

AN ACT concerning professional regulation.

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

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

Section 5. Declaration of public policy. The mapping of the human genome continues to result in the rapid expansion of genetic knowledge and a proliferation of testing for genetic conditions. This has created a need for qualified genetics professionals, including genetic counselors, to coordinate an assessment, to deliver accurate information to families, to assist the families in adjusting to the implications of their diagnoses, and to help ensure that genetic information is used appropriately in the delivery of medical care. Therefore, the practice of genetic counseling is declared to affect the public health, safety, and welfare and to be subject to regulation in the public interest. The purpose of the Act is to protect and benefit the public by setting standards of qualifications, education, training, and experience for those who seek to obtain a license and hold the title of genetic counselor, to promote high standards of professional performance for those licensed to practice genetic counseling in the State of Illinois, and to protect the public from unprofessional conduct by persons licensed to practice genetic counseling.

Section 10. Definitions. As used in this Act:

"ABGC" means the American Board of Genetic Counseling.

"ABMG" means the American Board of Medical Genetics.

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

"Department" means the Department of Professional

Regulation.

"Director" means the Director of Professional Regulation.

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

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

"Genetic counseling" consists of the following:

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

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

(ii) reviewing pertinent medical records;

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

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

(B) Helping the individual, family, health care provider, or health care professional (i) appreciate the medical, psychological and social implications of a disorder, including its features, variability, usual course and management options, (ii) learn how genetic factors contribute to the disorder and affect the chance

for recurrence of the condition in other family members, and (iii) understand available options for coping with, preventing, or reducing the chance of occurrence or recurrence of a condition.

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

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

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

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

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

Section 15. Exemptions.

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

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

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

(d) Nothing in this Act shall prevent the employment, by a genetic counselor, person, association, partnership, or corporation furnishing genetic counseling services for remuneration, of persons not licensed as genetic counselors under this Act to perform services in various capacities as needed, if these persons are not in any manner held out to the public or do not hold themselves out to the public by any title

or designation stating or implying that they are genetic counselors.

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

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

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

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

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

(j) Nothing in the Act shall prohibit a visiting ABGC or

ABMG certified genetic counselor from outside the State working as a consultant, or organizations from outside the State employing ABGC or ABMG certified genetic counselors providing occasional services, who are not licensed under this Act, from engaging in the practice of genetic counseling subject to the stated circumstances and limitations.

Section 20. Restrictions and limitations.

(a) Beginning on January 1, 2006, except as provided in Section 15, no person shall, without a valid license as a genetic counselor issued by the Department (i) in any manner hold himself or herself out to the public as a genetic counselor under this Act; (ii) use in connection with his or her name or place of business the title "genetic counselor", "licensed genetic counselor", "gene counselor", "genetic consultant", or "genetic associate" or any words, letters, abbreviations, or insignia indicating or implying a person has met the qualifications for or has the license issued under this Act; or (iii) offer to render or render to individuals, corporations, or the public genetic counseling services if the words "genetic counselor" or "licensed genetic counselor" are used to describe the person offering to render or rendering them, or "genetic counseling" is used to describe the services rendered or offered to be rendered.

(b) Beginning on January 1, 2006, no licensed genetic counselor may provide genetic counseling to individuals, couples, groups, or families without a written referral from a physician licensed to practice medicine in all its branches, an advanced practice nurse who has a collaborative agreement with a collaborating physician that authorizes referrals to a genetic counselor, or a physician assistant who has been delegated authority to make referrals to genetic counselors. The physician, advanced practice nurse, or physician assistant shall maintain supervision of the patient and be provided written reports on the services provided by the licensed genetic counselor. Genetic testing shall be ordered by a

physician licensed to practice medicine in all its branches. Genetic test reports shall be provided to the referring physician, advanced practice nurse, or physician assistant. General seminars or talks to groups or organizations on genetic counseling that do not include individual, couple, or family specific counseling may be conducted without a referral.

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

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

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

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

Section 25. Unlicensed practice; violation; civil penalty.

(a) Beginning on January 1, 2006, any person who practices, offers to practice, attempts to practice, or holds himself or herself out to practice as a genetic counselor without being licensed or exempt under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the

Department in an amount not to exceed \$5,000 for each offense, as determined by the Department. Civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

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

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

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

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

(b) conduct hearings on proceedings to refuse to issue or renew or to revoke licenses or suspend, place on probation, censure, or reprimand persons licensed under this Act, and to refuse to issue or renew or to revoke licenses, or suspend, place on probation, censure, or reprimand persons licensed under this Act;

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

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

Section 40. Application for original license. Applications for original licenses shall be made to the Department on forms prescribed by the Department and accompanied by the required

fee, which is not refundable. All applications shall contain such information that, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant for a license to practice as a genetic counselor.

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

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

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

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

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

(1) has applied in writing in form and substance

satisfactory to the Department; is at least 21 years of age;

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

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

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

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

Section 60. Temporary licensure.

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

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

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

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

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

whichever comes first.

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

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

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

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

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

(d) Any person whose license expired while on active duty with the armed forces of the United States, while called into service or training with the State Militia, or while in

training or education under the supervision of the United States government prior to induction into military service may have his license restored without paying any renewal fees if, within 2 years after the termination of such service, training, or education, except under conditions other than honorable, the Department is furnished with satisfactory evidence that the person has been so engaged and that such service, training, or education has been so terminated.

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

Section 70. Implementation; transitional periods.

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

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

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

Section 80. Checks or orders dishonored. Any person who issues or delivers a check or other order to the Department that is returned to the Department unpaid by the financial

institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act prohibiting unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days after notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or certification or deny the application, without hearing. If, after termination or denial, the person seeks a license or certificate, he or she shall apply to the Department for restoration or issuance of the license or certificate and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all costs and expenses of processing of this application. The Director may waive the fines due under this Section in individual cases where the Director finds that the fines would be unnecessarily burdensome.

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

Section 90. Privileged communications and exceptions.

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

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

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

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

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

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

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

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

Section 95. Grounds for discipline.

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

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

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

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

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

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

(6) Gross or repeated negligence.

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

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

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

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

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

(12) Habitual or excessive use or addiction to alcohol,

narcotics, stimulants, or any other chemical agent or drug which results in inability to practice with reasonable skill, judgment, or safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) If any person violates the provisions of this Act, the

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

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

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

Section 105. Investigations; notice and hearing. The Department may investigate the actions of any applicant or any person holding or claiming to hold a license. The Department shall, before revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary action under Section 95 of this Act, at least 30 days prior to the date set for the hearing, (i) notify the accused, in writing, of any charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges with the Department under oath within 20 days after

service of the notice, and (iii) inform the accused that, if he or she fails to answer, default will be taken against him or her or that his or her license or certificate may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the license, including limiting the scope, nature, or extent of his or her practice, as the Department may deem proper. In case the person, after receiving notice, fails to file an answer, his or her license may, in the discretion of the Department, be suspended, revoked, placed on probationary status, or the Department may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. The written notice may be served by personal delivery or certified mail to the address specified by the accused in his or her last notification to the Department.

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

Section 115. Subpoenas; depositions; oaths. The Department has the power to subpoena and to bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State. The Director and

the designated hearing officer has the power to administer oaths to witnesses at any hearing which the Department is authorized to conduct, and any other oaths authorized in any Act administered by the Department.

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

Section 125. Findings and recommendations. At the conclusion of the hearing, the hearing officer shall present to the Director a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether the licensee violated this Act or failed to comply with the conditions required in this Act. The hearing officer shall specify the nature of the violation or failure to comply, and shall make its recommendations to the Director. The report of findings of fact, conclusions of law, and recommendation of the hearing officer shall be the basis for the Department's order for refusal or for the granting of the license. If the Director disagrees with the recommendations of the hearing officer, the Director may issue an order in contravention of the hearing officer's recommendations. The finding is not admissible in evidence against the person in a criminal prosecution brought for the violation of this Act, but the hearing and findings are not a bar to a criminal prosecution brought for the violation of this Act.

Section 135. Director; rehearing. Whenever the Director believes justice has not been done in the revocation, suspension, or refusal to issue or renew a license or the

discipline of a licensee, he or she may order a rehearing.

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

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

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

Section 150. Restoration of suspended or revoked license. At any time after the suspension or revocation of any license, the Department may restore it to the licensee, unless after an investigation and hearing the Director determines that restoration is not in the public interest.

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

Section 160. Summary suspension of license. The Director may summarily suspend the license of a genetic counselor without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 105 of this Act, if the Director finds that evidence in the possession of

the Director indicates that the continuation of practice by the genetic counselor would constitute an imminent danger to the public. In the event that the Director summarily suspends the license of an individual without a hearing, a hearing must be held within 30 days after the suspension has occurred.

Section 165. Administrative review; venue.

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

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

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

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

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

Section 185. Home rule. The regulation and licensing of

genetic counselors are exclusive powers and functions of the State. A home rule unit may not regulate or license genetic counselors. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

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

(5 ILCS 80/4.25 new)

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

The Genetic Counselor Licensing Act.

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

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

Sec. 4. Persons required to report; privileged communications; transmitting false report. Any physician, resident, intern, hospital, hospital administrator and personnel engaged in examination, care and treatment of persons, surgeon, dentist, dentist hygienist, osteopath, chiropractor, podiatrist, physician assistant, substance abuse treatment personnel, funeral home director or employee, coroner, medical examiner, emergency medical technician, acupuncturist, crisis line or hotline personnel, school personnel, educational advocate assigned to a child pursuant to the School Code, truant officers, social worker, social services administrator, domestic violence program personnel, registered nurse, licensed practical nurse, genetic counselor, respiratory care practitioner, advanced practice nurse, home health aide, director or staff assistant of a nursery school or a child day care center, recreational program or facility personnel, law enforcement officer, licensed professional counselor, licensed clinical professional counselor,

registered psychologist and assistants working under the direct supervision of a psychologist, psychiatrist, or field personnel of the Illinois Department of Public Aid, Public Health, Human Services (acting as successor to the Department of Mental Health and Developmental Disabilities, Rehabilitation Services, or Public Aid), Corrections, Human Rights, or Children and Family Services, supervisor and administrator of general assistance under the Illinois Public Aid Code, probation officer, or any other foster parent, homemaker or child care worker having reasonable cause to believe a child known to them in their professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department.

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

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

The privileged quality of communication between any

professional person required to report and his patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by this Act.

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

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

Any person who enters into employment on and after July 1, 1986 and is mandated by virtue of that employment to report under this Act, shall sign a statement on a form prescribed by the Department, to the effect that the employee has knowledge and understanding of the reporting requirements of this Act. The statement shall be signed prior to commencement of the employment. The signed statement shall be retained by the employer. The cost of printing, distribution, and filing of the statement shall be borne by the employer.

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

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

Any person who knowingly and willfully violates any provision of this Section other than a second or subsequent violation of transmitting a false report as described in the preceding paragraph, is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation; except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose

of protecting or insulating any person or entity from arrest or prosecution, the person is guilty of a Class 4 felony for a first offense and a Class 3 felony for a second or subsequent offense (regardless of whether the second or subsequent offense involves any of the same facts or persons as the first or other prior offense).

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

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

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

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