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By:  Klick, Thompson of Harris H.B. No. 2815

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

(1)  athletic trainers;

(2)  behavior analysts;

(3)  dietitians;

(4)  genetic counselors;

(5)  hearing instrument fitters and dispensers;

(6) [~~(5)~~]  midwives;

(7) [~~(6)~~]  orthotists and prosthetists; and

(8) [~~(7)~~]  speech-language pathologists and audiologists.

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

CHAPTER 508. LICENSED GENETIC COUNSELORS

SUBCHAPTER A. GENERAL PROVISIONS

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

Sec. 508.002.  DEFINITIONS. In this chapter:

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

(2)  "Commission" means the Texas Commission of Licensing and Regulation.

(3)  "Department" means the Texas Department of Licensing and Regulation.

(4)  "Executive director" means the executive director of the department.

(5)  "Licensed genetic counselor" means a person licensed under this chapter to engage in the practice of genetic counseling.

Sec. 508.003.  PRACTICE OF GENETIC COUNSELING. (a) In this chapter, "practice of genetic counseling" means providing professional services for compensation to communicate genetic information to an individual, family, group, or other entity:

(1)  on the documented referral by:

(A)  a physician licensed in this state;

(B)  a physician assistant licensed in this state;

(C)  an advanced practice registered nurse licensed in this state; or

(D)  a person acting under authority delegated under Subchapter A, Chapter 157; or

(2)  by a patient's self-referral.

(b)  The practice of genetic counseling includes:

(1)  obtaining and evaluating individual, family, and medical histories to determine the risk for a genetic or medical condition or disease in a patient, the patient's offspring, or other family members of the patient;

(2)  discussing the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for a genetic or medical condition or disease;

(3)  identifying, coordinating, ordering, and explaining the results of genetic laboratory tests and other diagnostic studies as appropriate for genetic assessment;

(4)  integrating the results of laboratory tests and other diagnostic studies with medical histories to assess and communicate risk factors for a genetic or medical condition or disease;

(5)  evaluating a patient's or family member's response to a genetic or medical condition or disease, including the risk of recurrence, and providing patient-centered counseling and anticipatory guidance;

(6)  identifying and using community resources that provide medical, educational, financial, and psychosocial support and advocacy; and

(7)  providing written documentation of medical, genetic, and counseling information for a patient's family members and health care providers.

Sec. 508.004.  PRACTICE OF MEDICINE NOT AUTHORIZED. This chapter does not authorize the practice of medicine as defined by the law of this state.

Sec. 508.005.  APPLICABILITY; EXEMPTIONS. (a) This chapter does not apply to a physician licensed to practice medicine in this state unless the physician is a licensed genetic counselor.

(b)  A person may engage in the practice of genetic counseling without holding a license under this chapter if the person:

(1)  is licensed, certified, or registered to practice in this state in a health care-related occupation and:

(A)  acts within the occupation's scope of practice; and

(B)  does not use the title "genetic counselor" or represent or imply the person is licensed as a genetic counselor under this chapter;

(2)  is a student or intern:

(A)  pursuing a course of study or engaged in a training program for an occupation regulated by this state and acting within the occupation's scope of practice; or

(B)  enrolled in a commission-approved, graduate-level supervised genetic counseling training program and engaged in an activity constituting the practice of genetic counseling as a required part of the training program; or

(3)  is a genetic counselor who:

(A)  is certified by the American Board of Medical Genetics and Genomics, the American Board of Genetic Counseling, or another certification body approved by the commission;

(B)  is not a resident of this state;

(C)  performs an activity or provides a service in this state for not more than 30 days during any year; and

(D)  meets any other requirement established by commission rule.

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

(1)  is trained as:

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

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

(2)  has not failed the certification examination more than twice.

SUBCHAPTER B. LICENSED GENETIC COUNSELOR ADVISORY BOARD

Sec. 508.051.  LICENSED GENETIC COUNSELOR ADVISORY BOARD. The advisory board consists of seven licensed genetic counselors appointed by the presiding officer of the commission with the approval of the commission, each of whom:

(1)  has engaged for at least two years in the practice of genetic counseling as a genetic counselor and is:

(A)  licensed under this chapter; or

(B)  certified by the American Board of Medical Genetics and Genomics, the American Board of Genetic Counseling, or another certification body approved by the commission;

(2)  is a United States citizen; and

(3)  has been a resident of this state for at least six months preceding the date of appointment.

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

Sec. 508.053.  TERMS; VACANCY. (a)  Advisory board members serve two-year terms. The terms expire on February 1 of each odd-numbered year.

(b)  If a vacancy occurs during an advisory board member's term, the presiding officer of the commission with the approval of the commission shall appoint a new member to fill the unexpired term.

(c)  An advisory board member may not serve more than two consecutive full terms.

Sec. 508.054.  PRESIDING OFFICER. The presiding officer of the commission biennially shall designate an advisory board member as the presiding officer of the advisory board to serve in that capacity at the will of the presiding officer of the commission.

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

SUBCHAPTER C. POWERS AND DUTIES

Sec. 508.101.  GENERAL POWERS AND DUTIES. (a) The executive director shall administer and enforce this chapter.

(b)  The department shall:

(1)  establish qualifications for licensed genetic counselors in this state;

(2)  establish the examination requirements for issuance of a licensed genetic counselor license;

(3)  establish minimum education and training requirements necessary for issuance of a licensed genetic counselor license;

(4)  prescribe the application form for issuance of a licensed genetic counselor license; and

(5)  develop an approved program of mandatory continuing education for licensed genetic counselors and the manner in which attendance at all approved courses, clinics, forums, lectures, programs, or seminars is monitored and recorded.

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

(b)  Information described by Subsection (a) may be disclosed to:

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

(2)  professional genetic counselor licensing or disciplinary boards in other jurisdictions;

(3)  peer assistance programs approved by the commission under Chapter 467, Health and Safety Code;

(4)  law enforcement agencies; and

(5)  persons engaged in bona fide research, if all individual-identifying information has been deleted.

(c)  The filing of formal charges by the department against a license holder, the nature of those charges, disciplinary proceedings of the department, commission, or executive director, and final disciplinary actions, including warnings and reprimands, by the department, commission, or executive director are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SUBCHAPTER D. LICENSING REQUIREMENTS

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

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

(1)  use the title or represent or imply that the person has the title "genetic counselor," "certified genetic counselor," "licensed genetic counselor," "gene counselor," "genetic consultant," or "genetic associate"; or

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

(c)  This chapter may not be construed to prohibit a physician or an employee or other person acting under a physician's delegated authority from representing to a patient or the public that the physician, employee, or person provides genetic counseling.

Sec. 508.152.  LICENSE APPLICATION. An applicant for a license must:

(1)  file a written application in the manner and on a form prescribed by the executive director; and

(2)  pay the application fee set by the commission.

Sec. 508.153.  LICENSE ELIGIBILITY. To be eligible for a license, a license applicant must:

(1)  successfully complete the examination required by Section 508.154;

(2)  have successfully completed:

(A)  a master's degree in a genetic counseling training program that is approved by the commission and that is at least as stringent as a genetic counseling training program accredited by the Accreditation Council for Genetic Counseling or a successor organization; or

(B)  a master's degree in a medical genetics training program that is approved by the commission and that is at least as stringent as a medical genetics training program accredited by the American Board of Medical Genetics and Genomics or a successor organization; and

(3)  meet any other requirement prescribed by the commission.

Sec. 508.154.  EXAMINATION. (a) An applicant for a license under this chapter must successfully complete an examination approved by the commission that demonstrates the applicant's knowledge of genetic counseling.

(b)  The commission shall adopt rules to govern the development and administration of an examination for issuance of a genetic counselor license. Any written portion of the examination must be validated by an independent testing professional.

Sec. 508.155.  ISSUANCE OF LICENSE. The department shall issue a genetic counselor license to a person who meets the requirements of this chapter and the rules adopted under this chapter.

Sec. 508.156.  TERM; RENEWAL. A genetic counselor license expires on the second anniversary of the date of issuance. The commission by rule shall provide for the renewal of the license.

SUBCHAPTER E. DISCIPLINARY PROCEDURES

Sec. 508.201.  GROUNDS FOR DISCIPLINARY ACTION. The commission or executive director shall revoke or suspend a license, refuse to renew a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of this chapter, a rule adopted under this chapter, or an order of the commission or executive director.

SECTION 3.  (a) Not later than October 1, 2019, the presiding officer of the Texas Commission of Licensing and Regulation shall appoint the members of the Licensed Genetic Counselor Advisory Board created under Chapter 508, Occupations Code, as added by this Act.

(b)  The Texas Commission of Licensing and Regulation shall adopt rules under Chapter 508, Occupations Code, as added by this Act, not later than June 30, 2020.

SECTION 4.  (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2019.

(b)  Section 508.151, Occupations Code, as added by this Act, and Subchapter E, Chapter 508, Occupations Code, as added by this Act, take effect July 1, 2020.