

JAN 28 2009

A BILL FOR AN ACT

RELATING TO HEALTH.

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:



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

4 "Board certified" means an individual who has passed the
5 American Board of Genetic Counseling certification examination
6 and remains actively certified by American Board of Genetic
7 Counseling.

8 "Department" means the department of health.

9 "Director" means the director of health.

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) Explaining the nature of genetics' evaluation to
19 clients. Elicit and interpret comprehensive and
20 appropriate medical and family histories, based on the
21 referral indication, and document the family history
22 using standard pedigree nomenclature;



- 1 (2) Identify additional client and family medical
2 information that is necessary for risk assessment and
3 consideration of differential diagnoses, and assist in
4 obtaining that information;
- 5 (3) Research and summarize pertinent data from the
6 published literature, databases, and other
7 professional resources, as necessary for each client;
- 8 (4) Synthesize client and family medical information and
9 data obtained from additional research as the basis
10 for risk assessment, differential diagnosis, genetic
11 testing options, reproductive options, follow-up
12 recommendations, and case management;
- 13 (5) Assess and calculate the risk of occurrence or
14 recurrence of a genetic condition or birth defect
15 using a variety of techniques, including knowledge of
16 inheritance patterns, epidemiologic data, quantitative
17 genetics principles, statistical models, and
18 evaluation of clinical information, as applicable;
- 19 (6) Explain to clients, verbally, in writing, or both,
20 medical information regarding the diagnosis or
21 potential occurrence of a genetic condition or birth
22 defect, including etiology, natural history,



- 1 inheritance, and potential treatment options.
- 2 Comprehend the medical facts, including the diagnosis,
- 3 probable cause of the disorder, and available
- 4 management of the disorder;
- 5 (7) Interpret individual family experiences, behaviors,
- 6 emotions, perceptions, values, and cultural and
- 7 religious beliefs in order to facilitate
- 8 individualized decision making and coping. Promote
- 9 client-specific decision making in an unbiased non-
- 10 coercive manner that respects a client's culture,
- 11 language, tradition, lifestyle, religious beliefs, and
- 12 values;
- 13 (8) Assess client understanding and response to medical
- 14 information and its implications, and adjust the level
- 15 of the educational intervention according to client
- 16 competencies;
- 17 (9) Identify clients' psychological needs, stressors and
- 18 sources of emotional and psychological support in
- 19 order to determine appropriate interventions,
- 20 referrals, or both; and



1 (10) Provide accurate written documentation of medical,
2 genetic, and counseling information for families and
3 health care professionals.

4 "Genetic counselor" means a person licensed under this
5 chapter who engages in the practice of genetic counseling.

6 "Licensed genetic counselor" means an individual who holds
7 a license in good standing to practice genetic counseling under
8 this chapter.

9 § -2 Genetic counseling licensure program. There is
10 established a genetic counseling licensure program within the
11 department to be administered by the director.

12 § -3 Powers and duties of the director. In addition to
13 any other powers and duties authorized by law, the director
14 shall have the following powers and duties:

15 (1) Examine and approve the qualifications of all
16 applicants under this chapter and issue a license to
17 each successful applicant granting permission to use
18 the title of "licensed genetic counselor" or "genetic
19 counselor" in this State pursuant to this chapter and
20 the rules adopted pursuant thereto;



- 1 (2) Adopt, amend, or repeal rules pursuant to chapter 91
2 as the director finds necessary to carry out this
3 chapter;
- 4 (3) Administer, coordinate, and enforce this chapter and
5 rules adopted pursuant thereto;
- 6 (4) Discipline a licensed genetic counselor for any cause
7 described by this chapter or for any violation of the
8 rules, and refuse to license an individual for failure
9 to meet licensure requirements or for any cause that
10 would be grounds for disciplining a licensed genetic
11 counselor; and
- 12 (5) Direct the department of health genetics program to
13 assist with the implementation of this chapter and the
14 rules adopted pursuant thereto.

15 § -4 **Licensure required.** No individual shall purport to
16 be a licensed genetic counselor or use the letters "L.G.C." in
17 connection with the individual's name, or use any words or
18 symbols indicating or tending to indicate that the individual is
19 a licensed genetic counselor without meeting the applicable
20 requirements and holding a license as set forth in this chapter.

21 § -5 **Exemptions.** (a) This chapter does not prohibit
22 any persons legally regulated in this State by any other law

1 from engaging in the practice for which they are authorized as
2 long as they do not represent themselves by the title of
3 "genetic counselor" or "licensed genetic counselor". This
4 chapter does not prohibit the practice of non-regulated
5 professions whose practitioners are engaged in the delivery of
6 human services as long as these practitioners do not represent
7 themselves as or use the title of "genetic counselor" or
8 "licensed genetic counselor".

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

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

16 (2) An individual seeking to fulfill the post-degree
17 practice requirements to qualify for licensing under
18 this chapter, as long as the activities and services
19 are supervised by a qualified supervisor. A student,
20 intern, resident, or fellow must be designated by the
21 title "intern," "resident," "fellow," or any other
22 designation of trainee status; or



1 (3) An American Board of Genetic Counseling or an American
2 Board of Medical Genetics certified genetic counselor
3 who is brought into the State as a consultant to train
4 genetic counselors within the State. Nothing
5 contained in this subsection shall be construed to
6 permit students, interns, residents, fellows, or
7 consultants to offer their services as genetic
8 counselors or geneticists to any other person..

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

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

20 (e) Nothing in this chapter shall be construed to prevent
21 any licensed social worker, licensed psychologist, or licensed
22 marriage and family therapist from practicing professional

1 counseling in this State as long as that person is not in any
2 manner held out to the public as a "genetic counselor" or
3 "licensed genetic counselor" and does not hold out the person's
4 services as being genetic counseling.

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

- 10 (1) The applicant is board certified by the American Board
11 of Genetic Counseling; and
- 12 (2) A report of any disciplinary action or rejections of
13 license applications or renewals relating to genetic
14 counseling practice taken against the applicant in
15 another jurisdiction.

16 § -7 **Provisional license.** (a) The director shall
17 grant, upon application and payment of proper fees, a
18 provisional license to an individual who, at the time of
19 application, is documented to have active candidate status by
20 the American Board of Genetic Counseling or its equivalent.

21 (b) An individual who has been granted a provisional
22 license by the director must meet the requirements for full



1 licensure within the first two available examination cycles of
2 the American Board of Genetic Counseling or its equivalent after
3 receiving the provisional license.

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

11 § -9 **Issuance of license.** The director shall issue a
12 license to any individual who meets the requirements of this
13 chapter, upon payment of the prescribed fees.

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



1 automatic termination of the license, and re-licensure may
2 require the individual to apply as a new applicant.

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

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

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

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



1 (5) Proof that the applicant is a United States citizen, a
2 United States national, or an alien authorized to work
3 in the United States;

4 (6) Disclosure of similar licensure in any state or
5 territory;

6 (7) Disclosure of disciplinary action by any state or
7 territory against any license held by the applicant;
8 and

9 (8) Any other information the licensing authority may
10 require to investigate the applicant's qualifications
11 for licensure.

12 (b) Failure to provide the above information and pay the
13 required fees shall be grounds to deny the application for
14 licensure.

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

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



1 § -13 Revocation, suspension, denial, or condition of
2 licenses; fines. In addition to any other acts or conditions
3 provided by law, the director may refuse to renew, reinstate, or
4 restore, or may deny, revoke, suspend, fine, or condition in any
5 manner any license for any one or more of the following acts or
6 conditions on the part of the applicant or licensed genetic
7 counselor:

- 8 (1) Conviction by a court of competent jurisdiction of a
9 crime that the director has determined to be of a
10 nature that renders the individual convicted unfit to
11 practice genetic counseling;
- 12 (2) Failure to report in writing to the director any
13 disciplinary decision or rejection of license
14 application or renewal related to genetic practice
15 issued against the licensed genetic counselor or the
16 applicant in any jurisdiction within thirty days of
17 the disciplinary decision or within twenty days of
18 licensure;
- 19 (3) Violation of recognized ethical standards for genetic
20 counselors as set by the National Society of Genetic
21 Counselors;



- 1 (4) Use of fraud, deception, or misrepresentation in
- 2 obtaining a license;
- 3 (5) Revocation, suspension, or other disciplinary action
- 4 by another state, territory, federal agency, or
- 5 country against the licensed genetic counselor or
- 6 applicant for any reason provided under this section;
- 7 or
- 8 (6) Other just and sufficient cause that renders an
- 9 individual unfit to practice genetic counseling.

10 § -14 **Hearings; appeals.** The director shall establish a

11 hearing and appeals process for persons who wish to appeal their

12 revocation, suspension, denial, or condition of license.

13 § -15 **Prohibited acts; penalties.** (a) No individual

14 shall:

- 15 (1) Use in connection with the person's name any
- 16 designation tending to imply that the individual is a
- 17 licensed genetic counselor unless the individual is
- 18 duly licensed and authorized under this chapter; or
- 19 (2) Make a representation that the individual is a
- 20 licensed genetic counselor during the time the
- 21 person's license issued under this chapter is

1 forfeited, inactive, terminated, suspended, or
2 revoked.

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

6 § -16 Rules. The department of health may adopt rules
7 pursuant chapter 91 as necessary for the purpose of this
8 chapter."

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

10

INTRODUCED BY: Erzanne Chun Oakland
Randy H. Bell
David Yelze
Norman Sakomp



Report Title:

Health; Genetic Counselors; Licensure

Description:

Establishes a licensure program for genetic counselors.

