

## CHAPTER 2021-133

### Committee Substitute for Senate Bill No. 1770

An act relating to genetic counseling; creating part III of ch. 483, F.S., titled “Genetic Counseling”; providing a short title; providing legislative findings and intent; defining terms; providing licensure, licensure renewal, and continuing education requirements; requiring the Department of Health to adopt by rule continuing education requirements; prohibiting certain acts; providing penalties and grounds for disciplinary action; authorizing the department to enter an order denying licensure or imposing other penalties for certain violations; providing construction; prohibiting the licensing of a genetic counselor from being contingent on his or her participation in counseling that conflicts with his or her deeply held moral or religious beliefs; providing genetic counselors with immunity from a claim of damages or disciplinary action under certain circumstances; providing exemptions; amending s. 456.001, F.S.; revising the definition of the term “health care practitioner” to include licensed genetic counselors; amending s. 20.43, F.S.; correcting a cross-reference; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Part III of chapter 483, Florida Statutes, consisting of sections 483.911, 483.912, 483.913, 483.914, 483.915, 483.916, 483.917, 483.918, and 483.919, Florida Statutes, is created to read:

#### PART III GENETIC COUNSELING

483.911 Short title.—This part may be cited as the “Genetic Counseling Workforce Act.”

483.912 Legislative findings and intent.—The sole legislative purpose for enacting this part is to ensure that every genetic counselor practicing in this state meets minimum requirements for safe practice. The Legislature finds that the delivery of genetic counseling services by unskilled and incompetent persons presents a danger to public health and safety. Because it is difficult for the public to make informed choices related to genetic counseling services and since the consequences of uninformed choices can seriously endanger public health and safety, it is the intent of the Legislature to prohibit the delivery of genetic counseling services by persons who possess less than minimum competencies or who otherwise present a danger to the public.

483.913 Definitions.—As used in this part, the term:

(1) “Department” means the Department of Health.

(2) “Genetic counselor” means a person licensed under this part to practice genetic counseling.

(3) “Scope of practice of genetic counseling” means the process of advising an individual or a family affected by or at risk of genetic disorders, including:

(a) Obtaining and evaluating individual, family, and medical histories to determine genetic risk for genetic or medical conditions and diseases in a patient, his or her offspring, and other family members;

(b) Discussing the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic or medical conditions and diseases;

(c) Identifying, ordering, and coordinating genetic laboratory tests and other diagnostic studies as appropriate for a genetic assessment;

(d) Integrating 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;

(e) Explaining the clinical implications of genetic laboratory tests and other diagnostic studies and their results;

(f) Evaluating the client’s or family’s responses to the condition or risk of recurrence and providing client-centered counseling and anticipatory guidance;

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

(h) Providing written documentation of medical, genetic, and counseling information for families and health care professionals; and

(i) Referring patients to a physician for diagnosis and treatment.

483.914 Licensure requirements.—

(1) Any person desiring to be licensed as a genetic counselor under this part must apply to the department on a form approved by department rule.

(2) The department shall issue a license, valid for 2 years, to each applicant who:

(a) Has completed an application.

(b) Is of good moral character.

(c) Provides satisfactory documentation of having earned:

1. A master’s degree from a genetic counseling training program or its equivalent as determined by the Accreditation Council of Genetic Counseling or its successor or an equivalent entity; or

2. A doctoral degree from a medical genetics training program accredited by the American Board of Medical Genetics and Genomics or the Canadian College of Medical Geneticists.

(d) Has passed the examination for certification as:

1. A genetic counselor by the American Board of Genetic Counseling, Inc., the American Board of Medical Genetics and Genomics, or the Canadian Association of Genetic Counsellors; or

2. A medical or clinical geneticist by the American Board of Medical Genetics and Genomics or the Canadian College of Medical Geneticists.

(3) The department may issue a temporary license for up to 2 years to an applicant who meets all requirements for licensure except for the certification examination requirement imposed under paragraph (2)(d) and is eligible to sit for that certification examination.

483.915 Licensure renewal and continuing education requirements.—

(1) The department shall renew a license upon receipt of a renewal application.

(2) The department shall adopt by rule continuing education requirements consistent with nationally accepted standards of the American Board of Genetic Counseling, Inc.

483.916 Prohibitions; penalties.—

(1) A person may not:

(a) Make a false or fraudulent statement in any application, affidavit, or statement presented to the department.

(b) Practice genetic counseling or hold himself or herself out as a genetic counselor or as being able to practice genetic counseling or to render genetic counseling services without a license issued under this part unless exempt from licensure under this part.

(c) Use the title “genetic counselor” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the person is authorized to practice genetic counseling unless that person holds a current license as a genetic counselor issued under this part or is exempt from licensure under this part.

(2) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

483.917 Grounds for disciplinary action; penalties.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Attempting to obtain, obtaining, or renewing a license under this part by fraudulent misrepresentation.

(b) Having a license revoked, suspended, or otherwise acted against, including the denial of licensure in another jurisdiction.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of genetic counseling, including a violation of federal laws or regulations regarding genetic counseling.

(d) Making or filing a report or record that the licensee knows is false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only reports or records that are signed in a person's capacity as a licensee under this part.

(e) Knowingly advertising services related to genetic counseling in a fraudulent, false, deceptive, or misleading manner.

(f) Violating a previous order of the department entered in a disciplinary hearing or failing to comply with a subpoena issued by the department.

(g) Practicing with a revoked, suspended, or inactive license.

(h) Gross or repeated malpractice or the failure to deliver genetic counseling services with that level of care and skill which is recognized by a reasonably prudent licensed genetic counselor as being acceptable under similar conditions and circumstances.

(i) Unprofessional conduct, including, but not limited to, any departure from or failure to conform to the minimal prevailing standards of acceptable practice under this part and department rule, including, but not limited to, any of the following:

1. Practicing or offering to practice beyond the scope permitted by law or accepting and performing genetic counseling services the licensee knows, or has reason to know, he or she is not competent to perform.

2. Failing to refer a patient to a health care practitioner as defined in s. 456.001 if the licensee is unable or unwilling to provide genetic counseling services to the patient.

3. Failing to maintain the confidentiality of any information received under this part or failing to maintain the confidentiality of patient records

pursuant to s. 456.057, unless such information or records are released by the patient or otherwise authorized or required by law to be released.

4. Exercising influence on the patient or family in such a manner as to exploit the patient or family for financial gain of the licensee.

(j) Violating this part or chapter 456, or any rules adopted pursuant thereto.

(2) The department may enter an order denying licensure to or imposing penalties against any applicant for licensure or any licensee who is found guilty of violating subsection (1) or s. 483.916.

483.918 Conscience clause.—This part may not be construed to require any genetic counselor to participate in counseling that conflicts with his or her deeply held moral or religious beliefs. The licensing of a genetic counselor may not be contingent upon participation in such counseling. A counselor’s refusal to participate in counseling that conflicts with his or her deeply held moral or religious beliefs may not form the basis for any claim of damages or for any disciplinary action against the genetic counselor, provided the genetic counselor informs the patient that he or she will not participate in such counseling and offers to direct the patient to the online health care practitioner license verification database maintained by the department.

483.919 Exemptions.—This part does not apply to:

(1) Commissioned medical officers of the United States Armed Forces or the United States Public Health Service while on active duty or while acting within the scope of their military or public health responsibilities.

(2) A health care practitioner as defined in s. 456.001, other than a genetic counselor licensed under this part, who is practicing within the scope of his or her training, education, and licensure and who is doing work of a nature consistent with such training, education, and licensure.

Section 2. Subsection (4) of section 456.001, Florida Statutes, is amended to read:

456.001 Definitions.—As used in this chapter, the term:

(4) “Health care practitioner” means any person licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part II, part III, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part I, ~~or~~ part II, or part III of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491.

Section 3. Subsection (8) of section 20.43, Florida Statutes, is amended to read:

20.43 Department of Health.—There is created a Department of Health.

(8) The department may hold copyrights, trademarks, and service marks and enforce its rights with respect thereto, except such authority does not extend to any public records relating to the department’s responsibilities for health care practitioners regulated under ~~part II of chapter 456~~ 455.

Section 4. For the 2021-2022 fiscal year, the sums of \$41,535 in recurring funds and \$4,429 in nonrecurring funds from the Medical Quality Assurance Trust Fund are appropriated to the Department of Health for the purpose of implementing this act.

Section 5. This act shall take effect July 1, 2021.

Approved by the Governor June 21, 2021.

Filed in Office Secretary of State June 21, 2021.