

# STATE OF NEW YORK

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## IN ASSEMBLY

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Introduced by M. of A. L. ROSENTHAL, McDONOUGH, BENEDETTO, ROZIC, GOTTFRIED, RAIA -- Multi-Sponsored by -- M. of A. CROUCH, SIMOTAS, STIRPE -- 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

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:

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

### ARTICLE 142

#### GENETIC COUNSELING

##### Section 7050. Introduction.

7051. Practice of genetic counseling and use of the title "genetic counselor".

7052. State board for genetic counseling.

7053. Requirements for a professional license.

7054. Exempt persons.

7055. Limited permits.

7056. Special provisions.

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

§ 7051. Practice of genetic counseling and use of the title "genetic counselor". 1. The "practice of genetic counseling" shall mean the communication to and education of clients, their families, other health care professionals and the general public with regard to genetic test-

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

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ing, individual family histories, or other genetic, personal medical history, and technical information associated with the occurrence, risk of occurrence or recurrence, of a genetic or hereditary condition or birth defect. A practitioner of genetic counseling shall seek to promote decision-making for their client which respects the client's culture, language, tradition, lifestyle, religion, beliefs and values. Genetic counseling shall include, but not be limited to, the following:

(a) obtain and evaluate personal and family medical history to determine genetic risk for genetic conditions and diseases in a client, his or her offspring, and other family members;

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

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

(d) integrate genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic conditions;

(e) explain to a client the clinical implications of genetic laboratory tests and other diagnostic studies and their results; and

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

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

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

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

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

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

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

§ 7052. State board for genetic counseling. 1. A state board for genetic counseling shall be appointed by the board of regents upon the recommendation of the commissioner, prior to the effective date of this article, and shall assist on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. Members of the first board need not be licensed prior to their appointment to such board. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

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

- (a) five licensed genetic counselors,
- (b) one licensed physician, and
- (c) a public representative as defined in paragraph b of subdivision one of section sixty-five hundred eight of this title.

3. Board members shall be appointed for terms of five years. 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.

§ 7053. 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 degree or higher in genetic counseling or human genetics 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 board for genetic counseling;
- 3. Experience: experience acceptable to the department;
- 4. Examination: pass an examination satisfactory to the department and in accordance with the commissioner's regulations;
- 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 triennial re-registration of a license.

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

- 1. A licensed health care professional licensed under this title who is practicing within the scope of practice as defined in this title;
- 2. A student or intern enrolled in a master's or higher program registered or approved by the department where the student or intern is engaged in activities constituting the practice of a profession as defined in this title, whose scope of practice includes genetic counseling; provided, however, such activities shall be part of a supervised training program under a licensed genetic counselor or a health care professional licensed pursuant to this title in accordance with the commissioner's regulations; and
- 3. An employee of the state department of health in the provision of education regarding conditions included on the newborn screening panels. Nothing in this article shall be construed as prohibiting counseling services provided by an attorney, rape crisis counselor, or pastoral counseling by a clergy member working within his or her ministerial charge of obligation.

§ 7055. Limited permits. Limited permits may be issued by the department to authorize the practice of the profession under a licensed genetic counselor or physician pursuant to the commissioner's regulations:

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

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

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

5 § 7056. Special provisions. 1. (a) Any individual who meets the  
6 requirements for a license established in this article, except for exam-  
7 ination, experience and education, and who is certified by a national  
8 certifying body having certification standards acceptable to the depart-  
9 ment, may be licensed without meeting additional requirements as to  
10 examination, experience, or education, provided that such individual  
11 submits an application to the department within two years of the effec-  
12 tive date of this article.

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

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

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

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

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

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

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

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

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

50 (e) ensure the licensed genetic counselor or exempt person provides a  
51 form to each client disclosing the name of the business entity and  
52 informs the client of his or her right to utilize an alternative genetic  
53 counselor.

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

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

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

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

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