

6092--B

I N   S E N A T E

(PREFILED)

January 4, 2012

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Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, 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:

1     Section 1. The education law is amended by adding a new article 152 to  
2     read as follows:

3                                                             ARTICLE 152

4                                                             REHABILITATION COUNSELING

5     SECTION 7550. INTRODUCTION.

6             7551. DEFINITION OF THE PRACTICE OF "REHABILITATION COUNSELING".

7             7552. PRACTICE OF REHABILITATION COUNSELING AND USE OF THE  
8                 TITLES "REHABILITATION COUNSELOR" AND "LICENSED REHABIL-  
9                 ITATION COUNSELOR".

10            7553. STATE BOARD FOR REHABILITATION COUNSELING.

11            7554. REQUIREMENTS FOR A PROFESSIONAL LICENSE.

12            7555. LIMITED PERMITS.

13            7556. EXEMPT PERSONS.

14            7557. SPECIAL PROVISIONS.

15            7558. MANDATORY CONTINUING EDUCATION.

16            7559. SEPARABILITY.

17     S 7550. INTRODUCTION. THIS ARTICLE APPLIES TO THE PROFESSION OF REHA-  
18     BILITATION COUNSELING. THE GENERAL PROVISIONS FOR ALL PROFESSIONS  
19     CONTAINED IN ARTICLE ONE HUNDRED THIRTY OF THIS TITLE SHALL APPLY TO  
20     THIS ARTICLE.

21     S 7551. DEFINITION OF THE PRACTICE OF "REHABILITATION COUNSELING". THE  
22     PRACTICE OF THE PROFESSION OF REHABILITATION COUNSELING IS DEFINED AS A  
23     SYSTEMATIC PROCESS WHICH ASSISTS PERSONS WITH PHYSICAL, MENTAL, DEVELOP-  
24     MENTAL, COGNITIVE, AND EMOTIONAL DISABILITIES TO ACHIEVE THEIR PERSONAL,

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

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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;

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

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

5 4. CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPART-  
6 MENT; AND

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

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

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

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

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

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

27 2. THIS ARTICLE SHALL NOT BE CONSTRUED TO AFFECT OR PREVENT A REHABIL-  
28 ITATION COUNSELING STUDENT FROM ENGAGING IN CLINICAL PRACTICE UNDER THE  
29 SUPERVISION OF A LICENSED OR CERTIFIED REHABILITATION COUNSELOR AS PART  
30 OF A PROGRAM CONDUCTED IN AN APPROVED AGENCY AFFILIATED WITH AN ACCRED-  
31 ITED SCHOOL OF REHABILITATION COUNSELING WHICH IS APPROVED BY THE  
32 DEPARTMENT.

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

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

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

50 S 7558. MANDATORY CONTINUING EDUCATION. 1. (A) EACH REHABILITATION  
51 COUNSELOR LICENSED PURSUANT TO THIS ARTICLE REQUIRED TO REGISTER TRIEN-  
52 NNIALLY WITH THE DEPARTMENT TO PRACTICE IN THE STATE SHALL COMPLY WITH  
53 THE PROVISIONS OF THE MANDATORY CONTINUING EDUCATION REQUIREMENTS  
54 PRESCRIBED IN SUBDIVISION TWO OF THIS SECTION EXCEPT AS SET FORTH IN  
55 PARAGRAPHS (B) AND (C) OF THIS SUBDIVISION. SUCH REHABILITATION COUNSE-  
56 LORS WHO DO NOT SATISFY THE MANDATORY CONTINUING EDUCATION REQUIREMENTS

1 SHALL NOT PRACTICE UNTIL THEY HAVE MET SUCH REQUIREMENTS, THEY HAVE PAID  
2 ALL APPLICABLE FEES, AND THEY HAVE BEEN ISSUED A REGISTRATION OR CONDI-  
3 TIONAL REGISTRATION CERTIFICATE.

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

12 (C) A LICENSED REHABILITATION COUNSELOR NOT ENGAGED IN PRACTICE, AS  
13 DETERMINED BY THE DEPARTMENT, SHALL BE EXEMPT FROM THE MANDATORY CONTIN-  
14 UING EDUCATION REQUIREMENT UPON THE FILING OF A STATEMENT WITH THE  
15 DEPARTMENT DECLARING SUCH STATUS. ANY LICENSEE WHO RETURNS TO THE PRAC-  
16 TICE OF REHABILITATION COUNSELOR DURING THE TRIENNIAL REGISTRATION PERI-  
17 OD SHALL NOTIFY THE DEPARTMENT PRIOR TO REENTERING THE PROFESSION AND  
18 SHALL MEET SUCH MANDATORY EDUCATION REQUIREMENTS AS SHALL BE PRESCRIBED  
19 BY REGULATIONS OF THE COMMISSIONER.

20 2. DURING EACH TRIENNIAL REGISTRATION PERIOD AN APPLICANT FOR REGIS-  
21 TRATION SHALL COMPLETE A MINIMUM OF TWENTY-FOUR HOURS OF ACCEPTABLE  
22 CONTINUING EDUCATION, A MAXIMUM OF TWELVE HOURS OF WHICH MAY BE SELF-IN-  
23 STRUCTIONAL COURSE WORK ACCEPTABLE TO THE DEPARTMENT. ANY REHABILITATION  
24 COUNSELOR WHOSE FIRST REGISTRATION DATE FOLLOWING THE EFFECTIVE DATE OF  
25 THIS SECTION OCCURS LESS THAN THREE YEARS FROM SUCH EFFECTIVE DATE, BUT  
26 ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, SHALL COMPLETE CONTIN-  
27 UING EDUCATION HOURS ON A PRORATED BASIS AT THE RATE OF ONE HOUR PER  
28 MONTH FOR THE PERIOD BEGINNING JANUARY FIRST, TWO THOUSAND FOURTEEN UP  
29 TO THE FIRST REGISTRATION DATE THEREAFTER. A LICENSEE WHO HAS NOT SATIS-  
30 FIED THE MANDATORY CONTINUING EDUCATION REQUIREMENTS SHALL NOT BE ISSUED  
31 A TRIENNIAL REGISTRATION CERTIFICATE BY THE DEPARTMENT AND SHALL NOT  
32 PRACTICE UNLESS AND UNTIL A CONDITIONAL REGISTRATION CERTIFICATE IS  
33 ISSUED, AS PROVIDED FOR IN SUBDIVISION THREE OF THIS SECTION, OR UNTIL  
34 HE OR SHE HAS OTHERWISE MET THE REQUIREMENTS OF THIS SECTION.

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

48 4. AS USED IN SUBDIVISION TWO OF THIS SECTION, "ACCEPTABLE CONTINUING  
49 EDUCATION" SHALL MEAN COURSES OF LEARNING AND EDUCATIONAL ACTIVITIES  
50 WHICH CONTRIBUTE TO PROFESSIONAL PRACTICE IN REHABILITATION COUNSELING  
51 AND WHICH MEET THE STANDARDS PRESCRIBED BY REGULATIONS OF THE COMMIS-  
52 SIONER. THE DEPARTMENT MAY, IN ITS DISCRETION AND AS NEEDED TO CONTRIB-  
53 UTE TO THE HEALTH AND WELFARE OF THE PUBLIC, REQUIRE THE COMPLETION OF  
54 CONTINUING EDUCATION COURSES IN SPECIFIC SUBJECTS.

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

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

8 7. THE DEPARTMENT SHALL BE REQUIRED TO MAIL TO ALL LICENSED REHABILI-  
9 TATION COUNSELORS, PRIOR TO THE FIRST DAY OF EACH TRIENNIAL REGISTRATION  
10 PERIOD, INFORMATION SETTING FORTH THE REQUIREMENTS FOR SUCH TRIENNIAL  
11 REGISTRATION.

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

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