

1-1 By: Griggs, et al. (Senate Sponsor - Harris) H.B. No. 2019  
1-2 (In the Senate - Received from the House May 12, 2003;  
1-3 May 13, 2003, read first time and referred to Committee on Health  
1-4 and Human Services; May 23, 2003, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 9,  
1-6 Nays 0; May 23, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2019 By: Lindsay

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the creation of a state advisory council with authority  
1-11 to promote research, education, treatment, and support activities  
1-12 related to persons with traumatic brain injuries.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Sections 92.001-92.011, Health and Safety Code,  
1-15 are designated as Subchapter A of Chapter 92, Health and Safety  
1-16 Code, and a subchapter heading for Subchapter A is added to read as  
1-17 follows:

1-18 SUBCHAPTER A. GENERAL PROVISIONS

1-19 SECTION 2. Chapter 92, Health and Safety Code, is amended by  
1-20 adding Subchapter B to read as follows:

1-21 SUBCHAPTER B. TEXAS TRAUMATIC BRAIN INJURY ADVISORY COUNCIL

1-22 Sec. 92.051. DEFINITIONS. In this subchapter:

1-23 (1) "Traumatic brain injury support group" means a  
1-24 local, state, or national organization that:

1-25 (A) is established to provide support services to  
1-26 aid persons with a traumatic brain injury and their primary family  
1-27 caregivers;

1-28 (B) encourages research into the cause,  
1-29 prevention, and treatment of traumatic brain injury and care of  
1-30 persons with a traumatic brain injury; and

1-31 (C) is dedicated to the development of essential  
1-32 services for persons with a traumatic brain injury and their  
1-33 primary family caregivers.

1-34 (2) "Council" means the Texas Traumatic Brain Injury  
1-35 Advisory Council.

1-36 (3) "Primary family caregiver" means an individual who  
1-37 is a relative of a person with a traumatic brain injury who has or  
1-38 has had a major responsibility for the care and supervision of the  
1-39 person with a traumatic brain injury and who is not a professional  
1-40 health care provider paid to care for the person with a traumatic  
1-41 brain injury.

1-42 Sec. 92.052. ADVISORY COUNCIL; ASSOCIATED AGENCY. (a) The  
1-43 Texas Traumatic Brain Injury Advisory Council is an advisory  
1-44 council within the department.

1-45 (b) Notwithstanding Subsection (a), if, as a result of  
1-46 legislation enacted in the 78th Legislature, Regular Session, 2003,  
1-47 a state agency other than the department is designated to serve as  
1-48 the agency with primary responsibility in relation to persons with  
1-49 physical disabilities, the council is an advisory council within  
1-50 that state agency and a reference in this chapter to the department  
1-51 means that agency.

1-52 Sec. 92.053. MEMBERSHIP. (a) The council must be composed  
1-53 in accordance with federal law. Appointments to the council shall  
1-54 be made without regard to:

1-55 (1) the race, color, sex, religion, age, or national  
1-56 origin of the appointees; or

1-57 (2) the disability of the appointees, except as  
1-58 required by federal law.

1-59 (b) The council is composed of 22 members appointed as  
1-60 follows:

1-61 (1) eight public consumer members appointed by the  
1-62 commissioner of health and human services, at least three of whom  
1-63 must be individuals related to persons with a traumatic brain

2-1 injury and at least three of whom must be persons with a brain  
2-2 injury;

2-3 (2) six professional members appointed by the  
2-4 commissioner of health and human services, each of whom must have  
2-5 special training and interest in the care, treatment, or  
2-6 rehabilitation of persons with a traumatic brain injury, with one  
2-7 representative each from:

2-8 (A) acute hospital trauma units;

2-9 (B) the National Institute for Disability  
2-10 Rehabilitation Research Traumatic Brain Injury Model System in this  
2-11 state;

2-12 (C) acute or post-acute rehabilitation  
2-13 facilities;

2-14 (D) community-based services;

2-15 (E) faculties of institutions of higher  
2-16 education; and

2-17 (F) providers in the areas of physical therapy,  
2-18 occupational therapy, or cognitive rehabilitation; and

2-19 (3) eight state agency members, with one  
2-20 representative from each of the following agencies appointed by the  
2-21 chief executive officer of the agency:

2-22 (A) Texas Department of Health;

2-23 (B) Texas Department of Human Services;

2-24 (C) Texas Department of Mental Health and Mental  
2-25 Retardation;

2-26 (D) Texas Rehabilitation Commission;

2-27 (E) Health and Human Services Commission;

2-28 (F) Texas Education Agency;

2-29 (G) Texas Planning Council for Developmental

2-30 Disabilities; and

2-31 (H) Texas Department of Insurance.

2-32 (c) One of the six public consumer members appointed under  
2-33 Subsection (b)(1) must be a member of a statewide traumatic brain  
2-34 injury support group.

2-35 Sec. 92.054. OFFICERS. (a) The members of the council  
2-36 annually shall elect a presiding officer and an assistant presiding  
2-37 officer from the council members.

2-38 (b) A representative of a state agency may not serve as  
2-39 presiding officer or assistant presiding officer.

2-40 (c) At least one of the officers must be a public consumer  
2-41 member.

2-42 Sec. 92.055. RESTRICTIONS ON MEMBERS. (a) In this section,  
2-43 "Texas trade association" means a cooperative and voluntarily  
2-44 joined association of business or professional competitors in this  
2-45 state designed to assist its members and its industry or profession  
2-46 in dealing with mutual business or professional problems and in  
2-47 promoting their common interest. The term does not include a  
2-48 voluntary health organization.

2-49 (b) A person may not be a public consumer member of the  
2-50 council if the person or the person's spouse:

2-51 (1) is employed by or participates in the management  
2-52 of a business entity or other organization receiving money from the  
2-53 council;

2-54 (2) owns or controls, directly or indirectly, more  
2-55 than a 10 percent interest in a business entity or other  
2-56 organization receiving money from the council; or

2-57 (3) uses or receives a substantial amount of tangible  
2-58 goods, services, or money from the council, other than compensation  
2-59 or reimbursement authorized by law for council membership,  
2-60 attendance, or expenses.

2-61 (c) A person may not be a member of the council if the person  
2-62 is an officer, employee, or paid consultant of a Texas trade  
2-63 association in a health care field.

2-64 (d) A person may not be a member of the council if the person  
2-65 is required to register as a lobbyist under Chapter 305, Government  
2-66 Code, because of the person's activities for compensation on behalf  
2-67 of a profession related to the operation of the council.

2-68 (e) It is a ground for removal from the council that a  
2-69 member:

3-1 (1) does not have at the time of taking office the  
 3-2 qualifications required by Section 92.053(b);

3-3 (2) does not maintain during service on the council  
 3-4 the qualifications required by Section 92.053(b);

3-5 (3) is ineligible for membership under Subsection (b),  
 3-6 (c), or (d);

3-7 (4) cannot, because of illness or disability,  
 3-8 discharge the member's duties for a substantial part of the member's  
 3-9 term; or

3-10 (5) is absent from more than half of the regularly  
 3-11 scheduled council meetings that the member is eligible to attend  
 3-12 during a calendar year without an excuse approved by a majority vote  
 3-13 of the council.

3-14 (f) The validity of an action of the council is not affected  
 3-15 by the fact that it is taken when a ground for removal of a council  
 3-16 member exists.

3-17 Sec. 92.056. TERMS; VACANCY. (a) The public consumer and  
 3-18 professional members of the council are appointed for staggered  
 3-19 six-year terms, with the terms of four or five members expiring  
 3-20 February 1 of each odd-numbered year.

3-21 (b) In addition to other methods by which a position may  
 3-22 become vacant, a position on the council becomes vacant if a member  
 3-23 resigns from the council by providing written notice to the  
 3-24 presiding officer of the council.

3-25 (c) If a position on the council becomes vacant, the  
 3-26 presiding officer shall provide written notice to the appropriate  
 3-27 appointing official requesting a new appointment to fill the  
 3-28 remainder of the member's term.

3-29 (d) If a vacancy occurs, the appropriate appointing  
 3-30 official shall appoint a person, in the same manner as the original  
 3-31 appointment, to serve for the remainder of the unexpired term.

3-32 (e) A person who has served one full term on the council is  
 3-33 not eligible for reappointment.

3-34 Sec. 92.057. COMPENSATION; EXPENSES. (a) Except as  
 3-35 provided by Subsections (b) and (c), a member of the council is not  
 3-36 entitled to compensation for service on the council and is not  
 3-37 entitled to reimbursement for travel expenses.

3-38 (b) A member who is a representative of a state agency shall  
 3-39 be reimbursed for travel expenses incurred while conducting council  
 3-40 business from the funds of the agency the person represents in  
 3-41 accordance with the General Appropriations Act.

3-42 (c) If money is available for this purpose in the account  
 3-43 established under Section 92.062(b), the department shall  
 3-44 reimburse a public consumer member for the member's actual and  
 3-45 necessary expenses incurred in performing council duties,  
 3-46 including travel, meals, lodging, respite care for a dependent with  
 3-47 a disability, and telephone long-distance charges.

3-48 Sec. 92.058. MEETINGS. The council shall meet at least once  
 3-49 each calendar quarter on meeting dates set by the council and at the  
 3-50 call of the presiding officer.

3-51 Sec. 92.059. DUTIES OF THE COUNCIL. The council shall:

3-52 (1) inform state leaders of issues and policies as  
 3-53 they relate to meeting the needs of persons with a traumatic brain  
 3-54 injury and their primary family caregivers;

3-55 (2) recommend to state leaders policies and programs  
 3-56 that more effectively serve persons with a traumatic brain injury  
 3-57 and their families;

3-58 (3) recommend to the department methods to explore and  
 3-59 promote innovative approaches to providing services and support to  
 3-60 persons with a traumatic brain injury and their families;

3-61 (4) recommend to the department methods to promote  
 3-62 education, training, and information about traumatic brain injury  
 3-63 issues;

3-64 (5) advocate for persons with a traumatic brain injury  
 3-65 and their families;

3-66 (6) recommend to the department methods to support  
 3-67 activities aimed at reducing preventable brain injuries; and

3-68 (7) recommend to the department methods to conduct  
 3-69 outreach to obtain public input.

4-1 Sec. 92.060. DUTIES OF THE DEPARTMENT. (a) The department  
4-2 shall:

4-3 (1) provide administrative support services to the  
4-4 council;

4-5 (2) accept gifts and grants on behalf of the council  
4-6 from any public or private entity;

4-7 (3) receive, deposit, and disburse gifts and grants  
4-8 for the council in accordance with this subchapter and provide  
4-9 other administrative services in support of the council as  
4-10 requested by and negotiated with the council; and

4-11 (4) enter into a memorandum of understanding with the  
4-12 council that delineates the responsibilities of the department and  
4-13 the council under this subchapter and amend the memorandum as  
4-14 necessary to reflect changes in those responsibilities.

4-15 (b) The board may adopt rules as necessary to implement the  
4-16 department's duties under this subchapter and federal  
4-17 developmental disability laws.

4-18 Sec. 92.061. ADDITIONAL COUNCIL DUTIES. The council shall:

4-19 (1) make recommendations, at the request of the  
4-20 governor or legislative leaders, relating to activities  
4-21 appropriate to the achievement of legislative and executive  
4-22 functions relating to persons with a traumatic brain injury; and

4-23 (2) submit to the governor, legislature, and other  
4-24 appropriate state and federal authorities periodic reports on the  
4-25 council's responsibilities and performance.

4-26 Sec. 92.062. GIFTS AND GRANTS. (a) The council is  
4-27 encouraged to seek a gift or grant from any public or private  
4-28 entity.

4-29 (b) The health and human services commission shall deposit  
4-30 any money received under Subsection (a) to the credit of the Texas  
4-31 Traumatic Brain Injury Advisory Council account. The Texas  
4-32 Traumatic Brain Injury Advisory Council account is an account in  
4-33 the general revenue fund that may be appropriated only for the  
4-34 purpose of carrying out this subchapter.

4-35 Sec. 92.063. ADVISORY COMMITTEE STATUTE INAPPLICABLE.  
4-36 Chapter 2110, Government Code, does not apply to the council.

4-37 SECTION 3. Section 92.001(2), Health and Safety Code, is  
4-38 amended to read as follows:

4-39 (2) "Reportable injury" means an injury or condition  
4-40 required to be reported under this subchapter [~~chapter~~].

4-41 SECTION 4. Sections 92.002(b) and (d), Health and Safety  
4-42 Code, are amended to read as follows:

4-43 (b) The board may adopt rules that require other injuries to  
4-44 be reported under this subchapter [~~chapter~~].

4-45 (d) The board shall adopt rules necessary to administer this  
4-46 subchapter [~~chapter~~].

4-47 SECTION 5. Section 92.003(c), Health and Safety Code, is  
4-48 amended to read as follows:

4-49 (c) The board shall prescribe the form and method of  
4-50 reporting. The board may require the reports to contain any  
4-51 information, including the person's name, address, age, sex, race,  
4-52 occupation, employer, and attending physician, necessary to  
4-53 achieve the purposes of this subchapter [~~chapter~~].

4-54 SECTION 6. Sections 92.004(a), (c), and (d), Health and  
4-55 Safety Code, are amended to read as follows:

4-56 (a) The department may enter into contracts or agreements as  
4-57 necessary to carry out this subchapter [~~chapter~~]. The contracts or  
4-58 agreements may provide for payment by the state for materials,  
4-59 equipment, and services.

4-60 (c) Subject to the confidentiality provisions of this  
4-61 subchapter [~~chapter~~], the department shall evaluate the reports of  
4-62 injuries to establish the nature and magnitude of the hazards  
4-63 associated with those injuries, to reduce the occurrence of those  
4-64 risks, and to establish any trends involved.

4-65 (d) The department may make inspections and investigations  
4-66 as authorized by this subchapter [~~chapter~~] and other law.

4-67 SECTION 7. Section 92.005, Health and Safety Code, is  
4-68 amended to read as follows:

4-69 Sec. 92.005. ACCESS TO INFORMATION. Subject to the

5-1 confidentiality provisions of this subchapter [~~chapter~~], the  
5-2 department may collect, or cause to be collected, medical,  
5-3 demographic, or epidemiologic information from any medical or  
5-4 laboratory record or file to help the department in the  
5-5 epidemiologic investigation of injuries and their causes.

5-6 SECTION 8. Section 92.006(b), Health and Safety Code, is  
5-7 amended to read as follows:

5-8 (b) The board shall adopt rules establishing procedures to  
5-9 ensure that all information and records maintained by the  
5-10 department under this subchapter [~~chapter~~] are kept confidential  
5-11 and protected from release to unauthorized persons.

5-12 SECTION 9. Sections 92.008(a) and (e), Health and Safety  
5-13 Code, are amended to read as follows:

5-14 (a) The board shall appoint a technical advisory committee  
5-15 to advise the board of injuries other than spinal cord injuries,  
5-16 traumatic brain injuries, and submersion injuries that should be  
5-17 required by rule to be reported under this subchapter [~~chapter~~].

5-18 (e) A member of the technical advisory committee is not  
5-19 entitled to reimbursement for expenses incurred in performing  
5-20 duties under this subchapter [~~chapter~~].

5-21 SECTION 10. Section 92.011, Health and Safety Code, is  
5-22 amended to read as follows:

5-23 Sec. 92.011. COORDINATION WITH TEXAS TRAUMATIC BRAIN INJURY  
5-24 ADVISORY COUNCIL. (a) The department and the Texas Traumatic Brain  
5-25 Injury Advisory Council established within the department under  
5-26 Subchapter B shall [~~enter into a memorandum of understanding to~~]:

5-27 (1) exchange relevant injury data on an ongoing basis  
5-28 to the extent allowed by Section 92.006;

5-29 (2) maintain the confidentiality of injury data  
5-30 provided to the council by the department in accordance with  
5-31 Section 92.006;

5-32 (3) permit the council to review and comment on the  
5-33 board's rules under Section 92.002(b) before the rules are  
5-34 proposed; and

5-35 (4) cooperate in conducting investigations of  
5-36 traumatic brain injuries.

5-37 (b) The department and the Texas Traumatic Brain Injury  
5-38 Advisory Council may enter into a memorandum of understanding to  
5-39 facilitate cooperation under Subsection (a).

5-40 SECTION 11. The changes in law made by this Act do not  
5-41 affect the entitlement of a member serving on the Texas Traumatic  
5-42 Brain Injury Advisory Council immediately before the effective date  
5-43 of this Act to continue to carry out the member's functions for the  
5-44 remainder of the member's term. As soon as practicable after the  
5-45 effective date of this Act, the commissioner of health and human  
5-46 services shall develop a plan to bring the composition of the  
5-47 council into compliance with Section 92.053, Health and Safety  
5-48 Code, as added by this Act, as the service of existing members of  
5-49 the council terminates.

5-50 SECTION 12. It is the intention of the legislature that  
5-51 Subchapter B, Chapter 92, Health and Safety Code, as added by this  
5-52 Act, be interpreted and applied to reflect any changes made by the  
5-53 78th Legislature relating to the structure of governmental agencies  
5-54 providing health and human services and programs in this state. If  
5-55 the relevant functions or duties of any agency referenced in  
5-56 Subchapter B, Chapter 92, Health and Safety Code, as added by this  
5-57 Act, are transferred to another agency by the 78th Legislature, the  
5-58 reference means the agency to which the relevant functions or  
5-59 duties were transferred.

5-60 SECTION 13. This Act takes effect September 1, 2003.

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