

# STATE OF NEW YORK

1323--B

2017-2018 Regular Sessions

## IN SENATE

January 9, 2017

Introduced by Sens. LAVALLE, FUNKE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading -- 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

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. Practice of genetic counseling and use of the title  
7 "genetic counselor".

8 7052. State board for genetic counseling.

9 7053. Requirements for a professional license.

10 7054. Exempt persons.

11 7055. Limited permits.

12 7056. Special provisions.

13 § 7050. Introduction. This article applies to the licensing of genetic  
14 counselors. The general provisions for all professions contained in  
15 article one hundred thirty of this title apply to this article.

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

LBD05260-06-8

1     § 7051. Practice of genetic counseling and use of the title "genetic  
2 counselor". 1. The "practice of genetic counseling" shall mean the  
3 communication to and education of clients, their families, other health  
4 care professionals and the general public with regard to genetic test-  
5 ing, individual family histories, or other genetic, personal medical  
6 history, and technical information associated with the occurrence, risk  
7 of occurrence or recurrence, of a genetic or hereditary condition or  
8 birth defect. A practitioner of genetic counseling shall seek to  
9 promote decision-making for their client which respects the client's  
10 culture, language, tradition, lifestyle, religion, beliefs and values.  
11 Genetic counseling shall include, but not be limited to, the following:

12     (a) obtain and evaluate personal and family medical history to deter-  
13 mine genetic risk for genetic conditions and diseases in a client, his  
14 or her offspring, and other family members;

15     (b) educate clients regarding the means to assess and manage risk for  
16 genetic conditions and disease;

17     (c) identify and order genetic laboratory tests and coordinate other  
18 diagnostic studies as appropriate for the genetic assessment;

19     (d) integrate genetic laboratory test results and other diagnostic  
20 studies with personal and family medical history to assess and communi-  
21 cate risk factors for genetic conditions;

22     (e) explain to a client the clinical implications of genetic laborato-  
23 ry tests and other diagnostic studies and their results; and

24     (f) maintain written documentation of the genetic counseling services  
25 performed for clients and health care professionals.

26     2. Nothing in this article shall be construed to authorize a licensed  
27 genetic counselor to diagnose or treat any genetic disease or medical  
28 condition, practice psychotherapy, or practice any other profession that  
29 is licensed under this title. This includes, but may not be limited to,  
30 the following:

31     (a) Prescribe or administer drugs as defined in this chapter or as a  
32 treatment, therapy, or professional services in the practice of his or  
33 her profession;

34     (b) Use invasive procedures as a treatment, therapy, or professional  
35 service in the practice of his or her profession. For the purposes of  
36 this subdivision, "invasive procedure" means any procedure in which  
37 human tissue is cut, altered, or otherwise infiltrated by mechanical or  
38 other means. Invasive procedures shall include surgery, lasers, ionizing  
39 radiation, therapeutic ultrasound, or electroconvulsive therapy; or

40     (c) Provide psychotherapy as defined in subdivision two of section  
41 eighty-four hundred one of this title.

42     3. If in the course of providing genetic counseling to any client, a  
43 genetic counselor finds any indication of disease or condition that may  
44 require medical assessment, the genetic counselor shall refer that  
45 client to a licensed physician, or as appropriate, another health care  
46 professional licensed pursuant to this title.

47     4. Only a person licensed under this article shall practice genetic  
48 counseling. Only a person licensed under this article shall use the  
49 title "licensed genetic counselor" and use the letters "L.G.C." after  
50 his or her name or any words or letters, abbreviations or insignia indi-  
51 cating or implying that a person is licensed pursuant to this article.

52     § 7052. State board for genetic counseling. 1. A state board for  
53 genetic counseling shall be appointed by the board of regents upon the  
54 recommendation of the commissioner, prior to the effective date of this  
55 article, and shall assist on matters of professional licensing and  
56 professional conduct in accordance with section sixty-five hundred eight

1 of this title. Members of the first board need not be licensed prior to  
2 their appointment to such board. An executive secretary to the board  
3 shall be appointed by the board of regents on recommendation of the  
4 commissioner.

5 2. The board shall consist of seven individuals, to be composed of the  
6 following:

7 (a) five licensed genetic counselors,

8 (b) one licensed physician, and

9 (c) a public representative as defined in paragraph b of subdivision  
10 one of section sixty-five hundred eight of this title.

11 3. Board members shall be appointed for terms of five years. The terms  
12 of the first appointed members shall be staggered so that two members  
13 are appointed for three years, three members are appointed for four  
14 years and two members are appointed for five years.

15 § 7053. 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 degree or higher in genetic  
20 counseling or human genetics from a program registered by the depart-  
21 ment, or determined by the department to be the substantial equivalent,  
22 in accordance with the commissioner's regulations. Appropriate course-  
23 work shall be determined in accordance with the commissioner's regu-  
24 lations on recommendations of the state board for genetic counseling;

25 3. Experience: experience acceptable to the department;

26 4. Examination: pass an examination satisfactory to the department and  
27 in accordance with the commissioner's regulations;

28 5. Age: be at least twenty-one years of age;

29 6. Character: be of good moral character as determined by the depart-  
30 ment;

31 7. Fees: pay a fee of three hundred dollars to the department for an  
32 initial license and two hundred dollars for each subsequent triennial  
33 re-registration of a license.

34 § 7054. Exempt persons. So long as the person does not hold him or  
35 herself out to the public as a genetic counselor, the provisions of this  
36 article shall not apply to:

37 1. A licensed health care professional licensed under this title who  
38 is practicing within the scope of practice as defined in this title;

39 2. A student or intern enrolled in a master's or higher program regis-  
40 tered or approved by the department where the student or intern is  
41 engaged in activities constituting the practice of a profession as  
42 defined in this title, whose scope of practice includes genetic coun-  
43 seling; provided, however, such activities shall be part of a supervised  
44 training program under a licensed genetic counselor or a health care  
45 professional licensed pursuant to this title in accordance with the  
46 commissioner's regulations; and

47 3. An employee of the state department of health in the provision of  
48 education regarding conditions included on the newborn screening panels.  
49 Nothing in this article shall be construed as prohibiting counseling  
50 services provided by an attorney, rape crisis counselor, or pastoral  
51 counseling by a clergy member working within his or her ministerial  
52 charge of obligation.

53 § 7055. Limited permits. Limited permits may be issued by the depart-  
54 ment to authorize the practice of the profession under a licensed genet-  
55 ic counselor or physician pursuant to the commissioner's regulations:

1 1. The department may issue a limited permit to an applicant who meets  
2 all qualifications for licensure as a genetic counselor, except those  
3 relating to the examination, in accordance with the commissioner's regu-  
4 lations.

5 2. Limited permits shall be for one year. Such permits may be extended  
6 at the discretion of the department, for one additional year.

7 3. The fee for each limited permit and for each renewal shall be  
8 seventy dollars.

9 § 7056. Special provisions. 1. (a) Any individual who meets the  
10 requirements for a license established in this article, except for exam-  
11 ination, experience and education, and who is certified by a national  
12 certifying body having certification standards acceptable to the depart-  
13 ment, may be licensed without meeting additional requirements as to  
14 examination, experience, or education, provided that such individual  
15 submits an application to the department within two years of the effec-  
16 tive date of this article.

17 (b) Any individual who meets the requirements for a license estab-  
18 lished in this article, except for examination, may be licensed without  
19 examination, provided that the person completed the education require-  
20 ment prior to two thousand eight, submits evidence of a minimum of ten  
21 years employment as a genetic counselor, submits experience acceptable  
22 to the department and submits an application to the department within  
23 two years of the effective date of this article.

24 2. This article shall not prohibit the practice of genetic counseling  
25 by a lawfully organized business entity meeting the requirements author-  
26 ized by this article or by an employee or agent of such a business enti-  
27 ty provided that such practice is provided by a licensed genetic counse-  
28 lor or persons exempt under this article. Violation of this provision  
29 shall be subject to the provisions of section sixty-five hundred twelve  
30 of this title. For the purposes of this subdivision, "business entity"  
31 means any lawfully established business entity, other than a profes-  
32 sional service corporation (PC), a professional service limited liabil-  
33 ity company (PLLC) or a registered limited liability partnership (LLP)  
34 that is authorized to practice genetic counseling under New York law.  
35 Provided further, that any such business entity must:

36 (a) have registered and been approved by the department before provid-  
37 ing any such services to patients who reside in this state by providing  
38 their name and address for service of process.

39 (b) submit an application to the department which shall:

40 (i) be made in a manner and form prescribed by the department;

41 (ii) include information as may be required by the department to  
42 ensure safe practice, including, but not limited to, a current list of  
43 genetic counselors licensed pursuant to this article who are employees  
44 or agents of the business entity and are providing such services to  
45 patients who reside in the state; and

46 (iii) be accompanied by a fee of three hundred forty-five dollars.

47 (c) submit annually to the department a current list of genetic coun-  
48 sors licensed pursuant to this article who are employees or agents of  
49 the business entity and are providing such services to patients who  
50 reside in the state.

51 (d) not compensate the licensed genetic counselor or exempt person in  
52 a manner that takes into account, directly or indirectly, the volume or  
53 financial values of genetic tests ordered.

54 (e) ensure the licensed genetic counselor or exempt person provides a  
55 form to each client disclosing the name of the business entity and

1 informs the client of his or her right to utilize an alternative genetic  
2 counselor.

3 (f) as a condition of employment, not require a licensed genetic coun-  
4 selor or exempt person to order a certain test or tests, or otherwise  
5 direct or influence professional conduct.

6 3. All business entity registrations shall be renewed on dates set by  
7 the department. The triennial registration fee shall be two hundred  
8 sixty dollars, or a prorated portion thereof as determined by the  
9 department.

10 4. Such business entity registered under this section shall be under  
11 the supervision of the board of regents and shall be subject to disci-  
12 plinary proceedings and penalties in accordance with article one hundred  
13 thirty of this title in the same manner and to the same extent as indi-  
14 vidual licensees. Provided further, that failure to comply with the  
15 requirements of this section shall also constitute professional miscon-  
16 duct.

17 § 2. Severability. If any clause, sentence, paragraph, section or part  
18 of this act shall be adjudged by any court of competent jurisdiction to  
19 be invalid and after exhaustion of all further judicial review, the  
20 judgment shall not affect, impair or invalidate the remainder thereof,  
21 but shall be confined in its operation to the clause, sentence, para-  
22 graph, section or part of this act directly involved in the controversy  
23 in which the judgment shall have been rendered.

24 § 3. This act shall take effect two years after it shall have become a  
25 law; provided, however, that the state education department is author-  
26 ized to promulgate any and all rules and regulations and take any other  
27 measure necessary to implement this act, including, but not limited to,  
28 the appointment of board members pursuant to section 7052 of the educa-  
29 tion law, as added by section one of this act on or before such effec-  
30 tive date.