

IN THE SENATE

SENATE BILL NO. 1080

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO GENETIC COUNSELORS; AMENDING TITLE 54, IDAHO CODE, BY THE ADDI-
2 TION OF A NEW CHAPTER 56, TITLE 54, IDAHO CODE, TO PROVIDE A SHORT TITLE,
3 TO DEFINE TERMS, TO PROVIDE A SCOPE OF PRACTICE FOR GENETIC COUNSELORS,
4 TO PROVIDE EXEMPTIONS FOR LICENSURE, TO REQUIRE A LICENSE TO PRACTICE
5 GENETIC COUNSELING, TO ESTABLISH THE GENETIC COUNSELORS LICENSING
6 BOARD, TO PROVIDE FOR POWERS OF THE BOARD, TO SPECIFY REQUIREMENTS
7 FOR LICENSURE, TO PROVIDE FOR ENDORSEMENT LICENSURE, TO PROVIDE FOR A
8 PROVISIONAL LICENSE, TO PROVIDE FOR THE LICENSING OF EXISTING GENETIC
9 COUNSELORS, TO PROVIDE FOR LICENSE RENEWAL, TO ESTABLISH FEES FOR LI-
10 CENSURE, TO PROVIDE FOR DENIAL OF A LICENSE AND DISCIPLINE, TO PROVIDE
11 FOR CONFIDENTIALITY BY LICENSEES AND TO PROHIBIT CERTAIN ACTS.
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Title 54, Idaho Code, be, and the same is hereby amended
15 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
16 ter 56, Title 54, Idaho Code, and to read as follows:

17 CHAPTER 56
18 GENETIC COUNSELORS

19 54-5601. SHORT TITLE. This chapter shall be known and may be cited as
20 the "Genetic Counselors Licensing Act."

21 54-5602. DEFINITIONS. As used in this chapter:

22 (1) "ABGC" means the American board of genetic counseling, inc., its
23 successor or equivalent.

24 (2) "ABMG" means the American board of medical genetics, its successor
25 or equivalent.

26 (3) "ACS" means active candidate status conferred by the American board
27 of genetic counseling.

28 (4) "Board" means the genetic counselors licensing board.

29 (5) "Bureau" means the bureau of occupational licenses.

30 (6) "Certification" means the voluntary process by which a nongovern-
31 mental agency grants recognition and use of a credential to individuals who
32 have met predetermined and standardized criteria.

33 (7) "Certification examination" means the certification examination
34 for genetic counselors administered by a certifying agency approved by the
35 board.

36 (8) "CEU" means continuing education unit as defined by the board by
37 rule.

38 (9) "Code of ethics" means the current code of ethics adopted by the
39 board.

1 (10) "Genetic counseling" means performing acts of a genetic counselor
2 as described in section 54-5603, Idaho Code.

3 (11) "Genetic counselor" means an individual who is licensed under this
4 chapter to engage in the practice of genetic counseling.

5 (12) "Licensed physician" means a person holding a license issued under
6 chapter 18, title 54, Idaho Code.

7 (13) "NSGC" means the national society of genetic counselors, its suc-
8 cessor or equivalent.

9 (14) "Person" means an individual and does not mean an association of
10 individuals or a legal entity.

11 54-5603. SCOPE OF PRACTICE. A licensed genetic counselor may perform
12 the following acts as a genetic counselor:

13 (1) Obtain and evaluate individual, family and medical histories to de-
14 termine genetic risk for genetic or medical conditions and diseases in a pa-
15 tient, his offspring and other family members;

16 (2) Discuss the features, natural history, means of diagnosis, genetic
17 and environmental factors and management of risk for genetic medical condi-
18 tions and diseases;

19 (3) Identify and coordinate genetic laboratory tests and other diag-
20 nostic studies as appropriate for the genetic assessment;

21 (4) Integrate genetic laboratory test results and other diagnostic
22 studies with personal and family medical history to assess and communicate
23 risk factors for genetic medical conditions and diseases;

24 (5) Explain the clinical implications of genetic laboratory tests,
25 other diagnostic studies and results;

26 (6) Evaluate the client's or family's responses to the condition or
27 risk of recurrence and provide client-centered counseling and anticipatory
28 guidance;

29 (7) Identify and utilize community resources that provide medical, ed-
30 ucational, financial and psychosocial support and advocacy; and

31 (8) Provide written documentation of medical, genetic and counseling
32 information for families and health care professionals.

33 54-5604. EXEMPTIONS FOR LICENSURE. The provisions of this act shall
34 not apply to the following:

35 (1) Any person who is not a genetic counselor but is licensed under ti-
36 tle 54, Idaho Code, acting within the scope of his profession and doing work
37 of a nature consistent with his training, provided that he does not represent
38 himself by any title or practice description prohibited by section 54-5605;

39 (2) Any person employed as a genetic counselor by the federal govern-
40 ment or an agency thereof if such person provides genetic counseling ser-
41 vices solely under the direction and control of the organization by which he
42 is employed;

43 (3) A student enrolled in an ABGC-accredited genetic counseling educa-
44 tional program if genetic counseling services performed by the student are
45 an integral part of the student's course of study and are performed under the
46 direct supervision of a licensed genetic counselor assigned to supervise the
47 student; and

1 (4) An employee of a facility licensed under the provisions of chapter
2 13, title 39, Idaho Code, who is designated in writing to be responsible for
3 that facility's genetic counseling program and who receives regular consul-
4 tation from a licensed genetic counselor.

5 54-5605. GENETIC COUNSELOR LICENSE REQUIRED. Effective July 1, 2016,
6 a license shall be required to engage in the practice of genetic counsel-
7 ing. No person shall engage in the practice of, or hold himself out as, a
8 genetic counselor unless he is licensed in accordance with the provisions
9 of this chapter. No person who is not so licensed may use in connection with
10 his name or place of business the title genetic counselor, licensed genetic
11 counselor, gene counselor, genetic consultant, genetic associate or any
12 words, letters, abbreviations or insignia indicating or implying that a
13 person holds a genetic counselor license unless such person holds a genetic
14 counselor license.

15 54-5606. BOARD -- ORGANIZATION AND MEETINGS. (1) There is hereby es-
16 tablished in the department of self-governing agencies, bureau of occupa-
17 tional licenses, the genetic counselors licensing board.

18 (2) The board shall consist of three (3) members, two (2) of whom shall
19 be fully licensed genetic counselors and one (1) of whom shall be a licensed
20 physician. All board members shall be residents of this state.

21 (3) Initial appointments to the board shall be for the following terms:
22 one (1) genetic counselor member shall serve a term of one (1) year; one (1)
23 genetic counselor member shall serve a term of two (2) years; and the physi-
24 cian member shall serve a term of three (3) years. Thereafter, the term of
25 office for each member of the board shall be three (3) years.

26 (4) Board members shall be appointed by the governor and shall serve at
27 the pleasure of the governor.

28 (5) Each genetic counselor member of the board shall:

29 (a) Except for the initial appointments, be currently licensed and in
30 good standing to engage in the practice of genetic counseling in this
31 state. The initial genetic counselor members of the board must meet the
32 qualifications for licensure under this act;

33 (b) At the time of appointment have been actively engaged in the prac-
34 tice of genetic counseling for at least one (1) year of the last five (5)
35 years; and

36 (c) Be certified by the ABGC, ABMG or NSGC.

37 (6) In the event of the death, resignation or removal of any board mem-
38 ber before the expiration of the term to which the member is appointed, the
39 vacancy shall be filled for the unexpired portion of the term in the same man-
40 ner as the original appointment.

41 (7) The board shall meet annually and at such times as deemed neces-
42 sary and advisable by the chairman, or by a majority of its members, or by
43 the governor. Notice of all meetings shall be given in the manner prescribed
44 by rule. A majority of the board shall constitute a quorum at any meeting or
45 hearing.

46 (8) Members of the board shall be reimbursed for expenses as provided in
47 section 59-509(b), Idaho Code.

1 54-5607. BOARD POWERS. The board shall have the following powers:

2 (1) To receive applications for licensure, determine the qualifica-
3 tions of persons applying for licensure, provide licenses to applicants
4 qualified under the provisions of this chapter and reinstate and deny li-
5 censes;

6 (2) To establish by rule and collect fees as prescribed by this chapter;

7 (3) To maintain records necessary to carry out its duties under this
8 chapter;

9 (4) To pass upon the qualifications and fitness of applicants for li-
10 censes and to adopt rules requiring annual continuing education as a condi-
11 tion for the renewal of licenses issued under this chapter;

12 (5) To prescribe by rule the minimum number of and qualifications for
13 continuing education units (CEUs) to be required of each genetic counselor
14 seeking to obtain or renew a license in the state of Idaho and for the ap-
15 proval of continuing education courses;

16 (6) To examine for, deny, approve, issue, revoke and suspend licenses
17 pursuant to this chapter and to conduct investigations and hearings in con-
18 nection with such actions;

19 (7) Establish requirements for reinstatement and renewal of licenses;

20 (8) To adopt and revise such rules as may be necessary to carry into ef-
21 fect the provisions of this chapter in compliance with chapter 52, title 67,
22 Idaho Code. The rules shall include, but shall not be limited to, a code of
23 ethics for genetic counselors and licensed genetic counselor standards of
24 practice;

25 (9) In any proceeding before the board authorized by this chapter, the
26 board or its designee may administer oaths or affirmations to witnesses ap-
27 pearing before it;

28 (10) The board may recover the actual costs and fees, including attor-
29 ney's fees, incurred by the board in the investigation and prosecution of a
30 licensee upon the finding of a violation of this chapter or a rule adopted or
31 an order issued by the board under this chapter;

32 (11) To take such action as may be necessary to enforce the provisions of
33 this chapter and to regulate the practice of genetic counseling;

34 (12) In a final order the board may impose a civil penalty not to exceed
35 one thousand dollars (\$1,000) for each violation by a licensee of this chap-
36 ter or of rules adopted by the board; and

37 (13) To authorize, by written agreement, the bureau of occupational li-
38 censes as its agent to act in its interest and, in its discretion, to contract
39 with the bureau of occupational licenses for those services deemed necessary
40 for the proper administration of this chapter.

41 54-5608. REQUIREMENTS FOR ISSUANCE OF A LICENSE. In addition to such
42 other information as the board may require by rule, each applicant under this
43 act shall:

44 (1) Hold a master's degree or higher in genetics or a related field of
45 study as approved by the board;

46 (2) Submit an application in the form prescribed by the board;

47 (3) Pay the fee determined by the board by rule; and

1 (4) Provide evidence satisfactory to the board of having successfully
2 passed a nationally recognized competency examination approved by the board
3 by rule.

4 54-5609. ENDORSEMENT LICENSURE. An applicant who satisfies the board
5 that he is licensed or registered under the laws of another state, terri-
6 tory or jurisdiction of the United States, which in the opinion of the board
7 imposes substantially equivalent licensing requirements as this act, may,
8 upon the payment of the required fee and the approval of the application, be
9 licensed by endorsement pursuant to this act.

10 54-5610. PROVISIONAL LICENSE. (1) The board may grant a person who has
11 been granted ACS a provisional genetic counselor license to practice genetic
12 counseling upon filing an application with the board and payment of the fee
13 established by the board by rule.

14 (2) The provisional license shall be valid for one (1) year from the
15 date of its issue and may be renewed at the discretion of the board for ad-
16 ditional one (1) year periods up to a maximum of four (4) renewals. A pro-
17 visional license shall expire automatically upon the issuance of a full li-
18 cense.

19 (3) A provisional licensed genetic counselor shall work under the gen-
20 eral supervision of a licensed genetic counselor or a licensed physician at
21 all times during which the provisionally licensed genetic counselor per-
22 forms genetic counseling. An application for extension of the provisional
23 license shall be signed by the supervisor. General supervision shall not
24 require the physical presence of the provisional licensee's supervisor at
25 the location where such provisional licensee provides genetic counseling
26 services; however, the supervisor shall be readily accessible by telephone
27 or electronically for consultation and assistance whenever such provisional
28 licensee provides such services.

29 54-5611. LICENSING OF EXISTING GENETIC COUNSELORS. Until July 1,
30 2016, an individual who does not qualify for licensure under this chapter may
31 apply to the board for licensure, and the board may approve the application
32 if the individual has paid the required fees and:

33 (1) Has worked as a genetic counselor for a minimum of ten (10) years
34 preceding the enactment of these provisions with at least five (5) of those
35 years being the five (5) years immediately preceding the application for a
36 license;

37 (2) Holds a master's degree or higher in genetics or a related field of
38 study as approved by the board;

39 (3) Submits three (3) letters of recommendation from individuals who
40 have worked with the applicant in an employment setting, including at least
41 one (1) letter from a genetic counselor who qualifies for licensure under
42 this chapter and one (1) letter from either a clinical geneticist certified
43 by ABMG or a medical geneticist certified by ABMG; and

44 (4) Provides documentation satisfactory to the board that he has com-
45 pleted at least two hundred (200) hours of formal training in genetic coun-
46 seling as determined by the board and has practiced genetic counseling for at

1 least five (5) hours per week on average for at least the five (5) years imme-
2 diately prior to the date of application.

3 54-5612. LICENSE RENEWAL. (1) All licenses issued under the provi-
4 sions of this chapter shall be subject to annual renewal and shall expire on
5 the licensee's birthday unless renewed in the manner prescribed by the board
6 regarding applications for renewal, continuing education and fees and in
7 compliance with section 67-2614, Idaho Code.

8 (2) In addition to such other requirements as the board may establish
9 by rule, each applicant shall present satisfactory evidence when seeking li-
10 cense renewal that in the period since the license was issued or last renewed
11 the applicant has completed the amount of board-approved continuing educa-
12 tion required by the board by rule. The board may waive all or a portion of
13 these requirements or grant an extension of time in which to complete these
14 requirements upon a finding of good cause.

15 54-5613. FEES. (1) The board shall establish by rule fees for licen-
16 sure under the provisions of this chapter as follows:

- 17 (a) An application fee not to exceed five hundred dollars (\$500);
18 (b) A fee established by rule for an initial full license not to exceed
19 five hundred dollars (\$500);
20 (c) A fee established by rule for a provisional license, an endorsement
21 license and for an existing genetic counselor license not to exceed five
22 hundred dollars (\$500);
23 (d) The fee established by rule for annual renewal of licenses not to
24 exceed five hundred dollars (\$500); and
25 (e) Fees charged pursuant to paragraph (b), (c) or (d) of this subsec-
26 tion shall be in addition to the application fee.

27 (2) All fees received under the provisions of this chapter shall be non-
28 refundable and shall be deposited in the state treasury to the credit of the
29 occupational license account in the dedicated fund, and all costs and ex-
30 penses incurred by the board under the provisions of this chapter shall be
31 a charge against and paid from the account for such purposes, and the funds
32 collected hereunder shall be immediately available for the administration
33 of this chapter, the provisions of any other law notwithstanding.

34 54-5614. DENIAL OF LICENSE AND DISCIPLINARY PROCEEDINGS. (1) The
35 board may refuse to issue, refuse to renew, revoke, suspend or otherwise
36 sanction a licensee upon the following grounds:

- 37 (a) Fraud or deception in procuring or renewing the license;
38 (b) Having been found guilty, convicted, or placed on probation; hav-
39 ing entered into a guilty plea that is accepted by the court; forfeited
40 bail, bond or collateral deposited to secure a defendant's appearance;
41 or having received a withheld judgment or suspended sentence of a felony
42 by a court of competent jurisdiction;
43 (c) Gross incompetence or unprofessional conduct;
44 (d) Fraud or deceit in connection with services rendered as a genetic
45 counselor or in establishing qualifications for licensure under this
46 chapter;

1 (e) Violation of any of the provisions of this chapter or any of the
2 rules promulgated by the board under the authority of this chapter;

3 (f) Failure to comply with a board order;

4 (g) Having had a license revoked or suspended or having been otherwise
5 disciplined by the board or the proper authorities of another state,
6 territory or country;

7 (h) Habitual drunkenness or addiction to habit-forming drugs, either
8 of which impairs the ability to perform work without danger to himself
9 or the public;

10 (i) Aiding or abetting any person not licensed or otherwise authorized
11 under this chapter in the practice of genetic counseling in the state of
12 Idaho;

13 (j) Representing himself as a licensed genetic counselor when he is un-
14 licensed;

15 (k) Failing to maintain the requirements for a license or failing to
16 achieve the minimum CEUs required for the renewal of a license;

17 (l) Having a license or certification in a related field revoked or sus-
18 pended or having been otherwise disciplined in Idaho or any other state;
19 or

20 (m) Unethical or unprofessional conduct as defined by the rules of the
21 board or the code of ethics established by the rules of the board.

22 (2) The board may reinstate any revoked or suspended license upon such
23 terms as it may determine.

24 (3) The board may by rule provide a procedure for an applicant to re-
25 quest an exemption review for a felony or lesser crime conviction. The ap-
26 plicant shall bear the burden and financial responsibility of providing all
27 evidence, documentation and proof of suitability for licensure required by
28 the board for exemption review.

29 54-5615. CONFIDENTIAL COMMUNICATIONS. No licensee shall disclose any
30 information that he may have acquired from a client consulting him in his
31 professional capacity that was necessary to enable him to render services in
32 his professional capacity to those persons, except:

33 (1) With the written consent of that client or, in the case of death
34 or disability, the written consent of the client's personal representative,
35 other person or entity authorized to sue, or the beneficiary of an insurance
36 policy on their life, health or physical condition;

37 (2) That a licensee shall not be required to treat as a confidential
38 communication anything that reveals the contemplation or execution of a
39 crime or harmful act;

40 (3) When the client is a minor under the laws of this state, and the in-
41 formation acquired by the licensee indicates that the minor was the victim or
42 subject of a crime, the licensee may testify fully in relation to such infor-
43 mation upon any examination, trial or other proceeding in which the commis-
44 sion of such a crime is the subject of the inquiry;

45 (4) When the client waives the privilege by bringing charges or other
46 claims against the licensee; or

47 (5) To the board or its authorized agent in connection with an investi-
48 gation or other proceeding by the board or its agent under this chapter.

1 54-5616. CERTAIN ACTS PROHIBITED. It shall be unlawful and a misde-
2 meanor for any person to engage in any of the following acts:

3 (1) To practice genetic counseling or to represent himself to be a li-
4 censed genetic counselor as defined in this chapter without having at the
5 time of so doing, a valid license issued under this chapter; or

6 (2) To use in connection with his name or place of business, the title
7 genetic counselor or any words indicating or implying that the person holds
8 a genetic counselor license unless he is licensed in accordance with this
9 chapter.