

1 HB313
2 197420-3
3 By Representatives Garrett, Carns, Scott, Rogers, Faulkner and
4 Rafferty
5 RFD: Boards, Agencies and Commissions
6 First Read: 02-APR-19

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To create the Alabama Genetic Counselor Act; to
9 establish the Alabama Board of Genetic Counseling; to provide
10 for the powers and authority of the board; to provide
11 qualifications for licensure as a genetic counselor and
12 requirements for license renewal and restoration of inactive
13 licenses; to make the practice of genetic counseling without a
14 license a criminal offense; to exempt physicians and other
15 licensed professionals from licensure by the board; to clarify
16 that genetic counselors are not authorized to practice
17 medicine; to establish the Genetic Counseling Fund in the
18 State Treasury; to subject the board to review pursuant to the
19 Alabama Sunset Law; and in connection therewith would have as
20 its purpose or effect the requirement of a new or increased
21 expenditure of local funds within the meaning of Amendment 621
22 of the Constitution of Alabama of 1901, now appearing as
23 Section 111.05 of the Official Recompilation of the
24 Constitution of Alabama of 1901, as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. This act shall be known and may be cited
27 as the Alabama Genetic Counselor Act.

1 Section 2. For the purposes of this act, the
2 following terms shall have the following meanings:

3 (1) ABGC. The American Board of Genetic Counseling,
4 or its successor or equivalent.

5 (2) ABMGG. The American Board of Medical Genetics
6 and Genomics, or its successor or equivalent.

7 (3) ACGC. The Accreditation Council for Genetic
8 Counseling, or its successor or equivalent.

9 (4) BOARD. The Alabama Board of Genetic Counseling.

10 (5) EXAMINATION FOR LICENSURE. The ABGC or ABMGG
11 certification examination, or the examination provided by a
12 successor entity to the ABGC or ABMGG, to test the competence
13 and qualifications of applicants to practice genetic
14 counseling.

15 (6) GENETIC COUNSELING. The provision of services by
16 a genetic counselor to do any of the following:

17 a. Obtain and evaluate individual, family, and
18 medical histories to determine genetic risk for genetic or
19 medical conditions and diseases in a patient, his or her
20 offspring, or other family members.

21 b. Discuss the features, natural history, means of
22 diagnosis, genetic and environmental factors, and management
23 of risk for genetic or medical conditions and diseases.

24 c. Identify, recommend, and coordinate genetic tests
25 and other genetic related diagnostic studies as appropriate
26 for the genetic assessment consistent with practice based
27 competencies provided by the ACGC.

1 d. Integrate genetic test results and other genetic
2 related diagnostic studies with personal and family medical
3 history to assess and communicate risk factors for genetic or
4 medical conditions and diseases.

5 e. Explain the clinical implications of genetic
6 tests and other genetic related diagnostic studies and their
7 results.

8 f. Evaluate the responses of the client or family to
9 the condition or risk of recurrence and provide client
10 centered counseling and anticipatory guidance.

11 g. Identify and utilize community resources that
12 provide medical, educational, financial, and psychosocial
13 support and advocacy.

14 h. Provide written documentation of medical,
15 genetic, and counseling information for families and health
16 care professionals.

17 (7) GENETIC COUNSELING INTERN. A student enrolled in
18 a genetic counseling program accredited by the ACGC or ABMGG.

19 (8) GENETIC COUNSELOR. An individual licensed by the
20 board to engage in the practice of genetic counseling.

21 (9) GENETIC TEST or GENOMIC TEST.

22 a. A test or analysis of human genes, gene products,
23 Deoxyribonucleic acid, Ribonucleic acid, chromosomes,
24 proteins, or metabolites that does any of the following:

25 1. Detects genotypes, mutations, chromosomal
26 changes, abnormalities, or deficiencies, including carrier

1 status, that are linked to physical or mental disorders or
2 impairments.

3 2. Indicates a susceptibility to illness, disease,
4 impairment, or other disorders, whether physical or mental.

5 3. Demonstrates genetic or chromosomal damage due to
6 environmental factors.

7 b. The terms genetic test and genomic test do not
8 include any of the following:

9 1. Routine physical measurements.

10 2. Chemical, blood, and urine analyses that are
11 widely accepted and in use in clinical practice.

12 3. Tests for the use of drugs.

13 4. Tests for the presence of a pathogen.

14 5. Analyses of proteins or metabolites that do not
15 detect genotypes, mutations, chromosomal changes,
16 abnormalities, or deficiencies.

17 6. Analyses of proteins or metabolites that are
18 directly related to a manifested disease, disorder, or
19 pathological condition that could reasonably be detected by a
20 health care professional with appropriate training and
21 expertise in the field of medicine involved.

22 (10) NSGC. The National Society of Genetic
23 Counselors, or its successor or equivalent.

24 (11) QUALIFIED SUPERVISOR. Any individual licensed
25 as a genetic counselor, a physician licensed to practice
26 medicine or osteopathy in this state, or an individual

1 certified in molecular genetic pathology by the American Board
2 of Pathology and the ABMGG.

3 (12) SUPERVISION. The overall responsibility of a
4 qualified supervisor to assess the work of a genetic counselor
5 with a temporary license, including regular meetings and chart
6 review, if an annual supervision contract signed by the
7 supervisor and the temporarily licensed genetic counselor is
8 on file with both parties. The presence of a qualified
9 supervisor is not required during the performance of the
10 genetic counseling service.

11 Section 3. (a) The State Board of Genetic Counseling
12 is created to implement and administer this act.

13 (b) The membership of the board shall consist of all
14 of the following:

15 (1) One individual appointed by the Department of
16 Genetics at the University of Alabama at Birmingham.

17 (2) Four individuals who practice genetic counseling
18 in Alabama and who hold a master's degree or doctoral degree
19 in genetic counseling from an ACGC or ABMGG accredited
20 training program, or an equivalent program approved by the
21 ACGC or the ABMGG, appointed by the Governor.

22 (3) One physician appointed by the Medical
23 Association of the State of Alabama.

24 (4) One physician appointed by the State Board of
25 Medical Examiners.

1 (c) Board members appointed by the Governor shall
2 serve for terms of two years and, upon the expiration of a
3 term, may continue to serve until replaced or reappointed.

4 All other board members serve until they are
5 replaced by their respective appointing authority.

6 (d) The board shall annually elect from its
7 membership a chair, a vice chair, and a secretary.

8 (e) The appointing authorities shall coordinate
9 their appointments so that diversity of gender, race, and
10 geographical areas is reflective of the makeup of this state.

11 (f) ~~No~~ Unless acting unreasonably or in bad faith,
12 no member of the board shall be civilly liable for acting
13 within the scope of his or her duties as a board member.

14 (g) Members of the board shall serve without
15 compensation but, to the extent funds are available, may
16 receive the same per diem and travel allowance as state
17 employees.

18 Section 4. (a) The board may issue a license to
19 practice genetic counseling to any individual who satisfies
20 all of the following qualifications:

21 (1) Is at least 21 years of age.

22 (2) Has applied in writing to the board, in a form
23 and substance that is satisfactory to the board.

24 (3) Has not engaged in conduct or activities which
25 would constitute grounds for discipline under this act.

26 (4) Has successfully completed either of the
27 following:

1 a. A master's degree in genetic counseling from an
2 ACGC or ABMGG accredited training program, or an equivalent
3 program approved by the ACGC or the ABMGG.

4 b. A doctoral degree and an ABMGG accredited medical
5 genetics training program, or an equivalent program approved
6 by the ABMGG.

7 (5) Has successfully completed an examination for
8 licensure, as approved by the board.

9 (6) Has paid fees established by board rule.

10 (7) Has satisfied the requirements for certification
11 established by the ABGC or its successor, or the ABMGG or its
12 successor, if required by board rule.

13 (8) Has satisfied any additional requirements for
14 licensure established by board rule.

15 (b) The board may issue a temporary license to
16 practice genetic counseling to any individual who has made
17 application to the board, has submitted evidence to the board
18 of admission to examination for licensure, and has satisfied
19 all other requirements or conditions for licensure as provided
20 in this section and by board rule, except for the examination
21 requirement. A temporary license shall be valid for no more
22 than 1 year. The holder of a temporary license shall practice
23 only under the supervision of a qualified supervisor. Nothing
24 in this subsection shall prohibit an applicant from reapplying
25 for a temporary license if he or she otherwise satisfies the
26 qualifications of this subsection.

1 Section 5. (a) A license issued by the board
2 pursuant to this act shall be valid for no more than two
3 years, unless otherwise specified by this act or board rule,
4 and shall be renewable on a renewal date established by board
5 rule.

6 (b) An individual who holds an expired license, or a
7 license on inactive status, may have the license restored by
8 satisfying all of the following:

9 (1) Making application to the board.

10 (2) Submitting proof acceptable to the board of his
11 or her fitness to have the license restored including, but not
12 limited to, sworn evidence certifying his or her active
13 practice in another jurisdiction that is satisfactory to the
14 board.

15 (3) Paying the required restoration fees as
16 established by board rule.

17 (4) If an individual has not maintained an active
18 practice in another jurisdiction that is satisfactory to the
19 board pursuant to subdivision (2), the board, pursuant to an
20 evaluation program established by rule, shall determine the
21 fitness of an individual to resume active status and may
22 require the individual to complete a period of evaluated
23 clinical experience and successful completion of an
24 examination for licensure.

25 (c) A licensee may elect to place his or her license
26 on inactive status by notifying the board, in writing, on a
27 form prescribed by board rule. An inactive licensee may not

1 practice genetic counseling in this state and shall be excused
2 from the payment of renewal fees until he or she notifies the
3 board of his or her desire to resume active status. An
4 individual requesting restoration to active status shall pay
5 the current renewal fee and shall satisfy the requirements of
6 subsection (b).

7 Section 6. (a) After the board establishes the
8 genetic counseling licensing program as provided in this act,
9 an individual who does not hold a valid license issued by the
10 board may not do any of the following:

11 (1) Engage in the practice of genetic counseling in
12 this state.

13 (2) Hold himself or herself out as a genetic
14 counselor.

15 (3) Use, in connection with his or her name or place
16 of business, any of the following terms:

17 a. Genetic counselor.

18 b. Licensed genetic counselor.

19 c. Gene counselor.

20 d. Genetic consultant.

21 e. Genetic associate.

22 f. Any words, letters, abbreviations, or insignia
23 indicating or implying the individual holds a genetic
24 counseling license.

25 (b) Any individual who violates this section shall
26 be guilty of a Class A misdemeanor.

27 Section 7. The board may do all of the following:

1 (1) Determine the qualifications and fitness of
2 applicants for licensure and renewal of licensure.

3 (2) Consistent with the laws of this state, adopt
4 and revise rules as necessary to conduct its business, carry
5 out its duties, and administer this act.

6 (3) Examine for, approve, issue, deny, revoke,
7 suspend, sanction, and renew the license of any applicant or
8 genetic counselor, as applicable, pursuant to this act and
9 conduct hearings in connection with those actions.

10 (4) Conduct hearings on complaints concerning
11 violations of this act, and any rule adopted pursuant to this
12 act, and cause the prosecution and enjoinder of any violation.

13 (5) Establish licensure, application, examination,
14 certification, and other administrative fees as necessary.

15 (6) Establish continuing education requirements.

16 (7) Impose administrative fines, not to exceed one
17 thousand dollars (\$1,000) per violation, for a violation of
18 this act, a board rule, or a condition of a license.

19 (8) Accept grants from foundations, individuals, and
20 institutions to further the purposes of the board.

21 (9) To the extent funding is available, employ a
22 director and additional staff as necessary for the proper
23 performance of the duties of the board.

24 Section 8. This act does not apply to any of the
25 following:

26 (1) Any individual licensed by the state to practice
27 in a profession other than that of a genetic counselor, when

1 acting within the scope of his or her profession and doing
2 work of a nature consistent with his or her training. The
3 individual may not hold himself or herself out to the public
4 as a genetic counselor.

5 (2) Any physician licensed to practice medicine or
6 osteopathy in this state.

7 (3) Any individual who is certified by ABMGG as a
8 doctor of philosophy medical geneticist before December 31,
9 2018.

10 (4) Any individual employed as a genetic counselor
11 by the federal government or an agency thereof, if the
12 individual provides genetic counseling services solely under
13 the direction and control of the organization through which he
14 or she is employed.

15 (5) A genetic counseling intern enrolled in an ACGC
16 or ABMGG accredited genetic counseling educational program, if
17 genetic counseling services performed by the genetic
18 counseling intern are an integral part of his or her course of
19 study and are performed under the direct instruction of a
20 genetic counselor or licensed physician who is assigned to the
21 genetic counseling intern and is on duty and available in the
22 assigned patient care area.

23 (6) Any company providing services available
24 directly to consumers without seeing a physician or genetic
25 counselor, that is approved by the United States Food and Drug
26 Administration to assess, and not diagnose, risks for certain
27 genetic diseases or conditions.

1 Section 9. Nothing in this act may be construed as
2 authorizing a genetic counselor to practice medicine.

3 Section 10. There is established in the State
4 Treasury a separate special revenue trust fund known as the
5 Genetic Counseling Fund. All receipts collected by the board
6 pursuant to this act shall be deposited into the fund and
7 shall be used only to implement this act. The receipts shall
8 be dispersed only by warrant of the Comptroller upon the State
9 Treasury, upon itemized vouchers approved by the executive
10 director, or the board if no executive director is employed.
11 No funds may be withdrawn or expended except as budgeted and
12 allotted according to Sections 41-4-80 to 41-4-96, inclusive,
13 Code of Alabama 1975, and Sections 41-19-1 to 41-19-12,
14 inclusive, Code of Alabama 1975, and only in amounts as
15 stipulated in the general appropriations bill or other
16 appropriations bills.

17 Section 11. The Alabama Board of Genetic Counseling
18 shall be subject to the Alabama Sunset Law, Chapter 20 of
19 Title 41, Code of Alabama 1975, as an enumerated agency as
20 provided in Section 41-20-3, Code of Alabama 1975, and shall
21 have a termination date of October 1, 2021, and every four
22 years thereafter, unless continued pursuant to the Alabama
23 Sunset Law.

24 Section 12. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further
27 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill defines a new crime or amends the definition of an
4 existing crime.

5 Section 13. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Boards, Agencies
and Commissions..... 02-APR-19

Read for the second time and placed
on the calendar 2 amendments 11-APR-19

Read for the third time and passed
as amended..... 16-APR-19

Yeas 96, Nays 3, Abstains 0

Jeff Woodard
Clerk