

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 1. Short title. This Act may be cited as the  
5 Genetic Counselor Licensing Act.

6 Section 5. Declaration of public policy. The mapping of  
7 the human genome continues to result in the rapid expansion of  
8 genetic knowledge and a proliferation of testing for genetic  
9 conditions. This has created a need for qualified genetics  
10 professionals, including genetic counselors, to coordinate an  
11 assessment, to deliver accurate information to families, to  
12 assist the families in adjusting to the implications of their  
13 diagnoses, and to help ensure that genetic information is used  
14 appropriately in the delivery of medical care. Therefore, the  
15 practice of genetic counseling is declared to affect the public  
16 health, safety, and welfare and to be subject to regulation in  
17 the public interest. The purpose of the Act is to protect and  
18 benefit the public by setting standards of qualifications,  
19 education, training, and experience for those who seek to  
20 obtain a license and hold the title of genetic counselor, to  
21 promote high standards of professional performance for those  
22 licensed to practice genetic counseling in the State of  
23 Illinois, and to protect the public from unprofessional conduct  
24 by persons licensed to practice genetic counseling.

25 Section 10. Definitions. As used in this Act:

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

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

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

31 "Department" means the Department of Professional

1 Regulation.

2 "Director" means the Director of Professional Regulation.

3 "Genetic anomaly" means a variation in an individual's DNA  
4 that has been shown to confer a genetically influenced disease  
5 or predisposition to a genetically influenced disease or makes  
6 a person a carrier of such variation. A "carrier" of a genetic  
7 anomaly means a person who may or may not have a predisposition  
8 or risk of incurring a genetically influenced condition and who  
9 is at risk of having offspring with a genetically influenced  
10 condition.

11 "Genetic counseling" means the provision of services to  
12 individuals, couples, groups, families, and organizations by  
13 one or more appropriately trained individuals to address the  
14 physical and psychological issues associated with the  
15 occurrence or risk of occurrence or recurrence of a genetic  
16 disorder, birth defect, disease, or potentially inherited or  
17 genetically influenced condition in an individual or a family.

18 "Genetic counseling" consists of the following:

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

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

25 (ii) reviewing pertinent medical records;

26 (iii) evaluating the risks from exposure to  
27 possible mutagens or teratogens;

28 (iv) recommending genetic testing or other  
29 evaluations to diagnose a condition or determine the  
30 carrier status of one or more family members;

31 (B) Helping the individual, family, health care  
32 provider, or health care professional (i) appreciate the  
33 medical, psychological and social implications of a  
34 disorder, including its features, variability, usual  
35 course and management options, (ii) learn how genetic  
36 factors contribute to the disorder and affect the chance

1 for recurrence of the condition in other family members,  
2 and (iii) understand available options for coping with,  
3 preventing, or reducing the chance of occurrence or  
4 recurrence of a condition.

5 (C) Facilitating an individual's or family's (i)  
6 exploration of the perception of risk and burden associated  
7 with the disorder and (ii) adjustment and adaptation to the  
8 condition or their genetic risk by addressing needs for  
9 psychological, social, and medical support.

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

12 "Person" means an individual, association, partnership, or  
13 corporation.

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

23 "Supervision" means review of aspects of genetic  
24 counseling and case management in a bimonthly meeting with the  
25 person under supervision.

26 Section 15. Exemptions.

27 (a) This Act does not prohibit any persons legally  
28 regulated in this State by any other Act from engaging in the  
29 practice for which they are authorized as long as they do not  
30 represent themselves by the title of "genetic counselor" or  
31 "licensed genetic counselor". This Act does not prohibit the  
32 practice of nonregulated professions whose practitioners are  
33 engaged in the delivery of human services as long as these  
34 practitioners do not represent themselves as or use the title  
35 of "genetic counselor" or "licensed genetic counselor".

1 (b) Nothing in this Act shall be construed to limit the  
2 activities and services of (i) a student, intern, resident, or  
3 fellow in genetic counseling or genetics seeking to fulfill  
4 educational requirements in order to qualify for a license  
5 under this Act if these activities and services constitute a  
6 part of the student's supervised course of study or (ii) an  
7 individual seeking to fulfill the post-degree experience  
8 requirements in order to qualify for licensing under this Act,  
9 as long as the activities and services are supervised by a  
10 qualified supervisor. A student, intern, resident, or fellow  
11 must be designated by the title "intern", "resident", "fellow",  
12 or any other designation of trainee status. Nothing contained  
13 in this subsection shall be construed to permit students,  
14 interns, residents, or fellows to offer their services as  
15 genetic counselors or geneticists to any other person and to  
16 accept remuneration for such genetic counseling services,  
17 except as specifically provided in this subsection or  
18 subsection (c).

19 (c) Corporations, partnerships, and associations may  
20 employ students, interns, or post-degree candidates seeking to  
21 fulfill educational requirements or the professional  
22 experience requirements needed to qualify for a license under  
23 this Act if their activities and services constitute a part of  
24 the student's supervised course of study or post-degree  
25 professional experience requirements. Nothing in this  
26 subsection shall prohibit a corporation, partnership, or  
27 association from contracting with a licensed health care  
28 professional to provide services that they are licensed to  
29 provide.

30 (d) Nothing in this Act shall prevent the employment, by a  
31 genetic counselor, person, association, partnership, or  
32 corporation furnishing genetic counseling services for  
33 remuneration, of persons not licensed as genetic counselors  
34 under this Act to perform services in various capacities as  
35 needed, if these persons are not in any manner held out to the  
36 public or do not hold themselves out to the public by any title

1 or designation stating or implying that they are genetic  
2 counselors.

3 (e) Nothing in this Act shall be construed to limit the  
4 services of a person, not licensed under the provisions of this  
5 Act, in the employ of a federal, State, county, or municipal  
6 agency or other political subdivision or not-for-profit  
7 corporation providing human services if (i) the services are a  
8 part of the duties in his or her salaried position, (ii) the  
9 services are performed solely on behalf of his or her employer,  
10 and (iii) that person does not in any manner represent himself  
11 or herself as or use the title of "genetic counselor" or  
12 "licensed genetic counselor".

13 (f) Duly recognized members of any religious organization  
14 shall not be restricted from functioning in their ministerial  
15 capacity provided they do not represent themselves as being  
16 genetic counselors or as providing genetic counseling.

17 (g) Nothing in this Act shall be construed to require or  
18 prohibit any hospital, clinic, home health agency, hospice, or  
19 other entity that provides health care to employ or to contract  
20 with a person licensed under this Act to provide genetic  
21 counseling services.

22 (h) Nothing in this Act shall be construed to prevent any  
23 licensed social worker, licensed clinical social worker,  
24 licensed clinical psychologist, licensed professional  
25 counselor, or licensed clinical professional counselor from  
26 practicing professional counseling as long as that person is  
27 not in any manner held out to the public as a "genetic  
28 counselor" or "licensed genetic counselor" or does not hold out  
29 his or her services as being genetic counseling.

30 (i) Nothing in this Act shall be construed to limit the  
31 practice of a person not licensed under this Act who is a  
32 physician licensed to practice medicine in all of its branches  
33 under the Medical Practice Act of 1987 or intern, fellow, or  
34 resident from using the title "genetic counselor" or any other  
35 title tending to indicate they are a genetic counselor.

36 (j) Nothing in the Act shall prohibit a visiting ABGC or

1 ABMG certified genetic counselor from outside the State working  
2 as a consultant, or organizations from outside the State  
3 employing ABGC or ABMG certified genetic counselors providing  
4 occasional services, who are not licensed under this Act, from  
5 engaging in the practice of genetic counseling subject to the  
6 stated circumstances and limitations.

7 Section 20. Restrictions and limitations.

8 (a) Beginning on January 1, 2006, except as provided in  
9 Section 15, no person shall, without a valid license as a  
10 genetic counselor issued by the Department (i) in any manner  
11 hold himself or herself out to the public as a genetic  
12 counselor under this Act; (ii) use in connection with his or  
13 her name or place of business the title "genetic counselor",  
14 "licensed genetic counselor", "gene counselor", "genetic  
15 consultant", or "genetic associate" or any words, letters,  
16 abbreviations, or insignia indicating or implying a person has  
17 met the qualifications for or has the license issued under this  
18 Act; or (iii) offer to render or render to individuals,  
19 corporations, or the public genetic counseling services if the  
20 words "genetic counselor" or "licensed genetic counselor" are  
21 used to describe the person offering to render or rendering  
22 them, or "genetic counseling" is used to describe the services  
23 rendered or offered to be rendered.

24 (b) Beginning on January 1, 2006, no licensed genetic  
25 counselor may provide genetic counseling to individuals,  
26 couples, groups, or families without a written referral from a  
27 physician licensed to practice medicine in all its branches, an  
28 advanced practice nurse who has a collaborative agreement with  
29 a collaborating physician that authorizes referrals to a  
30 genetic counselor, or a physician assistant who has been  
31 delegated authority to make referrals to genetic counselors.  
32 The physician, advanced practice nurse, or physician assistant  
33 shall maintain supervision of the patient and be provided  
34 written reports on the services provided by the licensed  
35 genetic counselor. Genetic testing shall be ordered by a

1 physician licensed to practice medicine in all its branches.  
2 Genetic test reports shall be provided to the referring  
3 physician, advanced practice nurse, or physician assistant.  
4 General seminars or talks to groups or organizations on genetic  
5 counseling that do not include individual, couple, or family  
6 specific counseling may be conducted without a referral.

7 (c) Beginning on January 1, 2006, no association or  
8 partnership shall practice genetic counseling unless every  
9 member, partner, and employee of the association or partnership  
10 who practices genetic counseling or who renders genetic  
11 counseling services holds a valid license issued under this  
12 Act. No license shall be issued to a corporation, the stated  
13 purpose of which includes or which practices or which holds  
14 itself out as available to practice genetic counseling, unless  
15 it is organized under the Professional Service Corporation Act.

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

20 (e) Nothing in this Act shall be construed to authorize a  
21 licensed genetic counselor to diagnose, test, or treat any  
22 genetic or other disease or condition.

23 (f) When, in the course of providing genetic counseling  
24 services to any person, a genetic counselor licensed under this  
25 Act finds any indication of a disease or condition that in his  
26 or her professional judgment requires professional service  
27 outside the scope of practice as defined in this Act, he or she  
28 shall refer that person to a physician licensed to practice  
29 medicine in all of its branches.

30 Section 25. Unlicensed practice; violation; civil penalty.

31 (a) Beginning on January 1, 2006, any person who practices,  
32 offers to practice, attempts to practice, or holds himself or  
33 herself out to practice as a genetic counselor without being  
34 licensed or exempt under this Act shall, in addition to any  
35 other penalty provided by law, pay a civil penalty to the

1 Department in an amount not to exceed \$5,000 for each offense,  
2 as determined by the Department. Civil penalty shall be  
3 assessed by the Department after a hearing is held in  
4 accordance with the provisions set forth in this Act regarding  
5 the provision of a hearing for the discipline of a licensee.

6 (b) The Department may investigate any actual, alleged, or  
7 suspected unlicensed activity.

8 (c) The civil penalty shall be paid within 60 days after  
9 the effective date of the order imposing the civil penalty. The  
10 order shall constitute a final judgment and may be filed and  
11 execution had thereon in the same manner as any judgment from  
12 any court of record.

13 Section 30. Powers and duties of the Department. Subject to  
14 the provisions of this Act, the Department may:

15 (a) authorize examinations to ascertain the qualifications  
16 and fitness of applicants for licensing as genetic counselors  
17 and pass upon the qualifications of applicants for licensure by  
18 endorsement;

19 (b) conduct hearings on proceedings to refuse to issue or  
20 renew or to revoke licenses or suspend, place on probation,  
21 censure, or reprimand persons licensed under this Act, and to  
22 refuse to issue or renew or to revoke licenses, or suspend,  
23 place on probation, censure, or reprimand persons licensed  
24 under this Act;

25 (c) adopt rules necessary for the administration of this  
26 Act; and

27 (d) maintain rosters of the names and addresses of all  
28 licensees and all persons whose licenses have been suspended,  
29 revoked, or denied renewal for cause within the previous  
30 calendar year. These rosters shall be available upon written  
31 request and payment of the required fee.

32 Section 40. Application for original license. Applications  
33 for original licenses shall be made to the Department on forms  
34 prescribed by the Department and accompanied by the required



1 fee, which is not refundable. All applications shall contain  
2 such information that, in the judgment of the Department, will  
3 enable the Department to pass on the qualifications of the  
4 applicant for a license to practice as a genetic counselor.

5 Section 45. Social Security Number on license application.  
6 In addition to any other information required to be contained  
7 in the application, every application for an original, renewal,  
8 or restored license under this Act shall include the  
9 applicant's Social Security Number.

10 Section 50. Examination; failure or refusal to take  
11 examination.

12 (a) Applicants for genetic counseling licensure must  
13 provide evidence that they have successfully completed the  
14 certification examination provided by the ABGC or ABMG, if they  
15 are master's degree trained genetic counselors, or the ABMG, if  
16 they are PhD trained medical geneticists; or successfully  
17 completed the examination provided by the successor agencies of  
18 the ABGC or ABMG. The examinations shall be of a character to  
19 fairly test the competence and qualifications of the applicants  
20 to practice genetic counseling.

21 (b) If an applicant neglects, fails, or refuses to take an  
22 examination or fails to pass an examination for a license under  
23 this Act within 2 exam cycles after receiving a temporary  
24 license, the application will be denied. However, such  
25 applicant may thereafter make a new application for license  
26 only if the applicant provides documentation of passing the  
27 certification examination offered through the ABGC or ABMG or  
28 their successor agencies and satisfies the requirements then in  
29 existence for a license.

30 Section 55. Qualifications for licensure. A person shall be  
31 qualified for licensure as a genetic counselor and the  
32 Department shall issue a license if that person:

33 (1) has applied in writing in form and substance

1           satisfactory to the Department; is at least 21 years of  
2           age;

3           (2) has not engaged in conduct or activities which  
4           would constitute grounds for discipline under this Act;

5           (3) has not violated any of the provisions of Sections  
6           20 or 25 of this Act or the rules promulgated thereunder.  
7           The Department may take into consideration any felony  
8           conviction of the applicant but such conviction shall not  
9           operate as an absolute bar to licensure;

10          (4) has provided documentation of the successful  
11          completion of the certification examination and current  
12          certification provided by the American Board of Genetic  
13          Counseling or the American Board of Medical Genetics, or  
14          their successor agencies; and

15          (5) has paid the fees required by this Act.

16          Section 60. Temporary licensure.

17          (a) A person shall be qualified for temporary licensure as  
18          a genetic counselor and the Department shall issue a temporary  
19          license if that person:

20               (1) has successfully completed a Master's degree in  
21               genetic counseling from an ABGC or ABMG accredited training  
22               program or its equivalent as established by the ABGC or is  
23               a physician or has a doctoral degree and has successfully  
24               completed an ABMG accredited medical genetics training  
25               program or its equivalent as established by the ABMG;

26               (2) has submitted evidence to the Department of active  
27               candidate status for the certifying examination  
28               administered by the ABGC or the ABMG or their successor  
29               agencies; and

30               (3) has made application to the Department and paid the  
31               required fees.

32          (b) A temporary license shall allow the applicant to  
33          practice under the supervision of a qualified supervisor until  
34          he or she receives certification from the ABGC or the ABMG or  
35          their successor agencies or 2 exam cycles have elapsed,

1 whichever comes first.

2 (c) Under no circumstances shall an applicant continue to  
3 practice on the temporary license for more than 30 days after  
4 notification that he or she has not passed the examination  
5 within 2 exam cycles after receiving the temporary license.  
6 However, the applicant may thereafter make a new application to  
7 the Department for a license satisfying the requirements then  
8 in existence for a license.

9 Section 65. Licenses; renewal; restoration; person in  
10 military service; inactive status.

11 (a) The expiration date and renewal period for each license  
12 issued under this Act shall be set by rule. The licensee may  
13 renew a license during the 30-day period preceding its  
14 expiration date by paying the required fee and demonstrating  
15 compliance with continuing education requirements established  
16 by rule.

17 (b) Any person who has permitted a license to expire or who  
18 has a license on inactive status may have it restored by  
19 submitting an application to the Department and filing proof of  
20 fitness, as defined by rule, to have the license restored,  
21 including, if appropriate, evidence which is satisfactory to  
22 the Department certifying the active practice of genetic  
23 counseling in another jurisdiction, and by paying the required  
24 fee.

25 (c) If the person has not maintained an active practice in  
26 another jurisdiction that is satisfactory to the Department,  
27 the Department shall determine the person's fitness to resume  
28 active status. The Department may also require the person to  
29 complete a specific period of evaluated genetic counseling work  
30 experience under the supervision of a qualified clinical  
31 supervisor and may require demonstration of completion of  
32 continuing education requirements.

33 (d) Any person whose license expired while on active duty  
34 with the armed forces of the United States, while called into  
35 service or training with the State Militia, or while in

1 training or education under the supervision of the United  
2 States government prior to induction into military service may  
3 have his license restored without paying any renewal fees if,  
4 within 2 years after the termination of such service, training,  
5 or education, except under conditions other than honorable, the  
6 Department is furnished with satisfactory evidence that the  
7 person has been so engaged and that such service, training, or  
8 education has been so terminated.

9 (e) A license to practice shall not be denied any applicant  
10 because of the applicant's race, religion, creed, national  
11 origin, political beliefs or activities, age, sex, or physical  
12 impairment.

13 Section 70. Implementation; transitional periods.

14 (a) Upon enactment of this law, qualified applicants have 6  
15 months to submit the required fees, completed application, and  
16 documentation of passing the American Board of Genetic  
17 Counseling or American Board Medical Genetics certification  
18 examination in order to obtain a genetic counselor license that  
19 will allow the applicant to practice genetic counseling; or

20 (b) Upon enactment of this law, qualified applicants have 6  
21 months to submit the required fees, completed application, and  
22 documentation of active candidate status with the American  
23 Board of Genetic Counseling or American Board Medical Genetics  
24 in order to obtain a temporary genetic counselor license that  
25 will allow the applicant to practice genetic counseling under  
26 supervision as specified in this Act.

27 Section 75. Fees; deposit of fees. The fees imposed under  
28 this Act shall be set by rule and are not refundable. All of  
29 the fees collected under this Act shall be deposited into the  
30 General Professions Dedicated Fund.

31 Section 80. Checks or orders dishonored. Any person who  
32 issues or delivers a check or other order to the Department  
33 that is returned to the Department unpaid by the financial

1 institution upon which it is drawn shall pay to the Department,  
2 in addition to the amount already owed to the Department, a  
3 fine of \$50. The fines imposed by this Section are in addition  
4 to any other discipline provided under this Act prohibiting  
5 unlicensed practice or practice on a nonrenewed license. The  
6 Department shall notify the person that payment of fees and  
7 fines shall be paid to the Department by certified check or  
8 money order within 30 calendar days after notification. If,  
9 after the expiration of 30 days from the date of the  
10 notification, the person has failed to submit the necessary  
11 remittance, the Department shall automatically terminate the  
12 license or certification or deny the application, without  
13 hearing. If, after termination or denial, the person seeks a  
14 license or certificate, he or she shall apply to the Department  
15 for restoration or issuance of the license or certificate and  
16 pay all fees and fines due to the Department. The Department  
17 may establish a fee for the processing of an application for  
18 restoration of a license to pay all costs and expenses of  
19 processing of this application. The Director may waive the  
20 fines due under this Section in individual cases where the  
21 Director finds that the fines would be unnecessarily  
22 burdensome.

23 Section 85. Endorsement. The Department may issue a license  
24 as a genetic counselor, to an applicant currently licensed  
25 under the laws of another state or United States jurisdiction  
26 whose standards, in the opinion of the Department, were  
27 substantially equivalent at the date of his or her licensure in  
28 the other jurisdiction to the requirements of this Act. Such an  
29 applicant shall pay all of the required fees. Applicants have 6  
30 months from the date of application to complete the application  
31 process. If the process has not been completed within 6 months,  
32 the application shall be denied, the fee forfeited, and the  
33 applicant must reapply and meet the requirements in effect at  
34 the time of reapplication.

1 Section 90. Privileged communications and exceptions.

2 (a) No licensed genetic counselor shall disclose any  
3 information acquired from persons consulting the counselor in a  
4 professional capacity, except that which may be voluntarily  
5 disclosed under any of the following circumstances:

6 (1) In the course of formally reporting, conferring, or  
7 consulting with administrative superiors, colleagues, or  
8 consultants who share professional responsibility, in  
9 which instance all recipients of the information are  
10 similarly bound to regard the communication as privileged.

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

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

15 (4) When a communication reveals the intended  
16 commission of a crime or harmful act and such disclosure is  
17 judged necessary in the professional judgment of the  
18 licensed genetic counselor to protect any person from a  
19 clear risk of serious mental or physical harm or injury or  
20 to forestall a serious threat to the public safety.

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

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

29 (c) The Mental Health and Developmental Disabilities  
30 Confidentiality Act is incorporated herein as if all of its  
31 provisions were included in this Act. In the event of a  
32 conflict between the application of this Section and the Mental  
33 Health and Developmental Disabilities Confidentiality Act to a  
34 specific situation, the provisions of the Mental Health and  
35 Developmental Disabilities Confidentiality Act shall control.

1 Section 95. Grounds for discipline.

2 (a) The Department may refuse to issue, renew, or may  
3 revoke, suspend, place on probation, reprimand, or take other  
4 disciplinary action as the Department deems appropriate,  
5 including the issuance of fines not to exceed \$1,000 for each  
6 violation, with regard to any license for any one or more of  
7 the following:

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

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

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

17 (4) Making any misrepresentation for the purpose of  
18 obtaining a license, or violating any provision of this Act  
19 or its rules.

20 (5) Professional incompetence or gross negligence in  
21 the rendering of genetic counseling services.

22 (6) Gross or repeated negligence.

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

25 (8) Failing to provide information within 60 days in  
26 response to a written request made by the Department.

27 (9) Engaging in dishonorable, unethical, or  
28 unprofessional conduct of a character likely to deceive,  
29 defraud, or harm the public and violating the rules of  
30 professional conduct adopted by the Department.

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

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

36 (12) Habitual or excessive use or addiction to alcohol,

1       narcotics, stimulants, or any other chemical agent or drug  
2       which results in inability to practice with reasonable  
3       skill, judgment, or safety.

4           (13) Discipline by another jurisdiction, if at least  
5       one of the grounds for the discipline is the same or  
6       substantially equivalent to those set forth in this  
7       Section.

8           (14) Directly or indirectly giving to or receiving from  
9       any person, firm, corporation, partnership, or association  
10      any fee, commission, rebate, or other form of compensation  
11      for any professional service not actually rendered.

12          (15) A finding by the Department that the licensee,  
13      after having the license placed on probationary status has  
14      violated the terms of probation.

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

18          (17) Willfully filing false reports relating to a  
19      licensee's practice, including but not limited to false  
20      records filed with federal or State agencies or  
21      departments.

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

25          (19) Being named as a perpetrator in an indicated  
26      report by the Department of Children and Family Services  
27      pursuant to the Abused and Neglected Child Reporting Act,  
28      and upon proof by clear and convincing evidence that the  
29      licensee has caused a child to be an abused child or  
30      neglected child as defined in the Abused and Neglected  
31      Child Reporting Act.

32          (20) Physical or mental disability, including  
33      deterioration through the aging process or loss of  
34      abilities and skills which results in the inability to  
35      practice the profession with reasonable judgment, skill,  
36      or safety.



1           (21) Solicitation of professional services by using  
2 false or misleading advertising.

3           (22) Failure to file a return, or to pay the tax,  
4 penalty of interest shown in a filed return, or to pay any  
5 final assessment of tax, penalty or interest, as required  
6 by any tax Act administered by the Illinois Department of  
7 Revenue or any successor agency or the Internal Revenue  
8 Service or any successor agency.

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

11           (24) Practicing or attempting to practice under a name  
12 other than the full name as shown on the license or any  
13 other legally authorized name.

14           (25) Gross overcharging for professional services,  
15 including filing statements for collection of fees or  
16 monies for which services are not rendered.

17           (b) The Department shall deny, without hearing, any  
18 application or renewal for a license under this Act to any  
19 person who has defaulted on an educational loan guaranteed by  
20 the Illinois State Assistance Commission; however, the  
21 Department may issue a license or renewal if the person in  
22 default has established a satisfactory repayment record as  
23 determined by the Illinois Student Assistance Commission.

24           (c) The determination by a court that a licensee is subject  
25 to involuntary admission or judicial admission as provided in  
26 the Mental Health and Developmental Disabilities Code will  
27 result in an automatic suspension of his or her license. The  
28 suspension will end upon a finding by a court that the licensee  
29 is no longer subject to involuntary admission or judicial  
30 admission, the issuance of an order so finding and discharging  
31 the patient, and the determination of the Director that the  
32 licensee be allowed to resume professional practice.

33           Section 100. Violations; injunction; cease and desist  
34 order.

35           (a) If any person violates the provisions of this Act, the

1 Director may, in the name of the People of the State of  
2 Illinois, through the Attorney General, petition for an order  
3 enjoining the violation or for an order enforcing compliance  
4 with this Act. Upon the filing of a verified petition, the  
5 court with appropriate jurisdiction may issue a temporary  
6 restraining order without notice or bond, and may preliminarily  
7 and permanently enjoin the violation. If it is established that  
8 the person has violated or is violating the injunction, the  
9 court may punish the offender for contempt of court.  
10 Proceedings under this Section are in addition to all other  
11 remedies and penalties provided by this Act.

12 (b) If any person holds himself or herself out as being a  
13 licensed genetic counselor under this Act and is not licensed  
14 to do so, then any licensed genetic counselor, interested  
15 party, or any person injured thereby may petition for relief as  
16 provided in subsection (a) of this Section.

17 (c) Whenever, in the opinion of the Department, a person  
18 violates any provision of this Act, the Department may issue a  
19 rule to show cause why an order to cease and desist should not  
20 be entered against that person. The rule shall clearly set  
21 forth the grounds relied upon by the Department and shall allow  
22 at least 7 days from the date of the rule to file an answer  
23 satisfactory to the Department. Failure to answer to the  
24 satisfaction of the Department shall cause an order to cease  
25 and desist to be issued.

26 Section 105. Investigations; notice and hearing. The  
27 Department may investigate the actions of any applicant or any  
28 person holding or claiming to hold a license. The Department  
29 shall, before revoking, suspending, placing on probation,  
30 reprimanding, or taking any other disciplinary action under  
31 Section 95 of this Act, at least 30 days prior to the date set  
32 for the hearing, (i) notify the accused, in writing, of any  
33 charges made and the time and place for the hearing on the  
34 charges, (ii) direct him or her to file a written answer to the  
35 charges with the Department under oath within 20 days after

1 service of the notice, and (iii) inform the accused that, if he  
2 or she fails to answer, default will be taken against him or  
3 her or that his or her license or certificate may be suspended,  
4 revoked, placed on probationary status, or other disciplinary  
5 action taken with regard to the license, including limiting the  
6 scope, nature, or extent of his or her practice, as the  
7 Department may deem proper. In case the person, after receiving  
8 notice, fails to file an answer, his or her license may, in the  
9 discretion of the Department, be suspended, revoked, placed on  
10 probationary status, or the Department may take whatever  
11 disciplinary action deemed proper, including limiting the  
12 scope, nature, or extent of the person's practice or the  
13 imposition of a fine, without a hearing, if the act or acts  
14 charged constitute sufficient grounds for such action under  
15 this Act. The written notice may be served by personal delivery  
16 or certified mail to the address specified by the accused in  
17 his or her last notification to the Department.

18 Section 110. Record of proceedings; transcript. The  
19 Department, at its expense, shall preserve a record of all  
20 proceedings at the formal hearing of any case. The notice of  
21 hearing, complaint, all other documents in the nature of  
22 pleadings, written motions filed in the proceedings, the  
23 transcript of testimony, the report of the hearing officer and  
24 orders of the Department shall be in the record of such  
25 proceeding. The Department shall furnish a transcript of the  
26 record to any person interested in the hearing upon payment of  
27 the fee required under Section 2105-115 of the Department of  
28 Professional Regulation Law of the Civil Administrative Code of  
29 Illinois.

30 Section 115. Subpoenas; depositions; oaths. The Department  
31 has the power to subpoena and to bring before it any person and  
32 to take testimony either orally or by deposition, or both, with  
33 the same fees and mileage and in the same manner as prescribed  
34 in civil cases in the courts of this State. The Director and

1 the designated hearing officer has the power to administer  
2 oaths to witnesses at any hearing which the Department is  
3 authorized to conduct, and any other oaths authorized in any  
4 Act administered by the Department.

5 Section 120. Compelling testimony. Any court, upon  
6 application of the Department, designated hearing officer, or  
7 the applicant or licensee against whom proceedings under  
8 Section 95 of this Act are pending, may enter an order  
9 requiring the attendance of witnesses and their testimony and  
10 the production of documents, papers, files, books, and records  
11 in connection with any hearing or investigation. The court may  
12 compel obedience to its order by proceedings for contempt.

13 Section 125. Findings and recommendations. At the  
14 conclusion of the hearing, the hearing officer shall present to  
15 the Director a written report of its findings of fact,  
16 conclusions of law, and recommendations. The report shall  
17 contain a finding whether the licensee violated this Act or  
18 failed to comply with the conditions required in this Act. The  
19 hearing officer shall specify the nature of the violation or  
20 failure to comply, and shall make its recommendations to the  
21 Director. The report of findings of fact, conclusions of law,  
22 and recommendation of the hearing officer shall be the basis  
23 for the Department's order for refusal or for the granting of  
24 the license. If the Director disagrees with the recommendations  
25 of the hearing officer, the Director may issue an order in  
26 contravention of the hearing officer's recommendations. The  
27 finding is not admissible in evidence against the person in a  
28 criminal prosecution brought for the violation of this Act, but  
29 the hearing and findings are not a bar to a criminal  
30 prosecution brought for the violation of this Act.

31 Section 135. Director; rehearing. Whenever the Director  
32 believes justice has not been done in the revocation,  
33 suspension, or refusal to issue or renew a license or the

1 discipline of a licensee, he or she may order a rehearing.

2 Section 140. Appointment of a hearing officer. The Director  
3 has the authority to appoint any attorney licensed to practice  
4 law in the State of Illinois to serve as the hearing officer in  
5 any action for refusal to issue or renew a license or permit or  
6 to discipline a licensee. The hearing officer has full  
7 authority to conduct the hearing. The hearing officer shall  
8 report his findings of fact, conclusions of law, and  
9 recommendations to the Director.

10 Section 145. Order or certified copy; prima facie proof.  
11 An order or certified copy thereof, over the seal of the  
12 Department and purporting to be signed by the Director, is  
13 prima facie proof that:

14 (1) the signature is the genuine signature of the Director;  
15 and

16 (2) the Director is duly appointed and qualified.

17 Section 150. Restoration of suspended or revoked license.  
18 At any time after the suspension or revocation of any license,  
19 the Department may restore it to the licensee, unless after an  
20 investigation and hearing the Director determines that  
21 restoration is not in the public interest.

22 Section 155. Surrender of license. Upon the revocation or  
23 suspension of a license, the licensee shall immediately  
24 surrender his or her license to the Department. If the licensee  
25 fails to do so, the Department has the right to seize the  
26 license.

27 Section 160. Summary suspension of license. The Director  
28 may summarily suspend the license of a genetic counselor  
29 without a hearing, simultaneously with the institution of  
30 proceedings for a hearing provided for in Section 105 of this  
31 Act, if the Director finds that evidence in the possession of

1 the Director indicates that the continuation of practice by the  
2 genetic counselor would constitute an imminent danger to the  
3 public. In the event that the Director summarily suspends the  
4 license of an individual without a hearing, a hearing must be  
5 held within 30 days after the suspension has occurred.

6 Section 165. Administrative review; venue.

7 (a) All final administrative decisions of the Department  
8 are subject to judicial review pursuant to the Administrative  
9 Review Law and its rules. The term "administrative decision" is  
10 defined as in Section 3-101 of the Code of Civil Procedure.

11 (b) Proceedings for judicial review shall be commenced in  
12 the circuit court of the county in which the party applying for  
13 review resides, but if the party is not a resident of Illinois,  
14 the venue shall be in Sangamon County.

15 Section 170. Certification of record; costs. The  
16 Department shall not be required to certify any record to the  
17 court, to file an answer in court, or to otherwise appear in  
18 any court in a judicial review proceeding, unless there is  
19 filed in the court, with the complaint, a receipt from the  
20 Department acknowledging payment of the costs of furnishing and  
21 certifying the record. Failure on the part of the plaintiff to  
22 file the receipt in court is grounds for dismissal of the  
23 action.

24 Section 175. Violations. Unless otherwise specified, any  
25 person found to have violated any provision of this Act is  
26 guilty of a Class A misdemeanor.

27 Section 180. Administrative Procedure Act; application.  
28 The Illinois Administrative Procedure Act is hereby expressly  
29 adopted and incorporated in this Act as if all of the  
30 provisions of such Act were included in this Act.

31 Section 185. Home rule. The regulation and licensing of

1 genetic counselors are exclusive powers and functions of the  
2 State. A home rule unit may not regulate or license genetic  
3 counselors. This Section is a denial and limitation of home  
4 rule powers and functions under subsection (h) of Section 6 of  
5 Article VII of the Illinois Constitution.

6 Section 900. The Regulatory Sunset Act is amended by adding  
7 Section 4.25 as follows:

8 (5 ILCS 80/4.25 new)

9 Sec. 4.25. Act repealed on January 1, 2015. The following  
10 Act is repealed on January 1, 2015:

11 The Genetic Counselor Licensing Act.

12 Section 905. The Abused and Neglected Child Reporting Act  
13 is amended by changing Section 4 as follows:

14 (325 ILCS 5/4) (from Ch. 23, par. 2054)

15 Sec. 4. Persons required to report; privileged  
16 communications; transmitting false report. Any physician,  
17 resident, intern, hospital, hospital administrator and  
18 personnel engaged in examination, care and treatment of  
19 persons, surgeon, dentist, dentist hygienist, osteopath,  
20 chiropractor, podiatrist, physician assistant, substance abuse  
21 treatment personnel, funeral home director or employee,  
22 coroner, medical examiner, emergency medical technician,  
23 acupuncturist, crisis line or hotline personnel, school  
24 personnel, educational advocate assigned to a child pursuant to  
25 the School Code, truant officers, social worker, social  
26 services administrator, domestic violence program personnel,  
27 registered nurse, licensed practical nurse, genetic counselor,  
28 respiratory care practitioner, advanced practice nurse, home  
29 health aide, director or staff assistant of a nursery school or  
30 a child day care center, recreational program or facility  
31 personnel, law enforcement officer, licensed professional  
32 counselor, licensed clinical professional counselor,

1 registered psychologist and assistants working under the  
2 direct supervision of a psychologist, psychiatrist, or field  
3 personnel of the Illinois Department of Public Aid, Public  
4 Health, Human Services (acting as successor to the Department  
5 of Mental Health and Developmental Disabilities,  
6 Rehabilitation Services, or Public Aid), Corrections, Human  
7 Rights, or Children and Family Services, supervisor and  
8 administrator of general assistance under the Illinois Public  
9 Aid Code, probation officer, or any other foster parent,  
10 homemaker or child care worker having reasonable cause to  
11 believe a child known to them in their professional or official  
12 capacity may be an abused child or a neglected child shall  
13 immediately report or cause a report to be made to the  
14 Department.

15 Any member of the clergy having reasonable cause to believe  
16 that a child known to that member of the clergy in his or her  
17 professional capacity may be an abused child as defined in item  
18 (c) of the definition of "abused child" in Section 3 of this  
19 Act shall immediately report or cause a report to be made to  
20 the Department.

21 Whenever such person is required to report under this Act  
22 in his capacity as a member of the staff of a medical or other  
23 public or private institution, school, facility or agency, or  
24 as a member of the clergy, he shall make report immediately to  
25 the Department in accordance with the provisions of this Act  
26 and may also notify the person in charge of such institution,  
27 school, facility or agency, or church, synagogue, temple,  
28 mosque, or other religious institution, or his designated agent  
29 that such report has been made. Under no circumstances shall  
30 any person in charge of such institution, school, facility or  
31 agency, or church, synagogue, temple, mosque, or other  
32 religious institution, or his designated agent to whom such  
33 notification has been made, exercise any control, restraint,  
34 modification or other change in the report or the forwarding of  
35 such report to the Department.

36 The privileged quality of communication between any



1 professional person required to report and his patient or  
2 client shall not apply to situations involving abused or  
3 neglected children and shall not constitute grounds for failure  
4 to report as required by this Act.

5 A member of the clergy may claim the privilege under  
6 Section 8-803 of the Code of Civil Procedure.

7 In addition to the above persons required to report  
8 suspected cases of abused or neglected children, any other  
9 person may make a report if such person has reasonable cause to  
10 believe a child may be an abused child or a neglected child.

11 Any person who enters into employment on and after July 1,  
12 1986 and is mandated by virtue of that employment to report  
13 under this Act, shall sign a statement on a form prescribed by  
14 the Department, to the effect that the employee has knowledge  
15 and understanding of the reporting requirements of this Act.  
16 The statement shall be signed prior to commencement of the  
17 employment. The signed statement shall be retained by the  
18 employer. The cost of printing, distribution, and filing of the  
19 statement shall be borne by the employer.

20 The Department shall provide copies of this Act, upon  
21 request, to all employers employing persons who shall be  
22 required under the provisions of this Section to report under  
23 this Act.

24 Any person who knowingly transmits a false report to the  
25 Department commits the offense of disorderly conduct under  
26 subsection (a)(7) of Section 26-1 of the "Criminal Code of  
27 1961". Any person who violates this provision a second or  
28 subsequent time shall be guilty of a Class 3 felony.

29 Any person who knowingly and willfully violates any  
30 provision of this Section other than a second or subsequent  
31 violation of transmitting a false report as described in the  
32 preceding paragraph, is guilty of a Class A misdemeanor for a  
33 first violation and a Class 4 felony for a second or subsequent  
34 violation; except that if the person acted as part of a plan or  
35 scheme having as its object the prevention of discovery of an  
36 abused or neglected child by lawful authorities for the purpose

1 of protecting or insulating any person or entity from arrest or  
2 prosecution, the person is guilty of a Class 4 felony for a  
3 first offense and a Class 3 felony for a second or subsequent  
4 offense (regardless of whether the second or subsequent offense  
5 involves any of the same facts or persons as the first or other  
6 prior offense).

7 A child whose parent, guardian or custodian in good faith  
8 selects and depends upon spiritual means through prayer alone  
9 for the treatment or cure of disease or remedial care may be  
10 considered neglected or abused, but not for the sole reason  
11 that his parent, guardian or custodian accepts and practices  
12 such beliefs.

13 A child shall not be considered neglected or abused solely  
14 because the child is not attending school in accordance with  
15 the requirements of Article 26 of the School Code, as amended.

16 (Source: P.A. 92-16, eff. 6-28-01; 92-801, eff. 8-16-02;  
17 93-137, eff. 7-10-03; 93-356, eff. 7-24-03; 93-431, eff.  
18 8-5-03; revised 9-12-03.)

19 Section 999. Effective date. This Act takes effect upon  
20 becoming law.