

CHAPTER 41

AN ACT concerning the licensure of genetic counselors, supplementing chapter 9 of Title 45 of the Revised Statutes and amending various parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.45:9-37.111 Short title.

1. This act shall be known and may be cited as the "Genetic Counselor's Licensing Act."

C.45:9-37.112 Findings, declarations relative to genetic counselors.

2. The Legislature finds that: the profession of genetic counseling has existed for more than 30 years. Genetic counseling is a communication process which deals with the human problems associated with the occurrence, or the risk of occurrence, of a genetic disorder, birth defect or mental retardation in a family. This process involves an attempt by one or more appropriately trained individuals to help an individual or family: comprehend the medical facts, including the diagnostic, probable course and available management of a disorder, as well as the risk of occurrence in specified relatives; understand the options for dealing with the risk of recurrence; choose the course of action that seems appropriate to that individual or family in view of the risk and the family goals and to act in accordance with that decision; and make the best possible adjustment to the disorder in affected family members and to the risk of occurrence or recurrence of the disorder.

The Legislature further finds that: the profession of genetic counseling profoundly affects the lives of the people of New Jersey; and informed individual decisions to undergo a genetic test and intellectually sound and emotionally healthy responses to the discovery of a genetic anomaly can be facilitated by professional genetic counseling; however, misuse of those same genetic tests or information used for individual decisions may result in inappropriate decision making, loss of privacy, discrimination, inappropriate medical referrals, and unnecessary emotional distress.

The Legislature declares, therefore, that this act is intended to protect the people of New Jersey by setting standards of qualification, education, training and experience for those persons seeking to practice and be licensed as genetic counselors and by promoting high standards of professional performance for those presently practicing as genetic counselors and for those who will be licensed to practice genetic counseling in the State.

C.45:9-37.113 Definitions relative to genetic counselors.

3. As used in this act:

"Board" means the State Board of Medical Examiners established pursuant to R.S.45:9-1.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Genetic counseling" means a communication process, conducted by one or more appropriately trained individuals, that may include: obtaining and interpreting individual, family, medical and developmental histories; determining the mode of inheritance and risk of transmission of genetic conditions and birth defects; discussing the inheritance features, natural history, means of diagnosis, and management of genetic conditions and birth defects; identifying, coordinating, interpreting, and explaining genetic laboratory tests and other diagnostic studies; assessing psychosocial factors, recognizing social, educational, and cultural issues; evaluating the client's or family's responses to the condition or risk of recurrence and providing client-centered counseling and anticipatory guidance; and facilitating informed decision making about testing, management, and alternatives.

"Genetic Counseling Advisory Committee" or "committee" means the Genetic Counseling Advisory Committee established pursuant to section 4 of this act.

"Genetic counselor" means a health professional with specialized education, training and experience in medical genetics who meets the requirements for licensure as provided in this act.

"Licensed genetic counselor" means a person who holds a current, valid license issued pursuant to section 9 of this act.

"Supervision" means the direct review of a supervisee for the purpose of teaching, training, administration, accountability or clinical review by a supervisor in the same area of specialized practice.

C.45:9-37.114 Genetic Counseling Advisory Committee.

4. There is established within the Division of Consumer Affairs in the Department of Law and Public Safety, under the State Board of Medical Examiners, a Genetic Counseling Advisory Committee. The committee shall consist of five members, appointed by the Governor, who shall be residents of this State. One member shall be a public member, one member shall be a physician licensed to practice medicine and surgery in this State, and three members shall be, except for those first appointed, genetic counselors licensed pursuant to this act. The genetic counselor members first appointed to the committee shall be genetic counselors certified by the American Board of Genetic Counseling or the American Board of Medical Genetics, or their successors.

The members shall be appointed for a term of three years, except that of the members first appointed, two shall be appointed for a term of one year, two shall be appointed for a term of two years and one shall be appointed for a term of three years. Each member shall serve until his successor has been qualified. Any vacancy in the membership of the committee shall be filled for the unexpired term in the same manner as the original appointments were made. No member shall serve for more than two consecutive terms in addition to any unexpired term to which he has been appointed. The Governor may remove a member of the committee for cause.

Members of the committee shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties in accordance with subsection a. of section 2 of P.L.1977, c.285 (C.45:1-2.5).

C.45:9-37.115 Powers, duties of Genetic Counseling Advisory Committee.

5. The Genetic Counseling Advisory Committee shall have the following powers and duties:

- a. Establish criteria and standards for education and experience required for licensure;
- b. Review the qualifications of applicants for licensure;
- c. Ensure proper conduct and standards of practice;
- d. Issue and renew licenses pursuant to this act;
- e. Establish standards for continuing education;
- f. Maintain a record of every genetic counselor licensed in this State;
- g. Establish fees, pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2), for examinations, licenses, including applications for licensure, renewals, and duplications of lost licenses, and other services performed by the committee;
- h. Suspend, revoke or decline to renew the license of a genetic counselor pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.); and
- i. Promulgate rules and regulations to carry out matters delegated to the committee by

the board concerning any provisions of this act, in conformance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

C.45:9-37.116 Organization of Genetic Counseling Advisory Committee.

6. The Genetic Counseling Advisory Committee shall organize within 30 days after the appointment of its members, and shall annually elect from among its members a chairperson, who shall be a genetic counselor, a vice-chairperson, and a secretary who need not be a member of the committee. The committee shall meet at least four times a year and may hold additional meetings as necessary to discharge its duties.

C.45:9-37.117 Licensure required for genetic counselors; exceptions.

7. Except as provided in this section, a person shall not engage in the practice of genetic counseling as a genetic counselor, or hold himself out as a genetic counselor unless the person is licensed in accordance with this act.

a. (1) Only an individual may be licensed to practice genetic counseling within the State. A firm, partnership, association or corporation shall not advertise or otherwise offer to provide or convey the impression that it is providing genetic counseling services unless an individual holding a current valid license pursuant to the provisions of this act shall be rendering the genetic counseling services.

(2) A person who is not licensed as a genetic counselor shall not use the title “genetic counselor,” “licensed genetic counselor,” “gene counselor,” “genetic consultant,” “genetic associate” or any words, abbreviations, acronyms, insignia or combination of words, abbreviations, acronyms or insignias of similar import in relation to the person’s name, occupation, or place of business.

b. The provisions of this act shall not prohibit an out-of-State genetic counselor from working as a consultant, or out-of-State employer or other organization from employing genetic counselors providing occasional services, who are not licensed pursuant to this act, from engaging in the practice of genetic counseling, subject to the stated circumstances and limitations as defined by the board, in consultation with the committee, by regulation, so long as the genetic counselor holds a license, if available, in the genetic counselor’s state of employment. If licensure is not available in the genetic counselor’s state of employment, the genetic counselor shall be certified by the American Board of Genetic Counseling or the American Board of Medical Genetics, or their successors, in order to practice genetic counseling without a State license in accordance with this subsection.

c. The provisions of this act shall not apply to:

(1) A person licensed by the State to practice medicine and surgery when acting within the scope of the person's profession and doing work of a nature consistent with the person's training, so long as the person does not hold himself out to the public as a genetic counselor;

(2) A person licensed by the State as a registered nurse when acting within the scope of the person's profession and doing work of a nature consistent with the person's training, so long as the person does not hold himself out to the public as a genetic counselor;

(3) A student candidate for a degree in genetic counseling, or its equivalent as approved by the board in consultation with the committee by regulation, enrolled in an educational program accredited by the American Board of Genetic Counseling or its successor, so long as the student is practicing as part of a supervised course of study and is clearly designated by the title “genetic counseling intern” or title of similar import; or

(4) A graduate with a degree in genetic counseling, or its equivalent as approved by the board in consultation with the committee by regulation, from an educational program

accredited by the American Board of Genetic Counseling or its successor, who has not passed the examination for licensure but otherwise has met all of the licensing requirements of this act, so long as: (a) the person does not hold himself out to the public as a licensed genetic counselor; (b) practices under the supervision of a licensed genetic counselor or geneticist; and (c) successfully passes the examination for licensure within the first two available examination cycles next following the filing of an application for licensure as a genetic counselor.

C.45:9-37.118 Minimum requirements for licensure as genetic counselor; application, fee; examination.

8. a. The board, in consultation with the committee, shall require at a minimum the following to qualify an applicant for licensure as a genetic counselor:

- (1) be at least 21 years of age;
- (2) be of good moral character;

(3) possession of a master's degree or higher degree in genetic counseling, or its equivalent as approved by the board in consultation with the committee by regulation, from an accredited institution of higher education; and

(4) the satisfaction of experience proficiencies required by the committee, which shall be at least equivalent to the standards of the American Board of Genetic Counseling, or its successor.

b. Each applicant shall submit an application for licensure, with an application fee, as prescribed by regulation.

c. Each applicant shall submit any additional information with the application for licensure, and include appropriate proofs, as required by regulation.

d. Each applicant shall have successfully completed an examination for licensure, the time, place, and contents of which shall be determined by the board, in consultation with the committee, by regulation. The board may prepare and administer the examination or provide for its preparation and administration through an approved organization.

e. If the applicant is licensed under the laws of another state, territory or jurisdiction of the United States which, in the opinion of the board, in consultation with the committee, imposes substantially the same licensing requirements as this act, the board may issue the applicant a license in accordance with the provisions of this act.

C.45:9-37.119 Issuance of license, renewal; surrender; continuing education.

9. a. A genetic counseling license shall be issued for a two-year period upon the payment of the licensing fee prescribed by regulation, and shall be renewed upon the filing of a renewal application and the payment of the licensing renewal fee.

b. A genetic counselor whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the board, shall promptly deliver the original license and current biennial registration to the board or committee.

c. Each applicant shall present satisfactory evidence when seeking license renewal that in the period since the license was issued or last renewed the applicant has satisfied continuing education requirements from an approved organization, which education requirements and approved organization criteria shall be established by the board, in consultation with the committee, by regulation. The continuing education requirements shall include, but not be limited to, instruction in genetics and medical ethics.

C.45:9-37.120 Disclosure of information by licensed genetic counselor.

10. A licensed genetic counselor shall not be required to disclose any confidential information that the genetic counselor may have acquired from a client or patient while performing genetic counseling services, unless:

- a. Disclosure is required by other federal or State law;
- b. The genetic counselor is a party to a civil, criminal or disciplinary action arising from the genetic counseling services provided, in which case a waiver of the privilege accorded by this section shall be limited to that action; or
- c. The patient or client is a defendant in a criminal proceeding and the use of the privilege would violate the defendant's right to present testimony and witnesses on that person's behalf.

A genetic counselor who discloses confidential information in violation of this section shall be liable for damages sustained by the patient or client about whom the information relates, as well as attorney's fees and costs of suit. Additionally, the genetic counselor may be subject to a penalty of not more than \$10,000 for each violation, or a penalty of not more than \$50,000 for a knowing violation or if the board finds that violations have occurred with enough frequency as to constitute a general business practice.

11. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as follows:

C.45:1-2.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the State Board of Physical Therapy Examiners, the Orthotics and Prosthetics Board of Examiners, the New Jersey Cemetery Board, the State Board of Polysomnography, the New Jersey Board of Massage and Bodywork Therapy, the Genetic Counseling Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

12. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as follows:

C.45:1-3.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science

of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the New Jersey Cemetery Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Orthotics and Prosthetics Board of Examiners, the New Jersey Board of Massage and Bodywork Therapy, the Genetic Counseling Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

13. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as follows:

C.45:1-15 Application of act.

2. The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Acupuncture Advisory Committee, the Alcohol and Drug Counselor Committee, the Athletic Training Advisory Committee, the Certified Psychoanalysts Advisory Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Interior Design Examination and Evaluation Committee, the Hearing Aid Dispensers Examining Committee, the Landscape Architect Examination and Evaluation Committee, the Perfusionists Advisory Committee, the Physician Assistant Advisory Committee, the Audiology and Speech-Language Pathology Advisory Committee, the New Jersey Board of Massage and Bodywork Therapy, the Genetic Counseling Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

14. Section 4 of this act shall take effect immediately, and the remainder of this act shall take effect on the 365th day after enactment; but the board, in consultation with the committee, may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved April 15, 2009.