

CONCUSSION TREATMENT AND CARE TOOLS ACT OF 2010

SEPTEMBER 28, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WAXMAN, from the Committee on Energy and Commerce,  
submitted the following

R E P O R T

[To accompany H.R. 1347]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 1347) to amend title III of the Public Health Service Act to provide for the establishment and implementation of concussion management guidelines with respect to school-aged children, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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## AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Concussion Treatment and Care Tools Act of 2010” or the “ConTACT Act of 2010”.

**SEC. 2. CONCUSSION MANAGEMENT GUIDELINES WITH RESPECT TO SCHOOL-AGED CHILDREN.**

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 317T the following:

**SEC. 317U. CONCUSSION MANAGEMENT GUIDELINES WITH RESPECT TO SCHOOL-AGED CHILDREN.**

“(a) CONCUSSION MANAGEMENT GUIDELINES.—

“(1) ESTABLISHMENT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall establish concussion management guidelines that address the prevention, identification, treatment, and management of concussions (as defined by the Secretary) in school-aged children, including standards for such children to return to play after experiencing such a concussion, and shall make available such guidelines and standards to the general public, including health professionals.

“(2) CONFERENCE.—The Secretary shall convene a conference of medical, athletic, and educational stakeholders for purposes of assisting in the establishment of the guidelines.

“(b) GRANTS TO STATES.—

“(1) IN GENERAL.—After establishing the guidelines under subsection (a), the Secretary may make grants to States for purposes of—

“(A) providing for the collection by target entities of information on the incidence and prevalence of concussions among school-aged children attending or participating in such entities;

“(B) adopting, disseminating, and ensuring the implementation by target entities of the guidelines;

“(C) funding implementation by target entities of pre-season baseline and post-injury testing, including computerized testing, for school-aged children; and

“(D) any other activity or purpose specified by the Secretary.

“(2) GRANT APPLICATIONS.—

“(A) IN GENERAL.—To be eligible to receive a grant under this subsection, the Secretary shall require a State to submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall require.

“(B) MINIMUM CONTENTS.—The Secretary shall require that an application of a State under subparagraph (A) contain at a minimum—

“(i) a description of the strategies the State will use to disseminate, and ensure the implementation by target entities of, the guidelines, including coordination with ongoing State-based efforts to implement State laws governing youth concussion management; and

“(ii) an agreement by the State to periodically provide data to the Secretary with respect to the incidence of concussions and second impact syndrome among school-aged children in the State.

“(3) UTILIZATION OF HIGH SCHOOL SPORTS ASSOCIATIONS, YOUTH SPORTS ASSOCIATIONS, ATHLETIC TRAINER ASSOCIATIONS, AND LOCAL CHAPTERS OF NATIONAL BRAIN INJURY ORGANIZATIONS.—In disseminating and ensuring the implementation by target entities of the guidelines pursuant to a grant under this subsection, the Secretary shall require States receiving grants under this subsection to utilize, to the extent practicable, applicable expertise and services offered by high school sports associations, youth sports associations, athletic trainer associations, and local chapters of national brain injury organizations in such States.

“(c) COORDINATION OF ACTIVITIES.—In carrying out activities under this section, the Secretary shall coordinate in an appropriate manner with the heads of other Federal departments and agencies that carry out activities related to concussions and other traumatic brain injuries.

“(d) REPORTS.—

“(1) ESTABLISHMENT OF THE GUIDELINES.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit to the Congress a report on the implementation of subsection (a).

“(2) GRANT PROGRAM AND DATA COLLECTION.—Not later than 4 years after the date of the enactment of this section, the Secretary shall submit to the Congress a report on the implementation of subsection (b), including—

- “(A) the number of States that have adopted the guidelines;
- “(B) the number of target entities that have implemented pre-season baseline and post-injury testing, including computerized testing, for school-aged children; and
- “(C) the data collected with respect to the incidence of concussions and second impact syndrome among school-aged children.

“(e) DEFINITIONS.—In this section:

- “(1) The term ‘guidelines’ means the concussion management guidelines established under subsection (a).
- “(2) The term ‘return to play’ means, with respect to a school-aged child experiencing a concussion, the return of such child to participating in the sport or other activity related to such concussion.
- “(3) The term ‘school-aged children’ means individuals who are at least 5 years of age and not more than 18 years of age.
- “(4) The term ‘second impact syndrome’ means catastrophic or fatal events that occur when an individual suffers a concussion while symptomatic and healing from a previous concussion.
- “(5) The term ‘Secretary’ means the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention.
- “(6) The term ‘State’ means each of the 50 States and the District of Columbia.
- “(7) The term ‘target entity’ means an elementary school, a secondary school, or a youth sports association.”.

Amend the title so as to read:

A bill to amend title III of the Public Health Service Act to provide for the establishment and implementation of concussion management guidelines with respect to school-aged children, and for other purposes.

#### PURPOSE AND SUMMARY

H.R. 1347, the “Concussion Treatment and Care Tools Act of 2009”, was introduced on March 5, 2009, by Rep. Bill Pascrell, Jr. (D–NJ), and referred to the Committee on Energy and Commerce.

The goal of H.R. 1347 is to address the growing concern about concussions and other serious head injuries among school-aged children. The bill directs the Secretary of the Department of Health and Human Services (HHS) to establish concussion management guidelines that focus on the prevention and management of concussions in school-aged children, including standards for student athletes to return to play after a concussion. The bill also authorizes the Secretary to convene a conference of medical, athletic, and educational stakeholders to establish such guidelines.

#### BACKGROUND AND NEED FOR LEGISLATION

A concussion is defined as a type of traumatic brain injury (TBI) that changes the way the brain normally works. According to the Centers for Disease Control and Prevention (CDC), concussions are one of the most commonly reported injuries among the nearly 38 million children and adolescents that engage in organized youth sports and recreation activities in the United States. Concussions are caused by a bump, blow, or jolt to the head. They can also occur from a fall or blow to the body that causes the head and brain to move rapidly back and forth.

The majority of sports-related concussion injuries seen in emergency rooms occur among youth aged 5–18. The incidence and impact of concussions vary by age group and gender. Children aged 0 to 4 years and older adolescents aged 15 to 19 years are most

likely to sustain a concussion and take longer to recover compared to adults. Furthermore, male children aged 0 to 4 years have the highest rates of TBI-related emergency department visits, hospitalizations, and deaths. In every age group, TBI rates are higher for males than for females. According to the American Academy of Pediatrics (AAP), however, female athletes have a higher rate of concussions than boys who play similar sports, though reasons for this are not well understood.

The CDC conducts research and surveillance on brain injury and provides educational materials on concussion management through various programs, including the CORE State Injury Program and the Heads Up initiative. There are currently, however, no federal programs that mandate concussion injury guidelines for children aged 5–18 and provide funding for this targeted group. H.R. 1347 is designed to do just that.

#### COMMITTEE CONSIDERATION

H.R. 1347, the “Concussion Treatment and Care Tools Act of 2009” or the “ConTACT Act of 2010”, was introduced by Mr. Pascrell of New Jersey on March 5, 2009, and referred to the Committee on Energy and Commerce. The bill was subsequently referred to the Subcommittee on Health on March 6, 2009. On September 8, 2010, the Subcommittee held a legislative field hearing on the bill. The Subcommittee met in open markup session to consider H.R. 1347 on September 16, 2010. An amendment in the nature of a substitute (manager’s amendment) by Mr. Pallone was adopted by a voice vote. Subsequently, H.R. 1347 was favorably forwarded to the full Committee, amended, by a voice vote.

On September 23, 2010, the Committee on Energy and Commerce met in open markup session to consider H.R. 1347 as approved by the Subcommittee on Health. The Committee agreed to an amendment by Mr. Pallone by a voice vote and subsequently ordered H.R. 1347 favorably reported to the House, amended, by a voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. A motion by Mr. Pallone of New Jersey ordering H.R. 1347 reported to the House, amended, was approved by a voice vote. There were no record votes taken during consideration of this bill.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portions of this report, including the finding that there are currently no federal programs that mandate concussion injury guidelines for children aged 5–18 and provide funding for this targeted group.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX  
EXPENDITURES

Regarding compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 1347 would result in no new budget authority, entitlement authority, or tax expenditures or revenues.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of the Committee are reflected in the descriptive portions of this report, including the goal of providing for concussion injury guidelines for children aged 5–18 and funding for this targeted group.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the constitutional authority for H.R. 1347 is provided under article I, section 8, clauses 3 and 18 of the Constitution of the United States.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 1347 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

FEDERAL ADVISORY COMMITTEE STATEMENT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., section 5(b) of the Federal Advisory Committee Act.

APPLICABILITY OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations. H.R. 1347 contains no such provisions.

FEDERAL MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act of 1974 (as amended by section 101(a)(2) of the Unfunded Mandates Reform Act, Public Law 104–4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee adopts as its own the analysis of federal mandates prepared by the Director of the Congressional Budget Office regarding H.R. 1347.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate of H.R. 1347 prepared by the Director of the Congressional

Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1347 from the Director of Congressional Budget Office:

SEPTEMBER 24, 2010.

Hon. HENRY A. WAXMAN,  
*Chairman, Committee on Energy and Commerce,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1347, the Concussion Treatment and Care Tools Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephanie Cameron.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 1347—Concussion Treatment and Care Tools Act of 2010*

Summary: H.R. 1347 would require the Secretary of Health and Human Services (HHS) to establish guidelines for the management of concussions in school-aged children. It also would authorize the Secretary to make grants to states to collect data on such concussions and to implement the guidelines.

CBO estimates that implementing H.R. 1347 would cost \$29 million over the 2011–2015 period. Enacting H.R. 1347 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1347 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1347 is shown in the following table. The costs of this legislation fall within budget function 550 (health).

	By fiscal year, in millions of dollars—					
	2011	2012	2013	2014	2015	2011–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level .....	2	3	6	15	15	41
Estimated Outlays .....	1	2	4	9	13	29

Basis of estimate: For this estimate, CBO assumes that H.R. 1347 will be enacted near the beginning of fiscal year 2011, that the necessary amounts will be appropriated each year, and that outlays will follow historical patterns for similar activities of the Centers for Disease Control and Prevention (CDC). CBO estimates that implementing H.R. 1347 would cost \$29 million over the 2011–2015 period.

H.R. 1347 would require the Secretary of HHS to convene a conference for the purpose of assisting in the development of guide-

lines to prevent, identify, treat, and manage concussions in school-aged children. The Secretary would be required to issue those guidelines within two years.

The bill also would authorize the Secretary to make grants to states to implement the guidelines. States that receive grant assistance would be required to ensure that schools and youth sports associations comply with implementation and reporting requirements. CBO assumes that CDC would implement that provision beginning in fiscal year 2013.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 1347 contains no intergovernmental or private-sector mandates as defined in UMRA. Grant activities authorized in the bill would benefit state and local governments.

Estimate prepared by: Federal Costs: Stephanie Cameron; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Jimmy Jin.

Estimate approved by: Holly Harvey, Deputy Assistant Director for Budget Analysis.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

Section 1 designates the Act may be cited as the “Concussion Treatment and Care Tools Act of 2010” or the “ConTACT Act of 2010”.

##### *Section 2. Concussion management guidelines with respect to school-aged children*

Section 2 amends title III of the Public Health Service Act to direct the Secretary of Health and Human Services to establish concussion management guidelines that address the prevention and management of concussions in school-aged children, including standards for student athletes to return to play after a concussion. The Secretary is required to make such guidelines available to the general public, including health professionals. The Secretary is also required to convene a conference of medical, athletic, and educational stakeholders to establish such guidelines.

In addition, section 2 authorizes the Secretary to make grants to states for: (1) adopting, disseminating, and ensuring the implementation by schools and youth sport associations of the guidelines; and (2) funding implementation by schools of pre-season baseline and post-injury testing, including computerized testing, for student athletes. States receiving such grants must utilize the expertise and services offered by high school sports associations, youth sports associations, national brain injury associations, and athletic trainer associations for dissemination purposes.

#### EXPLANATION OF AMENDMENTS

During the Subcommittee on Health markup of H.R. 1347, Mr. Pallone of New Jersey offered an amendment in the nature of a substitute (manager’s amendment), which was adopted by a voice vote. During full Committee consideration, Mr. Pallone offered a technical amendment to H.R. 1347, as approved by the Subcommittee on Health. The amendment was adopted by a voice vote.

The substance of each amendment is reflected in the section-by-section analysis contained in this report.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**PUBLIC HEALTH SERVICE ACT**

\* \* \* \* \*

**TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE**

\* \* \* \* \*

**PART B—FEDERAL-STATE COOPERATION**

\* \* \* \* \*

**SEC. 317U. CONCUSSION MANAGEMENT GUIDELINES WITH RESPECT TO SCHOOL-AGED CHILDREN.**

(a) **CONCUSSION MANAGEMENT GUIDELINES.**—

(1) **ESTABLISHMENT.**—*Not later than 2 years after the date of the enactment of this section, the Secretary shall establish concussion management guidelines that address the prevention, identification, treatment, and management of concussions (as defined by the Secretary) in school-aged children, including standards for such children to return to play after experiencing such a concussion, and shall make available such guidelines and standards to the general public, including health professionals.*

(2) **CONFERENCE.**—*The Secretary shall convene a conference of medical, athletic, and educational stakeholders for purposes of assisting in the establishment of the guidelines.*

(b) **GRANTS TO STATES.**—

(1) **IN GENERAL.**—*After establishing the guidelines under subsection (a), the Secretary may make grants to States for purposes of—*

(A) *providing for the collection by target entities of information on the incidence and prevalence of concussions among school-aged children attending or participating in such entities;*

(B) *adopting, disseminating, and ensuring the implementation by target entities of the guidelines;*

(C) *funding implementation by target entities of pre-season baseline and post-injury testing, including computerized testing, for school-aged children; and*

(D) *any other activity or purpose specified by the Secretary.*

(2) **GRANT APPLICATIONS.**—

(A) **IN GENERAL.**—*To be eligible to receive a grant under this subsection, the Secretary shall require a State to submit an application to the Secretary at such time, in such*



manner, and containing such information as the Secretary shall require.

(B) *MINIMUM CONTENTS.*—The Secretary shall require that an application of a State under subparagraph (A) contain at a minimum—

(i) a description of the strategies the State will use to disseminate, and ensure the implementation by target entities of, the guidelines, including coordination with ongoing State-based efforts to implement State laws governing youth concussion management; and

(ii) an agreement by the State to periodically provide data to the Secretary with respect to the incidence of concussions and second impact syndrome among school-aged children in the State.

(3) *UTILIZATION OF HIGH SCHOOL SPORTS ASSOCIATIONS, YOUTH SPORTS ASSOCIATIONS, ATHLETIC TRAINER ASSOCIATIONS, AND LOCAL CHAPTERS OF NATIONAL BRAIN INJURY ORGANIZATIONS.*—In disseminating and ensuring the implementation by target entities of the guidelines pursuant to a grant under this subsection, the Secretary shall require States receiving grants under this subsection to utilize, to the extent practicable, applicable expertise and services offered by high school sports associations, youth sports associations, athletic trainer associations, and local chapters of national brain injury organizations in such States.

(c) *COORDINATION OF ACTIVITIES.*—In carrying out activities under this section, the Secretary shall coordinate in an appropriate manner with the heads of other Federal departments and agencies that carry out activities related to concussions and other traumatic brain injuries.

(d) *REPORTS.*—

(1) *ESTABLISHMENT OF THE GUIDELINES.*—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit to the Congress a report on the implementation of subsection (a).

(2) *GRANT PROGRAM AND DATA COLLECTION.*—Not later than 4 years after the date of the enactment of this section, the Secretary shall submit to the Congress a report on the implementation of subsection (b), including—

(A) the number of States that have adopted the guidelines;

(B) the number of target entities that have implemented pre-season baseline and post-injury testing, including computerized testing, for school-aged children; and

(C) the data collected with respect to the incidence of concussions and second impact syndrome among school-aged children.

(e) *DEFINITIONS.*—In this section:

(1) The term “guidelines” means the concussion management guidelines established under subsection (a).

(2) The term “return to play” means, with respect to a school-aged child experiencing a concussion, the return of such child to participating in the sport or other activity related to such concussion.

(3) *The term “school-aged children” means individuals who are at least 5 years of age and not more than 18 years of age.*

(4) *The term “second impact syndrome” means catastrophic or fatal events that occur when an individual suffers a concussion while symptomatic and healing from a previous concussion.*

(5) *The term “Secretary” means the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention.*

(6) *The term “State” means each of the 50 States and the District of Columbia.*

(7) *The term “target entity” means an elementary school, a secondary school, or a youth sports association.*

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