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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 require licensure  
2 for individuals offering genetic counseling services in order  
3 to:

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

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

15 **"CHAPTER**

16 **GENETIC COUNSELORS**

17 § -1 **Definitions.** As used in this chapter, unless the  
18 context requires otherwise:

1 "Active candidate status" means documentation of  
2 eligibility to take the American Board of Genetic Counseling or  
3 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 or its equivalent.

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. "Genetic counseling  
17 practice" includes:

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

- 1           (3)   Discussing the inheritance, features, natural history,  
2                    means of diagnosis, and management of these  
3                    conditions;
- 4           (4)   Identifying, coordinating, interpreting, and  
5                    explaining genetic laboratory tests and other  
6                    diagnostic studies;
- 7           (5)   Assessing psychological factors and recognizing  
8                    social, educational, and cultural issues related to  
9                    having or being at risk for genetic conditions;
- 10          (6)   Evaluating the client's or family's responses to the  
11                   genetic condition or risk of having the genetic  
12                   condition, and providing client-centered counseling  
13                   and anticipatory guidance;
- 14          (7)   Communicating information to their clients in an  
15                   understandable manner;
- 16          (8)   Facilitating informed decision making about testing,  
17                   treatment, and management;
- 18          (9)   Identifying and effectively using community resources  
19                   that provide medical, educational, financial, and  
20                   psychosocial support and advocacy; and

1 (10) Providing 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 genetic counseling practice.

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) Work with the department of health's genetics program  
13          to assist with the implementation of this chapter and  
14          the 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 shall not prohibit the practice of nonregulated  
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 genetics or  
12 genetic counseling 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 that individual'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 licensed genetic counselor or  
20 physician. A student, intern, resident, or fellow  
21 shall be designated by the title "intern", "resident",

1 "fellow", or any other designation of trainee status;

2 or

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

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

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

1 (e) Nothing in this chapter shall be construed to prevent  
2 any licensed social worker, licensed psychologist, or licensed  
3 marriage and family therapist from practicing professional  
4 counseling in this state as long as the person is not in any  
5 manner held out to the public as a "genetic counselor" or  
6 "licensed genetic counselor" and does not hold out the person's  
7 services as being genetic counseling.

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

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

19 § -7 **Provisional license.** (a) The director shall  
20 grant, upon application and payment of proper fees, provisional  
21 licensure to an individual who, at the time of application, is



1 documented to have active candidate status by the American Board  
2 of Genetic Counseling or its equivalent.

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

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

15 § -9 **Issuance of license.** The director shall issue a  
16 license to any individual who meets the requirements of this  
17 chapter, upon payment of the prescribed fees.

18 § -10 **Renewal of license.** (a) Every licensee or  
19 provisional licensee under this chapter shall renew a license  
20 granted pursuant to this chapter annually on or before June 30,  
21 with the first renewal deadline occurring on July 1, 2010.

22 Failure to renew a license shall result in a forfeiture of the

1 license. Licenses that have been so forfeited may be restored  
2 within one year of the expiration date upon payment of renewal  
3 and penalty fees. Failure to restore a forfeited license within  
4 one year of the date of its expiration shall result in the  
5 automatic termination of the license, and relicensure may  
6 require the individual to apply as a new applicant.

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

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

12 § -11 **Application for licensure.** (a) Application for a  
13 license shall be made on an application form to be furnished by  
14 the department. An applicant shall provide the following  
15 information:

- 16 (1) The applicant's legal name;
- 17 (2) The applicant's current residence and business mailing  
18 addresses and phone numbers;
- 19 (3) The applicant's social security number;
- 20 (4) The date and place of any conviction of a penal crime  
21 directly related to the profession or vocation in  
22 which the applicant is applying for licensure, unless

1 the conviction has been expunged or annulled, or is  
2 otherwise precluded from consideration by section  
3 831-3.1;

4 (5) Proof that the applicant is a United States citizen, a  
5 permanent resident, or is otherwise authorized to work  
6 in the United States;

7 (6) Disclosure of similar licensure in any state or  
8 territory;

9 (7) Disclosure of disciplinary action by any state or  
10 territory against any license held by the applicant;  
11 and

12 (8) Any other information the licensing authority may  
13 require to investigate the applicant's qualifications  
14 for licensure.

15 (b) Failure to provide the information required by  
16 subsection (a) and pay the required fees shall be grounds to  
17 deny the application for licensure.

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

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

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

11 (1) Conviction by a court of competent jurisdiction of a  
12 crime that the director has determined to be of a  
13 nature that renders the individual convicted unfit to  
14 practice genetic counseling;

15 (2) Failure to report in writing to the director any  
16 disciplinary decision or rejection of license  
17 application or renewal related to genetic practice  
18 issued against the licensed genetic counselor or the  
19 applicant in any jurisdiction within thirty days of  
20 the disciplinary decision or within twenty days of  
21 licensure;

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

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

6 (5) Revocation, suspension, or other disciplinary action  
7 by another state, territory, federal agency, or  
8 country against the licensed genetic counselor or  
9 applicant for any reason provided under this section;  
10 or

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

13 § -14 **Hearings; appeals.** The director shall establish a  
14 hearing and appeals process for persons to appeal the  
15 revocation, suspension, denial, or condition of a license.

16 § -15 **Prohibited acts; penalties.** (a) No individual  
17 shall:

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

1           (2) Make a representation that the individual is a  
2           licensed genetic counselor during the time the  
3           person's license issued under this chapter is  
4           forfeited, inactive, terminated, suspended, or  
5           revoked.

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

9           §    -16 **Rules.** The department may adopt rules under  
10          chapter 91 as necessary for the purposes of this chapter."

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

**Report Title:**

Genetic Counselors

**Description:**

Establishes the 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. (SD2)