

S. 2904--A

A. 3350--A

2013-2014 Regular Sessions

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

January 24, 2013

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IN SENATE -- Introduced by Sens. LAVALLE, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. SWEENEY, MILLMAN, PAULIN, GALEF, ROSENTHAL -- Multi-Sponsored by -- M. of A. DINOWITZ, HOOPER, MARKEY, WEISENBERG -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

3                                 ARTICLE 142  
4                                 GENETIC COUNSELING

5     SECTION 7050. INTRODUCTION.

6                 7051. DEFINITIONS.

7                 7052. THE PRACTICE OF GENETIC COUNSELING.

8                 7053. STATE COMMITTEE FOR GENETIC COUNSELING.

9                 7054. REQUIREMENTS FOR A PROFESSIONAL LICENSE.

10                7055. EXEMPT PERSONS.

11                7056. LIMITED PERMITS.

12                7057. VISITING GENETIC COUNSELORS.

13                7058. TELEHEALTH SERVICES.

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

LBD04709-02-4

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

4 S 7051. DEFINITIONS. AS USED IN THIS ARTICLE:

5 1. THE TERM "GENETIC COUNSELOR" SHALL MEAN A HEALTH PROFESSIONAL WHO  
6 IS ACADEMICALLY AND CLINICALLY PREPARED TO PROVIDE GENETIC COUNSELING  
7 SERVICES TO INDIVIDUALS AND FAMILIES SEEKING INFORMATION ABOUT THE  
8 OCCURRENCE, RISK OF OCCURRENCE OR RECURRENCE, OF GENETIC/MEDICAL CONDI-  
9 TIONS AND DISEASES.

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

12 3. THE TERM "CERTIFIED GENETIC COUNSELOR" SHALL MEAN A GENETIC COUNSE-  
13 LOR WITH A MASTER'S DEGREE IN GENETIC COUNSELING FROM AN AMERICAN  
14 COLLEGE OF GENETIC COUNSELING ACCREDITED PROGRAM AND WHO HAS PASSED THE  
15 CERTIFICATION EXAMINATION OF THE AMERICAN BOARD OF GENETIC COUNSELORS.

16 S 7052. THE PRACTICE OF GENETIC COUNSELING. 1. THE "PRACTICE OF GENET-  
17 IC COUNSELING" SHALL MEAN THE COMMUNICATION TO AND EDUCATION OF CLIENTS,  
18 THEIR FAMILIES, OTHER HEALTH CARE PROFESSIONALS AND THE GENERAL PUBLIC  
19 WITH REGARDS TO GENETIC TESTING, INDIVIDUAL FAMILY HISTORIES, OR OTHER  
20 GENETIC, MEDICAL, AND TECHNICAL INFORMATION ASSOCIATED WITH THE OCCUR-  
21 RENCE, RISK OF OCCURRENCE OR RECURRENCE, OF A GENETIC OR HEREDITARY  
22 CONDITION OR BIRTH DEFECT IN A COMPREHENSIVE, UNDERSTANDABLE, ETHICAL  
23 MANNER. A PRACTITIONER OF GENETIC COUNSELING SHALL SEEK TO PROMOTE  
24 DECISION-MAKING IN AN UNBIASED, NON-COERCIVE MANNER WHICH RESPECTS THE  
25 INDIVIDUAL'S CULTURE, LANGUAGE, TRADITION, LIFESTYLE, RELIGION, BELIEFS  
26 AND VALUES. GENETIC COUNSELING SHALL INCLUDE, BUT NOT BE LIMITED TO,  
27 THE FOLLOWING:

28 (A) OBTAIN AND EVALUATE INDIVIDUAL, FAMILY, AND MEDICAL HISTORIES TO  
29 DETERMINE GENETIC RISK FOR GENETIC/MEDICAL CONDITIONS AND DISEASES IN A  
30 PATIENT, HIS OR HER OFFSPRING, AND OTHER FAMILY MEMBERS;

31 (B) DISCUSS THE FEATURES, NATURAL HISTORY, MEANS OF DIAGNOSIS, GENETIC  
32 AND ENVIRONMENTAL FACTORS, AND MANAGEMENT OF RISK FOR GENETIC/MEDICAL  
33 CONDITIONS AND DISEASES;

34 (C) IDENTIFY AND COORDINATE GENETIC LABORATORY TESTS AND OTHER DIAG-  
35 NOSTIC STUDIES AS APPROPRIATE FOR THE GENETIC ASSESSMENT;

36 (D) INTEGRATE GENETIC LABORATORY TEST RESULTS AND OTHER DIAGNOSTIC  
37 STUDIES WITH PERSONAL AND FAMILY MEDICAL HISTORY TO ASSESS AND COMMUNI-  
38 CATE RISK FACTORS FOR GENETIC/MEDICAL CONDITIONS AND DISEASES;

39 (E) EXPLAIN THE CLINICAL IMPLICATIONS OF GENETIC LABORATORY TESTS AND  
40 OTHER DIAGNOSTIC STUDIES AND THEIR RESULTS;

41 (F) EVALUATE THE CLIENT'S OR FAMILY'S RESPONSES TO THE CONDITION OR  
42 RISK OF RECURRENCE AND PROVIDE CLIENT-CENTERED COUNSELING AND ANTICIPA-  
43 TORY GUIDANCE;

44 (G) IDENTIFY AND UTILIZE COMMUNITY RESOURCES THAT PROVIDE MEDICAL,  
45 EDUCATIONAL, FINANCIAL, AND PSYCHOSOCIAL SUPPORT AND ADVOCACY; AND

46 (H) PROVIDE WRITTEN DOCUMENTATION OF MEDICAL, GENETIC, AND COUNSELING  
47 INFORMATION FOR PATIENTS AND HEALTH CARE PROFESSIONALS IN ACCORDANCE  
48 WITH MEDICAL STANDARDS AND PRIVACY LAWS.

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

54 3. PRACTICE OF GENETIC COUNSELING, AND USE OF THE TITLES "GENETIC  
55 COUNSELOR" AND "LICENSED GENETIC COUNSELOR" AND THE USE OF THE LETTERS  
56 "L.G.C." AFTER THE NAME SHALL BE RESERVED EXCLUSIVELY TO PERSONS

LICENSED PURSUANT TO THIS ARTICLE. ONLY A PERSON LICENSED OR EXEMPT UNDER THIS ARTICLE SHALL PRACTICE GENETIC COUNSELING OR USE THE TITLE "GENETIC COUNSELOR". ONLY A PERSON LICENSED UNDER THIS ARTICLE SHALL USE THE TITLE "LICENSED GENETIC COUNSELOR" OR ANY OTHER DESIGNATION TENDING TO IMPLY THAT A PERSON IS LICENSED TO PRACTICE GENETIC COUNSELING.

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

2. THE COMMITTEE SHALL CONSIST OF SEVEN INDIVIDUALS, TO BE COMPOSED OF THE FOLLOWING:

(A) FIVE LICENSED GENETIC COUNSELORS WITH A MINIMUM OF FIVE YEARS EXPERIENCE, INCLUDING AT LEAST THREE YEARS OF FIELD EXPERIENCE WORKING WITH PATIENTS OR THE GENERAL PUBLIC IN THE FIELD OF GENETIC COUNSELING;

(B) ONE LICENSED MEDICAL GENETICIST; AND

(C) A REPRESENTATIVE OF THE PUBLIC AT LARGE.

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

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

1. APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT;

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

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

4. EXAMINATION: PASS THE AMERICAN BOARD OF GENETIC COUNSELING (ABGC) EXAMINATION FOR CERTIFICATION OR HAVE PASSED A PREVIOUS EXAMINATION ACCEPTED BY THE ABGC FOR CERTIFICATION;

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

6. CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT;

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

8. CONTINUING EDUCATION: AT THE TIME OF RE-REGISTRATION WITH THE DEPARTMENT, EACH APPLICANT SHALL PRESENT SATISFACTORY DOCUMENTATION TO THE STATE COMMITTEE FOR GENETIC COUNSELING THAT SINCE LAST REGISTRATION

1 THEY ATTENDED THE EDUCATION PROGRAMS CONDUCTED BY THE NATIONAL SOCIETY  
2 OF GENETIC COUNSELORS IN CONCORDANCE WITH THE AMERICAN BOARD OF GENETIC  
3 COUNSELING OR THE EQUIVALENT OF SUCH EDUCATIONAL PROGRAMS AS APPROVED  
4 BY THE STATE COMMITTEE FOR GENETIC COUNSELING IN ACCORDANCE WITH THE  
5 COMMISSIONER'S REGULATIONS. THE DEPARTMENT SHALL TRIENNIALLY RE-REGIS-  
6 TER A LICENSE UPON RECEIPT OF A RE-REGISTRATION APPLICATION. THE  
7 DEPARTMENT IS AUTHORIZED AND DIRECTED, IN CONSULTATION WITH THE STATE  
8 COMMITTEE ESTABLISHED IN SECTION SEVEN THOUSAND FIFTY-THREE OF THIS  
9 ARTICLE, TO ESTABLISH CRITERIA AS A CONDITION OF LICENSURE RE-REGISTRA-  
10 TION FOR CONTINUING EDUCATION OF GENETIC COUNSELORS INCLUDING, BUT NOT  
11 LIMITED TO THE NUMBER OF HOURS AND/OR EDUCATION UNITS NECESSARY TO  
12 COMPLETE CONTINUING EDUCATION REQUIREMENTS.

13 S 7055. EXEMPT PERSONS. THIS ARTICLE DOES NOT PROHIBIT THE PRACTICE OF  
14 GENETIC COUNSELING BY LICENSED PHYSICIANS OR OTHER LICENSED PROFES-  
15 SIONALS PURSUANT TO TITLE EIGHT OF THIS CHAPTER TO OPERATE WITHIN THE  
16 SCOPE OF THEIR PROFESSION'S LICENSE. SUCH EXEMPT PERSONS ARE PROHIBITED  
17 FROM USING THE TITLE "LICENSED GENETIC COUNSELOR" AS PROVIDED FOR IN  
18 THIS ARTICLE.

19 S 7056. LIMITED PERMITS. PERMITS LIMITED AS TO ELIGIBILITY, PRACTICE  
20 AND DURATION SHALL BE ISSUED BY THE DEPARTMENT TO ELIGIBLE APPLICANTS,  
21 AS FOLLOWS:

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

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

29 3. LIMITED PERMITS SHALL BE FOR ONE YEAR. LIMITED PERMITS MAY BE  
30 RE-REGISTERED, AT THE DISCRETION OF THE DEPARTMENT, FOR ONE ADDITIONAL  
31 YEAR.

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

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

40 S 7057. VISITING GENETIC COUNSELORS. VISITING CERTIFIED OR LICENSED  
41 GENETIC COUNSELORS FROM OUTSIDE THE STATE PERFORMING SERVICES FOR A  
42 PERIOD OF LESS THAN FIFTEEN DAYS, ANNUALLY, SHALL BE EXEMPT FROM NEW  
43 YORK STATE LICENSURE. VISITING GENETIC COUNSELORS MUST BE LICENSED IN  
44 THEIR HOME STATE IF LICENSURE IS AVAILABLE. VISITING CERTIFIED OR  
45 LICENSED GENETIC COUNSELORS, FROM OUTSIDE THE STATE, PERFORMING SERVICES  
46 FOR A PERIOD OF FIFTEEN DAYS OR MORE, ANNUALLY, MUST APPLY FOR NEW YORK  
47 STATE LICENSURE WITHIN SIXTY DAYS OF PROVIDING SERVICES IN NEW YORK  
48 STATE. SUCH APPLICANTS MAY CONTINUE TO PROVIDE SERVICES UNTIL NEW YORK  
49 STATE LICENSURE IS GRANTED OR DENIED.

50 S 7058. TELEHEALTH SERVICES. GENETIC COUNSELORS PROVIDING TELEHEALTH  
51 SERVICES TO NEW YORK STATE RESIDENTS MUST HAVE OR APPLY FOR NEW YORK  
52 STATE LICENSURE. AS USED IN THIS SECTION "TELEHEALTH SERVICES" SHALL  
53 MEAN THE PROVISION OF GENETIC COUNSELING THROUGH THE USE OF SECURE TELE-  
54 COMMUNICATIONS TECHNOLOGY.

55 S 2. Severability. If any clause, sentence, paragraph, section or part  
56 of this act shall be adjudged by any court of competent jurisdiction to

1 be invalid and after exhaustion of all further judicial review, the  
2 judgment shall not affect, impair or invalidate the remainder thereof,  
3 but shall be confined in its operation to the clause, sentence, para-  
4 graph, section or part of this act directly involved in the controversy  
5 in which the judgment shall have been rendered.

6 S 3. This act shall take effect immediately; provided, however, that  
7 within two years of the effective date of this act, the addition, amend-  
8 ment and/or repeal of any rule or regulation necessary for the implemen-  
9 tation of this act on its effective date are authorized and directed to  
10 be made and completed on or before such effective date; provided,  
11 further, that with respect to those persons who are licensed under arti-  
12 cle 142 of the education law on or before the triennial registration  
13 period next succeeding the effective date of this act, the continuing  
14 education requirements set forth in this act need not be completed until  
15 after the second triennial registration period.