

SUBJECT: Requiring licensure for certain genetic counselors

COMMITTEE: Public Health — favorable, without amendment

VOTE: 11 ayes — Klick, Guerra, Allison, Campos, Coleman, Collier, Jetton,  
Oliverson, Price, Smith, Zwiener

0 nays

WITNESSES: For — Carla McGruder, Texas Society of Genetic Counselors;  
(*Registered, but did not testify*: Amber Hausenfluck, CHRISTUS Health;  
Eric Woomer, Texas Pediatric Society)

Against — None

On — Brian Francis, Texas Department of Licensing and Regulation

BACKGROUND: Occupations Code sec. 51.2031 prohibits the Texas Commission of  
Licensing and Regulation from adopting a new rule on certain professions'  
scope of practice or health-related standard of care unless the rule is  
proposed by the profession's advisory board.

DIGEST: HB 2053 would require licensure for the practice of genetic counseling  
and establish the Licensed Genetic Counselor Advisory Board.

"Practice of genetic counseling" would be defined as providing certain  
professional services for compensation to communicate genetic  
information to an individual, family, group, or other entity:

- on the documented referral by a physician, physician assistant, or  
an advanced practice registered nurse licensed in this state, or a  
person acting under delegated authority; or
- by a patient's self-referral.

Practice of genetic counseling would include:

- 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;
- discussing the features, natural history, means of diagnosis, genetic and environmental factors, and risk management for a genetic or medical condition or disease;
- identifying, coordinating, ordering, and explaining the results of genetic laboratory tests and other diagnostic studies as appropriate for genetic assessment; and
- providing written documentation of medical, genetic, and counseling information for a patient's family members and health care providers, among other specified provisions.

The practice of genetic counseling would exclude the diagnosis of disorders. The bill also would not authorize the practice of medicine as defined by state law.

**Licensure.** The bill would prohibit a person from acting as a genetic counselor or engaging in the practice of genetic counseling in the state unless the person was licensed.

*Eligibility.* To receive a genetic counselor license, an applicant would have to present evidence to the Texas Department of Licensing and Regulation (TDLR) that the applicant:

- passed an examination by a certifying entity or an equivalent examination in genetic counseling approved by the department;
- was currently certified by a certifying entity in genetic counseling or medical genetics;
- met the certifying entity's educational requirements, which would have to include a master's degree in genetic counseling or medical genetics or an equivalent educational standard;
- was in compliance with all professional, ethical, and disciplinary standards established by the certifying entity; and
- was not subject to any disciplinary action by the certifying entity.

"Certifying entity" would mean the American Board of Medical Genetics and Genomics, the American Board of Genetic Counseling, or another entity that was nationally accredited to issue credentials in the practice of genetic counseling and was approved by TDLR.

The department would have to issue a genetic counselor license to an applicant who complied with the requirements, including any additional requirements the Texas Commission of Licensing and Regulation established by rule, and paid the commission's required fees.

*Application.* An applicant for a license would have to submit an application in the form prescribed by the department; successfully complete a state-approved criminal background check; and pay the application fee set by the commission.

*Expiration and renewal.* A license would expire on the second anniversary of the date of issuance. Before a license expired, a license could be renewed by:

- submitting an application for renewal;
- paying the renewal fee imposed by the commission; and
- providing verification to the department of continued certification by a certifying entity, which signified that the applicant for renewal had met any of the entity's continuing education requirements.

*Exemptions.* Under the bill, a person could engage in the practice of genetic counseling without holding a license if the person was a genetic counselor who:

- was certified by a certifying entity;
- was not a resident of the state;
- performed an activity or provided a service in the state for no more than 30 days during any year; and
- met any other requirement established by rule by the commission.

A person could engage in the practice of genetic counseling without

holding a license if the person was licensed, certified, or registered to practice in the state in a health care-related occupation and:

- acted within the occupation's scope of practice; and
- did not use the title "genetic counselor" or represent or imply the person was a licensed genetic counselor under the bill.

Certain students or interns enrolled in a graduate-level supervised genetic counseling training program, among other provisions, also could practice genetic counseling.

The bill would not apply to a physician licensed to practice medicine in the state unless the physician was a licensed genetic counselor.

**TDLR duties.** The bill would require TDLR to:

- administer and enforce the bill;
- evaluate the qualifications of license applicants;
- provide for the examination of license applicants;
- issue licenses;
- in connection with a hearing, issue subpoenas, examine witnesses, and administer oaths under the state's laws; and
- investigate persons engaging in practices that violated the bill's provisions.

**Disciplinary action.** The executive director of TDLR could take certain disciplinary actions against a license holder who violated the chapter established by the bill, an adopted rule, or an order of the commission or executive director.

**Confidential information.** Under the bill, all information and materials subpoenaed or compiled by TDLR in connection with a complaint and investigation would be confidential and not subject to disclosure under the Public Information Act 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.

The bill would specify persons to whom the above information could be disclosed, including persons involved with the department in a disciplinary action against a license holder; a professional genetic counselor licensing or disciplinary board in another jurisdiction; and law enforcement agencies, among other authorized persons.

Notices of alleged violations and final disciplinary actions issued by the department, the commission, or the department's executive director, would not be confidential and subject to disclosure under the Public Information Act.

**Advisory board.** The bill would establish the Licensed Genetic Counselor Advisory Board to provide advice and recommendations to TDLR on certain technical matters.

*Membership; terms.* The board would include nine members appointed by the presiding officer of the commission. Appointed members would serve staggered six-year terms and they could not serve more than two consecutive six-year terms. As soon as practicable after the bill's effective date, the commission's presiding officer would have to appoint the nine members to the advisory board as specified in the bill.

The commission's presiding officer would designate a board member to serve as the presiding officer of the advisory board for a two-year term.

*Reimbursement.* The bill would entitle a board member to reimbursement for actual and necessary expenses incurred in performing functions as a member of the advisory board, subject to any applicable limitation on reimbursement provided by the general appropriations act. A board member could not receive compensation for service on the advisory board.

**Enforcement; rulemaking authority.** The commission, department, or executive director could enforce the bill's provisions, an adopted rule, or an order of the commission or executive director as provided by state law.

By May 1, 2022, the Texas Commission of Licensing and Regulation would have to adopt rules to:

- enforce the bill's provisions;
- establish standards of ethical practices; and
- set fees in amounts reasonable and necessary to cover the costs of administering the chapter.

**Other provisions.** The bill would add genetic counselors to the list of professions under Occupations Code sec. 51.2031 in which the commission could not adopt a new rule unless it was proposed by the Licensed Genetic Counselor Advisory Board.

The following provisions would take effect September 1, 2022: requiring licensure for genetic counselors under Occupations Code sec. 508.151 and authorizing enforcement procedures under ch. 58, subch. F.

The bill would take effect September 1, 2021, unless otherwise stated.

**SUPPORTERS  
SAY:**

HB 2053 would improve protections for Texas patients seeking genetic counseling services by requiring licensure for genetic counselors. Genetic counselors provide risk assessments, education, and support to individuals and families at risk for or diagnosed with various inherited conditions.

Currently, genetic counselors are trained and accredited in master's degree programs and certified by the American Board of Genetic Counseling, among other certifying entities. Several other states have already established licensure for genetic counselors or are in the rulemaking process. However, Texas does not have any enforceable education and ethical standards for genetic counselors, putting patients at risk of physical, emotional, and financial harm. The bill is necessary to ensure patient safety and create accountability for those wishing to provide genetic counseling services in this state.

Establishing a licensure process also could encourage graduates of genetic

counseling education programs to stay in or move to Texas, growing the health professional workforce and increasing patients' access to genetic counseling services.

CRITICS  
SAY:

HB 2053 would increase government regulation by requiring licensure to practice genetic counseling in Texas.