



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/6/2004, by Antonio Munoz

SYNOPSIS AS INTRODUCED:

New Act

Creates the Genetic Counselor Licensing Act. Regulates the practice of genetic counseling through licensure requirements. Provides for administration of the Act by the Department of Professional Regulation. Provides enforcement provisions. Preempts home rule.

LRB093 15047 AMC 40629 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

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 medical
10 genetics professionals, including genetic counselors, to
11 coordinate an assessment that may include genetic testing, to
12 deliver accurate information to families, to assist the
13 families in adjusting to the implications of their diagnoses,
14 and to help ensure that genetic information is used
15 appropriately in the delivery of medical care. Therefore, the
16 practice of genetic counseling is declared to affect the public
17 health, safety, and welfare and to be subject to regulation in
18 the public interest. The purpose of the Act is to protect and
19 benefit the public by setting standards of qualifications,
20 education, training, and experience for those who seek to
21 obtain a license and hold the title of genetic counselor, to
22 promote high standards of professional performance for those
23 licensed to practice genetic counseling in the State of
24 Illinois, and to protect the public from unprofessional conduct
25 by persons licensed to practice genetic counseling.

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

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

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

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

1 "Board" means the Genetic Counselor Licensing and
2 Disciplinary Board.

3 "Department" means the Department of Professional
4 Regulation.

5 "Director" means the Director of Professional Regulation.

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

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

21 "Genetic counseling" includes, but is not limited to, the
22 following:

23 (A) Estimating the likelihood of occurrence or
24 recurrence of a birth defect or of any potentially
25 inherited or genetically influenced condition. This
26 assessment may involve:

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

29 (ii) reviewing pertinent medical records;

30 (iii) evaluating the risks from exposure to
31 possible mutagens or teratogens;

32 (iv) recommending genetic testing or other
33 evaluations to diagnose a condition or determine the
34 carrier status of one or more family members;

35 (B) Helping the individual, family, health care
36 provider, or public (i) appreciate the medical,

1 psychological and social implications of a disorder,
2 including its features, variability, usual course and
3 management options, (ii) learn how genetic factors
4 contribute to the disorder and affect the chance for
5 recurrence of the condition in other family members, (iii)
6 understand available options for coping with, preventing,
7 or reducing the chance of occurrence or recurrence of a
8 condition, (iv) select the most appropriate, accurate, and
9 cost-effective methods of diagnosis, and (v) understand
10 genetic or prenatal tests, coordinate testing for
11 inherited disorders, and interpret complex genetic test
12 results.

13 (C) Facilitating an individual's or family's (i)
14 exploration of the perception of risk and burden associated
15 with the disorder, (ii) decision-making regarding testing
16 or medical interventions consistent with their beliefs,
17 goals, needs, resources, culture, and ethical and moral
18 views, and (iii) adjustment and adaptation to the condition
19 or their genetic risk by addressing needs for
20 psychological, social, and medical support.

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

23 "Genetic test" is a test of a person's genes, gene
24 products, or chromosomes for abnormalities or deficiencies,
25 including carrier status, that are linked to physical or mental
26 disorders or impairments, indicate a susceptibility to
27 illness, disease, impairment, or other disorders, whether
28 physical or mental, or demonstrate genetic or chromosomal
29 damage due to environmental factors. "Genetic testing" does not
30 include routine physical measurements; chemical, blood, and
31 urine analyses that are widely accepted and in use in clinical
32 practice; tests for use of drugs; and tests for the presence of
33 the human immunodeficiency virus.

34 "Independent private practice of genetic counseling" means
35 the application of genetic counseling knowledge and skills by a
36 licensed genetic counselor who (i) regulates and is responsible

1 for her or his own practice and (ii) is self-employed or works
2 in a group practice or setting not qualified under Internal
3 Revenue Service regulations as a not-for-profit business.

4 "Person" means an individual, association, partnership, or
5 corporation.

6 "Qualified supervisor" means any person who is a licensed
7 genetic counselor, as defined by rule, or a physician with a
8 specialty in genetics certified by the American Board of
9 Medical Genetics. A qualified supervisor may be provided at the
10 applicant's place of work, or may be contracted by the
11 applicant to provide supervision. The qualified supervisor
12 shall file written documentation to the Board of employment,
13 discharge, or supervisory control of a genetic counselor at the
14 time of employment, discharge, or assumption of supervision of
15 a genetic counselor.

16 "Supervision" means review of aspects of genetic
17 counseling and case management in a bimonthly meeting with the
18 person under supervision.

19 Section 15. Exemptions.

20 (a) This Act does not prohibit any persons legally
21 regulated in this State by any other Act from engaging in the
22 practice for which they are authorized as long as they do not
23 represent themselves by the title of "genetic counselor" or
24 "licensed genetic counselor". This Act does not prohibit the
25 practice of nonregulated professions whose practitioners are
26 engaged in the delivery of human services as long as these
27 practitioners do not represent themselves as or use the title
28 of "genetic counselor" or "licensed genetic counselor".

29 (b) Nothing in this Act shall be construed to limit the
30 activities and services of (i) a student, intern, resident, or
31 fellow in genetic counseling or genetics seeking to fulfill
32 educational requirements in order to qualify for a license
33 under this Act if these activities and services constitute a
34 part of the student's supervised course of study or (ii) an
35 individual seeking to fulfill the post-degree experience

1 requirements in order to qualify for licensing under this Act,
2 as long as the activities and services are not conducted in an
3 independent practice if the activities and services are
4 supervised by a qualified supervisor. A student, intern,
5 resident, or fellow must be designated by the title "intern",
6 "resident", "fellow", or any other designation of trainee
7 status. Nothing contained in this subsection shall be construed
8 to permit students, interns, residents, or fellows to offer
9 their services as genetic counselors or geneticists to any
10 other person and to accept remuneration for such genetic
11 counseling services, except as specifically provided in this
12 subsection or subsection (c).

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

24 (d) Nothing in this Act shall prevent the employment, by a
25 genetic counselor, person, association, partnership, or
26 corporation furnishing genetic counseling services for
27 remuneration, of persons not licensed as genetic counselors
28 under this Act to perform services in various capacities as
29 needed, if these persons are not in any manner held out to the
30 public or do not hold themselves out to the public by any title
31 or designation stating or implying that they are genetic
32 counselors.

33 (e) Nothing in this Act shall be construed to limit the
34 services of a person, not licensed under the provisions of this
35 Act, in the employ of a federal, State, county, or municipal
36 agency or other political subdivision or not-for-profit

1 corporation providing human services if (i) the services are a
2 part of the duties in his or her salaried position, (ii) the
3 services are performed solely on behalf of his or her employer,
4 and (iii) that person does not in any manner represent himself
5 or herself as or use the title of "genetic counselor" or
6 "licensed genetic counselor".

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

11 (g) Nothing in this Act shall be construed to limit the
12 activities and use of the official title of "genetic counselor"
13 on the part of a person not licensed under this Act who is an
14 academic employee of a duly chartered institution of higher
15 education and who holds educational and professional
16 qualifications equivalent to those required for licensure
17 under this Act, insofar as such activities are performed in the
18 person's role as an academic employee, or insofar as such
19 person engages in public speaking with or without remuneration.

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

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

33 (j) Nothing in this Act shall be construed to limit the
34 competent practice of the occupation of a person not licensed
35 under this Act who is a physician licensed to practice medicine
36 in all of its branches under the Medical Practice Act of 1987

1 as long as the person does not use the title "genetic
2 counselor" or any other title tending to indicate they are a
3 genetic counselor unless licensed as such in this State.

4 (k) Nothing in the Act shall prohibit a visiting ABGC or
5 ABMG certified genetic counselor from outside the State working
6 as a consultant, or organizations from outside the State
7 employing ABGC or ABMG certified genetic counselors providing
8 occasional services, who are not licensed under this Act, from
9 engaging in the practice of genetic counseling subject to the
10 stated circumstances and limitations.

11 Section 20. Restrictions and limitations.

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

27 (b) No association or partnership shall practice genetic
28 counseling unless every member, partner, and employee of the
29 association or partnership who practices genetic counseling or
30 who renders genetic counseling services holds a valid license
31 issued under this Act. No license shall be issued to a
32 corporation, the stated purpose of which includes or which
33 practices or which holds itself out as available to practice
34 genetic counseling, unless it is organized under the
35 Professional Service Corporation Act.

1 (c) Nothing in this Act shall be construed as permitting
2 persons licensed as genetic counselors to engage in any manner
3 in the practice of medicine in all its branches as defined by
4 law in this State.

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

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

14 (a) Any person who practices, offers to practice, attempts
15 to practice, or holds himself or herself out to practice as a
16 genetic counselor without being licensed or exempt under this
17 Act shall, in addition to any other penalty provided by law,
18 pay a civil penalty to the Department in an amount not to
19 exceed \$5,000 for each offense, as determined by the
20 Department. Civil penalty shall be assessed by the Department
21 after a hearing is held in accordance with the provisions set
22 forth in this Act regarding the provision of a hearing for the
23 discipline of a licensee.

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

26 (c) The civil penalty shall be paid within 60 days after
27 the effective date of the order imposing the civil penalty. The
28 order shall constitute a final judgment and may be filed and
29 execution had thereon in the same manner as any judgment from
30 any court of record.

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

33 (a) authorize examinations to ascertain the qualifications
34 and fitness of applicants for licensing as genetic counselors

1 and pass upon the qualifications of applicants for licensure by
2 endorsement;

3 (b) conduct hearings on proceedings to refuse to issue or
4 renew or to revoke licenses or suspend, place on probation,
5 censure, or reprimand persons licensed under this Act, and to
6 refuse to issue or renew or to revoke licenses, or suspend,
7 place on probation, censure, or reprimand persons licensed
8 under this Act.

9 (c) adopt rules necessary for the administration of this
10 Act; and

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

16 Section 35. Genetic Counselor Licensing and Disciplinary
17 Board.

18 (a) The Director shall appoint a Board that shall serve in
19 an advisory capacity to the Director. The Board shall consist
20 of 7 persons, 4 of whom have a master's degree and are licensed
21 as genetic counselors; 2 of whom either have a PhD degree or
22 are physicians and are certified by the American Board of
23 Medical Genetics; and one member of the public who is not a
24 licensed health care provider and who is an advocate for
25 individuals suffering from or genetically predisposed to
26 genetically influenced disease. In appointing members of the
27 Board, the Director shall give due consideration to the
28 adequate representation of the various subspecialties of
29 genetic counseling. In appointing members of the Board, the
30 Director shall give due consideration to recommendations by
31 members of the profession of genetic counseling and the
32 Statewide organizations representing the interests of public
33 health and genetics. The initial appointees shall be licensed
34 under this Act within 1 year after appointment to the Board.
35 Failure on the part of an initial Board appointee to obtain a

1 license within 1 year will be cause for removal from the Board.

2 (b) Members shall be appointed for and shall serve 4 year
3 terms and until their successors are appointed and qualified,
4 except that of the initial appointments, 2 members shall be
5 appointed to serve for 2 years, 2 shall be appointed to serve
6 for 3 years, and the remaining shall be appointed to serve for
7 4 years, and until their successors are appointed and
8 qualified. No member shall be reappointed to the Board for a
9 term that would cause continuous service on the Board to be
10 longer than 8 years. Any appointment to fill a vacancy shall be
11 for the unexpired portion of the term.

12 (c) The membership of the Board should reasonably reflect
13 representation from different geographic areas of Illinois.

14 (d) Any member appointed to fill a vacancy shall be
15 eligible for reappointment to only one full term.

16 (e) The Director may remove any member for cause at any
17 time prior to the expiration of his or her term.

18 (f) The Board shall annually elect one of its members as
19 chairperson.

20 (g) The members of the Board shall be reimbursed for all
21 legitimate, necessary, and authorized expenses incurred in
22 attending the meetings of the Board.

23 (h) The Board may make recommendations on matters relating
24 to continuing education, including the number of hours
25 necessary for license renewal, waivers for those unable to meet
26 such requirements, and acceptable course content. These
27 recommendations shall not impose an undue burden on the
28 Department or an unreasonable restriction on those seeking
29 license renewal.

30 (i) The Director shall give due consideration to all
31 recommendations of the Board.

32 (j) A majority of the Board members currently appointed
33 shall constitute a quorum. A vacancy in the membership of the
34 Board shall not impair the right of a quorum to perform all of
35 the duties of the Board.

36 (k) Members of the Board shall have no criminal, civil, or

1 professional liability in an action based upon a disciplinary
2 proceeding or other activity performed in good faith as a
3 member of the Board, except for willful or wanton misconduct.

4 (1) In the event that the Board is considering a matter
5 that involves a subspecialty in genetic counseling not
6 represented in the Board membership, the Board shall consider
7 the need to temporarily appoint a qualified member who
8 practices in that subspecialty.

9 Section 40. Application for original license. Applications
10 for original licenses shall be made to the Department on forms
11 prescribed by the Department and accompanied by the required
12 fee, which is not refundable. All applications shall contain
13 such information that, in the judgment of the Department, will
14 enable the Department to pass on the qualifications of the
15 applicant for a license to practice as a genetic counselor.

16 Section 45. Social Security Number on license application.
17 In addition to any other information required to be contained
18 in the application, every application for an original, renewal,
19 or restored license under this Act shall include the
20 applicant's Social Security Number.

21 Section 50. Examination; failure or refusal to take
22 examination.

23 (a) Applicants for genetic counseling licensure must
24 provide evidence that they have successfully completed the
25 certification examination provided by the ABGC or ABMG, if they
26 are master's degree trained genetic counselors, or the ABMG, if
27 they are PhD trained medical geneticists; or successfully
28 completed the examination provided by the successor agencies of
29 the ABGC or ABMG. The examinations shall be of a character to
30 fairly test the competence and qualifications of the applicants
31 to practice genetic counseling.

32 (b) If an applicant neglects, fails, or refuses to take an
33 examination or fails to pass an examination for a license under

1 this Act within 2 exam cycles after receiving a temporary
2 license, the application will be denied. However, such
3 applicant may thereafter make a new application for license
4 only if the applicant provides documentation of passing the
5 certification examination offered through the ABGC or ABMG or
6 their successor agencies and satisfies the requirements then in
7 existence for a license.

8 Section 55. Qualifications for licensure. A person shall be
9 qualified for licensure as a genetic counselor and the
10 Department shall issue a license if that person:

11 (1) has applied in writing in form and substance
12 satisfactory to the Department; is at least 21 years of
13 age;

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

16 (3) has not violated any of the provisions of Sections
17 20 or 25 of this Act or the rules promulgated thereunder.
18 The Department may take into consideration any felony
19 conviction of the applicant but such conviction shall not
20 operate as an absolute bar to licensure;

21 (4) has provided documentation of the successful
22 completion of the certification examination and current
23 certification provided by the American Board of Genetic
24 Counseling or the American Board of Medical Genetics, or
25 their successor agencies; and

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

27 Section 60. Temporary licensure.

28 (a) A person shall be qualified for temporary licensure as
29 a genetic counselor and the Department shall issue a temporary
30 license if that person:

31 (1) has successfully completed a Master's degree in
32 genetic counseling from an ABGC or ABMG accredited training
33 program or its equivalent as established by the ABGC or is
34 a physician or has a doctoral degree and has successfully

1 completed an ABMG accredited medical genetics training
2 program or its equivalent as established by the ABMG;

3 (2) Has submitted evidence to the Department of active
4 candidate status for the certifying examination
5 administered by the ABGC or the ABMG or their successor
6 agencies; and

7 (3) has made application to the Department and paid the
8 required fees.

9 (b) A temporary license shall allow the applicant to
10 practice under the supervision of a qualified supervisor until
11 he or she receives certification from the ABGC or the ABMG or
12 their successor agencies or 2 exam cycles have elapsed,
13 whichever comes first.

14 (c) Under no circumstances shall an applicant continue to
15 practice on the temporary license for more than 30 days after
16 notification that he or she has not passed the examination
17 within 2 exam cycles after receiving the temporary license.
18 However, the applicant may thereafter make a new application to
19 the Department for a license satisfying the requirements then
20 in existence for a license.

21 Section 65. Licenses; renewal; restoration; person in
22 military service; inactive status.

23 (a) The expiration date and renewal period for each license
24 issued under this Act shall be set by rule. The licensee may
25 renew a license during the 30-day period preceding its
26 expiration date by paying the required fee and demonstrating
27 compliance with continuing education requirements established
28 by rule.

29 (b) Any person who has permitted a license to expire or who
30 has a license on inactive status may have it restored by
31 submitting an application to the Department and filing proof of
32 fitness, as defined by rule, to have the license restored,
33 including, if appropriate, evidence which is satisfactory to
34 the Department certifying the active practice of genetic
35 counseling in another jurisdiction, and by paying the required

1 fee.

2 (c) If the person has not maintained an active practice in
3 another jurisdiction that is satisfactory to the Department,
4 the Department shall determine the person's fitness to resume
5 active status. The Department may also require the person to
6 complete a specific period of evaluated genetic counseling work
7 experience under the supervision of a qualified clinical
8 supervisor and may require demonstration of completion of
9 continuing education requirements.

10 (d) Any person whose license expired while on active duty
11 with the armed forces of the United States, while called into
12 service or training with the State Militia, or while in
13 training or education under the supervision of the United
14 States government prior to induction into military service may
15 have his license restored without paying any renewal fees if,
16 within 2 years after the termination of such service, training,
17 or education, except under conditions other than honorable, the
18 Department is furnished with satisfactory evidence that the
19 person has been so engaged and that such service, training, or
20 education has been so terminated.

21 (e) A license to practice shall not be denied any applicant
22 because of the applicant's race, religion, creed, national
23 origin, political beliefs or activities, age, sex, sexual
24 orientation, or physical impairment.

25 Section 70. Implementation; transitional periods.

26 (a) Upon enactment of this law, qualified applicants have 6
27 months to submit the required fees, completed application, and
28 documentation of passing the American Board of Genetic
29 Counseling or American Board Medical Genetics certification
30 examination in order to obtain a genetic counselor license that
31 will allow the applicant to practice genetic counseling; or

32 (b) Upon enactment of this law, qualified applicants have 6
33 months to submit the required fees, completed application, and
34 documentation of active candidate status with the American
35 Board of Genetic Counseling or American Board Medical Genetics

1 in order to obtain a temporary genetic counselor license that
2 will allow the applicant to practice genetic counseling under
3 supervision as specified in this Act.

4 Section 75. Fees; deposit of fees. The fees imposed under
5 this Act shall be set by rule and are not refundable. All of
6 the fees collected under this Act shall be deposited into the
7 General Professions Dedicated Fund.

8 Section 80. Checks or orders dishonored. Any person who
9 issues or delivers a check or other order to the Department
10 that is returned to the Department unpaid by the financial
11 institution upon which it is drawn shall pay to the Department,
12 in addition to the amount already owed to the Department, a
13 fine of \$50. The fines imposed by this Section are in addition
14 to any other discipline provided under this Act prohibiting
15 unlicensed practice or practice on a nonrenewed license. The
16 Department shall notify the person that payment of fees and
17 fines shall be paid to the Department by certified check or
18 money order within 30 calendar days after notification. If,
19 after the expiration of 30 days from the date of the
20 notification, the person has failed to submit the necessary
21 remittance, the Department shall automatically terminate the
22 license or certification or deny the application, without
23 hearing. If, after termination or denial, the person seeks a
24 license or certificate, he or she shall apply to the Department
25 for restoration or issuance of the license or certificate and
26 pay all fees and fines due to the Department. The Department
27 may establish a fee for the processing of an application for
28 restoration of a license to pay all costs and expenses of
29 processing of this application. The Director may waive the
30 fines due under this Section in individual cases where the
31 Director finds that the fines would be unnecessarily
32 burdensome.

33 Section 85. Endorsement. The Department may issue a license

1 as a genetic counselor, to an applicant currently licensed
2 under the laws of another state or United States jurisdiction
3 whose standards, in the opinion of the Department, were
4 substantially equivalent at the date of his or her licensure in
5 the other jurisdiction to the requirements of this Act. Such an
6 applicant shall pay all of the required fees. Applicants have 6
7 months from the date of application to complete the application
8 process. If the process has not been completed within 6 months,
9 the application shall be denied, the fee forfeited, and the
10 applicant must reapply and meet the requirements in effect at
11 the time of reapplication.

12 Section 90. Privileged communications and exceptions.

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

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

22 (2) With the written consent of the person who provided
23 the information.

24 (3) In the case of death or disability, with the
25 written consent of a personal representative, other person
26 authorized to sue, or the beneficiary of an insurance
27 policy on the person's life, health or physical condition.

28 (4) When a communication reveals the intended
29 commission of a crime or harmful act and such disclosure is
30 judged necessary by the licensed genetic counselor to
31 protect any person from a clear, imminent risk of serious
32 mental or physical harm or injury, or to forestall a
33 serious threat to the public safety.

34 (5) When the person waives the privilege by bringing
35 any public charges against the licensee.

1 (b) When the person is a minor under the laws of the State
2 of Illinois and the information acquired by the licensed
3 genetic counselor indicates the minor was the victim or subject
4 of a crime, the licensed genetic counselor may be required to
5 testify in any judicial proceedings in which the commission of
6 that crime is the subject of inquiry when, after in camera
7 review of the information that the licensed genetic counselor
8 acquired, the court determines that the interests of the minor
9 in having the information held privileged are outweighed by the
10 requirements of justice, the need to protect the public safety
11 or the need to protect the minor, except as provided under the
12 Abused and Neglected Child Reporting Act.

13 (c) Any person having access to records or anyone who
14 participates in providing genetic counseling services, or in
15 providing any human services, or is supervised by a licensed
16 genetic counselor is similarly bound to regard all information
17 and communications as privileged in accord with this Section.

18 (d) Nothing in this Act shall be construed to prohibit a
19 licensed genetic counselor from voluntarily testifying in
20 court hearings concerning matters of adoption, child abuse,
21 child neglect or other matters pertaining to children, except
22 as provided under the Abused and Neglected Child Reporting Act.

23 (e) The Mental Health and Developmental Disabilities
24 Confidentiality Act is incorporated herein as if all of its
25 provisions were included in this Act. In the event of a
26 conflict between the application of this Section and the Mental
27 Health and Developmental Disabilities Confidentiality Act to a
28 specific situation, the provisions of the Mental Health and
29 Developmental Disabilities Confidentiality Act shall control.

30 Section 95. Grounds for discipline.

31 (a) The Department may refuse to issue, renew, or may
32 revoke, suspend, place on probation, reprimand, or take other
33 disciplinary action as the Department deems appropriate,
34 including the issuance of fines not to exceed \$1,000 for each
35 violation, with regard to any license for any one or more of

1 the following:

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

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

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

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

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

16 (6) Malpractice.

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

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

21 (9) Engaging in dishonorable, unethical, or
22 unprofessional conduct of a character likely to deceive,
23 defraud, or harm the public and violating the rules of
24 professional conduct adopted by the Department.

25 (10) Failing to maintain the confidentiality of any
26 information received from a client, unless released by the
27 client or otherwise authorized or required by law.

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

30 (12) Habitual or excessive use or addiction to alcohol,
31 narcotics, stimulants, or any other chemical agent or drug
32 which results in inability to practice with reasonable
33 skill, judgment, or safety.

34 (13) Discipline by another jurisdiction, if at least
35 one of the grounds for the discipline is the same or
36 substantially equivalent to those set forth in this

1 Section.

2 (14) Directly or indirectly giving to or receiving from
3 any person, firm, corporation, partnership, or association
4 any fee, commission, rebate, or other form of compensation
5 for any professional service not actually rendered.

6 (15) A finding by the Board that the licensee, after
7 having the license placed on probationary status has
8 violated the terms of probation

9 (16) Failing to refer a client to other competent
10 professionals when the licensee is unable or unwilling to
11 adequately support or serve the client.

12 (17) Willfully filing false reports relating to a
13 licensee's practice, including but not limited to false
14 records filed with federal or State agencies or
15 departments.

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

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

26 (20) Physical or mental disability, including
27 deterioration through the aging process or loss of
28 abilities and skills which results in the inability to
29 practice the profession with reasonable judgment, skill,
30 or safety.

31 (21) Solicitation of professional services by using
32 false or misleading advertising.

33 (22) Failure to file a return, or to pay the tax,
34 penalty of interest shown in a filed return, or to pay any
35 final assessment of tax, penalty or interest, as required
36 by any tax Act administered by the Illinois Department of

1 Revenue or any successor agency or the Internal Revenue
2 Service or any successor agency.

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

5 (24) Practicing or attempting to practice under a name
6 other than the full name as shown on the license or any
7 other legally authorized name.

8 (25) Gross overcharging for professional services,
9 including filing statements for collection of fees or
10 monies for which services are not rendered.

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

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

28 Section 100. Violations; injunction; cease and desist
29 order.

30 (a) If any person violates the provisions of this Act, the
31 Director may, in the name of the People of the State of
32 Illinois, through the Attorney General, petition for an order
33 enjoining the violation or for an order enforcing compliance
34 with this Act. Upon the filing of a verified petition, the
35 court with appropriate jurisdiction may issue a temporary

1 restraining order without notice or bond, and may preliminarily
2 and permanently enjoin the violation. If it is established that
3 the person has violated or is violating the injunction, the
4 court may punish the offender for contempt of court.
5 Proceedings under this Section are in addition to all other
6 remedies and penalties provided by this Act.

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

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

21 Section 105. Investigations; notice and hearing. The
22 Department may investigate the actions of any applicant or any
23 person holding or claiming to hold a license. The Department
24 shall, before revoking, suspending, placing on probation,
25 reprimanding, or taking any other disciplinary action under
26 Section 95 of this Act, at least 30 days prior to the date set
27 for the hearing, (i) notify the accused, in writing, of any
28 charges made and the time and place for the hearing on the
29 charges, (ii) direct him or her to file a written answer to the
30 charges with the Board under oath within 20 days after service
31 of the notice, and (iii) inform the accused that, if he or she
32 fails to answer, default will be taken against him or her or
33 that his or her license or certificate may be suspended,
34 revoked, placed on probationary status, or other disciplinary
35 action taken with regard to the license, including limiting the

1 scope, nature, or extent of his or her practice, as the
2 Department may deem proper. In case the person, after receiving
3 notice, fails to file an answer, his or her license may, in the
4 discretion of the Department, be suspended, revoked, placed on
5 probationary status, or the Department may take whatever
6 disciplinary action deemed proper, including limiting the
7 scope, nature, or extent of the person's practice or the
8 imposition of a fine, without a hearing, if the act or acts
9 charged constitute sufficient grounds for such action under
10 this Act. The written notice may be served by personal delivery
11 or certified mail to the address specified by the accused in
12 his or her last notification to the Department.

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

25 Section 115. Subpoenas; depositions; oaths. The Department
26 has the power to subpoena and to bring before it any person and
27 to take testimony either orally or by deposition, or both, with
28 the same fees and mileage and in the same manner as prescribed
29 in civil cases in the courts of this State. The Director, the
30 designated hearing officer, and every member of the Board has
31 the power to administer oaths to witnesses at any hearing which
32 the Department is authorized to conduct, and any other oaths
33 authorized in any Act administered by the Department.

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

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

29 Section 130. Board; rehearing. At the conclusion of the
30 hearing, a copy of the Board's report shall be served upon the
31 applicant or licensee by the Department, either personally or
32 as provided in this Act for the service of the notice of
33 hearing. Within 20 days after such service, the applicant or
34 licensee may present to the Department a motion in writing for

1 a rehearing, which shall specify the particular grounds for
2 rehearing. If no motion for a rehearing is filed, then upon the
3 expiration of the time specified for filing such a motion, or
4 if a motion for rehearing is denied, then upon such denial, the
5 Director may enter an order in accordance with recommendations
6 of the Board, except as provided in Section 120 of this Act. If
7 the applicant or licensee requests and pays for a transcript of
8 the record within the time for filing a motion for rehearing,
9 the 20-day period within which a motion may be filed shall
10 commence upon the delivery of the transcript to the applicant
11 or licensee.

12 Section 135. Director; rehearing. Whenever the Director
13 believes justice has not been done in the revocation,
14 suspension, or refusal to issue or renew a license or the
15 discipline of a licensee, he or she may order a rehearing.

16 Section 140. Appointment of a hearing officer. The Director
17 has the authority to appoint any attorney licensed to practice
18 law in the State of Illinois to serve as the hearing officer in
19 any action for refusal to issue or renew a license or permit or
20 to discipline a licensee. The hearing officer has full
21 authority to conduct the hearing. At least one member of the
22 Board shall attend each hearing. The hearing officer shall
23 report his findings of fact, conclusions of law and
24 recommendations to the Board and to the Director. The Board
25 shall have 60 calendar days from receipt of the report to
26 review it and to present its findings of fact, conclusions of
27 law and recommendation to the Director. If the Board does not
28 present its report within the 60-day period, the Director may
29 issue an order based on the report of the hearing officer. If
30 the Director disagrees with the recommendation of the Board or
31 of the hearing officer, the Director may issue an order in
32 contravention of the recommendation. The Director shall
33 promptly provide a written explanation to the Board on any such
34 disagreement.

1 Section 145. Order or certified copy; prima facie proof.
2 An order or certified copy thereof, over the seal of the
3 Department and purporting to be signed by the Director, is
4 prima facie proof that:

- 5 (1) the signature is the genuine signature of the Director;
6 (2) the Director is duly appointed and qualified; and
7 (3) the Board and the members thereof are qualified to act.

8 Section 150. Restoration of suspended or revoked license.
9 At any time after the suspension or revocation of any license,
10 the Department may restore it to the licensee upon the written
11 recommendation of the Board, unless after an investigation and
12 hearing the Board determines that restoration is not in the
13 public interest.

14 Section 155. Surrender of license. Upon the revocation or
15 suspension of a license, the licensee shall immediately
16 surrender his or her license to the Department. If the licensee
17 fails to do so, the Department has the right to seize the
18 license.

19 Section 160. Summary suspension of license. The Director
20 may summarily suspend the license of a genetic counselor
21 without a hearing, simultaneously with the institution of
22 proceedings for a hearing provided for in Section 105 of this
23 Act, if the Director finds that evidence in the possession of
24 the Director indicates that the continuation of practice by the
25 genetic counselor would constitute an imminent danger to the
26 public. In the event that the Director summarily suspends the
27 license of an individual without a hearing, a hearing must be
28 held within 30 days after the suspension has occurred.

29 Section 165. Administrative review; venue.

30 (a) All final administrative decisions of the Department
31 are subject to judicial review pursuant to the Administrative

1 Review Law and its rules. The term "administrative decision" is
2 defined as in Section 3-101 of the Code of Civil Procedure.

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

7 Section 170. Certification of record; costs. The
8 Department shall not be required to certify any record to the
9 court, to file an answer in court, or to otherwise appear in
10 any court in a judicial review proceeding, unless there is
11 filed in the court, with the complaint, a receipt from the
12 Department acknowledging payment of the costs of furnishing and
13 certifying the record. Failure on the part of the plaintiff to
14 file the receipt in court is grounds for dismissal of the
15 action.

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

19 Section 180. Administrative Procedure Act; application.
20 The Illinois Administrative Procedure Act is hereby expressly
21 adopted and incorporated in this Act as if all of the
22 provisions of such Act were included in this Act.

23 Section 185. Home rule. The regulation and licensing of
24 genetic counselors are exclusive powers and functions of the
25 State. A home rule unit may not regulate or license genetic
26 counselors. This Section is a denial and limitation of home
27 rule powers and functions under subsection (h) of Section 6 of
28 Article VII of the Illinois Constitution.