of the Council shall commence October 1, 2003. In
41 his initial appointments, the Governor shall designate four members who shall serve terms of
42 four years, four members who shall serve terms of three years, and three members who shall
43 serve terms of two years. After the initial appointees' terms have expired, all members shall be
44 appointed for a term of four years. No member appointed by the Governor shall serve more
45 than two successive terms.

46 Any appointment to fill a vacancy on the Council created by the resignation, dismissal,
47 death, or disability of a member shall be for the balance of the unexpired term. Terms for ex
48 officio, nonvoting members do not expire.

49 (c) The initial chair of the Council shall be designated by the Secretary of the
50 Department of Health and Human Services from the Council members. The chair shall hold
51 this office for not more than four years. Subsequent chairs will be elected by the Council.

1 (d) The Council shall meet quarterly and at other times at the call of the chair. A
2 majority of voting members of the Council shall constitute a quorum.

3 (e) Council members shall be reimbursed for expenses incurred in the performance of
4 their duties in accordance with G.S. 138-5 and G.S. 138-6, as applicable.

5 (f) The Secretary of the Department of Health and Human Services shall provide
6 clerical and other assistance as needed."

7 **SECTION 4.** This act is effective when it becomes law. Each appointment made
8 under G.S. 143B-216.66, as enacted by Section 3 of this act, shall become effective at the
9 expiration of the term of the member serving on the Council prior to the effective date of this
10 act.