

CHAPTER 124**(HB 497)**

AN ACT relating to traumatic brain injury.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.470 is amended to read as follows:

As used in KRS 211.470 to 211.478:

- (1) "Board" means the Traumatic Brain Injury Trust Fund Board created pursuant to KRS 211.472;
- (2) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~;
- (3) "Traumatic brain injury" means a partial or total disability caused by injury to the central nervous system from physical trauma, damage to the central nervous system from anoxia, hypoxic episodes, allergic conditions, toxic substances, or other acute medical clinical incidents resulting in impaired cognitive abilities or impaired physical functioning. "Traumatic brain injury" does not include:
 - (a) Strokes that can be treated in nursing facilities providing routine rehabilitation services;
 - (b) Spinal cord injuries for which there are no known or obvious injuries to the ***intracranial***~~[intracranial]~~ central nervous system;
 - (c) Progressive dementias and other mentally impairing conditions;
 - (d) Depression and psychiatric disorders in which there is no known or obvious central nervous system damage;
 - (e) Mental retardation and birth defect related disorders of long standing nature; or
 - (f) Neurological degenerative, metabolic, and other medical conditions of a chronic, degenerative nature.
- (4) "Trust fund" means the traumatic brain injury trust fund created pursuant to KRS 211.476.

Section 2. KRS 211.472 is amended to read as follows:

- (1) The Kentucky Traumatic Brain Injury Trust Fund Board is hereby created for the purpose of administering the trust fund. The board shall be composed of nine (9) members including the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or the secretary's designee, the executive director of the Brain Injury Association of Kentucky or the executive director's designee, the state medical epidemiologist, and the following members, to be appointed by the Governor:
 - (a) One (1) member shall be a neurosurgeon;
 - (b) One (1) member shall be a neuropsychologist or psychiatrist;
 - (c) One (1) member shall be a rehabilitation specialist;
 - (d) One (1) member shall be a social worker experienced in working with brain-injured individuals; and
 - (e) Two (2) members shall be family members of or individuals with a brain injury.

- (2) Board members shall not be compensated for serving, but shall be reimbursed for ordinary travel expenses, including meals and lodging incurred in the performance of their duties.
- (3) The terms of appointed board members shall be four (4) years, except that the terms of initial members shall be staggered to end as follows:
 - (a) Two (2) on June 30, 2000;
 - (b) Two (2) on June 30, 2001; and (c) Two (2) on June 30, 2002.
- (4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. A member who serves two (2) consecutive four (4) year terms shall not be reappointed for four (4) years after completion of those terms.
- (5) A majority of the full authorized membership shall constitute a quorum.
- (6) The board shall elect, by a majority vote, a director who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The director shall be elected or reelected for each calendar year.
- (7) The board may establish any organizational structure it determines is necessary to accomplish its functions and duties, including the hiring of any necessary support personnel. The administrative costs of the board shall be limited to three percent (3%) of the proceeds from the trust fund.
- (8) Meetings of the board shall be held at least twice a year but may be held more frequently, as deemed necessary, subject to call by the director or by the request of a majority of the board members.
- (9) The board shall be attached to the cabinet for administrative purposes.

Section 3. KRS 211.474 is amended to read as follows:

The board shall:

- (1) Promulgate administrative regulations necessary to carry out the provisions of KRS 211.470 to 211.478;
- (2) Formulate policies and procedures for determining individual eligibility for assistance from the trust fund in accordance with the following guidelines:
 - (a) The trust fund shall serve as a funding source of last resort for residents of the Commonwealth of Kentucky. To be eligible for assistance from the trust fund, an individual must have exhausted all other funding sources that cover the type of services sought through the trust fund. Individuals who have continuing health insurance benefits, including Medicaid, may access the trust fund for services that are needed but not covered by insurance or any other funding source. Individuals who qualify for institutional care through Medicaid shall not qualify for services through the trust fund;
 - (b) All individuals receiving assistance from the fund shall receive case management services;
 - (c) Expenditures on behalf of any one (1) brain-injured individual may not exceed fifteen thousand dollars (\$15,000) for any twelve (12) month period, and may not exceed a lifetime maximum of sixty thousand dollars (\$60,000). At its discretion and subject to

fund availability, the board may waive the expenditure or time limitations or both in special circumstances;

- (d) Services covered by the trust fund shall include:
 - 1. Case management;
 - 2. Community residential services;
 - 3. Structured day program services;
 - 4. Psychological *and mental health* services;
 - 5. Prevocational services;
 - 6. Supported employment;
 - 7. Companion services;
 - 8. Respite care;
 - 9. Occupational therapy; and
 - 10. Speech and language therapy;~~;~~
 - (e) Covered services shall not include institutionalization, hospitalization, *or* ~~[environmental modifications, special medical equipment and supplies,] medications~~;~~ and behavioral programs;~~
- (3) Establish a confidential medical registry for traumatic brain and spinal cord injuries occurring in the Commonwealth of Kentucky, or to residents of the Commonwealth of Kentucky.
- (a) The board may promulgate administrative regulations requiring licensed or certified professionals or health services providers to report the occurrence of brain and spinal cord injuries, relevant medical and epidemiological information about the injuries, and other information describing the circumstances of the injury to the board or its designated agent. The reporting of data by licensed hospitals under this section shall be limited to that which is reported to the cabinet~~[for Human Resources]~~ pursuant to KRS 216.2920 to 216.2929 and the board shall obtain this data from the cabinet~~[for Human Resources]~~. Each licensed hospital shall grant the board, upon presentation of proper identification, access to the medical records of patients with reportable brain and spinal cord injuries for the sole purpose of collecting additional information that is not available in the data obtained from the cabinet~~[for Human Resources]~~. All costs associated with copying medical records shall be borne by the board. No liability of any kind shall arise or be enforced against any licensed hospital or hospital employee for providing the board access to a patient's medical record.
 - (b) The board and its designated agent, if one is appointed, shall observe the same confidentiality requirements established for the Kentucky birth surveillance registry in KRS 211.670;
- (4) Investigate the needs of brain-injured individuals and identify gaps in current services;
 - (5) Assist the cabinet in developing programs for brain-injured individuals;
 - (6) Monitor and evaluate services provided by the trust fund; and

- (7) Provide the Governor, the General Assembly, and the Legislative Research Commission an annual report by January 1 of each year summarizing the activities of the board and the trust fund.

Approved March 16, 2000