

S. 2904

A. 3350

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

January 24, 2013

IN SENATE -- Introduced by Sens. LAVALLE, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

IN ASSEMBLY -- Introduced by M. of A. SWEENEY, MILLMAN, PAULIN, GALEF -- Multi-Sponsored by -- M. of A. DINOWITZ, HOOPER, MARKEY, WEISENBERG -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to licensing of genetic counselors

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The education law is amended by adding a new article 142 to read as follows:

ARTICLE 142  
GENETIC COUNSELING

SECTION 7050. INTRODUCTION.

7051. DEFINITIONS.

7052. THE PRACTICE OF GENETIC COUNSELING.

7053. STATE COMMITTEE FOR GENETIC COUNSELING.

7054. REQUIREMENTS FOR A PROFESSIONAL LICENSE.

7055. EXEMPT PERSONS.

7056. LIMITED PERMITS.

S 7050. INTRODUCTION. THIS ARTICLE APPLIES TO THE LICENSING OF GENETIC COUNSELORS. THE GENERAL PROVISIONS FOR ALL PROFESSIONS CONTAINED IN ARTICLE ONE HUNDRED THIRTY OF THIS TITLE APPLY TO THIS ARTICLE.

S 7051. DEFINITIONS. AS USED IN THIS ARTICLE:

1. THE TERM "GENETIC COUNSELOR" SHALL MEAN A HEALTH PROFESSIONAL WHO IS ACADEMICALLY AND CLINICALLY PREPARED TO PROVIDE GENETIC COUNSELING SERVICES TO INDIVIDUALS AND FAMILIES SEEKING INFORMATION ABOUT THE OCCURRENCE, RISK OF OCCURRENCE OR RECURRENCE, OF A GENETIC OR HEREDITARY CONDITION OR BIRTH DEFECT.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 2. THE TERM "LICENSED GENETIC COUNSELOR" SHALL MEAN A GENETIC COUNSE-  
2 LOR LICENSED PURSUANT TO THIS ARTICLE.

3 S 7052. THE PRACTICE OF GENETIC COUNSELING. 1. THE "PRACTICE OF GENET-  
4 IC COUNSELING" SHALL MEAN THE COMMUNICATION TO AND EDUCATION OF CLIENTS,  
5 THEIR FAMILIES, OTHER HEALTH CARE PROFESSIONALS AND THE GENERAL PUBLIC  
6 WITH REGARDS TO GENETIC TESTING, INDIVIDUAL FAMILY HISTORIES, OR OTHER  
7 GENETIC, MEDICAL, AND TECHNICAL INFORMATION ASSOCIATED WITH THE OCCUR-  
8 RENCE, RISK OF OCCURRENCE OR RECURRENCE, OF A GENETIC OR HEREDITARY  
9 CONDITION OR BIRTH DEFECT IN A COMPREHENSIVE, UNDERSTANDABLE, ETHICAL  
10 MANNER. A PRACTITIONER OF GENETIC COUNSELING SHALL SEEK TO PROMOTE  
11 DECISION-MAKING IN AN UNBIASED, NON-COERCIVE MANNER WHICH RESPECTS THE  
12 INDIVIDUAL'S CULTURE, LANGUAGE, TRADITION, LIFESTYLE, RELIGION, BELIEFS  
13 AND VALUES. GENETIC COUNSELING SHALL INCLUDE, BUT NOT BE LIMITED TO,  
14 THE FOLLOWING:

15 (A) ELICITING INDIVIDUAL AND FAMILY MEDICAL, DEVELOPMENTAL, AND REPRO-  
16 DUCTIVE HISTORIES;

17 (B) DETERMINING THE LIKELY COURSE OR MODE OF INHERITANCE AND RISK OF  
18 OCCURRENCE OR RECURRENCE OF A GENETIC OR HEREDITARY CONDITION OR BIRTH  
19 DEFECT;

20 (C) EXPLAINING THE RESULTS OF GENETIC TESTS AND INTERPRETING AND  
21 EXPLAINING OTHER DIAGNOSTIC STUDIES;

22 (D) IDENTIFYING EMOTIONAL, SOCIAL, EDUCATIONAL, AND CULTURAL ISSUES  
23 RELATED SOLELY TO GENETIC TESTING AND INFORMATION;

24 (E) FACILITATING INFORMED DECISION-MAKING ABOUT GENETIC TESTING AND  
25 CONVEYING THE RESULTS OF GENETIC TESTS WITH FAMILY MEMBERS;

26 (F) COMMUNICATING DETAILED GENETIC INFORMATION TO DIVERSE AUDIENCES  
27 CLEARLY AND CONCISELY WHILE BRIDGING CULTURAL, SOCIOECONOMIC AND EDUCA-  
28 TIONAL DIFFERENCES; AND

29 (G) IDENTIFYING AND FACILITATING ACCESS TO RESOURCES THAT PROVIDE  
30 COMMUNITY OUTREACH, EDUCATIONAL, FINANCIAL, MEDICAL AND PSYCHOSOCIAL  
31 SUPPORT, AND ADVOCACY.

32 2. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO AUTHORIZE A LICENSED  
33 GENETIC COUNSELOR TO DIAGNOSE OR TREAT ANY GENETIC DISEASE OR CONDITION.  
34 LICENSED GENETIC COUNSELORS ARE REQUIRED TO ENSURE THAT PATIENT/CLIENT  
35 CONFIDENTIALITY AND INFORMED CONSENT ARE MAINTAINED CONSISTENT WITH  
36 EXISTING FEDERAL AND STATE LAW.

37 3. PRACTICE OF GENETIC COUNSELING, AND USE OF THE TITLES "GENETIC  
38 COUNSELOR" AND "LICENSED GENETIC COUNSELOR" AND THE USE OF THE LETTERS  
39 "L.G.C." AFTER THE NAME SHALL BE RESERVED EXCLUSIVELY TO PERSONS  
40 LICENSED PURSUANT TO THIS ARTICLE. ONLY A PERSON LICENSED OR EXEMPT  
41 UNDER THIS ARTICLE SHALL PRACTICE GENETIC COUNSELING OR USE THE TITLE  
42 "GENETIC COUNSELOR". ONLY A PERSON LICENSED UNDER THIS ARTICLE SHALL USE  
43 THE TITLE "LICENSED GENETIC COUNSELOR" OR ANY OTHER DESIGNATION TENDING  
44 TO IMPLY THAT A PERSON IS LICENSED TO PRACTICE GENETIC COUNSELING.

45 S 7053. STATE COMMITTEE FOR GENETIC COUNSELING. 1. A STATE COMMITTEE  
46 FOR GENETIC COUNSELING SHALL BE APPOINTED BY THE BOARD OF REGENTS UPON  
47 THE RECOMMENDATION OF THE COMMISSIONER AND SHALL ASSIST ON MATTERS OF  
48 LICENSURE AND PROFESSIONAL CONDUCT IN ACCORDANCE WITH SECTION SIXTY-FIVE  
49 HUNDRED EIGHT OF THIS TITLE. NOTWITHSTANDING THE PROVISIONS OF SECTION  
50 SIXTY-FIVE HUNDRED EIGHT OF THIS TITLE, THE COMMITTEE SHALL ASSIST THE  
51 BOARD FOR MEDICINE SOLELY IN GENETIC COUNSELING MATTERS. MEMBERS OF THE  
52 FIRST COMMITTEE NEED NOT BE LICENSED PRIOR TO THEIR APPOINTMENT TO SUCH  
53 COMMITTEE. THE TERMS OF THE FIRST APPOINTED MEMBERS SHALL BE STAGGERED  
54 SO THAT THREE MEMBERS ARE APPOINTED FOR THREE YEARS, FOUR MEMBERS ARE  
55 APPOINTED FOR FOUR YEARS AND TWO MEMBERS ARE APPOINTED FOR FIVE YEARS.

1 AN EXECUTIVE SECRETARY TO THE COMMITTEE SHALL BE APPOINTED BY THE BOARD  
2 OF REGENTS ON THE RECOMMENDATIONS OF THE COMMISSIONER.

3 2. THE COMMITTEE SHALL CONSIST OF NINE INDIVIDUALS, TO BE COMPOSED OF  
4 THE FOLLOWING:

5 (A) SIX LICENSED GENETIC COUNSELORS WITH A MINIMUM OF FIVE YEARS EXPE-  
6 RIENCE, INCLUDING AT LEAST THREE YEARS OF FIELD EXPERIENCE WORKING WITH  
7 PATIENTS OR THE GENERAL PUBLIC IN THE FIELD OF GENETIC COUNSELING;

8 (B) ONE LICENSED PHYSICIAN;

9 (C) ONE LICENSED PSYCHIATRIST; AND

10 (D) A REPRESENTATIVE OF THE PUBLIC AT LARGE.

11 3. BOARD MEMBERS SHALL BE APPOINTED FOR TERMS OF FIVE YEARS. VACANCIES  
12 SHORT OF A FULL TERM SHALL BE FILLED TO COMPLETE THE TIME REMAINING IN  
13 THE TERM OF THE MEMBER VACATING.

14 S 7054. REQUIREMENTS FOR A PROFESSIONAL LICENSE. TO QUALIFY FOR A  
15 LICENSE AS A "LICENSED GENETIC COUNSELOR", AN APPLICANT SHALL FULFILL  
16 THE FOLLOWING REQUIREMENTS:

17 1. APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT;

18 2. EDUCATION: HAVE RECEIVED A MASTER'S OR DOCTORAL DEGREE IN GENETIC  
19 COUNSELING FROM A PROGRAM REGISTERED BY THE DEPARTMENT, OR DETERMINED BY  
20 THE DEPARTMENT TO BE THE SUBSTANTIAL EQUIVALENT, IN ACCORDANCE WITH THE  
21 COMMISSIONER'S REGULATIONS. APPROPRIATE COURSEWORK SHALL BE DETERMINED  
22 IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS ON RECOMMENDATIONS OF  
23 THE STATE COMMITTEE FOR GENETIC COUNSELING;

24 3. EXPERIENCE: HAVE GENETIC COUNSELING EXPERIENCE SATISFACTORY TO THE  
25 DEPARTMENT AS DEFINED IN SECTION SEVEN THOUSAND FIFTY-THREE OF THIS  
26 ARTICLE AND IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS. SUCH  
27 EXPERIENCE SHALL INCLUDE, BUT NOT BE LIMITED TO REQUIRED DOCUMENTATION  
28 OF SUPERVISED CASE-WORK AND OTHER EDUCATIONAL EXPERIENCES DEEMED ACCEPT-  
29 ABLE TO THE DEPARTMENT;

30 4. EXAMINATION: PASS AN EXAMINATION FOR CERTIFICATION IN ACCORDANCE  
31 WITH THE COMMISSIONER'S REGULATIONS, IN GENETIC COUNSELING AND/OR GENER-  
32 AL GENETICS;

33 5. AGE: BE AT LEAST TWENTY-ONE YEARS OF AGE;

34 6. CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPART-  
35 MENT;

36 7. FEES: PAY A FEE OF THREE HUNDRED DOLLARS TO THE DEPARTMENT FOR AN  
37 INITIAL LICENSE AND TWO HUNDRED DOLLARS FOR EACH SUBSEQUENT RE-REGISTRA-  
38 TION OF A LICENSE; AND

39 8. CONTINUING EDUCATION: AT THE TIME OF RE-REGISTRATION WITH THE  
40 DEPARTMENT, EACH APPLICANT SHALL PRESENT SATISFACTORY DOCUMENTATION TO  
41 THE STATE COMMITTEE FOR GENETIC COUNSELING THAT SINCE LAST REGISTRATION  
42 THEY ATTENDED THE EDUCATION PROGRAMS CONDUCTED BY THE AMERICAN BOARD OF  
43 GENETIC COUNSELING OR THE EQUIVALENT OF SUCH EDUCATIONAL PROGRAMS AS  
44 APPROVED BY THE STATE COMMITTEE FOR GENETIC COUNSELING IN ACCORDANCE  
45 WITH THE COMMISSIONER'S REGULATIONS. THE DEPARTMENT SHALL TRIENNIALLY  
46 RE-REGISTER A LICENSE UPON RECEIPT OF A RE-REGISTRATION APPLICATION.  
47 THE DEPARTMENT IS AUTHORIZED AND DIRECTED, IN CONSULTATION WITH THE  
48 STATE COMMITTEE ESTABLISHED IN SECTION SEVEN THOUSAND FIFTY-THREE OF  
49 THIS ARTICLE, TO ESTABLISH CRITERIA AS A CONDITION OF LICENSURE RE-RE-  
50 GISTRATION FOR CONTINUING EDUCATION OF GENETIC COUNSELORS INCLUDING,  
51 BUT NOT LIMITED TO THE NUMBER OF HOURS AND/OR EDUCATION UNITS NECESSARY  
52 TO COMPLETE CONTINUING EDUCATION REQUIREMENTS.

53 S 7055. EXEMPT PERSONS. THIS ARTICLE DOES NOT PROHIBIT THE PRACTICE OF  
54 GENETIC COUNSELING BY LICENSED PHYSICIANS OR OTHER LICENSED PROFES-  
55 SIONALS PURSUANT TO TITLE EIGHT OF THIS CHAPTER TO OPERATE WITHIN THE  
56 SCOPE OF THEIR PROFESSION'S LICENSE. SUCH EXEMPT PERSONS ARE PROHIBITED

1 FROM USING THE TITLE "LICENSED GENETIC COUNSELOR" AS PROVIDED FOR IN  
2 THIS ARTICLE.

3 S 7056. LIMITED PERMITS. PERMITS LIMITED AS TO ELIGIBILITY, PRACTICE  
4 AND DURATION SHALL BE ISSUED BY THE DEPARTMENT TO ELIGIBLE APPLICANTS,  
5 AS FOLLOWS:

6 1. THE DEPARTMENT MAY ISSUE A LIMITED PERMIT TO AN APPLICANT WHO MEETS  
7 ALL QUALIFICATIONS FOR LICENSURE AS A GENETIC COUNSELOR, EXCEPT THE  
8 EXAMINATION AND/OR EXPERIENCE REQUIREMENTS, IN ACCORDANCE WITH REGU-  
9 LATIONS PROMULGATED BY THE DEPARTMENT.

10 2. THE DEPARTMENT MAY ISSUE LIMITED PERMITS TO FOREIGN TRAINED GENETIC  
11 COUNSELORS THAT APPLY IF THEY MEET THE REQUIREMENTS FOR LICENSURE PURSU-  
12 ANT TO SECTION SEVEN THOUSAND FIFTY-FOUR OF THIS ARTICLE.

13 3. LIMITED PERMITS SHALL BE FOR ONE YEAR. LIMITED PERMITS MAY BE  
14 RE-REGISTERED, AT THE DISCRETION OF THE DEPARTMENT, FOR ONE ADDITIONAL  
15 YEAR.

16 4. AN INDIVIDUAL WITH A LIMITED PERMIT SHALL BE AUTHORIZED TO PRACTICE  
17 GENETIC COUNSELING ONLY UNDER THE SUPERVISION OF A LICENSED GENETIC  
18 COUNSELOR, OR LICENSED PHYSICIAN. SUPERVISION SHALL MEAN THE REVIEW OF  
19 GENETIC COUNSELING AS PROVIDED BY SECTION SEVEN THOUSAND FIFTY-TWO OF  
20 THIS ARTICLE AND CASE MANAGEMENT AS APPROPRIATE THAT INCLUDE REGULAR  
21 CHART REVIEWS OF CLIENTS WITH THE LIMITED PERMITTEE AND THE SUPERVISOR.

22 5. THE FEE FOR EACH LIMITED PERMIT AND FOR EACH RE-REGISTRATION SHALL  
23 BE TWO HUNDRED DOLLARS.

24 S 2. Severability. If any clause, sentence, paragraph, section or part  
25 of this act shall be adjudged by any court of competent jurisdiction to  
26 be invalid and after exhaustion of all further judicial review, the  
27 judgment shall not affect, impair or invalidate the remainder thereof,  
28 but shall be confined in its operation to the clause, sentence, para-  
29 graph, section or part of this act directly involved in the controversy  
30 in which the judgment shall have been rendered.

31 S 3. This act shall take effect immediately; provided, however, that  
32 within two years of the effective date of this act, the addition, amend-  
33 ment and/or repeal of any rule or regulation necessary for the implemen-  
34 tation of this act on its effective date are authorized and directed to  
35 be made and completed on or before such effective date; provided,  
36 further, that with respect to those persons who are licensed under arti-  
37 cle 142 of the education law on or before the triennial registration  
38 period next succeeding the effective date of this act, the continuing  
39 education requirements set forth in this act need not be completed until  
40 after the second triennial registration period.