



2020 State Legislative News

produced by the
**National Association of State Head Injury
Administrators**

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Dear NASHIA Member,

Welcome to **2020 State Legislative News**, which you receive as a NASHIA Member. This issue contains information on State legislation and court actions relating to brain injury. If you have news throughout the upcoming year that you wish to share, please feel free to send to Susan Vaughn at publicpolicy@nashia.org.

NASHIA is in the process of updating its 2005 “Guide to State Government Brain Injury Policies, Funding and Services,” and as such, has sent questionnaires to most of the States to complete. The rest of the States will be contacted in January. The Guide will contain a description of each State’s service delivery and initiatives, which will also serve as the “community snapshot,” along with grantee’s activities, for the Administration for Community Living’s (ACL) Federal TBI State Partnership Program. If you have not received a solicitation for information or have any questions with regard to this project, please contact Susan.

Meanwhile, we wish you a Happy New Year and a prosperous and healthy 2021.

DOJ and Recent Olmstead Lawsuits

North Dakota Settlement Agreement Includes People with Brain Injury

On December 14, 2020, the U.S. Department of Justice (DOJ) announced a settlement agreement with the State of North Dakota under the Americans with Disabilities Act (ADA). The agreement resolves complaints alleging that North Dakota unnecessarily institutionalizes individuals with disabilities, including individuals with brain injury, in nursing facilities, instead of providing them the services they need to live in the community.

Under the agreement, North Dakota will expand services to individuals with disabilities who are in, or at risk of entering, a nursing facility to allow them to live in their homes. The State will provide these services to more than 2,500 people with disabilities, helping them to assess their options, decide where they would like to

For further information:

- [Assistant Attorney General for the Civil Rights Division Eric Drieband Delivers Remarks on Settlement Agreement with North Dakota, 12/14/2020](#)
- [Press Release, 12/14/2020](#)
- [Fact Sheet, 12/14/2020](#)

DOJ Files Statement of Interest in Missouri Case on Children with Medically Complex Conditions

On June 15, 2020, the U.S. Department of Justice filed a Statement of Interest in the case of *SJ v. Tidball*, a case filed on behalf of nine children with medically complex conditions alleging that Missouri’s methods of administering its Medicaid program put medically complex

live, and arrange for community-based services, including assistance in finding accessible housing and home health aides to help with daily activities.

To achieve the goal of integration, the Parties agree that the initiatives of the State's Aging Services Division, Medical Services Division, Program of All-inclusive Care for the Elderly (PACE) program, and the Money Follows the Person (MFP) program are relevant to compliance with this Agreement.

The State is to assist Target Population members in learning about, applying for, accessing, and maintaining community-based services and participants will be provided a case manager to assist with these tasks and a person-centered planning process to determine which supports and services are needed and desired.

children enrolled in the program at serious risk of institutionalization.

Plaintiffs allege that Missouri's administration of its long-term care system for people with physical disabilities violates Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act (ADA) as interpreted by the Supreme Court's decision in *Olmstead v. L.C.* The individual plaintiffs currently live at home with their parents or grandparents and have been prescribed private duty nursing ("PDN") services. These individual plaintiffs allege that due to the administration of the program, they are now at serious risk of institutionalization.

Read the DOJ [Statement of Interest](#), filed June 15, 2020.

Legislative Roundup

On September 9, **California** Governor Gavin Newsom signed [Assembly Bill \(AB\) 2300](#) to amend the California Youth Football Act so that beginning January 1, 2021, licensed medical professionals who are required to be present during games can provide emergency treatment in accordance with their certification or license in addition to evaluating and removing a player who may have sustained a concussion.

These professionals may include a State-licensed emergency medical technician, paramedic, or higher-level licensed medical professional. Under prior law, the designated professionals were authorized to evaluate and remove a youth tackle football participant from a game who exhibited an injury, including but not limited to, a concussion or other head injury. This bill would additionally authorize the professionals to provide emergency medical care or rescue services consistent with their certification or license.

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Florida Governor Ron DeSantis signed [H.B. 43](#), referred to as *Jordan's law*, on June 18, requiring the following to conduct or set standards for training on head trauma and brain injuries in children under the age of 6:

- Florida Court Educational Council to establish certain standards for instruction

The legislation also requires training for the employees of the Department of Children and Families, the Department of Health, Statewide Guardian Ad Litem Office, and other medical professionals as appropriate, to include training on head trauma and brain injury in children under age 6.

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On June 11, **Louisiana** Governor John Bel Edwards signed [H.B. 819](#) authorizing the recommendation of medical marijuana for treating traumatic brain injuries and concussions, and requires dispensing pharmacies to record dispensed medical marijuana in the Prescription Monitoring Program database.

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On July 25, **Rhode Island** [H.B. 8094](#) became law without the Governor's signature. The bill increases the membership of the permanent advisory commission on traumatic brain injuries from ten members to 16.

Resolutions

June 1, State Representatives adopted [House Resolution \(HR\) 37](#) to urge and request the Louisiana Conservative Care Group and insurers to address the opioid crisis by working together to reduce opioid prescriptions by educating and

of circuit and county court judges who have responsibility for domestic violence cases and dependency cases for children under age 6;

- the Department of Law Enforcement to provide certain information to law enforcement officers;
- Child Protection Teams to be capable of providing training relating to head trauma and brain injuries in children; and
- the Criminal Justice Standards and Training Commission to establish standards for the instruction of law enforcement officers regarding alleged child abuse, abandonment or neglect and for reporting to the central abuse hotline relevant information.

encouraging the insureds to utilize conservative care and decrease the number of patients being prescribed opioids.

Earlier this year, **Utah** lawmakers adopted Senate Joint Resolution (SJR) 1 to express support for programs that seek to coordinate transition of care for older adults and other patient populations receiving home health care services, in recognition of the prevalence, severity and preventative nature of older adult falls. The joint resolution also supported the submission of a grant to the Centers for Medicare and Medicaid Services (CMS) to develop and implement technology that will improve the coordination of care for older adults and others receiving home health care services.

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www.nashia.org



The National Association of State Head Injury Administrators assists State government in promoting partnerships and building systems to meet the needs of individuals with brain injuries and their families.

National Association of State Head Injury Administrators | PO Box 1878, Alabaster, AL 35007