Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013

SENATE BILL NO. 2131
(Senators J. Lee, Berry, Mathern)
(Representatives Hofstad, Weisz, Hogan)

AN ACT to create and enact a new chapter to title 43 of the North Dakota Century Code, relating to genetic counseling; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 43 of the North Dakota Century Code is created and enacted as follows:

Definitions.

In this chapter:

1. "ABGC" means the American board of genetic counseling.

2. "ABMG" means the American board of medical genetics.

3. "Board" means the state board of medical examiners.

4. "Genetic counseling" means a communication process, conducted by appropriately trained individuals which includes:

   a. Assisting an individual, the individual's family, a health care provider, or the public with comprehending the issues inherent to genetic counseling. Such assistance may include:

      (1) Appreciating the medical, psychological, and social implications of a disorder, including features, variability, usual course, and management options;

      (2) Learning how genetic factors contribute to the disorder and affect the chance for recurrence of the condition in other family members;

      (3) Understanding available options for coping with, preventing, or reducing the chance of occurrence or recurrence of a condition;

      (4) Selecting the most appropriate, accurate, and cost-effective methods to determine risk for genetic conditions and diseases; and

      (5) Understanding genetic tests, including diagnostic genetic tests, screening tests, or predispositional genetic tests; coordinating testing for inherited disorders; and explaining complex genetic test results;

   b. Assessing the likelihood of the occurrence or recurrence of an abnormality in the pregnancy in structure, function, or metabolism or of any potentially inherited or genetically influenced condition. Such assessment may include the following:

      (1) Obtaining and analyzing a complete health history of an individual and the individual's family;

      (2) Reviewing pertinent medical records;

      (3) Evaluating the risks from exposure to possible mutagens or teratogens; and

(4) Discussing genetic testing or other evaluations to identify a condition or determine the carrier status of one or more family members; and

c. Facilitating an individual's or family's:

(1) Exploration of the perception of risk and burden associated with a genetic disorder;

(2) Decisionmaking regarding testing or medical interventions consistent with the individual's or family's beliefs, goals, needs, or resources or with the individual's or family's cultural, ethical, or moral views; and

(3) Adjustment and adaptation to the condition or the genetic risk by addressing needs for psychological, social, and medical support.

5. "Genetic counselor" means an individual licensed under this chapter to engage in the practice of genetic counseling.

6. "Supervision" means ongoing direct clinical review for the purposes of training or teaching, by a supervisor approved by the board who monitors the performance or an individual's supervised interaction with a client and provides regular documented face-to-face consultation, guidance, and instructions with respect to the clinical skills and competencies of the supervised individual. This supervision may be by personal contact or indirect contact by telecommunication.

Practice of genetic counseling - Exemptions.

1. A person may not engage in the practice of genetic counseling, act or represent to be a genetic counselor, or use such titles as genetic counselor, licensed genetic counselor, gene counselor, genetic associate, or any words, letters, abbreviations, or insignia, such as certified genetic counselor or CGC, indicating or implying that person is a genetic counselor, unless the person is an individual who holds a license or temporary license issued by the board under this chapter and otherwise complies with the provisions of this chapter. An individual who is exempt from the licensure requirements of this chapter may not use a title indicating or implying the individual is a genetic counselor.

2. Genetic testing may be provided by a licensed genetic counselor only when ordered by a North Dakota licensed health care provider acting within the provider's scope of practice and privileged to do so. The referring or primary provider shall maintain supervision of patient care and the licensed genetic counselor shall provide reports to the referring or primary health care provider ordering such testing.

3. The following individuals may engage in the practice of genetic counseling without being licensed under this chapter:

a. A licensed health care professional practicing within the professional's scope of practice;

b. A student or intern from a board-recognized school;

c. An individual trained as a Ph.D. medical geneticist;

d. A consultant from another state who is board-certified by the ABGC or the ABMG, for the limited purpose of consulting with a genetic counselor;

e. An employee of the state department of health in the provision of education regarding single gene conditions, including sickle cell, cystic fibrosis, and hemoglobinopathies; and

f. An individual acting within the scope of religious ministerial duties.

Application for licensure.

1. An applicant for licensure under this chapter shall pay any filing fee and file an application, on forms provided by the board, to the satisfaction of the board that the applicant is of good moral character and satisfies all of the requirements of this chapter, including:

   a. Education at one of the following levels:

      (1) Master of science degree from a genetic counseling training program that is accredited by the ABGC or an ABGC-approved equivalent organization and approved by the board; or

      (2) Doctoral degree from a medical genetics training program that is accredited by the ABMG and approved by the board; and

   b. Successful completion of all requirements of the certification examination within a period not to exceed four years from initial examination to successful completion and with no more than three attempts;

   c. Physical, mental, and professional capability for the practice of genetic counseling in a manner acceptable to the board; and

   d. A history free of any finding by the board, by any other state licensing board, or by any court of competent jurisdiction which would constitute grounds for disciplinary action under this chapter. The board may modify this restriction for cause.

2. In compliance with chapter 43-17, the board may refuse to grant a license under this chapter if any of the license requirements are not met.

Temporary license.

1. The board may issue a temporary license to an applicant who pays the temporary license fee and meets all the qualifications for licensure, except the successful completion of the certification examination if the applicant submits evidence to the board that the applicant is a candidate accepted to write the certification examination.

2. A temporary licensee shall take the certification examination within eighteen months of obtaining the temporary license. If a temporary licensee fails the first sitting of the certification examination or the temporary license expires, the temporary licensee may reapply for another temporary license. A temporary license may not be issued or reissued if the applicant failed the certification examination three times.

3. A temporary license expires on the occurrence of the following:

   a. Issuance of a regular license;

   b. Failure to pass the board-approved examination; or

   c. Expiration of the term for which the temporary license was issued.

4. A temporary licensee's practice is limited to practice under the supervision of a licensed genetic counselor or under the supervision of a physician approved by the board if that physician has a current ABMG certification in clinical genetics.

License renewal.

A license issued under this chapter must be renewed annually on a date designated by the board. The board shall renew a license upon payment of the renewal fee, submission of a renewal application

in a form approved by the board, and submission of evidence satisfactory to the board of the applicant's current certification by the ABGC or ABMG.

Board duties.

The board shall adopt rules pertaining to fees, licensure, investigations, and disciplinary proceedings.

Disciplinary actions.

1. The board may cancel, revoke, suspend, or restrict the license of a genetic counselor; may issue public reprimands; and may issue fines, not to exceed one thousand dollars, if the board is satisfied by proof by a preponderance of the evidence, in compliance with chapter 43-17, of any of the following grounds for disciplinary action:

   a. The use of any false, fraudulent, or forged statement or document or the use of any fraudulent, deceitful, dishonest, or immoral practice in connection with any of the licensing requirements.

   b. The making of false or misleading statements by a genetic counselor about the counselor's skill.

   c. The conviction of any misdemeanor determined by the board to have a direct bearing upon the genetic counselor's ability to serve the public as a practitioner of genetic counseling.

   d. The conviction of a felony, if the requirements of section 12.1-33-02.1 are met.

   e. Habitual use of alcohol or drugs.

   f. Physical or mental disability materially affecting the ability to perform the duties of a genetic counselor in a competent manner.

   g. The performance of any dishonorable, unethical, or unprofessional conduct likely to deceive, defraud, or harm the public.

   h. Obtaining any fee by fraud, deceit, or misrepresentation.

   i. Aiding or abetting the practice of genetic counseling by an unlicensed, incompetent, or impaired person.

   j. The violation of any provision of this chapter or the rules adopted by the board or the violation of any action, stipulation, condition, or agreement imposed by the board or the board's investigative panels.

   k. The practice of genetic counseling under a false or assumed name.

   l. The advertising for the practice of genetic counseling in an untrue or deceptive manner.

   m. The willful or negligent violation of the confidentiality between genetic counselor and patient, except as required by law.

   n. Gross negligence in the practice of genetic counseling.

   o. Sexual abuse, misconduct, or exploitation related to the genetic counselor's practice of genetic counseling.

   p. The use of any false, fraudulent, or deceptive statement in any document connected with the practice of genetic counseling.

q. The imposition by another state or jurisdiction of disciplinary action against a license or other authorization to practice genetic counseling based upon acts or conduct by the genetic counselor which would constitute grounds for disciplinary action as set forth in this section. A certified copy of the record of the action taken by the other state or jurisdiction is conclusive evidence of that action.

r. The failure to furnish the board or the board's investigative panel or the board's or investigative panel's investigators or representatives information legally requested by the board or the investigative panel.

2. The board shall keep a record of all the board's proceedings in the matter of suspending, revoking, or refusing licenses together with the evidence offered.

3. The board shall deposit in the general fund any fines collected under this section.

Reinstatement and renewal.

Upon application, the board may reinstate or renew a license of an applicant whose license has been canceled, suspended, or revoked. The board may establish the protocol for reinstatement and renewal under this section and may impose conditions for reinstatement and renewal.

Genetic counselor advisory committee.

1. The board shall appoint a genetic counselor advisory committee composed of at least one genetic counselor and at least two physicians licensed under chapter 43-17. Except for initial appointments, each committee member shall serve a term of three years. The term of initial appointees must be staggered so that expiration of terms is evenly distributed. A committee member may not be appointed to more than three consecutive full terms. If a vacancy occurs, the board shall appoint an individual to fill the unexpired term.

2. The advisory committee shall meet as necessary to conduct business, but at least annually. The advisory committee shall make recommendations to the board regarding board rules adopted under this chapter.

Penalty.

It is a class B misdemeanor to knowingly violate this chapter.

President of the Senate	Speaker of the House
Secretary of the Senate	Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2131.

Senate Vote:	Yeas 46	Nays 0	Absent 1
House Vote:	Yeas 91	Nays 0	Absent 3

Secretary of the Senate

Received by the Governor at _____M. on _____, 2013.

Approved at _____M. on _____, 2013.

Governor

Filed in this office this _____day of _____, 2013,

at _____ o'clock _____M.

Secretary of State