

**ACT 191**

H.B. NO. 1362

A Bill for an Act Relating to Genetic Counselors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to require licensure for individuals offering genetic counseling services in order to:

- (1) Safeguard the public health, safety, and welfare;
- (2) Protect those seeking genetic counseling services from incompetent and unscrupulous persons, and persons unauthorized to perform these services;
- (3) Assure the highest degree of professional conduct on the part of genetic counselors; and
- (4) Assure the availability of high quality genetic counseling services.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
GENETIC COUNSELORS**

§ -1 **Definitions.** As used in this chapter, unless the context requires otherwise:

“Active candidate status” means documentation of eligibility to take the American Board of Genetic Counseling or its equivalent certification examinations.

“Board certified” means an individual who has passed the American Board of Genetic Counseling certification examination and remains actively certified by American Board of Genetic Counseling or its equivalent.

“Department” means the department of health.

“Director” means the director of health.

“Genetic counseling practice” means the rendering of professional counseling services based on specialized education and training to individuals, families, or groups for compensation, monetary or otherwise. These counseling services include the communication process which deals with the human problems associated with the occurrence, or the risk of occurrence, of a genetic disorder. “Genetic counseling practice” includes:

- (1) Obtaining and interpreting individual, family, medical, developmental, and reproductive histories;
- (2) Determining the mode of inheritance and risk of transmission of genetic conditions and birth defects;
- (3) Discussing the inheritance, features, natural history, means of diagnosis, and management of these conditions;
- (4) Identifying, coordinating, interpreting, and explaining genetic laboratory tests and other diagnostic studies;
- (5) Assessing psychological factors and recognizing social, educational, and cultural issues related to having or being at risk for genetic conditions;
- (6) Evaluating the client’s or family’s responses to the genetic condition or risk of having the genetic condition, and providing client-centered counseling and anticipatory guidance;
- (7) Communicating information to their clients in an understandable manner;
- (8) Facilitating informed decision making about testing, treatment, and management;
- (9) Identifying and effectively using community resources that provide medical, educational, financial, and psychosocial support and advocacy; and
- (10) Providing accurate written documentation of medical, genetic, and counseling information for families and health care professionals.

“Genetic counselor” means a person licensed under this chapter who engages in genetic counseling practice.

“Licensed genetic counselor” means an individual who holds a license in good standing to practice genetic counseling under this chapter.

**§ -2 Genetic counseling licensure program.** There is established a genetic counseling licensure program within the department to be administered by the director.

**§ -3 Powers and duties of the director.** In addition to any other powers and duties authorized by law, the director shall have the following powers and duties:

- (1) Examine and approve the qualifications of all applicants under this chapter and issue a license to each successful applicant granting permission to use the title of “licensed genetic counselor” or “genetic counselor” in this State pursuant to this chapter and the rules adopted pursuant thereto;
- (2) Adopt, amend, or repeal rules pursuant to chapter 91 as the director finds necessary to carry out this chapter;

- (3) Administer, coordinate, and enforce this chapter and rules adopted pursuant thereto;
- (4) Discipline a licensed genetic counselor for any cause described by this chapter or for any violation of the rules, and refuse to license an individual for failure to meet licensure requirements or for any cause that would be grounds for disciplining a licensed genetic counselor; and
- (5) Work with the department of health's genetics program to assist with the implementation of this chapter and the rules adopted pursuant thereto.

§ -4 **Licensure required.** No individual shall purport to be a licensed genetic counselor or use the letters "L.G.C." in connection with the individual's name, or use any words or symbols indicating or tending to indicate that the individual is a licensed genetic counselor without meeting the applicable requirements and holding a license as set forth in this chapter.

§ -5 **Exemptions.** (a) This chapter does not prohibit any persons legally regulated in this state by any other law 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 chapter shall 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 chapter shall be construed to limit the activities and services of:

- (1) A student, intern, resident, or fellow in genetics or genetic counseling seeking to fulfill educational requirements to qualify for a license under this chapter if those activities and services constitute a part of that individual's supervised course of study;
- (2) An individual seeking to fulfill the post-degree practice requirements to qualify for licensing under this chapter, as long as the activities and services are supervised by a licensed genetic counselor or physician. A student, intern, resident, or fellow shall be designated by the title "intern", "resident", "fellow", or any other designation of trainee status; or
- (3) An American Board of Genetic Counseling or an American Board of Medical Genetics certified genetic counselor who is brought into the state as a consultant to train health care providers within the state. Nothing contained in this subsection shall be construed to permit students, interns, residents, fellows, or consultants to offer their services as genetic counselors or geneticists to any other person.

(c) Nothing in this chapter shall be construed to prevent a physician licensed to practice medicine in this state or an intern, fellow, or resident from performing genetic counseling within the person's scope of practice as long as the person is not in any manner held out to the public as a "genetic counselor" or "licensed genetic counselor".

(d) Nothing in this chapter shall be construed to prevent any licensed nurse in this state from performing genetic counseling within the nurse's scope of practice as long as the nurse is not in any manner held out to the public as a "genetic counselor" or "licensed genetic counselor".

(e) Nothing in this chapter shall be construed to prevent any licensed social worker, licensed psychologist, or licensed marriage and family therapist from practicing professional counseling in this state as long as the person is not in any manner held out to the public as a “genetic counselor” or “licensed genetic counselor” and does not hold out the person’s services as being genetic counseling.

§ -6 **Licensure requirements.** The director shall adopt rules as deemed necessary for the licensure of genetic counselors to protect public health and safety and may consider the following factors as evidence in determining whether an applicant is qualified to be licensed:

- (1) Board-certification by the American Board of Genetic Counseling or its equivalent; and
- (2) A report of any disciplinary action or rejection of license applications or renewals relating to genetic counseling practice taken against the applicant in another jurisdiction.

§ -7 **Provisional license.** (a) The director shall grant, upon application and payment of proper fees, provisional licensure to an individual who, at the time of application, is documented to have active candidate status by the American Board of Genetic Counseling or its equivalent.

(b) Individuals with provisional licenses shall meet the requirements for full licensure within the first two available American Board of Genetic Counseling or its equivalent Board examination cycles next following the filing of an application for provisional licensure.

§ -8 **Licensure by endorsement.** The director shall grant, upon application and payment of proper fees, licensure to an individual who, at the time of application, holds a valid license as a genetic counselor issued by another state, territory, or jurisdiction if the requirements for that certification or license are equal to, or greater than, the requirements of this chapter.

§ -9 **Issuance of license.** The director shall issue a license to any individual who meets the requirements of this chapter, upon payment of the prescribed fees.

§ -10 **Renewal of license.** (a) Every licensee or provisional licensee under this chapter shall renew a license granted pursuant to this chapter annually on or before June 30, with the first renewal deadline occurring on July 1, 2010. Failure to renew a license shall result in a forfeiture of the license. Licenses that have been so forfeited may be restored within one year of the expiration date upon payment of renewal and penalty fees. Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license, and relicensure may require the individual to apply as a new applicant.

(b) Proof of maintenance of American Board of Genetic Counseling or its equivalent board certification shall be required for license renewal.

(c) Proof of continued active candidate status shall be required for provisional license renewal.

§ -11 **Application for licensure.** (a) Application for a license shall be made on an application form to be furnished by the department. An applicant shall provide the following information:

- (1) The applicant’s legal name;

- (2) The applicant's current residence and business mailing addresses and phone numbers;
  - (3) The applicant's social security number;
  - (4) The date and place of any conviction of a penal crime directly related to the profession or vocation in which the applicant is applying for licensure, unless the conviction has been expunged or annulled, or is otherwise precluded from consideration by section 831-3.1;
  - (5) Proof that the applicant is a United States citizen, a permanent resident, or is otherwise authorized to work in the United States;
  - (6) Disclosure of similar licensure in any state or territory;
  - (7) Disclosure of disciplinary action by any state or territory against any license held by the applicant; and
  - (8) Any other information the licensing authority may require to investigate the applicant's qualifications for licensure.
- (b) Failure to provide the information required by subsection (a) and pay the required fees shall be grounds to deny the application for licensure.

**§ -12 Fees; disposition.** (a) Application, examination, reexamination, license, renewal, late renewal penalty, inactive, and other reasonable and necessary fees relating to administration of this chapter shall be as provided in rules adopted by the director pursuant to chapter 91.

(b) Fees assessed shall defray all costs to be incurred by the director to support the operation of the genetic counselor licensure program.

**§ -13 Revocation, suspension, denial, or condition of licenses; fines.** In addition to any other acts or conditions provided by law, the director may refuse to renew, reinstate, or restore, or may deny, revoke, suspend, fine, or condition in any manner any license for any one or more of the following acts or conditions on the part of the applicant or licensed genetic counselor:

- (1) Conviction by a court of competent jurisdiction of a crime that the director has determined to be of a nature that renders the individual convicted unfit to practice genetic counseling;
- (2) Failure to report in writing to the director any disciplinary decision or rejection of license application or renewal related to genetic practice issued against the licensed genetic counselor or the applicant in any jurisdiction within thirty days of the disciplinary decision or within twenty days of licensure;
- (3) Violation of recognized ethical standards for genetic counselors as set by the National Society of Genetic Counselors;
- (4) Use of fraud, deception, or misrepresentation in obtaining a license;
- (5) Revocation, suspension, or other disciplinary action by another state, territory, federal agency, or country against the licensed genetic counselor or applicant for any reason provided under this section; or
- (6) Other just and sufficient cause that renders an individual unfit to practice genetic counseling.

**§ -14 Hearings; appeals.** The director shall establish a hearing and appeals process for persons to appeal the revocation, suspension, denial, or condition of a license.

**§ -15 Prohibited acts; penalties.** (a) No individual shall:

- (1) Use in connection with the person's name any designation tending to imply that the individual is a licensed genetic counselor unless the individual is duly licensed and authorized under this chapter; or
  - (2) Make a representation that the individual is a licensed genetic counselor during the time the person's license issued under this chapter is forfeited, inactive, terminated, suspended, or revoked.
- (b) Any individual who violates this section shall be subject to a fine of not more than \$1,000 and each day's violation shall be deemed a separate offense.

**§ -16 Rules.** The department may adopt rules under chapter 91 as necessary for the purposes of this chapter.”

**SECTION 3.** This act shall take effect on July 1, 2011; provided that section -3(2) and section -16 of the new chapter established by section 2 of this Act shall take effect upon approval.

(Became law on July 15, 2009, without the governor's signature, pursuant to Art. III, §16, State Constitution.)