

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**SESSION LAW 2009-361  
HOUSE BILL 1309**

AN ACT TO DIRECT THE COMMISSION FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES TO ADOPT RULES PROVIDING FOR THE LICENSURE AND ACCREDITATION OF RESIDENTIAL TREATMENT FACILITIES FOR PERSONS WITH TRAUMATIC BRAIN INJURY AND TO MAKE CHANGES TO THE NORTH CAROLINA TRAUMATIC BRAIN INJURY ADVISORY COUNCIL.

The General Assembly of North Carolina enacts:

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

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

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

- (1) Adopt, amend, and repeal rules consistent with the laws of this State and the laws and regulations of the federal government to implement the provisions and purposes of this Article;
- (2) Issue declaratory rulings needed to implement the provisions and purposes of this Article;
- (3) Adopt rules governing appeals of decisions to approve or deny licensure under this Article;
- (4) Adopt rules for the waiver of rules adopted under this Article; and
- (5) Adopt rules applicable to facilities licensed under this Article:
  - a. Establishing personnel requirements of staff employed in facilities;
  - b. Establishing qualifications of facility administrators or directors;
  - c. Establishing requirements for death reporting including confidentiality provisions related to death reporting;
  - d. Establishing requirements for patient advocates; and
  - e. Requiring facility personnel who refer clients to provider agencies to disclose any pecuniary interest the referring person has in the provider agency, or other interest that may give rise to the appearance of impropriety.
- (6) Adopt rules providing for the licensure and accreditation of residential treatment facilities that provide services to persons with traumatic brain injury."

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

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

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

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

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

- (1) Review how the term "traumatic brain injury" is defined by State and federal regulations and to determine whether changes should be made to the State definition to include "acquired brain injury" or other appropriate conditions.



- (2) Promote interagency coordination among State agencies responsible for services and support of individuals that have ~~sustained~~ traumatic brain injury.
- (3) Study the needs of individuals with traumatic brain injury and their families.
- (4) Make recommendations to the Governor, the General Assembly, and the Secretary of Health and Human Services regarding the planning, development, funding, and implementation of a comprehensive statewide service delivery system.
- (5) Promote and implement injury prevention strategies across the State.

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

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

- (1) Three members by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, as follows:
  - a. ~~The Executive Director, or designee thereof, of the Brain Injury Association of North Carolina.~~A representative of the North Carolina Medical Society or other organization with interest in brain injury prevention or treatment.
  - b. A nurse with expertise in trauma, neurosurgery, neuropsychology, physical medicine and rehabilitation, or emergency medicine.
  - c. ~~A physician with expertise in trauma, neurosurgery, neuropsychology, physical medicine and rehabilitation, or emergency medicine.~~One at-large member who shall be a veteran or family member of a veteran who has suffered a brain injury.
- (2) Three members by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, as follows:
  - a. ~~The Chair of the Board, or designee thereof, of the Brain Injury Association of North Carolina.~~One at-large member who may have experience as a school nurse or rehabilitation specialist.
  - b. ~~A nurse with expertise in trauma, neurosurgery, neuropsychology, physical medicine and rehabilitation, or emergency medicine.~~A representative of the North Carolina Hospital Association or other organization interested in brain injury prevention or treatment.
  - c. A physician with expertise in trauma, neurosurgery, neuropsychology, physical medicine and rehabilitation, or emergency medicine.
- (3) ~~Eleven~~Fourteen members by the Governor, as follows:
  - a. Three survivors of brain injury, one each representing the eastern, central, and western regions of the State.
  - b. ~~Three~~Four family members of persons with brain ~~injury.~~injury with consideration for geographic representation.
  - c. A brain injury service provider in ~~private practice.~~the private sector.
  - d. The director of ~~an area program or county program~~ a local management entity of mental health, developmental disabilities, and substance abuse services.
  - e. The Executive Director, or designee thereof, of ~~the North Carolina Academy of Trial Lawyers.~~North Carolina Advocates for Justice.
  - f. ~~The Executive Vice President, or designee thereof, of the North Carolina Medical Society.~~The Executive Director, or designee thereof, of the Brain Injury Association of North Carolina.
  - g. ~~The President, or designee thereof, of the North Carolina Hospital Association.~~The Chair of the Board, or designee thereof, of the Brain Injury Association of North Carolina.
  - h. The Executive Director, or designee thereof, of the North Carolina Protection and Advocacy System.
  - i. One stroke survivor, as recommended by the American Heart Association.

- (4) ~~Eight~~ Nine ~~ex officio~~ members by the Secretary of Health and Human Services, ~~one from each of the following:~~ as follows:
- a. ~~The~~ One member from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
  - b. ~~The~~ One member from the Division of Vocational Rehabilitation.
  - c. ~~The~~ One member from the Council on Developmental Disabilities.
  - d. ~~The~~ One member from the Division of Medical Assistance.
  - e. ~~The~~ Two members from the Division of Health Service Regulation.
  - f. ~~The~~ One member from the Division of Social Services.
  - g. ~~The~~ One member from the Office of Emergency Medical Services.
  - h. ~~The~~ One member from the Division of Public Health.
- (5) Two members by the Superintendent of Public Instruction, ~~at least one of whom is ex officio, nonvoting, and employed with~~ from the Division of Exceptional Children.
- (6) One member by the Commissioner of ~~Insurance~~ Insurance, ~~or the Commissioner's designee.~~
- (7) One member by the Secretary of Administration representing veterans affairs.

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

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 16<sup>th</sup> day of July, 2009.

s/ Walter H. Dalton  
President of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

s/ Beverly E. Perdue  
Governor

Approved 9:33 a.m. this 27<sup>th</sup> day of July, 2009