



**BRAIN INJURY  
ASSOCIATION  
OF NEW JERSEY**

825 Georges Road, Second Floor  
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[www.bianj.org](http://www.bianj.org)

Helpline: 1-800-669-4323

No Brain Injury is  
Too Mild to Ignore,  
or Too Severe to  
Lose Hope

## **Fight for Your Rights**

*By Dennis Brotman, Esq.*

When I first meet a client who has sustained a head injury, I know from experience that a long road is ahead. The initial complaints after a traumatic event are often obvious. Attention is paid to severe pain, fractures and necessary surgery, if those injuries are involved. If the injuries are not as obvious, attention still is ordinarily focused on painful injuries such as sprains and strains. Planning must begin to advance the right to treatment for the effects of brain injury when they are not yet the most prominent complaints.

When an individual with a brain injury complains about headache, blurred vision, double vision, sensitivity to light, dizziness, imbalance, ringing in the ears, forgetfulness, loss of concentration, and anxiety — it is clear that much will be learned in the future and a long education process will be necessary.

The effects of post-concussion syndrome are often delayed. If a seizure disorder is to manifest itself, seizures usually begin on a delayed basis.

The patient and his or her family often are confused by changes in personality and difficulty in communication. Dysfunction by a person with a brain injury often is frightening to the patient. The individual and the family often do not connect the dysfunction with the injury that has been sustained. While the individual often is told by different doctors to be patient because things will get better, post-concussion syndrome may be persistent.

Often a person who has sustained a brain injury who develops personality disorders will not stabilize for a period of years. Often that individual may find it difficult to cooperate with treatment or remember advice that has been given by providers. In many cases, insight is gained only after the passage of time. Once someone who has sustained a closed head injury becomes responsive to advice and treatment, the first effective opportunity to provide help and treatment may arise.

When a person with a brain injury is ready to try to regain a career or to join in productive activities, it is often difficult to obtain services because of the passage of time and the failure on the part of providers to diagnose secondary conditions which have a profound disabling effect. It is for this reason that it is very important for people who have sustained closed head injury and their families and friends to be advised early on and consistently to be prepared to fight for their rights.



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Persistent problems of dizziness or imbalance can be disabling in and of themselves. Those problems require diagnosis and treatment by specialists. The individual with brain injury requires guidance and a referral to the appropriate sub-specialist at that time. Vestibular injury often is not identified until a patient has progressed and has been discharged from other forms of treatment. However, insurance carriers often will not approve diagnosis and treatment for vestibular injury unless friends or family members have questioned the need for diagnosis and treatment of vertigo symptoms during the early stages, so that precertification by an insurance carrier can be achieved.

Additionally, when an individual recovers from the most painful aspects of an injury, that person may first learn that he or she is unable to concentrate in the presence of noise. He or she may first learn upon returning to work that there is an inability to understand or remember what is said. Visual problems may be first identified when someone attempts to perform certain tasks. Planning for treatment is again vital.

Frustration in dealing with an effort to return to a productive life can produce rage and discontrol of temper and emotions. Periods of fear or confusion can appear on a delayed basis.

It is important for all providers to be sensitive to the aspects of closed head injury that are not as obvious as the most prominent initial complaints.

A thoughtful and thorough interview of a head injury case can often elicit complaints of secondary injuries or delayed onset of disability.

When I meet a client and review the potential problems that go along with brain injury, my questions often elicit the statement, "I thought I was going crazy!" I am often asked, "Why didn't someone tell me I could have these problems?" But the most important question that is asked by a person who realizes that he or she has disabling conditions that have not been diagnosed or treated is the question, "What can I do now?"

It is important for members of the brain injury community to remember to discuss with the individual who has sustained a brain injury the value of seeing a physiatrist or psychologist or to involve a rehabilitation nurse. All too often, an individual with a complex set of complaints and disabilities needs a case manager, although a case manager is seldom appointed. Additionally, an individual with a brain injury should understand the value of consulting a lawyer who can help fight insurance companies for benefits that may have been denied.

When an individual with a brain injury consults with a neuropsychologist or neurologist, common behavior problems should be discussed and the



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question should be asked, “Should I have a SPECT test?” “Should I have a PET scan?” and; the important question should be asked “How can I get one?”

Sophisticated testing that documents brain dysfunction is important in the process of fighting for your rights. If it is proven with objective imaging, such as a SPECT scan or a PET scan, it becomes more difficult for an insurance company later on to deny referrals for specialized treatment.

When an individual has difficulty expressing himself or herself, or in understanding or remembering what is said, it is important to seek a referral to an otolaryngologist or audiologist for screening for conditions such as Central Auditory Processing Disorder. Family and friends should know to ask the question, “How do I get screened?” Early identification of such condition while insurance carriers are granting precertification is important. If a Central Auditory Processing Disorder is identified early, the treatment and therapy is much easier to obtain than with late identification.

Additionally, it is important to address visual problems. Diagnosis of Post-Trauma Syndrome can be made by a neuroophthalmologist or neurooptometrist. Photosensitivity often accompanies brain injury and may be associated with headaches. Diplopia can also accompany those injuries but may be thought of as secondary to other more urgent problems at the early stages of an injury. Friends and family can determine whether or not a person has difficulty descending stairs as an indicator of a condition that may require evaluation and diagnosis.

When these disabling, frightening conditions are experienced, it is important above all for friends and family members and for the individuals who sustain brain injury to remember, **YOU HAVE RIGHTS**. It is important for you to learn how to access benefits from health insurance, PIP benefits, Medicare or Medicaid, Workers Compensation, the Victim of Violent Crimes Compensation Board and the TBI Fund. Diagnosis of conditions which lead to disability are important so that lawyers and family members can effectively fight for the right for treatment for those conditions. Push to have problems diagnosed and identified. Advocate for a treatment plan. Have your providers appeal denials if approval is denied. Do not be afraid to fight for your rights.

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