

1-1 By: Klick, Lambert, Morales Shaw H.B. No. 173
 1-2 (Senate Sponsor - Johnson)
 1-3 (In the Senate - Received from the House May 1, 2023;
 1-4 May 1, 2023, read first time and referred to Committee on Business
 1-5 & Commerce; May 24, 2023, reported favorably by the following vote:
 1-6 Yeas 8, Nays 2; May 24, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10		X		
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			
1-17		X		
1-18	X			
1-19	X			

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the licensing and regulation of genetic counselors;
 1-23 requiring an occupational license; authorizing a fee.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 51.2031(a), Occupations Code, is amended
 1-26 to read as follows:

1-27 (a) This section applies only to the regulation of the
 1-28 following professions by the department:

- 1-29 (1) athletic trainers;
- 1-30 (2) behavior analysts;
- 1-31 (3) dietitians;
- 1-32 (4) genetic counselors;
- 1-33 (5) hearing instrument fitters and dispensers;
- 1-34 (6) [~~(5)~~] midwives;
- 1-35 (7) [~~(6)~~] orthotists and prosthetists; and
- 1-36 (8) [~~(7)~~] speech-language pathologists and
 1-37 audiologists.

1-38 SECTION 2. Subtitle I, Title 3, Occupations Code, is
 1-39 amended by adding Chapter 508 to read as follows:

1-40 CHAPTER 508. LICENSED GENETIC COUNSELORS

1-41 SUBCHAPTER A. GENERAL PROVISIONS

1-42 Sec. 508.001. SHORT TITLE. This chapter may be cited as the
 1-43 Licensed Genetic Counselor Act.

1-44 Sec. 508.002. DEFINITIONS. In this chapter:

1-45 (1) "Advisory board" means the Licensed Genetic
 1-46 Counselor Advisory Board.

1-47 (2) "Certifying entity" means the American Board of
 1-48 Medical Genetics and Genomics, the American Board of Genetic
 1-49 Counseling, or another entity that is nationally accredited to
 1-50 issue credentials in the practice of genetic counseling and is
 1-51 approved by the department.

1-52 (3) "Commission" means the Texas Commission of
 1-53 Licensing and Regulation.

1-54 (4) "Department" means the Texas Department of
 1-55 Licensing and Regulation.

1-56 (5) "Executive director" means the executive director
 1-57 of the department.

1-58 (6) "Licensed genetic counselor" means a person
 1-59 licensed under this chapter to engage in the practice of genetic
 1-60 counseling.

1-61 Sec. 508.003. PRACTICE OF GENETIC COUNSELING. (a) In this

2-1 chapter, "practice of genetic counseling" means providing
 2-2 professional services described by Subsection (b) for compensation
 2-3 to communicate genetic information to an individual, family, group,
 2-4 or other entity:
 2-5 (1) on the documented referral by:
 2-6 (A) a physician licensed in this state;
 2-7 (B) a physician assistant licensed in this state;
 2-8 (C) an advanced practice registered nurse
 2-9 licensed in this state; or
 2-10 (D) a person acting under authority delegated
 2-11 under Subchapter A, Chapter 157; or
 2-12 (2) by a patient's self-referral.
 2-13 (b) The practice of genetic counseling:
 2-14 (1) consists of:
 2-15 (A) obtaining and evaluating individual, family,
 2-16 and medical histories to determine the risk for a genetic or medical
 2-17 condition or disease in a patient, the patient's offspring, or
 2-18 other family members of the patient;
 2-19 (B) discussing the features, natural history,
 2-20 means of diagnosis, genetic and environmental factors, and
 2-21 management of risk for a genetic or medical condition or disease;
 2-22 (C) identifying, coordinating, ordering, and
 2-23 explaining the results of genetic laboratory tests and other
 2-24 diagnostic studies as appropriate for genetic assessment;
 2-25 (D) integrating the results of laboratory tests
 2-26 and other diagnostic studies with medical histories to assess and
 2-27 communicate risk factors for a genetic or medical condition or
 2-28 disease;
 2-29 (E) evaluating a patient's or family member's
 2-30 response to a genetic or medical condition or disease, including
 2-31 the risk of recurrence, and providing patient-centered counseling
 2-32 and anticipatory guidance;
 2-33 (F) identifying and using community resources
 2-34 that provide medical, educational, financial, and psychosocial
 2-35 support and advocacy; and
 2-36 (G) providing written documentation of medical,
 2-37 genetic, and counseling information for a patient's family members
 2-38 and health care providers; and
 2-39 (2) does not include the diagnosis of disorders.
 2-40 Sec. 508.004. PRACTICE OF MEDICINE NOT AUTHORIZED. This
 2-41 chapter does not authorize the practice of medicine as defined by
 2-42 the law of this state.
 2-43 Sec. 508.005. APPLICABILITY; EXEMPTIONS. (a) This chapter
 2-44 does not apply to a physician licensed to practice medicine in this
 2-45 state unless the physician is a licensed genetic counselor.
 2-46 (b) A person may engage in the practice of genetic
 2-47 counseling without holding a license under this chapter if the
 2-48 person:
 2-49 (1) is licensed, certified, or registered to practice
 2-50 in this state in a health care-related occupation and:
 2-51 (A) acts within the occupation's scope of
 2-52 practice; and
 2-53 (B) does not use the title "genetic counselor" or
 2-54 represent or imply that the person is licensed as a genetic
 2-55 counselor under this chapter;
 2-56 (2) is a student or intern:
 2-57 (A) pursuing a course of study or engaged in a
 2-58 training program for an occupation regulated by this state and
 2-59 acting within the occupation's scope of practice; or
 2-60 (B) enrolled in a graduate-level supervised
 2-61 genetic counseling training program approved or accepted by the
 2-62 department and engaged in an activity constituting the practice of
 2-63 genetic counseling as a required part of the training program; or
 2-64 (3) is a genetic counselor who:
 2-65 (A) is certified by a certifying entity;
 2-66 (B) is not a resident of this state;
 2-67 (C) performs an activity or provides a service in
 2-68 this state for not more than 30 days during any year; and
 2-69 (D) meets any other requirement established by

3-1 commission rule.

3-2 (c) A student or intern described by Subsection (b)(2)
3-3 includes a person who:

3-4 (1) is trained as:

3-5 (A) a genetic counselor and has applied to take
3-6 the certification examination; or

3-7 (B) a doctoral medical geneticist and has applied
3-8 to take the certification examination; and

3-9 (2) has not failed the certification examination more
3-10 than twice.

3-11 SUBCHAPTER B. LICENSED GENETIC COUNSELOR ADVISORY BOARD

3-12 Sec. 508.051. LICENSED GENETIC COUNSELOR ADVISORY BOARD.

3-13 (a) The advisory board consists of nine members appointed by the
3-14 presiding officer of the commission with the approval of the
3-15 commission, as follows:

3-16 (1) six licensed genetic counselors, each of whom has
3-17 at least two years of experience practicing genetic counseling as a
3-18 genetic counselor and is:

3-19 (A) licensed under this chapter; or

3-20 (B) certified by a certifying entity;

3-21 (2) one physician who has experience with genetic
3-22 counseling; and

3-23 (3) two members who represent the public.

3-24 (b) Appointments to the advisory board shall be made without
3-25 regard to the race, color, disability, sex, religion, age, or
3-26 national origin of the appointee.

3-27 Sec. 508.052. DUTIES OF ADVISORY BOARD. The advisory board
3-28 shall provide advice and recommendations to the department on
3-29 technical matters relevant to the administration of this chapter.

3-30 Sec. 508.053. TERMS; VACANCY. (a) Members of the advisory
3-31 board serve staggered six-year terms, with the terms of three
3-32 members expiring February 1 of each odd-numbered year.

3-33 (b) A member of the advisory board may not serve more than
3-34 two consecutive six-year terms.

3-35 (c) If a vacancy occurs during a term of a member of the
3-36 advisory board, the presiding officer of the commission, with the
3-37 commission's approval, shall appoint a replacement who meets the
3-38 qualifications for the vacant position to serve for the remainder
3-39 of the term.

3-40 Sec. 508.054. PRESIDING OFFICER. The presiding officer of
3-41 the commission shall designate a member of the advisory board to
3-42 serve as the presiding officer of the advisory board for a term of
3-43 two years. The presiding officer of the advisory board may vote on
3-44 any matter before the advisory board.

3-45 Sec. 508.055. MEETINGS. The advisory board shall meet as
3-46 requested by the presiding officer of the commission or the
3-47 executive director.

3-48 Sec. 508.056. GROUNDS FOR REMOVAL. A member of the advisory
3-49 board may be removed as provided by Section 51.209.

3-50 Sec. 508.057. COMPENSATION; REIMBURSEMENT. (a) A member
3-51 of the advisory board may not receive compensation for service on
3-52 the advisory board.

3-53 (b) A member of the advisory board is entitled to
3-54 reimbursement for actual and necessary expenses incurred in
3-55 performing functions as a member of the advisory board, subject to
3-56 any applicable limitation on reimbursement provided by the General
3-57 Appropriations Act.

3-58 SUBCHAPTER C. POWERS AND DUTIES

3-59 Sec. 508.101. GENERAL POWERS AND DUTIES. (a) The
3-60 commission shall adopt rules consistent with this chapter for the
3-61 administration and enforcement of this chapter.

3-62 (b) The department shall:

3-63 (1) administer and enforce this chapter;

3-64 (2) evaluate the qualifications of license
3-65 applicants;

3-66 (3) provide for the examination of license applicants;

3-67 (4) issue licenses;

3-68 (5) in connection with a hearing under this chapter,
3-69 issue subpoenas, examine witnesses, and administer oaths under the

4-1 laws of this state; and
 4-2 (6) investigate persons engaging in practices that
 4-3 violate this chapter.

4-4 Sec. 508.102. CONFIDENTIALITY OF COMPLAINT AND
 4-5 DISCIPLINARY INFORMATION. (a) Except as provided by Subsection
 4-6 (b), all information and materials subpoenaed or compiled by the
 4-7 department in connection with a complaint and investigation are
 4-8 confidential and not subject to disclosure under Chapter 552,
 4-9 Government Code, and not subject to disclosure, discovery,
 4-10 subpoena, or other means of legal compulsion for their release to
 4-11 anyone other than the department or its employees or agents
 4-12 involved in discipline of a license holder.

4-13 (b) Information described by Subsection (a) may be
 4-14 disclosed in accordance with Chapter 51 to:

4-15 (1) persons involved with the department in a
 4-16 disciplinary action against a license holder;

4-17 (2) a respondent or the respondent's authorized
 4-18 representative;

4-19 (3) a governmental agency, if:

4-20 (A) the disclosure is required or permitted by
 4-21 law; and

4-22 (B) the agency obtaining the disclosure protects
 4-23 the identity of any patient whose records are examined;

4-24 (4) a professional genetic counselor licensing or
 4-25 disciplinary board in another jurisdiction;

4-26 (5) peer assistance programs approved by the
 4-27 commission under Chapter 467, Health and Safety Code;

4-28 (6) law enforcement agencies; and

4-29 (7) persons engaged in bona fide research, if all
 4-30 individual-identifying information has been deleted.

4-31 (c) As provided by Chapter 51, notices of alleged violations
 4-32 issued by the department, commission, or executive director, and
 4-33 final disciplinary actions, including warnings and reprimands, by
 4-34 the department, commission, or executive director are not
 4-35 confidential and are subject to disclosure in accordance with
 4-36 Chapter 552, Government Code.

4-37 (d) Notwithstanding any other law, the requirements of
 4-38 Chapter 51 related to the confidentiality of complaint and
 4-39 investigation information for a health-related program are
 4-40 applicable to complaint and investigation information under this
 4-41 chapter.

4-42 Sec. 508.103. STANDARDS OF ETHICAL PRACTICE. The
 4-43 commission shall adopt rules under this chapter that establish
 4-44 standards of ethical practice.

4-45 Sec. 508.104. ASSISTANCE FILING COMPLAINT. The department,
 4-46 in accordance with Section 51.252, shall provide reasonable
 4-47 assistance to a person who wishes to file a complaint with the
 4-48 department regarding a person or activity regulated under this
 4-49 chapter.

4-50 Sec. 508.105. FEES. The commission by rule shall set fees
 4-51 in amounts reasonable and necessary to cover the costs of
 4-52 administering this chapter.

4-53 SUBCHAPTER D. LICENSING REQUIREMENTS

4-54 Sec. 508.151. LICENSE REQUIRED. (a) Except as provided by
 4-55 Section 508.005, a person may not act as a genetic counselor or
 4-56 engage in the practice of genetic counseling in this state unless
 4-57 the person holds a license under this chapter.

4-58 (b) Except as provided by Section 508.005, unless a person
 4-59 holds a license under this chapter, the person may not:

4-60 (1) use the title or represent or imply that the person
 4-61 has the title "genetic counselor," "certified genetic counselor,"
 4-62 "licensed genetic counselor," "gene counselor," "genetic
 4-63 consultant," or "genetic associate"; or

4-64 (2) use any other word, abbreviation, or insignia
 4-65 indicating or implying that the person is a licensed genetic
 4-66 counselor.

4-67 (c) This chapter may not be construed to prohibit a
 4-68 physician or an employee or other person acting under a physician's
 4-69 delegated authority from representing to a patient or the public

5-1 that the physician, employee, or person provides genetic
 5-2 counseling.

5-3 Sec. 508.152. LICENSE APPLICATION. An applicant for a
 5-4 license must:

5-5 (1) submit an application in the manner and on a form
 5-6 prescribed by the department;

5-7 (2) successfully complete a state-approved criminal
 5-8 background check; and

5-9 (3) pay the application fee set by the commission.

5-10 Sec. 508.153. LICENSE ELIGIBILITY. To be eligible for a
 5-11 genetic counselor license, a license applicant must present
 5-12 evidence to the department that the applicant:

5-13 (1) has passed an examination by a certifying entity
 5-14 or an equivalent examination in genetic counseling approved by the
 5-15 department;

5-16 (2) is currently certified by a certifying entity in
 5-17 genetic counseling or medical genetics;

5-18 (3) has met the educational requirements of a
 5-19 certifying entity, which must include a master's degree in genetic
 5-20 counseling or medical genetics or an equivalent educational
 5-21 standard adopted by the certifying entity;

5-22 (4) is in compliance with all professional, ethical,
 5-23 and disciplinary standards established by the certifying entity;
 5-24 and

5-25 (5) is not subject to any disciplinary action by the
 5-26 certifying entity.

5-27 Sec. 508.154. ISSUANCE OF LICENSE. The department shall
 5-28 issue a genetic counselor license to an applicant who:

5-29 (1) complies with the requirements of this chapter;

5-30 (2) meets any additional requirements the commission
 5-31 establishes by rule; and

5-32 (3) pays the required fees.

5-33 Sec. 508.155. TERM. A license issued under this chapter
 5-34 expires on the second anniversary of the date of issuance.

5-35 Sec. 508.156. RENEWAL. Before the expiration of a license,
 5-36 a license may be renewed by:

5-37 (1) submitting an application for renewal;

5-38 (2) paying the renewal fee imposed by the commission;
 5-39 and

5-40 (3) providing verification to the department of
 5-41 continued certification by a certifying entity, which signifies
 5-42 that the applicant for renewal has met any continuing education
 5-43 requirements established by the certifying entity.

5-44 SUBCHAPTER E. DISCIPLINARY PROCEDURES

5-45 Sec. 508.201. GROUNDS FOR DISCIPLINARY ACTION. In
 5-46 accordance with Section 51.353, the commission or executive
 5-47 director may deny, revoke, or suspend a license, refuse to renew a
 5-48 license, place on probation a person whose license has been
 5-49 suspended, or reprimand a license holder for a violation of this
 5-50 chapter, a rule adopted under this chapter, or an order of the
 5-51 commission or executive director.

5-52 SUBCHAPTER F. ENFORCEMENT PROCEDURES

5-53 Sec. 508.251. ENFORCEMENT PROCEEDINGS. The commission,
 5-54 department, or executive director may enforce this chapter, a rule
 5-55 adopted under this chapter, or an order of the commission or
 5-56 executive director as provided by Subchapters F and G, Chapter 51.

5-57 SECTION 3. (a) As soon as practicable after the effective
 5-58 date of this Act, the presiding officer of the Texas Commission of
 5-59 Licensing and Regulation shall appoint nine members to the Licensed
 5-60 Genetic Counselor Advisory Board in accordance with Chapter 508,
 5-61 Occupations Code, as added by this Act. In making the initial
 5-62 appointments, the presiding officer of the commission shall
 5-63 designate three members for terms expiring February 1, 2025, three
 5-64 members for terms expiring February 1, 2027, and three members for
 5-65 terms expiring February 1, 2029.

5-66 (b) Notwithstanding Section 508.051, Occupations Code, as
 5-67 added by this Act, a person who meets the requirements of Section
 5-68 508.153, Occupations Code, as added by this Act, may be appointed as
 5-69 an initial licensed genetic counselor member of the Licensed

6-1 Genetic Counselor Advisory Board, regardless of whether the person
6-2 holds a license issued under Chapter 508, Occupations Code, as
6-3 added by this Act.

6-4 SECTION 4. Not later than May 1, 2024, the Texas Commission
6-5 of Licensing and Regulation shall adopt the rules, procedures, and
6-6 fees necessary to administer Chapter 508, Occupations Code, as
6-7 added by this Act.

6-8 SECTION 5. (a) Except as provided by Subsection (b) of this
6-9 section, this Act takes effect September 1, 2023.

6-10 (b) Section 508.151, Occupations Code, as added by this Act,
6-11 and Subchapter F, Chapter 508, Occupations Code, as added by this
6-12 Act, take effect September 1, 2024.

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