WEST VIRGINIA CODE CHAPTER 30 ARTICLE 3H

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§30-3H-1. Purpose.

The purpose of this article is to provide for the licensure and professional discipline of genetic counselors and to provide a professional environment that encourages the delivery of quality genetic counseling services within this state, with reasonable skill and safety for patients and other recipients of genetic counseling services. This article sets forth the requirements for licensure of genetic counselors and provides for the regulation of professional discipline of genetic counseling practitioners.

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§30-3H-2. Definitions.

As used in this article:

"ABGC" means the American Board of Genetic Counseling, or any successor organization recognized as an equivalent organization by the board.

"ABMG" means the American Board of Medical Genetics and Genomics, or any successor organization recognized as an equivalent organization by the board.

"ACGC" means the Accreditation Counsel for Genetic Counseling, or any successor organization recognized as an equivalent organization by the board.

"ACS" or "Active Candidate Status" means a status conferred by ABGC upon a person who has met ABGC's requirements to take the ABGC certification examination in general genetics and genetic counseling.

"ACS permit" means a permit issued to an individual who has attained Active Candidate Status to take the ABGC certification examination in general genetics and genetic counseling which authorizes the permit holder to practice genetic counseling under the supervision of a qualified supervisor.

"ACS permittee" means a person with an ACS permit issued by the board.

"Board" means the West Virginia Board of Medicine established in §30-3-1 *et seq.* of this code.

"Genetic counseling" means the provision of services to individuals, couples, families, and organizations by one or more appropriately licensed individuals to address physical and psychological issues associated with the occurrence or risk of occurrence of a genetic disorder, birth defect, or genetically influenced condition or disease in an individual or a family.

"Genetic counseling intern" means a student enrolled in a genetic counseling program accredited by the ACGC or ABMG.

"Genetic counselor" means an individual who is licensed by the board to practice genetic counseling.

"Licensed physician" means an allopathic physician or an osteopathic physician holding a full, unrestricted license to practice medicine and surgery, or osteopathic medicine and surgery, pursuant to §30-3-1 *et seq.* of this code or §30-14-1 *et seq.* of this code.

"Qualified supervisor" means any person who is a genetic counselor licensed pursuant to this article or a licensed physician.

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"Supervision" means supervision by a qualified supervisor who has the overall responsibility of assessing the work of an ACS permittee, including regular meetings and chart review, provided that the annual supervision contract signed by the qualified supervisor and the ACS permittee is on file with both parties. Supervision does not require the qualified supervisor to be present during the performance of services by an ACS permittee.

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§30-3H-3. License required; and licensure exceptions.

(a) Effective July 1, 2026, and except as provided in subsection (b) of this section, a person may not engage, or offer to engage, in the practice of genetic counseling to patients in this state without a current, valid license issued by the board.

(b) The licensure requirement set forth in this article does not apply to:

(1) Any person, such as a physician, advanced practiced registered nurse, or physician assistant, who is lawfully practicing within the scope of the person's profession, is engaged in work of a nature consistent with the person's training, and has a license, permit, registration, certification, or other authorization to practice his or her profession in West Virginia;

(2) Any person employed as a genetic counselor by the federal government or an agency of the federal government, if the person provides genetic counseling services exclusively under the direction and control of his or her federal employer;

(3) Any person assisting a genetic counselor in practice under the direct, on-premises supervisions of the genetic counselor;

(4) A genetic counseling intern, if the genetic counseling services performed by the student or intern are an integral part of the student's course of study, are performed under the direct supervision of a licensed genetic counselor, and the student is practicing under the designation of "genetic counseling intern";

(5) An ACS permittee practicing under the supervision of a qualified supervisor; or

(6) A person who is licensed to practice genetic counseling in another state and who is providing consulting services in this state on a temporary basis, as determined by the board by legislative rule, if the person satisfies all of the following:

(A) The person is certified by the ABGC; and

(B) The person received authorization from the board to provide consulting services in this state on a temporary basis pursuant to the process established in legislative rule.

(c) Effective July 1, 2026, any person who is not licensed by the board as a genetic counselor may not hold himself or herself out to the public as a genetic counselor, and may not, in connection with his or her name or place of business, use the terms "genetic counselor", "licensed genetic counselor", or any words, letters, abbreviations or insignia indicating or implying that the person holds a genetic counseling license. ACS permittees may use the term "genetic counselor, Active Candidate Status" and may indicate that they hold an ACS permit.

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§30-3H-4. Duties and powers of the board.

(a) In addition to the powers and duties of the board as set forth in §30-3-1 *et seq.* of this code, and in conformity with this article, the board shall:

(1) Establish the requirements for licenses and ACS permits;

(2) Determine the qualifications of applicants for licenses and permits to practice genetic counseling;

(3) Establish the procedures for submitting, approving, and rejecting applications for licenses and permits, including renewal and reinstatement;

(4) Propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of and carry out the purposes of this article;

(5) Receive and initiate genetic counseling complaints, conduct investigations, convene hearings, issue subpoenas for witnesses and documents and administer oaths;

(6) Institute proceedings in the courts of this state to enforce its subpoenas for the production of witnesses and documents and its orders, and to restrain and enjoin violations of this article and of any rules promulgated under it;

(7) Establish and certify standards for the supervision of ACS permittees;

(8) Establish the circumstances under which the approval of applications and the issuance of licenses and permits may be delegated to the executive director; and

(9) Perform such other duties as are set forth in this article or otherwise provided for in this code.

(b) The board's annual report to the Legislature shall include a statistical analysis of complaints received, charges investigated, charges dismissed after investigation, the grounds for each such dismissal and disciplinary proceedings and disposition.

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§30-3H-5. Licensure requirements.

(a) The Board shall issue a genetic counseling license to an applicant who:

(1) Is at least 21 years of age;

(2) Submits an application for licensure to the board on a form approved by the board;

(3) Pays the applicable fee, as established in legislative rule;

(4) Submits satisfactory evidence to the board that he or she does not have a prior, unreversed, criminal conviction for a crime that bears a rational nexus to the profession of genetic counseling;

(5) Submits satisfactory evidence to the board that the applicant has earned a master's degree from a genetic counseling training program that is accredited by the ACGC, or a substantially equivalent educational program approved by the board;

(6) Provides satisfactory evidence to the board of current certification as a:

(A) Genetic counselor by the ABGC or ABMG; or

(B) Medical geneticist by the ABMG;

(7) Is mentally and physically able to engage safely in practice as a genetic counselor;

(8) Is not currently subject to any limitation, restriction, suspension, revocation, or discipline concerning a genetic counselor license, certification, or registration in any jurisdiction: *Provided*, That if the board is made aware of any problems with a genetic counselor license, certification, or registration, it may elect to issue a license notwithstanding the provisions of this subdivision if doing so is consistent with protecting the public; and

(9) Has fulfilled any other requirement specified by the board in rule for legislative approval.

(b) The board may not issue an initial license, reinstate, or reactivate a license, to any individual whose license has been revoked, suspended, surrendered, or deactivated in another state based upon conduct which is substantially equivalent to an act of unprofessional conduct prohibited by §30-3H-9 of this code or the board's legislative rules, until reinstatement of his or her license in that state.

(c) The board shall issue a certificate of licensure to each person who is licensed under this article.

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§30-3H-6. ACS Permit.

(a) An ACS permit authorizes an individual who has attained Active Candidate Status with the ABGC to practice genetic counseling under the supervision of a qualified supervisor and in accord with the board's legislative rules regarding supervised practice.

(b) The Board shall issue an ACS permit to an applicant who:

(1) Submits an application for license to the board on a form approved by the board;

(2) Pays the applicable fee, as established in legislative rule;

(3) Provides satisfactory evidence that he or she currently holds an Active Candidate Status from the ABGC; and

(4) Has fulfilled any other requirement specified by the board in legislative rule.

(c) An ACS permit granted by the board shall be valid for up to one year from the date issuance, and shall expire upon the earliest of the following:

(1) The granting of a genetic counselor license pursuant to §30-3H-4 of this code;

(2) Thirty days after an ACS permittee no longer holds an Active Candidate Status with the ABGC;

(3) Upon notice to the ACS permittee of failure of the ABGC certification exam; or

(4) One year after the issuance of the permit.

(d) An ACS permittee shall apply for and take the ABGC certification examination within 12 months of the issuance of an ACS permit by the board.

(e) The board may, and only once, extend an ACS permit for a limited period specified by the board, if the person maintains Active Candidate Status with the ABGC and has not failed the ABGC certification exam during the initial permit period.

(f) A person who holds an ABGC permit may only practice genetic counseling if he or she has entered into a written genetic counseling supervision agreement with a qualified supervisor and practices under qualified supervision at all times. The board shall promulgate rules for legislative approval governing direct supervision of a person holding an ACS permit.

(g) The board shall issue a certificate to each person who is approved for supervised genetic counseling practice under this article.

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§30-3H-7. License expiration, renewal, reinstatement of expired licenses and continuing education.

(a) A license issued by the board shall expire on June 30 of odd-numbered years unless sooner suspended, revoked, or surrendered.

(b) A licensee shall renew by submitting:

(1) A complete renewal application;

(2) The renewal fee;

(3) Evidence that the renewal applicant is currently certified as a genetic counselor by the ABGC or ABMG or as a medical geneticist by the ABMG; and

(4) Evidence that the renewal candidate has completed 30 hours of continuing education as approved by the board within the preceding two-year period.

(c) If a licensee fails to timely renew his or her license, then the license automatically expires.

(d) A person who applies for initial licensure shall be exempt from the continuing education requirements for the biennial renewal period following initial licensure.

(e) The board may waive all or a portion of the continuing education requirement for biennial renewal for a licensee who shows to the satisfaction of the board that the licensee was unable to complete the requirements due to serious illness, military services, or other demonstrated hardship.

(f) Continuing education programs and providers shall be approved by the board in accordance with standards and criteria established in legislative rule, along with criteria and process for seeking a waiver of the continuing education requirement due to illness, military service, or demonstrated hardship.

(g) If a license automatically expires and reinstatement is sought within one year of the automatic expiration, then an applicant shall submit:

(1) A complete reinstatement application;

(2) The applicable fees as set forth in legislative rule;

(3) Evidence that the reinstatement applicant is currently certified as a genetic counselor by the ABGC or ABMG or as a medical geneticist by the ABMG; and

(4) Evidence that the reinstatement applicant has completed all applicable continuing education requirements for the biennial renewal period preceding the reinstatement

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application.

(h) If a license automatically expires and more than one year has passed since the automatic expiration, then the individual shall apply for a new license.

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§30-3H-8. Scope of practice.

(a) A genetic counselor's scope of practice includes the following:

(1) Obtaining and evaluating individual patient and patient family member medical histories to determine the genetic risk for genetic or medical conditions and diseases in a patient, his or her offspring, and other 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 factors for genetic or medical conditions and diseases;

(3) Identifying, ordering, and coordinating genetic laboratory tests and other diagnostic studies as appropriate for genetic assessment, consistent with practice-based competencies provided by ACGC;

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

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

(6) Evaluating the patient’s or family's responses to the condition or risk of recurrence and providing patient-centered counseling and anticipatory guidance;

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

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

(b) Genetic counseling does not include diagnosis or treatment and when, in the course of providing genetic counseling services to a client, a genetic counselor finds any indication of a disease or condition that requires diagnosis and treatment, the genetic counselor shall refer the client to a licensed physician or appropriate licensed health care provider.

(c) A genetic counselor may provide telehealth services. The board shall promulgate a rule for legislative approval establishing the standard of care for the provision of genetic counseling via telehealth.

(d) Nothing in this article may be construed to permit a genetic counselor to diagnose, test, or treat any disease or condition.

(e) In the course of his or her professional practice, a genetic counselor may not recommend that an expectant mother obtain an elective abortion.

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(f) Not withstanding any other provision of this code to the contrary, and to the degree permitted by federal law, genetic counselors shall be considered providers and may not be reimbursed at rates lower than other providers who render similar genetic counseling services by health insurers as well as health plans operated or paid for by the state.

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§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;

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(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

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(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.

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§30-3H-10. Injunctive relief.

If the board has any reason to believe that any person is violating this article or any rule promulgated under this article, and in addition to the complaint, investigation, and hearing processes set forth herein and in §30-3-1 *et seq.* of this code, the board or the Attorney General may bring action in the name and on behalf of the board to enjoin the person from the violation and seek any other remedies available.

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§30-3H-11. Health care facility reporting requirements.

(a) A health care facility shall report, in writing, to the board within 60 days after the completion of the facility's formal disciplinary procedure or after the commencement and conclusion of any resulting legal action against a licensee.

(b) The report shall include:

(1) The name of the genetic counselor practicing in the facility whose ability to practice as a genetic counselor was revoked, restricted, reduced, or terminated for any cause including resignation;

(2) All pertinent information relating to the action; and

(3) The formal disciplinary action taken against the genetic counselor by the facility relating to professional ethics, professional incompetence, professional malpractice, or drug or alcohol abuse.

(c) A health care facility does not need to report temporary suspensions for failure to maintain records on a timely basis or for related, minor administrative matters.

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§30-3H-12. Unlawful act and penalty.

It is unlawful for any genetic counselor or ACS permittee to represent to any person that he or she is a licensed physician. A person who violates this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than two years, or be fined not more than $2,000, or both fined and imprisoned.

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