

CHAMBER ACTION

1 The Committee on Health Care recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to genetic counselors; creating part XV of
7 ch. 468, F.S., the "Genetic Counseling Practice Act";
8 providing a popular name; providing legislative purpose
9 and intent; providing definitions; requiring licensure to
10 practice genetic counseling; providing exemptions;
11 creating the Board of Genetic Counselors and providing for
12 appointment and staggering of terms of its members;
13 requiring the board to adopt rules; providing licensure
14 requirements; providing for biennial renewal of licensure;
15 providing for continuing education; providing fees;
16 prohibiting certain acts; providing penalties; providing
17 grounds for disciplinary action; providing for denial of
18 licensure or imposition of other disciplinary actions
19 authorized by law; amending s. 20.43, F.S.; creating the
20 Board of Genetic Counselors within the Division of Medical
21 Quality Assurance in the Department of Health; amending s.
22 456.001, F.S.; redefining the term "health care

23 | practitioner" to include persons licensed under part XV of
 24 | chapter 468, F.S.; providing an effective date.

25 |

26 | Be It Enacted by the Legislature of the State of Florida:

27 |

28 | Section 1. Part XV of chapter 468, Florida Statutes,
 29 | consisting of sections 468.901, 468.902, 468.903, 468.904,
 30 | 468.905, 468.906, 468.907, 468.908, 468.909, 468.911, 468.912,
 31 | and 468.913, is created to read:

32 |

PART XV

33 |

GENETIC COUNSELORS

34 | 468.901 Popular name.--This part may be cited by the
 35 | popular name the "Genetic Counseling Practice Act."

36 | 468.902 Purpose and intent.--The sole legislative purpose
 37 | in enacting this part is to ensure that every genetic counselor
 38 | practicing in this state meets minimum requirements for safe
 39 | practice. It is the legislative intent that genetic counselors
 40 | who fall below minimum competency or who otherwise present a
 41 | danger to the public shall be prohibited from practicing in this
 42 | state. This part does not require payment from insurers for
 43 | genetic counseling services. This act does not apply to
 44 | counselors who do not identify or advertise themselves as
 45 | genetic counselors and who do not provide genetic risk
 46 | assessment, diagnosis and interpretation of family history, and
 47 | genetic test results.

48 | 468.903 Definitions.--As used in this part, the term:

49 | (1) "Board" means the Board of Genetic Counselors.

50 | (2) "Department" means the Department of Health.

51 (3) "Genetic counselor" means a person licensed under this
 52 part to practice genetic counseling.

53 (4) "Practice of genetic counseling" means, for
 54 remuneration, the communication process that deals with the
 55 human problems associated with the occurrence, or the risk of
 56 occurrence, of a genetic disorder in a family, including the
 57 provision of services to help an individual or family:

58 (a) Comprehend the medical facts, including the diagnosis,
 59 the probable cause of the disorder, and the available management
 60 of the disorder.

61 (b) Appreciate the way heredity contributes to the
 62 disorder and the risk of occurrence in specified relatives.

63 (c) Understand the alternatives for dealing with the risk
 64 of occurrence.

65 (d) Choose the course of action which seems appropriate to
 66 them in view of their risk, their family goals, and their
 67 ethical and religious standards, and to act in accordance with
 68 that decision.

69 (e) Make the best possible psychosocial adjustment to the
 70 disorder in an affected family member or to the risk of
 71 occurrence of that disorder.

72 468.904 License required.--A person may not practice
 73 genetic counseling or hold himself or herself out as a genetic
 74 counselor or as being able to practice genetic counseling or to
 75 render genetic counseling services in the state unless he or she
 76 is licensed in accordance with this part.

77 468.905 Exemptions.--This part does not apply to:

78 (1) Commissioned medical officers of the Armed Forces of
 79 the United States and of the Public Health Service of the United
 80 States while on active duty and while acting within the scope of
 81 their military or public health responsibilities.

82 (2) A health care practitioner defined in s. 456.001 who
 83 is practicing within the scope of the health care practitioner's
 84 license and who is doing work of a nature consistent with his or
 85 her training and licensure.

86 468.906 Board of Genetic Counselors.--

87 (1) The Board of Genetic Counselors is created within the
 88 department and shall consist of five members, to be appointed by
 89 the Governor and confirmed by the Senate.

90 (2) Three members of the board must be licensed genetic
 91 counselors who are residents of the state. The remaining two
 92 members must be residents of the state who are not, and have
 93 never been, licensed as genetic counselors or members of any
 94 closely related profession.

95 (3)(a) For the purpose of staggering terms, the Governor
 96 shall appoint the initial members of the board as follows:

97 1. One licensee member and one consumer member for terms
 98 of 2 years each.

99 2. One licensee member and one consumer member for terms
 100 of 3 years each.

101 3. One licensee member for a term of 4 years.

102 (b) As the terms of the members expire, the Governor shall
 103 appoint successors for terms of 4 years, and such members shall
 104 serve until their successors are appointed.

105 (4) All provisions of chapter 456 relating to the board
 106 shall apply.

107 468.907 Authority to adopt rules.--The board shall adopt
 108 rules pursuant to ss. 120.536(1) and 120.54 to administer the
 109 provisions of this part conferring duties on it, including rules
 110 relating to standards of practice for genetic counselors.

111 468.908 Licensure requirements; temporary license.--

112 (1) Any person desiring to be licensed as a genetic
 113 counselor under this part must apply to the department on a form
 114 approved by the department.

115 (2) The department shall license each applicant who:

116 (a) Has completed the application form and remitted the
 117 required fees.

118 (b) Is of good moral character.

119 (c) Provides satisfactory documentation of having earned:

120 1. A master's degree from a genetic counseling training
 121 program or an equivalent program as determined by the American
 122 Board of Genetic Counseling; or

123 2. A doctoral degree from a medical genetics training
 124 program that is accredited by the American Board of Medical
 125 Genetics.

126 (d) Has passed the examination for certification as:

127 1. A genetic counselor by the American Board of Genetic
 128 Counseling or the American Board of Medical Genetics; or

129 2. A medical or clinical geneticist by the American Board
 130 of Medical Genetics.

131 (3) The department may issue a temporary license to an
 132 applicant who meets all of the requirements for licensure except

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133 | the examination requirement in this section and has obtained
 134 | active candidate status establishing eligibility to sit for the
 135 | next available certification exam administered by the American
 136 | Board of Genetic Counseling.

137 | 468.909 Renewal of license; continuing education.--

138 | (1) The department shall renew a license upon receipt of
 139 | the renewal application and fee set by the board, not to exceed
 140 | \$600.

141 | (2) The board shall by rule prescribe continuing education
 142 | requirements and approve course criteria, not to exceed 30 hours
 143 | biennially, as a condition for license renewal. The board shall
 144 | establish a procedure for approving continuing education courses
 145 | and providers, and may set a fee for continuing education
 146 | courses and provider approval.

147 | 468.911 Fees.--

148 | (1) The board shall by rule establish fees for the
 149 | following purposes:

- 150 | (a) An application fee, not to exceed \$100.
- 151 | (b) An initial licensure fee, not to exceed \$600.
- 152 | (c) A biennial renewal fee, not to exceed \$600.
- 153 | (d) An inactive fee, not to exceed \$100.
- 154 | (e) A delinquent fee, not to exceed \$100.
- 155 | (f) A reactivation fee, not to exceed \$100.
- 156 | (g) A voluntary inactive fee, not to exceed \$100.

157 | (2) The board shall establish fees at a level, not to
 158 | exceed the statutory fee cap, which is adequate to ensure the
 159 | continued operation of the regulatory program under this part.

160 The board may not set or maintain the fees at a level that will
 161 substantially exceed this need.

162 468.912 Prohibitions; penalties.--

163 (1) A person may not:

164 (a) Make a false or fraudulent statement in any
 165 application, affidavit, or statement presented to the board or
 166 in any proceeding before the board.

167 (b) Practice genetic counseling without a license issued
 168 under this part unless exempt from licensure under this part.

169 (c) Use the title "genetic counselor" or any other title
 170 or designation tending to indicate that the person is a genetic
 171 counselor or is otherwise authorized to practice genetic
 172 counseling unless that person has a current license as a genetic
 173 counselor issued under this part or is exempt from licensure
 174 under this part.

175 (2) A person who violates any provision of this section
 176 commits a misdemeanor of the second degree, punishable as
 177 provided in s. 775.082 or s. 775.083.

178 468.913 Grounds for disciplinary action.--

179 (1) The following acts constitute grounds for denial of a
 180 license or disciplinary action, as specified in s. 456.072(2):

181 (a) Attempting to procure a license to practice genetic
 182 counseling by fraudulent misrepresentation.

183 (b) Having a license to practice genetic counseling
 184 revoked, suspended, or otherwise acted against, including the
 185 denial of licensure in another jurisdiction.

186 (c) Being convicted or found guilty of or pleading nolo
 187 contendere to, regardless of adjudication, in any jurisdiction,

188 a crime that directly relates to the practice of genetic
 189 counseling, including a violation of federal laws or regulations
 190 regarding genetic counseling.

191 (d) Filing a report or record that the licensee knows is
 192 false, intentionally or negligently failing to file a report or
 193 record required by state or federal law, willfully impeding or
 194 obstructing such filing, or inducing another person to impede or
 195 obstruct such filing. Such reports or records include only
 196 reports or records that are signed in a person's capacity as a
 197 licensee under this act.

198 (e) Advertising goods or services related to genetic
 199 counseling in a fraudulent, false, deceptive, or misleading
 200 manner.

201 (f) Violating an order of the board or department
 202 previously entered in a disciplinary hearing or failing to
 203 comply with a subpoena issued by the board or the department.

204 (g) Practicing with a revoked, suspended, or inactive
 205 license.

206 (h) Gross or repeated malpractice or the failure to
 207 deliver genetic counseling services with that level of care and
 208 skill which is recognized by a reasonably prudent licensed
 209 practitioner with similar professional training as being
 210 acceptable under similar conditions and circumstances.

211 (i) Unprofessional conduct, which includes, but is not
 212 limited to, any departure from, or the failure to conform to,
 213 the minimum standards of acceptable and prevailing genetic
 214 counseling practice as set forth by the board in rules adopted
 215 pursuant to this part, including:

216 1. Engaging in any act or practice in a professional
 217 capacity which the licensee is not competent to perform through
 218 training or experience.

219 2. Failing to refer a client to other competent
 220 professionals when the licensee is unable or unwilling to
 221 adequately support or serve the client.

222 3. Failing to maintain the confidentiality of any
 223 information received from a client, unless released by the
 224 client or otherwise authorized or required by law.

225 4. Exploiting a client for personal advantage, profit, or
 226 interest.

227 (j) Violating any provision of this part or chapter 456,
 228 or any rules adopted pursuant thereto.

229 (2) The board may enter an order denying licensure or
 230 imposing any of the penalties in s. 456.072(2) against any
 231 applicant for licensure or licensee who is found guilty of
 232 violating any provision of subsection (1) or who is found guilty
 233 of violating any provision of s. 456.072(1).

234 Section 2. Paragraph (g) of subsection (3) of section
 235 20.43, Florida Statutes, is amended to read:

236 20.43 Department of Health.--There is created a Department
 237 of Health.

238 (3) The following divisions of the Department of Health
 239 are established:

240 (g) Division of Medical Quality Assurance, which is
 241 responsible for the following boards and professions established
 242 within the division:

243 1. The Board of Acupuncture, created under chapter 457.

- 244 2. The Board of Medicine, created under chapter 458.
- 245 3. The Board of Osteopathic Medicine, created under
- 246 chapter 459.
- 247 4. The Board of Chiropractic Medicine, created under
- 248 chapter 460.
- 249 5. The Board of Podiatric Medicine, created under chapter
- 250 461.
- 251 6. Naturopathy, as provided under chapter 462.
- 252 7. The Board of Optometry, created under chapter 463.
- 253 8. The Board of Nursing, created under part I of chapter
- 254 464.
- 255 9. Nursing assistants, as provided under part II of
- 256 chapter 464.
- 257 10. The Board of Pharmacy, created under chapter 465.
- 258 11. The Board of Dentistry, created under chapter 466.
- 259 12. Midwifery, as provided under chapter 467.
- 260 13. The Board of Speech-Language Pathology and Audiology,
- 261 created under part I of chapter 468.
- 262 14. The Board of Nursing Home Administrators, created
- 263 under part II of chapter 468.
- 264 15. The Board of Occupational Therapy, created under part
- 265 III of chapter 468.
- 266 16. Respiratory therapy, as provided under part V of
- 267 chapter 468.
- 268 17. Dietetics and nutrition practice, as provided under
- 269 part X of chapter 468.
- 270 18. The Board of Athletic Training, created under part
- 271 XIII of chapter 468.

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272 19. The Board of Orthotists and Prosthetists, created
273 under part XIV of chapter 468.

274 20. The Board of Genetic Counselors, created under part XV
275 of chapter 468.

276 ~~21.20.~~ Electrolysis, as provided under chapter 478.

277 ~~22.21.~~ The Board of Massage Therapy, created under chapter
278 480.

279 ~~23.22.~~ The Board of Clinical Laboratory Personnel, created
280 under part III of chapter 483.

281 ~~24.23.~~ Medical physicists, as provided under part IV of
282 chapter 483.

283 ~~25.24.~~ The Board of Opticianry, created under part I of
284 chapter 484.

285 ~~26.25.~~ The Board of Hearing Aid Specialists, created under
286 part II of chapter 484.

287 ~~27.26.~~ The Board of Physical Therapy Practice, created
288 under chapter 486.

289 ~~28.27.~~ The Board of Psychology, created under chapter 490.

290 ~~29.28.~~ School psychologists, as provided under chapter
291 490.

292 ~~30.29.~~ The Board of Clinical Social Work, Marriage and
293 Family Therapy, and Mental Health Counseling, created under
294 chapter 491.

295 Section 3. Subsection (4) of section 456.001, Florida
296 Statutes, is amended to read:

297 456.001 Definitions.--As used in this chapter, the term:

298 (4) "Health care practitioner" means any person licensed
299 under chapter 457; chapter 458; chapter 459; chapter 460;

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300 | chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;
301 | chapter 466; chapter 467; part I, part II, part III, part V,
302 | part X, part XIII, ~~or~~ part XIV, or part XV of chapter 468;
303 | chapter 478; chapter 480; part III or part IV of chapter 483;
304 | chapter 484; chapter 486; chapter 490; or chapter 491.

305 | Section 4. This act shall take effect October 1, 2004.