

By: Klick

H.B. No. 2053

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

3 (2) "Certifying entity" means the American Board of
4 Medical Genetics and Genomics, the American Board of Genetic
5 Counseling, or another entity that is nationally accredited to
6 issue credentials in the practice of genetic counseling and is
7 approved by the department.

8 (3) "Commission" means the Texas Commission of
9 Licensing and Regulation.

10 (4) "Department" means the Texas Department of
11 Licensing and Regulation.

12 (5) "Executive director" means the executive director
13 of the department.

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

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

22 (1) on the documented referral by:

23 (A) a physician licensed in this state;

24 (B) a physician assistant licensed in this state;

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

27 (D) a person acting under authority delegated

1 under Subchapter A, Chapter 157; or

2 (2) by a patient's self-referral.

3 (b) The practice of genetic counseling:

4 (1) consists of:

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

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

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

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

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

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

26 (G) providing written documentation of medical,
27 genetic, and counseling information for a patient's family members

1 and health care providers; and

2 (2) does not include the diagnosis of disorders.

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

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

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

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

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

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

19 (2) is a student or intern:

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

23 (B) enrolled in a graduate-level supervised
24 genetic counseling training program approved or accepted by the
25 department and engaged in an activity constituting the practice of
26 genetic counseling as a required part of the training program; or

27 (3) is a genetic counselor who:

- 1 (A) is certified by a certifying entity;
- 2 (B) is not a resident of this state;
- 3 (C) performs an activity or provides a service in
4 this state for not more than 30 days during any year; and
- 5 (D) meets any other requirement established by
6 commission rule.

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

9 (1) is trained as:

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

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

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

16 SUBCHAPTER B. LICENSED GENETIC COUNSELOR ADVISORY BOARD

17 Sec. 508.051. LICENSED GENETIC COUNSELOR ADVISORY BOARD.

18 (a) The advisory board consists of nine members appointed by the
19 presiding officer of the commission with the approval of the
20 commission, as follows:

21 (1) six licensed genetic counselors, each of whom has
22 at least two years of experience practicing genetic counseling as a
23 genetic counselor and is:

24 (A) licensed under this chapter; or

25 (B) certified by a certifying entity;

26 (2) one physician who has experience with genetic
27 counseling; and

1 (3) two members who represent the public.

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

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

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

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

13 (c) If a vacancy occurs during a term of a member of the
14 advisory board, the presiding officer of the commission, with the
15 commission's approval, shall appoint a replacement who meets the
16 qualifications for the vacant position to serve for the remainder
17 of the term.

18 Sec. 508.054. PRESIDING OFFICER. The presiding officer of
19 the commission shall designate a member of the advisory board to
20 serve as the presiding officer of the advisory board for a term of
21 two years. The presiding officer of the advisory board may vote on
22 any matter before the advisory board.

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

26 Sec. 508.056. GROUNDS FOR REMOVAL. A member of the advisory
27 board may be removed as provided by Section [51.209](#).

1 Sec. 508.057. COMPENSATION; REIMBURSEMENT. (a) A member
2 of the advisory board may not receive compensation for service on
3 the advisory board.

4 (b) A member of the advisory board is entitled to
5 reimbursement for actual and necessary expenses incurred in
6 performing functions as a member of the advisory board, subject to
7 any applicable limitation on reimbursement provided by the General
8 Appropriations Act.

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 508.101. GENERAL POWERS AND DUTIES. (a) The
11 commission shall adopt rules consistent with this chapter for the
12 administration and enforcement of this chapter.

13 (b) The department shall:

14 (1) administer and enforce this chapter;

15 (2) evaluate the qualifications of license
16 applicants;

17 (3) provide for the examination of license applicants;

18 (4) issue licenses;

19 (5) in connection with a hearing under this chapter,
20 issue subpoenas, examine witnesses, and administer oaths under the
21 laws of this state; and

22 (6) investigate persons engaging in practices that
23 violate this chapter.

24 Sec. 508.102. CONFIDENTIALITY OF COMPLAINT AND
25 DISCIPLINARY INFORMATION. (a) Except as provided by Subsection
26 (b), all information and materials subpoenaed or compiled by the
27 department in connection with a complaint and investigation are

1 confidential and not subject to disclosure under Chapter 552,
2 Government Code, and not subject to disclosure, discovery,
3 subpoena, or other means of legal compulsion for their release to
4 anyone other than the department or its employees or agents
5 involved in discipline of a license holder.

6 (b) Information described by Subsection (a) may be
7 disclosed in accordance with Chapter 51 to:

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

10 (2) a respondent or the respondent's authorized
11 representative;

12 (3) a governmental agency, if:

13 (A) the disclosure is required or permitted by
14 law; and

15 (B) the agency obtaining the disclosure protects
16 the identity of any patient whose records are examined;

17 (4) a professional genetic counselor licensing or
18 disciplinary board in another jurisdiction;

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

21 (6) law enforcement agencies; and

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

24 (c) As provided by Chapter 51, notices of alleged violations
25 issued by the department, commission, or executive director, and
26 final disciplinary actions, including warnings and reprimands, by
27 the department, commission, or executive director are not

1 confidential and are subject to disclosure in accordance with
2 Chapter 552, Government Code.

3 (d) Notwithstanding any other law, the requirements of
4 Chapter 51 related to the confidentiality of complaint and
5 investigation information for a health-related program are
6 applicable to complaint and investigation information under this
7 chapter.

8 Sec. 508.103. STANDARDS OF ETHICAL PRACTICE. The
9 commission shall adopt rules under this chapter that establish
10 standards of ethical practice.

11 Sec. 508.104. ASSISTANCE FILING COMPLAINT. The department,
12 in accordance with Section 51.252, shall provide reasonable
13 assistance to a person who wishes to file a complaint with the
14 department regarding a person or activity regulated under this
15 chapter.

16 Sec. 508.105. FEES. The commission by rule shall set fees
17 in amounts reasonable and necessary to cover the costs of
18 administering this chapter.

19 SUBCHAPTER D. LICENSING REQUIREMENTS

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

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

26 (1) use the title or represent or imply that the person
27 has the title "genetic counselor," "certified genetic counselor,"

1 "licensed genetic counselor," "gene counselor," "genetic
2 consultant," or "genetic associate"; or

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

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

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

13 (1) submit an application in the manner and on a form
14 prescribed by the department;

15 (2) successfully complete a state-approved criminal
16 background check; and

17 (3) pay the application fee set by the commission.

18 Sec. 508.153. LICENSE ELIGIBILITY. To be eligible for a
19 genetic counselor license, a license applicant must present
20 evidence to the department that the applicant:

21 (1) has passed an examination by a certifying entity
22 or an equivalent examination in genetic counseling approved by the
23 department;

24 (2) is currently certified by a certifying entity in
25 genetic counseling or medical genetics;

26 (3) has met the educational requirements of a
27 certifying entity, which must include a master's degree in genetic

1 counseling or medical genetics or an equivalent educational
2 standard adopted by the certifying entity;

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

6 (5) is not subject to any disciplinary action by the
7 certifying entity.

8 Sec. 508.154. ISSUANCE OF LICENSE. The department shall
9 issue a genetic counselor license to an applicant who:

10 (1) complies with the requirements of this chapter;

11 (2) meets any additional requirements the commission
12 establishes by rule; and

13 (3) pays the required fees.

14 Sec. 508.155. TERM. A license issued under this chapter
15 expires on the second anniversary of the date of issuance.

16 Sec. 508.156. RENEWAL. Before the expiration of a license,
17 a license may be renewed by:

18 (1) submitting an application for renewal;

19 (2) paying the renewal fee imposed by the commission;
20 and

21 (3) providing verification to the department of
22 continued certification by a certifying entity, which signifies
23 that the applicant for renewal has met any continuing education
24 requirements established by the certifying entity.

25 SUBCHAPTER E. DISCIPLINARY PROCEDURES

26 Sec. 508.201. GROUNDS FOR DISCIPLINARY ACTION. In
27 accordance with Section 51.353, the commission or executive

1 director may deny, revoke, or suspend a license, refuse to renew a
2 license, place on probation a person whose license has been
3 suspended, or reprimand a license holder for a violation of this
4 chapter, a rule adopted under this chapter, or an order of the
5 commission or executive director.

6 SUBCHAPTER F. ENFORCEMENT PROCEDURES

7 Sec. 508.251. ENFORCEMENT PROCEEDINGS. The commission,
8 department, or executive director may enforce this chapter, a rule
9 adopted under this chapter, or an order of the commission or
10 executive director as provided by Subchapters F and G, Chapter 51.

11 SECTION 3. (a) As soon as practicable after the effective
12 date of this Act, the presiding officer of the Texas Commission of
13 Licensing and Regulation shall appoint nine members to the Licensed
14 Genetic Counselor Advisory Board in accordance with Chapter 508,
15 Occupations Code, as added by this Act. In making the initial
16 appointments, the presiding officer of the commission shall
17 designate three members for terms expiring February 1, 2023, three
18 members for terms expiring February 1, 2025, and three members for
19 terms expiring February 1, 2027.

20 (b) Notwithstanding Section 508.051, Occupations Code, as
21 added by this Act, a person who meets the requirements of Section
22 508.153, Occupations Code, as added by this Act, may be appointed as
23 an initial licensed genetic counselor member of the Licensed
24 Genetic Counselor Advisory Board, regardless of whether the person
25 holds a license issued under Chapter 508, Occupations Code, as
26 added by this Act.

27 SECTION 4. Not later than May 1, 2022, the Texas Commission

1 of Licensing and Regulation shall adopt the rules, procedures, and
2 fees necessary to administer Chapter 508, Occupations Code, as
3 added by this Act.

4 SECTION 5. (a) Except as provided by Subsection (b) of this
5 section, this Act takes effect September 1, 2021.

6 (b) Section 508.151, Occupations Code, as added by this Act,
7 and Subchapter F, Chapter 508, Occupations Code, as added by this
8 Act, take effect September 1, 2022.