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# A BILL FOR AN ACT

RELATING TO GENETIC COUNSELORS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

- 1 SECTION 1. The purpose of this Act is to regulate  
2 individuals offering genetic counseling services and to:
- 3 (1) Safeguard the public health, safety, and welfare;
  - 4 (2) Protect those seeking genetic counseling services from  
5 incompetent and unscrupulous persons, and persons  
6 unauthorized to perform these services;
  - 7 (3) Assure the highest degree of professional conduct on  
8 the part of genetic counselors; and
  - 9 (4) Assure the availability of high quality genetic  
10 counseling services.

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

14 "CHAPTER

15 GENETIC COUNSELORS

16 § -1 **Definitions.** As used in this chapter:

17 "Board certified" means an individual who has passed the  
18 American Board of Genetic Counseling certification examination



1 and remains actively certified by American Board of Genetic  
2 Counseling or its equivalent.

3 "Active candidate status" means an individual who has  
4 documentation of eligibility to take the American Board of  
5 Genetic Counseling or its equivalent certification examinations.

6 "Department" means the department of health.

7 "Director" means the director of health.

8 "Genetic counselor" means a person licensed under this  
9 chapter who engages in genetic counseling practice.

10 "Genetic counseling practice" means the rendering of  
11 professional counseling services based on specialized education  
12 and training to individuals, families, or groups for  
13 compensation, monetary or otherwise. These counseling services  
14 include the communication process which deals with the human  
15 problems associated with the occurrence, or the risk of  
16 occurrence, of a genetic disorder in a family. "Genetic  
17 counseling practice" includes but is not limited to:

- 18 (1) Obtain and interpret individual, family, medical,  
19 developmental, and reproductive histories;  
20 (2) Determine the mode of inheritance and risk of  
21 transmission of genetic conditions and birth defects;



- 1           (3) Discuss the inheritance; features, natural history,  
2           means of diagnosis, and management of these  
3           conditions;
- 4           (4) Identify, coordinate, interpret, and explain genetic  
5           laboratory tests and other diagnostic studies;
- 6           (5) Assess psychological factors, recognizing social,  
7           educational, and cultural issues related to having or  
8           being at risk for genetic conditions;
- 9           (6) Evaluate the client's or family's responses to the  
10          genetic condition or risk of having the genetic  
11          condition and provide client-centered counseling and  
12          anticipatory guidance;
- 13          (7) Communicate information to their clients in an  
14          understandable manner;
- 15          (8) Facilitate informed decision making about testing,  
16          treatment and management;
- 17          (9) Identify and effectively utilize community resources  
18          that provide medical, educational, financial, and  
19          psychosocial support and advocacy; and
- 20          (10) Provide accurate written documentation of medical,  
21          genetic, and counseling information for families and  
22          health care professionals.



1 "Licensed genetic counselor" means an individual who holds  
2 a license in good standing to practice genetic counseling under  
3 this chapter.

4 § -2 Genetic counseling licensure program. There is  
5 established a genetic counseling licensure program within the  
6 department to be administered by the director.

7 § -3 Powers and duties of the director. In addition to  
8 any other powers and duties authorized by law, the director  
9 shall have the following powers and duties:

- 10 (1) Examine and approve the qualifications of all  
11 applicants under this chapter and issue a license to  
12 each successful applicant granting permission to use  
13 the title of "licensed genetic counselor" or "genetic  
14 counselor" in this State pursuant to this chapter and  
15 the rules adopted pursuant thereto;
- 16 (2) Adopt, amend, or repeal rules pursuant to chapter 91  
17 as the director finds necessary to carry out this  
18 chapter;
- 19 (3) Administer, coordinate, and enforce this chapter and  
20 rules adopted pursuant thereto;
- 21 (4) Discipline a licensed genetic counselor for any cause  
22 described by this chapter or for any violation of the



1 rules, and refuse to license an individual for failure  
2 to meet licensure requirements or for any cause that  
3 would be grounds for disciplining a licensed genetic  
4 counselor; and

5 (5) Direct the department of health genetics program to  
6 assist with the implementation of this chapter and the  
7 rules adopted pursuant thereto.

8 § -4 **Licensure required.** No individual shall purport to  
9 be a licensed genetic counselor or use the letters "L.G.C." in  
10 connection with the individual's name, or use any words or  
11 symbols indicating or tending to indicate that the individual is  
12 a licensed genetic counselor without meeting the applicable  
13 requirements and holding a license as set forth in this chapter.

14 § -5 **Exemptions.** (a) This chapter does not prohibit  
15 any persons legally regulated in this State by any other law  
16 from engaging in the practice for which they are authorized as  
17 long as they do not represent themselves by the title of  
18 "genetic counselor" or "licensed genetic counselor". This  
19 chapter does not prohibit the practice of non-regulated  
20 professions whose practitioners are engaged in the delivery of  
21 human services as long as these practitioners do not represent



1 themselves as or use the title of "genetic counselor" or  
2 "licensed genetic counselor".

3 (b) Nothing in this chapter shall be construed to limit  
4 the activities and services of:

5 (1) A student, intern, resident, or fellow in genetic  
6 counseling or genetics seeking to fulfill educational  
7 requirements to qualify for a license under this  
8 chapter if those activities and services constitute a  
9 part of the student's supervised course of study;

10 (2) An individual seeking to fulfill the post-degree  
11 practice requirements to qualify for licensing under  
12 this chapter, as long as the activities and services  
13 are supervised by a licensed genetic counselor or  
14 physician. A student, intern, resident, or fellow  
15 must be designated by the title "intern", "resident",  
16 "fellow", or any other designation of trainee status;  
17 or

18 (3) An American Board of Genetic Counseling or an American  
19 Board of Medical Genetics certified genetic counselor  
20 who is brought into the State as a consultant to train  
21 health care providers within the State. Nothing  
22 contained in this subsection shall be construed to



1 permit students, interns, residents, fellows, or  
2 consultants to offer their services as genetic  
3 counselors or geneticists to any other person.

4 (c) Nothing in this chapter shall be construed to prevent  
5 a physician licensed to practice medicine in this State or  
6 intern, fellow, or resident from performing genetic counseling  
7 within the persons scope of practice as long as the person is  
8 not in any manner held out to the public as a "genetic  
9 counselor" or "licensed genetic counselor".

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

15 (e) Nothing in this chapter shall be construed to prevent  
16 any licensed social worker, licensed psychologist, or license  
17 marriage and family therapist from practicing professional  
18 counseling in this State as long as that person is not in any  
19 manner held out to the public as a "genetic counselor" or  
20 "licensed genetic counselor" and does not hold out the person's  
21 services as being genetic counseling.



1           §   -6   **Licensure requirements.**   The director shall adopt  
2 rules as deemed necessary for the licensure of genetic  
3 counselors to protect public health and safety and may consider  
4 the following factors as evidence in determining whether an  
5 applicant is qualified to be licensed:

6           (1)   The applicant is board certified by the American Board  
7               of Genetic Counseling or its equivalent; and

8           (2)   A report of any disciplinary action or rejection of  
9               license applications or renewals relating to genetic  
10              counseling practice taken against the applicant in  
11              another jurisdiction.

12          §   -7   **Provisional license.**   (a)   The director shall  
13 grant, upon application and payment of proper fees, provisional  
14 licensure to an individual who, at the time of application, is  
15 documented to have Active Candidate Status by the American Board  
16 of Genetic Counseling or its equivalent.

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





1           §   -8   **Licensure by endorsement.**   The director shall  
2 grant, upon application and payment of proper fees, licensure to  
3 an individual who, at the time of application, holds a valid  
4 license as a genetic counselor issued by another state,  
5 territory, or jurisdiction if the requirements for that  
6 certification or license are equal to, or greater than, the  
7 requirements of this chapter.

8           §   -9   **Issuance of license.**   The director shall issue a  
9 license to any individual who meets the requirements of this  
10 chapter, upon payment of the prescribed fees.

11          §   -10   **Renewal of license.**   (a)   Every license or  
12 provisional license issued under this chapter shall be renewed  
13 annually on or before June 30, with the first renewal deadline  
14 occurring on July 1, 2010.   Failure to renew a license shall  
15 result in a forfeiture of the license.   Licenses that have been  
16 so forfeited may be restored within one year of the expiration  
17 date upon payment of renewal and penalty fees.   Failure to  
18 restore a forfeited license within one year of the date of its  
19 expiration shall result in the automatic termination of the  
20 license, and re licensure may require the individual to apply as  
21 a new applicant.



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

4 (c) Proof of continued Active Candidate Status shall be  
5 required for provisional license renewal.

6 § -11 **Application for licensure.** (a) Application for a  
7 license shall be made on an application form to be furnished by  
8 the department. An applicant shall provide the following  
9 information on the application form:

- 10 (1) The applicant's legal name;
- 11 (2) The applicant's current residence and business mailing  
12 addresses and phone numbers;
- 13 (3) The applicant's social security number;
- 14 (4) The date and place of any conviction of a penal crime  
15 directly related to the profession or vocation in  
16 which the applicant is applying for licensure, unless  
17 the conviction has been expunged or annulled, or is  
18 otherwise precluded from consideration by section  
19 831-3.1;
- 20 (5) Proof that the applicant is a United States citizen, a  
21 United States national, or an alien authorized to work  
22 in the United States;



- 1           (6) Disclosure of similar licensure in any state or
- 2           territory;
- 3           (7) Disclosure of disciplinary action by any state or
- 4           territory against any license held by the applicant;
- 5           and
- 6           (8) Any other information the licensing authority may
- 7           require to investigate the applicant's qualifications
- 8           for licensure.

9           (b) Failure to provide the above information and pay the  
10 required fees shall be grounds to deny the application for  
11 licensure.

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

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

20           § -13 Revocation, suspension, denial, or condition of  
21 licenses; fines. In addition to any other acts or conditions  
22 provided by law, the director may refuse to renew, reinstate, or



1 restore, or may deny, revoke, suspend, fine, or condition in any  
2 manner any license for any one or more of the following acts or  
3 conditions on the part of the applicant or licensed genetic  
4 counselor:

5 (1) Conviction by a court of competent jurisdiction of a  
6 crime that the director has determined to be of a  
7 nature that renders the individual convicted unfit to  
8 practice genetic counseling;

9 (2) Failure to report in writing to the director any  
10 disciplinary decision or rejection of license  
11 application or renewal related to genetic practice  
12 issued against the licensed genetic counselor or the  
13 applicant in any jurisdiction within thirty days of  
14 the disciplinary decision or within twenty days of  
15 licensure;

16 (3) Violation of recognized ethical standards for genetic  
17 counselors as set by the National Society of Genetic  
18 Counselors;

19 (4) Use of fraud, deception, or misrepresentation in  
20 obtaining a license;

21 (5) Revocation, suspension, or other disciplinary action  
22 by another state, territory, federal agency, or



1 country against the licensed genetic counselor or  
2 applicant for any reason provided under this section;  
3 or

4 (6) Other just and sufficient cause that renders an  
5 individual unfit to practice genetic counseling.

6 § -14 **Hearings; appeals.** The director shall establish a  
7 hearing and appeals process for persons who wish to appeal their  
8 revocation, suspension, denial, or condition of license.

9 § -15 **Prohibited acts; penalties.** (a) No individual  
10 shall:

11 (1) Use in connection with the person's name any  
12 designation tending to imply that the individual is a  
13 licensed genetic counselor unless the individual is  
14 duly licensed and authorized under this chapter; or

15 (2) Make a representation that the individual is a  
16 licensed genetic counselor during the time the  
17 person's license issued under this chapter is  
18 forfeited, inactive, terminated, suspended, or  
19 revoked.

20 (b) Any individual who violates this section shall be  
21 subject to a fine of not more than \$1,000 and each day's  
22 violation shall be deemed a separate offense.



# H.B. NO. 1362

1           §   -16 Rules. The department of health may adopt rules  
2 under chapter 91 as necessary for the purposes of this Act."

3           SECTION 3. This Act shall take effect on July 1, 2009.

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INTRODUCED BY: *Matthew J. Mayray*

JAN 27 2009



**Report Title:**

Genetic Counselors

**Description:**

Establishes genetic counseling licensure program within department of health. Requires licensure in order to use the title of "licensed genetic counselor". Provides exemptions from licensure requirements.

