

1 AN ACT concerning professional regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 3. The Illinois Clinical Laboratory and Blood Bank
5 Act is amended by changing Section 7-101 as follows:

6 (210 ILCS 25/7-101) (from Ch. 111 1/2, par. 627-101)

7 Sec. 7-101. Examination of specimens. A clinical
8 laboratory shall examine specimens only at the request of (i) a
9 licensed physician, (ii) a licensed dentist, (iii) a licensed
10 podiatrist, (iv) a therapeutic optometrist for diagnostic or
11 therapeutic purposes related to the use of diagnostic topical
12 or therapeutic ocular pharmaceutical agents, as defined in
13 subsections (c) and (d) of Section 15.1 of the Illinois
14 Optometric Practice Act of 1987, (v) a licensed physician
15 assistant in accordance with the written guidelines required
16 under subdivision (3) of Section 4 and under Section 7.5 of the
17 Physician Assistant Practice Act of 1987, (v-A) an advanced
18 practice nurse in accordance with the written collaborative
19 agreement required under Section 65-35 of the Nurse Practice
20 Act, or (vi) an authorized law enforcement agency or, in the
21 case of blood alcohol, at the request of the individual for
22 whom the test is to be performed in compliance with Sections
23 11-501 and 11-501.1 of the Illinois Vehicle Code, or (vii) a

1 genetic counselor with the specific authority from a referral
2 to order a test or tests pursuant to subsection (b) of Section
3 20 of the Genetic Counselor Licensing Act. If the request to a
4 laboratory is oral, the physician or other authorized person
5 shall submit a written request to the laboratory within 48
6 hours. If the laboratory does not receive the written request
7 within that period, it shall note that fact in its records. For
8 purposes of this Section, a request made by electronic mail or
9 fax constitutes a written request.

10 (Source: P.A. 95-639, eff. 10-5-07.)

11 Section 5. The Genetic Counselor Licensing Act is amended
12 by changing Sections 10, 20, 60, 90, and 95 as follows:

13 (225 ILCS 135/10)

14 (Section scheduled to be repealed on January 1, 2015)

15 Sec. 10. Definitions. As used in this Act:

16 "ABGC" means the American Board of Genetic Counseling.

17 "ABMG" means the American Board of Medical Genetics.

18 "Active candidate status" is awarded to applicants who have
19 received approval from the ABGC or ABMG to sit for their
20 respective certification examinations.

21 "Department" means the Department of Professional
22 Regulation.

23 "Director" means the Director of Professional Regulation.

24 "Genetic anomaly" means a variation in an individual's DNA

1 that has been shown to confer a genetically influenced disease
2 or predisposition to a genetically influenced disease or makes
3 a person a carrier of such variation. A "carrier" of a genetic
4 anomaly means a person who may or may not have a predisposition
5 or risk of incurring a genetically influenced condition and who
6 is at risk of having offspring with a genetically influenced
7 condition.

8 "Genetic counseling" means the provision of services,
9 which may include the ordering of genetic tests, pursuant to a
10 referral, to individuals, couples, groups, families, and
11 organizations by one or more appropriately trained individuals
12 to address the physical and psychological issues associated
13 with the occurrence or risk of occurrence or recurrence of a
14 genetic disorder, birth defect, disease, or potentially
15 inherited or genetically influenced condition in an individual
16 or a family. "Genetic counseling" consists of the following:

17 (A) Estimating the likelihood of occurrence or
18 recurrence of a birth defect or of any potentially
19 inherited or genetically influenced condition. This
20 assessment may involve:

21 (i) obtaining and analyzing a complete health
22 history of the person and his or her family;

23 (ii) reviewing pertinent medical records;

24 (iii) evaluating the risks from exposure to
25 possible mutagens or teratogens;

26 (iv) recommending genetic testing or other

1 evaluations to diagnose a condition or determine the
2 carrier status of one or more family members;

3 (B) Helping the individual, family, health care
4 provider, or health care professional (i) appreciate the
5 medical, psychological and social implications of a
6 disorder, including its features, variability, usual
7 course and management options, (ii) learn how genetic
8 factors contribute to the disorder and affect the chance
9 for recurrence of the condition in other family members,
10 and (iii) understand available options for coping with,
11 preventing, or reducing the chance of occurrence or
12 recurrence of a condition.

13 (C) Facilitating an individual's or family's (i)
14 exploration of the perception of risk and burden associated
15 with the disorder and (ii) adjustment and adaptation to the
16 condition or their genetic risk by addressing needs for
17 psychological, social, and medical support.

18 "Genetic counselor" means a person licensed under this Act
19 to engage in the practice of genetic counseling.

20 "Genetic testing" and "genetic test" mean a test or
21 analysis of human genes, gene products, DNA, RNA, chromosomes,
22 proteins, or metabolites that detects genotypes, mutations,
23 chromosomal changes, abnormalities, or deficiencies, including
24 carrier status, that (i) are linked to physical or mental
25 disorders or impairments, (ii) indicate a susceptibility to
26 illness, disease, impairment, or other disorders, whether

1 physical or mental, or (iii) demonstrate genetic or chromosomal
2 damage due to environmental factors. "Genetic testing" and
3 "genetic tests" do not include routine physical measurements;
4 chemical, blood and urine analyses that are widely accepted and
5 in use in clinical practice; tests for use of drugs; tests for
6 the presence of the human immunodeficiency virus; analyses of
7 proteins or metabolites that do not detect genotypes,
8 mutations, chromosomal changes, abnormalities, or
9 deficiencies; or analyses of proteins or metabolites that are
10 directly related to a manifested disease, disorder, or
11 pathological condition that could reasonably be detected by a
12 health care professional with appropriate training and
13 expertise in the field of medicine involved.

14 "Person" means an individual, association, partnership, or
15 corporation.

16 "Qualified supervisor" means any person who is a licensed
17 genetic counselor, as defined by rule, or a physician licensed
18 to practice medicine in all its branches. A qualified
19 supervisor may be provided at the applicant's place of work, or
20 may be contracted by the applicant to provide supervision. The
21 qualified supervisor shall file written documentation with the
22 Department of employment, discharge, or supervisory control of
23 a genetic counselor at the time of employment, discharge, or
24 assumption of supervision of a genetic counselor.

25 "Referral" means a written or telecommunicated
26 authorization for genetic counseling services from a physician

1 licensed to practice medicine in all its branches, an advanced
2 practice nurse who has a collaborative agreement with a
3 collaborating physician that authorizes referrals to a genetic
4 counselor, or a physician assistant who has a supervision
5 agreement with a supervising physician that authorizes
6 referrals to a genetic counselor ~~who has been delegated~~
7 ~~authority to make referrals to genetic counselors.~~

8 "Supervision" means review of aspects of genetic
9 counseling and case management in a bimonthly meeting with the
10 person under supervision.

11 (Source: P.A. 93-1041, eff. 9-29-04; 94-661, eff. 1-1-06.)

12 (225 ILCS 135/20)

13 (Section scheduled to be repealed on January 1, 2015)

14 Sec. 20. Restrictions and limitations.

15 (a) Beginning 12 months after the adoption of the final
16 administrative rules, except as provided in Section 15, no
17 person shall, without a valid license as a genetic counselor
18 issued by the Department (i) in any manner hold himself or
19 herself out to the public as a genetic counselor under this
20 Act; (ii) use in connection with his or her name or place of
21 business the title "genetic counselor", "licensed genetic
22 counselor", "gene counselor", "genetic consultant", or
23 "genetic associate" or any words, letters, abbreviations, or
24 insignia indicating or implying a person has met the
25 qualifications for or has the license issued under this Act; or

1 (iii) offer to render or render to individuals, corporations,
2 or the public genetic counseling services if the words "genetic
3 counselor" or "licensed genetic counselor" are used to describe
4 the person offering to render or rendering them, or "genetic
5 counseling" is used to describe the services rendered or
6 offered to be rendered.

7 (b) Beginning 12 months after the adoption of the final
8 administrative rules, no licensed genetic counselor may
9 provide genetic counseling to individuals, couples, groups, or
10 families without a referral from a physician licensed to
11 practice medicine in all its branches, an advanced practice
12 nurse who has a collaborative agreement with a collaborating
13 physician that authorizes referrals to a genetic counselor, or
14 a physician assistant who has been delegated authority to make
15 referrals to genetic counselors. The physician, advanced
16 practice nurse, or physician assistant shall maintain
17 supervision of the patient and be provided timely written
18 reports on the services, including genetic testing results,
19 provided by the licensed genetic counselor. Genetic testing
20 shall be ordered by a physician licensed to practice medicine
21 in all its branches or a genetic counselor pursuant to a
22 referral that gives the specific authority to order genetic
23 tests. Genetic test results and reports shall be provided to
24 the referring physician, advanced practice nurse, or physician
25 assistant. General seminars or talks to groups or organizations
26 on genetic counseling that do not include individual, couple,

1 or family specific counseling may be conducted without a
2 referral. In clinical settings, genetic counselors who serve as
3 a liaison between family members of a patient and a genetic
4 research project, may, with the consent of the patient, provide
5 information to family members for the purpose of gathering
6 additional information, as it relates to the patient, without a
7 referral. In non-clinical settings where no patient is being
8 treated, genetic counselors who serve as a liaison between a
9 genetic research project and participants in that genetic
10 research project may provide information to the participants,
11 without a referral.

12 (c) Beginning 12 months after the adoption of the final
13 administrative rules, no association or partnership shall
14 practice genetic counseling unless every member, partner, and
15 employee of the association or partnership who practices
16 genetic counseling or who renders genetic counseling services
17 holds a valid license issued under this Act. No license shall
18 be issued to a corporation, the stated purpose of which
19 includes or which practices or which holds itself out as
20 available to practice genetic counseling, unless it is
21 organized under the Professional Service Corporation Act.

22 (d) Nothing in this Act shall be construed as permitting
23 persons licensed as genetic counselors to engage in any manner
24 in the practice of medicine in all its branches as defined by
25 law in this State.

26 (e) Nothing in this Act shall be construed to authorize a

1 licensed genetic counselor to diagnose, test (unless
2 authorized in a referral), or treat any genetic or other
3 disease or condition.

4 (f) When, in the course of providing genetic counseling
5 services to any person, a genetic counselor licensed under this
6 Act finds any indication of a disease or condition that in his
7 or her professional judgment requires professional service
8 outside the scope of practice as defined in this Act, he or she
9 shall refer that person to a physician licensed to practice
10 medicine in all of its branches.

11 (Source: P.A. 93-1041, eff. 9-29-04; 94-661, eff. 1-1-06.)

12 (225 ILCS 135/60)

13 (Section scheduled to be repealed on January 1, 2015)

14 Sec. 60. Temporary licensure. A temporary license may be
15 issued to an individual who has made application to the
16 Department, has submitted evidence to the Department of
17 admission to the certifying examination administered by the
18 ABGC or the ABMG or either of its successor agencies, has met
19 all of the requirements for licensure in accordance with
20 Section 55 of this Act, except the examination requirement of
21 item (4) of Section 55 of this Act, and has met any other
22 condition established by rule. The holder of a temporary
23 license shall practice only under the supervision of a
24 qualified supervisor and may not have the authority to order
25 genetic tests. Nothing in this Section prohibits an applicant

1 from re-applying for a temporary license if he or she meets the
2 qualifications of this Section.

3 (Source: P.A. 93-1041, eff. 9-29-04; 94-661, eff. 1-1-06.)

4 (225 ILCS 135/90)

5 (Section scheduled to be repealed on January 1, 2015)

6 Sec. 90. Privileged communications and exceptions.

7 (a) With the exception of disclosure to the referring
8 physician licensed to practice medicine in all its branches,
9 advanced practice nurse, or physician assistant, no ~~no~~ licensed
10 genetic counselor shall disclose any information acquired from
11 persons consulting the counselor in a professional capacity,
12 except that which may be voluntarily disclosed under any of the
13 following circumstances:

14 (1) In the course of formally reporting, conferring, or
15 consulting with administrative superiors, colleagues, or
16 consultants who share professional responsibility, in
17 which instance all recipients of the information are
18 similarly bound to regard the communication as privileged.

19 (2) With the written consent of the person who provided
20 the information and about whom the information concerns.

21 (3) In the case of death or disability, with the
22 written consent of a personal representative.

23 (4) When a communication reveals the intended
24 commission of a crime or harmful act and such disclosure is
25 judged necessary in the professional judgment of the

1 licensed genetic counselor to protect any person from a
2 clear risk of serious mental or physical harm or injury or
3 to forestall a serious threat to the public safety.

4 (5) When the person waives the privilege by bringing
5 any public charges or filing a lawsuit against the
6 licensee.

7 (b) Any person having access to records or anyone who
8 participates in providing genetic counseling services, or in
9 providing any human services, or is supervised by a licensed
10 genetic counselor is similarly bound to regard all information
11 and communications as privileged in accord with this Section.

12 (c) The Mental Health and Developmental Disabilities
13 Confidentiality Act is incorporated herein as if all of its
14 provisions were included in this Act. In the event of a
15 conflict between the application of this Section and the Mental
16 Health and Developmental Disabilities Confidentiality Act to a
17 specific situation, the provisions of the Mental Health and
18 Developmental Disabilities Confidentiality Act shall control.

19 (Source: P.A. 93-1041, eff. 9-29-04.)

20 (225 ILCS 135/95)

21 (Section scheduled to be repealed on January 1, 2015)

22 Sec. 95. Grounds for discipline.

23 (a) The Department may refuse to issue, renew, or may
24 revoke, suspend, place on probation, reprimand, or take other
25 disciplinary action as the Department deems appropriate,

1 including the issuance of fines not to exceed \$1,000 for each
2 violation, with regard to any license for any one or more of
3 the following:

4 (1) Material misstatement in furnishing information to
5 the Department or to any other State agency.

6 (2) Violations or negligent or intentional disregard
7 of this Act, or any of its rules.

8 (3) Conviction of any crime under the laws of the
9 United States or any state or territory thereof that is a
10 felony, a misdemeanor, an essential element of which is
11 dishonesty, or a crime that is directly related to the
12 practice of the profession.

13 (4) Making any misrepresentation for the purpose of
14 obtaining a license, or violating any provision of this Act
15 or its rules.

16 (5) Gross ~~Professional incompetence or gross~~
17 negligence in the rendering of genetic counseling
18 services.

19 (6) Failure to provide genetic testing results and any
20 requested information to a referring physician licensed to
21 practice medicine in all its branches, advanced practice
22 nurse, or physician assistant ~~Gross or repeated~~
23 ~~negligence.~~

24 (7) Aiding or assisting another person in violating any
25 provision of this Act or any rules.

26 (8) Failing to provide information within 60 days in

1 response to a written request made by the Department.

2 (9) Engaging in dishonorable, unethical, or
3 unprofessional conduct of a character likely to deceive,
4 defraud, or harm the public and violating the rules of
5 professional conduct adopted by the Department.

6 (10) Failing to maintain the confidentiality of any
7 information received from a client, unless otherwise
8 authorized or required by law.

9 (10.5) Failure to maintain client records of services
10 provided and provide copies to clients upon request.

11 (11) Exploiting a client for personal advantage,
12 profit, or interest.

13 (12) Habitual or excessive use or addiction to alcohol,
14 narcotics, stimulants, or any other chemical agent or drug
15 which results in inability to practice with reasonable
16 skill, judgment, or safety.

17 (13) Discipline by another jurisdiction, if at least
18 one of the grounds for the discipline is the same or
19 substantially equivalent to those set forth in this
20 Section.

21 (14) Directly or indirectly giving to or receiving from
22 any person, firm, corporation, partnership, or association
23 any fee, commission, rebate, or other form of compensation
24 for any professional service not actually rendered.

25 (15) A finding by the Department that the licensee,
26 after having the license placed on probationary status has

1 violated the terms of probation.

2 (16) Failing to refer a client to other health care
3 professionals when the licensee is unable or unwilling to
4 adequately support or serve the client.

5 (17) Willfully filing false reports relating to a
6 licensee's practice, including but not limited to false
7 records filed with federal or State agencies or
8 departments.

9 (18) Willfully failing to report an instance of
10 suspected child abuse or neglect as required by the Abused
11 and Neglected Child Reporting Act.

12 (19) Being named as a perpetrator in an indicated
13 report by the Department of Children and Family Services
14 pursuant to the Abused and Neglected Child Reporting Act,
15 and upon proof by clear and convincing evidence that the
16 licensee has caused a child to be an abused child or
17 neglected child as defined in the Abused and Neglected
18 Child Reporting Act.

19 (20) Physical or mental disability, including
20 deterioration through the aging process or loss of
21 abilities and skills which results in the inability to
22 practice the profession with reasonable judgment, skill,
23 or safety.

24 (21) Solicitation of professional services by using
25 false or misleading advertising.

26 (22) Failure to file a return, or to pay the tax,

1 penalty of interest shown in a filed return, or to pay any
2 final assessment of tax, penalty or interest, as required
3 by any tax Act administered by the Illinois Department of
4 Revenue or any successor agency or the Internal Revenue
5 Service or any successor agency.

6 (23) A finding that licensure has been applied for or
7 obtained by fraudulent means.

8 (24) Practicing or attempting to practice under a name
9 other than the full name as shown on the license or any
10 other legally authorized name.

11 (25) Gross overcharging for professional services,
12 including filing statements for collection of fees or
13 monies for which services are not rendered.

14 (26) Providing genetic counseling services to
15 individuals, couples, groups, or families without a
16 referral from either a physician licensed to practice
17 medicine in all its branches, an advanced practice nurse
18 who has a collaborative agreement with a collaborating
19 physician that authorizes the advanced practice nurse to
20 make referrals to a genetic counselor, or a physician
21 assistant who has been delegated authority to make
22 referrals to genetic counselors.

23 (b) The Department shall deny, without hearing, any
24 application or renewal for a license under this Act to any
25 person who has defaulted on an educational loan guaranteed by
26 the Illinois State Assistance Commission; however, the

1 Department may issue a license or renewal if the person in
2 default has established a satisfactory repayment record as
3 determined by the Illinois Student Assistance Commission.

4 (c) The determination by a court that a licensee is subject
5 to involuntary admission or judicial admission as provided in
6 the Mental Health and Developmental Disabilities Code will
7 result in an automatic suspension of his or her license. The
8 suspension will end upon a finding by a court that the licensee
9 is no longer subject to involuntary admission or judicial
10 admission, the issuance of an order so finding and discharging
11 the patient, and the determination of the Director that the
12 licensee be allowed to resume professional practice.

13 (Source: P.A. 93-1041, eff. 9-29-04; 94-661, eff. 1-1-06.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.