

# STATE OF NEW YORK

278--A

2019-2020 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. L. ROSENTHAL, BENEDETTO, ROZIC, GOTTFRIED, McDONOUGH -- Multi-Sponsored by -- M. of A. CROUCH, SIMOTAS, STIRPE -- read once and referred to the Committee on Higher Education -- 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:

1 Section 1. Legislative intent and findings. The legislature finds that  
2 while significant steps have been taken through legislation in response  
3 to the COVID-19 crisis in New York State, much more must be done to  
4 combat the continued threat to public health and safety presented by  
5 COVID-19 and future pandemics including identifying risk factors, devel-  
6 oping responses, and increasing access to treatment.

7 The legislature intends to build on the initial efforts of the execu-  
8 tive and legislature in responding to the COVID-19 crisis by recognizing  
9 the significant role genetic counselors play in identifying genetic  
10 variants through predictive testing, investigating underlying genomic  
11 susceptibilities and deciphering complex testing infrastructures, culmi-  
12 nating in the critical counseling of patients and educating other health  
13 care providers.

14 The legislature finds that the state's mission to ensure preparedness  
15 against future health crises through data collection, research, and  
16 access to safe care will be advanced through the licensure of genetic  
17 counselors and the active engagement of these uniquely trained practi-  
18 tioners and researchers in the making of informed personal health care  
19 decisions and the development of effective health care policies.

20 § 2. The education law is amended by adding a new article 142 to read  
21 as follows:

22 ARTICLE 142  
23 GENETIC COUNSELING

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

LBD01386-02-0

1 Section 7050. Introduction.

2 7051. Practice of genetic counseling and use of the title  
3 "genetic counselor".

4 7052. State board for genetic counseling.

5 7053. Requirements for a professional license.

6 7054. Exempt persons.

7 7055. Limited permits.

8 7056. Special provisions.

9 § 7050. Introduction. This article applies to the licensing of genetic  
10 counselors. The general provisions for all professions contained in  
11 article one hundred thirty of this title apply to this article.

12 § 7051. Practice of genetic counseling and use of the title "genetic  
13 counselor". 1. The "practice of genetic counseling" shall mean the  
14 communication to and education of clients, their families, other health  
15 care professionals and the general public with regard to genetic test-  
16 ing, individual family histories, or other genetic, personal medical  
17 history, and technical information associated with the occurrence, risk  
18 of occurrence or recurrence, of a genetic or hereditary condition or  
19 birth defect. A practitioner of genetic counseling shall seek to  
20 promote decision-making for their client which respects the client's  
21 culture, language, tradition, lifestyle, religion, beliefs and values.  
22 Genetic counseling shall include, but not be limited to, the following:

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

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

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

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

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

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

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

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

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

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

53 3. If in the course of providing genetic counseling to any client, a  
54 genetic counselor finds any indication of disease or condition that may  
55 require medical assessment, the genetic counselor shall refer that

1 client to a licensed physician, or as appropriate, another health care  
2 professional licensed pursuant to this title.

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

8 5. The provisions of this article shall not prohibit any genetic coun-  
9 selor employed by any organization or entity who is providing occasional  
10 services from engaging in the practice of genetic counseling, subject to  
11 the limitations prescribed by the department, in consultation with the  
12 state board for genetic counseling and the provision of such occasional  
13 services shall be deemed not to be the practice of a profession for  
14 purposes of all applicable partnership, corporation or limited liability  
15 company laws and regulations.

16 § 7052. State board for genetic counseling. 1. A state board for  
17 genetic counseling shall be appointed by the board of regents upon the  
18 recommendation of the commissioner, prior to the effective date of this  
19 article, and shall assist on matters of professional licensing and  
20 professional conduct in accordance with section sixty-five hundred eight  
21 of this title. Members of the first board need not be licensed prior to  
22 their appointment to such board. An executive secretary to the board  
23 shall be appointed by the board of regents on recommendation of the  
24 commissioner.

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

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

31 3. Board members shall be appointed for terms of five years. The terms  
32 of the first appointed members shall be staggered so that two members  
33 are appointed for three years, three members are appointed for four  
34 years and two members are appointed for five years.

35 § 7053. Requirements for a professional license. To qualify for a  
36 license as a "licensed genetic counselor", an applicant shall fulfill  
37 the following requirements:

38 1. Application: file an application with the department;  
39 2. Education: have received a master's degree or higher in genetic  
40 counseling or human genetics from a program registered by the depart-  
41 ment, or determined by the department to be the substantial equivalent,  
42 in accordance with the commissioner's regulations. Appropriate course-  
43 work shall be determined in accordance with the commissioner's regu-  
44 lations on recommendations of the state board for genetic counseling;  
45 3. Experience: experience acceptable to the department;  
46 4. Examination: pass an examination satisfactory to the department and  
47 in accordance with the commissioner's regulations;  
48 5. Age: be at least twenty-one years of age;  
49 6. Character: be of good moral character as determined by the depart-  
50 ment;  
51 7. Fees: pay a fee of three hundred dollars to the department for an  
52 initial license and two hundred dollars for each subsequent triennial  
53 re-registration of a license.

54 § 7054. Exempt persons. So long as the person does not hold him or  
55 herself out to the public as a genetic counselor, the provisions of this  
56 article shall not apply to:

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

3 2. A student or intern enrolled in a master's or higher program regis-  
4 tered or approved by the department where the student or intern is  
5 engaged in activities constituting the practice of a profession as  
6 defined in this title, whose scope of practice includes genetic coun-  
7 seling; provided, however, such activities shall be part of a supervised  
8 training program under a licensed genetic counselor or a health care  
9 professional licensed pursuant to this title in accordance with the  
10 commissioner's regulations; and

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

17 § 7055. Limited permits. Limited permits may be issued by the depart-  
18 ment to authorize the practice of the profession under a licensed genet-  
19 ic counselor or physician pursuant to the commissioner's regulations:

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

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

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

28 § 7056. Special provisions. 1. Any individual who meets the require-  
29 ments for a license established in this article, except for examination,  
30 experience and education, and who is certified by a national certifying  
31 body having certification standards acceptable to the department, may be  
32 licensed without meeting additional requirements as to examination,  
33 experience, or education, provided that such individual submits an  
34 application to the department within two years of the effective date of  
35 this article.

36 2. Any individual who meets the requirements for a license established  
37 in this article, except for examination, may be licensed without exam-  
38 ination, provided that the person completed the education requirement  
39 prior to two thousand eight, submits evidence of a minimum of ten years  
40 employment as a genetic counselor, submits experience acceptable to the  
41 department and submits an application to the department within two years  
42 of the effective date of this article.

43 § 3. Severability. If any clause, sentence, paragraph, section or part  
44 of this act shall be adjudged by any court of competent jurisdiction to  
45 be invalid and after exhaustion of all further judicial review, the  
46 judgment shall not affect, impair or invalidate the remainder thereof,  
47 but shall be confined in its operation to the clause, sentence, para-  
48 graph, section or part of this act directly involved in the controversy  
49 in which the judgment shall have been rendered.

50 § 4. This act shall take effect two years after it shall have become a  
51 law; provided, however, that the state education department is author-  
52 ized to promulgate any and all rules and regulations and take any other  
53 measure necessary to implement this act, including, but not limited to,  
54 the appointment of board members pursuant to section 7052 of the educa-  
55 tion law, as added by section two of this act on or before such effec-  
56 tive date.