

# 45:9-37.111

## LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

**LAWS OF:** 2009      **CHAPTER:** 41  
**NJSA:** 45:9-37.111      (Requires licensing of genetic counselors)  
**BILL NO:** A269      (Substituted for S1226/1266)  
**SPONSOR(S)** Vandervalk and others  
**DATE INTRODUCED:** January 8, 2008  
**COMMITTEE:**      **ASSEMBLY:** Regulated Professions  
                                 **SENATE:** Commerce  
**AMENDED DURING PASSAGE:** Yes  
**DATE OF PASSAGE:**      **ASSEMBLY:** February 5, 2009  
                                 **SENATE:** December 15, 2008  
**DATE OF APPROVAL:** April 15, 2009  
**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Second reprint enacted)

**A269**  
**SPONSOR'S STATEMENT:** (Begins on page 6 of original bill)      Yes  
**COMMITTEE STATEMENT:**      **ASSEMBLY:**      Yes  
   **SENATE:**      Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:**      No  
**LEGISLATIVE FISCAL NOTE:**      Yes  
**LEGISLATIVE FISCAL ESTIMATE:**      Yes

**S1226/1266**  
**SPONSOR'S STATEMENT (S1226):** (Begins on page 6 of original bill)      Yes  
**SPONSOR'S STATEMENT (S1266):** (Begins on page 6 of original bill)      Yes  
**COMMITTEE STATEMENT:**      **ASSEMBLY:**      No  
   **SENATE:**      Yes  
**FLOOR AMENDMENT STATEMENT:**      No  
**LEGISLATIVE FISCAL ESTIMATE:**      No

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

LAW/IS 8/27/09

[Second Reprint]

**ASSEMBLY, No. 269**

**STATE OF NEW JERSEY**

**213th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

**Sponsored by:**

**Assemblywoman CHARLOTTE VANDERVALK**

**District 39 (Bergen)**

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**Assemblyman NEIL M. COHEN**

**District 20 (Union)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Camden)**

**Co-Sponsored by:**

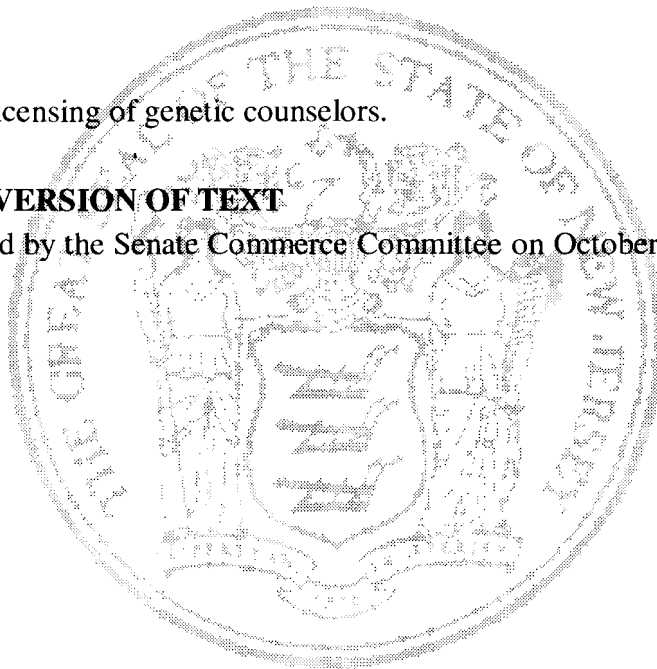
**Senators Vitale, Whelan, Turner and Gill**

**SYNOPSIS**

Requires licensing of genetic counselors.

**CURRENT VERSION OF TEXT**

As reported by the Senate Commerce Committee on October 20, 2008, with amendments.



(Sponsorship Updated As Of: 12/16/2008)

1 AN ACT concerning the licensure of genetic counselors <sup>2</sup>**[and]** <sup>2</sup>  
2 supplementing chapter 9 of Title 45 of the Revised Statutes <sup>2</sup>**and**  
3 amending various parts of the statutory law<sup>2</sup>.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New Section) This act shall be known and may be cited as  
9 the "Genetic Counselor's Licensing Act."

10  
11 2. (New section) The Legislature finds that: the profession of  
12 genetic counseling has existed for <sup>2</sup>**[over]** more than<sup>2</sup> 30 years  
13 <sup>2</sup>**[now;** the American Board of Genetic Counseling prepares and  
14 administers examinations to certify individuals who provide  
15 services in the clinical genetics specialty of genetic counseling and  
16 accredits training programs in genetic counseling; prior to the  
17 establishment of the American Board of Genetic Counseling,  
18 certification in this specialty was offered by the American Board of  
19 Medical Genetics.

20 The Legislature further finds that: **genetic]** Genetic<sup>2</sup>  
21 counseling is a communication process which deals with the human  
22 problems associated with the occurrence, or the risk of occurrence,  
23 of a genetic disorder, birth defect or mental retardation in a family.  
24 This process involves an attempt by one or more appropriately  
25 trained individuals to help an individual or family: comprehend the  
26 medical facts, including the diagnostic, probable course and  
27 available management of a disorder, as well as the risk of  
28 occurrence in specified relatives; understand the options for dealing  
29 with the risk of recurrence; choose the course of action that seems  
30 appropriate to that individual or family in view of the risk and the  
31 family goals and to act in accordance with that decision; and make  
32 the best possible adjustment to the disorder in affected family  
33 members and to the risk of occurrence or recurrence of the disorder.

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

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>Assembly ARP committee amendments adopted January 24, 2008.

<sup>2</sup>Senate SCM committee amendments adopted October 20, 2008.

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

8

9 3. (New section) As used in this act:

10 "Board" means the State Board of Medical Examiners  
11 established pursuant to R.S.45:9-1.12 <sup>2</sup>["Certified genetic counselor" means a person who holds a  
13 current, valid certificate issued by the American Board of Medical  
14 Genetics or the American Board of Genetic Counseling.]<sup>2</sup>15 "Director" means the Director of the Division of Consumer  
16 Affairs in the Department of Law and Public Safety.17 <sup>2</sup>Genetic counseling" means a communication process,  
18 conducted by one or more appropriately trained individuals, that  
19 may include: obtaining and interpreting individual, family, medical  
20 and developmental histories; determining the mode of inheritance  
21 and risk of transmission of genetic conditions and birth defects;  
22 discussing the inheritance features, natural history, means of  
23 diagnosis, and management of genetic conditions and birth defects;  
24 identifying, coordinating, interpreting, and explaining genetic  
25 laboratory tests and other diagnostic studies; assessing psychosocial  
26 factors, recognizing social, educational, and cultural issues;  
27 evaluating the client's or family's responses to the condition or risk  
28 of recurrence and providing client-centered counseling and  
29 anticipatory guidance; and facilitating informed decision making  
30 about testing, management, and alternatives.<sup>2</sup>31 "Genetic Counseling Advisory Committee" or "committee"  
32 means the Genetic Counseling Advisory Committee established  
33 pursuant to section <sup>2</sup>[9] 4<sup>2</sup> of this act.34 "Genetic counselor" means a health professional with specialized  
35 education, training and experience in medical genetics who meets  
36 the requirements for licensure as provided in this act.37 "Licensed genetic counselor" means a person who holds a  
38 current, valid license issued pursuant to section <sup>2</sup>[6] 9<sup>2</sup> of this act.39 "Supervision" means the direct review of a supervisee for the  
40 purpose of teaching, training, administration, accountability or  
41 clinical review by a supervisor in the same area of specialized  
42 practice.

43

44 <sup>2</sup>4. (New section) There is established within the Division of  
45 Consumer Affairs in the Department of Law and Public Safety,  
46 under the State Board of Medical Examiners, a Genetic Counseling  
47 Advisory Committee. The committee shall consist of five members,

1 appointed by the Governor, who shall be residents of this State.  
2 One member shall be a public member, one member shall be a  
3 physician licensed to practice medicine and surgery in this State,  
4 and three members shall be, except for those first appointed, genetic  
5 counselors licensed pursuant to this act. The genetic counselor  
6 members first appointed to the committee shall be genetic  
7 counselors certified by the American Board of Genetic Counseling  
8 or the American Board of Medical Genetics, or their successors.

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

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

23  
24 <sup>25.</sup> (New section) The Genetic Counseling Advisory Committee  
25 shall have the following powers and duties:

26 a. Establish criteria and standards for education and experience  
27 required for licensure;

28 b. Review the qualifications of applicants for licensure;

29 c. Ensure proper conduct and standards of practice;

30 d. Issue and renew licenses pursuant to this act;

31 e. Establish standards for continuing education;

32 f. Maintain a record of every genetic counselor licensed in this  
33 State;

34 g. Establish fees, pursuant to section 2 of P.L.1974, c.46  
35 (C.45:1-3.2), for examinations, licenses, including applications for  
36 licensure, renewals, and duplications of lost licenses, and other  
37 services performed by the committee;

38 h. Suspend, revoke or decline to renew the license of a genetic  
39 counselor pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et  
40 seq.); and

41 i. Promulgate rules and regulations to carry out matters  
42 delegated to the committee by the board concerning any provisions  
43 of this act, in conformance with the "Administrative Procedure  
44 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).<sup>2</sup>

45  
46 <sup>26.</sup> (New section) The Genetic Counseling Advisory Committee  
47 shall organize within 30 days after the appointment of its members,

1 and shall annually elect from among its members a chairperson,  
2 who shall be a genetic counselor, a vice-chairperson, and a  
3 secretary who need not be a member of the committee. The  
4 committee shall meet at least four times a year and may hold  
5 additional meetings as necessary to discharge its duties.<sup>2</sup>

6  
7 <sup>2</sup>[4.] <sup>7.</sup><sup>2</sup> (New section) <sup>2</sup>[a. No] Except as provided in this  
8 section, a<sup>2</sup> person shall <sup>2</sup>not<sup>2</sup> engage in the practice of genetic  
9 counseling as a genetic counselor, or <sup>2</sup>[present, call or represent]  
10 hold<sup>2</sup> himself <sup>2</sup>out<sup>2</sup> as a genetic counselor unless <sup>2</sup>the person is<sup>2</sup>  
11 licensed <sup>2</sup>[pursuant to] in accordance with<sup>2</sup> this act.

12 <sup>2</sup>[b.] a.(1)<sup>2</sup> Only an individual may be licensed to practice  
13 genetic counseling within the State. <sup>2</sup>[No] A<sup>2</sup> firm, partnership,  
14 association or corporation shall <sup>2</sup>not<sup>2</sup> advertise or otherwise offer to  
15 provide or convey the impression that it is providing genetic  
16 counseling services unless an individual holding a current valid  
17 license pursuant to the provisions of this act shall be rendering the  
18 genetic counseling services.

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

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

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

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

45 (2) A person licensed by the State as a registered nurse when  
46 acting within the scope of the person's profession and doing work of  
47 a nature consistent with the person's training, so long as the person

1 does not hold himself out to the public as a genetic counselor;

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

9 (4) A graduate with a degree in genetic counseling, or its  
10 equivalent as approved by the board in consultation with the  
11 committee by regulation, from an educational program accredited  
12 by the American Board of Genetic Counseling or its successor, who  
13 has not passed the examination for licensure but otherwise has met  
14 all of the licensing requirements of this act, so long as: (a) the  
15 person does not hold himself out to the public as a licensed genetic  
16 counselor; (b) practices under the supervision of a licensed genetic  
17 counselor or geneticist; and (c) successfully passes the examination  
18 for licensure within the first two available examination cycles next  
19 following the filing of an application for licensure as a genetic  
20 counselor.<sup>2</sup>

21  
22 <sup>2</sup>[5. The provisions of this act shall not apply to:

23 a. A person licensed by the State to practice medicine and  
24 surgery when acting within the scope of the person's profession and  
25 doing work of a nature consistent with the person's training, if the  
26 person does not hold himself out to the public as a genetic  
27 counselor;

28 b. A student enrolled in an educational program accredited, or  
29 in candidacy for accreditation, by the American Board of Genetic  
30 Counseling, if the student is practicing as part of a supervised  
31 course of study and is clearly designated by the title "genetic  
32 counseling intern;"

33 c. A person performing limited counseling as a genetic  
34 assistant under the direct supervision of a certified medical  
35 geneticist or 'licensed' genetic counselor; 'or'

36 d. A person who is licensed as a registered nurse when acting  
37 within the scope of the person's profession and doing work of a  
38 nature consistent with the person's training, if the person does not  
39 hold himself out to the public as a licensed genetic counselor '; or

40 e. A person engaged in the practice of genetic counseling as an  
41 employee of a clinical laboratory who provides genetic counseling  
42 services only in relation to testing performed by that laboratory or  
43 referred to another laboratory or provider by that laboratory']<sup>1</sup>.]<sup>2</sup>

44  
45 <sup>2</sup>[6.] 8.<sup>2</sup> (New section) a. The board, in consultation with the  
46 committee, shall <sup>2</sup>[issue a license to an applicant who holds a  
47 current, valid certificate as a "certified genetic counselor" from the



1 American Board of Medical Genetics or the American Board of  
 2 Genetic Counseling and who satisfactorily meets the requirements  
 3 of this act except that, a license shall not be issued to an applicant  
 4 who has committed any act which if committed by a licensee would  
 5 be grounds for suspension or revocation, or has misrepresented any  
 6 material fact on the application.

7 b. The board, in consultation with the committee, shall issue a  
 8 provisional license to an applicant who is granted active candidate  
 9 status by] require at a minimum the following to qualify an  
 10 applicant for licensure as a genetic counselor:

11 (1) be at least 21 years of age;

12 (2) be of good moral character;

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

17 (4) the satisfaction of experience proficiencies required by the  
 18 committee, which shall be at least equivalent to the standards of<sup>2</sup>  
 19 the American Board of Genetic Counseling <sup>2</sup>, or its successor<sup>2</sup>.

20 <sup>2</sup>[The provisional license shall expire with the expiration of  
 21 <sup>1</sup>['board eligible] active candidate<sup>1</sup> status as defined by the  
 22 American Board of Genetic Counseling.

23 c. An applicant who satisfies the board that] b. Each applicant  
 24 shall submit an application for licensure, with an application fee, as  
 25 prescribed by regulation.

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

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

35 e. If<sup>2</sup> the applicant is licensed <sup>2</sup>[or registered]<sup>2</sup> under the laws  
 36 of another state, territory or jurisdiction of the United States <sup>2</sup>[,]<sup>2</sup>  
 37 which <sup>2,2</sup> in the opinion of the board <sup>2</sup>, in consultation with the  
 38 committee,<sup>2</sup> imposes substantially the same licensing requirements  
 39 as this act, <sup>2</sup>the board<sup>2</sup> may <sup>2</sup>[be licensed pursuant to] issue the  
 40 applicant a license in accordance with the provisions of<sup>2</sup> this act.

41  
 42 <sup>2</sup>[7.] 9.<sup>2</sup> (New section) a. <sup>2</sup>[Except in the case of a  
 43 provisional license issued pursuant to section 6 of this act, all  
 44 licenses] A genetic counseling license<sup>2</sup> shall be issued for a two-  
 45 year period upon the payment of the licensing fee prescribed by  
 46 <sup>2</sup>[the director] regulation<sup>2</sup>, and shall be renewed upon the filing of

1 a renewal application and the payment of the licensing renewal fee.

2 b. A genetic counselor whose license is suspended or revoked  
3 or whose surrender of license with or without prejudice has been  
4 accepted by the board <sup>2</sup>[or the committee]<sup>2</sup>, shall promptly deliver  
5 the original license and current biennial registration to the board or  
6 committee.

7 c. <sup>2</sup>[In addition to any other requirements for licensure, at the  
8 time of renewal, an applicant shall execute and submit a sworn  
9 statement on a form provided by the board that neither the  
10 certificate from the American Board of Medical Genetics or the  
11 American Board of Genetic Counseling or a license or registration  
12 from another state, territory or jurisdiction on which the State  
13 licensed is based, has been revoked, suspended or not renewed.

14 d.]<sup>2</sup> Each applicant shall present satisfactory evidence when  
15 seeking license renewal that in the period since the license was  
16 issued or last renewed <sup>2</sup>[.]<sup>2</sup> the applicant has <sup>2</sup>[completed 3.0  
17 American Board of Genetic Counseling-eligible] satisfied<sup>2</sup>  
18 continuing education <sup>2</sup>[units] requirements from an approved  
19 organization, which education requirements and approved  
20 organization criteria shall be established by the board, in  
21 consultation with the committee, by regulation. The continuing  
22 education requirements shall include, but not be limited to,  
23 instruction in genetics and medical ethics<sup>2</sup>.

24  
25 <sup>2</sup>[8.] 10.<sup>2</sup> (New section) A licensed genetic counselor shall not  
26 be required to disclose any confidential information that the genetic  
27 counselor may have acquired from a client or patient while  
28 performing genetic counseling services <sup>2</sup>[to that client or patient] ,<sup>2</sup>  
29 unless:

30 a. Disclosure is required by other <sup>2</sup>federal or<sup>2</sup> State law;

31 b. <sup>2</sup>[Failure to disclose the information presents a clear and  
32 present danger to the health or safety of an individual;

33 c.]<sup>2</sup> The genetic counselor is a party to a civil, criminal or  
34 disciplinary action arising from the genetic counseling services  
35 provided, in which case a waiver of the privilege accorded by this  
36 section shall be limited to that action; <sup>2</sup>or<sup>2</sup>

37 <sup>2</sup>[d.] c.<sup>2</sup> The patient or client is a defendant in a criminal  
38 proceeding and the use of the privilege would violate the  
39 defendant's right to present testimony and witnesses on that person's  
40 behalf <sup>2</sup>[; or

41 e. A patient or client agrees to waive the privilege accorded by  
42 this section or, in the case in which more than one person in a  
43 family is receiving genetic counseling services, each family  
44 member who is receiving the counseling services agrees to waive  
45 the privilege. A genetic counselor shall not disclose information

1 received from any family member without obtaining a waiver from  
2 each family member who is receiving the counseling services]<sup>2</sup>.

3 <sup>2</sup>A genetic counselor who discloses confidential information in  
4 violation of this section shall be liable for damages sustained by the  
5 patient or client about whom the information relates, as well as  
6 attorney's fees and costs of suit. Additionally, the genetic  
7 counselor may be subject to a penalty of not more than \$10,000 for  
8 each violation, or a penalty of not more than \$50,000 for a knowing  
9 violation or if the board finds that violations have occurred with  
10 enough frequency as to constitute a general business practice.<sup>2</sup>

11  
12 <sup>2</sup>[9. There is established in the State Board of Medical  
13 Examiners a Genetic Counseling Advisory Committee. The  
14 committee shall consist of five members who are residents of this  
15 State, who are appointed by the Governor. One member shall be a  
16 public member, one member shall be a physician licensed to  
17 practice medicine and surgery in this State, and three members shall  
18 be, except for those first appointed, genetic counselors licensed  
19 pursuant to this act. The genetic counselor members first appointed  
20 to the committee shall be genetic counselors certified by the  
21 American Board of Genetic Counseling or the American Board of  
22 Medical Genetics.

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

33 Members of the committee shall be <sup>1</sup>[compensated and]<sup>1</sup>  
34 reimbursed for actual expenses reasonably incurred in the  
35 performance of their official duties in accordance with subsection a.  
36 of section 2 of P.L.1977, c.285 (C.45:1-2.5).]<sup>2</sup>

37  
38 <sup>2</sup>[10. The State Board of Medical Examiners shall <sup>1</sup>, after  
39 consultation with the Genetic Counseling Advisory Committee,<sup>1</sup>  
40 adopt rules and regulations pursuant to the "Administrative  
41 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out  
42 the provisions of this act.]<sup>2</sup>

43  
44 <sup>2</sup>11. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read  
45 as follows:

46 1. The provisions of this act shall apply to the following boards  
47 and commissions: the New Jersey State Board of Accountancy, the

1 New Jersey State Board of Architects, the New Jersey State Board  
2 of Cosmetology and Hairstyling, the Board of Examiners of  
3 Electrical Contractors, the New Jersey State Board of Dentistry, the  
4 State Board of Mortuary Science of New Jersey, the State Board of  
5 Professional Engineers and Land Surveyors, the State Board of  
6 Marriage and Family Therapy Examiners, the State Board of  
7 Medical Examiners, the New Jersey Board of Nursing, the New  
8 Jersey State Board of Optometrists, the State Board of Examiners of  
9 Ophthalmic Dispensers and Ophthalmic Technicians, the Board of  
10 Pharmacy, the State Board of Professional Planners, the State Board  
11 of Psychological Examiners, the State Board of Examiners of  
12 Master Plumbers, the New Jersey Real Estate Commission, the  
13 State Board of Court Reporting, the State Board of Veterinary  
14 Medical Examiners, the Radiologic Technology Board of  
15 Examiners, the Acupuncture Examining Board, the State Board of  
16 Chiropractic Examiners, the State Board of Respiratory Care, the  
17 State Real Estate Appraiser Board, the State Board of Social Work  
18 Examiners, the State Board of Examiners of Heating, Ventilating,  
19 Air Conditioning and Refrigeration Contractors, the State Board of  
20 Physical Therapy Examiners, the Orthotics and Prosthetics Board of  
21 Examiners, the New Jersey Cemetery Board, the State Board of  
22 Polysomnography, the New Jersey Board of Massage and  
23 Bodywork Therapy, the Genetic Counseling Advisory Committee  
24 and any other entity hereafter created under Title 45 to license or  
25 otherwise regulate a profession or occupation.<sup>2</sup>

26 (cf: 2007, c.337, s.10)

27

28 <sup>2</sup>12. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read  
29 as follows:

30 1. The provisions of this act shall apply to the following boards  
31 and commissions: the New Jersey State Board of Accountancy, the  
32 New Jersey State Board of Architects, the New Jersey State Board  
33 of Cosmetology and Hairstyling, the Board of Examiners of  
34 Electrical Contractors, the New Jersey State Board of Dentistry, the  
35 State Board of Mortuary Science of New Jersey, the State Board of  
36 Professional Engineers and Land Surveyors, the State Board of  
37 Marriage and Family Therapy Examiners, the State Board of  
38 Medical Examiners, the New Jersey Board of Nursing, the New  
39 Jersey State Board of Optometrists, the State Board of Examiners of  
40 Ophthalmic Dispensers and Ophthalmic Technicians, the Board of  
41 Pharmacy, the State Board of Professional Planners, the State Board  
42 of Psychological Examiners, the State Board of Examiners of  
43 Master Plumbers, the State Board of Court Reporting, the State  
44 Board of Veterinary Medical Examiners, the Radiologic  
45 Technology Board of Examiners, the Acupuncture Examining  
46 Board, the State Board of Chiropractic Examiners, the State Board  
47 of Respiratory Care, the State Real Estate Appraiser Board, the New

1 Jersey Cemetery Board, the State Board of Social Work Examiners,  
2 the State Board of Examiners of Heating, Ventilating, Air  
3 Conditioning and Refrigeration Contractors, the State Board of  
4 Physical Therapy Examiners, the State Board of Polysomnography,  
5 the Orthotics and Prosthetics Board of Examiners, the New Jersey  
6 Board of Massage and Bodywork Therapy, the Genetic Counseling  
7 Advisory Committee and any other entity hereafter created under  
8 Title 45 to license or otherwise regulate a profession or  
9 occupation.<sup>2</sup>

10 (cf: P.L.2007, c.337, s.11)

11  
12 <sup>2</sup>13. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read  
13 as follows:

14 2. The provisions of this act shall apply to the following boards  
15 and all professions or occupations regulated by, through or with the  
16 advice of those boards: the New Jersey State Board of  
17 Accountancy, the New Jersey State Board of Architects, the New  
18 Jersey State Board of Cosmetology and Hairstyling, the Board of  
19 Examiners of Electrical Contractors, the New Jersey State Board of  
20 Dentistry, the State Board of Mortuary Science of New Jersey, the  
21 State Board of Professional Engineers and Land Surveyors, the  
22 State Board of Marriage and Family Therapy Examiners, the State  
23 Board of Medical Examiners, the New Jersey Board of Nursing, the  
24 New Jersey State Board of Optometrists, the State Board of  
25 Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,  
26 the Board of Pharmacy, the State Board of Professional Planners,  
27 the State Board of Psychological Examiners, the State Board of  
28 Examiners of Master Plumbers, the State Board of Court Reporting,  
29 the State Board of Veterinary Medical Examiners, the State Board  
30 of Chiropractic Examiners, the State Board of Respiratory Care, the  
31 State Real Estate Appraiser Board, the State Board of Social Work  
32 Examiners, the State Board of Examiners of Heating, Ventilating,  
33 Air Conditioning and Refrigeration Contractors, the State Board of  
34 Physical Therapy Examiners, the State Board of Polysomnography,  
35 the Professional Counselor Examiners Committee, the New Jersey  
36 Cemetery Board, the Orthotics and Prosthetics Board of Examiners,  
37 the Occupational Therapy Advisory Council, the Electrologists  
38 Advisory Committee, the Acupuncture Advisory Committee, the  
39 Alcohol and Drug Counselor Committee, the Athletic Training  
40 Advisory Committee, the Certified Psychoanalysts Advisory  
41 Committee, the Fire Alarm, Burglar Alarm, and Locksmith  
42 Advisory Committee, the Home Inspection Advisory Committee,  
43 the Interior Design Examination and Evaluation Committee, the  
44 Hearing Aid Dispensers Examining Committee, the Landscape  
45 Architect Examination and Evaluation Committee, the Perfusionists  
46 Advisory Committee, the Physician Assistant Advisory Committee,  
47 the Audiology and Speech-Language Pathology Advisory

1 Committee, the New Jersey Board of Massage and Bodywork  
2 Therapy, the Genetic Counseling Advisory Committee and any  
3 other entity hereafter created under Title 45 to license or otherwise  
4 regulate a profession or occupation.<sup>2</sup>  
5 (cf: P.L.2007, c.337, s.12)

6  
7 <sup>2</sup>[11. This] 14. Section 4 of this<sup>2</sup> act shall take effect  
8 <sup>2</sup>immediately, and the remainder of this act shall take effect<sup>2</sup> on the  
9 <sup>2</sup>[180th] 365th<sup>2</sup> day after enactment <sup>2</sup>; but the board, in  
10 consultation with the committee, may take such anticipatory  
11 administrative action in advance thereof as shall be necessary for  
12 the implementation of this act<sup>2</sup>.

1       10. The State Board of Medical Examiners shall adopt rules and  
2 regulations pursuant to the "Administrative Procedure Act,"  
3 P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the provisions of  
4 this act.

5  
6       11. This act shall take effect on the 180th day after enactment.

7  
8  
9               SPONSOR'S STATEMENT

10  
11       This bill provides for the licensing of genetic counselors in the  
12 State by the State Board of Medical Examiners. The bill requires  
13 that an applicant for licensure in the State must be certified by the  
14 American Board of Medical Genetics or the American Board of  
15 Genetic Counseling. In addition, the bill prohibits any person from  
16 engaging in the practice of genetic counseling as a genetic  
17 counselor, or presenting, calling or representing himself as a genetic  
18 counselor unless licensed in accordance with the provisions of this  
19 bill.

20       Genetic counseling is a communication process which deals with  
21 the human problems associated with the occurrence, or the risk of  
22 occurrence, of a genetic disorder, birth defect or mental retardation  
23 in a family. This process involves an attempt by one or more  
24 appropriately trained individuals to help an individual or family:  
25 comprehend the medical facts, including the diagnostic, probable  
26 course and available management of a disorder, as well as the risk  
27 of occurrence in specified relatives; understand the options for  
28 dealing with the risk of recurrence; choose the course of action that  
29 seems appropriate to that individual or family in view of the risk  
30 and the family goals and to act in accordance with that decision;  
31 and make the best possible adjustment to the disorder in affected  
32 family members and to the risk of occurrence or recurrence of the  
33 disorder.

34       The bill's licensing requirements do not apply to: a person  
35 licensed by the State to practice medicine and surgery when acting  
36 within the scope of the person's profession and doing work of a  
37 nature consistent with the person's training, if the person does not  
38 hold himself out to the public as a genetic counselor; a student  
39 enrolled in an educational program accredited, or in candidacy for  
40 accreditation, by the American Board of Genetic Counseling, if the  
41 student is practicing as part of a supervised course of study and is  
42 clearly designated by the title "genetic counseling intern;" a person  
43 performing limited counseling as a genetic assistant under the direct  
44 supervision of a certified medical geneticist or genetic counselor; a  
45 person who is a licensed registered nurse when acting within the  
46 scope of the person's profession and doing work of a nature  
47 consistent with the person's training, if the person does not hold  
48 himself out to the public as a licensed genetic counselor; or a person

A269 VANDERVALK, PRIETO

1 engaged in the practice of genetic counseling as an employee of a  
2 clinical laboratory who provides genetic counseling services only  
3 in relation to testing performed by that laboratory or referred to  
4 another laboratory or provider by that laboratory.

5 The bill establishes a Genetic Counseling Advisory Committee  
6 in the State Board of Medical Examiners to advise the board with  
7 respect to the licensure of genetic counselors. The advisory  
8 committee will consist of five members who are residents of this  
9 State. Three of the advisory committee's members shall be licensed  
10 genetic counselors; one member shall be a physician licensed to  
11 practice medicine and surgery in this State; and one member shall  
12 be a public member.

13 In addition, the bill specifies that when seeking license renewal,  
14 an applicant shall present satisfactory evidence that in the period  
15 since the license was issued or last renewed the applicant has  
16 completed 3.0 American Board of Genetic Counseling - eligible  
17 continuing education units.



# ASSEMBLY REGULATED PROFESSIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 269**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 24, 2008

The Assembly Regulated Professions Committee reports favorably and with committee amendments, Assembly Bill No. 269.

As amended, this bill provides for the licensing of genetic counselors in the State by the State Board of Medical Examiners. The bill requires that an applicant for licensure in the State must be certified by the American Board of Medical Genetics or the American Board of Genetic Counseling. In addition, the bill prohibits any person from engaging in the practice of genetic counseling as a genetic counselor, or presenting, calling or representing himself as a genetic counselor unless licensed in accordance with the provisions of this bill.

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 bill's licensing requirements do not apply to: 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, if the person does not hold himself out to the public as a genetic counselor; a student enrolled in an educational program accredited, or in candidacy for accreditation, by the American Board of Genetic Counseling, if the student is practicing as part of a supervised course of study and is clearly designated by the title "genetic counseling intern;" a person performing limited counseling as a genetic assistant under the direct

supervision of a certified medical geneticist or licensed genetic counselor; a person who is a licensed registered nurse when acting within the scope of the person's profession and doing work of a nature consistent with the person's training, if the person does not hold himself out to the public as a licensed genetic counselor.

The bill establishes a Genetic Counseling Advisory Committee in the State Board of Medical Examiners to advise the board with respect to the licensure of genetic counselors. The advisory committee will consist of five members who are residents of this State. Three of the advisory committee's members shall be licensed genetic counselors; one member shall be a physician licensed to practice medicine and surgery in this State; and one member shall be a public member.

In addition, the bill specifies that when seeking license renewal, an applicant shall present satisfactory evidence that in the period since the license was issued or last renewed the applicant has completed 3.0 American Board of Genetic Counseling - eligible continuing education units.

This bill was pre-filed for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

#### COMMITTEE AMENDMENTS

The committee amended the bill to specifically provide that the State Board of Medical Examiners shall adopt rules and regulations to carry out the provisions of the bill, after consultation with the Genetic Counseling Advisory Committee.

In addition, the committee amendments remove the provision in the bill that exempt from the bill's licensing requirements a person engaged in the practice of genetic counseling as an employee of a clinical laboratory who provides genetic counseling services only in relation to testing performed by that laboratory or referred to another laboratory or provider by that laboratory.

The committee also removed the language in the bill providing that members of the Genetic Counseling Advisory Committee be compensated for actual expenses reasonably incurred in the performance of their official duties.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 269

with committee amendments

# STATE OF NEW JERSEY

DATED: OCTOBER 20, 2008

The Senate Commerce Committee reports favorably and with committee amendments Assembly Bill No. 269(1R).

This bill, as amended, provides for the licensing of genetic counselors in the State. Genetic counseling is a communication process that 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.

The bill establishes a Genetic Counseling Advisory Committee in the State Board of Medical Examiners to advise the board with respect to the licensure and related oversight of genetic counselors. The advisory committee shall consist of five members, appointed by the Governor, who shall be residents of this State. Three of the advisory committee members shall be licensed genetic counselors; one member shall be a physician licensed to practice medicine and surgery in this State; and one member shall be a public member.

The State board, in consultation with the advisory committee, shall require at a minimum the following to qualify an applicant for licensure: (1) be at least 21 years of age; (2) be of good moral character; (3) possession of a master's or higher degree in genetic counseling or its equivalent, 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. Each applicant shall also successfully complete an examination for licensure, the time, place, and contents of which shall be determined by the board, in consultation with the committee, by regulation. 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 bill, the board may issue the applicant a license in accordance with the provisions of the bill.

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 the provisions of the bill. However, the bill does not apply to: (1) a person licensed to practice medicine and surgery when acting within the scope of the person's profession; (2) a person licensed as a registered nurse when acting within the scope of the person's profession; (3) a student candidate for a degree in genetic counseling or its equivalent, so long as the student is practicing as part of a supervised course of study; or (4) a graduate with a degree in genetic counseling or its equivalent who has not passed the examination for licensure, so long as the graduate successfully passes the exam within the first two available examination cycles next following the filing of an application for licensure as a genetic counselor.

Additionally, the provisions of the bill 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 the bill, 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 as an out-of-State consultant or as providing only occasional services without a State license.

A genetic counseling license shall be renewed every two years. Each applicant for license renewal shall present satisfactory evidence of the completion of continuing education requirements from an approved organization, which education requirements and approved organization criteria shall be established by the board, in consultation with the advisory committee, by regulation.

Finally, with respect to the practice of genetic counseling, a counselor shall not be required to disclose any confidential information that the counselor may have acquired from a client or patient while performing licensed services, unless required by other federal or State law, or the counselor is a party to a civil, criminal, or disciplinary action arising from services provided, or the patient or client is a defendant in a criminal proceeding and invoking the privilege would violate the defendant's right to present testimony and witnesses on the defendant's behalf. A genetic counselor who discloses confidential information in violation of the bill shall be liable for damages sustained by the patient or client, 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 for violations occurring with enough frequency to constitute a general business practice.

The committee amendments to the bill:

- provide a definition for “genetic counseling” as a communication process, conducted by one or more appropriately trained individuals, for which the various genetic counseling services identified in the bill are performed;

- reorganize the provisions establishing the Genetic Counseling Advisory Committee to more easily identify the committee’s creation (section 4) with the subsequently expressed scope of its powers and duties (section 5), and related oversight stemming from those powers and duties;

- require that the advisory committee 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, and require that the committee meet at least four times a year;

- clarify, with respect to prohibiting the unlicensed practice of genetic counseling, that an unlicensed person shall not use the title “genetic counselor,” “gene counselor,” “gene consultant” or words, abbreviations, acronyms, insignia or combination of such in relation to a person’s name, occupation, or place of business;

- establish that out-of-State genetic counselors may engage in the practice of genetic counseling in-State without being licensed under certain, limited circumstances;

- eliminate provisions which provided for automatic State licensure solely on the basis of possessing a certificate as a certified genetic counselor from the American Board of Medical Genetics or the American Board of Genetic Counseling;

- establish minimum requirements to qualify for licensure, which include being at least 21 years of age, being of good moral character, possession of a master’s degree or higher in genetic counseling or its equivalent, and the satisfaction of experience proficiencies required by the advisory committee, which shall be at least the equivalent to the standards of the American Board of Genetic Counseling or its successor;

- expressly require an examination for licensure, the time, place, and contents of which shall be determined by the board, which examination may be administered through an approved organization;

- alter continuing education requirements so that license renewals shall require satisfaction of requirements established by the State board, in consultation with the advisory committee, and which requirements shall include instruction in genetics and medical ethics;

- narrow the listed exceptions for which genetic counselors may divulge confidential information acquired from a client or patient, and establish monetary penalties for improper disclosures by genetic counselors;

- include the advisory committee among the list of boards and committees provided various uniform standards of operation, and

administrative and legal authority under provisions of Title 45 of the Revised Statutes; and

- provide for a staggered effective date so that appointments to the advisory committee may occur immediately, while the remaining sections of the bill shall take effect on the 365th day after enactment, allowing for anticipatory administrative action by the State board in consultation with the committee as necessary to implement those sections upon their delayed effective date.

As amended and reported, this bill is identical to the Senate Committee Substitute for Senate Bill No. 1226 and No. 1266, also updated by the committee today.

**FISCAL NOTE**  
[Second Reprint]  
**ASSEMBLY, No. 269**  
**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

DATED: FEBRUARY 11, 2009

**SUMMARY**

**Synopsis:** Requires licensing of genetic counselors.

**Type of Impact:** Minimal Impact.

**Agencies Affected:** Department of Law and Public Safety; Division of Consumer Affairs; State Board of Medical Examiners.

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	23,000	23,000	22,000
<b>State Revenue</b>	23,000	23,000	22,000

- The Office of Legislative Services (OLS) **concurs** with the Executive estimate which determines that although establishing a new license provides an additional cost to the Division of Consumer Affairs, the expenditure would be offset by the new licensing revenue.
- Establishes a license for genetic counselors in the State and a Genetic Counseling Advisory Committee within the State Board of Medical Examiners to advise the board with respect to the licensure of genetic counselors.
- The amount of revenue generated though the fees to license genetic counselors is not specified, but is presumed to be sufficient to cover costs.
- According to the 2009 membership rosters, the American Board of Medical Genetics (ABMG) has 72 members in New Jersey and the American Board of Genetic Counseling (ABGC) has 86 members in the State. The Human Genetics Association of New Jersey indicated to the Division of Consumer Affairs they have approximately 90 genetic counselors.

## **BILL DESCRIPTION**

Assembly Bill No. 269 (2R) of 2008 establishes a license for genetic counselors in the State, and establishes a Genetic Counseling Advisory Committee within the State Board of Medical Examiners.

This bill defines genetic counseling as a communication process that 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 bill establishes: requirements for a person who can apply for a genetic counselors license; a license renewal every two years; the make-up and qualifications of the advisory committee; and penalties for violations.

Currently, there are no State licensure requirements for genetic counseling. This bill is intended to protect New Jersey families who seek genetic counseling by setting qualifications including education, training and experience standards, for counselors.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Division of Consumer Affairs, in the Department of Law and Public Safety, determined that this bill would cost the State approximately \$23,000 annually, however these costs would be offset by licensing application and renewal fees.

The Human Genetics Association of New Jersey indicated to the division they have approximately 90 counselors currently residing in New Jersey who would require state licensure.

The division determined that based on the expected number of counselors and staff needed to support the new license, an initial application fee would cost \$300 for a two year license and \$450 for a two year license renewal fee.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concurs with the Executive estimate which determines that although establishing a new license provides an additional cost to the Division of Consumer Affairs, the expenditure would be offset by the new licensing revenue.

Furthermore, based on the above information, the State should be able to offset costs with revenue derived from a reasonable licensing fee. The OLS notes that because the bill provides for a biennial license, revenues in each odd year would exceed annual costs, and unexpended fee revenue together with revenue from new licensees would defray costs in each even year.

According to the 2009 membership rosters, the ABMG has 72 members in New Jersey and the ABGC has 86 members in the State.

According to the National Conference of State Legislatures (NCSL), the states of California, Illinois, Massachusetts, Oklahoma, Tennessee and Utah have enacted legislation to practice genetic counseling.



*Section: Law and Public Safety*

*Analyst: Kristin A. Brunner  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 269 STATE OF NEW JERSEY 213th LEGISLATURE

DATED: APRIL 11, 2008

### SUMMARY

**Synopsis:** Requires licensing of genetic counselors.

**Type of Impact:** Minimal Impact.

**Agencies Affected:** Department of Law and Public Safety; Division of Consumer Affairs; State Board of Medical Examiners.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	\$12,000	\$12,000	\$10,000
<b>State Revenue</b>	Revenue sufficient to cover costs		

- The Office of Legislative Services (OLS) concurs with the prior cost estimate provided by the Executive.
- Establishes a license for genetic counselors in the State by the State Board of Medical Examiners.
- Establishes a Genetic Counseling Advisory Committee in the State Board of Medical Examiners to advise the board with respect to the licensure of genetic counselors.
- In a prior executive fiscal estimate the cost to license genetic counselors and to support a Genetic Counseling Advisory Committee would cost approximately \$12,000 for each of the first two years following enactment and \$10,000 in the third year. This cost may increase.
- The amount of revenue generated through the fees to license genetic counselors is not specified, but is presumed to be sufficient to cover costs.
- According to available 2003 memberships rosters of the American Board of Genetic Counseling (ABGC) and the National Society of Genetic Counselors there were an estimated 300 certified genetic counselors in the State.

## **BILL DESCRIPTION**

Assembly Bill No. 269 (1R) of 2008 establishes a license for genetic counselors in the State by the State Board of Medical Examiners. The bill requires that an applicant for licensure in the State must be certified by the American Board of Medical Genetics or the American Board of Genetic Counseling. Additionally, the bill prohibits anyone from practicing genetic counseling unless licensed.

Currently, there are no State licensure requirements for genetic counseling. This bill is intended to protect New Jersey families who seek genetic counseling by setting qualifications including education, training and experience standards, for counselors.

The bill establishes a Genetic Counseling Advisory Committee in the State Board of Medical Examiners to advise the board with respect to the licensure of genetic counselors. The advisory committee will consist of five members who are residents of this State. Three of the advisory committee's members shall be licensed genetic counselors; one member shall be a physician licensed to practice medicine and surgery in this State; and one member shall be a public member.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

In a prior fiscal estimate for A 146 of 2002, the executive estimated the cost of implementing this bill at \$12,000 in the first two years after enactment. The third year it was expected to cost \$10,000 per year. This cost may increase. While the executive did not specifically estimate annual revenue from licensing fees, it indicated that any new revenue would be sufficient to cover costs.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concurs with the prior cost estimate provided by the Executive. Based on the membership rosters in 2003 of the ABGC and the National Society of Genetic Counselors, OLS estimates there are approximately 300 certified genetic counselors in the State.

The ABGC requires recertification every ten years, with the exception of those lifetime members that registered prior to 1993. The ABGC charges \$350 for a non-refundable Application Review, \$500 for a General Examination, and \$300 for a Genetic Counseling Specialty Examination. Since the State is, essentially, recording ABGC certifications, the cost estimate supplied by the executive for this licensure program is reasonable.

Furthermore, based on the above information, the State can completely offset costs with revenue derived from a reasonable licensing fee. The OLS notes that because the bill provides for a biennial license, revenues in each odd year will exceed annual costs, and unexpended fee revenue together with revenue from new licensees will completely defray costs in each even year.

*Section: Law and Public Safety*  
*Analyst: Kristin A. Brunner*  
*Senior Fiscal Analyst*  
*Approved: David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C. 52:13B-1 et seq.).

1 official duties in accordance with subsection a. of section 2 of  
2 P.L.1977, c.285 (C.45:1-2.5).

3

4 10. The State Board of Medical Examiners shall adopt rules and  
5 regulations pursuant to the "Administrative Procedure Act,"  
6 P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the provisions of  
7 this act.

8

9 11. This act shall take effect on the 180th day after enactment.

10

11

12 *SPONSORS* STATEMENT

13

14 This bill provides for the licensing of genetic counselors in the  
15 State by the State Board of Medical Examiners. The bill requires  
16 that an applicant for licensure in the State must be certified by the  
17 American Board of Medical Genetics or the American Board of  
18 Genetic Counseling. In addition, the bill prohibits any person from  
19 engaging in the practice of genetic counseling as a genetic  
20 counselor, or presenting, calling or representing himself as a genetic  
21 counselor unless licensed in accordance with the provisions of this  
22 bill.

23 Genetic counseling is a communication process which deals with  
24 the human problems associated with the occurrence, or the risk of  
25 occurrence, of a genetic disorder, birth defect or mental retardation  
26 in a family. This process involves an attempt by one or more  
27 appropriately trained individuals to help an individual or family:  
28 comprehend the medical facts, including the diagnostic, probable  
29 course and available management of a disorder, as well as the risk  
30 of occurrence in specified relatives; understand the options for  
31 dealing with the risk of recurrence; choose the course of action that  
32 seems appropriate to that individual or family in view of the risk  
33 and the family goals and to act in accordance with that decision;  
34 and make the best possible adjustment to the disorder in affected  
35 family members and to the risk of occurrence or recurrence of the  
36 disorder.

37 The bill's licensing requirements do not apply to: a person  
38 licensed by the State to practice medicine and surgery or registered  
39 professional nursing when acting within the scope of the person's  
40 profession and doing work of a nature consistent with the person's  
41 training, if the person does not hold himself out to the public as a  
42 genetic counselor; a student enrolled in an educational program  
43 accredited, or in candidacy for accreditation, by the American  
44 Board of Genetic Counseling, if the student is practicing as part of a  
45 supervised course of study and is clearly designated by the title  
46 "genetic counseling intern;" a person performing limited counseling  
47 as a genetic assistant under the direct supervision of a certified  
48 medical geneticist or genetic counselor; or a person engaged in the

**S1226 VITALE, WHELAN**

7

1 practice of genetic counseling as an employee of a clinical  
2 laboratory who provides genetic counseling services only in relation  
3 to testing performed by that laboratory or referred to another  
4 laboratory or provider by that laboratory.

5 The bill establishes a Genetic Counseling Advisory Committee  
6 in the State Board of Medical Examiners to advise the board with  
7 respect to the licensure of genetic counselors. The advisory  
8 committee will consist of five members who are residents of this  
9 State; three of whom shall be licensed genetic counselors, one of  
10 whom shall be a physician licensed to practice medicine and  
11 surgery in this State, and one of whom shall be a public member.

12 In addition, the bill specifies that when seeking license renewal,  
13 an applicant shall present satisfactory evidence that in the period  
14 since the license was issued or last renewed, the applicant has  
15 completed 3.0 American Board of Genetic Counseling - eligible  
16 continuing education units.

1 adopt rules and regulations pursuant to the "Administrative  
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out  
3 the provisions of this act.

4  
5 11. This act shall take effect on the 180th day after enactment.

6  
7 *SPONSOR'S* STATEMENT  
8  
9

10 This bill provides for the licensing of genetic counselors in the  
11 State by the State Board of Medical Examiners. The bill requires  
12 that an applicant for licensure in the State must be certified by the  
13 American Board of Medical Genetics or the American Board of  
14 Genetic Counseling. In addition, the bill prohibits any person from  
15 engaging in the practice of genetic counseling as a genetic  
16 counselor, or presenting, calling or representing himself as a genetic  
17 counselor unless licensed in accordance with the provisions of this  
18 bill.

19 Genetic counseling is a communication process which deals with  
20 the human problems associated with the occurrence, or the risk of  
21 occurrence, of a genetic disorder, birth defect or mental retardation  
22 in a family. This process involves an attempt by one or more  
23 appropriately trained individuals to help an individual or family:  
24 comprehend the medical facts, including the diagnostic, probable  
25 course and available management of a disorder, as well as the risk  
26 of occurrence in specified relatives; understand the options for  
27 dealing with the risk of recurrence; choose the course of action that  
28 seems appropriate to that individual or family in view of the risk  
29 and the family goals and to act in accordance with that decision;  
30 and make the best possible adjustment to the disorder in affected  
31 family members and to the risk of occurrence or recurrence of the  
32 disorder.

33 The bill's licensing requirements do not apply to: a person  
34 licensed by the State to practice medicine and surgery when acting  
35 within the scope of the person's profession and doing work of a  
36 nature consistent with the person's training, if the person does not  
37 hold himself out to the public as a genetic counselor; a student  
38 enrolled in an educational program accredited, or in candidacy for  
39 accreditation, by the American Board of Genetic Counseling, if the  
40 student is practicing as part of a supervised course of study and is  
41 clearly designated by the title "genetic counseling intern;" a person  
42 performing limited counseling as a genetic assistant under the direct  
43 supervision of a certified medical geneticist or licensed genetic  
44 counselor; or a person who is a licensed registered nurse when  
45 acting within the scope of the person's profession and doing work of  
46 a nature consistent with the person's training, if the person does not  
47 hold himself out to the public as a licensed genetic counselor.

48 The bill establishes a Genetic Counseling Advisory Committee

1 in the State Board of Medical Examiners to advise the board with  
2 respect to the licensure of genetic counselors. The advisory  
3 committee will consist of five members who are residents of this  
4 State. Three of the advisory committee's members shall be licensed  
5 genetic counselors; one member shall be a physician licensed to  
6 practice medicine and surgery in this State; and one member shall  
7 be a public member.

8 In addition, the bill specifies that when seeking license renewal,  
9 an applicant shall present satisfactory evidence that in the period  
10 since the license was issued or last renewed the applicant has  
11 completed 3.0 American Board of Genetic Counseling - eligible  
12 continuing education units.

13 The bill also stipulates that the State Board of Medical  
14 Examiners shall adopt rules and regulations to carry out the  
15 provisions of the bill, after consultation with the Generic  
16 Counseling Advisory Committee.



# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 1226 and 1266**

# **STATE OF NEW JERSEY**

DATED: OCTOBER 20, 2008

The Senate Commerce Committee reports favorably Senate Committee Substitute for Bill Nos. 1226 and 1266.

This committee substitute provides for the licensing of genetic counselors in the State. Genetic counseling is a communication process that 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.

The bill establishes a Genetic Counseling Advisory Committee in the State Board of Medical Examiners to advise the board with respect to the licensure and related oversight of genetic counselors. The advisory committee shall consist of five members, appointed by the Governor, who shall be residents of this State. Three of the advisory committee members shall be licensed genetic counselors; one member shall be a physician licensed to practice medicine and surgery in this State; and one member shall be a public member.

The State board, in consultation with the advisory committee, shall require at a minimum the following to qualify an applicant for licensure: (1) be at least 21 years of age; (2) be of good moral character; (3) possession of a master's or higher degree in genetic counseling or its equivalent, 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. Each applicant shall also successfully complete an examination for licensure, the time, place, and contents of which shall be determined by the board, in consultation with the committee, by regulation. 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 bill, the board may issue the applicant a license in accordance with the provisions of the bill.

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 the provisions of the bill. However, the bill does not apply to: (1) a person licensed to practice

medicine and surgery when acting within the scope of the person's profession; (2) a person licensed as a registered nurse when acting within the scope of the person's profession; (3) a student candidate for a degree in genetic counseling or its equivalent, so long as the student is practicing as part of a supervised course of study; or (4) a graduate with a degree in genetic counseling or its equivalent who has not passed the examination for licensure, so long as the graduate successfully passes the exam within the first two available examination cycles next following the filing of an application for licensure as a genetic counselor.

Additionally, the provisions of the bill shall not prohibit in 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 the bill, 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 as an out-of-State consultant or as providing only occasional services without a State license.

A genetic counseling license shall be renewed every two years. Each applicant for license renewal shall present satisfactory evidence of the completion of continuing education requirements from an approved organization, which education requirements and approved organization criteria shall be established by the board, in consultation with the advisory committee, by regulation.

Finally, with respect to the practice of genetic counseling, a counselor shall not be required to disclose any confidential information that the counselor may have acquired from a client or patient while performing licensed services, unless required by other federal or State law, or the counselor is a party to a civil, criminal, or disciplinary action arising from services provided, or the patient or client is a defendant in a criminal proceeding and invoking the privilege would violate the defendant's right to present testimony and witnesses on the defendant's behalf. A genetic counselor who discloses confidential information in violation of the bill shall be liable for damages sustained by the patient or client, 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 for violations occurring with enough frequency to constitute a general business practice.

This committee substitute is identical to Assembly Bill No. 269(1R), as amended and reported by the committee today.