

By Senator Cowin

20-699-04

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

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24 Be It Enacted by the Legislature of the State of Florida:

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

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PART XV

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GENETIC COUNSELORS

1 468.901 Short title.--This part may be cited as the
2 "Genetic Counseling Practice Act."

3 468.902 Purpose and intent.--The sole legislative
4 purpose in enacting this part is to ensure that every genetic
5 counselor practicing in this state meets minimum requirements
6 for safe practice. It is the legislative intent that genetic
7 counselors who fall below minimum competency or who otherwise
8 present a danger to the public shall be prohibited from
9 practicing in this state. This part does not require payment
10 from insurers for genetic counseling services.

11 468.903 Definitions.--As used in this part, the term:

12 (1) "Board" means the Board of Genetic Counselors.

13 (2) "Department" means the Department of Health.

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

16 (4) "Practice of genetic counseling" means, for
17 remuneration, the communication process that deals with the
18 human problems associated with the occurrence, or the risk of
19 occurrence, of a genetic disorder in a family, including the
20 provision of services to help an individual or family:

21 (a) Comprehend the medical facts, including the
22 diagnosis, the probable cause of the disorder, and the
23 available management of the disorder.

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

26 (c) Understand the alternatives for dealing with the
27 risk of occurrence.

28 (d) Choose the course of action which seems
29 appropriate to them in view of their risk, their family goals,
30 and their ethical and religious standards, and to act in
31 accordance with that decision.

1 (e) Make the best possible psychosocial adjustment to
2 the disorder in an affected family member or to the risk of
3 occurrence of that disorder.

4 468.904 License required.--A person may not practice
5 genetic counseling or hold himself or herself out as a genetic
6 counselor or as being able to practice genetic counseling or
7 to render genetic counseling services in the state unless he
8 or she is licensed in accordance with this part.

9 468.905 Exemptions.--This part does not apply to:

10 (1) An individual licensed as a physician under
11 chapter 458 or chapter 459, acting in the authorized scope of
12 the physician's practice.

13 (2) Commissioned medical officers of the Armed Forces
14 of the United States and of the Public Health Service of the
15 United States while on active duty and while acting within the
16 scope of their military or public health responsibilities.

17 468.906 Board of Genetic Counselors.--

18 (1) The Board of Genetic Counselors is created within
19 the department and shall consist of seven members, to be
20 appointed by the Governor and confirmed by the Senate.

21 (2) Five members of the board must be licensed genetic
22 counselors who are residents of the state. The remaining two
23 members must be residents of the state who are not, and have
24 never been, licensed as genetic counselors or members of any
25 closely related profession.

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

29 1. Two licensee members and one consumer member for
30 terms of 2 years each.

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1 2. Two licensee members and one consumer member for
2 terms of 3 years each.

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

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

7 (4) All provisions of chapter 456 relating to the
8 board shall apply.

9 468.907 Authority to adopt rules.--The board shall
10 adopt rules pursuant to ss. 120.536(1) and 120.54 to
11 administer the provisions of this part conferring duties on
12 it, including rules relating to standards of practice for
13 genetic counselors.

14 468.908 Licensure requirements; temporary license.--

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

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

19 (a) Has completed the application form and remitted
20 the required fees.

21 (b) Is of good moral character.

22 (c) Provides satisfactory documentation of having
23 earned:

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

27 2. A doctoral degree from a medical genetics training
28 program that is accredited by the American Board of Medical
29 Genetics.

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

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

4 2. A medical or clinical geneticist by the American
5 Board of Medical Genetics.

6 (3) The department may issue a temporary license to an
7 applicant who meets all of the requirements for licensure
8 except the examination requirement in this section and has
9 obtained active candidate status establishing eligibility to
10 sit for the next available certification exam administered by
11 the American Board of Genetic Counseling.

12 468.909 Renewal of license; continuing education.--

13 (1) The department shall renew a license upon receipt
14 of the renewal application and fee.

15 (2) The board shall adopt rules establishing a
16 procedure for the biennial renewal of licenses under this
17 part.

18 (3) The board may by rule prescribe continuing
19 education requirements and approve course criteria, not to
20 exceed 30 hours biennially, as a condition for license
21 renewal. The board shall establish a procedure for approving
22 continuing education courses and providers and may set a fee
23 for continuing education courses and provider approval.

24 468.911 Fees.--

25 (1) The board shall by rule establish fees for the
26 following purposes:

27 (a) An application fee, not to exceed \$100.

28 (b) An initial licensure fee, not to exceed \$200.

29 (c) A biennial renewal fee, not to exceed \$200.

30 (d) An inactive fee, not to exceed \$100.

31 (e) A delinquent fee, not to exceed \$100.

1 (f) A reactivation fee, not to exceed \$100.
2 (g) A voluntary inactive fee, not to exceed \$100.
3 (2) The board shall establish fees at a level, not to
4 exceed the statutory fee cap, which is adequate to ensure the
5 continued operation of the regulatory program under this
6 part. The board may not set or maintain the fees at a level
7 that will substantially exceed this need.
8 468.912 Prohibitions; penalties.--
9 (1) A person may not:
10 (a) Make a false or fraudulent statement in any
11 application, affidavit, or statement presented to the board or
12 in any proceeding before the board.
13 (b) Practice genetic counseling without a license
14 issued under this part unless exempt from licensure under this
15 part.
16 (c) Use the title "genetic counselor" or any other
17 title or designation tending to indicate that the person is a
18 genetic counselor or is otherwise authorized to practice
19 genetic counseling unless that person has a current license as
20 a genetic counselor issued under this part or is exempt from
21 licensure under this part.
22 (2) A person who violates any provision of this
23 section commits a misdemeanor of the second degree, punishable
24 as provided in s. 775.082 or s. 775.083.
25 468.913 Grounds for disciplinary action.--
26 (1) The following acts constitute grounds for denial
27 of a license or disciplinary action, as specified in s.
28 456.072(2):
29 (a) Attempting to procure a license by fraudulent
30 misrepresentation.
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1 (b) Having a license to practice genetic counseling
2 revoked, suspended, or otherwise acted against, including the
3 denial of licensure in another jurisdiction.

4 (c) Being convicted or found guilty of or pleading
5 nolo contendere to, regardless of adjudication, in any
6 jurisdiction, a crime that directly relates to the practice of
7 genetic counseling, including a violation of federal laws or
8 regulations regarding genetic counseling.

9 (d) Filing a report or record that the licensee knows
10 is false, intentionally or negligently failing to file a
11 report or record required by state or federal law, willfully
12 impeding or obstructing such filing, or inducing another
13 person to impede or obstruct such filing. Such reports or
14 records include only reports or records that are signed in a
15 person's capacity as a licensee under this act.

16 (e) Advertising goods or services in a fraudulent,
17 false, deceptive, or misleading manner.

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

21 (g) Practicing with a revoked, suspended, or inactive
22 license.

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

28 (i) Unprofessional conduct, which includes, but is not
29 limited to, any departure from, or the failure to conform to,
30 the minimum standards of acceptable and prevailing genetic
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1 counseling practice as set forth by the board in rules adopted
2 pursuant to this part, including:
3 1. Engaging in any act or practice in a professional
4 capacity which the licensee is not competent to perform
5 through training or experience.
6 2. Failing to refer a client to other competent
7 professionals when the licensee is unable or unwilling to
8 adequately support or serve the client.
9 3. Failing to maintain the confidentiality of any
10 information received from a client, unless released by the
11 client or otherwise authorized or required by law.
12 4. Exploiting a client for personal advantage, profit,
13 or interest.
14 (j) Violating any provision of this part or chapter
15 456, or any rules adopted pursuant thereto.
16 (2) The board may enter an order denying licensure or
17 imposing any of the penalties in s. 456.072(2) against any
18 applicant for licensure or licensee who is found guilty of
19 violating any provision of subsection (1) or who is found
20 guilty of violating any provision of s. 456.072(1).
21 Section 2. Paragraph (g) of subsection (3) of section
22 20.43, Florida Statutes, is amended to read:
23 20.43 Department of Health.--There is created a
24 Department of Health.
25 (3) The following divisions of the Department of
26 Health are established:
27 (g) Division of Medical Quality Assurance, which is
28 responsible for the following boards and professions
29 established within the division:
30 1. The Board of Acupuncture, created under chapter
31 457.

- 1 2. The Board of Medicine, created under chapter 458.
- 2 3. The Board of Osteopathic Medicine, created under
- 3 chapter 459.
- 4 4. The Board of Chiropractic Medicine, created under
- 5 chapter 460.
- 6 5. The Board of Podiatric Medicine, created under
- 7 chapter 461.
- 8 6. Naturopathy, as provided under chapter 462.
- 9 7. The Board of Optometry, created under chapter 463.
- 10 8. The Board of Nursing, created under part I of
- 11 chapter 464.
- 12 9. Nursing assistants, as provided under part II of
- 13 chapter 464.
- 14 10. The Board of Pharmacy, created under chapter 465.
- 15 11. The Board of Dentistry, created under chapter 466.
- 16 12. Midwifery, as provided under chapter 467.
- 17 13. The Board of Speech-Language Pathology and
- 18 Audiology, created under part I of chapter 468.
- 19 14. The Board of Nursing Home Administrators, created
- 20 under part II of chapter 468.
- 21 15. The Board of Occupational Therapy, created under
- 22 part III of chapter 468.
- 23 16. Respiratory therapy, as provided under part V of
- 24 chapter 468.
- 25 17. Dietetics and nutrition practice, as provided
- 26 under part X of chapter 468.
- 27 18. The Board of Athletic Training, created under part
- 28 XIII of chapter 468.
- 29 19. The Board of Orthotists and Prosthetists, created
- 30 under part XIV of chapter 468.
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1 20. The Board of Genetic Counselors, created under
2 part XV of chapter 468.

3 ~~21.20.~~ Electrolysis, as provided under chapter 478.

4 ~~22.21.~~ The Board of Massage Therapy, created under
5 chapter 480.

6 ~~23.22.~~ The Board of Clinical Laboratory Personnel,
7 created under part III of chapter 483.

8 ~~24.23.~~ Medical physicists, as provided under part IV
9 of chapter 483.

10 ~~25.24.~~ The Board of Opticianry, created under part I
11 of chapter 484.

12 ~~26.25.~~ The Board of Hearing Aid Specialists, created
13 under part II of chapter 484.

14 ~~27.26.~~ The Board of Physical Therapy Practice, created
15 under chapter 486.

16 ~~28.27.~~ The Board of Psychology, created under chapter
17 490.

18 ~~29.28.~~ School psychologists, as provided under chapter
19 490.

20 ~~30.29.~~ The Board of Clinical Social Work, Marriage and
21 Family Therapy, and Mental Health Counseling, created under
22 chapter 491.

23 Section 3. This act shall take effect July 1, 2004.

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SENATE SUMMARY

Creates the "Genetic Counseling Practice Act." Provides legislative purpose and intent. Provides definitions relating to genetic counseling. Requires licensure to practice genetic counseling. Provides exemptions from licensing. Creates the Board of Genetic Counselors and provides for the appointment and staggering of terms of its members. Requires the Board of Genetic Counselors to adopt rules. Provides licensure requirements. Provides for biennial renewal of licensure. Provides for continuing education. Authorizes the board to establish fees not to exceed specified caps. Prohibits certain acts and provides for penalties. Provides grounds for disciplinary action. Authorizes denial of licensure or imposition of other disciplinary actions authorized by law. (See bill for details.)