

SB2985



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2985

Introduced 2/18/2016, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

225 ILCS 135/10
225 ILCS 135/20
225 ILCS 135/95

Amends the Genetic Counselor Licensing Act. Removes language prohibiting a genetic counselor from providing genetic counseling without a referral. Makes related changes.

LRB099 15645 MLM 39938 b

A BILL FOR

1 AN ACT concerning regulation.

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

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

6 (225 ILCS 135/10)

7 (Section scheduled to be repealed on January 1, 2025)

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

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

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

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

14 "Address of record" means the designated address recorded
15 by the Department in the applicant's or licensee's application
16 file or license file as maintained by the Department's
17 licensure maintenance unit. It is the duty of the applicant or
18 licensee to inform the Department of any change of address, and
19 those changes must be made either through the Department's
20 website or by contacting the Department.

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

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

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

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

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

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

23 (ii) reviewing pertinent medical records;

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

26 (iv) recommending genetic testing or other

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

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

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

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

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

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

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

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

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

1 ~~licensed to practice medicine in all its branches, a licensed~~
2 ~~advanced practice nurse, or a licensed physician assistant.~~

3 "Secretary" means the Secretary of Financial and
4 Professional Regulation.

5 "Supervision" means review of aspects of genetic
6 counseling and case management in a bimonthly meeting with the
7 person under supervision.

8 (Source: P.A. 98-813, eff. 1-1-15; 99-173, eff. 7-29-15.)

9 (225 ILCS 135/20)

10 (Section scheduled to be repealed on January 1, 2025)

11 Sec. 20. Restrictions and limitations.

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

1 is used to describe the services rendered or offered to be
2 rendered.

3 (b) (Blank). ~~No licensed genetic counselor may provide~~
4 ~~genetic counseling to individuals, couples, groups, or~~
5 ~~families without a referral from a physician licensed to~~
6 ~~practice medicine in all its branches, a licensed advanced~~
7 ~~practice nurse, or a licensed physician assistant. The~~
8 ~~physician, advanced practice nurse, or physician assistant~~
9 ~~shall maintain supervision of the patient and be provided~~
10 ~~timely written reports on the services, including genetic~~
11 ~~testing results, provided by the licensed genetic counselor.~~
12 ~~Genetic testing shall be ordered by a physician licensed to~~
13 ~~practice medicine in all its branches or a genetic counselor~~
14 ~~pursuant to a referral that gives the specific authority to~~
15 ~~order genetic tests. Genetic test results and reports shall be~~
16 ~~provided to the referring physician, advanced practice nurse,~~
17 ~~or physician assistant. General seminars or talks to groups or~~
18 ~~organizations on genetic counseling that do not include~~
19 ~~individual, couple, or family specific counseling may be~~
20 ~~conducted without a referral. In clinical settings, genetic~~
21 ~~counselors who serve as a liaison between family members of a~~
22 ~~patient and a genetic research project, may, with the consent~~
23 ~~of the patient, provide information to family members for the~~
24 ~~purpose of gathering additional information, as it relates to~~
25 ~~the patient, without a referral. In non-clinical settings where~~
26 ~~no patient is being treated, genetic counselors who serve as a~~

1 ~~liaison between a genetic research project and participants in~~
2 ~~that genetic research project may provide information to the~~
3 ~~participants, without a referral.~~

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

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

17 (e) Nothing in this Act shall be construed to authorize a
18 licensed genetic counselor to diagnose, ~~test~~ (unless
19 ~~authorized in a referral~~), or treat any genetic or other
20 disease or condition.

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

1 medicine in all of its branches.

2 (Source: P.A. 98-813, eff. 1-1-15; 99-173, eff. 7-29-15.)

3 (225 ILCS 135/95)

4 (Section scheduled to be repealed on January 1, 2025)

5 Sec. 95. Grounds for discipline.

6 (a) The Department may refuse to issue, renew, or may
7 revoke, suspend, place on probation, reprimand, or take other
8 disciplinary or non-disciplinary action as the Department
9 deems appropriate, including the issuance of fines not to
10 exceed \$10,000 for each violation, with regard to any license
11 for any one or more of the following:

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

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

16 (3) Conviction by plea of guilty or nolo contendere,
17 finding of guilt, jury verdict, or entry of judgment or
18 sentencing, including, but not limited to, convictions,
19 preceding sentences of supervision, conditional discharge,
20 or first offender probation, under the laws of any
21 jurisdiction of the United States: (i) that is a felony or
22 (ii) that is a misdemeanor, an essential element of which
23 is dishonesty, or that is directly related to the practice
24 of genetic counseling.

25 (4) Making any misrepresentation for the purpose of

1 obtaining a license, or violating any provision of this Act
2 or its rules.

3 (5) Negligence in the rendering of genetic counseling
4 services.

5 (6) Failure to provide genetic testing results and any
6 requested information to a referring physician licensed to
7 practice medicine in all its branches, advanced practice
8 nurse, or physician assistant.

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

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

13 (9) Engaging in dishonorable, unethical, or
14 unprofessional conduct of a character likely to deceive,
15 defraud, or harm the public and violating the rules of
16 professional conduct adopted by the Department.

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

20 (10.5) Failure to maintain client records of services
21 provided and provide copies to clients upon request.

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

24 (12) Habitual or excessive use or addiction to alcohol,
25 narcotics, stimulants, or any other chemical agent or drug
26 which results in inability to practice with reasonable

1 skill, judgment, or safety.

2 (13) Discipline by another governmental agency or unit
3 of government, by any jurisdiction of the United States, or
4 by a foreign nation, if at least one of the grounds for the
5 discipline is the same or substantially equivalent to those
6 set forth in this Section.

7 (14) Directly or indirectly giving to or receiving from
8 any person, firm, corporation, partnership, or association
9 any fee, commission, rebate, or other form of compensation
10 for any professional service not actually rendered.
11 Nothing in this paragraph (14) affects any bona fide
12 independent contractor or employment arrangements among
13 health care professionals, health facilities, health care
14 providers, or other entities, except as otherwise
15 prohibited by law. Any employment arrangements may include
16 provisions for compensation, health insurance, pension, or
17 other employment benefits for the provision of services
18 within the scope of the licensee's practice under this Act.
19 Nothing in this paragraph (14) shall be construed to
20 require an employment arrangement to receive professional
21 fees for services rendered.

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

25 (16) Failing to refer a client to other health care
26 professionals when the licensee is unable or unwilling to

1 adequately support or serve the client.

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

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

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

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

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

23 (22) Failure to file a return, or to pay the tax,
24 penalty of interest shown in a filed return, or to pay any
25 final assessment of tax, penalty or interest, as required
26 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) Fraud or making any misrepresentation in applying
4 for or procuring a license under this Act or in connection
5 with applying for renewal of a license under this Act.

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

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

12 (26) (Blank). ~~Providing genetic counseling services to~~
13 ~~individuals, couples, groups, or families without a~~
14 ~~referral from either a physician licensed to practice~~
15 ~~medicine in all its branches, a licensed advanced practice~~
16 ~~nurse, or a licensed physician assistant.~~

17 (27) Charging for professional services not rendered,
18 including filing false statements for the collection of
19 fees for which services are not rendered.

20 (28) Allowing one's license under this Act to be used
21 by an unlicensed person in violation of this Act.

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

1 default has established a satisfactory repayment record as
2 determined by the Illinois Student Assistance Commission.

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

12 (d) The Department may refuse to issue or renew or may
13 suspend without hearing the license of any person who fails to
14 file a return, to pay the tax penalty or interest shown in a
15 filed return, or to pay any final assessment of the tax,
16 penalty, or interest as required by any Act regarding the
17 payment of taxes administered by the Illinois Department of
18 Revenue until the requirements of the Act are satisfied in
19 accordance with subsection (g) of Section 2105-15 of the Civil
20 Administrative Code of Illinois.

21 (e) In cases where the Department of Healthcare and Family
22 Services has previously determined that a licensee or a
23 potential licensee is more than 30 days delinquent in the
24 payment of child support and has subsequently certified the
25 delinquency to the Department, the Department may refuse to
26 issue or renew or may revoke or suspend that person's license

1 or may take other disciplinary action against that person based
2 solely upon the certification of delinquency made by the
3 Department of Healthcare and Family Services in accordance with
4 item (5) of subsection (a) of Section 2105-15 of the Department
5 of Professional Regulation Law of the Civil Administrative Code
6 of Illinois.

7 (f) All fines or costs imposed under this Section shall be
8 paid within 60 days after the effective date of the order
9 imposing the fine or costs or in accordance with the terms set
10 forth in the order imposing the fine.

11 (Source: P.A. 98-813, eff. 1-1-15; 99-173, eff. 7-29-15.)