

2015 HOUSE HUMAN SERVICES

HB 1256

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Fort Union Room, State Capitol

HB 1256
1/21/2015
22296

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

A bill relating to the definition of brain injury and to provide an appropriation.

Minutes:

Attachment #1 #2 #3

Chairman Weisz opened the hearing on HB 1256.

Rep. Mooney: District 20 and I will try my best to give you an overview of house bill 1256. The idea behind 1256 is to adjust the definition of traumatic brain injury as it currently sits in statute. At the begging of our bill on pg. 1 we start out in section one that is related to school age children. We did learn that section one, when we get to the point of discussion, that section one will not be required. The department of public instruction is required through federal statutes to ensure that all children of any brain injury of any disability are qualified on the spectrum of disability. Children K-12 will receive services and we will be making the recommendation for an amendment to remove that first section. From section two on the bill begins to talk about a change from traumatic brain injury to simply brain injury. The reason for this is that in numerous testimonies that we receive, we heard repeatedly about individuals with a brain injury who don't have a traumatic brain injury, but through lack of oxygen or a number of other related illnesses or events a brain injury occurred. Some of these individuals as a result did not qualify under traumatic brain injury and don't qualify under a disability either so these folks are falling between the cracks. The essence of this bill is to change the traumatic brain injury classification to brain injury to allow these individuals the opportunity to have service provisions.

Rebecca Quinn: Program director at the Center for Rural Health, University of North Dakota. (See Testimony #1)

Rep. Porter: Looking at your referral sheet, you have 3 individuals that fall into a seizure disorder category and 2 under aneurism category. When I looked up encephalopathy it does not include seizure disorder. So I'm wondering if that was on over sight or in your looking it up you found it is considered encephalopathy or that didn't need to be included in this update?

Quinn: Encephalopathy is swelling and infection of the brain. I don't really know much history on these referrals that I have because they are just based on a paper copy that I got from them. Since I don't follow up with them I have not been able to get their whole story of their history. For most of the individuals who have a seizure disorder they could also fall under the category of an anoxic brain injury. Usually the long term deficit from the seizure disorder is related to oxygen deprivation to the brain during their seizure. Those could fall under an anoxic injury more likely than under encephalopathy.

Rep. Porter: I think it needs to be specifically listed or it's going to be an excluded illness.

Rep. Mooney: Earlier there was a reference to age of 65; can you tell us why that age 65 was included in that?

Quinn: I believe it was for Medicare and Medicaid purposes.

Rep. Mooney: So if we wanted to be more inclusionary instead of exclusionary, which would be the point in what we are doing with this?

Quinn: Correct. I think there could be some language that was put in there regarding the list of non-traumatic insults that include something, like may include but not limited to.

Rep. Mooney: You don't list items such as brain cancer, is that a necessary distinction you think needs to be made or are we ok with the definitions we have listed here?

Quinn: We do list tumor but I would support in added language that would be more inclusionary and include language to be open to some of those rare occurrences rather than limiting it to only those few.

Rep. Oversen: In your opinion with the exclusions that are included in the language is that encompassing enough that if we do include language saying we aren't limiting to these but we know that inherited degenerative brain disorder conditions are not included. We are being inclusive enough?

Quinn: Yes. It is for individuals that maybe have an inherited brain disorder. Those are usually seen as part of a different system. Injuries induced by birth trauma are usually picked up by the developmental disabilities. That is a more common thread of those being exclusionary. Brought in testimony from Trina Gress: Vice President of Employment Services at Community Options, Inc. (See Testimony #2)

Vickay Gross: Protection and Advocacy Project, works with individuals with many different types of brain injuries. (See Testimony #3)

Lauren Sauer: Behavior health program administrator with the North Dakota department of human services division of mental health and substance abuse services. Broadening the definition in chapter 50-06.4 would definitely increase access for those individuals that do not qualify right, as mention before those folks that fall into the gap. The department does feel there would be a significant increase in the number of individuals that would be accessing services. As more people come in it would also likely result in a decrease in

access to services for individuals that have a traumatic brain injury because more people would be coming in for the services.

Chairman Weisz: If we expand the definition, shouldn't there be a fiscal affect if more people qualified for services?

Sauer: It would be difficult to determine how many people are out there that would qualify

Chairman Weisz: The 10,000 dollar fiscal note for purposes of training and public awareness, is that number reasonable?

Sauer: We were not consulted on that number and I don't know if that would be an adequate amount or not.

Rep. Damschen: Do we have a number on what is currently spent on traumatic brain injury services?

Sauer: I do not have that with me, but can provide it to you.

Chairman Weisz Closes hearing

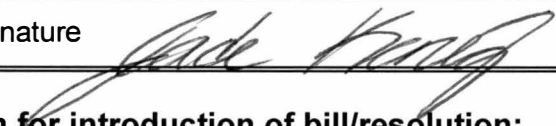
2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1256
1/27/2015
22662

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Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to the definition of brain injury and to provide an appropriation.

Minutes:

"Click to enter attachment information."

Chairman Weisz: How does this now affect anything we might look at doing with traumatic brain injury, because traumatic brain injury wouldn't exist anymore? The way I read this once we change the definition there is not traumatic brain injury everything would fall under brain injury.

Rep. Mooney: We had a revised definition that was offered to us for consideration. It says: Traumatic or acquired brain injury means and insult from physical force or internal damage to the brain or its coverings not of a degenerative or congenital nature that produces and altered mental state and that results in a decrease in cognitive, behavioral, emotional, or physical functioning. That was taken from an Alaska statute on their definition of brain injury. We received it by email after some of the testimony was received after the committee hearing. That language comes from some of the stake holders that we had heard from through the interim committee process and those same stake holders were working after the interim committee had wrapped up. What they were saying to us was that if they had come across that definition from the very beginning they probably would have been advocating for that language specifically because it doesn't really compass exactly what it is that they would hope to see for brain injury in North Dakota. We did hear from DPI. They had some major concerns on section one amendment.

Chairman Weisz: The other section had nothing to do with the educational part, but it really surprises me that they didn't weigh in on what affect this could have. We have bills to definitely expand services for traumatic brain injury, is this going to dilute that? My point is we are expanding the definition so then if you are looking at providing services and you're limited anyway to what you may do, but now you have a much larger pool.

Rep. Kiefert: On thing that concerns me is on page 2 line 6 they exclude birth trauma do to child birth. Regardless of how you receive the injury what's the point of excluding a certain population?

Chairman Weisz: If it is hereditary or congenital it falls under disability classification.

Rep. Porter: It is interesting to see the definition expand, but the fiscal note hasn't. What you are going to see is an amount of services diminish because the pool has increases in size but the funds haven't. If the definition changes the only recommendation that I have is get rid of Section 13, which is the appropriation component of it. That is strictly for marketing and if we are going to spend money on the program then put it in places where the program dollars are actually used for the individuals affected by brain injury itself.

Chairman Weisz: It is going to broaden the pool for the same amount of dollars. Is that what we want to do? How much does it broaden the pool, I don't know. If we leave it where it is then we know the pool we already have that we are dealing with for the services.

Rep. Mooney: I don't think anyone would have a problem with taking out section 13 on the appropriation. I understand about the idea of diluting the pool of resources that we have available to us and we spent months talking about what kind of numbers we are talking about. The problem is no one knows but then in the meantime what we do know is that there is an absolute section of people who are not qualifying so they are not qualifying in the developmentally disabled waiver system and they are not qualifying in the traumatic brain injury system. So then these families are struggling to find services for their loved ones and trying to figure out some way to help them be productive citizens. I think in the whole grand scheme of trying to get these people moving to a point of productivity its one way we can at least begin to understand what kind of numbers we are talking about.

Chairman Weisz: On page 1 line 20 I don't think we should change that definition. I would also suggest a change in language; their number two suggestion for the language is simple and makes sense.

Rep. D. Anderson: Didn't you remove that whole section, line 6 through 22?

Chairman Weisz: If you take that out then it would be gone because there is no change in that code. If you remove the over strike then in reality that whole section goes away because there is no change in it.

Rep. Damschen: If we are talking about traumatic brain injuries in one section don't we have to define the term somewhere?

Chairman Weisz: It is already defined currently, because that language would go back.

Rep. Damschen: I wonder if there are other bills out there addressing traumatic brain injury?

Chairman Weisz: I am not aware of anything on the senate side that related to definition.

Rep. D. Anderson: On page 1 line 20 we will insert "traumatic brain injury" and remove the overstrike. Page 2 on line 3 we will use the definition about the Alaskan brain injury. Section 13 we will remove that totally. That's my motion on the amendment.

Rep. Mooney: I Second.

Rep. Fehr: If I'm understanding correctly you're keeping lines 3 and 4, removing the part the says "before age 65" and removing the rest of that definition. Is that what that's doing?

Chairman Weisz: We would still keep "brain injury means any injury to the brain which occurs after birth". The rest of the new language is replaced by "which is acquired through traumatic or non-traumatic insult. So you are going to lose before age 65 and you lose the rest after non-traumatic insults.

Rep. Fehr: If you removed lines 5 and 6, if it's a degenerative disorder like dementia it would be included in this definition because it's not excluded?

Chairman Weisz: That would be correct.

Rep. Fehr: Bottom line is with this new definition of the motion, any brain injury that happens after birth of any kind would be included?

Chairman Weisz: That would be a pretty accurate statement.

Rep. Seibel: How about strokes, are they included?

Chairman Weisz: Yes, because they would be a brain injury.

Rep. Mooney: There was a story told about a young woman, 34 years old, who had a stroke and she needs help in order to continue with a productive working life but she doesn't qualify for anything. She qualifies for disabled benefits or that kind of thing but nothing else.

Rep. Damschen: I think it makes it kind of broad.

Chairman Weisz: That's kind of my concern with the bill but at the same time if we are going to go beyond traumatic then I don't know how you limit it. Why would you then start picking and choosing and the non-traumatic part? I still have concerns, but I do think if you are going to do it then a brain injury is a brain injury. The argument before was that's not really fair to differentiate between traumatic and non-traumatic.

Rep. Damschen: I'm just thinking a stroke really opens it up.

Chairman Weisz: Which non-traumatic injuries should be in?

Rep. Porter: Having the word encephalopathy in there, if you look in Wikipedia its everything. So just by having that word in the original version of the bill that is to catch all words, so you're including anoxia, aneurism and including the word encephalopathy that is everything else that you aren't going to describe. So it really does encompass it all by having that word in there.

Chairman Weisz: So the current language that was in the bill, while being a lot wordier, is exact same coverage as the new language?

Rep. Porter: With the new language you aren't putting any limiters on the expansion of the program on what the original language is. It's just different verbiage. By picking that word, if someone was going to fight the definition or that word in this bill they are going to basically do the same thing I did and go to Wikipedia and get the common medical terminology of what encephalopathy is and it's about 25 different things. The hallmark of encephalopathy is an altered mental state. So encephalopathy is even more expansive than what I think the Alaskan language uses by having that word in there. If you are worried about a true unconditional expansion then leave the language the way it is and use the word encephalopathy. If you want the language that Alaska used I don't know that is all inclusive of every possible disease.

Rep. Hofstad: I'm wondering about a third party payer. If you have a stroke are their conditions that are paid for under a third party payer? When we think about diluting the pool would some of those who have had a stroke would those issues be paid for under a third party payer?

Chairman Weisz: The only affect this is going to have is on the services that we are looking at providing and already provide for TBI victims. Third party payers pay on the actual medical condition.

Rep. Hofstad: What I'm wondering is if those third party payers would pay on some services under a stroke, that wouldn't be eligible if you had a brain injury?

Rep. Porter: I think that inside of those policies the home health component, the disability component in a separate disability policy, the rehab component in a health policy those wouldn't be affected by this. What we have done for TBI up until we deal with the other bills is really provide a coordination service so that you have a one call situation that you can call in and say this is the issue I'm having do you know of any place where we can go? There aren't any real services that go with a lot of that. Basically what you are doing is you are taking that pool that we currently have of money and diluting it by changing the definition. So then the next argument for the next bill is going to be now you have to increase the money because we diluted the pool. That will be an argument for another bill because this is the definition bill and the other ones that we have are the money that go with the definition.

Motion to Adopt Amendment

Page 1 line 20 remove overstrike.

Page 2 line 3 use Alaskan brain injury definition.

Section 13 totally removed.

Motion made by Representative D. Anderson. Seconded by Rep. Mooney

Voice Vote Motion Carried

Rep. Fehr: Regarding the concern about reimbursement, I don't see how this can affect reimbursements because they are based on International Classification of Disease (ICD) codes and this doesn't affect ICD codes.

Rep. Damschen: What was the target group that we thought this present definition was missing?

Rep. Mooney: The target group would be individuals who incurred lack of oxygen, toxic fumes from chemicals or fires, individuals who did not receive any kind of blow to the head at all. So then those people don't qualify for things like job shadow, or community options where they work with individuals to get them back into the community and working. We have vocational rehab through the department of human services which has a number of programs that people can qualify or not qualify for based on the criteria and then you have the contracted back to work programs. What happens is people fall through the cracks and they don't get the structure that they need to be able to perform in any way shape or form so it's left to the families to pick up that piece of that puzzle. It's a continuity kind of thing.

Rep. Porter: Mr. Chairman can you read our new definition?

Chairman Weisz: Brain injury means any injury to the brain which occurs after birth which is acquired through traumatic or non-traumatic insults. So one it can't be a disease it has to be an injury.

Rep. Porter: Did we want to go further expound on that and put "exists on" line 5 that the term does not include or are we comfortable using the word traumatic or non-traumatic insults and not have a definition of what insults really is?

Chairman Weisz: It seems kind of redundant in the current language.

Rep. Porter: There had to be a specific concern that there needed to be exclusion specifically listed.

Chairman Weisz: Now to me the only question might be the degenerative brain disorders. Could you argue that those were caused by insults.

Rep. Porter: Looking back on Wikipedia, seizure disorders are now considered, in our new definition, a non-traumatic insult.

Chairman Weisz: Do we want it all inclusive or do we want to specifically exclude some things that we think shouldn't be considered non-traumatic insult.

Rep. Mooney: I think the stake holders which includes the families involved would be pleased with the any progress that we made so that if we had to further amended even to take out the word encephalopathy so that it reduced it by definition to just a couple of additional terms. I think they would be pleased to see any move toward further inclusion would be better than where we are.

Chairman Weisz: You could leave the language. The term I guess starting on line 5 the term does not include. From your understanding thought would that exclude seizure disorders? I would say the term does not include hereditary, congenital, or degenerative brain disorders or injuries induced by birth trauma.

Rep. Porter: I would actually include that the term does not include those. I would include encephalopathy as not including it. Then what you are doing is expanding it to those non-traumatic insults like the anoxia. I don't know that I would keep aneurism as a non-traumatic insult, because it can be a congenital disease. The other component is that it could be just a side effect of high blood pressure. I don't know if aneurism fits what I'm hearing in the discussion. I think that anoxia does.

Chairman Weisz: If you keep the language "which is acquired to traumatic or non-traumatic insults" and now we decided that's a little too broad. So if we then just say "the term does not include hereditary, congenital, degenerative and encephalopathy" wouldn't that be good enough? Or do you still think you have to include, because it should already include or do you want to also put aneurism as does not include?

Rep. Porter: If the discussion was to include those situations of a drowning, lack of oxygen type scenario then anoxia is the word you want. If you want to include using the word aneurism, uncontrolled hypertension in a 50 year old person that pops a vessel, then you have aneurism. Encephalopathy is that all encompassing term that gets everything else all in there. Really in the expansion of what we are looking at when we say non-traumatic insults are accidental things that come from outside forces like a drowning that don't necessarily include trauma but have a brain injury component to it.

Chairman Weisz: That is the word I was going to use was accident. In other words even though it's non-traumatic but it's an accidental injury of some sort so it's not a disease or progressive or as you pointed out as a result of bad lifestyle.

Rep. Porter: I think we have to have a component that has the does not include thing.

Rep. Mooney: A particular instance that was given was of a chemical would have been with the oil wells. There is an individual that was in the wrong place in the wrong time and was overcome by some type of fumes and now this gentleman has a brain injury that he is never going to get past. So does anoxia take care of that then or are we leaving those guys out in the cold?

Chairman Weisz: We aren't going to use the language of anoxia. I would say it's included under non-traumatic insult because we are not excluding it because that's accidental. An outside event even occurred to cause the brain injury. I'm getting the sense that that is what they are getting at. Is when an outside event happens whether it's drowning, chemical, or fire smoke inhalation that that should be considered really under a TBI or of course under the new definition.

Rep. Porter: I move to further amend the definition that after the period on the word insults the term "does not include hereditary, congenital, encephalopathy or degenerative disorders or injuries induced by birth trauma"

Chairman Weisz: What about aneurisms?

Rep. Porter: And aneurisms.

Chairman Weisz: Further amending our original amendment just said "which is acquired through traumatic or non-traumatic insults". Representative Porter's motion would say "does not include aneurism, hereditary, congenital, degenerative, encephalopathy or birth trauma injuries"

Rep. D. Anderson: I second

Chairman Weisz: So we are making it clear that non-traumatic insults are in there and we are excluding basically disease type or birth conditions as being a reason to be considered a brain injury. I think that narrows it up a lot better

Rep. Mooney: So brain injury means an injury to the brain which occurs after birth which is acquired through traumatic or non-traumatic insults. The term does not include hereditary, congenital or degenerative brain disorders, encephalopathy, aneurism or injuries induced by birth trauma."

Chairman Weisz: That is correct.

Rep. Damschen: Do we need to state the term we are referring to. Are you referring to traumatic or non-traumatic or insults?

Rep. Porter: I think the term means brain injury because that's what we are defining.

Chairman Weisz: The way the language is written now "brain injury means an injury to a brain which occurs after birth which is acquired through traumatic or non-traumatic insults. That's the term. Then we go on to clarify "the term (meaning brain injury) does not include these things". So we are making sure that someone doesn't include them as a non-traumatic insult.

Motion to Further Amend

"Does not include aneurism, hereditary, congenital, degenerative, encephalopathy or birth trauma injuries."

Motion made by Representative Porter. Seconded by Representative D. Anderson
Voice Vote Motion Carried.

Chairman Weisz: We have a further amended bill in front of us. What are the committees wishes?

Rep. Mooney: I motion to Do Pass As Amended.

Rep. Muscha: I second.

Rep. Porter: I think that in the other bills that we are dealing with the actual money for the programs and discussing what the programs can be, I think we are going to want to have some kind of study language in another bill that ties us back together so that we see in two years how much we have expanded it and what the impacts are and if we have truly diluted the pool below the point of adequate service. I don't know if we have done it or not.

Rep. Fehr: What I'm wondering about are things like the department of human services right now is trying to track brain injuries. If it's not clear to us on what is being tracked and not tracked with the redefinition. Are they going to try and accommodate our definition?

Rep. Mooney: In one of the other bills that we will be hearing there is a study piece that is attached with it and I think that that is important and there was a lot of discussion about that, the need to have a really defined study of what outcomes are expected from that.

Do Pass As Amended

Motion made by Representative Mooney. Seconded by Representative Muscha.

Total Yes 11. No 2. Absent 0.

Floor Assignment Representative Porter.

January 27, 2015

8/2
1-27-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1256

Page 1, line 4, remove "; and to provide an appropriation"

Page 1, line 20, remove the overstrike over "traumatic"

Page 2, line 3, remove ", but before age"

Page 2, line 4, replace "sixty-five," with "and"

Page 2, line 4, remove "Nontraumatic"

Page 2, line 5, remove "insults include anoxia, aneurysm, and encephalopathy."

Page 2, line 6, after the second underscored comma insert "encephalopathy, aneurysm,"

Page 6, remove lines 26 through 30

Renumber accordingly

Date: 1-27-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1256

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 15.0467.02001 description at bottom of page

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By D. Anderson Seconded By Mooney

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson					
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert					
Rep. Porter					
Rep. Seibel					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

page 1 line 29 remove overstrike page 2 line 3 Section 13 remove it brain injury means

*Voices
Motion
Carried*

Date: 1-27-15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1256

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 15.0467.02001 description at bottom of page

Recommendation: ☐ Adopt Amendment ☒ Further amend
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Porter Seconded By D. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. Mooney		
Vice-Chair Hofstad			Rep. Muscha		
Rep. Bert Anderson			Rep. Oversen		
Rep. Dick Anderson					
Rep. Rich S. Becker					
Rep. Damschen					
Rep. Fehr					
Rep. Kiefert					
Rep. Porter					
Rep. Seibel					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

the term does not include 43.00 on take
motion carried
Voice Vote

Date: 1-27-15
Roll Call Vote #: 3

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1256**

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 15-0467-02001

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Mooney Seconded By Rep. Muscha

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz <u>LAST</u>		<input checked="" type="checkbox"/>	Rep. Mooney	<input checked="" type="checkbox"/>	
Vice-Chair Hofstad	<input checked="" type="checkbox"/>		Rep. Muscha	<input checked="" type="checkbox"/>	
Rep. Bert Anderson	<input checked="" type="checkbox"/>		Rep. Oversen	<input checked="" type="checkbox"/>	
Rep. Dick Anderson	<input checked="" type="checkbox"/>				
Rep. Rich S. Becker	<input checked="" type="checkbox"/>				
Rep. Damschen	<input checked="" type="checkbox"/>				
Rep. Fehr	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Rep. Kiefert	<input checked="" type="checkbox"/>				
Rep. Porter	<input checked="" type="checkbox"/>				
Rep. Seibel	<input checked="" type="checkbox"/>				

Total (Yes) 11 No 2

Absent _____

Floor Assignment Porter

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1256: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1256 was placed on the Sixth order on the calendar.

Page 1, line 4, remove "; and to provide an appropriation"

Page 1, line 20, remove the overstrike over "~~traumatic~~"

Page 2, line 3, remove ", but before age"

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Page 6, remove lines 26 through 30

Renumber accordingly

2015 SENATE HUMAN SERVICES

HB 1256

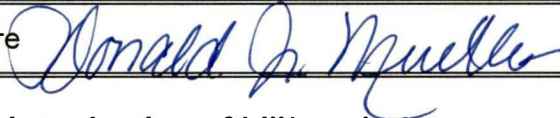
2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

HB 1256
3/4/2015
24320

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to the definition of brain injury

Minutes:

Attach #1: Testimony by Rebecca Quinn
Attach #2: Testimony by Vickay Gross
Attach #3: Testimony by April Fairfield
Attach #4: Testimony by Trina Gress
Attach #5: Testimony by Stacie Dailey

Representative Dick Anderson, District 6, introduced HB 1256 to Senate Human Services Committee. This bill changes the definition of brain injury, removing "traumatic". You can have a brain injury due to starvation of oxygen to the brain. Choke, drowning are examples.

Chairman Judy Lee noticed the change in definition on page 1, and then removing "Traumatic".

Rebecca Quinn, Program Director at the Center for Rural Health, University of North Dakota, testified IN FAVOR of HB 1256. (attach #1) (2:45-7:30)

Chairman Judy Lee indicated in prior sessions there was discussion regarding the definition, and at that time it was issues with returning veterans who had brain injury from high levels of sounds, and we were assured that they were included. This broadens the definition further.

Ms. Quinn confirmed. The language expands the definition include things like non-physical force to the brain.

Chairman Judy Lee asked how do you reach out to the brain injury issues? How do we find the rest of the folks so they can benefit.

Ms. Quinn confirmed there are more people. At this point, she is not actively reaching out. This could be a benefit to the stroke system of care, that acute period, that acute medical care, but by broadening this definition, it provides collaboration and seamless systems between the acute event and ongoing services.

Chairman Judy Lee asked is there any active involvement with the adjunct general for national guard or veterans offices, to help them reach out to people in their own areas who may be returning veterans or long-ago returning veterans who may have a brain injury?

Ms. Quinn indicated there is work with that.

Senator Warner wonders if you want to be so inclusive, why not stop after the first sentence. The exclusions, why? Heredity and congenital? Is that developmental disability population.

Ms. Quinn yes that is developmental disability population, heredity and congenital would be overlap.

Senator Warner encephalopathy? Infection of the brain?

Ms. Quinn indicated encephalopathy is a broad based term that means damage to the brain. Encephalitis is an infection to the brain. Meningitis would be a version. Chronic traumatic encephalopathy is chronic damage to the brain. It becomes difficult of what this does not include. The intent was to exclude infections.

Senator Warner asked if she would have a problem if the committee excluded those two conditions, encephalopathy and aneurisms.

Ms. Quinn agrees that it is those distinctions that maybe we shouldn't be making. The distinction for this definition of brain injury and the way it is utilized, it would be better to base it on the access to the services that the individual needs, and not the actual diagnosis that is getting them into accessing those services.

Senator Warner continued injuries induced by birth trauma. You want to include anoxia, oxygen deprivation, something you want to provide services for, but injuries by birth trauma could create an anoxic situation.

Ms. Quinn the injury induced by birth trauma, are usually picked up in the developmental disability system.

Chairman Judy Lee indicated that in the last page of Ms. Quinn's testimony, traumatic and non-traumatic, but the engrossed bill states "insults", so correction to Quinn's testimony.

Ms. Quinn confirmed correct.

Senator Dever asked if the statistics in the chart from her testimony is for one month. **Ms. Quinn** indicated that is from August 2013 to current. **Senator Dever** clarified correction in the numbers.

V. Chairman Oley Larsen is there a spot where it makes an exception for self-induced brain injury, such as drug abuse. Are we going to be helping those folks, treating them, after they have been doing this behavior?

Ms. Quinn indicated there is not a section regarding exclusion of those type of issues, so they would be in need of services and would probably be accessing services in one way or another, so they would be included.

Senator Dever asked if passage of this bill is critical to the other brain injury bills.

Ms. Quinn indicated it is not critical, but passage would allow populations could be a part of the larger system.

Senator Warner asked were any of these exclusions added by the house committee.

Ms. Quinn on page 2 of her testimony, the 1256 version, introduced, and the exclusions was changed and exclusions were added down in the excluded category. The age cap requirement was removed, and they also removed the question on what insult it did the inclusionary sentence and that should be left programmatically up to what types would be included. They did move some down to the excluded categories.

Senator Howard Anderson, Jr. asked Representative Anderson why the words were put where they are.

Representative Anderson stated the House struggled with this, so thought if definition was too broad, the chances of the bill passing was less. There are other areas that could help, but with brain injury, we don't want to broaden the definition too much, encompass too many people, the bill may not pass. Have been dealing with traumatic brain injury since mid-1990's.

(22:59) **Lenore King**, Community Options in Fargo office, introduced **Kathy Jo Harr**, who has traumatic brain injury. Ms. Harr provided personal testimony and discussed her personal life and support she currently receives for traumatic brain injury.

Senator Dever imagine that you are taking interest in the other brain injury bills.

Ms. Harr confirmed.

Senator Dever how do you see those bills helping you.

Ms. Harr through community options, she gets depression, they are there to guide her in those off days. Would like to see them have a slush/flex fund.

Chairman Judy Lee thinks that you have seen benefits and there are others who could benefit. The whole package could benefit others.

Ms. Harr indicated it is hard to get jobs, hard to maintain a job. She has been working with the homeless people, and she is both book and street smart, so there is a level of trust with her.

Chairman Judy Lee stated that Ms. Harr may have credibility with the homeless because you have been there, done that. Ms. Harr can provide help.

Vickay Gross, Disabilities Advocate, testified IN FAVOR of HB 1256. (attach #2). She provided her written testimony, but has a hoarse voice and chose not to read the testimony.

April Fairfield, Executive Director of Head Injury Association of North Dakota, testified IN FAVOR of HB 1256. (attach #3) (32:23-35:10)

Chairman Judy Lee asked if she thought incremental increase in numbers if this passes.

Ms. Fairfield confirmed yes.

June Herman, Regional Vice President of Advocacy with the American Heart Association, did not have prepared testimony. It is an issue they are watching, and thinks there is value in supporting brain injury needs and services for those who have been stricken by stroke. Not delved in deeply, but now in the task force work plan to improve access. We are still watching to see how we can collaborate, don't need to build a separate system, will be supportive to referring.

Chairman Judy Lee the aneurism exclusion won't work well for the stroke side?

Ms. Herman isn't sure how many, or are they directed to Long Term Care. We can pull data on how many go to Long Term Care and how many are back to their community. Stroke is happening at a younger age, in the workforce age group. That is a long time not being able to go back to their jobs.

Chairman Judy Lee if Dr. Hyder has any information in particular to this exclusion, she invites that information.

Senator Dever indicated as the bill was introduced, it included the age group of 65+. Is that because services are related to Medicare?

Ms. Herman deferred.

Representative Anderson once they get to that age there are services available to them.

Rebecca Quinn - initially, that was the idea that 65 age have services through Medicare. In the House, it was deleted, the brain injury program has the conference, website, etc that if an individual was 65 or above, those type of services could still be accessed by those individuals - may augment those services but not be duplicative.

Chairman Judy Lee commented that not everyone gets Medicare also.

Senator Warner asked if cerebral palsy is a brain injury or birth trauma.

Ms. Quinn indicated it is not considered a brain injury.

Chairman Judy Lee thinking about congenital diseases as well. The PKAN family. They have a debilitating disease that affects their cognitive skills as well.

Ms. Quinn indicated the definition of brain injury has been debated on federal level. One of the reasons why the congenital and birth traumas were excluded was because of the pragmatism, and how they can be picked up in other programs.

OPPOSITION TO HB 1256

No opposing testimony

NEUTRAL TO HB 1256

Trina Gress, Vice President of Employment Services at Community Options, Inc., testified NEUTRAL to HB 1256 (attach #4) (42:48-44:30).

Senator Howard Anderson, Jr. do you have a definition for acquired brain injury

Ms. Gress deferred to Rebecca Quinn. Acquired for their programming is the lack of oxygen to the brain; how it got there we don't determine.

Stacie Dailey, Mental Health Lead Administrator with North Dakota Department of Human Services Mental Health and Substance Abuse Services Division, testified NEUTRAL to HB 1256 (attach #5) (45:40-47:45)

Chairman Judy Lee stated that the House killed the Traumatic Brain Injury Registry program, so how are we supposed to know how many services we provide since the TBI registry was killed in the House. **Ms. Dailey** agreed to the issue.

Senator Dever we are expanding number of people eligible for services, are we expanding the dollars?

Ms. Dailey we are not expanding the funds, we will provide the services with the dollars allocated.

Closed Public Hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee Red River Room, State Capitol

HB 1256
3/17/2015
24976

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Donald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to the definition of brain injury

Minutes:

No attachments

The Senate Human Services Committee met on March 17, 2015 to discuss HB 1256 in committee work.

Chairman Judy Lee recapped the bill and testimony. There were no amendments recommended.

Senator Warner noted that on page 1, lines 12, there are exclusions for encephalopathy, which is so broad that it excludes everything. And then the word aneurism, we were not sure why there should be a distinction of aneurism when we treat stroke.

Chairman Judy Lee indicated that Department of Public Instruction did not include supporting the encephalopathy because it was such a broad scope.

Senator Dever understands that all the references on page 2 and following are simply to remove the word "traumatic", so the focus is on page 1.

Chairman Judy Lee confirmed yes, it is the definition on page 1 that is the issue. Chairman Judy Lee read from prior testimony. The committee reviewed prior testimony from notes.

Bruce Murray, board member for the Head Injury Association, indicated that heredity would be genetic, and congenital could include developmental conditions. Mr. Murray provided some examples.

Chairman Judy Lee asked for some continued guidance, on page 1, lines 10 through 13.

Mr. Murray agreed with Senator Warner comment that being silent to the word encephalopathy may be wiser than excluding or including it. Other board members have

had concerns about excluding aneurism because functionally those are people who want help. The types of symptoms may be similar to the other brain injuries. Stroke does as well, but there is a stroke model of care. Aneurism is in the middle.

Chairman Judy Lee asked what we do with encephalopathy if we are silent on it.

Senator Howard Anderson, Jr. continued that if the intent was to include encephalopathy by infection, why don't we state that?

Mr. Murray concurred that would be a good way to fix the issue.

Mr. Murray indicated aneurism could be the manifest of the problem.

Senator Howard Anderson, Jr. so why would they exclude it?

Mr. Murray indicated he doesn't think they would want to exclude it. There could be possible overlap in words with stroke.

Chairman Judy Lee how would you suggest wording that second sentence in subsection 1?

Mr. Murray would strike aneurism, and create a sentence at the end of subsection 1, stating the term "may include aneurism", then it makes it permissive, and in the hands in the Department of Human Services if they have the resources.

Chairman Judy Lee read possible consideration for language. The committee discussed the words to be included.

Senator Dever commented that it appears the point of the bill is that brain injury meets non-traumatic as well as traumatic injury.

The committee reviewed prior testimony by Ms. Rebecca Quinn.

Chairman Judy Lee restated her desired of wanting the brain injury registry which the House stripped out of a different bill.

Senator Warner with the "may" language, does that improve the language.

Senator Howard Anderson, Jr. thinks the "may include aneurism" contradicts the house version.

Chairman Judy Lee asked Femi to put together the language changes and forward to Rebecca Quinn for her input.

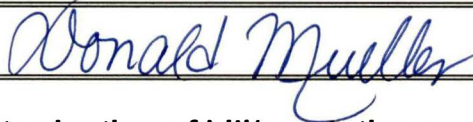
2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee Red River Room, State Capitol

HB 1256
3/17/2015
24999

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to the definition of brain injury

Minutes:

Attach #1: Draft Amendment
Attach #2: Traumatic Brain Injury Definition

The Senate Human Services Committee met on March 17, 2015 afternoon for committee work on HB 1256.

Chairman Judy Lee read information from the Brain Injury Association of America. (attach #2). (end 1:55)

Rebecca Quinn, the North Dakota School of Medicine and Health Sciences, and Director of the North Dakota Brain Injury Network, stated the traumatic brain injury definition on that page would meet the criteria for the feds, in regards to the Department of Public Instruction for specialized services for special education. That would be that traumatic brain injury definition. That portion of the original bill was amended out in the House that would change the language for the Department of Public Instruction, so the portion left is for North Dakota services related to brain injury. The concern that Ms. Herman is bringing up is often the definition of brain injury, whether acquired or traumatic, does exclude genital congenital and dementia's, so mainly birth defects genetic, and her concern is that there are strokes that are caused by congenital malformations in the brain but not know about until it happens. So the question is if we broaden the definition as we had done this morning, striking aneurisms from the excluded category, but leaving the congenital encephalopathy caused by disease and dementia - would that include these type of strokes? In her opinion, yes, if splitting hairs, a stroke caused by a congenital malformations could be excluded as a congenital, but having a stroke so it is included that way. Removing the congenital would defeat the bill, because it would be too broad of a category of broadening to include things like fetal alcohol, and it would be overlapping with the developmental disabilities system.

Distributed proposed amendment (attach #1)

Senator Howard Anderson, Jr. moved to ADOPT AMENDMENT as proposed. The motion was seconded by **Senator Warner**. No discussion.

ROLL CALL VOTE TO ADOPT AMENDMENT

6 Yes, 0 No, 0 Absent. Motion passes.

Senator Warner moved the Senate Human Services Committee DO PASS HB 1256 AS AMENDED. The motion was seconded by **Senator Howard Anderson, Jr.** No discussion.

ROLL CALL VOTE TO DO-PASS AS AMENDED

6 Yes, 0 No, 0 Absent. Motion passes.

Senator Howard Anderson, Jr. brought up that it won't cost more dollars, but the funding will be spread among the entire population. The committee concurred.

Senator Warner will carry HB 1256 to the floor.

15.0467.03001
Title.04000

Adopted by the Human Services Committee

March 17, 2015

TV
3/17/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1256

Page 1, line 12, after "encephalopathy" insert "caused by infection"

Page 1, line 12, remove "aneurysm."

Renumber accordingly

Date: 03/17 2015
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1256

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 15. 0467. 03001 Title 04000

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen Anderson Seconded By Sen. Warner

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larsen (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 03/17 2015
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1256

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 15. 0467. 03001 Title 04000

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Warner Seconded By Sen. Anderson

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larsen (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Warner

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1256, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1256
was placed on the Sixth order on the calendar.

Page 1, line 12, after "encephalopathy" insert "caused by infection"

Page 1, line 12, remove "aneurysm."

Renumber accordingly

2015 CONFERENCE COMMITTEE

HB 1256

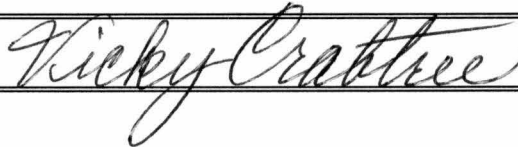
2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1256
4/6/2015
Job #25848

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature



Minutes:

Handouts 1-2

Rep. D. Anderson: We will call the conference committee to order on HB 1256. (Two handouts on definitions distributed to committee members. See Handouts #1 and #2.

Sen. Warner: We thought the term encephalopathy was so broad that it literally meant everything. It is so generic it means any part of the head including traumatic brain injury. We are open to where you want to place the limitations. We understood you intended infectious encephalopathy to be excluded.

Rep. Porter: When we looked at this we looked at the definition of encephalopathy and we wanted to make sure that we were including traumatic events. Putting those words in means what traumatic brain injury does not mean. We didn't feel that strokes caused by brain bleeds should be included as a traumatic brain injury.

Rep. D. Anderson: I think there are 13 different types of encephalopathy that I know of. If it is caused by infection is it due to trauma?

Rep. Porter: No.

Rep. Mooney: Encephalopathy is the word everyone seemed to migrate to because it allowed for individuals who had a brain injury who didn't fall on the floor or get hit in the head. There are people with those situations and they are falling through the cracks of service provisions because they don't fit within the statutory definition of what a brain injury would be. We tried to encompass enough of that condition so individuals who may not have a direct assault to the head would still qualify for particular services.

Sen. Warner: My understanding of the language in the bill is that it excludes encephalopathy from the definition.

Rep. D. Anderson: I thought if it was caused by infection it was usually due to a head injury, but I am not entirely sure.

Rep. Porter: There is only one and that is chronic traumatic encephalopathy from multiple concussions and other forms of head injuries. Instead of using the term encephalopathy caused by infection, is to put "the term does not include non-traumatic encephalopathy."

Rep. Mooney: Do you think that allows for the ability for an individual who is overcome by fumes and now has brain injury?

Rep. Porter: I am not sure.

Sen. Warner: We heard in the Senate one of the reasons to expand it beyond traumatic brain injury was we wanted to include a class of returning soldiers whose brains had been damaged by extreme explosions.

Rep. D. Anderson: Isn't that covered on line 11, correct?

Sen. Warner: I think that is covered, but then you are running into the same in that you are not excluding anything.

Rep. D. Anderson: I think we can go along with encephalopathy caused by infection, but aneurism I wish we could put back in there unless caused by a direct brain trauma from an accident. One to five percent of everyone in our state could have an aneurism. If we do that it includes too many people.

Rep. Porter: I am not comfortable of the encephalopathy by infection at all. There are a lot of things on this list that are not caused by infection.

Rep. D. Anderson: So if you could go with that chronic traumatic would that work?

Rep. Porter: You could put on line 12 in front of encephalopathy you could put, "non-traumatic encephalopathy".

Sen. Larsen: The encephalopathy regarding the lack of oxygen resulting in a brain injury would then be excluded?

Rep. Porter: If I remember right and hypoxic event caused through accidental was in our discussion.

Rep. D. Anderson: It was part of the discussion. I think we agree on hypoxic and also encephalopathy traumatic injury should be included.

Rep. Porter: That was under the non-traumatic insult definition.

Sen. Warner: I think we need to remember the sentence exclusionary so if we are silent on it then they are included.

Rep. Porter: Sen. Warner is correct. The first sentence is an important one as it is what is included. What we are talking about is what is excluded so we narrow the scope of what is included.

Sen. Warner: The Senate took aneurism out of the exclusionary sentence. So, the Senate's understanding is that would be included for eligible for service. Even though they are very different internally they manifest themselves the same as strokes. We through the symptoms and treatments for stroke and aneurism were very similar and didn't seem fair to make a distinction between them. That is why the Senate took it out of the exclusionary.

Rep. D. Anderson: We really didn't want aneurism in there as it would expand and we wouldn't help the group we intended to help.

Sen. Warner: The bill is silent on stroke.

Rep. Porter: I don't see where strokes are included.

Sen. Warner: They aren't, but they would be considered non-traumatic insults.

Rep. Porter: Our intent was that in the non-traumatic insults that it includes strokes.

Rep. Anderson: In our committee we didn't want to go down that road and wanted to make sure we excluded aneurisms because of the broad scope. I don't remember talking much about stroke.

Rep. Mooney: The general consensus of the committee was to keep stroke.

Sen. Warner: It is a technical question whether stroke is considered a non-traumatic insult.

Rep. D. Anderson: We will have to find out and meet again. The meeting is adjourned.

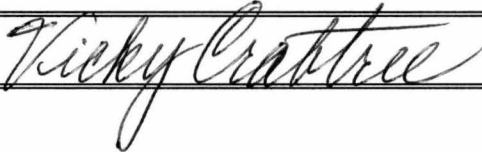
2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1256
4/7/2015
Job #25885

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature



Minutes:

Attachments 1-3

Rep. D. Anderson: We will call the conference committee to order on HB 1256.

Rep. Porter: I had our intern draft an amendment that would insert the word, "non-traumatic in front of the before encephalopathy. (See Attachment #1.) The words "caused by infection" do not need to be there. If the Senate were to recede from its amendment then that is gone and then you can cross out the word aneurism because that word is already in the bill. So it would just be non-traumatic would be the amendment that would be in there. The term does not include hereditary congenital non-traumatic encephalopathy, non-traumatic aneurism or degenerative brain disorders or injuries induced by birth trauma is how the amendment would read.

Sen. Warner: I looked up the definitions of non-traumatic brain injuries (See Attachments #2.). I included strokes and non-traumatic hemorrhage which is essentially the same as aneurisms. Strokes are considered to be non-traumatic injuries so if we were silent on the word stroke then it is considered to be included in the treatment. The document from Rebecca Quinn makes a distinction between strokes and aneurisms. (See Attachment #3.)

Rep. D. Anderson: On the third page with your traumatic insults, does that not make it complicated for those that would be working with that? Do we need to have that language in there? If you just say traumatic, doesn't that cover all of that?

Sen. Warner: That was Ms. Quinn's contention as well.

Rep. D. Anderson: When we started this we were trying to help those people with head trauma which is probably underneath 100.

Sen. Warner: Leaving stroke and aneurism out would narrow it considerably.

Rep. Porter: This target group is the under 65 who may have a stroke or aneurism. My concern is opening up too far too fast. I'm not opposed to opening it up a little each time we look at this. There is a limited amount of resources for a targeted group of people and

thinning it out won't necessarily help those who need the help. Wide open doesn't do anybody any good.

Sen. Warner: I included the strokes in the exclusionary section that would narrow the group of people eligible.

Rep. Porter: I understood you differently.

Sen. Warner: Strokes are already in the non-traumatic and if we silent the strokes then they are included, but if put in the exclusionary section they are not included.

Rep. Porter: I'm good with that.

Rep. Mooney: I would be against putting strokes in the exclusion.

Rep. Porter: The real discussion we need to have is do we want to go to that level of adding the word strokes to aneurisms so that we are not silent out of the non-traumatic insults.

Sen. Warner: If we are silent on strokes, then it is included.

Rep. Porter: My point was a hemorrhagic stroke which is an aneurism is excluded, but ischemic stroke would be acceptable. By leaving the non-traumatic insults on line 11, but then having aneurism listed on line 12; then you are excluding hemorrhagic stroke as an exclusion which would include ischemic stroke as something they could run through their program. We have to have the discussion that both of them are exclusions or both are allowed.

Sen. Warner: I agree they should be treated the same.

Rep. D. Anderson: I agree also. Wouldn't it work better if they were in the exclusions? If we could just get something in place and started and in two years if we find we did something wrong we can change it down the road.

Rep. Porter: There were two referrals of people with aneurisms that were ages 37 and 39 and that was in 2013. Nine were from lack of oxygen and they ranged from age 4 to 48. Three were seizure disorders ages 24, 29 and 54. Three were brain cancer, 8, 17, and 61. That is what was presented to the House. It comes down to the stroke category and how we want to handle it.

Sen. Warner: So the language as it came from the House excluding the aneurism from the exclusionary section would include both ischemic and hemorrhagic strokes because it is silent on both (inaudible) technical definitions?

Rep. Porter: No, it would split because the word aneurism is a hemorrhagic stroke. It would split stroke and half. We counted them under non-traumatic so they could be in this group.

Sen. Dever: Doesn't that include both then?

Sen. Warner: Ms. Quinn said it would.

Rep. Porter: It would. The movement is to move them all into the non-included category.

Rep. D. Anderson: Which would be second part there for purposes on this chapter?

Rep. Porter: We included it. The part that bothers me is that encephalopathy caused by infection is way broader term then what we had said on the House side and I tend like non-traumatic encephalopathy as excluded because a lot of those diseases are genetic and they are covered in other areas to other programs. The cause by infection still causes me concern. We need to be very clear on what we are excluding.

Rep. Mooney: As far as non-traumatic encephalopathy and aneurism is concerned, I would be more inclined to move in that direction as opposed to getting into the starting to identify what or what not we can consider. We will put the providers in a position where they will spend more time trying to determine if someone falls within a spectrum or falls out of a spectrum rather than actually providing services.

Sen. Dever: We need to keep it narrow and consider those conditions. There have been conversations through the interim and there have been some things for which there have not been services available. When we talk about strokes there are services available. I'm not sure we need to include strokes.

Rep. Porter: I would move the Senate recede from its amendment and we would further amend Senator Warner's amendment accept on the component where it says "encephalopathy cause by infection". It would read non-traumatic encephalopathy.

Sen. Warner: Min is in read and excludes that language all together.

Rep. Porter: So I would include non-traumatic encephalopathy.

Rep. D. Anderson: is there a second?

Sen. Warner: The word encephalopathy in general seemed so broad it would include everything.

Rep. Porter: The only reason I am hung up on keeping it is because it is in the original definition that we put in when this was originally done. I wouldn't object to a study on this so we get the information in 18 months.

Sen. Dever: Second.

Rep. Mooney: I want to go on record that I am opposed to adding more labels the providers are going to have to go through to make the distinctions on who can use the services.

Sen. Warner: I'm going to vote against it. I'm afraid we will bump some people off that are already receiving services.

Rep. Porter: I don't think we are excluding them. That was listed to us as a group already excluded, but there were 4 or 5 people that called about services.

Sen. Warner: I'm still going to vote against it, but that doesn't mean I will tomorrow.

Sen. Larsen: What is the role, how many people are involved here?

Rep. D. Anderson: Less than 100

ROLL CALL VOTE: 3 y 3 n

Rep. D. Anderson adjourned the meeting.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Fort Union Room, State Capitol

HB 1256
4/9/2015
Job # 25971

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature

Vicky Crabtree

Minutes:

Handouts 1-2

Rep. D. Anderson: We will call the meeting on HB 1256 to order. (Handed out amendments. See Handout #1.)

Sen. Dever: There are no long term services available for strokes. The population served by this will be defined in three ways. One is in the way we define this. Secondly is in the resources we provide to it and thirdly is the ability of Ms. Quinn to (inaudible) and I think that will be fairly expansive. Ms. Quinn and others that work with people with these kinds of needs have a big heart. They will appropriate as they able to extend those coordination services as it is appropriate.

Rep. D. Anderson: I think the intent of this legislation and 1046 to help the people who have fallen through the gaps. It is not a huge number of people, but a number of people who have been forgotten. I think we need to do this. Rep. Mooney has some amendments she would like to talk about.

Rep. Mooney: (Handed out another amendment. See Handout #2.) I spent time with Ms. Quinn and Tina Gress and we concluded that perhaps Rep. Porter may have been correct with his terminology of non-traumatic in the context of non-traumatic encephalopathy and non-traumatic aneurism. If the Senate were to recede from their amendments and go back to the House version 3000 and include non-traumatic in each of those instances. And then with or without stroke. I would prefer to see stroke out of the exclusions because the numbers are so low. You will see two different versions in front of you. One includes stroke and one does not include stroke in the exclusions portion of the definition. We need a new Section 12 added in. What it would do is collect the data.

Sen. Dever: I like the language on the study. In our definition we are including and excluding how we account for people who are excluded in the definition in the data that is being provided.

Rep. Mooney: The providers keep track of this currently. They know who they are picking up for provisions and who they are excluded, but none of that information is forwarded onto

the DHS. We need to get DHS involved so we know who is being turned away and who is being accepted and if being turned away, why.

Sen. Larsen: When we first heard this bill we asked where the study was. We if plug this in here is it going to do a fiscal note?

Rep. Mooney: In 1046 was a registry that was to be part of that process, but that is no longer alive. It is still important. We don't have to have the registry per say, but we need essential data to understand what we have. The person working with this in DHS did not think it would create an FTE.

Sen. Warner: I think the study is an important thing. I don't think this will generate a fiscal note.

Rep. Porter: I'm not comfortable with the study language at all. I think Sen. Larsen is right that this is around about way to do a registry that will generate a fiscal effect inside of two departments. The House pulled the registry because the individuals we heard from did not want to be tracked by the government. I would be more comfortable with including the stroke language as an exclusion and let the expansions we are doing happen for 18 months and relook at it as a whole again.

Sen. Dever: The language that was provided in 3002 is different. In the more formal one stroke is included in the exclusion. I think we should know we are not talking about a study, but a report. The information they gathered would be by the providers not by developing a registration.

Rep. Mooney: It was for a reporting mechanism. The providers have the data. One of the difficulties is taking their word for it. It is our protocol to get our information from one of our agencies.

Rep. Porter: For the record, I believe them. The information they bring to us in session and the interim committee is their data through contract they are providing to us. I don't have any problems with the current route that we get our information from. I have a problem with mandating the DHS to collect and extrapolate and provide this information back to the legislature and that carries a fiscal effect and a fiscal note.

Sen. Dever: I wonder if Rep. Porter would feel more comfortable if we did make it a legislative management study where the providers would provide that information directly to a legislative committee.

Rep. Porter: Absolutely, that was my suggestion yesterday. We need to determine separately is the top component. We can do that component and further amend the legislative study into it at our next meeting. To get back to the 3000 version of the bill, I would Move 03002 excluding Section 12. It goes back to the 3000 version and includes the word, "non-traumatic" in front of encephalopathy and includes "non-traumatic" in front of the word aneurism and it also inserts the work "stroke" and those are all in the exclusion category.

Sen. Dever: If included in that amendment is the language the Senate recedes from its amendments are we then by option of that amendment concluding the work of this committee?

Rep. Porter: I believe we can come back because we won't conclude the work of the committee and do the final approval of the language of the legislative management study.

Sen. Dever: I will second that motion.

Rep. Mooney: I would be ok as putting stroke in as long as we have some form of reporting. I'm concerned over the study approach.

Rep. Porter: We do have a stroke registry and track the information.

Sen. Dever: Could we just include the study in the motion and let it be drafted? I think what we would like to see in the study is what we see in the report.

Sen. Warner: This would conclude the work with this committee then.

Rep. Porter: I would amend my motion to include the study language that has just been presented as part of the motion.

Sen. Dever: Second.

ROLL CALL VOTE: 6 y n 0

MOTION CARRIED

No Bill Carriers.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1256

That the Senate recede from its amendments as printed on page 834 of the Senate Journal and page 1085 of the House Journal and that House Bill No. 1256 be amended as follows:

Page 1, line 4, after "injury" insert "; and to provide for a report to the legislative management"

Page 1, line 12, after the second underscored comma insert "non-traumatic"

Page 1, line 12, after the third underscored comma insert "non-traumatic"

Page 1, line 12, after the fourth underscored comma insert "stroke."

Page 6, after line 9, insert:

**"SECTION 12. DEPARTMENT OF HUMAN SERVICES - STATE
DEPARTMENT OF HEALTH - LEGISLATIVE MANAGEMENT REPORT.** During the 2015-16 interim, the department of human services shall gather client data from all brain injury service providers under contract with the department. The data must include information on brain injury type, age of onset, age of referral, number of brain injuries, and whether the individual was included or excluded from service. The department of human services, in collaboration with the state department of health, shall develop recommendations for collaborative efforts regarding all excluded brain disorders or injuries, where feasible, to ensure continuum of care is efficiently coordinated while avoiding duplication of services. Before July 1, 2016, the department of human services shall report the recommendations to the legislative management."

Renumber accordingly

4-9-15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1256

That the Senate recede from its amendments as printed on page 834 of the Senate Journal and page 1085 of the House Journal and that House Bill No. 1256 be amended as follows:

Page 1, line 4, after "injury" insert "; and to provide for a legislative management study."

Page 1, line 12, after the second underscored comma insert "nontraumatic"

Page 1, line 12, after the third underscored comma insert "nontraumatic"

Page 1, line 12, after the fourth underscored comma insert "stroke."

Page 6, after line 9, insert:

"SECTION 12. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall consider studying brain injury care, specifically gathering client data from all brain injury service providers under contract with the department of human services, including information on brain injury type, age of consent, age of referral, number of brain injuries, and whether the individual was included or excluded from the service. The legislative management shall report its findings and recommendations with any legislation required to implement the recommendations to the sixty-fifth legislative assembly."

Renumber accordingly

Date: 4-7-15
Roll Call Vote #: /

**2015 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1256 as (re) engrossed

House Human Services Committee

- Action Taken ☐ HOUSE accede to Senate Amendments
☐ HOUSE accede to Senate Amendments and further amend
☐ SENATE recede from Senate amendments
☒ SENATE recede from Senate amendments and amend as follows

☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Porter Seconded by: Rep. Denver

Representatives	<u>4/6</u>	<u>4/14</u>		Yes	No		Senators	<u>4/6</u>	<u>4/14</u>		Yes	No
Rep. D. Anderson	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			Sen. Dever	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Rep. Porter	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			Sen. Larsen	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
Rep. Mooney	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		Sen. Warner	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
Total Rep. Vote							Total Senate Vote					

Vote Count Yes: 3 No: 3 Absent:

House Carrier Senate Carrier

LC Number . of amendment

LC Number . of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

*put "non-traumatic" in front of encephalopathy
remove "caused by infection"*

Date: 4-9-15
Roll Call Vote #: 1

**2015 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1256 as (re) engrossed

House Human Services Committee

- Action Taken ☐ HOUSE accede to Senate Amendments
☐ HOUSE accede to Senate Amendments and further amend
☐ SENATE recede from Senate amendments
☒ SENATE recede from Senate amendments and amend as follows

☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Porter Seconded by: Sen. Dever

Representatives	<u>4/9</u>			Yes	No		Senators	<u>4/9</u>			Yes	No
Rep. D. Anderson	✓			✓			Sen. Dever	✓			✓	
Rep. Porter	✓			✓			Sen. Larsen	✓			✓	
Rep. Mooney	✓			✓			Sen. Warner	✓			✓	
Total Rep. Vote							Total Senate Vote					

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier No Bill Carriers Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

*insert "non-traumatic" on page 1, line 12
insert "stroke" page 1, line 12
add Section 12 - Legislative Management Study*

REPORT OF CONFERENCE COMMITTEE

HB 1256, as engrossed: Your conference committee (Sens. Dever, Larsen, Warner and Reps. D. Anderson, Porter, Mooney) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1085, adopt amendments as follows, and place HB 1256 on the Seventh order:

That the Senate recede from its amendments as printed on page 834 of the Senate Journal and page 1085 of the House Journal and that House Bill No. 1256 be amended as follows:

Page 1, line 4, after "injury" insert "; and to provide for a legislative management study."

Page 1, line 12, after the second underscored comma insert "nontraumatic"

Page 1, line 12, after the third underscored comma insert "nontraumatic"

Page 1, line 12, after the fourth underscored comma insert "stroke."

Page 6, after line 9, insert:

"SECTION 12. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall consider studying brain injury care, specifically gathering client data from all brain injury service providers under contract with the department of human services, including information on brain injury type, age of consent, age of referral, number of brain injuries, and whether the individual was included or excluded from the service. The legislative management shall report its findings and recommendations with any legislation required to implement the recommendations to the sixty-fifth legislative assembly."

Renumber accordingly

Engrossed HB 1256 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

HB 1256

House Human Services Committee

January 21, 2015

#1
HB1256
1-21-15

Chairman Weisz and other members of the Committee. I am Rebecca Quinn and am a program director at the Center for Rural Health, University of North Dakota. The Center for Rural Health is contracted by the Department of Human Services to operate the North Dakota Brain Injury Network. This network provides a centralized, statewide source of information regarding traumatic brain injury and provides assistance to individuals with traumatic brain injury accessing services. My testimony today is on behalf of all the individuals and families impacted by brain injury I have worked with over the past seven years.

The North Dakota Brain Injury Network in supportive of the clarifying the North Dakota definition of traumatic brain injury to include all brain injuries. The long term effects of acquired and traumatic brain injuries may be very similar and the person's service needs may be exactly the same. Unfortunately, despite similar needs the distinction regarding the origin of an individual's brain injury can exclude a person from receiving services.

We recommend not changing the definition used by the Department of Public Instruction (DPI) due to this definition being based on a federal definition and children with acquired injuries are still able to access services through DPI if needed under the category of other health impairment or another disability.

In regards to the remaining sections of HB 1256, we are in favor of making this definition change in order to clarify the current definition and create a system that is inclusive of all individuals with brain injuries and does not exclude individuals with similar service needs from accessing needed services.

Thank you for your time and I welcome any questions. Continuing to separate out different types of brain injuries services could result in creating policies would likely prove unnecessary and repetitive.

Respectfully submitted

Rebecca Quinn

Center for Rural Health

University of North Dakota, School of Medicine and health Sciences

Referrals from August 2013 to the North Dakota Brain Injury Network

Cause of Brain Injury	Number of Referrals—17 Total	Ages
Anoxia	9	4, 26, 27, 29, 30's, 32, 37, 40, 48
Seizure Disorder	3	24, 29, 54
Brain Cancer	3	8, 17, 61
Aneurysm	2	37, 39

64th Legislative Session
Testimony
House Human Services Committee
January 21, 2015

#2
HB 1256
1-21-15

Good morning Chairman Weisz and members of the Committee. My name is Trina Gress, I am Vice President of Employment Services at Community Options, Inc. Community Options is neutral on HB 1256 but just wanted to give you information so assist you in the decision making process.

Community Options contracts with Department of Human Services (DHS) to provide the Traumatic Brain Injury (TBI) Pre-Vocational Skills program. We have partnered with DHS since May 2010 to provide these services. To date, we have served approximately 87 individuals with TBI in the Pre-Vocational Skills program. Of those we have received 3 referrals that were screened ineligible due to diagnosis of Acquired Brain Injury (ABI). All 3 were due to lack of oxygen to the brain. If the committee would choose to broaden the definition to include ABI's, Community Options would expand serves to include that population also in the Pre-Vocational Skills program.

Thank you for your time, are there any questions?

Sincerely Submitted,

Trina Gress

(701) 391-8523

trinag@coresinc.org

#3
HB
1-21-15

**House Human Services
January 21, 2015
HB 1256
Testimony by Vickay Gross
Protection and Advocacy Project**

I am here today to express support for HB 1256. The Protection and Advocacy Project (P&A) works with individuals with many different types of brain injuries. P&A supports the definition of a "Brain Injury" as defined in this bill, which will allow additional individuals to be served who did not fall under the category of "Traumatic Brain Injury." P&A has seen the need for supports for individuals with a "Brain Injury" in areas including housing, education, independent living, home and community based services, employment, mental health, substance abuse and criminal justice. These individuals often have difficulty accessing services and can face serious issues without appropriate services and supports. Persons with "Brain Injury," not acquired through traumatic insults, would no longer be excluded from receiving essential services needed due to their brain injury, with the passage of this bill.

P&A supports appropriations for the purpose of training and public awareness as this relates to the expansion in eligibility for brain injury services. P&A has seen a great need for education and community awareness statewide on brain injury services, including needs for veterans, on reservations, and in rural and underserved areas.

Thank you. I'm happy to answer any questions.

Senate Human Services Committee

March 4, 2015

Attach #1
03/04/15
HB 1256
24320

Chairperson Lee and other members of the Committee. I am Rebecca Quinn and serve a program director at the Center for Rural Health, University of North Dakota. The Center for Rural Health is contracted by the Department of Human Services to operate the North Dakota Brain Injury Network. This network provides a centralized, statewide source of information regarding traumatic brain injury and provides assistance to individuals with traumatic brain injury accessing services. My testimony today is on behalf of all the individuals and families impacted by brain injury I have worked with over the past seven years.

The North Dakota Brain Injury Network in supportive of the clarifying the North Dakota definition of traumatic brain injury to include all brain injuries. The long term effects of acquired and traumatic brain injuries may be very similar and the person's service needs may be exactly the same. Unfortunately, despite similar needs the distinction regarding the origin of an individual's brain injury can exclude a person from receiving services.

Thank you for your time and I welcome any questions.

Respectfully submitted

Rebecca Quinn
Center for Rural Health
University of North Dakota, School of Medicine and Health Sciences

Referrals from August 2013 to the North Dakota Brain Injury Network

Cause of Brain Injury	Number of Referrals—17 Total	Ages
Stroke	3	27, 32, 48
Anoxia	5	4, 26, 29, 30's, 37, 40
Seizure Disorder	3	24, 29, 54
Brain Cancer	3	8, 17, 61
Aneurysm	2	37, 39

Language Background

Current Definition in ND CC Chapter 50-06.4

Applies to DHS contracts for Resource Facilitation Program, Social and Recreational Program, Pre-Employment Program, and Employment Extended Services Slots

"Traumatic brain injury" means an acquired injury to the brain caused by an external physical force resulting in total or partial disability or impairment, including open and closed head injuries that may result in mild, moderate, or severe impairments in one or more areas including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory perceptual and motor abilities, psychosocial behavior, physical functioning, information processing, and speech. The term does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma, but may include brain injuries caused by anoxia and other related causes

ND Administrative Code for Medical Services 75-02-02-09. Nursing facility level of care.

Applies to accessing Medicaid long-term care services

...an individual who applies for care in a nursing facility may demonstrate that a nursing level of care is medically necessary if: a. the individual has an acquired brain injury, including anoxia, cerebral vascular accident, brain tumor, infection, or traumatic brain injury;

HB 1256 Versions

Initially Proposed:

"Brain injury" means any injury to the brain which occurs after birth, but before age sixty - five, which is acquired through traumatic or nontraumatic insults. Nontraumatic insults include anoxia, hypoxia, aneurysm, toxic exposure, encephalopathy, surgical interventions, tumor, and stroke. The term does not include hereditary, congenital, or degenerative brain disorders or injuries induced by birth trauma.

Introduced:

"Brain injury" means any injury to the brain which occurs after birth, but before age sixty - five, which is acquired through traumatic or nontraumatic insults. Nontraumatic insults include anoxia, aneurysm, and encephalopathy. The term does not include hereditary, congenital, or degenerative brain disorders or injuries induced by birth trauma.

Possible new language provided by Rebecca Quinn to House Human Services based on concerns over covering age requirements and medical condition inclusion:

1. "Traumatic or acquired brain injury means an insult from physical force or internal damage to the brain or its coverings, not of a degenerative or congenital nature, that produces an altered mental state and that results in a decrease in cognitive, behavioral, emotional, or physical functioning.
2. "Brain injury" means any injury to the brain which occurs after birth, but before age sixty - five, which is acquired through traumatic or nontraumatic insults. Nontraumatic insults may include, but are not limited to anoxia, aneurysm, and encephalopathy. The term does not include hereditary, congenital, or degenerative brain disorders or injuries induced by birth trauma.

Amended and passed House on 2/2/15:

Brain Injury means any injury to the brain which occurs after birth which is acquired through traumatic or nontraumatic results. The term does not include hereditary, congenital, aneurysm, encephalopathy, or degenerative brain disorders or injuries induced by birth trauma.

Testimony
House Bill 1256
Senate Human Services
Senator Lee, Chair
March 4, 2015

Attach #2
Vickay Gross
03/04/15
HB1256
24320

Good morning Senator Lee and members of the Senate Human Services Committee. I am here today to express support for HB 1256. The Protection and Advocacy Project (P&A) works with individuals with many different types of brain injuries. P&A supports the definition of a "Brain Injury" as defined in this bill, which will allow additional individuals to be served who did not fall under the category of "Traumatic Brain Injury." P&A has seen the need for supports for individuals with a "Brain Injury" in areas including housing, education, independent living, home and community based services, employment, mental health, substance abuse and criminal justice. These individuals often have difficulty accessing services and can face serious issues without appropriate services and supports. Persons with "Brain Injury," not acquired through traumatic insults, would no longer be excluded from receiving essential services needed due to their brain injury, with the passage of this bill.

P&A supports appropriations for the purpose of training and public awareness as this relates to the expansion in eligibility for brain injury services. P&A has seen a great need for education and community awareness statewide on brain injury services, including needs for veterans, on reservations, and in rural and underserved areas. P&A supports the testimony provided by the Brain Injury Network and concerns with the definition of Brain Injury.

Thank you.



March 4th, 2015
Human Services Committee

Chairman Lee and members of the committee:

For the record, my name is April Fairfield and I am the Executive Director of the Head Injury Association of North Dakota. The Head Injury Association of North Dakota is primarily an advocacy organization whose mission is to raise awareness about head injury, support public policies that enhance the Traumatic Brain Injury (TBI) system of care in North Dakota and enhance the quality of life for individuals and their families who have been affected by head injuries.

The Head Injury Association of North Dakota supports House Bill 1256 and urges a **DO PASS** recommendation.

As you have heard over the course of testimony today and some of you heard during the interim, brain injury is a misunderstood and often overlooked public health problem. It impacts the lives of thousands and thousands of North Dakotans every day.

As you know, brain injury changes lives. In one moment, a brain injury will change everything. Indelibly. And for all time. You have also heard in previous testimony how challenging it can be working one's way through the maze of services, resources and eligibility for brain injury.

It can be a confusing, time-consuming, and often frustrating process for people with NO brain injury, let alone someone in recovery from brain injury. That is why you have heard a united call from the brain injury community for a more coordinated and comprehensive system of care for long-term brain injury services and support.

What you may not be aware of is that the definition of brain injury in North Dakota can also be a source of confusion and frustration. Under current law, traumatic brain injury is one caused by an external, physical force to the head. And while some of the state's guidelines include all brain injuries, others are limited specifically to traumatic brain injury. House Bill 1256 would broaden the definition of brain injury to include brain injury from non-traumatic events and simplify the process allowing for services to be responsive to all persons with brain injury.

The Head Injury Association of North Dakota fully supports this change in definition and believes this change will result in a more inclusive and accurate definition of brain injury.

Thank you for your consideration of HB1256. Your positive recommendation will help us move in the direction of a more comprehensive system of care for brain injury in North Dakota.

64th Legislative Session
Testimony
Senate Human Services Committee
March 4, 2015

Attach #4
HB1256
03/04/15
24320

Good morning Chairman Lee and members of the Committee. My name is Trina Gress, I am Vice President of Employment Services at Community Options, Inc. Community Options is neutral on HB 1256 but just wanted to give you information so assist you in the decision making process.

Community Options contracts with Department of Human Services (DHS) to provide the Traumatic Brain Injury (TBI) Pre-Vocational Skills program. We have partnered with DHS since May 2010 to provide these services. To date, we have served approximately 87 individuals with TBI in the Pre-Vocational Skills program. Of those we have received 3 referrals that were screened ineligible due to diagnosis of Acquired Brain Injury (ABI). All 3 were due to lack of oxygen to the brain. If the committee would choose to broaden the definition to include ABI's, Community Options would expand serves to include that population also in the Pre-Vocational Skills program.

Thank you for your time, are there any questions?

Sincerely Submitted,

Trina Gress

(701) 391-8523

trinag@coresinc.org

Testimony
Engrossed House Bill 1256 – Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
March 4, 2015

Attach #5
HB 1256
03/04/15
24320

Madam Chairman and members of the Senate Human Services Committee, my name is **Stacie Dailey**. I am the Mental Health Lead Administrator with the North Dakota Department of Human Services' Mental Health and Substance Abuse Services Division. I am here today to provide information on the impact of changes proposed in Engrossed House Bill No. 1256.

Section 2 of Engrossed House Bill No. 1256 replaces the definition of "traumatic brain injury" in chapter 50-06.4 with a definition of "brain injury." This broadens the scope of chapter 50-06.4 to include individuals impacted by brain injuries received by means other than physical trauma to the brain. This broad definition of "brain injury" is referred to as Acquired Brain Injury (ABI), defined by the Brain Injury Association of America, as an injury to the brain, which is not hereditary, congenital, degenerative, or induced by birth trauma. Examples of ABI include stroke, hypoxic or anoxic brain injury, and tumor. By definition, a Traumatic Brain Injury (TBI) would also be considered an ABI.

The current TBI treatment system governed by chapter 50-06.4, targets individuals with TBI only, keeping it in line with Federal Government grant initiatives and past state efforts. Individuals with ABI certainly have treatment and service needs; however, broadening the application of chapter 50-06.4 to a larger target population would increase access to current services and most likely would decrease available access to services for those with TBI.

Currently there is no way to accurately count the number of individuals that have a TBI or ABI in North Dakota. It is believed, though, that with the broadened definition, the number of individuals accessing services could increase significantly. It may also lead to some duplication as there are existing programs for stroke victims and perhaps others that are included in the ABI definition.

This concludes my testimony. I would be happy to answer any questions the committee may have. Thank you.

DRAFT AMENDMENT ENGROSSED HB 1256

HB1256
Attach #1
03/17/15
J#24999

SECTION1. AMENDMENT. Section 50-06.4-01 of the North Dakota Century Code is

amended and reenacted as follows:

50-06.4-01. Definitions.

As used in this chapter:

1. "Brain injury" means any injury to the brain which occurs after birth and which is acquired through traumatic or nontraumatic insults. The term does not include hereditary, congenital, encephalopathy caused by infection, aneurysm, or degenerative brain disorders or injuries induced by birth trauma.

Rebecca Quinn

Attch #2
HB 1256
03/17/15
J# 24999

HB 1256 – Traumatic Brain Injury Definition

Subject: RE: Stroke and brain injury

Below is some information from the Brain Injury Association of America about TBI vs. acquired brain injury. From our perspective, we would of course support expanding the definition to include acquired brain injury (or just "brain injury," as the ND bill uses, as it pertains to "acquired through traumatic or nontraumatic insults") particularly when it comes to making additional supportive services available to these patients. From our perspective, why should it matter the source of the brain injury if the end result for the patients are the same in terms of needing home and community-based support services, vocational rehabilitation, etc.?

I will say that the second part of the definition does concern me, however: "The term does not include hereditary, congenital, encephalopathy, aneurysm, or degenerative brain disorders or injuries induced by birth trauma." I'm not a doctor (obviously!), but this seems to suggest that while many strokes would be a nontraumatic insult, there might be some strokes that wouldn't be based on the etiology of the stroke – for example, if the stroke was caused by an arteriovenous malformation (a congenital defect in the brain), that stroke survivor wouldn't qualify. Similarly, a hemorrhagic stroke caused by an aneurysm also wouldn't qualify. However, both of these types of strokes tend to be more severe and these survivors would be in even more need of these services. I don't understand why they are making these distinctions.

Brain Injury Definitions

Traumatic Brain Injury (TBI)

TBI is defined as an alteration in brain function, or other evidence of brain pathology, caused by an external force.

Adopted by the Brain Injury Association Board of Directors in 2011. This definition is not intended as an exclusive statement of the population served by the Brain Injury Association of America.

Acquired Brain Injury

An acquired brain injury is an injury to the brain, which is not hereditary, congenital, degenerative, or induced by birth trauma. An acquired brain injury is an injury to the brain that has occurred after birth.

There is sometimes confusion about what is considered an acquired brain injury. By definition, any traumatic brain injury (eg, from a motor vehicle accident, or assault) could be considered an acquired brain injury. In the field of brain injury, acquired brain injuries are typically considered any injury that is non traumatic. Examples of acquired brain injury include stroke, near drowning, hypoxic or anoxic brain injury, tumor, neurotoxins, electric shock or lightning strike.

HB 1256
4-6-15

#1

Definition of Encephalopathy

Encephalopathy: Disease, damage, or malfunction of the brain. In general, encephalopathy is manifested by an altered mental state that is sometimes accompanied by physical changes. Although numerous causes of encephalopathy are known, the majority of cases arise from infection, liver damage, anoxia, or kidney failure. The term encephalopathy is very broad and, in most cases, is preceded by various terms that describe the reason, cause, or special conditions of the patient that leads to brain malfunction. For example, anoxic encephalopathy means brain damage due to lack of oxygen, and hepatic encephalopathy means brain malfunction due to liver disease. Depending upon the cause and severity of the condition, symptoms may range from mild alterations in mental status to severe and potentially fatal manifestations such as dementia, seizures, and coma.

MedicineNet.com

HB 1256
4-6-15

#2 ~~HB 1256~~

- Glycine encephalopathy: A genetic metabolic disorder involving excess production of glycine
- Hepatic encephalopathy: Arising from advanced cirrhosis of the liver
- Hypoxic ischemic encephalopathy: Permanent or transitory encephalopathy arising from severely reduced oxygen delivery to the brain
- Static encephalopathy: Unchanging, or permanent, brain damage
- Uremic encephalopathy: Arising from high levels of toxins normally cleared by the kidneys—rare where dialysis is readily available
- Wernicke's encephalopathy: Arising from thiamine deficiency, usually in the setting of alcoholism
- Hashimoto's encephalopathy: Arising from an auto-immune disorder
- Hypertensive encephalopathy: Arising from acutely increased blood pressure
- Chronic traumatic encephalopathy: Progressive degenerative disease associated with multiple concussions and other forms of head injury
- Lyme encephalopathy: Arising from Lyme disease bacteria, including *Borrelia burgdorferi*.
- Toxic encephalopathy: A form of encephalopathy caused by chemicals, often resulting in permanent brain damage
- Toxic-Metabolic encephalopathy: A catch-all for brain dysfunction caused by infection, organ failure, or intoxication
- Transmissible spongiform encephalopathy: A collection of diseases all caused by prions, and characterized by "spongy" brain tissue (riddled with holes), impaired locomotion or coordination, and a 100% mortality rate. Includes bovine spongiform encephalopathy (mad cow disease), scrapie, and kuru among others.
- Neonatal encephalopathy: An obstetric form, often occurring due to lack of oxygen in bloodflow to brain-tissue of the fetus during labour or delivery
- Salmonella encephalopathy : A form of encephalopathy caused by food poisoning (especially out of peanuts and rotten meat) often resulting in permanent brain damage and nervous system disorders.
- Encephalomyopathy: A combination of encephalopathy and myopathy. Causes may include mitochondrial disease (particularly MELAS) or chronic hypophosphatemia, as may occur in cystinosis.^[3]

Signs and symptoms

The hallmark of encephalopathy is an altered mental state. Depending on the type and severity of encephalopathy, common neurological symptoms are loss of cognitive function, subtle personality changes, inability to concentrate, lethargy, and depressed consciousness. Other neurological signs may include myoclonus (involuntary twitching of a muscle or group of muscles), asterixis (abrupt loss of muscle tone, quickly restored), nystagmus (rapid, involuntary eye movement), tremor, seizures, jactitation (restless picking at things characteristic of severe infection), and respiratory abnormalities such as Cheyne-Stokes respiration (cyclic waxing and waning of tidal volume), apneustic respirations and post-hypercapnic apnea..

4-7-15

#1

Proposed Amendments to HB 1256

That the Senate recede from its amendments as printed on page 1085 of the House Journal and on page 834 of the Senate Journal and that House Bill No. 1256 be amended as follows:

Page 1, line 12, after the second comma insert "nontraumatic"

Page 1, line 12, remove "caused by infection"

Page 1, line 12, after the third comma insert "nontraumatic aneurysm,"

#2

Relating to House Bill 1256
Conference Committee
7 April 2015

The wording acquired brain injury (ABI) was first used in 1996 by the Commission on Accreditation on Rehabilitation Facilities (CARF). In its Glossary, ABI is defined as:

"an insult to the brain that affects its structure or function, resulting in impairments of cognition, communication, physical function, or psychosocial behavior. ABI includes both traumatic and nontraumatic brain injury. Traumatic brain injuries may include open head injuries (e.g., gunshot wound, other penetrating injuries) or closed head injuries (e.g., blunt trauma, acceleration/deceleration injury, and blast injury). Nontraumatic brain injuries may include those caused by strokes, nontraumatic hemorrhage, tumor, infectious diseases, hypoxic injuries, metabolic disorders, and toxic exposure.

ABI does not include brain injuries that are congenital, degenerative, or induced by birth trauma."

Reference: Commission on Accreditation of Rehabilitation Facilities. Glossary. In: CARF Medical Rehabilitation Standards manual. Commission on Accreditation of Rehabilitation Facilities; 2012:317

/

From the website of *The Shepherd Center*, a brain injury rehabilitation facility in Atlanta

Brain injury may be caused by trauma to the head or by a non-traumatic cause such as a tumor, aneurysm, anoxia or infection.

A traumatic brain injury (TBI) is defined as a blow or jolt to the head or a penetrating head injury that disrupts the function of the brain. Not all blows or jolts to the head result in a TBI.

Blasts are a leading cause of TBI for active duty military personnel in war zones.

What is a Non-Traumatic Brain Injury?

A non-traumatic brain Injury can be the result of an illness, oxygen deprivation, metabolic disorders, aneurysms, cardiac arrest, near-drowning experience, etc. In short, it includes injuries to the brain that are not caused by an external physical force to the head. Other nonviolent circumstances like tumors and lead poisoning can also injure the brain.

Even though the effects of a non-traumatic brain Injury are comparable to those affiliated with a traumatic brain injury (TBI), there are some dramatic differences. Previously mentioned and most important, they do not feature any outer blow to the head. Non-traumatic brain injury also has a direct impact on cells throughout the brain. Because it attacks the cellular structure, a non-traumatic brain Injury has the ability to spread to all areas of the brain as opposed to TBI, which only affects concentrated areas.

The most common instances of non-traumatic brain injury include:

- Anoxic injury: The brain receives inadequate levels of oxygen, usually following cardiac arrest when there is minimal to no blood reaching the brain.
- Toxic or metabolic injury: This occurs after coming into contact with unsafe substances (e.g., lead) or the detrimental accumulation of chemicals manufactured within the body (e.g., kidney failure).
- Encephalitis: This is caused by an infection of the brain.
- Virus: This is the most common cause of non-traumatic brain injury.
- Brain tumors and methods used to treat them: Chemotherapy and radiation can lead to diffuse brain injury.
- Meningitis
- Stroke
- Drug abuse
- Hydrocephalus

Learn more about [Brain Injury Rehabilitation at Shepherd Center](#) or [Make a Referral](#).

"Brain injury" means any injury to the brain which occurs after birth and which is acquired through traumatic insults including open head injuries, blunt trauma, acceleration/deceleration injuries and injuries caused by explosion or nontraumatic insults including, hypoxia, toxic exposure and other related causes.

For purposes of this chapter nontraumatic insults does not include injuries caused by strokes, nontraumatic hemorrhage, infectious disease, metabolic disorders, tumor, or drug or alcohol abuse. The term does not include hereditary, congenital, ~~encephalopathy caused by infection, or~~ degenerative brain disorders or injuries induced by birth trauma.

Non-TRAUMATIC

SB1256
4-7-15

#3

Received from Rebecca Quinn
2:52PM April 7, 2015

Senator Warner,

I understand the committee having concerns about the ambiguity of the language, but I do have concerns about the law becoming so prescriptive that it limits providers ability to provide services. I do feel that with this group it should be as inclusionary as possible. I would rather not have the additional language added since, I feel it will become too cumbersome to manage tracking down diagnoses and documentation. It also will become difficult to market the program when we are expanding to include only anoxia and toxic exposure, but not all other non-traumatic brain injuries.

However, I know that we may have to compromise. Stroke is one that I feel strongly about since it is one that we have had calls on and I feel that to make a more coordinated system in ND if Stroke were added to this section of the code than there could be more collaboration with the Acute care stroke system to prevent the duplication of services that they are beginning to develop.

I have attached a sheet that I have prepared for Rep Mooney regarding the definition. It has a chart of the services that will be impacted, clarification of the stroke vs aneurysm question and some other disability definitions in century code. I have included these last items to show how vague many of the other definitions are within the century code and that it is then left up to the Department and the programs to clarify either in Administrative Code or programmatic rules.

Please let me know if you have any other questions.

Rebecca Quinn, LCSW, MSW

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Current Definition in ND CC Chapter 50-06.4

"Traumatic brain injury" means an acquired injury to the brain caused by an external physical force resulting in total or partial disability or impairment, including open and closed head injuries that may result in mild, moderate, or severe impairments in one or more areas including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory perceptual and motor abilities, psychosocial behavior, physical functioning, information processing, and speech. The term does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma, but may include brain injuries caused by anoxia and other related causes

Amended and passed House on 2/2/15:

"Brain injury" means any injury to the brain which occurs after birth and which is acquired through traumatic or nontraumatic insults. The term does not include hereditary, congenital, encephalopathy, aneurysm, or degenerative brain disorders or injuries induced by birth trauma.

Amended and passed Senate on 3/20/15:

"Brain injury" means any injury to the brain which occurs after birth and which is acquired through traumatic or nontraumatic insults. The term does not include hereditary, congenital, encephalopathy caused by infection, or degenerative brain disorders or injuries induced by birth trauma.

Programs Impacted by HB 1046 Definitions Change

- Training and Outreach Funds
- ND BIN-Resource Facilitation
- Pre-Vocational Program
- Social and Recreational Programs
- WSI Qualifications
 - This one is a little concerning, but if you look at the criteria for both G and H and individual is going to qualify under one or the other.
 - G. A medically documented traumatic brain injury affecting cognitive and mental functioning which renders an employee unable to provide self-care and requires supervision or assistance with a majority of the activities of daily living;
 - H. A compensable injury that results in a permanent partial impairment rating of the whole body of at least twenty-five percent pursuant to section 65-05-12.2.

Services not Impacted

- Vocational Rehabilitation—This is set by Federal definition
- Special Education—This is set by Federal Definition
- Access to Long-term Care, including the Medicaid waiver services—This is set by DHS administrative code screening that already is expanded to ABI.
 - **ND Administrative Code for Medical Services 75-02-02-09. Nursing facility level of care.....**an individual who applies for care in a nursing facility may demonstrate that a nursing level of care is medically necessary if: a. the individual has an acquired brain injury, including anoxia, cerebral vascular accident, brain tumor, infection, or traumatic brain injury;
 - This includes, rehabilitation, life skills, home care, group home etc.....

Stroke vs Aneurysm

- Stroke- Strokes happen when blood flow to your brain stops. There are 2 types:
 - Ischemic stroke, is caused by a blood clot that blocks or plugs a blood vessel in the brain.
 - Hemorrhagic stroke, is caused by a blood vessel that breaks and bleeds into the brain.
- Aneurysm- is a bulging, weak area in the wall of an artery that supplies blood to the brain.
 - Once an aneurysm bursts it is then considered a Hemorrhagic stroke.
 - So...An aneurysm can become a stroke, but a stroke is not an aneurysm

Other disability type definitions from Century Code are not as specific on actual disorders

Mental and Physical Illness or Disability

General Provisions 25-01-01. Definitions.

"Mentally deficient person" means any person, minor or adult other than a mentally ill person, who is so mentally defective as to be incapable of managing that person's affairs and to require supervision, control, and care for that person's own or the public welfare.

"Mentally ill individual" means an individual having a psychiatric or other disease which substantially impairs the individual's mental health.

Developmental Disability 25-01.2-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires: 1. "Developmental disability" means a severe, chronic disability of a person which: a. Is attributable to a mental or physical impairment or combination of mental and physical impairments; b. Is manifested before the person attains age twenty-two; c. Is likely to continue indefinitely; d. Results in substantial functional limitations in three or more of the following areas of major life activity: (1) Self-care; (2) Receptive and expressive language; (3) Learning; (4) Mobility; (5) Self-direction; (6) Capacity for independent living; and (7) Economic sufficiency; and e. Reflects the person's needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

Public Welfare Department of Human Services 50-06-33. Dementia care services.

As used in this section, "dementia" means the condition of an individual involving loss of memory and impairment of cognitive functions severe enough to interfere with the individual's daily life. The department shall contract with a private provider for a dementia care services program in each area of the state served by a regional human service center. The dementia care services must include: Page No. 17 1. Identifying available services within the region; 2. Providing information to medical professionals, law enforcement, and the public regarding the symptoms of dementia, the benefits of early detection and treatment, and the services available to individuals with dementia and their caregivers; 3. Assessing the needs of individuals with dementia and their caregivers; 4. Training care providers to manage and provide for the care of individuals with dementia; 5. Providing consultation services to individuals with dementia and

their caregivers; and 6. Facilitating the referral of individuals with dementia and their caregivers to appropriate care and support services.

#1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1256

That the Senate recede from its amendments as printed on page 834 of the Senate Journal and page 1085 of the House Journal and that House Bill No. 1256 be amended as follows:

Page 1, line 4, after "injury" insert "; and to provide for a report to the legislative management"

Page 1, line 12, after the second underscored comma insert "non-traumatic"

Page 1, line 12, after the third underscored comma insert "non-traumatic"

Page 1, line 12, after the fourth underscored comma insert "stroke."

Page 6, after line 9, insert:

**"SECTION 12. DEPARTMENT OF HUMAN SERVICES - STATE
DEPARTMENT OF HEALTH - LEGISLATIVE MANAGEMENT REPORT.** During the 2015-16 interim, the department of human services shall gather client data from all brain injury service providers under contract with the department. The data must include information on brain injury type, age of onset, age of referral, number of brain injuries, and whether the individual was included or excluded from service. The department of human services, in collaboration with the state department of health, shall develop recommendations for collaborative efforts regarding all excluded brain disorders or injuries, where feasible, to ensure continuum of care is efficiently coordinated while avoiding duplication of services. Before July 1, 2016, the department of human services shall report the recommendations to the legislative management."

Renumber accordingly

Proposed Amendments to Engrossed House Bill 1256 (15.0467.03000)

Senate recede from amendments

Further amend -

Page 1, line 4, after "injury" insert: "and to provide for a report to the legislative management"

Page 1, line 12, after the second underscored comma insert "non-traumatic"

Page 1, line 12, after the third underscored comma insert "non-traumatic"

Page 6, after line 9, insert:

Section 12. Department of Human Services - State Department of Health - Legislative Management Report.

During the 2015-15 interim, the department of human services shall gather client data from all brain injury service providers under contract with the department. The data must include information on brain injury type, age of onset, age of referral, number of brain injuries, and whether the individual was included or excluded from service. The department of human services, in collaboration with the state department of health, shall develop recommendations for collaborative efforts regarding all excluded brain disorders or injuries, where feasible, to ensure continuum of care is efficiently coordinated while avoiding duplication of services. Before July 1, 2016, the department of human services shall report the recommendations to the legislative management.