



Ohio Legislative Service Commission

Bill Analysis

Laura Gengo

H.B. 292

129th General Assembly
(As Introduced)

Reps. Gonzales, Grossman, Stebelton, Reece, Dovilla, Gardner, Baker, Wachtmann

BILL SUMMARY

- Requires the State Medical Board to regulate the practice of genetic counseling.
 - Authorizes, in general, a genetic counselor to (1) provide medical, genetic, and counseling information to patients, their families, and other health care professionals and (2) order genetic or other diagnostic tests under a collaborative agreement with a physician.
 - Provides for the regulation of genetic counselors in generally the same manner as other health professions are regulated by the Board by creating a licensure process, listing reasons for which the State Medical Board may take disciplinary action, and requiring that the Board adopt necessary rules.
-

CONTENT AND OPERATION

Overview

The bill requires the State Medical Board to regulate the practice of genetic counseling through a licensure process. The process is to be operated in generally the same way that the Board currently regulates physicians, podiatrists, physician assistants, anesthesiologist assistants, radiologist assistants, acupuncturists, massage therapists, and cosmetic therapists. Genetic counselors must comply with the licensing requirements beginning one year after the bill's effective date.

Scope of practice of genetic counselors

Under the bill, a genetic counselor holding a valid license from the State Medical Board is authorized to engage in all of the following:¹

(1) Obtaining and evaluating the medical histories of a patient and the patient's family members to determine the risk for genetic or medical conditions and diseases in the patient, the patient's offspring, or the patient's family members;

(2) Discussing with a patient and the patient's family the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic or medical conditions and diseases;

(3) Identifying and coordinating genetic laboratory tests and other diagnostic studies as appropriate for genetic assessment;

(4) Integrating the results of genetic laboratory tests and other diagnostic tests with individual and family medical histories;

(5) Explaining to a patient and the patient's family the clinical implications of the results of genetic laboratory tests and other diagnostic tests;

(6) Evaluating the response of a patient or the patient's family members to one or more genetic conditions or the risk of reoccurrence and providing patient-centered counseling and guidance;

(7) Identifying and using community resources that provide medical, educational, financial, and psychosocial support and advocacy;

(8) Providing medical, genetic, and counseling information to patients, their families, and other health care professionals.

Collaborative agreements with physicians

In addition to the activities listed above, the bill authorizes a licensed genetic counselor to do both of the following, but only pursuant to a collaborative agreement with a collaborating physician:²

¹ R.C. 4778.10(B).

² R.C. 4778.10(B)(9).

(1) Order genetic or other tests for the purpose of diagnosing a medical condition or inherited disorder or determining the carrier status of one or more of the patient's family members;

(2) Select the most appropriate, accurate, and cost-effective methods of diagnosis.

The collaborative agreement must be in writing, memorialize the relationship between the genetic counselor and the collaborating physician, and establish the criteria governing the performance of these two activities. It may be entered into with a doctor of medicine and surgery or osteopathic medicine and surgery.³

Prohibition against unlicensed practice

Beginning one year after the bill's effective date, a person is prohibited from practicing as a genetic counselor without a valid license or temporary license issued by the State Medical Board. The bill further prohibits an unlicensed person from holding himself or herself out as a genetic counselor, including using any sign, advertisement, card, letterhead, circular, or other writing, document, or design, in order to induce others to believe that the person is authorized to practice as a genetic counselor. A person who violates either prohibition is guilty of a first degree misdemeanor for the first offense and a fifth degree felony for each subsequent offense.⁴

Exemptions

The bill specifies that the prohibitions described above do not apply to any of the following:⁵

(1) An individual who is engaging in the scope of practice for which the individual is licensed or certified;

(2) A student performing a task as part of a genetic counseling graduate program;

(3) A certified genetic counselor who is a resident of another state and engages in genetic counseling for not more than 30 days in a calendar year. The individual must either (a) possess the certified genetic counselor credential from the American Board of Genetic Counseling, Inc., its successor, or an equivalent organization recognized by the

³ R.C. 4778.01(E) and 4778.10(A).

⁴ R.C. 4778.02(A) and 4778.99.

⁵ R.C. 4778.02(B).

State Medical Board or (b) be a diplomate of the American Board of Medical Genetics, Inc., its successor, or an equivalent organization recognized by the State Medical Board.⁶

Eligibility for licensure

To be eligible to receive a license as a genetic counselor, the bill requires that an individual meet the following requirements:⁷

(1) Be at least 18 years old and of good moral character;

(2) Attain a master's degree or higher from a genetic counseling graduate program accredited by the American Board of Genetic Counseling, Inc., its successor, or an equivalent organization recognized by the State Medical Board;

(3) Attain the certified genetic counselor credential from the American Board of Genetic Counseling, Inc., its successor, or an equivalent organization recognized by the State Medical Board;

(4) Satisfy any other requirements established by the Board in rules.

License application and issuance

A person seeking a genetic counselor's license must file with the State Medical Board a written application, pay the nonrefundable application fee established by the Board in rules, and submit to a criminal records check. The application must include all the information the Board considers necessary to process the application, including evidence that the applicant meets the bill's licensure eligibility requirements.⁸

The Board must review all complete applications within 60 days of receipt. After review, if at least six Board members determine that an applicant meets the requirements for a license to practice genetic counseling, the Board's secretary must issue a license to the applicant. The bill requires the Board to determine in rules the length of time for which a license is valid.⁹

⁶ R.C. 4778.01(D) and 4778.02(B)(3).

⁷ R.C. 4778.01(A) and 4778.04(B).

⁸ R.C. 4778.04(A) and 4778.05.

⁹ R.C. 4778.04(C) and 4778.06(A) and (B).

License renewal and continuing education

Unless a genetic counselor's license is suspended or revoked, the bill requires the State Medical Board to renew a license if the counselor submits an application, pays a renewal fee, and continues to meet the requirements for initial licensure. The renewal procedure is to be specified in rules adopted by the Board. The bill requires the Board to impose continuing education requirements in accordance with the rules it adopts.¹⁰

Temporary license

The bill permits the State Medical Board to issue a temporary genetic counselor license to an applicant if the applicant meets the following requirements and pays a temporary license fee established by the Board in rules:¹¹

(1) Provides evidence of meeting all license eligibility requirements other than having attained the certified genetic counselor credential from the American Board of Genetic Counseling, Inc.;

(2) Is in active candidate status with the American Board of Genetic Counseling, Inc.

A temporary license allows an applicant to engage in the activities authorized by the bill but only under the general supervision of a licensed genetic counselor or a physician. The bill specifies that general supervision does not require the supervising licensed genetic counselor or physician to be present while the applicant engages in such activities, but the licensed genetic counselor or physician is professionally responsible for the holder and must be readily accessible for professional consultation and assistance.¹²

A temporary license is valid for one year from either the date of issuance or until the Board issues a license to the applicant, whichever is earlier. A temporary license may be renewed, but only while the applicant is in active candidate status with the American Board of Genetic Counseling, Inc. and in accordance with procedures established by the Board.

¹⁰ R.C. 4778.06(C).

¹¹ R.C. 4778.07(A).

¹² R.C. 4778.07(B).

Duplicate license

The bill permits a genetic counselor to apply for a duplicate license to replace one that is missing or damaged, to reflect a name change, or for any other reasonable cause. The counselor must pay a \$35 fee for the duplicate license. On receipt of the application and fee, the State Medical Board must issue the duplicate license.¹³

Disciplinary actions

Generally, the bill authorizes the State Medical Board to take disciplinary action against a genetic counselor in the same manner, and for the same reasons, as the Board is currently authorized to take against those health care professionals currently regulated by the Board. However, of the reasons for which the Board may take disciplinary action, two relate specifically to genetic counselors: (1) failure to maintain the certified genetic counselor credential from the American Board of Genetic Counseling, Inc., and (2) failure to comply with the rules of ethics of the American Board of Genetic Counseling, Inc.¹⁴

Existing law extended to genetic counselors

The bill otherwise provides for the regulation of genetic counselors in the same manner as those health care professionals currently regulated by the State Medical Board. The issues addressed in the laws made applicable to genetic counselors include the following:

--Board investigations of violations and imposition of sanctions;¹⁵

--License suspensions or revocations for a licensee (1) adjudicated mentally ill or mentally incompetent, (2) having defaulted under a child support order, or (3) found guilty of certain sex or drug offenses;¹⁶

--Notifications to be provided to the Board by prosecutors, health care facilities, professional associations or societies, and professional liability insurers regarding actions taken against a genetic counselor;¹⁷

¹³ R.C. 4778.08.

¹⁴ R.C. 4778.14.

¹⁵ R.C. 4778.18.

¹⁶ R.C. 4778.15, 4778.16, and 4778.19.

¹⁷ R.C. 4731.224.

--Injunctions against a person engaging in genetic counseling without a license;¹⁸

--Use of universal blood and body fluid precautions;¹⁹

--Maintenance of records by the Board of its proceedings and a register of license applicants;²⁰

--Requirements relating to genetic counselors suffering impairment from the use of drugs or alcohol.²¹

Rulemaking

The bill requires the State Medical Board to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) necessary to implement and administer the bill's provisions. To the maximum extent possible, the rules are to be consistent with the standards, guidelines, or policy directives adopted by the American Board of Genetic Counseling, Inc. At a minimum, the rules must include all of the following:²²

- (1) Any requirements, other than those specified in the bill, to attain licensure;
- (2) The fees to apply for or renew a license or temporary license;
- (3) The length of time a license is valid;
- (4) Procedures for renewing a license or temporary license;
- (5) Continuing education requirements for licensees.

Board immunity from liability

In the absence of fraud or bad faith, the bill provides that the State Medical Board, a current or former Board member, an agent of the Board, a person formally requested by the Board to be the Board's representative, or an employee of the Board is not liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to the

¹⁸ R.C. 4778.21.

¹⁹ R.C. 4731.051.

²⁰ R.C. 4731.07.

²¹ R.C. 4731.25.

²² R.C. 4778.12.

bill's provisions. If any such person asks to be defended by the state against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the person's official duties, and if the request is made in writing at a reasonable time before trial and the person requesting defense cooperates in good faith in the defense of the claim or action, the bill requires the state to provide and pay for the person's defense and pay any resulting judgment, compromise, or settlement. However, the bill specifies that at no time is the state to pay any part of a claim or judgment that is for punitive or exemplary damages.²³

Board secretary

If the secretary of the State Medical Board has knowledge or notice of a violation of the bill or the rules adopted under it, the bill requires that the secretary investigate the matter. If probable cause appears, the secretary must file a complaint and prosecute the offender. When requested by the secretary, the prosecuting attorney of the proper county is to take charge of and conduct the prosecution.²⁴

State Medical Board Operating Fund

The bill requires that all fees, penalties, and other funds received by the State Medical Board relating to the regulation of genetic counselors are to be deposited in the state treasury to the credit of the existing State Medical Board Operating Fund.²⁵

HISTORY

ACTION	DATE
Introduced	07-06-11

h0292-i-129.docx/ks

²³ R.C. 4778.24.

²⁴ R.C. 4778.20.

²⁵ R.C. 4731.24 and 4778.22.