

S. 3514

A. 5641

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

February 24, 2011

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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

IN ASSEMBLY -- Introduced by M. of A. SWEENEY, DESTITO, CAHILL, MILLMAN, PAULIN, GALEF, LUPARDO, BING -- Multi-Sponsored by -- M. of A. BENEDETTO, DINOWITZ, GUNTHER, HOOPER, LATIMER, MARKEY, MAYERSOHN, PHEFFER, 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:

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

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

16     1. THE TERM "GENETIC COUNSELOR" SHALL MEAN A HEALTH PROFESSIONAL WHO  
17     IS ACADEMICALLY AND CLINICALLY PREPARED TO PROVIDE GENETIC COUNSELING  
18     SERVICES TO INDIVIDUALS AND FAMILIES SEEKING INFORMATION ABOUT THE

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

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1 OCCURRENCE, RISK OF OCCURRENCE OR RECURRENCE, OF A GENETIC OR HEREDITARY  
2 CONDITION OR BIRTH DEFECT.

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

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

17 (A) ELICITING INDIVIDUAL AND FAMILY MEDICAL, DEVELOPMENTAL, AND REPRO-  
18 DUCTIVE HISTORIES;

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

22 (C) EXPLAINING THE RESULTS OF GENETIC TESTS AND INTERPRETING AND  
23 EXPLAINING OTHER DIAGNOSTIC STUDIES;

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

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

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

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

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

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

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

1 APPOINTED FOR FOUR YEARS AND TWO MEMBERS ARE APPOINTED FOR FIVE YEARS.  
2 AN EXECUTIVE SECRETARY TO THE COMMITTEE SHALL BE APPOINTED BY THE BOARD  
3 OF REGENTS ON THE RECOMMENDATIONS OF THE COMMISSIONER.

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

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

9 (B) ONE LICENSED PHYSICIAN;

10 (C) ONE LICENSED PSYCHIATRIST; AND

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

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

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

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

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

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

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

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

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

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

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

54 S 7055. EXEMPT PERSONS. THIS ARTICLE DOES NOT PROHIBIT THE PRACTICE OF  
55 GENETIC COUNSELING BY LICENSED PHYSICIANS OR OTHER LICENSED PROFES-  
56 SIONALS PURSUANT TO TITLE EIGHT OF THIS CHAPTER TO OPERATE WITHIN THE

1 SCOPE OF THEIR PROFESSION'S LICENSE. SUCH EXEMPT PERSONS ARE PROHIBITED  
2 FROM USING THE TITLE "LICENSED GENETIC COUNSELOR" AS PROVIDED FOR IN  
3 THIS ARTICLE.

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

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

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

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

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

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

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

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