

BILL ANALYSIS

S.B. 1879
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Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, genetic counselors are not regulated or licensed by the State of Texas. However, with the increased use of genetic testing in medicine, genetic counselors have become much more involved in the health care landscape.

S.B. 1879 sets forth provisions regarding a genetic counselor's license and provides for disciplinary actions and penalties relating to such a license.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Medical Board in SECTIONS 1 and 2 of this bill.

ANALYSIS

S.B. 1879 may be cited as the Licensed Genetic Counselor Act. The bill amends the Occupations Code to prohibit a person from acting as a genetic counselor unless the person is licensed. The bill prohibits a person from using, representing, or implying the person has any title relating to a licensed genetic counselor and from using any word, abbreviation, or insignia indicating or implying the person is a licensed genetic counselor unless that person is licensed. The bill requires an applicant for a license to file a written application with the Texas Medical Board on a form prescribed by the board and pay the application fee set by the board. The bill sets forth provisions regarding license eligibility and requires an applicant to successfully complete an examination approved by the board that demonstrates the applicant's knowledge of genetic counseling and to have successfully completed a master's degree in a genetic counseling or medical genetics training program that is approved by the board and that is at least as stringent as a training program accredited by the American Board of Medical Genetics. The bill requires the board to adopt rules to govern the development and administration of an examination for a license as a genetic counselor. The bill establishes that any written portion of the examination must be validated by an independent testing professional.

S.B. 1879 sets forth provisions regarding the issuing of temporary licenses to an applicant who meets all the qualifications for a license and is waiting for the next scheduled meeting of the board for the license to be issued. The bill sets forth provisions relating to the issuance, term and renewal of a license, notice of license renewal, and the procedure for renewal of a license.

S.B. 1879 creates the licensed genetic counselor advisory committee as an informal advisory committee to the board and establishes that the advisory committee has no independent rulemaking authority. The bill provides that the advisory committee consists of seven members appointed by the president of the board and sets forth the composition of the board. The bill requires that the president of the board appoint the members of the committee not later than October 1, 2009. The bill provides for membership and employee restrictions, terms of membership, requirements to fill a vacancy, and grounds for removal from the advisory committee. The bill requires the president of the board to biennially designate a committee

member as the presiding officer, provides that a committee member is not entitled to per diem, and sets forth provisions regarding committee meetings.

S.B. 1879 sets forth the general powers and duties of the Texas Medical Board, in consultation with the advisory committee, relating to the qualifications for genetic counselors; examination, training, and education requirements; prescribing the application form for a license; and developing a program of continuing education. The bill requires the board to adopt rules to implement and enforce the Licensed Genetic Counselor Act. The bill provides for the setting of required fees and the creation of the genetic counseling licensing account as a special account in the general revenue fund. The bill establishes that the fund may be appropriated only to the board to pay for the board's administration of the act. The bill requires the board to prepare an annual financial report that meets certain criteria and authorizes the board to receive gifts, grants, and donations from any source, including the United States or a private source.

S.B. 1879 sets forth provisions regarding public participation on issues relating to genetic counseling and the preparation of public interest information. The bill requires the board to establish methods by which consumers may direct complaints about genetic counselors to the board, keep records relating to each complaint filed with the board, and provide a licensed genetic counselor with access to complaint information. The bill requires the board to provide certain complaint information to a health care entity upon written request and provides for the confidentiality of certain information relating to a license holder under investigation. The bill authorizes the disclosure of investigative information to a licensing authority in another state or country in which the license holder is licensed or has applied for a license or similar authority and to a law enforcement agency conducting criminal investigations of a license holder. The bill sets forth provisions relating to reporting requirements and the immunity provided to a person who furnishes records, information, or assistance to the board from any civil liability under certain circumstances.

S.B. 1879 sets forth provisions regarding authorized disciplinary actions by the board against an applicant or license holder who committed or attempted to commit conduct indicating the applicant's or license holder's lack of fitness, including substance abuse, an act of moral turpitude, mental incompetence or a mental or physical condition rendering a person unable to safely act as a genetic counselor, or conduct warranting the removal or suspension of a license or other disciplinary action. The bill sets forth provisions outlining conduct related to misrepresentation or fraud, conduct related to a violation of law, and conduct indicating a lack of fitness. The bill sets forth provisions authorizing the issuance of a subpoena or subpoena duces tecum to conduct an investigation or a contested case proceeding relating to a licensed genetic counselor, for purposes of determining whether to issue, suspend, restrict, or revoke a genetic counselor license, or for purposes of determining whether to issue or deny a genetic counselor license. The bill provides for the protection of patient identity in a disciplinary investigation or proceeding involving a genetic counselor. The bill sets forth provisions regarding the adoption of rules for disciplinary proceedings involving a licensed genetic counselor, the required suspension of an incarcerated genetic counselor, and the temporary suspension of a license and the creation of a disciplinary panel to determine whether a genetic counselor's license should be temporarily suspended. The bill sets forth provisions requiring the board, by rule, to adopt procedures governing the informal disposition of a contested case and informal proceedings relating to a genetic counselor license. The bill sets forth provisions relating to the roles and responsibilities of a participant in an informal proceeding. The bill establishes that these provisions take effect July 1, 2010.

S.B. 1879 sets forth provisions relating to administrative penalties for violations of licensing requirements or a rule or order adopted for the purposes of the act. The bill authorizes the board to impose a penalty in an amount not to exceed \$5,000 and sets out factors upon which the board must base the penalty. The bill provides for the notice of the violation and penalty, the option of the person to pay the penalty or appeal the decision by filing a petition for judicial review, and the collection of the penalty. The bill authorizes a court to uphold or reduce an administrative

penalty if the court sustains the determination that a violation occurred, requires the court to order that a penalty is not owed if the court does not sustain the determination, and provides for the remittance of an administrative penalty in addition to any accrued interest. The bill sets forth provisions regarding injunctive relief authorizing the board to institute an action in its own name to enjoin a violation of the act. The bill establishes that these provisions take effect July 1, 2010.

S.B. 1879 establishes that provisions regarding licensed genetic counselors do not authorize the practice of medicine or the making of a medical diagnosis. The bill provides that the licensed genetic counselor advisory committee is subject to the Texas Sunset Act and establishes that, unless continued in existence, the committee is abolished and the provisions of the bill expire September 1, 2019. The bill establishes the applicability of provisions regarding licensed genetic counselors and provides exemptions to genetic counselor licensing requirements. The bill requires the board to adopt rules under the act not later than June 30, 2010.

S.B. 1879 defines "practice of genetic counseling" as the documented referral by a physician licensed to practice medicine in Texas or by a person acting under the delegated authority of a physician, providing professional services for compensation to communicate genetic information to an individual, family, group, or other entity. The bill includes in the term, assessing the likelihood of an occurrence or recurrence of a birth defect or a potentially inherited or genetically influenced condition; assisting an individual, family, or group to appreciate and understand various implications and effects of a disorder, and different options available for a disorder; and facilitating an individual's or family's decision-making with regards to testing or medical interventions and adjustment and adaption to the disorder. The bill defines "advisory committee," "board," "executive director," "licensed genetic counselor" and "Texas trade association."

EFFECTIVE DATE

Except as otherwise provided, September 1, 2009.