



Sen. Richard J. Winkel Jr.

Filed: 5/26/2004

09300HB4200sam002

LRB093 18959 AMC 51469 a

1 AMENDMENT TO HOUSE BILL 4200

2 AMENDMENT NO. _____. Amend House Bill 4200, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

7 Section 5. Declaration of public policy. The mapping of
8 the human genome continues to result in the rapid expansion of
9 genetic knowledge and a proliferation of testing for genetic
10 conditions. This has created a need for qualified genetics
11 professionals, including genetic counselors, to coordinate an
12 assessment, to deliver accurate information to families, to
13 assist the families in adjusting to the implications of their
14 diagnoses, 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

1 by persons licensed to practice genetic counseling.

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

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

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

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

8 "Department" means the Department of Professional
9 Regulation.

10 "Director" means the Director of Professional Regulation.

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

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

26 "Genetic counseling" consists of the following:

27 (A) Estimating the likelihood of occurrence or
28 recurrence of a birth defect or of any potentially
29 inherited or genetically influenced condition. This
30 assessment may involve:

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

33 (ii) reviewing pertinent medical records;

1 (iii) evaluating the risks from exposure to
2 possible mutagens or teratogens;

3 (iv) recommending genetic testing or other
4 evaluations to diagnose a condition or determine the
5 carrier status of one or more family members;

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

16 (C) Facilitating an individual's or family's (i)
17 exploration of the perception of risk and burden associated
18 with the disorder and (ii) adjustment and adaptation to the
19 condition 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 "Person" means an individual, association, partnership, or
24 corporation.

25 "Qualified supervisor" means any person who is a licensed
26 genetic counselor, as defined by rule, or a physician licensed
27 to practice medicine in all its branches. A qualified
28 supervisor may be provided at the applicant's place of work, or
29 may be contracted by the applicant to provide supervision. The
30 qualified supervisor shall file written documentation to the
31 Department of employment, discharge, or supervisory control of
32 a genetic counselor at the time of employment, discharge, or
33 assumption of supervision of a genetic counselor.

34 "Supervision" means review of aspects of genetic

1 counseling and case management in a bimonthly meeting with the
2 person under supervision.

3 Section 15. Exemptions.

4 (a) This Act does not prohibit any persons legally
5 regulated in this State by any other Act from engaging in the
6 practice for which they are authorized as long as they do not
7 represent themselves by the title of "genetic counselor" or
8 "licensed genetic counselor". This Act does not prohibit the
9 practice of nonregulated professions whose practitioners are
10 engaged in the delivery of human services as long as these
11 practitioners do not represent themselves as or use the title
12 of "genetic counselor" or "licensed genetic counselor".

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

31 (c) Corporations, partnerships, and associations may
32 employ students, interns, or post-degree candidates seeking to
33 fulfill educational requirements or the professional

1 experience requirements needed to qualify for a license under
2 this Act if their activities and services constitute a part of
3 the student's supervised course of study or post-degree
4 professional experience requirements. Nothing in this
5 subsection shall prohibit a corporation, partnership, or
6 association from contracting with a licensed health care
7 professional to provide services that they are licensed to
8 provide.

9 (d) Nothing in this Act shall prevent the employment, by a
10 genetic counselor, person, association, partnership, or
11 corporation furnishing genetic counseling services for
12 remuneration, of persons not licensed as genetic counselors
13 under this Act to perform services in various capacities as
14 needed, if these persons are not in any manner held out to the
15 public or do not hold themselves out to the public by any title
16 or designation stating or implying that they are genetic
17 counselors.

18 (e) Nothing in this Act shall be construed to limit the
19 services of a person, not licensed under the provisions of this
20 Act, in the employ of a federal, State, county, or municipal
21 agency or other political subdivision or not-for-profit
22 corporation providing human services if (i) the services are a
23 part of the duties in his or her salaried position, (ii) the
24 services are performed solely on behalf of his or her employer,
25 and (iii) that person does not in any manner represent himself
26 or herself as or use the title of "genetic counselor" or
27 "licensed genetic counselor".

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

32 (g) Nothing in this Act shall be construed to require or
33 prohibit any hospital, clinic, home health agency, hospice, or
34 other entity that provides health care to employ or to contract

1 with a person licensed under this Act to provide genetic
2 counseling services.

3 (h) Nothing in this Act shall be construed to prevent any
4 licensed social worker, licensed clinical social worker,
5 licensed clinical psychologist, licensed professional
6 counselor, or licensed clinical professional counselor from
7 practicing professional counseling as long as that person is
8 not in any manner held out to the public as a "genetic
9 counselor" or "licensed genetic counselor" or does not hold out
10 his or her services as being genetic counseling.

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

17 (j) Nothing in the Act shall prohibit a visiting ABGC or
18 ABMG certified genetic counselor from outside the State working
19 as a consultant, or organizations from outside the State
20 employing ABGC or ABMG certified genetic counselors providing
21 occasional services, who are not licensed under this Act, from
22 engaging in the practice of genetic counseling subject to the
23 stated circumstances and limitations.

24 Section 20. Restrictions and limitations.

25 (a) Beginning on January 1, 2006, except as provided in
26 Section 15, no person shall, without a valid license as a
27 genetic counselor issued by the Department (i) in any manner
28 hold himself or herself out to the public as a genetic
29 counselor under this Act; (ii) use in connection with his or
30 her name or place of business the title "genetic counselor",
31 "licensed genetic counselor", "gene counselor", "genetic
32 consultant", or "genetic associate" or any words, letters,
33 abbreviations, or insignia indicating or implying a person has

1 met the qualifications for or has the license issued under this
2 Act; or (iii) offer to render or render to individuals,
3 corporations, or the public genetic counseling services if the
4 words "genetic counselor" or "licensed genetic counselor" are
5 used to describe the person offering to render or rendering
6 them, or "genetic counseling" is used to describe the services
7 rendered or offered to be rendered.

8 (b) Beginning on January 1, 2006, no licensed genetic
9 counselor may provide genetic counseling to individuals
10 couples, groups, or families without a written referral from a
11 physician licensed to practice medicine in all its branches, an
12 advanced practice nurse who has a collaborative agreement with
13 a collaborating physician that authorizes referrals to a
14 genetic counselor, or a physician assistant who has been
15 delegated authority to make referrals to genetic counselors.
16 The physician, advanced practice nurse, or physician assistant
17 shall maintain supervision of the patient and be provided
18 written reports on the services provided by the licensed
19 genetic counselor. Genetic testing shall be ordered by a
20 physician licensed to practice medicine in all its branches.
21 Genetic test reports shall be provided to the referring
22 physician, advanced practice nurse, or physician assistant.
23 General seminars or talks to groups or organizations on genetic
24 counseling that do not include individual, couple, or family
25 specific counseling may be conducted without a referral.

26 (c) Beginning on January 1, 2006, no association or
27 partnership shall practice genetic counseling unless every
28 member, partner, and employee of the association or partnership
29 who practices genetic counseling or who renders genetic
30 counseling services holds a valid license issued under this
31 Act. No license shall be issued to a corporation, the stated
32 purpose of which includes or which practices or which holds
33 itself out as available to practice genetic counseling, unless
34 it is organized under the Professional Service Corporation Act.

1 (d) 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 (e) Nothing in this Act shall be construed to authorize a
6 licensed genetic counselor to diagnose, test, or treat any
7 genetic or other disease or condition.

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

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

16 (a) Beginning on January 1, 2006, any person who practices,
17 offers to practice, attempts to practice, or holds himself or
18 herself out to practice as a genetic counselor without being
19 licensed or exempt under this Act shall, in addition to any
20 other penalty provided by law, pay a civil penalty to the
21 Department in an amount not to exceed \$5,000 for each offense,
22 as determined by the Department. Civil penalty shall be
23 assessed by the Department after a hearing is held in
24 accordance with the provisions set forth in this Act regarding
25 the provision of a hearing for the discipline of a licensee.

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

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

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

3 (a) authorize examinations to ascertain the qualifications
4 and fitness of applicants for licensing as genetic counselors
5 and pass upon the qualifications of applicants for licensure by
6 endorsement;

7 (b) conduct hearings on proceedings to refuse to issue or
8 renew or to revoke licenses or suspend, place on probation,
9 censure, or reprimand persons licensed under this Act, and to
10 refuse to issue or renew or to revoke licenses, or suspend,
11 place on probation, censure, or reprimand persons licensed
12 under this Act.

13 (c) adopt rules necessary for the administration of this
14 Act; and

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

20 Section 40. Application for original license. Applications
21 for original licenses shall be made to the Department on forms
22 prescribed by the Department and accompanied by the required
23 fee, which is not refundable. All applications shall contain
24 such information that, in the judgment of the Department, will
25 enable the Department to pass on the qualifications of the
26 applicant for a license to practice as a genetic counselor.

27 Section 45. Social Security Number on license application.
28 In addition to any other information required to be contained
29 in the application, every application for an original, renewal,
30 or restored license under this Act shall include the
31 applicant's Social Security Number.

1 Section 50. Examination; failure or refusal to take
2 examination.

3 (a) Applicants for genetic counseling licensure must
4 provide evidence that they have successfully completed the
5 certification examination provided by the ABGC or ABMG, if they
6 are master's degree trained genetic counselors, or the ABMG, if
7 they are PhD trained medical geneticists; or successfully
8 completed the examination provided by the successor agencies of
9 the ABGC or ABMG. The examinations shall be of a character to
10 fairly test the competence and qualifications of the applicants
11 to practice genetic counseling.

12 (b) If an applicant neglects, fails, or refuses to take an
13 examination or fails to pass an examination for a license under
14 this Act within 2 exam cycles after receiving a temporary
15 license, the application will be denied. However, such
16 applicant may thereafter make a new application for license
17 only if the applicant provides documentation of passing the
18 certification examination offered through the ABGC or ABMG or
19 their successor agencies and satisfies the requirements then in
20 existence for a license.

21 Section 55. Qualifications for licensure. A person shall be
22 qualified for licensure as a genetic counselor and the
23 Department shall issue a license if that person:

24 (1) has applied in writing in form and substance
25 satisfactory to the Department; is at least 21 years of
26 age;

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

29 (3) has not violated any of the provisions of Sections
30 20 or 25 of this Act or the rules promulgated thereunder.
31 The Department may take into consideration any felony
32 conviction of the applicant but such conviction shall not
33 operate as an absolute bar to licensure;

1 (4) has provided documentation of the successful
2 completion of the certification examination and current
3 certification provided by the American Board of Genetic
4 Counseling or the American Board of Medical Genetics, or
5 their successor agencies; and

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

7 Section 60. Temporary licensure.

8 (a) A person shall be qualified for temporary licensure as
9 a genetic counselor and the Department shall issue a temporary
10 license if that person:

11 (1) has successfully completed a Master's degree in
12 genetic counseling from an ABGC or ABMG accredited training
13 program or its equivalent as established by the ABGC or is
14 a physician or has a doctoral degree and has successfully
15 completed an ABMG accredited medical genetics training
16 program or its equivalent as established by the ABMG;

17 (2) Has submitted evidence to the Department of active
18 candidate status for the certifying examination
19 administered by the ABGC or the ABMG or their successor
20 agencies; and

21 (3) has made application to the Department and paid the
22 required fees.

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

28 (c) Under no circumstances shall an applicant continue to
29 practice on the temporary license for more than 30 days after
30 notification that he or she has not passed the examination
31 within 2 exam cycles after receiving the temporary license.
32 However, the applicant may thereafter make a new application to
33 the Department for a license satisfying the requirements then

1 in existence for a license.

2 Section 65. Licenses; renewal; restoration; person in
3 military service; inactive status.

4 (a) The expiration date and renewal period for each license
5 issued under this Act shall be set by rule. The licensee may
6 renew a license during the 30-day period preceding its
7 expiration date by paying the required fee and demonstrating
8 compliance with continuing education requirements established
9 by rule.

10 (b) Any person who has permitted a license to expire or who
11 has a license on inactive status may have it restored by
12 submitting an application to the Department and filing proof of
13 fitness, as defined by rule, to have the license restored,
14 including, if appropriate, evidence which is satisfactory to
15 the Department certifying the active practice of genetic
16 counseling in another jurisdiction, and by paying the required
17 fee.

18 (c) If the person has not maintained an active practice in
19 another jurisdiction that is satisfactory to the Department,
20 the Department shall determine the person's fitness to resume
21 active status. The Department may also require the person to
22 complete a specific period of evaluated genetic counseling work
23 experience under the supervision of a qualified clinical
24 supervisor and may require demonstration of completion of
25 continuing education requirements.

26 (d) Any person whose license expired while on active duty
27 with the armed forces of the United States, while called into
28 service or training with the State Militia, or while in
29 training or education under the supervision of the United
30 States government prior to induction into military service may
31 have his license restored without paying any renewal fees if,
32 within 2 years after the termination of such service, training,
33 or education, except under conditions other than honorable, the

1 Department is furnished with satisfactory evidence that the
2 person has been so engaged and that such service, training, or
3 education has been so terminated.

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

8 Section 70. Implementation; transitional periods.

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

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

22 Section 75. Fees; deposit of fees. The fees imposed under
23 this Act shall be set by rule and are not refundable. All of
24 the fees collected under this Act shall be deposited into the
25 General Professions Dedicated Fund.

26 Section 80. Checks or orders dishonored. Any person who
27 issues or delivers a check or other order to the Department
28 that is returned to the Department unpaid by the financial
29 institution upon which it is drawn shall pay to the Department,
30 in addition to the amount already owed to the Department, a
31 fine of \$50. The fines imposed by this Section are in addition

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

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

32 Section 90. Privileged communications and exceptions.

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

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

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

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

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

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

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

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

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

3 (12) Habitual or excessive use or addiction to alcohol,
4 narcotics, stimulants, or any other chemical agent or drug
5 which results in inability to practice with reasonable
6 skill, judgment, or safety.

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

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

15 (15) A finding by the Department that the licensee,
16 after having the license placed on probationary status has
17 violated the terms of probation

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

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

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

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

1 (20) Physical or mental disability, including
2 deterioration through the aging process or loss of
3 abilities and skills which results in the inability to
4 practice the profession with reasonable judgment, skill,
5 or safety.

6 (21) Solicitation of professional services by using
7 false or misleading advertising.

8 (22) Failure to file a return, or to pay the tax,
9 penalty of interest shown in a filed return, or to pay any
10 final assessment of tax, penalty or interest, as required
11 by any tax Act administered by the Illinois Department of
12 Revenue or any successor agency or the Internal Revenue
13 Service or any successor agency.

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

16 (24) Practicing or attempting to practice under a name
17 other than the full name as shown on the license or any
18 other legally authorized name.

19 (25) Gross overcharging for professional services,
20 including filing statements for collection of fees or
21 monies for which services are not rendered.

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

29 (c) The determination by a court that a licensee is subject
30 to involuntary admission or judicial admission as provided in
31 the Mental Health and Developmental Disabilities Code will
32 result in an automatic suspension of his or her license. The
33 suspension will end upon a finding by a court that the licensee
34 is no longer subject to involuntary admission or judicial

1 admission, the issuance of an order so finding and discharging
2 the patient, and the determination of the Director that the
3 licensee be allowed to resume professional practice.

4 Section 100. Violations; injunction; cease and desist
5 order.

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

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

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

32 Section 105. Investigations; notice and hearing. The

1 Department may investigate the actions of any applicant or any
2 person holding or claiming to hold a license. The Department
3 shall, before revoking, suspending, placing on probation,
4 reprimanding, or taking any other disciplinary action under
5 Section 95 of this Act, at least 30 days prior to the date set
6 for the hearing, (i) notify the accused, in writing, of any
7 charges made and the time and place for the hearing on the
8 charges, (ii) direct him or her to file a written answer to the
9 charges with the Department under oath within 20 days after
10 service of the notice, and (iii) inform the accused that, if he
11 or she fails to answer, default will be taken against him or
12 her or that his or her license or certificate may be suspended,
13 revoked, placed on probationary status, or other disciplinary
14 action taken with regard to the license, including limiting the
15 scope, nature, or extent of his or her practice, as the
16 Department may deem proper. In case the person, after receiving
17 notice, fails to file an answer, his or her license may, in the
18 discretion of the Department, be suspended, revoked, placed on
19 probationary status, or the Department may take whatever
20 disciplinary action deemed proper, including limiting the
21 scope, nature, or extent of the person's practice or the
22 imposition of a fine, without a hearing, if the act or acts
23 charged constitute sufficient grounds for such action under
24 this Act. The written notice may be served by personal delivery
25 or certified mail to the address specified by the accused in
26 his or her last notification to the Department.

27 Section 110. Record of proceedings; transcript. The
28 Department, at its expense, shall preserve a record of all
29 proceedings at the formal hearing of any case. The notice of
30 hearing, complaint, all other documents in the nature of
31 pleadings, written motions filed in the proceedings, the
32 transcript of testimony, the report of the hearing officer and
33 orders of the Department shall be in the record of such

1 proceeding. The Department shall furnish a transcript of the
2 record to any person interested in the hearing upon payment of
3 the fee required under Section 2105-115 of the Department of
4 Professional Regulation Law of the Civil Administrative Code of
5 Illinois.

6 Section 115. Subpoenas; depositions; oaths. The Department
7 has the power to subpoena and to bring before it any person and
8 to take testimony either orally or by deposition, or both, with
9 the same fees and mileage and in the same manner as prescribed
10 in civil cases in the courts of this State. The Director and
11 the designated hearing officer has the power to administer
12 oaths to witnesses at any hearing which the Department is
13 authorized to conduct, and any other oaths authorized in any
14 Act administered by the Department.

15 Section 120. Compelling testimony. Any court, upon
16 application of the Department, designated hearing officer, or
17 the applicant or licensee against whom proceedings under
18 Section 95 of this Act are pending, may enter an order
19 requiring the attendance of witnesses and their testimony and
20 the production of documents, papers, files, books, and records
21 in connection with any hearing or investigation. The court may
22 compel obedience to its order by proceedings for contempt.

23 Section 125. Findings and recommendations. At the
24 conclusion of the hearing, the hearing officer shall present to
25 the Director a written report of its findings of fact,
26 conclusions of law, and recommendations. The report shall
27 contain a finding whether the licensee violated this Act or
28 failed to comply with the conditions required in this Act. The
29 hearing officer shall specify the nature of the violation or
30 failure to comply, and shall make its recommendations to the
31 Director. The report of findings of fact, conclusions of law,

1 and recommendation of the hearing officer shall be the basis
2 for the Department's order for refusal or for the granting of
3 the license. If the Director disagrees with the recommendations
4 of the hearing officer, the Director may issue an order in
5 contravention of the hearing officer's recommendations. The
6 finding is not admissible in evidence against the person in a
7 criminal prosecution brought for the violation of this Act, but
8 the hearing and findings are not a bar to a criminal
9 prosecution brought for the violation of this Act.

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

14 Section 140. Appointment of a hearing officer. The Director
15 has the authority to appoint any attorney licensed to practice
16 law in the State of Illinois to serve as the hearing officer in
17 any action for refusal to issue or renew a license or permit or
18 to discipline a licensee. The hearing officer has full
19 authority to conduct the hearing. The hearing officer shall
20 report his findings of fact, conclusions of law, and
21 recommendations to the Director.

22 Section 145. Order or certified copy; prima facie proof.
23 An order or certified copy thereof, over the seal of the
24 Department and purporting to be signed by the Director, is
25 prima facie proof that:

- 26 (1) the signature is the genuine signature of the Director;
27 and
28 (2) the Director is duly appointed and qualified.

29 Section 150. Restoration of suspended or revoked license.
30 At any time after the suspension or revocation of any license,

1 the Department may restore it to the licensee, unless after an
2 investigation and hearing the Director determines that
3 restoration is not in the public interest.

4 Section 155. Surrender of license. Upon the revocation or
5 suspension of a license, the licensee shall immediately
6 surrender his or her license to the Department. If the licensee
7 fails to do so, the Department has the right to seize the
8 license.

9 Section 160. Summary suspension of license. The Director
10 may summarily suspend the license of a genetic counselor
11 without a hearing, simultaneously with the institution of
12 proceedings for a hearing provided for in Section 105 of this
13 Act, if the Director finds that evidence in the possession of
14 the Director indicates that the continuation of practice by the
15 genetic counselor would constitute an imminent danger to the
16 public. In the event that the Director summarily suspends the
17 license of an individual without a hearing, a hearing must be
18 held within 30 days after the suspension has occurred.

19 Section 165. Administrative review; venue.

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

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

28 Section 170. Certification of record; costs. The
29 Department shall not be required to certify any record to the
30 court, to file an answer in court, or to otherwise appear in

1 any court in a judicial review proceeding, unless there is
2 filed in the court, with the complaint, a receipt from the
3 Department acknowledging payment of the costs of furnishing and
4 certifying the record. Failure on the part of the plaintiff to
5 file the receipt in court is grounds for dismissal of the
6 action.

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

10 Section 180. Administrative Procedure Act; application.
11 The Illinois Administrative Procedure Act is hereby expressly
12 adopted and incorporated in this Act as if all of the
13 provisions of such Act were included in this Act.

14 Section 185. Home rule. The regulation and licensing of
15 genetic counselors are exclusive powers and functions of the
16 State. A home rule unit may not regulate or license genetic
17 counselors. This Section is a denial and limitation of home
18 rule powers and functions under subsection (h) of Section 6 of
19 Article VII of the Illinois Constitution.

20 Section 900. The Regulatory Sunset Act is amended by adding
21 Section 4.25 as follows:

22 (5 ILCS 80/4.25 new)

23 Sec. 4.25. Act repealed on January 1, 2015. The following
24 Act is repealed on January 1, 2015:

25 The Genetic Counselor Licensing Act.

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

1 (325 ILCS 5/4) (from Ch. 23, par. 2054)

2 Sec. 4. Persons required to report; privileged
3 communications; transmitting false report. Any physician,
4 resident, intern, hospital, hospital administrator and
5 personnel engaged in examination, care and treatment of
6 persons, surgeon, dentist, dentist hygienist, osteopath,
7 chiropractor, podiatrist, physician assistant, substance abuse
8 treatment personnel, funeral home director or employee,
9 coroner, medical examiner, emergency medical technician,
10 acupuncturist, crisis line or hotline personnel, school
11 personnel, educational advocate assigned to a child pursuant to
12 the School Code, truant officers, social worker, social
13 services administrator, domestic violence program personnel,
14 registered nurse, licensed practical nurse, genetic counselor,
15 respiratory care practitioner, advanced practice nurse, home
16 health aide, director or staff assistant of a nursery school or
17 a child day care center, recreational program or facility
18 personnel, law enforcement officer, licensed professional
19 counselor, licensed clinical professional counselor,
20 registered psychologist and assistants working under the
21 direct supervision of a psychologist, psychiatrist, or field
22 personnel of the Illinois Department of Public Aid, Public
23 Health, Human Services (acting as successor to the Department
24 of Mental Health and Developmental Disabilities,
25 Rehabilitation Services, or Public Aid), Corrections, Human
26 Rights, or Children and Family Services, supervisor and
27 administrator of general assistance under the Illinois Public
28 Aid Code, probation officer, or any other foster parent,
29 homemaker or child care worker having reasonable cause to
30 believe a child known to them in their professional or official
31 capacity may be an abused child or a neglected child shall
32 immediately report or cause a report to be made to the
33 Department.

34 Any member of the clergy having reasonable cause to believe

1 that a child known to that member of the clergy in his or her
2 professional capacity may be an abused child as defined in item
3 (c) of the definition of "abused child" in Section 3 of this
4 Act shall immediately report or cause a report to be made to
5 the Department.

6 Whenever such person is required to report under this Act
7 in his capacity as a member of the staff of a medical or other
8 public or private institution, school, facility or agency, or
9 as a member of the clergy, he shall make report immediately to
10 the Department in accordance with the provisions of this Act
11 and may also notify the person in charge of such institution,
12 school, facility or agency, or church, synagogue, temple,
13 mosque, or other religious institution, or his designated agent
14 that such report has been made. Under no circumstances shall
15 any person in charge of such institution, school, facility or
16 agency, or church, synagogue, temple, mosque, or other
17 religious institution, or his designated agent to whom such
18 notification has been made, exercise any control, restraint,
19 modification or other change in the report or the forwarding of
20 such report to the Department.

21 The privileged quality of communication between any
22 professional person required to report and his patient or
23 client shall not apply to situations involving abused or
24 neglected children and shall not constitute grounds for failure
25 to report as required by this Act.

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

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

32 Any person who enters into employment on and after July 1,
33 1986 and is mandated by virtue of that employment to report
34 under this Act, shall sign a statement on a form prescribed by

1 the Department, to the effect that the employee has knowledge
2 and understanding of the reporting requirements of this Act.
3 The statement shall be signed prior to commencement of the
4 employment. The signed statement shall be retained by the
5 employer. The cost of printing, distribution, and filing of the
6 statement shall be borne by the employer.

7 The Department shall provide copies of this Act, upon
8 request, to all employers employing persons who shall be
9 required under the provisions of this Section to report under
10 this Act.

11 Any person who knowingly transmits a false report to the
12 Department commits the offense of disorderly conduct under
13 subsection (a)(7) of Section 26-1 of the "Criminal Code of
14 1961". Any person who violates this provision a second or
15 subsequent time shall be guilty of a Class 3 felony.

16 Any person who knowingly and willfully violates any
17 provision of this Section other than a second or subsequent
18 violation of transmitting a false report as described in the
19 preceding paragraph, is guilty of a Class A misdemeanor for a
20 first violation and a Class 4 felony for a second or subsequent
21 violation; except that if the person acted as part of a plan or
22 scheme having as its object the prevention of discovery of an
23 abused or neglected child by lawful authorities for the purpose
24 of protecting or insulating any person or entity from arrest or
25 prosecution, the person is guilty of a Class 4 felony for a
26 first offense and a Class 3 felony for a second or subsequent
27 offense (regardless of whether the second or subsequent offense
28 involves any of the same facts or persons as the first or other
29 prior offense).

30 A child whose parent, guardian or custodian in good faith
31 selects and depends upon spiritual means through prayer alone
32 for the treatment or cure of disease or remedial care may be
33 considered neglected or abused, but not for the sole reason
34 that his parent, guardian or custodian accepts and practices

1 such beliefs.

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

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

8 Section 999. Effective date. This Act takes effect upon
9 becoming law.".