

IN THE SENATE

SENATE BILL NO. 1294

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO LICENSURE OF GENETIC COUNSELORS; AMENDING TITLE 54, IDAHO CODE,
2 BY THE ADDITION OF A NEW CHAPTER 56, TITLE 54, IDAHO CODE, TO PROVIDE A
3 SHORT TITLE, TO DEFINE TERMS, TO PROVIDE A SCOPE OF PRACTICE FOR GENETIC
4 COUNSELORS, TO PROVIDE EXEMPTIONS FOR LICENSURE, TO REQUIRE A LICENSE
5 TO PRACTICE GENETIC COUNSELING, TO ESTABLISH THE GENETIC COUNSELORS LI-
6 CENSING BOARD, TO PROVIDE FOR POWERS OF THE BOARD, TO SPECIFY REQUIRE-
7 MENTS FOR LICENSURE, TO PROVIDE FOR ENDORSEMENT LICENSURE, TO PROVIDE
8 FOR A PROVISIONAL LICENSE, TO PROVIDE FOR THE LICENSING OF EXISTING GE-
9 NETIC COUNSELORS, TO PROVIDE FOR LICENSE RENEWAL, TO ESTABLISH FEES FOR
10 LICENSURE, TO PROVIDE FOR DENIAL OF A LICENSE OR 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, its succes-
23 sor 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 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 and
25 other diagnostic studies and their 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 Idaho Code;

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

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

1 (4) A visiting ABGC- or ABMG-certified genetic counselor permanently
2 residing outside of the state and operating as a consultant or services
3 from outside the state that employ ABGC- or ABMG-certified genetic coun-
4 selors. However, if a visiting ABGC- or ABMG-certified genetic counselor
5 permanently residing outside the state provides services to two (2) or more
6 clients in this state in a twelve (12) month period, the genetic counselor
7 must be licensed by the board;

8 (5) An employee of a facility licensed under the provisions of chapter
9 13, title 39, Idaho Code, who is designated in writing to be responsible for
10 that facility's genetic counseling program and who receives regular consul-
11 tation from a licensed genetic counselor; and

12 (6) Nothing in this chapter shall be construed to apply to the activi-
13 ties and services of any religious denomination or sect or faith-based coun-
14 seling.

15 54-5605. GENETIC COUNSELOR LICENSE REQUIRED. A license shall be re-
16 quired to engage in the practice of genetic counseling. No person shall en-
17 gage in the practice of or hold himself out as a genetic counselor unless he
18 is licensed in accordance with the provisions of this chapter. No person may
19 use in connection with his name or place of business, the title genetic coun-
20 selor, licensed genetic counselor, gene counselor, genetic consultant, ge-
21 netic associate or any words, letters, abbreviations or insignia indicating
22 or implying that a person holds a genetic counseling license unless such per-
23 son holds a genetic counselor license.

24 54-5606. BOARD -- ORGANIZATION AND MEETINGS. (1) There is hereby es-
25 tablished in the department of self-governing agencies, bureau of occupa-
26 tional licenses, the genetic counselors licensing board.

27 (2) The board shall consist of five (5) members, three (3) of whom shall
28 be fully licensed genetic counselors, one (1) of whom shall be a licensed
29 physician and one (1) of whom shall be a member of the public with an interest
30 in the rights of consumers of genetic counseling services. All board members
31 shall be residents of this state.

32 (3) Initial appointments to the board shall be for the following terms:
33 one (1) genetic counselor member for a term ending in one (1) year; one (1)
34 genetic counselor member and the public member for a term ending in two (2)
35 years; and one (1) genetic counselor member and the physician member for a
36 term ending in three (3) years. Thereafter, the term of office for each mem-
37 ber of the board shall be three (3) years.

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

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

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

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

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

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

5 (7) The board shall meet annually and at such times as deemed necessary
6 and advisable by the chairman, or by a majority of its members, or by the gov-
7 ernor. Notice of all meetings shall be given in the manner prescribed by law.
8 A majority of the board shall constitute a quorum at any meeting or hearing.

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

11 54-5607. BOARD POWERS. The board shall have the following powers:

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

16 (2) To establish by rule and collect fees as prescribed by this chapter
17 and accept funds from grants and other sources;

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

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

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

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

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

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

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

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

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

45 (12) In a final order, the board may impose a civil penalty not to exceed
46 five thousand dollars (\$5,000) for each violation by a licensee of this chap-
47 ter or of rules adopted by the board; and

48 (13) To authorize, by written agreement, the bureau of occupational li-
49 censes as its agent to act in its interest and, in its discretion, to contract

1 with the bureau of occupational licenses for those services deemed necessary
2 for the proper administration of this chapter.

3 54-5608. REQUIREMENTS FOR ISSUANCE OF A LICENSE. In addition to such
4 other information as the board may require by rule, each applicant under this
5 act shall:

- 6 (1) Hold a master's degree or higher in genetics or a related field of
7 study as approved by the board;
- 8 (2) Submit an application in the form prescribed by the board;
- 9 (3) Pay the fee determined by board rule; and
- 10 (4) Provide evidence satisfactory to the board of having successfully
11 passed a nationally recognized competency examination approved by the board
12 or achieved certification defined by board rule.

13 54-5609. ENDORSEMENT LICENSURE. An applicant who satisfies the board
14 that he is licensed or registered under the laws of another state, territory
15 or jurisdiction of the United States, which in the opinion of the board im-
16 poses substantially equivalent licensing requirements as this act may, upon
17 the payment of the required fee and the approval of the application, be li-
18 censed by endorsement pursuant to this act.

19 54-5610. PROVISIONAL LICENSE. (1) The board may grant a person who has
20 been granted ACS a provisional genetic counselor license to practice genetic
21 counseling upon filing an application with the board and payment of the fee
22 established by board rule.

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

28 (3) A provisional licensed genetic counselor shall work under the gen-
29 eral supervision of a licensed genetic counselor or a licensed physician at
30 all times during which the provisional licensed genetic counselor performs
31 genetic counseling. An application for extension of the provisional license
32 shall be signed by the supervisor. General supervision shall not require the
33 physical presence of the provisional licensee's supervisor at the location
34 where such provisional licensee provides genetic counseling services; how-
35 ever, the supervisor shall be readily accessible by telephone or electron-
36 ically for consultation and assistance whenever such provisional licensee
37 provides such services.

38 54-5611. LICENSING OF EXISTING GENETIC COUNSELORS. Until July 1,
39 2015, an individual who does not qualify for licensure under this chapter may
40 apply to the board for licensure, and the board may approve the application
41 if the individual has paid the required fees and:

- 42 (1) Has worked as a genetic counselor for a minimum of ten (10) years
43 preceding the enactment of these provisions with at least five (5) of those
44 years being the five (5) years immediately preceding the application for a
45 license;

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

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

8 (4) Provides documentation satisfactory to the board that he has com-
9 pleted at least two hundred (200) hours of formal training in genetic coun-
10 seling as determined by the board and has practiced genetic counseling for at
11 least five (5) hours per week on average for at least the five (5) years imme-
12 diately prior to the date of application.

13 54-5612. LICENSE RENEWAL. (1) All licenses issued under the provi-
14 sions of this chapter shall be subject to annual renewal and shall expire on
15 the licensee's birthday unless renewed in the manner prescribed by the board
16 regarding applications for renewal, continuing education and fees and shall
17 be done in compliance with section 67-2614, Idaho Code.

18 (2) In addition to such other requirements as the board may establish
19 by rule, each applicant shall present satisfactory evidence when seeking li-
20 cense renewal that in the period since the license was issued or last renewed
21 the applicant has completed the amount of board approved continuing educa-
22 tion required by board rule. The board may waive all or a portion of these re-
23 quirements or grant an extension of time in which to complete these require-
24 ments upon a finding of good cause.

25 54-5613. FEES. (1) The board shall establish by rule fees for licen-
26 sure under the provisions of this chapter as follows:

27 (a) An application fee not to exceed one thousand dollars (\$1,000);

28 (b) A fee for an initial full license not to exceed one thousand dollars
29 (\$1,000);

30 (c) A fee for a provisional license, an endorsement license and for an
31 existing genetic counselor not to exceed one thousand dollars (\$1,000);

32 (d) The fee for annual renewal of licenses not to exceed one thousand
33 dollars (\$1,000); and

34 (e) Fees charged pursuant to paragraph (b), (c) or (d) of this subsec-
35 tion shall be in addition to the application fee.

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

43 54-5614. DENIAL OF LICENSE AND DISCIPLINARY PROCEEDINGS. (1) The
44 board may refuse to issue, refuse to renew, revoke, suspend or otherwise
45 sanction a licensee upon the following grounds:

46 (a) Fraud or deception in procuring or renewing the license;

1 (b) Being found guilty, convicted, placed on probation, having entered
2 into a guilty plea that is accepted by the court, forfeiture of bail,
3 bond or collateral deposited to secure a defendant's appearance, or
4 having received a withheld judgment or suspended sentence of a felony by
5 a court of competent jurisdiction;

6 (c) Gross incompetence or unprofessional conduct;

7 (d) Fraud or deceit in connection with services rendered as a genetic
8 counselor or in establishing qualifications for licensure under this
9 chapter;

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

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

13 (g) Having had a license revoked, suspended or otherwise disciplined by
14 the board or the proper authorities of another state, territory or coun-
15 try;

16 (h) Habitual drunkenness or addiction to habit-forming drugs, either
17 of which impair the ability to perform work without danger to himself or
18 the public;

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

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

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

26 (l) Having a license or certification in a related field revoked or sus-
27 pended or otherwise disciplined in Idaho or any other state; or

28 (m) Unethical or unprofessional conduct as defined by board rule or the
29 code of ethics established by board rule.

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

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

37 54-5615. CONFIDENTIAL COMMUNICATIONS. No licensee shall disclose
38 any information they may have acquired from a client consulting with them
39 in their professional capacity that was necessary to enable them to render
40 services in their professional capacity to those persons except:

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

45 (2) That a licensee shall not be required to treat as a confidential
46 communication that reveals the contemplation or execution of a crime or
47 harmful act;

48 (3) When the client is a minor under the laws of this state, and the in-
49 formation acquired by the licensee indicates that the minor was the victim or

1 subject of a crime, the licensee may testify fully in relation to such infor-
2 mation upon any examination, trial or other proceeding in which the commis-
3 sion of such a crime is the subject of the inquiry;

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

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

8 54-5616. CERTAIN ACTS PROHIBITED. It shall be unlawful and a misde-
9 meanor for any person to engage in any of the following acts:

10 (1) To violate any of the provisions of this chapter and any rules pro-
11 mulgated pursuant thereto;

12 (2) To represent himself to be a licensed genetic counselor without
13 having first obtained a license in compliance with the provisions of this
14 chapter;

15 (3) To practice, attempt or offer to practice genetic counseling as de-
16 fined in this chapter without having at the time of so doing, a valid, unex-
17 pired, unrevoked and unsuspended license issued under this chapter; or

18 (4) To use in connection with his name or place of business, the title
19 genetic counselor, licensed genetic counselor, gene counselor, genetic as-
20 sociate or any words, letters, abbreviations or insignia which may reason-
21 ably be confused with a designation provided by this chapter or indicating or
22 implying that the person holds a genetic counseling license unless he is li-
23 censed in accordance with this chapter.