

1 HOUSE BILL NO. 217

2 INTRODUCED BY E. BUTTREY, T. JACOBSON, R. LYNCH, A. BUCKLEY, F. GARNER, . HARVEY, W.

3 MCKAMEY, F. SMITH, K. SULLIVAN

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LICENSURE OF GENETIC COUNSELORS;
6 ESTABLISHING LICENSURE REQUIREMENTS; ESTABLISHING GENETIC COUNSELOR SCOPE OF
7 PRACTICE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 37-
8 1-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 NEW SECTION. Section 1. Purpose. The legislature finds that the profession of genetic counseling
13 profoundly affects the lives of people of this state. It is the purpose of [sections 1 through 6] to provide for the
14 public health, safety, and welfare by ensuring the ethical, qualified, and professional practice of genetic
15 counseling. [Sections 1 through 6] and the rules promulgated under [section 3] set standards of qualification,
16 education, training, and experience and establish professional ethics for those who seek to engage in the
17 practice of genetic counseling as licensed genetic counselors.

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19 NEW SECTION. Section 2. Definitions. As used in [sections 1 through 6], the following definitions
20 apply:

21 (1) "Active candidate status" means a person who has met the requirements established by the
22 American board of genetic counseling to take the board's certification examination in general genetics and
23 genetic counseling and has been granted the designation by the board.

24 (2) "Department" means the department of labor and industry provided for in 2-15-1701.

25 (3) "Genetic counseling" means the provision of the services specified under [section 6] by an
26 individual who qualifies for a license under [sections 1 through 6].

27 (4) "Genetic counselor" means an individual licensed in accordance with [section 5] to engage in the
28 competent practice of genetic counseling.

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2 **NEW SECTION. Section 3. Department powers and duties -- rulemaking.** (1) The department

3 shall:

4 (a) license and renew the licenses of qualified applicants; and

5 (b) adopt rules related to:

6 (i) eligibility requirements and competency standards;

7 (ii) license fees; and

8 (iii) defining unprofessional conduct that is not included in 37-1-410.

9 (2) The department may:

10 (a) adopt rules necessary to implement the provisions of [section 1 through 6]; and

11 (b) establish licensure requirements and procedures as appropriate.

12

13 **NEW SECTION. Section 4. Representation or practice as genetic counselor -- license required.**

14 (1) On issuance of a license under [sections 1 through 6], a licensee may use the title "licensed genetic
15 counselor".

16 (2) Except as otherwise provided in [sections 1 through 6], a person may not represent that the
17 person is a licensed genetic counselor by using the title "genetic counselor", "licensed genetic counselor",
18 "gene counselor", "genetic consultant", "genetic associate", or any words, letters, abbreviations, or insignia
19 indicating or implying a person holds a genetic counseling license unless the person is licensed under [sections
20 1 through 6].

21 (3) [Sections 1 through 6] do not apply to:

22 (a) a person licensed by the state as a physician or advanced practice registered nurse or to practice
23 in a profession other than that of genetic counseling when acting within the scope of the person's profession
24 and doing work of a nature consistent with the person's training as long as the person does not represent by
25 title that the person is engaging in the practice of genetic counseling;

26 (b) any person employed as a genetic counselor by the federal government or an agency of the
27 federal government if the person provides genetic counseling services solely under the direction and control of
28 the organization that is employing the person;

1 (c) a student or intern enrolled in a genetic counseling educational program accredited by the
2 American board of genetic counseling if the person is designated by the title "genetic counseling intern" and the
3 genetic counseling services performed are:

4 (i) an integral part of the student's course of study; and

5 (ii) performed under the direct supervision of a licensed genetic counselor who is assigned to
6 supervise the student and who is on duty and available in the assigned patient care area; and

7 (d) visiting out-of-state genetic counselors who are certified by the American board of genetic
8 counseling and performing activities and services for a period of less than 30 days each year. A visiting genetic
9 counselor must be licensed if a license is available in the person's home state.

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11 **NEW SECTION. Section 5. Licensure requirements -- examination -- fees -- temporary practice.**

12 (1) The department shall license as a genetic counselor an applicant who:

13 (a) submits an application and pays the fee required by the department;

14 (b) provides satisfactory evidence of having received certification from the American board of genetic
15 counseling as a genetic counselor; and

16 (c) complies with other requirements established by the department by rule.

17 (2) The department may issue:

18 (a) a temporary license to an applicant to whom the American board of genetic counseling has
19 granted active candidate status; and

20 (b) a license to an applicant who satisfactorily demonstrates that the applicant is licensed or
21 registered under the laws of another state, territory, or jurisdiction of the United States that in the department's
22 opinion imposes substantially the same requirements for licensure as are required under [sections 1 through 6].

23 (3) A temporary license expires automatically on the earliest of the following:

24 (a) issuance of a full license to a person who successfully passes the American board of genetic
25 counseling certification exam; or

26 (b) at the time a person loses active candidate status for failure to complete or pass the American
27 board of genetic counseling certification exam.

28 (4) Licenses issued under this section are valid for the period established by the department by rule

1 and may be renewed only on the filing of a renewal application and payment of the license renewal fee.

2 (5) An applicant shall submit an application fee in the amount established by the department by rule
3 and a written application on a form provided by the department that demonstrates the applicant has completed
4 the eligibility requirements and competency standards required under [sections 1 through 6] and by the
5 department by rule.

6 (6) The department may not license an applicant who has:

7 (a) committed any act that if committed by a licensee would be grounds for license suspension or
8 revocation; or

9 (b) misrepresented any material fact on the application.

10

11 **NEW SECTION. Section 6. Scope of practice.** (1) The practice of genetic counseling involves:

12 (1) (A) obtaining and evaluating individual, family, and medical histories to determine genetic risk for
13 genetic or medical conditions and diseases in a patient, the patient's offspring, and other family members;

14 (2) (B) discussing the features, natural history, means of diagnosis, genetic and environmental factors,
15 and management of risk for genetic and medical conditions and diseases;

16 (3) (C) identifying, ordering, and coordinating genetic laboratory tests ~~and other diagnostic studies as~~
17 appropriate for genetic assessment;

18 (4) (D) integrating genetic laboratory test results ~~and other diagnostic studies~~ with personal and family
19 medical history to assess and communicate risk factors for genetic and medical conditions and diseases;

20 (5) (E) explaining the clinical implications of genetic laboratory tests ~~and other diagnostic studies~~ and
21 their results;

22 (6) (F) evaluating the client's or family's responses to the genetic or medical condition or the risk of
23 recurrence of the condition and providing client-centered counseling and anticipatory guidance;

24 (7) (G) identifying and using community resources that provide medical, educational, financial, and
25 psychosocial support and advocacy; and

26 (8) (H) providing written documentation of medical, genetic, and counseling information for families
27 and health care professionals.

28 (2) NOTHING IN [SECTIONS 1 THROUGH 6] AUTHORIZES A GENETIC COUNSELOR TO PRACTICE MEDICINE,

1 INCLUDING TREATMENT OR MEDICAL MANAGEMENT OF A PATIENT. IF, IN THE COURSE OF PROVIDING GENETIC
 2 COUNSELING TO A CLIENT, A GENETIC COUNSELOR FINDS ANY INDICATION OF A DISEASE OR CONDITION THAT REQUIRES
 3 MEDICAL ASSESSMENT OR TREATMENT, THE GENETIC COUNSELOR SHALL REFER THE CLIENT TO A PROVIDER LICENSED
 4 TO PRACTICE MEDICINE.

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6 **Section 7.** Section 37-1-401, MCA, is amended to read:

7 **"37-1-401. Uniform regulation for licensing programs without boards -- definitions.** As used in
 8 this part, the following definitions apply:

9 (1) "Complaint" means a written allegation filed with the department that, if true, warrants an
 10 injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

11 (2) "Department" means the department of labor and industry provided for in 2-15-1701.

12 (3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the
 13 department, with respect to a complaint or other information before the department, that is carried out for the
 14 purpose of determining:

15 (a) whether a person has violated a provision of law justifying discipline against the person;

16 (b) the status of compliance with a stipulation or order of the department;

17 (c) whether a license should be granted, denied, or conditionally issued; or

18 (d) whether the department should seek an injunction.

19 (4) "License" means permission in the form of a license, permit, endorsement, certificate, recognition,
 20 or registration granted by the state of Montana to engage in a business activity or practice at a specific level in
 21 a profession or occupation governed by:

22 (a) Title 37, chapter 35, 72, or 73; or

23 (b) Title 50, chapter 39, 74, or 76.

24 (5) "Profession" or "occupation" means a profession or occupation regulated by the department under
 25 the provisions of:

26 (a) Title 37, chapter 35, 72, ~~or 73~~, or [sections 1 through 6]; or

27 (b) Title 50, chapter 39, 74, or 76."
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1 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 6] are intended to be
2 codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 6].

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4 **NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.

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