S T A T E O F N E W Y O R K

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2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. KELLNER, JAFFEE, BROOK-KRASNY, MARKEY, WEISENBERG, McDONOUGH, P. RIVERA -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to requiring licensing of rehabilitation 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 152 to read as follows:

ARTICLE 152

REHABILITATION COUNSELING

SECTION 7550. INTRODUCTION.
7551. DEFINITION OF THE PRACTICE OF "REHABILITATION COUNSELING".
7552. PRACTICE OF REHABILITATION COUNSELING AND USE OF THE TITLES "REHABILITATION COUNSELOR" AND "LICENSED REHABILITATION COUNSELOR".
7553. STATE BOARD FOR REHABILITATION COUNSELING.
7554. REQUIREMENTS FOR A PROFESSIONAL LICENSE.
7555. LIMITED PERMITS.
7556. EXEMPT PERSONS.
7557. SPECIAL PROVISIONS.
7558. MANDATORY CONTINUING EDUCATION.
7559. SEPARABILITY.

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

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S 7550. INTRODUCTION. THIS ARTICLE APPLIES TO THE PROFESSION OF REHABILITATION COUNSELING. THE GENERAL PROVISIONS FOR ALL PROFESSIONS CONTAINED IN ARTICLE ONE HUNDRED THIRTY OF THIS TITLE SHALL APPLY TO THIS ARTICLE.

S 7551. DEFINITION OF THE PRACTICE OF "REHABILITATION COUNSELING". THE PRACTICE OF THE PROFESSION OF REHABILITATION COUNSELING IS DEFINED AS A SYSTEMATIC PROCESS WHICH ASSISTS PERSONS WITH PHYSICAL, MENTAL, DEVELOPMENTAL, COGNITIVE, AND EMOTIONAL DISABILITIES TO ACHIEVE THEIR PERSONAL, CAREER, AND INDEPENDENT LIVING GOALS IN THE MOST INTEGRATED SETTING POSSIBLE THROUGH THE APPLICATION OF THE COUNSELING PROCESS. THE COUNSELING PROCESS INVOLVES COMMUNICATION, GOAL SETTING, AND BENEFICIAL GROWTH OR CHANGE THROUGH SELF-ADVOCACY, PSYCHOLOGICAL, VOCATIONAL, SOCIAL, AND BEHAVIORAL INTERVENTIONS. THE SPECIFIC TECHNIQUES AND MODALITIES UTILIZED WITHIN THIS REHABILITATION COUNSELING PROCESS MAY INCLUDE, BUT ARE NOT LIMITED TO:

1. ASSESSMENT AND APPRAISAL;
2. DIAGNOSIS AND TREATMENT PLANNING;
3. CAREER (VOCATIONAL) COUNSELING;
4. INDIVIDUAL AND GROUP COUNSELING TREATMENT INTERVENTIONS FOCUSED ON FACILITATING ADJUSTMENTS TO THE MEDICAL AND PSYCHOSOCIAL IMPACT OF DISABILITY;
5. CASE MANAGEMENT, REFERRAL, AND SERVICE COORDINATION;
6. PROGRAM EVALUATION AND RESEARCH;
7. INTERVENTIONS TO REMOVE ENVIRONMENTAL, EMPLOYMENT, AND ATTITUDINAL BARRIERS;
8. CONSULTATION SERVICES AMONG MULTIPLE PARTIES AND REGULATORY SYSTEMS;
9. JOB ANALYSIS, JOB DEVELOPMENT, AND PLACEMENT SERVICES, INCLUDING ASSISTANCE WITH EMPLOYMENT AND JOB ACCOMMODATIONS;
10. THE PROVISION OF CONSULTATION ABOUT AND ACCESS TO REHABILITATION TECHNOLOGY.

S 7552. PRACTICE OF REHABILITATION COUNSELING AND USE OF THE TITLES "REHABILITATION COUNSELOR" AND "LICENSED REHABILITATION COUNSELOR". ONLY A PERSON LICENSED OR EXEMPT UNDER THIS ARTICLE SHALL PRACTICE REHABILITATION COUNSELING OR USE THE TITLE "REHABILITATION COUNSELOR". ONLY A PERSON LICENSED UNDER THIS ARTICLE SHALL USE THE TITLE "LICENSED REHABILITATION COUNSELOR" OR ANY OTHER DESIGNATION TENDING TO IMPLY THAT THE PERSON IS LICENSED TO PRACTICE REHABILITATION COUNSELING.

S 7553. STATE BOARD FOR REHABILITATION COUNSELING. 1. A STATE BOARD FOR REHABILITATION COUNSELING SHALL BE APPOINTED BY THE BOARD OF REGENTS ON RECOMMENDATION OF THE COMMISSIONER FOR THE PURPOSE OF ASSISTING THE BOARD OF REGENTS AND THE DEPARTMENT ON MATTERS OF LICENSING AND REGULATION. THE BOARD SHALL BE COMPOSED OF AT LEAST THREE REHABILITATION COUNSELORS LICENSED PURSUANT TO THIS ARTICLE AND AT LEAST ONE PUBLIC REPRESENTATIVE WHO DOES NOT HOLD INTERESTS IN THE ORGANIZATION, FINANCING, OR DELIVERY OF REHABILITATION COUNSELING SERVICES. MEMBERS OF THE FIRST BOARD NEED NOT BE LICENSED PRIOR TO THEIR APPOINTMENT TO THE BOARD. AN EXECUTIVE SECRETARY TO THE BOARD SHALL BE APPOINTED BY THE BOARD OF REGENTS ON RECOMMENDATION OF THE COMMISSIONER.

2. THE TERMS OF OFFICE OF THE MEMBERS OF THE BOARD SHALL BE FIVE YEARS; PROVIDED, HOWEVER, THAT OF THE MEMBERS FIRST APPOINTED, ONE SHALL BE APPOINTED FOR THREE YEARS, ONE SHALL BE APPOINTED FOR FOUR YEARS, AND TWO SHALL BE APPOINTED FOR FIVE YEARS. ANY VACANCY ON THE BOARD SHALL BE FILLED BY APPOINTMENT FOR THE REMAINDER OF SUCH MEMBER'S TERM IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

3. THE MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT EACH MEMBER SHALL BE ENTITLED TO RECEIVE HIS OR HER ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF HIS OR HER DUTIES.

S 7554. REQUIREMENTS FOR A PROFESSIONAL LICENSE. TO QUALIFY FOR A LICENSE AS A "LICENSED REHABILITATION COUNSELOR", AN APPLICANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

1. APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT;

2. EXAMINATION: PASS THE EXAMINATION OF THE COMMISSION ON REHABILITATION COUNSELING CERTIFICATION (CRCC); BE CERTIFIED BY THAT BODY AS A CERTIFIED REHABILITATION COUNSELOR (CRC);

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

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

5. FEES: PAY A FEE OF TWO HUNDRED FIFTY DOLLARS TO THE DEPARTMENT FOR ADMISSION TO LICENSURE AND FOR AN INITIAL LICENSE; AND A FEE OF ONE HUNDRED SEVENTY DOLLARS FOR EACH TRIENNIAL REGISTRATION PERIOD.

S 7555. LIMITED PERMITS. THE FOLLOWING REQUIREMENTS FOR A LIMITED PERMIT SHALL APPLY TO THE PROFESSION LICENSED PURSUANT TO THIS ARTICLE:

1. THE DEPARTMENT MAY ISSUE A LIMITED PERMIT TO AN APPLICANT WHOSE QUALIFICATIONS HAVE BEEN APPROVED FOR ADMISSION TO THE CRCC EXAMINATION IN ACCORDANCE WITH REGULATIONS PROMULGATED THEREFOR.

2. LIMITED PERMITS SHALL BE FOR ONE YEAR AND MAY BE RENEWED, AT THE DISCRETION OF THE DEPARTMENT, FOR ONE ADDITIONAL YEAR.

3. THE FEE FOR EACH LIMITED PERMIT AND FOR EACH RENEWAL THEREOF SHALL BE SEVENTY DOLLARS.

S 7556. EXEMPT PERSONS. 1. THIS ARTICLE SHALL NOT BE CONSTRUED TO AFFECT OR PREVENT QUALIFIED PHYSICIANS, NURSES, PHYSICAL OR OCCUPATIONAL THERAPISTS, PSYCHOLOGISTS, COUNSELORS, CREATIVE ARTS THERAPISTS, PSYCHOANALYSTS, SOCIAL WORKERS OR MEMBERS OF THE CLERGY FROM PERFORMING THE WORK OF A REHABILITATION COUNSELOR WHERE INCIDENT TO THE PRACTICE OF THEIR PROFESSIONS, PROVIDED THEY DO NOT HOLD THEMSELVES OUT TO THE PUBLIC BY ANY TITLE AS BEING ENGAGED IN THE PRACTICE OF REHABILITATION COUNSELING.

2. THIS ARTICLE SHALL NOT BE CONSTRUED TO AFFECT OR PREVENT A REHABILITATION COUNSELING STUDENT FROM ENGAGING IN CLINICAL PRACTICE UNDER THE SUPERVISION OF A LICENSED OR CERTIFIED REHABILITATION COUNSELOR AS PART OF A PROGRAM CONDUCTED IN AN APPROVED AGENCY AFFILIATED WITH AN ACCREDITED SCHOOL OF REHABILITATION COUNSELING WHICH IS APPROVED BY THE DEPARTMENT.

S 7557. SPECIAL PROVISIONS. 1. ANY NONEXEMPT PERSON PRACTICING THE PROFESSION TO BE LICENSED PURSUANT TO THIS ARTICLE SHALL APPLY FOR A LICENSE FOR PRACTICE OF SUCH PROFESSION WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE. IF SUCH PERSON DOES NOT MEET THE REQUIREMENTS FOR A LICENSE ESTABLISHED WITHIN THIS ARTICLE, THE DEPARTMENT SHALL LICENSE WITHOUT EXAMINATION IF THE APPLICANT SUBMITS EVIDENCE SATISFACTORY TO THE DEPARTMENT OF HAVING BEEN ENGAGED IN THE PRACTICE OF SUCH PROFESSION FOR AT LEAST FIVE OF THE IMMEDIATELY PRECEDING EIGHT YEARS. SUCH EXEMPTION SHALL BE IN EFFECT FOR ONLY ONE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE.

2. THE COMMISSIONER SHALL APPROVE ALL FEES AUTHORIZED PURSUANT TO THIS ARTICLE. SUCH FEES SHALL BE SET IN AMOUNTS SUFFICIENT TO MEET THE EXPENSES OF ADMINISTERING THE PROVISIONS OF THIS ARTICLE.

3. THE DEPARTMENT SHALL PROMULGATE ANY RULES AND REGULATIONS NECESSARY TO ESTABLISH PROFESSIONAL STANDARDS OF REHABILITATION COUNSELORS AND ANY OTHER RULES AND REGULATIONS NECESSARY TO ADMINISTER THE PROVISIONS OF THIS ARTICLE.

S 7558. MANDATORY CONTINUING EDUCATION. 1. (A) EACH REHABILITATION COUNSELOR LICENSED PURSUANT TO THIS ARTICLE REQUIRED TO REGISTER TRIENNIALLY WITH THE DEPARTMENT TO PRACTICE IN THE STATE SHALL COMPLY WITH THE PROVISIONS OF THE MANDATORY CONTINUING EDUCATION REQUIREMENTS PRESCRIBED IN SUBDIVISION TWO OF THIS SECTION EXCEPT AS SET FORTH IN PARAGRAPHS (B) AND (C) OF THIS SUBDIVISION. SUCH REHABILITATION COUNSELORS WHO DO NOT SATISFY THE MANDATORY CONTINUING EDUCATION REQUIREMENTS SHALL NOT PRACTICE UNTIL THEY HAVE MET SUCH REQUIREMENTS, THEY HAVE PAID ALL APPLICABLE FEES, AND THEY HAVE BEEN ISSUED A REGISTRATION OR CONDITIONAL REGISTRATION CERTIFICATE.

(B) REHABILITATION COUNSELORS SHALL BE EXEMPT FROM THE MANDATORY CONTINUING EDUCATION REQUIREMENT FOR THE TRIENNIAL REGISTRATION PERIOD DURING WHICH THEY ARE FIRST LICENSED. IN ACCORDANCE WITH THE INTENT OF THIS SECTION, ADJUSTMENT TO THE MANDATORY CONTINUING EDUCATION REQUIREMENT MAY BE GRANTED BY THE DEPARTMENT FOR REASONS OF HEALTH CERTIFIED BY AN APPROPRIATE HEALTH CARE PROFESSIONAL, FOR EXTENDED ACTIVE DUTY WITH THE ARMED FORCES OF THE UNITED STATES, OR FOR OTHER GOOD CAUSE ACCEPTABLE TO THE DEPARTMENT WHICH MAY PREVENT COMPLIANCE.

(C) A LICENSED REHABILITATION COUNSELOR NOT ENGAGED IN PRACTICE, AS DETERMINED BY THE DEPARTMENT, SHALL BE EXEMPT FROM THE MANDATORY CONTINUING EDUCATION REQUIREMENT UPON THE FILING OF A STATEMENT WITH THE DEPARTMENT DECLARING SUCH STATUS. ANY LICENSEE WHO RETURNS TO THE PRACTICE OF REHABILITATION COUNSELOR DURING THE TRIENNIAL REGISTRATION PERIOD SHALL NOTIFY THE DEPARTMENT PRIOR TO REENTERING THE PROFESSION AND SHALL MEET SUCH MANDATORY EDUCATION REQUIREMENTS AS SHALL BE PRESCRIBED BY REGULATIONS OF THE COMMISSIONER.

2. DURING EACH TRIENNIAL REGISTRATION PERIOD AN APPLICANT FOR REGISTRATION SHALL COMPLETE A MINIMUM OF TWENTY-FOUR HOURS OF ACCEPTABLE CONTINUING EDUCATION, A MAXIMUM OF TWELVE HOURS OF WHICH MAY BE SELF-INSTRUCTIONAL COURSE WORK ACCEPTABLE TO THE DEPARTMENT. ANY REHABILITATION COUNSELOR WHOSE FIRST REGISTRATION DATE FOLLOWING THE EFFECTIVE DATE OF THIS SECTION OCCURS LESS THAN THREE YEARS FROM SUCH EFFECTIVE DATE, BUT ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, SHALL COMPLETE CONTINUING EDUCATION HOURS ON A PRORATED BASIS AT THE RATE OF ONE HOUR PER MONTH FOR THE PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND FOURTEEN UP TO THE FIRST REGISTRATION DATE THEREAFTER. A LICENSEE WHO HAS NOT SATISFIED THE MANDATORY CONTINUING EDUCATION REQUIREMENTS SHALL NOT BE ISSUED A TRIENNIAL REGISTRATION CERTIFICATE BY THE DEPARTMENT AND SHALL NOT PRACTICE UNLESS AND UNTIL A CONDITIONAL REGISTRATION CERTIFICATE IS ISSUED, AS PROVIDED FOR IN SUBDIVISION THREE OF THIS SECTION, OR UNTIL HE OR SHE HAS OTHERWISE MET THE REQUIREMENTS OF THIS SECTION.

3. THE DEPARTMENT, IN ITS DISCRETION, MAY ISSUE A CONDITIONAL REGISTRATION TO A LICENSEE WHO FAILS TO MEET THE CONTINUING EDUCATION REQUIREMENTS ESTABLISHED IN SUBDIVISION TWO OF THIS SECTION BUT WHO AGREES TO MAKE UP ANY DEFICIENCIES AND COMPLETE ANY ADDITIONAL EDUCATION WHICH THE DEPARTMENT MAY REQUIRE. THE FEE FOR SUCH A CONDITIONAL REGISTRATION SHALL BE THE SAME AS, AND IN ADDITION TO, THE FEE FOR THE TRIENNIAL REGISTRATION. THE DURATION OF SUCH CONDITIONAL REGISTRATION SHALL BE DETERMINED BY THE DEPARTMENT BUT SHALL NOT EXCEED ONE YEAR. ANY LICENSEE WHO IS NOTIFIED OF THE DENIAL OF REGISTRATION FOR FAILURE TO SUBMIT EVIDENCE, SATISFACTORY TO THE DEPARTMENT, OF REQUIRED CONTINUING_EDUCATION AND WHO PRACTICES REHABILITATION COUNSELING WITHOUT SUCH REGISTRATION, MAY BE SUBJECT TO DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION SIXTY-FIVE HUNDRED TEN OF THIS TITLE.

4. AS USED IN SUBDIVISION TWO OF THIS SECTION, "ACCEPTABLE CONTINUING EDUCATION" SHALL MEAN COURSES OF LEARNING AND EDUCATIONAL ACTIVITIES

WHICH CONTRIBUTE TO PROFESSIONAL PRACTICE IN REHABILITATION COUNSELING AND WHICH MEET THE STANDARDS PRESCRIBED BY REGULATIONS OF THE COMMISSIONER. THE DEPARTMENT MAY, IN ITS DISCRETION AND AS NEEDED TO CONTRIBUTE TO THE HEALTH AND WELFARE OF THE PUBLIC, REQUIRE THE COMPLETION OF CONTINUING EDUCATION COURSES IN SPECIFIC SUBJECTS.

5. REHABILITATION COUNSELORS SHALL MAINTAIN ADEQUATE DOCUMENTATION OF COMPLETION OF ACCEPTABLE CONTINUING EDUCATION AND EDUCATIONAL ACTIVITIES AND SHALL PROVIDE SUCH DOCUMENTATION AT THE REQUEST OF THE DEPARTMENT.

6. THE MANDATORY CONTINUING EDUCATION FEE SHALL BE FORTY-FIVE DOLLARS, SHALL BE PAYABLE ON OR BEFORE THE FIRST DAY OF EACH TRIENNIAL REGISTRATION PERIOD, AND SHALL BE PAID IN ADDITION TO THE TRIENNIAL REGISTRATION FEE REQUIRED BY SECTION SEVENTY-FIVE HUNDRED FIFTY-FOUR OF THIS ARTICLE.

7. THE DEPARTMENT SHALL BE REQUIRED TO MAIL TO ALL LICENSED REHABILITATION COUNSELORS, PRIOR TO THE FIRST DAY OF EACH TRIENNIAL REGISTRATION PERIOD, INFORMATION SETTING FORTH THE REQUIREMENTS FOR SUCH TRIENNIAL REGISTRATION.

S 7559. SEPARABILITY. IF ANY SECTION OF THIS ARTICLE, OR PART THEREOF, SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER OF ANY OTHER SECTION OR PART THEREOF.

S 2. This act shall take effect on the five hundred forty-fifth day after it shall have become a law; provided, however, that any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be promulgated, amended and repealed on or before such date.