

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: CS/SB 1772

INTRODUCER: Health Policy Committee and Senator Jones

SUBJECT: Fees/Genetic Counselor Licenses

DATE: March 24, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	_____	_____	<u>AP</u>	_____
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1772 creates s. 483.919, F.S., to require the Department of Health (DOH) to adopt by rule procedures for the issuance and annual renewal of a genetic counselor license, including an application fee for such license and annual renewal not to exceed \$25. The bill provides that the DOH may waive the payment of the fee by rule. The bill also provides that such fees will be deposited into DOH's administrative trust fund and used for the administration of genetic counselor licensure.

The State Constitution requires that legislation that imposes or authorizes new state taxes or fees,¹ or that raises existing state taxes or fees,² must be approved by two-thirds of the membership of each house of the Legislature and that the tax or fee provisions must be passed in a separate bill that contains no other subject.³ CS/SB 1772 authorizes the imposition of a new fee on a person who makes application to become a licensed genetic counselor or who applies for renewal of such a license. As such, the State Constitution may require that such a fee provision must be approved in a stand-alone bill by two-thirds of the membership of each house of the Legislature.

The bill has an indeterminate fiscal impact on the Department of Health (DOH). *See* section V of this analysis.

¹ FLA. CONST. art. VII, s. 19(a).

² FLA. CONST. art. VII, s. 19(b).

³ FLA. CONST. art. VII, s. 19(e).

The bill provides an effective date that is the same date that SB 1770, or other similar legislation, takes effect if such legislation is adopted in the same legislative session or extension thereof and becomes a law.

II. Present Situation:

Genetic Counseling

Under current law, there is no license issued by the DOH for a health care practice specific and exclusive to genetic counseling. However, CS/SB 1770, entitled “An act relating to genetic counseling,” creates part III of ch. 483, F.S., to require the DOH to begin issuing such licenses and regulating the practice of genetic counselors.

Under CS/SB 1770, the “practice of genetic counseling” means the process of advising an individual or a family affected by or at risk of genetic disorders, including:

- Obtaining and evaluating individual, family, and medical histories to determine genetic risk for genetic or medical conditions and diseases in a patient, his or her offspring, and other family members.
- Discussing the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic or medical conditions and diseases.
- Identifying, ordering, and coordinating genetic laboratory tests and other diagnostic studies as appropriate for a genetic assessment.
- Integrating genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic or medical conditions and diseases.
- Explaining the clinical implications of genetic laboratory tests and other diagnostic studies and their results.
- Evaluating the client’s or family’s responses to the condition or risk of recurrence and providing client-centered counseling and anticipatory guidance.
- Identifying and using community resources that provide medical, educational, financial, and psychosocial support and advocacy.
- Providing written documentation of medical, genetic, and counseling information for families and health care professionals.
- Referring patients to a physician for diagnosis and treatment.

CS/SB 1770 also provides requirements for licensure, renewal, and continuing education, as well as grounds for disciplinary action and penalties, relating to the practice of genetic counseling. CS/SB 1770 provides an effective date of July 1, 2021. *See* the staff analysis for CS/SB 1770 for more details.

Health Care Practitioner Licensure

The DOH is responsible for the regulation of health care practitioners and certain health care facilities in Florida for the preservation of the health, safety, and welfare of the public. The

Division of Medical Quality Assurance (MQA), working in conjunction with 22 boards⁴ and four councils, licenses and regulates seven types of health care facilities, and more than 200 license types, in more than 40 health care professions.⁵ Any person desiring to be a licensed health care professional in Florida must apply to the MQA in writing.⁶ Most health care professions are regulated by a board or council in conjunction with the DOH, and all professions have different requirements for initial licensure and licensure renewal.⁷

Under current law, the costs of regulation of health care practitioners must be borne by the licensees and licensure applicants.⁸ The definition of “license” includes any permit, registration, certificate, or license, including a provisional license, issued by the DOH.⁹ Regulatory boards, in consultation with the DOH, must set licensure renewal fees by rule, and renewal fees must be:¹⁰

- Based on revenue projections prepared using generally accepted accounting procedures;
- Adequate to cover all expenses relating to that board identified in the DOH long-range policy plan;
- Reasonable, fair, and not serve as a barrier to licensure;
- Based on potential earnings from working under the scope of the license;
- Similar to fees imposed on similar licensure types; and
- No more than 10 percent greater than the actual cost to regulate that profession for the previous biennium.

III. Effect of Proposed Changes:

CS/SB 1772 creates s. 483.919, F.S., to:

- Require the DOH to adopt by rule procedures for the issuance and annual renewal of a genetic counselor license, including an application fee for such license and annual renewal not to exceed \$25;
- Authorize the DOH to waive the payment of the fee by rule; and
- Require that proceeds from such fees must be deposited into the DOH’s administrative trust fund and used for the administration of genetic counselor licensure.

The bill provides an effective date that is the same date that SB 1770, or other similar legislation, takes effect if such legislation is adopted in the same legislative session or extension thereof and becomes a law.

⁴ Under s. 456.001(1), F.S., the term “board” is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the DOH or, in some cases, within the MQA.

⁵ Florida Department of Health, Medical Quality Assurance, *Annual Report and Long Range Plan, 2019-2020*, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/2019-2020-annual-report.pdf> (last visited Feb. 3, 2021).

⁶ Section 456.013, F.S.

⁷ See chs. 401, 456-468, 478, 480, 483, 484, 486, 490, and 491, F.S.

⁸ Section 456.025(1), F.S.

⁹ Section 456.001(5), F.S.

¹⁰ *Supra*, note 8.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19 of Article VII of the State Constitution requires that a new state tax or fee, as well as an increased state tax or fee, either imposed or authorized to be imposed, must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1), of the State Constitution defines “fee” to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”

CS/SB 1772 authorizes the imposition of a new fee on a person who makes application to become a licensed genetic counselor or who applies for renewal of such a license. As such, the State Constitution may require that such a provision must be approved in a stand-alone bill by two-thirds of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Under CS/SB 1772, persons who make application to become licensed genetic counselors in Florida may be subject to an application fee of up to \$25, both for an initial application and for annual licensure renewal, unless the DOH waives the fees.

C. Government Sector Impact:

The DOH has not provided an estimated fiscal impact for the bill. The DOH will experience the costs of rule-making required under the bill. The DOH may also experience an increase in revenue if the department does not waive the fees that the bill

authorizes for initial licensure applications and renewals. The extent of these fiscal impacts is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 483.919 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 24, 2021:

The CS makes a technical correction so that the bill takes effect on the same date that CS/SB 1770, or similar legislation, takes effect if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

- B. **Amendments:**

None.