

AN ACT

relating to the creation of a state advisory council with authority to promote research, education, treatment, and support activities related to persons with traumatic brain injuries.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 92.001-92.011, Health and Safety Code, are designated as Subchapter A of Chapter 92, Health and Safety Code, and a subchapter heading for Subchapter A is added to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Chapter 92, Health and Safety Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. TEXAS TRAUMATIC BRAIN INJURY ADVISORY COUNCIL

Sec. 92.051. DEFINITIONS. In this subchapter:

(1) "Traumatic brain injury support group" means a local, state, or national organization that:

(A) is established to provide support services to aid persons with a traumatic brain injury and their primary family caregivers;

(B) encourages research into the cause, prevention, and treatment of traumatic brain injury and care of persons with a traumatic brain injury; and

(C) is dedicated to the development of essential services for persons with a traumatic brain injury and their

1 primary family caregivers.

2 (2) "Council" means the Texas Traumatic Brain Injury
3 Advisory Council.

4 (3) "Primary family caregiver" means an individual who
5 is a relative of a person with a traumatic brain injury who has or
6 has had a major responsibility for the care and supervision of the
7 person with a traumatic brain injury and who is not a professional
8 health care provider paid to care for the person with a traumatic
9 brain injury.

10 Sec. 92.052. ADVISORY COUNCIL; ASSOCIATED AGENCY. (a) The
11 Texas Traumatic Brain Injury Advisory Council is an advisory
12 council within the department.

13 (b) Notwithstanding Subsection (a), if, as a result of
14 legislation enacted in the 78th Legislature, Regular Session, 2003,
15 a state agency other than the department is designated to serve as
16 the agency with primary responsibility in relation to persons with
17 physical disabilities, the council is an advisory council within
18 that state agency and a reference in this chapter to the department
19 means that agency.

20 Sec. 92.053. MEMBERSHIP. (a) The council must be composed
21 in accordance with federal law. Appointments to the council shall
22 be made without regard to:

23 (1) the race, color, sex, religion, age, or national
24 origin of the appointees; or

25 (2) the disability of the appointees, except as
26 required by federal law.

27 (b) The council is composed of 22 members appointed as

1 follows:

2 (1) eight public consumer members appointed by the
3 commissioner of health and human services, at least three of whom
4 must be individuals related to persons with a traumatic brain
5 injury and at least three of whom must be persons with a brain
6 injury;

7 (2) six professional members appointed by the
8 commissioner of health and human services, each of whom must have
9 special training and interest in the care, treatment, or
10 rehabilitation of persons with a traumatic brain injury, with one
11 representative each from:

12 (A) acute hospital trauma units;

13 (B) the National Institute for Disability
14 Rehabilitation Research Traumatic Brain Injury Model System in this
15 state;

16 (C) acute or post-acute rehabilitation
17 facilities;

18 (D) community-based services;

19 (E) faculties of institutions of higher
20 education; and

21 (F) providers in the areas of physical therapy,
22 occupational therapy, or cognitive rehabilitation; and

23 (3) eight state agency members, with one
24 representative from each of the following agencies appointed by the
25 chief executive officer of the agency:

26 (A) Texas Department of Health;

27 (B) Texas Department of Human Services;

- 1 (C) Texas Department of Mental Health and Mental
- 2 Retardation;
- 3 (D) Texas Rehabilitation Commission;
- 4 (E) Health and Human Services Commission;
- 5 (F) Texas Education Agency;
- 6 (G) Texas Planning Council for Developmental
- 7 Disabilities; and
- 8 (H) Texas Department of Insurance.

9 (c) One of the six public consumer members appointed under
10 Subsection (b)(1) must be a member of a statewide traumatic brain
11 injury support group.

12 Sec. 92.054. OFFICERS. (a) The members of the council
13 annually shall elect a presiding officer and an assistant presiding
14 officer from the council members.

15 (b) A representative of a state agency may not serve as
16 presiding officer or assistant presiding officer.

17 (c) At least one of the officers must be a public consumer
18 member.

19 Sec. 92.055. RESTRICTIONS ON MEMBERS. (a) In this section,
20 "Texas trade association" means a cooperative and voluntarily
21 joined association of business or professional competitors in this
22 state designed to assist its members and its industry or profession
23 in dealing with mutual business or professional problems and in
24 promoting their common interest. The term does not include a
25 voluntary health organization.

26 (b) A person may not be a public consumer member of the
27 council if the person or the person's spouse:

1 (1) is employed by or participates in the management
2 of a business entity or other organization receiving money from the
3 council;

4 (2) owns or controls, directly or indirectly, more
5 than a 10 percent interest in a business entity or other
6 organization receiving money from the council; or

7 (3) uses or receives a substantial amount of tangible
8 goods, services, or money from the council, other than compensation
9 or reimbursement authorized by law for council membership,
10 attendance, or expenses.

11 (c) A person may not be a member of the council if the person
12 is an officer, employee, or paid consultant of a Texas trade
13 association in a health care field.

14 (d) A person may not be a member of the council if the person
15 is required to register as a lobbyist under Chapter 305, Government
16 Code, because of the person's activities for compensation on behalf
17 of a profession related to the operation of the council.

18 (e) It is a ground for removal from the council that a
19 member:

20 (1) does not have at the time of taking office the
21 qualifications required by Section 92.053(b);

22 (2) does not maintain during service on the council
23 the qualifications required by Section 92.053(b);

24 (3) is ineligible for membership under Subsection (b),
25 (c), or (d);

26 (4) cannot, because of illness or disability,
27 discharge the member's duties for a substantial part of the member's

1 term; or

2 (5) is absent from more than half of the regularly
3 scheduled council meetings that the member is eligible to attend
4 during a calendar year without an excuse approved by a majority vote
5 of the council.

6 (f) The validity of an action of the council is not affected
7 by the fact that it is taken when a ground for removal of a council
8 member exists.

9 Sec. 92.056. TERMS; VACANCY. (a) The public consumer and
10 professional members of the council are appointed for staggered
11 six-year terms, with the terms of four or five members expiring
12 February 1 of each odd-numbered year.

13 (b) In addition to other methods by which a position may
14 become vacant, a position on the council becomes vacant if a member
15 resigns from the council by providing written notice to the
16 presiding officer of the council.

17 (c) If a position on the council becomes vacant, the
18 presiding officer shall provide written notice to the appropriate
19 appointing official requesting a new appointment to fill the
20 remainder of the member's term.

21 (d) If a vacancy occurs, the appropriate appointing
22 official shall appoint a person, in the same manner as the original
23 appointment, to serve for the remainder of the unexpired term.

24 (e) A person who has served one full term on the council is
25 not eligible for reappointment.

26 Sec. 92.057. COMPENSATION; EXPENSES. (a) Except as
27 provided by Subsections (b) and (c), a member of the council is not

1 entitled to compensation for service on the council and is not
2 entitled to reimbursement for travel expenses.

3 (b) A member who is a representative of a state agency shall
4 be reimbursed for travel expenses incurred while conducting council
5 business from the funds of the agency the person represents in
6 accordance with the General Appropriations Act.

7 (c) If money is available for this purpose in the account
8 established under Section 92.062(b), the department shall
9 reimburse a public consumer member for the member's actual and
10 necessary expenses incurred in performing council duties,
11 including travel, meals, lodging, respite care for a dependent with
12 a disability, and telephone long-distance charges.

13 Sec. 92.058. MEETINGS. The council shall meet at least once
14 each calendar quarter on meeting dates set by the council and at the
15 call of the presiding officer.

16 Sec. 92.059. DUTIES OF THE COUNCIL. The council shall:

17 (1) inform state leaders of issues and policies as
18 they relate to meeting the needs of persons with a traumatic brain
19 injury and their primary family caregivers;

20 (2) recommend to state leaders policies and programs
21 that more effectively serve persons with a traumatic brain injury
22 and their families;

23 (3) recommend to the department methods to explore and
24 promote innovative approaches to providing services and support to
25 persons with a traumatic brain injury and their families;

26 (4) recommend to the department methods to promote
27 education, training, and information about traumatic brain injury

1 issues;

2 (5) advocate for persons with a traumatic brain injury
3 and their families;

4 (6) recommend to the department methods to support
5 activities aimed at reducing preventable brain injuries; and

6 (7) recommend to the department methods to conduct
7 outreach to obtain public input.

8 Sec. 92.060. DUTIES OF THE DEPARTMENT. (a) The department
9 shall:

10 (1) provide administrative support services to the
11 council;

12 (2) accept gifts and grants on behalf of the council
13 from any public or private entity;

14 (3) receive, deposit, and disburse gifts and grants
15 for the council in accordance with this subchapter and provide
16 other administrative services in support of the council as
17 requested by and negotiated with the council; and

18 (4) enter into a memorandum of understanding with the
19 council that delineates the responsibilities of the department and
20 the council under this subchapter and amend the memorandum as
21 necessary to reflect changes in those responsibilities.

22 (b) The board may adopt rules as necessary to implement the
23 department's duties under this subchapter and federal
24 developmental disability laws.

25 Sec. 92.061. ADDITIONAL COUNCIL DUTIES. The council shall:

26 (1) make recommendations, at the request of the
27 governor or legislative leaders, relating to activities

1 appropriate to the achievement of legislative and executive
2 functions relating to persons with a traumatic brain injury; and

3 (2) submit to the governor, legislature, and other
4 appropriate state and federal authorities periodic reports on the
5 council's responsibilities and performance.

6 Sec. 92.062. GIFTS AND GRANTS. (a) The council is
7 encouraged to seek a gift or grant from any public or private
8 entity.

9 (b) The health and human services commission shall deposit
10 any money received under Subsection (a) to the credit of the Texas
11 Traumatic Brain Injury Advisory Council account. The Texas
12 Traumatic Brain Injury Advisory Council account is an account in
13 the general revenue fund that may be appropriated only for the
14 purpose of carrying out this subchapter.

15 Sec. 92.063. ADVISORY COMMITTEE STATUTE INAPPLICABLE.
16 Chapter 2110, Government Code, does not apply to the council.

17 SECTION 3. Section 92.001(2), Health and Safety Code, is
18 amended to read as follows:

19 (2) "Reportable injury" means an injury or condition
20 required to be reported under this subchapter [~~chapter~~].

21 SECTION 4. Sections 92.002(b) and (d), Health and Safety
22 Code, are amended to read as follows:

23 (b) The board may adopt rules that require other injuries to
24 be reported under this subchapter [~~chapter~~].

25 (d) The board shall adopt rules necessary to administer this
26 subchapter [~~chapter~~].

27 SECTION 5. Section 92.003(c), Health and Safety Code, is

1 amended to read as follows:

2 (c) The board shall prescribe the form and method of
3 reporting. The board may require the reports to contain any
4 information, including the person's name, address, age, sex, race,
5 occupation, employer, and attending physician, necessary to
6 achieve the purposes of this subchapter [~~chapter~~].

7 SECTION 6. Sections 92.004(a), (c), and (d), Health and
8 Safety Code, are amended to read as follows:

9 (a) The department may enter into contracts or agreements as
10 necessary to carry out this subchapter [~~chapter~~]. The contracts or
11 agreements may provide for payment by the state for materials,
12 equipment, and services.

13 (c) Subject to the confidentiality provisions of this
14 subchapter [~~chapter~~], the department shall evaluate the reports of
15 injuries to establish the nature and magnitude of the hazards
16 associated with those injuries, to reduce the occurrence of those
17 risks, and to establish any trends involved.

18 (d) The department may make inspections and investigations
19 as authorized by this subchapter [~~chapter~~] and other law.

20 SECTION 7. Section 92.005, Health and Safety Code, is
21 amended to read as follows:

22 Sec. 92.005. ACCESS TO INFORMATION. Subject to the
23 confidentiality provisions of this subchapter [~~chapter~~], the
24 department may collect, or cause to be collected, medical,
25 demographic, or epidemiologic information from any medical or
26 laboratory record or file to help the department in the
27 epidemiologic investigation of injuries and their causes.

1 SECTION 8. Section 92.006(b), Health and Safety Code, is
2 amended to read as follows:

3 (b) The board shall adopt rules establishing procedures to
4 ensure that all information and records maintained by the
5 department under this subchapter [~~chapter~~] are kept confidential
6 and protected from release to unauthorized persons.

7 SECTION 9. Sections 92.008(a) and (e), Health and Safety
8 Code, are amended to read as follows:

9 (a) The board shall appoint a technical advisory committee
10 to advise the board of injuries other than spinal cord injuries,
11 traumatic brain injuries, and submersion injuries that should be
12 required by rule to be reported under this subchapter [~~chapter~~].

13 (e) A member of the technical advisory committee is not
14 entitled to reimbursement for expenses incurred in performing
15 duties under this subchapter [~~chapter~~].

16 SECTION 10. Section 92.011, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 92.011. COORDINATION WITH TEXAS TRAUMATIC BRAIN INJURY
19 ADVISORY COUNCIL. (a) The department and the Texas Traumatic Brain
20 Injury Advisory Council established within the department under
21 Subchapter B shall [~~enter into a memorandum of understanding to~~]:

22 (1) exchange relevant injury data on an ongoing basis
23 to the extent allowed by Section 92.006;

24 (2) maintain the confidentiality of injury data
25 provided to the council by the department in accordance with
26 Section 92.006;

27 (3) permit the council to review and comment on the

1 board's rules under Section 92.002(b) before the rules are
2 proposed; and

3 (4) cooperate in conducting investigations of
4 traumatic brain injuries.

5 (b) The department and the Texas Traumatic Brain Injury
6 Advisory Council may enter into a memorandum of understanding to
7 facilitate cooperation under Subsection (a).

8 SECTION 11. The changes in law made by this Act do not
9 affect the entitlement of a member serving on the Texas Traumatic
10 Brain Injury Advisory Council immediately before the effective date
11 of this Act to continue to carry out the member's functions for the
12 remainder of the member's term. As soon as practicable after the
13 effective date of this Act, the commissioner of health and human
14 services shall develop a plan to bring the composition of the
15 council into compliance with Section 92.053, Health and Safety
16 Code, as added by this Act, as the service of existing members of
17 the council terminates.

18 SECTION 12. It is the intention of the legislature that
19 Subchapter B, Chapter 92, Health and Safety Code, as added by this
20 Act, be interpreted and applied to reflect any changes made by the
21 78th Legislature relating to the structure of governmental agencies
22 providing health and human services and programs in this state. If
23 the relevant functions or duties of any agency referenced in
24 Subchapter B, Chapter 92, Health and Safety Code, as added by this
25 Act, are transferred to another agency by the 78th Legislature, the
26 reference means the agency to which the relevant functions or
27 duties were transferred.

1 SECTION 13. This Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I certify that H.B. No. 2019 was passed by the House on May 10, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2019 on May 30, 2003, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 2019 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor