

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

314-2004-04

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. This act does
15 not apply to counselors who do not identify or advertise
16 themselves as genetic counselors and who do not primarily
17 provide genetic risk assessment, diagnosis and interpretation
18 of family history, and genetic test results.

19 468.903 Definitions.--As used in this part, the term:

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

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

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

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

29 (a) Comprehend the medical facts, including the
30 diagnosis, the probable cause of the disorder, and the
31 available management of the disorder.

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

3 (c) Understand the alternatives for dealing with the
4 risk of occurrence.

5 (d) Choose the course of action which seems
6 appropriate to them in view of their risk, their family goals,
7 and their ethical and religious standards, and to act in
8 accordance with that decision.

9 (e) Make the best possible psychosocial adjustment to
10 the disorder in an affected family member or to the risk of
11 occurrence of that disorder.

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

17 468.905 Exemptions.--This part does not apply to:

18 (1) Commissioned medical officers of the Armed Forces
19 of the United States and of the Public Health Service of the
20 United States while on active duty and while acting within the
21 scope of their military or public health responsibilities.

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

26 468.906 Board of Genetic Counselors.--

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

30 (2) Five members of the board must be licensed genetic
31 counselors who are residents of the state. The remaining two

1 members must be residents of the state who are not, and have
2 never been, licensed as genetic counselors or members of any
3 closely related profession.

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

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

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

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

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

15 (4) All provisions of chapter 456 relating to the
16 board shall apply.

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

22 468.908 Licensure requirements; temporary license.--

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

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

27 (a) Has completed the application form and remitted
28 the required fees.

29 (b) Is of good moral character.

30 (c) Provides satisfactory documentation of having
31 earned:

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

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

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

8 1. A genetic counselor by the American Board of
9 Genetic Counseling or the American Board of Medical Genetics;
10 or

11 2. A medical or clinical geneticist by the American
12 Board of Medical Genetics.

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

19 468.909 Renewal of license; continuing education.--

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

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

29 468.911 Fees.--

30 (1) The board shall by rule establish fees for the
31 following purposes:

- 1 (a) An application fee, not to exceed \$100.
2 (b) An initial licensure fee, not to exceed \$200.
3 (c) A biennial renewal fee, not to exceed \$200.
4 (d) An inactive fee, not to exceed \$100.
5 (e) A delinquent fee, not to exceed \$100.
6 (f) A reactivation fee, not to exceed \$100.
7 (g) A voluntary inactive fee, not to exceed \$100.
8 (2) The board shall establish fees at a level, not to
9 exceed the statutory fee cap, which is adequate to ensure the
10 continued operation of the regulatory program under this
11 part. The board may not set or maintain the fees at a level
12 that will substantially exceed this need.
13 468.912 Prohibitions; penalties.--
14 (1) A person may not:
15 (a) Make a false or fraudulent statement in any
16 application, affidavit, or statement presented to the board or
17 in any proceeding before the board.
18 (b) Practice genetic counseling without a license
19 issued under this part unless exempt from licensure under this
20 part.
21 (c) Use the title "genetic counselor" or any other
22 title or designation tending to indicate that the person is a
23 genetic counselor or is otherwise authorized to practice
24 genetic counseling unless that person has a current license as
25 a genetic counselor issued under this part or is exempt from
26 licensure under this part.
27 (2) A person who violates any provision of this
28 section commits a misdemeanor of the second degree, punishable
29 as provided in s. 775.082 or s. 775.083.
30 468.913 Grounds for disciplinary action.--
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1 (1) The following acts constitute grounds for denial
2 of a license or disciplinary action, as specified in s.
3 456.072(2):

4 (a) Attempting to procure a license to practice
5 genetic counseling by fraudulent misrepresentation.

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

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

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

21 (e) Advertising goods or services related to genetic
22 counseling in a fraudulent, false, deceptive, or misleading
23 manner.

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

27 (g) Practicing with a revoked, suspended, or inactive
28 license.

29 (h) Gross or repeated malpractice or the failure to
30 deliver genetic counseling services with that level of care
31 and skill which is recognized by a reasonably prudent licensed

1 practitioner with similar professional training as being
2 acceptable under similar conditions and circumstances.

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

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

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

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

17 4. Exploiting a client for personal advantage, profit,
18 or interest.

19 (j) Violating any provision of this part or chapter
20 456, or any rules adopted pursuant thereto.

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

26 Section 2. Paragraph (g) of subsection (3) of section
27 20.43, Florida Statutes, is amended to read:

28 20.43 Department of Health.--There is created a
29 Department of Health.

30 (3) The following divisions of the Department of
31 Health are established:

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 October 1, 2004.

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

14 The committee substitute made the following changes to
15 CS/CS/SB 506:

- 16 1) Changes the effective date from July 1, 2004 to October
17 1, 2004, in order to give the Department of Health time
18 to make appointments to the Board of Genetic Counselors.
19 2) Clarifies that this act does not apply to counselors who
20 do not identify or advertise themselves as genetic
21 counselors and who do not primarily provide genetic risk
22 assessment, diagnosis and interpretation of family
23 history and genetic test results.
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