

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**HOUSE BILL 1309  
Senate Health Care Committee Substitute Adopted 6/3/09  
Senate Health Care Committee Substitute #2 Adopted 7/1/09**

Short Title: TBI Residential Treatment Facil/TBI Council.

(Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED  
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.



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

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

4           "**§ 143B-216.65. North Carolina ~~Traumatic~~-Brain Injury Advisory Council – creation and**  
5           **duties.**

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

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

21           "**§ 143B-216.66. North Carolina ~~Traumatic~~-Brain Injury Advisory Council –**  
22           **membership; quorum; compensation.**

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

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

- 1 b. ~~Three~~Four family members of persons with brain ~~injury~~injury with  
2 consideration for geographic representation.  
3 c. A brain injury service provider in ~~private practice~~the private sector.  
4 d. The director of ~~an area program or county program~~ a local  
5 management entity of mental health, developmental disabilities, and  
6 substance abuse services.  
7 e. The Executive Director, or designee thereof, of ~~the North Carolina~~  
8 Academy of Trial LawyersNorth Carolina Advocates for Justice.  
9 f. ~~The Executive Vice President, or designee thereof, of the North~~  
10 ~~Carolina Medical Society~~The Executive Director, or designee  
11 thereof, of the Brain Injury Association of North Carolina.  
12 g. ~~The President, or designee thereof, of the North Carolina Hospital~~  
13 ~~Association~~The Chair of the Board, or designee thereof, of the Brain  
14 Injury Association of North Carolina.  
15 h. The Executive Director, or designee thereof, of the North Carolina  
16 Protection and Advocacy System.  
17 i. One stroke survivor, as recommended by the American Heart  
18 Association.  
19 (4) ~~Eight~~Nine ex officio members by the Secretary of Health and Human  
20 Services, ~~one from each of the following~~as follows:  
21 a. ~~The~~One member from the Division of Mental Health,  
22 Developmental Disabilities, and Substance Abuse Services.  
23 b. ~~The~~One member from the Division of Vocational Rehabilitation.  
24 c. ~~The~~One member from the Council on Developmental Disabilities.  
25 d. ~~The~~One member from the Division of Medical Assistance.  
26 e. ~~The~~Two members from the Division of Health Service Regulation.  
27 f. ~~The~~One member from the Division of Social Services.  
28 g. ~~The~~One member from the Office of Emergency Medical Services.  
29 h. ~~The~~One member from the Division of Public Health.  
30 (5) Two members by the Superintendent of Public Instruction, ~~at least~~ one of  
31 whom is ex officio, nonvoting, and employed with ~~from~~ the Division of  
32 Exceptional Children.  
33 (6) One member by the Commissioner of ~~Insurance~~Insurance, or the  
34 Commissioner's designee.  
35 (7) One member by the Secretary of Administration representing veterans  
36 affairs.  
37 (b) The terms of the initial members of the Council shall commence October 1, 2003. In  
38 his initial appointments, the Governor shall designate four members who shall serve terms of  
39 four years, four members who shall serve terms of three years, and three members who shall  
40 serve terms of two years. After the initial appointees' terms have expired, all members shall be  
41 appointed for a term of four years. No member appointed by the Governor shall serve more  
42 than two successive terms.  
43 Any appointment to fill a vacancy on the Council created by the resignation, dismissal,  
44 death, or disability of a member shall be for the balance of the unexpired term. Terms for ex  
45 officio, nonvoting members do not expire.  
46 (c) The initial chair of the Council shall be designated by the Secretary of the  
47 Department of Health and Human Services from the Council members. The chair shall hold  
48 this office for not more than four years. Subsequent chairs will be elected by the Council.  
49 (d) The Council shall meet quarterly and at other times at the call of the chair. A  
50 majority of voting members of the Council shall constitute a quorum.

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

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

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