

1 SB213
2 197420-2
3 By Senators Waggoner, Allen and Smitherman
4 RFD: Healthcare
5 First Read: 02-APR-19

8 SYNOPSIS: This bill creates the Alabama Genetic
9 Counselor Act.

10 This bill would establish the Alabama Board
11 of Genetic Counseling and would provide for the
12 powers and authority of the board.

13 This bill would provide qualifications for
14 licensure and requirements for license renewal and
15 restoration of inactive licenses of genetic
16 counselors.

17 This bill would provide that the practice of
18 genetic counseling without a license is a criminal
19 offense.

20 This bill would provide exemptions from
21 licensure for physicians and other medical
22 professionals and would clarify that genetic
23 counselors are not authorized to practice medicine.

24 This bill would establish the Genetic
25 Counseling Fund in the State Treasury.

26 Amendment 621 of the Constitution of Alabama
27 of 1901, now appearing as Section 111.05 of the

1 Official ReCompilation of the Constitution of
2 Alabama of 1901, as amended, prohibits a general
3 law whose purpose or effect would be to require a
4 new or increased expenditure of local funds from
5 becoming effective with regard to a local
6 governmental entity without enactment by a 2/3 vote
7 unless: it comes within one of a number of
8 specified exceptions; it is approved by the
9 affected entity; or the Legislature appropriates
10 funds, or provides a local source of revenue, to
11 the entity for the purpose.

12 The purpose or effect of this bill would be
13 to require a new or increased expenditure of local
14 funds within the meaning of the amendment. However,
15 the bill does not require approval of a local
16 governmental entity or enactment by a 2/3 vote to
17 become effective because it comes within one of the
18 specified exceptions contained in the amendment.

19
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23
24 To create the Alabama Genetic Counselor Act; to
25 establish the Alabama Board of Genetic Counseling; to provide
26 for the powers and authority of the board; to provide
27 qualifications for licensure as a genetic counselor and

1 requirements for license renewal and restoration of inactive
2 licenses; to make the practice of genetic counseling without a
3 license a criminal offense; to exempt physicians and other
4 licensed professionals from licensure by the board; to clarify
5 that genetic counselors are not authorized to practice
6 medicine; to establish the Genetic Counseling Fund in the
7 State Treasury; and in connection therewith would have as its
8 purpose or effect the requirement of a new or increased
9 expenditure of local funds within the meaning of Amendment 621
10 of the Constitution of Alabama of 1901, now appearing as
11 Section 111.05 of the Official Recompilation of the
12 Constitution of Alabama of 1901, as amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

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

25 (5) EXAMINATION FOR LICENSURE. The ABGC or ABMGG
26 certification examination, or the examination provided by a
27 successor entity to the ABGC or ABMGG, to test the competence

1 and qualifications of applicants to practice genetic
2 counseling.

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

5 a. Obtain and evaluate individual, family, and
6 medical histories to determine genetic risk for genetic or
7 medical conditions and diseases in a patient, his or her
8 offspring, or other family members.

9 b. Discuss the features, natural history, means of
10 diagnosis, genetic and environmental factors, and management
11 of risk for genetic or medical conditions and diseases.

12 c. Identify, recommend, and coordinate genetic tests
13 and other genetic related diagnostic studies as appropriate
14 for the genetic assessment consistent with practice based
15 competencies provided by the ACGC.

16 d. Integrate genetic test results and other genetic
17 related diagnostic studies with personal and family medical
18 history to assess and communicate risk factors for genetic or
19 medical conditions and diseases.

20 e. Explain the clinical implications of genetic
21 tests and other genetic related diagnostic studies and their
22 results.

23 f. Evaluate the responses of the client or family to
24 the condition or risk of recurrence and provide client
25 centered counseling and anticipatory guidance.

1 g. Identify and utilize community resources that
2 provide medical, educational, financial, and psychosocial
3 support and advocacy.

4 h. Provide written documentation of medical,
5 genetic, and counseling information for families and health
6 care professionals.

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

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

11 (9) GENETIC TEST or GENOMIC TEST.

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

15 1. Detects genotypes, mutations, chromosomal
16 changes, abnormalities, or deficiencies, including carrier
17 status, that are linked to physical or mental disorders or
18 impairments.

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

21 3. Demonstrates genetic or chromosomal damage due to
22 environmental factors.

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

25 1. Routine physical measurements.

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

1 3. Tests for the use of drugs.

2 4. Tests for the presence of a pathogen.

3 5. Analyses of proteins or metabolites that do not
4 detect genotypes, mutations, chromosomal changes,
5 abnormalities, or deficiencies.

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

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

13 (11) QUALIFIED SUPERVISOR. Any individual licensed
14 as a genetic counselor, a physician licensed to practice
15 medicine or osteopathy in this state, or an individual
16 certified in molecular genetic pathology by the American Board
17 of Pathology and the ABMGG.

18 (12) SUPERVISION. The overall responsibility of a
19 qualified supervisor to assess the work of a genetic counselor
20 with a temporary license, including regular meetings and chart
21 review, if an annual supervision contract signed by the
22 supervisor and the temporarily licensed genetic counselor is
23 on file with both parties. The presence of a qualified
24 supervisor is not required during the performance of the
25 genetic counseling service.

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

1 (b) The membership of the board shall consist of all
2 of the following:

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

5 (2) Four individuals who practice genetic counseling
6 in Alabama and who hold a master's degree or doctoral degree
7 in genetic counseling from an ACGC or ABMGG accredited
8 training program, or an equivalent program approved by the
9 ACGC or the ABMGG, appointed by the Governor.

10 (3) One physician appointed by the Medical
11 Association of the State of Alabama.

12 (4) One physician appointed by the State Board of
13 Medical Examiners.

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

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

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

22 (f) No member of the board shall be civilly liable
23 for acting within the scope of his or her duties as a board
24 member.

25 (g) Members of the board shall serve without
26 compensation but, to the extent funds are available, may

1 receive the same per diem and travel allowance as state
2 employees.

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

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

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

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

11 (4) Has successfully completed either of the
12 following:

13 a. A master's degree in genetic counseling from an
14 ACGC or ABMGG accredited training program, or an equivalent
15 program approved by the ACGC or the ABMGG.

16 b. A doctoral degree and an ABMGG accredited medical
17 genetics training program, or an equivalent program approved
18 by the ABMGG.

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

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

22 (7) Has satisfied the requirements for certification
23 established by the ABGC or its successor, or the ABMGG or its
24 successor, if required by board rule.

25 (8) Has satisfied any additional requirements for
26 licensure established by board rule.

1 (b) The board may issue a temporary license to
2 practice genetic counseling to any individual who has made
3 application to the board, has submitted evidence to the board
4 of admission to examination for licensure, and has satisfied
5 all other requirements or conditions for licensure as provided
6 in this section and by board rule, except for the examination
7 requirement. The holder of a temporary license shall practice
8 only under the supervision of a qualified supervisor. Nothing
9 in this subsection shall prohibit an applicant from reapplying
10 for a temporary license if he or she otherwise satisfies the
11 qualifications of this subsection.

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

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

20 (1) Making application to the board.

21 (2) Submitting proof acceptable to the board of his
22 or her fitness to have the license restored including, but not
23 limited to, sworn evidence certifying his or her active
24 practice in another jurisdiction that is satisfactory to the
25 board.

26 (3) Paying the required restoration fees as
27 established by board rule.

1 (4) If an individual has not maintained an active
2 practice in another jurisdiction that is satisfactory to the
3 board pursuant to subdivision (2), the board, pursuant to an
4 evaluation program established by rule, shall determine the
5 fitness of an individual to resume active status and may
6 require the individual to complete a period of evaluated
7 clinical experience and successful completion of an
8 examination for licensure.

9 (c) A licensee may elect to place his or her license
10 on inactive status by notifying the board, in writing, on a
11 form prescribed by board rule. An inactive licensee may not
12 practice genetic counseling in this state and shall be excused
13 from the payment of renewal fees until he or she notifies the
14 board of his or her desire to resume active status. An
15 individual requesting restoration to active status shall pay
16 the current renewal fee and shall satisfy the requirements of
17 subsection (b).

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

22 (1) Engage in the practice of genetic counseling in
23 this state.

24 (2) Hold himself or herself out as a genetic
25 counselor.

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

1 a. Genetic counselor.
2 b. Licensed genetic counselor.
3 c. Gene counselor.
4 d. Genetic consultant.
5 e. Genetic associate.
6 f. Any words, letters, abbreviations, or insignia
7 indicating or implying the individual holds a genetic
8 counseling license.

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

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

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

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

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

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

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

26 (6) Establish continuing education requirements.

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

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

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

9 Section 8. This act does not apply to any of the
10 following:

11 (1) Any individual licensed by the state to practice
12 in a profession other than that of a genetic counselor, when
13 acting within the scope of his or her profession and doing
14 work of a nature consistent with his or her training. The
15 individual may not hold himself or herself out to the public
16 as a genetic counselor.

17 (2) Any physician licensed to practice medicine or
18 osteopathy in this state.

19 (3) Any individual who is certified by ABMGG as a
20 doctor of philosophy medical geneticist before December 31,
21 2018.

22 (4) Any individual employed as a genetic counselor
23 by the federal government or an agency thereof, if the
24 individual provides genetic counseling services solely under
25 the direction and control of the organization through which he
26 or she is employed.

1 (5) A genetic counseling intern enrolled in an ACGC
2 or ABMGG accredited genetic counseling educational program, if
3 genetic counseling services performed by the genetic
4 counseling intern are an integral part of his or her course of
5 study and are performed under the direct instruction of a
6 genetic counselor or licensed physician who is assigned to the
7 genetic counseling intern and is on duty and available in the
8 assigned patient care area.

9 (6) Any company providing services available
10 directly to consumers without seeing a physician or genetic
11 counselor, that is approved by the United States Food and Drug
12 Administration to assess, and not diagnose, risks for certain
13 genetic diseases or conditions.

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

16 Section 10. There is established in the State
17 Treasury a separate special revenue trust fund known as the
18 Genetic Counseling Fund. All receipts collected by the board
19 pursuant to this act shall be deposited into the fund and
20 shall be used only to implement this act. The receipts shall
21 be dispersed only by warrant of the Comptroller upon the State
22 Treasury, upon itemized vouchers approved by the executive
23 director, or the board if no executive director is employed.
24 No funds may be withdrawn or expended except as budgeted and
25 allotted according to Sections 41-4-80 to 41-4-96, inclusive,
26 Code of Alabama 1975, and Sections 41-19-1 to 41-19-12,
27 inclusive, Code of Alabama 1975, and only in amounts as

1 stipulated in the general appropriations bill or other
2 appropriations bills.

3 Section 11. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621, now
7 appearing as Section 111.05 of the Official ReCompilation of
8 the Constitution of Alabama of 1901, as amended, because the
9 bill defines a new crime or amends the definition of an
10 existing crime.

11 Section 12. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.