

WEST VIRGINIA CODE: §30-3H-9

§30-3H-9. Disciplinary proceedings and actions; prohibited practice.

(a) The board may receive or initiate complaints, conduct investigations, and conduct hearings to determine whether a violation of this article or any rule has occurred.

(b) All hearings and procedures related to denial of a license, and all complaints, investigations, hearings, and procedures regarding a genetic counselor license and/or an ACS permit and the discipline accorded thereto, shall be in accordance with the processes and procedures set forth in §30-3-1 *et seq.* of this code and the board's rules.

(c) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

(d) The board may deny an application for a license or other authorization to practice genetic counseling in this state and may discipline a genetic counselor or ACS permittee otherwise lawfully practicing in this state who, after a hearing, has been adjudged by the board as unqualified due to any of the following reasons:

(1) Made a material misstatement in an application for a license, or for license renewal or reinstatement, or knowingly presented or caused to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for licensure;

(2) Interfered with an investigation or disciplinary proceeding by using threats, harassment, or intentional misrepresentation of facts;

(3) Been convicted of an offense the circumstance of which bear a rational nexus to the practice of genetic counseling;

(4) Been adjudicated mentally incompetent by a court;

(5) Developed a physical or mental disability or other condition that presents a danger in continuing to practice genetic counseling to patients, the public, or other health care personnel;

(6) Practiced or assisted in the practice of genetic counseling while the individual's ability to practice was impaired by alcohol or other drugs or the individual was otherwise mentally or physically unable to practice with reasonable skill and safety to patients, the public, or other health care personnel;

(7) Knowingly made or caused to be made or aided or abetted in the making of a false statement in any document executed in connection with the practice of genetic counseling;

- (8) Advertised in a manner that is false, deceptive, or misleading;
 - (9) Aided, assisted, or abetted the unlawful practice of genetic counseling;
 - (10) Willfully violated a confidential communication;
 - (11) Performed the services of a genetic counselor in an unprofessional, incompetent, or grossly or chronically negligent manner;
 - (12) Been removed, suspended, expelled, or placed on probation by any health care facility or professional society for unprofessional conduct, incompetence, negligence, or violation of any provision of the code of ethics set forth in the board's legislative rules;
 - (13) Exceeded the scope of practice for which the genetic counselor is licensed or permitted to practice by the board;
 - (14) Engaged in unprofessional or unethical conduct in violation of the code of ethics established by rule for legislative approval;
 - (15) Engaged in conduct while practicing genetic counseling that evidences a lack of knowledge or ability to apply professional principles or skills;
 - (16) Violated this article or any rule promulgated hereunder;
 - (17) Violated any term of probation or other discipline imposed by the board; or
 - (18) Failed to complete the required number of hours of approved continuing education.
- (e) Whenever it finds any person unqualified because of any of the grounds set forth in §30-3H-7(b) of this code, the board may enter an order imposing one or more of the following:
- (1) Deny his or her application;
 - (2) Administer a public reprimand;
 - (3) Suspend, limit, or restrict his or her authorization to practice for up to five years;
 - (4) Revoke his or her license or other authorization to practice genetic counseling for any period of time that the board may find to be reasonable and necessary according to evidence presented in a hearing before the board or its designee;
 - (5) Require him or her to submit to care, counseling, or treatment designated by the board as a condition for initial or continued licensure or renewal of licensure or other authorization to practice genetic counseling;
 - (6) Require him or her to participate in a program of education prescribed by the board;

(7) Require him or her to practice under the supervision of a qualified supervisor designated or approved by the board for a specified period of time; and

(8) Assess a civil fine of no more than \$10,000.

(f) The board shall automatically terminate the license of a genetic counselor who has failed to maintain certification with the ABGC or ABMG or whose certification with either certifying board has been revoked.

(g) A genetic counselor may voluntarily surrender his or her license to the board, which may refuse to accept the surrender if the board has received allegations of unprofessional conduct against the genetic counselor. The board may negotiate stipulations in consideration for accepting the surrender of the license.

(h) The board may restore a license that has been voluntarily surrendered under this section on such terms and conditions as it considers appropriate.

(i) The board may report final disciplinary action taken against a genetic counselor to any national database that includes information about disciplinary action taken against health care professionals.

(j) The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law-enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the board shall comply.