

By the Committees on Governmental Oversight and Productivity;
Health, Aging, and Long-Term Care; and Senator Cowin

302-1342-04

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; amending s. 456.001, F.S.;
23 redefining the term "health care practitioner"
24 to include persons licensed under part XV of
25 chapter 468, F.S.; providing an effective date.

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

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

3 PART XV

4 GENETIC COUNSELORS

5 468.901 Short title.--This part may be cited as the
6 "Genetic Counseling Practice Act."

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

15 468.903 Definitions.--As used in this part, the term:
16 (1) "Board" means the Board of Genetic Counselors.
17 (2) "Department" means the Department of Health.
18 (3) "Genetic counselor" means a person licensed under
19 this part to practice genetic counseling.

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

25 (a) Comprehend the medical facts, including the
26 diagnosis, the probable cause of the disorder, and the
27 available management of the disorder.

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

30 (c) Understand the alternatives for dealing with the
31 risk of occurrence.

1 (d) Choose the course of action which seems
2 appropriate to them in view of their risk, their family goals,
3 and their ethical and religious standards, and to act in
4 accordance with that decision.

5 (e) Make the best possible psychosocial adjustment to
6 the disorder in an affected family member or to the risk of
7 occurrence of that disorder.

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

13 468.905 Exemptions.--This part does not apply to:

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

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

22 468.906 Board of Genetic Counselors.--

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

26 (2) Five members of the board must be licensed genetic
27 counselors who are residents of the state. The remaining two
28 members must be residents of the state who are not, and have
29 never been, licensed as genetic counselors or members of any
30 closely related profession.

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

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

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

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

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

12 (4) All provisions of chapter 456 relating to the
13 board shall apply.

14 468.907 Authority to adopt rules.--The board shall
15 adopt rules pursuant to ss. 120.536(1) and 120.54 to
16 administer the provisions of this part conferring duties on
17 it, including rules relating to standards of practice for
18 genetic counselors.

19 468.908 Licensure requirements; temporary license.--

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

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

24 (a) Has completed the application form and remitted
25 the required fees.

26 (b) Is of good moral character.

27 (c) Provides satisfactory documentation of having
28 earned:

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

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

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

5 1. A genetic counselor by the American Board of
6 Genetic Counseling or the American Board of Medical Genetics;
7 or

8 2. A medical or clinical geneticist by the American
9 Board of Medical Genetics.

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

16 468.909 Renewal of license; continuing education.--

17 (1) The department shall renew a license upon receipt
18 of the renewal application and fee set by the board, not to
19 exceed \$200.

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

26 468.911 Fees.--

27 (1) The board shall by rule establish fees for the
28 following purposes:

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

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

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

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

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

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

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

18 (e) Advertising goods or services related to genetic
19 counseling in a fraudulent, false, deceptive, or misleading
20 manner.

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

24 (g) Practicing with a revoked, suspended, or inactive
25 license.

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

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

6 1. Engaging in any act or practice in a professional
7 capacity which the licensee is not competent to perform
8 through training or experience.

9 2. Failing to refer a client to other competent
10 professionals when the licensee is unable or unwilling to
11 adequately support or serve the client.

12 3. Failing to maintain the confidentiality of any
13 information received from a client, unless released by the
14 client or otherwise authorized or required by law.

15 4. Exploiting a client for personal advantage, profit,
16 or interest.

17 (j) Violating any provision of this part or chapter
18 456, or any rules adopted pursuant thereto.

19 (2) The board may enter an order denying licensure or
20 imposing any of the penalties in s. 456.072(2) against any
21 applicant for licensure or licensee who is found guilty of
22 violating any provision of subsection (1) or who is found
23 guilty of violating any provision of s. 456.072(1).

24 Section 2. Paragraph (g) of subsection (3) of section
25 20.43, Florida Statutes, is amended to read:

26 20.43 Department of Health.--There is created a
27 Department of Health.

28 (3) The following divisions of the Department of
29 Health are established:

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1 (g) Division of Medical Quality Assurance, which is
2 responsible for the following boards and professions
3 established within the division:

4 1. The Board of Acupuncture, created under chapter
5 457.

6 2. The Board of Medicine, created under chapter 458.

7 3. The Board of Osteopathic Medicine, created under
8 chapter 459.

9 4. The Board of Chiropractic Medicine, created under
10 chapter 460.

11 5. The Board of Podiatric Medicine, created under
12 chapter 461.

13 6. Naturopathy, as provided under chapter 462.

14 7. The Board of Optometry, created under chapter 463.

15 8. The Board of Nursing, created under part I of
16 chapter 464.

17 9. Nursing assistants, as provided under part II of
18 chapter 464.

19 10. The Board of Pharmacy, created under chapter 465.

20 11. The Board of Dentistry, created under chapter 466.

21 12. Midwifery, as provided under chapter 467.

22 13. The Board of Speech-Language Pathology and
23 Audiology, created under part I of chapter 468.

24 14. The Board of Nursing Home Administrators, created
25 under part II of chapter 468.

26 15. The Board of Occupational Therapy, created under
27 part III of chapter 468.

28 16. Respiratory therapy, as provided under part V of
29 chapter 468.

30 17. Dietetics and nutrition practice, as provided
31 under part X of chapter 468.

1 18. The Board of Athletic Training, created under part
2 XIII of chapter 468.

3 19. The Board of Orthotists and Prosthetists, created
4 under part XIV of chapter 468.

5 20. The Board of Genetic Counselors, created under
6 part XV of chapter 468.

7 ~~21.20.~~ Electrolysis, as provided under chapter 478.

8 ~~22.21.~~ The Board of Massage Therapy, created under
9 chapter 480.

10 ~~23.22.~~ The Board of Clinical Laboratory Personnel,
11 created under part III of chapter 483.

12 ~~24.23.~~ Medical physicists, as provided under part IV
13 of chapter 483.

14 ~~25.24.~~ The Board of Opticianry, created under part I
15 of chapter 484.

16 ~~26.25.~~ The Board of Hearing Aid Specialists, created
17 under part II of chapter 484.

18 ~~27.26.~~ The Board of Physical Therapy Practice, created
19 under chapter 486.

20 ~~28.27.~~ The Board of Psychology, created under chapter
21 490.

22 ~~29.28.~~ School psychologists, as provided under chapter
23 490.

24 ~~30.29.~~ The Board of Clinical Social Work, Marriage and
25 Family Therapy, and Mental Health Counseling, created under
26 chapter 491.

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

29 456.001 Definitions.--As used in this chapter, the
30 term:

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1 (4) "Health care practitioner" means any person
2 licensed under chapter 457; chapter 458; chapter 459; chapter
3 460; chapter 461; chapter 462; chapter 463; chapter 464;
4 chapter 465; chapter 466; chapter 467; part I, part II, part
5 III, part V, part X, part XIII, ~~or~~ part XIV, or part XV of
6 chapter 468; chapter 478; chapter 480; part III or part IV of
7 chapter 483; chapter 484; chapter 486; chapter 490; or chapter
8 491.

9 Section 4. This act shall take effect July 1, 2004.

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11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 CS for SB 506

14 Removes specific exemption for physicians as it was
15 duplicative of the broader exemption for "health care
16 practitioners."
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