

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

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HOUSE BILL 587

Short Title: NC Genetic Counselors Workforce Act. (Public)

Sponsors: Representatives Potts, K. Baker, Sasser, and Reeder (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

April 10, 2023

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH THE GENETIC COUNSELORS LICENSURE BOARD AND TO
REGULATE THE PRACTICE OF GENETIC COUNSELING.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 44.

"Genetic Counselor Licensure.

"§ 90-750. Definitions.

The following definitions apply in this Article:

- (1) ABGC. – The American Board of Genetic Counseling, its successor or equivalent.
- (2) ACGC. – Accreditation Council for Genetic Counseling.
- (3) ACS. – Active Candidate Status conferred by the American Board of Genetic Counseling.
- (4) Active Candidate Status. – A person who has met the requirements established by the ABGC to take the ABGC certification examinations in general genetics and genetic counseling and has been granted this designation by ABGC.
- (5) Board. – The Genetic Counselors Licensing Board.
- (6) CEU. – The Continuing Education Unit as defined by the NSGC.
- (7) Department. – The Department of Health and Human Services.
- (8) Examination. – The ABGC certification exam.
- (9) Genetic counseling. – The provision of services by an individual who qualifies for a license under this Article.
- (10) Genetic counseling intern. – A student enrolled in a genetic counseling program accredited by ACGC.
- (11) Genetic counselor. – An individual who is licensed under this Article to engage in the competent practice of genetic counseling.
- (12) NSGC. – The National Society of Genetic Counselors, its successor or equivalent.
- (13) Qualified supervisor. – Any person who is a licensed genetic counselor or a physician licensed to practice medicine under Article 1 of this Chapter.
- (14) Reciprocity. – The issuance of a license by the Board to an individual who has been granted a license under the laws of another state, territory, or jurisdiction



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of the United States that currently imposes substantially similar licensure requirements as those imposed by this Article.

(15) Referral. – A written or telecommunicated authorization for genetic counseling services from a physician licensed to practice medicine in all its branches, an advanced practice nurse who has a collaborative agreement with a physician that authorizes referrals to a genetic counselor, or a physician assistant who has been delegated authority to make referrals to genetic counselors.

(16) Supervisee. – A genetic counselor with a temporary license.

(17) Supervision. – A qualified supervisor who has the overall responsibility to assess the work of the supervisee, including regular meetings and chart review; provided that an annual supervision contract signed by the qualified supervisor and supervisee be on file with both parties. The qualified supervisor's presence is not required during the performance of the service.

(18) Temporary license. – A license to practice genetic counseling in accordance with this Article.

"§ 90-751. Genetic Counselors Licensure Board.

(a) Establishment. – The Genetic Counselors Licensure Board is established. The Board shall consist of five members who shall serve staggered terms. The initial Board shall be selected as follows:

(1) One member, who is a licensed genetic counselor, shall be appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, to serve a three-year term.

(2) One member, who is a licensed genetic counselor, shall be appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, to serve a three-year term.

(3) The Governor shall appoint the following three members:

a. One licensed genetic counselor to serve a three-year term.

b. One licensed genetic counselor to serve a two-year term.

c. One public member to serve a one-year term.

(b) Appointment. – Upon the expiration of the terms of the initial Board members, each member shall be appointed by the appointing authorities designated in subdivisions (a)(1) through (3) of this section for a three-year term and shall serve until a successor is appointed and qualified. All members appointed to the Board, except for the public member appointed by the Governor under subdivision (a)(3) of this section, shall be required to be licensed under this Article and shall seek licensure in this State as soon as the first application period begins. No member may serve more than two consecutive terms. Each member shall be a resident of this State. A former member shall be eligible for appointment after a period of one year of not being a member of the Board.

(c) Vacancies; Qualifications. – If a member of the Board cannot complete a term of office, the vacancy shall be filled in the same manner as the original appointment for the remainder of the unexpired term. No Board member shall participate in any matter before the Board in which the member has a pecuniary interest or similar conflict of interest.

(d) Removal. – A member may be removed by the Governor for any of the following:

(1) Ceases to meet the qualifications specified in this section.

(2) Fails to attend three successive Board meetings without just cause as determined by the remainder of the Board.

(3) Is found by the remainder of the Board to be in violation of the provisions of this Article or to have engaged in immoral, dishonorable, unprofessional, or unethical conduct, and the conduct is deemed to compromise the integrity of the Board.

(4) Is found guilty of a felony or an unlawful act involving moral turpitude by a court of competent jurisdiction or is found to have entered a plea of nolo contendere to a felony or an unlawful act involving moral turpitude.

(5) Is found guilty of malfeasance, misfeasance, or nonfeasance regarding Board duties by a court of competent jurisdiction.

(6) Is incapacitated and without reasonable likelihood of resuming Board duties, as determined by the Board.

(e) Meetings. – The Board shall elect annually a chair, vice-chair, and secretary to carry out the purposes of this Article. The Board shall meet at least two times annually. The Board may hold additional meetings upon the call of the chair or any two board members. A majority of the Board shall constitute a quorum.

(f) Compensation of Members; Expenses; Employees. – Members of the Board shall receive no compensation for their services but shall receive per diem and necessary travel and subsistence expenses as provided in G.S. 138-5 and G.S. 138-6. The Board may employ necessary personnel for the performance of its functions and fix the compensation. The Board shall not employ any of its members to perform inspectional or similar ministerial tasks for the Board. In no event shall the State of North Carolina be liable for expenses incurred by the Board in excess of the income derived from this Article.

"§ 90-752. Powers and duties of Board.

(a) Powers. – The Board shall have the following powers and duties:

(1) Administer, coordinate, and enforce the provisions of this Article.

(2) Adopt, amend, or repeal rules to administer and enforce this Article.

(3) Establish and determine qualification and fitness of applicants for licensure under this Article.

(4) Issue, renew, deny, suspend, revoke, or refuse to issue or renew any license under this Article.

(5) Establish fees for applications, initial and renewal licenses, and other services provided by the Board.

(6) Discipline individuals licensed under this Article.

(b) Investigation. – The Board may empower any member to conduct any proceeding or investigation necessary to its purposes and may empower its agent or counsel to conduct any investigation necessary to its purposes, but any final action requires a quorum of the Board.

(c) Seal. – The Board shall adopt an official seal, which shall be affixed to all licenses issued by it.

"§ 90-753. Annual report.

On June 30 of each year, the Board shall submit a report to the Governor of the Board's activities since the preceding July 1, including (i) the names of all licensed genetic counselors to whom licenses have been granted under this Article, (ii) any cases heard and decisions rendered in matters before the Board, (iii) the recommendations of the Board as to future actions and policies, and (iv) a financial report. Each member of the Board shall review and sign the report before its submission to the Governor. Any Board member shall have the right to record a dissenting view.

"§ 90-754. Qualification for licensure; application.

(a) Application; Qualification. – Each individual desiring to obtain a license under this Article shall apply to the Board in accordance with the procedure and rules prescribed by the Board. Each applicant shall furnish evidence satisfactory to the Board that the applicant meets all of the following criteria:

(1) Submit an application prescribed by the Board.

(2) Pay a fee determined by the Board in accordance with G.S. 90-756.

(3) Provide satisfactory evidence of having certification as a genetic counselor by the ABGC.

- (4) Is at least 18 years of age.
- (5) Is of good moral character and conducts all professional activities in accordance with accepted professional and ethical standards.
- (6) Has not engaged in any practice at any time that would be a ground for denial, revocation, or suspension of a license under G.S. 90-742.
- (7) Has submitted the required criminal history record, as required by law.
- (8) Is qualified for licensure under the requirements of this Article.

(c) Temporary Licensure. – A temporary license may be issued to an applicant who meets all of the requirements for licensure except for subdivision (b)(3) of this section and has been granted ACS by the ABGC. A temporary license shall be valid for one year from the date of issuance and may be renewed for an additional year if an applicant fails the first sitting of the ABGC certification exam. A temporary license shall expire automatically upon the earliest of the following:

- (1) Issuance of a full license.
- (2) Thirty days after the applicant fails to pass the complete certification examination without renewing it in accordance with this subsection.
- (3) The date printed on the temporary license.

An application for extension of the temporary license shall be signed by a qualified supervisor. A temporary licensed genetic counselor shall work under the general supervision of a qualified supervisor at all times during which the temporary licensed genetic counselor performs genetic counseling.

(d) Reciprocity. – An applicant who satisfies the Board that the applicant is licensed or registered under the laws of another state, territory, or jurisdiction of the United States, which in the opinion of the Board imposes substantially the same licensing requirements as this Article, may be licensed by the Board pursuant to this Article.

(e) Alternative Application for Licensure. – An individual may apply to the Board for licensure who does not qualify for licensure under this Article but who has worked as a genetic counselor for a minimum of 10 years preceding the enactment of this Article and who provides documentation of all of the following:

- (1) Has a master's or higher degree in genetics or a related field of study.
- (2) Has never passed the ABGC certification examination.
- (3) Submits three letters of recommendation from at least one genetic counselor who qualifies for licensure under this Article and a licensed physician. All individuals submitting letters of recommendation must have worked with the applicant in an employment setting during the last 10 years and can attest to the applicant's competency in providing genetic counseling services.
- (4) Can provide documentation of attending NSGC-approved CEU programs within the last five years.

(f) Issuance; Renewal. – Except in the case of a temporary license, all licenses shall be issued for a two-year period upon the payment of the licensing fee prescribed by the Board and shall be renewed upon the filing of a renewal application and the payment of the licensing renewal fee.

(g) Suspension; Revocation. – A genetic counselor whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board or the committee shall promptly deliver the original license to the Board.

"§ 90-755. Scope of practice.

The practice of genetic counseling constitutes all of the following:

- (1) Obtain and evaluate individual, family, and medical histories to determine genetic risk for genetic or medical conditions and diseases in a patient, the patient's children, and other family members.

- (2) Discuss the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic or medical conditions.
- (3) Identify, order, and coordinate genetic laboratory tests and other diagnostic studies as appropriate for the genetic assessment.
- (4) Integrate genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic or medical conditions and diseases.
- (5) Explain the clinical implications of genetic laboratory tests and other diagnostic studies and their results.
- (6) Evaluate the client's or family's responses to the condition or risk of recurrence and provide client-centered counseling and anticipatory guidance.
- (7) Identify and utilize community resources that provide medical, educational, financial, and psychosocial support and advocacy.
- (8) Provide written documentation of medical, genetic, and counseling information for families and health care professionals.

"§ 90-756. Fees.

The Board may collect fees established by its rules, but those fees shall not exceed the amounts listed below:

- (1) Application fee for licensure.....\$250.00.
- (2) License renewal.....\$200.00.
- (3) Late renewal fee\$50.00.
- (4) Reciprocal license application.....\$250.00.
- (5) Temporary license application\$100.00.

"§ 90-757. Criminal history record checks of applicants for licensure.

(a) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall be responsible for providing to the North Carolina Department of Justice the applicant's fingerprints to be checked, a form signed by the applicant consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained in accordance with this section confidential.

(b) The cost of the criminal history record check and the fingerprinting shall be paid by the applicant. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c) If an applicant's criminal history record reveals one or more criminal convictions, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the individual at the time of conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the individual and the job duties of the position to be filled.
- (6) The applicant's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.

(d) If, after reviewing the factors, the Board determines that any of the grounds to deny licensure exist, the Board may deny licensure of the applicant. The Board may disclose to the applicant information contained in the criminal history record that is relevant to the denial if

disclosure of the information is permitted by applicable State and federal law. The Board shall not provide a copy of the criminal history to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. An appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(e) The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure to an applicant based on information provided in the applicant's criminal history record.

"§ 90-758. Restrictions.

No individual shall hold themselves out as a genetic counselor unless the individual is licensed in accordance with this Article. No person who is not so licensed may use in connection with the person's name or place of business the title "genetic counselor," "licensed genetic counselor," "gene counselor," "genetic consultant," "genetic associate," or any words, letters, abbreviations, or insignia indicating or implying a person holds a genetic counseling license.

"§ 90-759. Exemptions.

An individual is exempt from the requirements of this Article if any of the following conditions are met:

- (1) Any individual licensed by the State to practice in a profession other than genetic counseling when acting within the scope of the individual's profession and doing work of a nature consistent with the individual's training. The individual cannot hold themselves out to the public as a genetic counselor.
- (2) Any individual employed as a genetic counselor by the State, as well as the federal government or an agency thereof, if the individual provides genetic counseling services solely under the direction and control of the organization by which the individual is employed.
- (3) A student or intern enrolled in an ABGC-accredited genetic counseling educational program if genetic counseling services performed by the student are an integral part of the student's course of study and are performed under the direct supervision of a licensed genetic counselor assigned to supervise the student and who is on duty and available in the assigned patient care area and if the person is designated by a title "genetic counseling intern."

"§ 90-760. Continuing education requirements.

Each applicant shall present satisfactory evidence when seeking license renewal that in the period since the license was issued or last renewed the applicant has completed 30 hours of NSGC continuing education units or other means as approved by NSGC for recertification by ABGC, prorated for the length of the license. The Board shall make exceptions for licensees from the continuing education requirements, including waiver of all or a portion of these requirements or the granting of an extension of time in which to complete these requirements, upon a finding of good cause following receipt of a written request for exception based upon emergency or hardship.

"§ 90-761. Unprofessional conduct; violations.

(a) The Board may deny, suspend, or revoke licensure and may discipline, place on probation, limit practice, and require examination, remediation, and rehabilitation of any applicant or licensee, as provided for in subsection (b) of this section, for any violation listed in this subsection. The following are considered violations of the Code of Conduct:

- (1) Conviction of a felony or entry of a plea of guilty or nolo contendere to any felony charge.
- (2) Conviction of a felony or entry of a plea of guilty or nolo contendere to any misdemeanor involving moral turpitude, misrepresentation or fraud in dealing with the public, or conduct otherwise relevant to fitness to practice, or a

- 1 misdemeanor charge reflecting the inability to practice genetic counseling
2 relating to the health and safety of clients or patients.
- 3 (3) Using fraud or deceit in securing or attempting to secure or renew a license
4 under this Article or willfully concealing from the Board material information
5 in connection with application for a license or for renewal of a license under
6 this Article.
- 7 (4) Using fraud, deceit, or misrepresentation upon the public, the Board, or any
8 individual in connection with the practice of genetic counseling, the filing of
9 Medicare, Medicaid, or other claims to any third-party payor, or in any manner
10 otherwise relevant to fitness for the practice of genetic counseling.
- 11 (5) Making fraudulent, misleading, or intentionally or materially false statements
12 pertaining to education, licensure, license renewal, supervision, continuing
13 education, any disciplinary actions or sanctions pending or occurring in any
14 other jurisdiction, professional credentials, or qualifications or fitness for the
15 practice of genetic counseling to the public, any individual, the Board, or any
16 other organization.
- 17 (6) Revocation or suspension of a license for the practice of genetic counseling in
18 any other jurisdiction or having been disciplined by the licensing board or
19 certifying entity in any other jurisdiction for conduct which would subject the
20 licensee to discipline under this Article.
- 21 (7) Violation of any provision of this Article or of the rules adopted by the Board.
- 22 (8) Aiding or abetting the unlawful practice of genetic counseling by any
23 individual not licensed by the Board.
- 24 (9) Engaging in immoral, dishonorable, unprofessional, or unethical conduct as
25 defined in this subsection or the current ethics code of the certifying entity.
- 26 (10) Practicing genetic counseling in a manner that endangers the welfare of clients
27 or patients.
- 28 (11) Demonstrating an inability to practice genetic counseling with reasonable skill
29 and safety by reason of illness; inebriation; misuse of drugs, narcotics,
30 alcohol, chemicals, or any other substance affecting mental or physical
31 functioning; or as a result of any mental or physical condition.
- 32 (12) Practicing genetic counseling outside the boundaries of demonstrated
33 competence or the limitations of education, training, or supervised experience.
- 34 (13) Failing to provide competent treatment, consultation, or supervision, in
35 keeping with standards of usual and customary practice in this State.
- 36 (14) Failing to take all reasonable steps to ensure the competence of services.
- 37 (15) Failing to maintain a clear and accurate case record documenting the
38 following for each patient or client:
- 39 a. Presenting problems, diagnosis, or purpose of the evaluation,
40 treatment, or other services provided.
- 41 b. Fees, dates of services, and itemized charges.
- 42 c. Summary content of each session of evaluation, treatment, or other
43 services, except summary content that may cause significant harm to
44 any individual if the information were released.
- 45 d. Copies of all reports prepared.
- 46 (16) Failing to retain securely and confidentially the complete case record
47 indefinitely if there are pending legal or ethical matters or if there is any other
48 compelling circumstance, or failing to retain securely and confidentially the
49 complete case record for at least seven years from the date of the last provision
50 of services, except when under either circumstance, the genetic counselor was

1 prevented from doing so by circumstances beyond the genetic counselor's
2 control.

3 (b) Upon proof that an applicant or licensee under this Article has engaged in any of the
4 prohibited actions specified in subsection (a) of this section, the Board may, in lieu of denial,
5 suspension, or revocation, do all of the following:

6 (1) Issue a formal reprimand or formally censure the applicant or licensee.
7 (2) Place the applicant or licensee on probation with appropriate conditions as the
8 Board may deem advisable.
9 (3) Require examination, remediation, or rehabilitation for the applicant or
10 licensee, including care, counseling, or treatment by a professional or
11 professionals designated or approved by the Board, the expense of which shall
12 be paid by the applicant or licensee.
13 (4) Require supervision for the services provided by the applicant or licensee by
14 a licensee designated or approved by the Board, the expense of which shall be
15 paid by the applicant or licensee.
16 (5) Limit or circumscribe the practice of genetic counseling provided by the
17 applicant or licensee with respect to the extent, nature, or location of the
18 services provided, as the Board deems advisable.
19 (6) Impose conditions of probation or restrictions upon continued practice at the
20 conclusion of a period of suspension or as requirements for the restoration of
21 a revoked or suspended license.

22 (c) In lieu of or in connection with any disciplinary proceedings or investigation, the
23 Board may enter into a consent order relative to the discipline, supervision, probation,
24 remediation, rehabilitation, or practice limitation of a licensee or applicant for a license.

25 (d) The Board may assess costs of disciplinary action against an applicant or licensee
26 found to be in violation of this Article.

27 (e) When considering whether an applicant or licensee is physically or mentally capable
28 of practicing genetic counseling with reasonable skill and safety with patients or clients, the
29 Board may petition a court of competent jurisdiction to order the applicant or licensee to submit
30 to a psychological evaluation by a psychologist to determine psychological status or a physical
31 evaluation by a physician to determine physical condition, or both, upon a showing of probable
32 cause to the Board that the applicant or licensee is not capable of practicing genetic counseling
33 with reasonable skill and safety with patients or clients. The psychologist or physician that
34 conducts an evaluation of the applicant or licensee shall be designated by the court of competent
35 jurisdiction. The Board shall be responsible for the expenses of evaluations ordered under this
36 subsection. If the applicant or licensee raises the issue of mental or physical competence or
37 appeals a decision regarding mental or physical competence, the applicant or licensee shall be
38 permitted to obtain an evaluation at the applicant's or licensee's expense. If the Board suspects
39 the objectivity or adequacy of the evaluation, the Board may compel an evaluation by its
40 designated practitioners at its own expense.

41 (f) Except as provided otherwise in this Article, the procedure for revocation, suspension,
42 denial, limitations of the license, or other disciplinary, remedial, or rehabilitative actions shall be
43 in accordance with the provisions of Chapter 150B of the General Statutes. The Board is required
44 to provide the opportunity for a hearing under Chapter 150B of the General Statutes to any
45 applicant whose license is denied or to whom licensure is offered subject to any restrictions,
46 probation, disciplinary action, remediation, or other conditions or limitations or to any licensee
47 before revoking, suspending, or restricting a license or imposing any other disciplinary action or
48 remediation. If the applicant or licensee waives the opportunity for a hearing, the Board's denial,
49 revocation, suspension, or other proposed action becomes final without a hearing having been
50 conducted. Notwithstanding the foregoing, no applicant or licensee is entitled to a hearing for
51 failure to pass an examination.

1 (g) An individual whose license has been denied or revoked may reapply to the Board for
2 licensure after the passage of one calendar year from the date of the denial or revocation.

3 (h) A licensee may voluntarily relinquish a license at any time with the consent of the
4 Board. The Board may delay or refuse granting consent as necessary in order to investigate any
5 pending complaint, allegation, or issue regarding violation of any provision of this Article by the
6 licensee. Notwithstanding any provision to the contrary, the Board retains full jurisdiction to
7 investigate alleged violations of this Article by any individual whose license is relinquished under
8 this subsection and, upon proof of any violation of this Article by any individual, the Board may
9 take disciplinary action as authorized by this section."

10 **SECTION 2.** The Genetic Counselors Licensure Board, as established in Section 1
11 of this act, shall adopt temporary rules to implement this act. The temporary rules shall remain
12 in effect until permanent rules that replace the temporary rules become effective.

13 **SECTION 3.** The initial appointments required by G.S. 90-751, as enacted by
14 Section 1 of this act, shall be made on or before October 1, 2023, and the initial terms of the
15 appointees shall begin on January 1, 2024. Notwithstanding the requirements of G.S. 90-751, the
16 initial appointments required by this Article shall not require those appointed to be licensed but
17 shall seek licensure through the application process as soon as practicable.

18 **SECTION 4.** Section 1 of this act becomes effective October 1, 2024. The remainder
19 of this act is effective when it becomes law.