

2010 -- H 7165

LC00606

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS – LICENSING OF GENETIC
COUNSELORS

Introduced By: Representatives Naughton, M Rice, Kennedy, and E Coderre

Date Introduced: January 21, 2010

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 83

4 GENETIC COUNSELORS

5 **5-83-1. Statement of policy.** -- The State of Rhode Island has an interest in regulating the
6 practice of genetic counseling and in licensing genetic counselors in order to protect the public
7 health, safety and welfare.

8 **5-83-2. Definitions.** -- As used in this chapter, the following words, shall unless the context
9 requires otherwise, have the following meanings:

10 (1) "ABGC", the American Board of Genetic Counseling, a national agency for certification
11 and recertification of genetic counselors or its successor agency.

12 (2) "ABMG", American Board of Medical Genetics, a national agency for certification and
13 recertification of genetic counselors, MD and DO geneticists and PhD geneticists or its successor
14 agency.

15 (3) "Board", the board of licensing of genetic counselors.

16 (4) "Licensed genetic counselor", a person licensed under this chapter to engage in the
17 practice of genetic counseling.

18 (5) "Practice of genetic counseling", a communication process, conducted by one or more

1 appropriately trained individuals that may include:

2 (i) Estimating the likelihood of occurrence or recurrence of a birth defect or of any
3 potentially inherited or genetically influenced condition. This assessment may involve:

4 (A) Obtaining and analyzing a complete health history of the person and family;

5 (B) Reviewing pertinent medical records;

6 (C) Evaluating the risks from exposure to possible mutagens or teratogens; and

7 (D) Recommending genetic testing or other evaluations to diagnose a condition or determine
8 the carrier status of one or more family members;

9 (ii) Helping the individual, family, health care provider or public to:

10 (A) Appreciate the medical, psychological and social implications of a disorder, including its
11 features, variability, usual course and management options;

12 (B) Learn how genetic factors contribute to the disorder and affect the chance for recurrence
13 of the condition in other family members;

14 (C) Understand available options for coping with, preventing or reducing the chance of
15 occurrence or recurrence of a condition;

16 (D) Select the most appropriate, accurate and cost-effective methods of diagnosis; and

17 (E) Understand genetic or prenatal tests, coordinate testing for inherited disorders, and
18 interpret complex genetic test results; and

19 (iii) Facilitating an individual's or family's:

20 (A) Exploration of the perception of risk and burden associated with the disorder;

21 (B) Decision-making regarding testing or medical interventions consistent with their beliefs,
22 goals, needs, resources, culture and ethical or moral views; and

23 (C) Adjustment and adaptation to the condition or their genetic risk by addressing needs for
24 psychological, social and medical support.

25 (6) "Provisional licensed genetic counselor", a person with a provisional license issued
26 under section 5-83-7.

27 **5-83-3. Board of licensing of genetic counselors; members; removal and resignation. --**

28 (a) Within the division of professional regulation in the state department of health, there
29 shall be a board of licensing of genetic counselors, which shall consist of five (5) members
30 appointed by the director of the department of health with the approval of the governor. Three (3)
31 members shall be genetic counselors licensed under this chapter, one shall be a medical geneticist
32 and one shall be a member of the general public. Members of the board shall be electors of the state.

33 (b) Each member of the board shall serve for a term of three (3) years and until a successor
34 is appointed. No member shall be appointed to more than two (2) consecutive full terms. A member

1 appointed for less than a full term may serve two (2) full terms in addition to such part of a full term.
2 Terms of initial members shall be staggered with one member appointed for a one year term, two (2)
3 members for two (2) year terms, and two (2) members for three (3) year terms. The initial members
4 appointed to terms of less than three (3) years may serve six (6) consecutive years on the board. The
5 initial members who are genetic counselors and the medical geneticist shall be certified in
6 accordance with the ABGC or ABMG, or their successors or equivalent.

7 (c) The director may remove any member from the board for neglect of any duty required by
8 law, or for incompetence, or unprofessional or dishonorable conduct. Vacancies shall be filled in the
9 same manner as the original appointment was made, for the remainder of the term.

10 **5-83-4. Organization and meeting of board; reimbursement.** -- The board shall, at its
11 first meeting and annually thereafter, organize by electing from its membership a chairperson and
12 secretary. Meetings may be called by the chairperson or the director of the department of health or
13 by written request of two (2) members of the board. Three (3) members of the board shall constitute
14 a quorum. The board shall meet as often as necessary. Members of the board shall serve without
15 compensation.

16 **5-83-5. Powers and duties of board of licensing of genetic counselors.** -- The board shall
17 have the following powers and duties:

18 (1) To promulgate regulations and adopt such rules as are necessary to regulate genetic
19 counselors;

20 (2) To recommend policy and budgetary matters to the department of health;

21 (3) To receive, review, approve or disapprove applications for licensing, renewal and
22 reinstatement and to issue those licenses;

23 (4) To establish administrative procedures for processing applications for licenses and
24 license renewals and to hire or appoint such agents as are appropriate for processing applications for
25 licenses and license renewals;

26 (5) To retain records of its actions and proceedings in accordance with public records laws;

27 (6) To define by regulation the appropriate standards for education and experience necessary
28 to qualify for licensing, including, but not limited to, continuing professional education requirements
29 for licensed genetic counselors and provisional licensed genetic counselors, which shall be
30 consistent with those of the American Board of Genetic Counseling, or its successor, and for the
31 conduct and ethics which shall govern the practice of genetic counseling;

32 (7) To establish standards of supervision for students or persons in training to become
33 qualified to obtain a license in the occupation or profession it represents;

34 (8) To conduct hearings upon charges calling for the discipline of a licensed genetic

1 counselor or for revocation of a license pursuant to section 5-83-9. The administrator of professional
2 regulation has the power to issue subpoenas and compel the attendance of witnesses and administer
3 oaths to persons giving testimony at hearings. The board or the director of the department of health
4 shall cause the prosecution of all persons violating this chapter and has the power to incur the
5 necessary expenses for the prosecution;

6 (9) To summarily suspend the license of a licensee who poses an imminent danger to the
7 public but a hearing shall be afforded to the licensee within seven (7) days of an action by the board
8 to determine whether such summary action is warranted; and

9 (10) To perform such other functions and duties as may be required to carry out this chapter.

10 **5-83-6. Genetic counselors; license applications; fee; proof of age; moral character; and**
11 **educational and professional requirements. -- An application for an original license or license**
12 **renewal shall be made on forms approved by the board. The initial fee for application for licensure is**
13 **one hundred and seventy dollars (\$170). Licenses shall be renewed every twenty-four (24) months**
14 **after initial licensure upon payment of a fee of one hundred and seventy dollars (\$170) and in**
15 **compliance with any additional requirements that the board promulgates. An applicant for an**
16 **original license shall furnish satisfactory evidence to the board that:**

17 (1) He or she is at least eighteen (18) years old;

18 (2) Of good moral character;

19 (3) Meets educational experience qualifications as follows:

20 (i) Successfully completed a genetic counseling education program approved by the board;
21 provided, however, that the program shall meet the educational standards established by the ABGC
22 or its successor; and provided further that the genetic counselor remains certified in accordance with
23 the ABGC or ABMG, or their successors;

24 (ii) Earned a masters degree from a genetic counseling training program that is accredited by
25 the ABGC or an equivalent as determined by the ABGC, or a doctoral degree from a medical
26 genetics training program that is accredited by the ABMG or an equivalent as determined by the
27 ABMG;

28 (iii) Completed such experience as may be required by the board;

29 (4) Passed the examination for certification as:

30 (i) A genetic counselor by the American Board of Genetic Counseling or the American
31 Board of Medical Genetics, or successor or equivalent; or

32 (ii) A medical geneticist by the American Board of Medical Genetics, or successor or
33 equivalent.

34 **5-83-7. Practice as provisional licensed genetic counselor; expiration; extension;**

1 **supervision by professional licensed genetic counselor.** -- A person who meets the qualifications
2 for licensure except for the requirement in subsection 5-83-6(4) may practice as a provisional
3 licensed genetic counselor upon filing an approved application with the board and payment of a fee
4 of eighty-five dollars (\$85). Such license shall be valid for one year from the date of its issue and
5 may be renewed for an additional one year if an applicant fails the ABGC or ABMG certification
6 exam. Such provisional license shall expire automatically upon the earliest of the following:

7 (1) Issuance of a full license;

8 (2) Thirty (30) days after the applicant fails to pass the complete examination on the last
9 permitted attempt as provided by the ABGC or ABMG, or their successors; or

10 (3) The date printed on the temporary license.

11 An application for extension shall be signed by a supervising licensed genetic counselor. A
12 provisional licensed genetic counselor shall be under the general supervision of a licensed genetic
13 counselor or a licensed physician at all times during which the provisional licensed genetic counselor
14 performs clinical genetic counseling. The board shall adopt rules governing such supervision and
15 direction which may not require the immediate physical presence of the supervising licensed genetic
16 counselor.

17 **5-83-8. Practice of genetic counseling by unlicensed persons; exceptions.** -- No person
18 shall hold oneself out as a genetic counselor unless he or she is licensed in accordance with this
19 chapter. No person who is not so licensed may use in connection with his or her name or place of
20 business, the title “genetic counselor”, “licensed genetic counselor”, “gene counselor”, “genetic
21 consultant”, “genetic associate” or any words, letters, abbreviations or insignia indicating or
22 implying a person holds a genetic counseling license.

23 Nothing in this section shall be construed to prevent or restrict the practice, service or
24 activities of:

25 (1) Any person licensed, certified, or registered in the state, by any other statute other than
26 as a genetic counselor from engaging in activities within the scope of practice of the profession or
27 occupation for which he or she is licensed provided that he or she does not represent to the public,
28 directly or indirectly, that he or she is licensed under this chapter, and that he or she does not use any
29 name, title or designation indicating that the person is licensed under this chapter;

30 (2) Any person employed as a genetic counselor by the federal government or an agency
31 thereof if such person provides genetic counseling services solely under the direction and control of
32 the organization by which such person is employed;

33 (3) A student or intern enrolled in an approved genetic counseling education program if
34 genetic counseling services performed by the student are an integral part of the student's course of

1 study and are performed under the direct supervision of a licensed genetic counselor assigned to
2 supervise the student and who is on duty and available in the assigned patient care area and if the
3 person is designated by a title which clearly indicates his or her status as a student or intern;

4 (4) An individual trained as a Ph.D. or medical geneticist who is reapplying for the ABMG
5 certification examination and is gathering logbook cases under a supervisor identified in the training
6 program's ABMG accreditation documents as a member of the training faculty; and

7 (5) An out-of-state genetic counselor from working as a consultant, or out-of-state employer
8 or other organization from employing genetic counselors providing occasional services, who are not
9 licensed pursuant to this act, from engaging in the practice of genetic counseling, subject to the
10 stated circumstances and limitations as defined by the board, by regulation, so long as the genetic
11 counselor holds a license, if available, in the genetic counselor's state of employment. If licensure is
12 not available in the genetic counselor's state of employment, the genetic counselor shall be certified
13 by the American Board of Genetic Counseling or the American Board of Medical Genetics, or their
14 successors, in order to practice genetic counseling without a state license in accordance with this
15 subsection.

16 **5-83-9. Grounds for denial; refusal to renew; revocation; suspension or cancellation of**
17 **genetic counselor license. -- The board may deny or refuse to renew a license or, after a hearing,**
18 **revoke, suspend or cancel the license or place on probation, reprimand, censure or otherwise**
19 **discipline a licensee upon proof satisfactory to a majority of the board that the person has:**

20 (1) Obtained or attempted to obtain a license by fraud or deception;

21 (2) Been convicted of a felony under state or federal law or committed any other offense
22 involving moral turpitude;

23 (3) Been adjudged mentally ill or incompetent by a court of competent jurisdiction;

24 (4) Used illicit drugs or intoxicating liquors to the extent which adversely affects his or her
25 practice;

26 (5) Engaged in unethical or unprofessional conduct including, but not limited to, willful acts,
27 negligence or incompetence in the course of professional practice;

28 (6) Violated any lawful order, rule or regulation rendered or adopted by the board; or

29 (7) Been refused issuance or been disciplined in connection with a license issued by any
30 other state or country.

31 **5-83-10. Privileged communications. -- The provisions of section 9-17-24 shall apply to**
32 **persons licensed pursuant to this chapter.**

33

1 SECTION 2. This act shall take effect upon passage.

=====
LC00606
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO BUSINESSES AND PROFESSIONS – LICENSING OF GENETIC
COUNSELORS

- 1 This act would provide a statutory framework for the licensing and regulations of genetic
- 2 counselors.
- 3 This act would take effect upon passage.

=====
LC00606
=====