

**STATE OF WISCONSIN
GENETIC COUNSELORS AFFILIATED CREDENTIALING BOARD**

IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
GENETIC COUNSELORS : **CR 23-061**
AFFILIATED CREDENTIALING :
BOARD :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The objective of this rule is to implement the statutory changes from 2021 Wisconsin Act 251 by creating chapters Gen Couns 1 to 5 as a new part of the Wisconsin Administrative Code. These new chapters cover the licensure, renewal, practice, and conduct requirements for Genetic Counselors. The rule also requires Attorney General approval to incorporate the National Society of Genetic Counselors Code of Ethics by reference into s. Gen Couns 1.02. Such approval will be requested by the Board prior to the submission of the final rule to the Governor's Office and Legislature.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Genetic Counselors Affiliated Credentialing Board held a public hearing on December 5, 2023. No public comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 1.b. The incorporation of the NSGC code of ethics by reference in s. Gen Couns 1.02 requires the approval of the Attorney General. [s. 227.21 (2), Stats.] Approval by the Attorney General should be noted in the rule analysis. [s. 1.14 (2) (d), Manual]. Note the approval in the rule analysis once received.

Response: The Board has accepted this comment and has updated the Plain Language Analysis to note that Attorney General approval is required. However, the Board also notes here that the final rule draft does not get updated after it has been signed by the Board Chairperson or other designated member of the Board, and submitted to the Attorney General, Governor's Office, and Legislature. Whether Attorney General approval has been received could be noted in the Adoption Order after Legislative Review, prior to that order being signed by the

Board Chairperson or other member of the Board, instead of in the attached final rule draft.

Comment: 2.e. In s. Gen Couns 2.02 (1) (f). what does the agency intend through the use of the phrase “current certification”? Is this intended to be a substantive departure from the related phrases used in s. 448.9704 (1) (d) 3., Stats?

Response: The Board rejects this comment. The term “current certification” encompasses all of the scenarios listed in s. 448.9704 (1) (d) 3.

Comment: 2.f. Revise “subsection” in s. Gen Couns 3.01 (3) (intro.) to be “sub.”. In sub. (3) (b), what does the agency intend through the use of the phrase “current certification”? Is this intended to be a substantive departure from the related statutory text?

Response: The Board accepts the first part of this comment and has revised s. Gen Couns 3.01 (3) (intro.) accordingly. The Board rejects the second part of this comment, as the term “current certification” is understood in the profession to include several scenarios and is therefore not a substantive departure from the related statutory text.

Comment: 5.d. In s. Gen Couns 2.01 (1), consider specifying to whom an applicant must submit the required materials. Also, consider specifying what constitutes “evidence satisfactory to the board” for the requirements in pars. (c), (d), and (e). [s. 1.08 (1) (k), Manual.] With particular respect to par. (c), what is “satisfactory evidence” that an arrest or conviction record does not exist?

Response: The Board rejects this comment. The wording in s. Gen Couns 2.01 (1) was updated based on Clearinghouse Comment 5b. The term “evidence satisfactory to the board” is understood to mean evidence satisfactory at the Board’s discretion and is not normally defined further in the Administrative Code.

Comment: 5.h. In s. Gen Couns 2.02 (4), is the period of one-time renewal anticipated to be the same for all applicants? If so, this period should be specified by the rule text. Relatedly, in s. Gen Couns 2.02 (5), consider specifying how an individual applies for the renewal of a temporary license.

Response: The Board rejects this comment. The period of one-time renewal is not anticipated to be the same for all applicants. The Board will be reviewing these requests and making determinations on a case-by-case basis. The method for applying for this one-time renewal is submission of a request to the Board. The Board does not feel that this needs to be explicitly outlined in the Administrative Code.

Comment: 5.y. In s. Gen Couns 4.02 (3), can the agency offer an example of a longer record retention requirement “otherwise required by law”?

Response: The Board rejects this comment. Longer retention periods could be located elsewhere in state or federal law. It is the responsibility of the licensee to know which laws apply to their practice and follow them appropriately.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A

STATE OF WISCONSIN
GENETIC COUNSELORS AFFILIATED CREDENTIALING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	GENETIC COUNSELORS
GENETIC COUNSELORS AFFILIATED	:	AFFILIATED CREDENTIALING
CREDENTIALING BOARD	:	BOARD
	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 23-061)

PROPOSED ORDER

An order of the Genetic Counselors Affiliated Credentialing Board to create Gen Couns 1 to 4, relating to Genetic Counselors.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: subch. VIII ch. 448, Wis. Stats.

Statutory authority: ss. 15.085 (5) (b), 448.9703, and 448.9705 (1), Stats.

Explanation of agency authority:

Section 15.085 (5) (b) states that “[each affiliated credentialing board] shall promulgate rules for its own guidance and for the guidance of the trader or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 448.9703 states that: “the board shall promulgate rules to do all of the following:

- (1) Adopt the National Society of Genetic Counselors code of ethics governing the professional conduct of genetic counselors.
- (2) Establish criteria for the approval of continuing education program and courses required for renewal of a genetic counselor license.
- (3) Establish requirements for an applicant seeking renewal of a genetic counselor license, including that an applicant has satisfied all of the following:
 - (a) Successfully completed at least 30 hours of continuing education in the prior 2-year period.
 - (b) Maintained certification from and, if applicable, achieved recertification through the American Board of Genetic Counseling.
- (4) Adopt a definition of “temporary basis” for purposes of s. 448.9701 (2) (d) and (e).”

Section 448.9705 (1) states that: “the board may, by rule, provide for a temporary license to practice genetic counseling for an applicant who satisfies the requirements of s. 448.9704 (1) other than the examination requirements under s. 448.9704 (1) (d) (2).”

Related statute or rule: None.

Plain language analysis: The objective of this rule is to implement the statutory changes from 2021 Wisconsin Act 251 by creating chapters Gen Couns 1 to 4 as a new part of the Wisconsin Administrative Code. These new chapters cover the licensure, renewal, practice, and conduct requirements for Genetic Counselors. The rule also requires Attorney General approval to incorporate the National Society of Genetic Counselors Code of Ethics by reference into s. Gen Couns 1.02. Such approval will be requested by the Board prior to the submission of the final rule to the Governor's Office and Legislature.

Summary of, and comparison with, existing or proposed federal regulation: None.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: N/A.

Comparison with rules in adjacent states:

Illinois: Genetic Counselors in Illinois are licensed through the Illinois Department of Financial and Professional Regulation. The Genetic Counselor Licensing Act governs the practice of genetic counselors in Illinois and includes statutory direction regarding genetic counselor examination, temporary licensure, endorsement, and grounds for disciplinary action [225 Illinois Compiled Statutes ch. 135].

Genetic Counselors in Illinois are required to complete 30 hours of continuing education per 2-year license renewal cycle [Illinois Administrative Code Title 68 Part 1251 s. 1251.100]. Part 1251 of the Illinois Administrative Code further details rules for genetic counselors in the areas of licensure, examination, and granting variances. [Illinois Administrative Code Title 68 Part 1251 s. 1251.10 to 1251.110].

Iowa: Genetic Counselors in Iowa are licensed through the Iowa Board of Medicine. Chapter 148H of the Iowa Code governs the practice of genetic counselors in Iowa and includes statutes on licensure and grants administrative rulemaking authority to their Board [Iowa Code ch. 148H].

Chapter 20 of the Medicine Board Section 653 of the Iowa Administrative Code further details rules for genetic counselors in the areas of licensure, practice, continuing education, and discipline. Each licensee is required to complete at least 30 hours of continuing education approved by the board per biennium. [653 Iowa Administrative Code ch. 20].

Michigan: Genetic Counselors in Michigan are licensed through the Michigan Department of Licensing and Regulatory Affairs. Part 170 of The Public Health Code Act 368 governs the practice of genetic counselors in Michigan. This section of the Michigan Compiled Laws includes requirements for genetic counselors regarding licensure, practice, continuing education, and standards of practice. The Michigan Board of Medicine is also responsible for the regulation of Genetic Counselors in Michigan. The board may require each licensee to provide evidence of completion of at least 75 hours within the three years immediately preceding the application for license renewal [Michigan Compiled Laws ss. 333.17091 to 333.17097].

Minnesota: Genetic Counselors in Minnesota are licensed through the Minnesota Board of Medical Practice. Chapter 147F of the Minnesota Statutes includes requirements for scope of practice, licensure requirements, grounds for disciplinary action, and continuing education. Genetic Counselors in Minnesota must either meet the licensure standards or provide evidence of completion of at least 25 hours of National Society of Genetic Counselors (NSGC) or American Board of Medical Genetics (ABMG) approved continuing education within the two years preceding renewal [Minnesota Statutes ch. 147F].

Summary of factual data and analytical methodologies:

The Board reviewed the statutory changes from 2021 Wisconsin Act 251 and promulgated rules as needed for the profession. While promulgating these rules, the Board referenced Wisconsin Administrative Code chs. MPSW 20, OT 4 and 5, PA 3, and Pod 2 and 8, among other sources.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rule will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:

Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, held on December 4, 2023, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. Chapters Gen Couns 1 to 4 are created to read:

Chapter Gen Couns 1
AUTHORITY, ADOPTION OF STANDARDS, AND DEFINITIONS

Gen Couns 1.01 Authority. The rules in chapters Gen Couns 1 to 4 are adopted by the genetic counselors affiliated credentialing board pursuant to the authority delegated by ss. 15.85 (5) (b), 448.9703, and 448.9705 (1), Stats.

Gen Couns 1.02 Adoption of Standards. (1) The National Society of Genetic Counselors code of ethics, issued in April 2017, is incorporated by reference into chs. Gen Couns 1 to 4.

Note: Copies of the above standards are on file in the office of the department and the legislative reference bureau. A copy of the National Society of Genetic Counselors code of ethics can be retrieved from: <https://nsgc.org>.

(2) Pursuant to s. 448.9707 (2) (h), Stats., failure to comply with the National Society of Genetic Counselors code of ethics may result in discipline by the board.

Gen Couns 1.03 Definitions. As used in chapters Gen Couns 1 to 4:

- (1)** “Board” means the genetic counselors affiliated credentialing board.
- (2)** “Consulting services” means services provided to a patient on a temporary basis by an unlicensed person or person who is licensed in another state or country in consultation with a Wisconsin licensed genetic counselor or physician.
- (3)** “Department” means the department of safety and professional services.
- (4)** “Genetic counseling” has the meaning given in s. 448.970 (3), Stats.
- (5)** “Genetic counselor” means an individual who is licensed by the board to practice genetic counseling.
- (6)** “Temporary basis” means three months from the date you submit notification to the board. After those three months, regular licensure is required.

Note: The definition above does not apply to those individuals who hold a temporary license under s. 448.9705, Stats.

Chapter Gen Couns 2
LICENSE TO PRACTICE GENETIC COUNSELING

Gen Couns 2.01 Initial Licensure.:

- (1) Except as provided in sub. (2), the board shall grant a license as a genetic counselor to an applicant who does all of the following:
- (a) Submits a completed application form.
Note: Instructions for applications are available from the department of safety and professional services' website at <http://dsps.wi.gov>.
 - (b) Pays the fee determined by the department under s. 440.05 (1), Stats.
 - (c) Subject to ss. 111.321, 111.322, and 111.335, Stats., submits evidence satisfactory to the board that the applicant does not have an arrest or conviction record.
 - (d) Submits evidence satisfactory to the board of one of the following:
 - 1. Successful completion of the academic and clinical requirements of and developed the practice-based competencies required by a degree-granting program in genetic counseling that is accredited by the Accreditation Council for Genetic Counseling or the American Board of Medical Genetics and Genomics.
 - 2. Successful completion of a degree-granting program outside of the United States that the board determines is substantially equivalent to a program described in sub. (d) 1.
 - (e) Submits evidence satisfactory to the board of having successfully passed an examination administered by the American Board of Genetic Counseling or the genetic counseling examination administered by the American Board of Medical Genetics and Genomics.
 - (f) Submits evidence of current certification with the American Board of Genetic Counseling.
- (2) The board may waive the requirements of subs. (1) (d), (e), and (f) if the applicant holds an unexpired genetic counselor license issued by another state, territory, foreign country, or province and the requirements for licensure and for renewal of a genetic counselor license of the other state, territory, foreign country, or province are deemed by the board to be substantially equivalent to the requirements for licensure and for renewal of a genetic counselor of this state.

Gen Couns 2.02 Temporary Licensure. (1) The board may issue a temporary license to an applicant who has completed all of the following:

- (a) Submits a completed application for licensure and a completed application for a temporary license.

Note: Instructions for applications are available from the department of safety and professional services' website at <http://dsps.wi.gov>.

- (b) Pays the fee determined by the department under s. 440.05 (1), Stats.

- (c) Submits evidence of completion of the education requirements from s. 2.01 (d).
- (d) Submits evidence of current active candidate status with the American Board of Genetic Counseling.
- (e) Subject to ss. 111.321, 111.322, and 111.335, Stats., submits evidence satisfactory to the board that the applicant does not have an arrest or conviction record.
- (2) A person granted a temporary license to practice genetic counseling under this section shall practice at all times under the supervision and direction of a licensed genetic counselor or physician.
- (3) Except as provided in sub. (4), a temporary license issued under this section expires upon granting of a license under s. 448.9704 (1), Stats. or on whichever of the following dates occurs first:
 - (a) The date that is one year after the date on which the temporary license was granted.
 - (b) The date that is 30 days after the American Board of Genetic Counseling issues the results of the examination under s. 448.9704 (1) (d) 2., Stats.
- (4) The board may grant a one time renewal of a temporary license, for a period specified by the board, if the person maintains active candidate status with the American Board of Genetic Counseling.
- (5) The board may require an applicant for the renewal of a temporary license to appear before a member of the board for an interview.

Gen Couns 2.03 Reciprocal Credentials for Service Members, Former Service

Members, and their Spouses. A reciprocal license to practice as a genetic counselor shall be granted to a service member, former service member, or the spouse of a service member or former service member who the board determines meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the board may request verification necessary to make a determination under this section.

Gen Couns 2.04 Title Protection. No person may designate themselves as a genetic counselor or use or assume the title “genetic associate,” “genetic counselor,” “licensed genetic counselor,” or “registered genetic counselor,” or append to the person’s name the letters “G.A.,” “G.C.,” “L.G.C.,” or “R.G.C.,” or use any insignia or designation that would imply that the individual is licensed or certified or registered as a genetic counselor, or claim to render genetic counseling services unless the person is licensed by the board.

Gen Couns 2.05 Exceptions. A license to practice genetic counseling is not required for any of the following if the person does not claim to be a genetic counselor:

- (1) Any person who is lawfully practicing within the scope of a license, permit, registration, or certification granted by this state or the federal government.
- (2) Any person assisting a genetic counselor in practice under the direct, on-premises supervision of the genetic counselor.
- (3) A student of genetic counseling assisting a genetic counselor in the practice of genetic counseling if the assistance is within the scope of the student’s education and training.

- (4) Pursuant to s. 448.9701 (2) (d), Stats., a person who is licensed to practice genetic counseling in another state or country and who is providing consulting services in this state on a temporary basis. The person must notify the board that they will be providing consulting services and the nature and date of those services. The person must receive authorization from the board to provide consulting services on a temporary basis prior to the beginning of the time period they are providing those consulting services.
- (5) Pursuant to s. 448.9701 (2) (e), Stats., a person who is not licensed to practice genetic counseling in another state or country and who is providing consulting services in this state on a temporary basis, if the person satisfies all of the following:
 - (a) Holds a current certification by the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics.
 - (b) Submits notification to the board that they will be providing consulting services and the nature and date of those services.
 - (c) Receives authorization from the board to provide consulting services on a temporary basis prior to the beginning of the time period they are providing those consulting services.

Chapter Gen Couns 3 LICENSE RENEWAL AND REINSTATEMENT

Gen Couns 3.01 License Renewal and Continuing Education.

- (1) A licensee shall complete a renewal application approved by the board and return it with the required fee prior to the date specified by ss. 440.03 (9) (a) and 440.08 (2) (a), Stats.

Note: Instructions for renewal applications can be found on the department of safety and professional services' website at <http://dsps.wi.gov>.
- (2) Except as provided under sub. (4) and specified by s. 440.08 (2) (a), Stats., a licensee shall attest to the completion of the following:
 - (a) At least 30 hours of continuing education approved by the National Society of Genetic Counselors.
 - (b) Current certification with the American Board of Genetic Counseling.
- (3) Subsection (2)(a) does not apply to the first scheduled renewal date under s. 440.08 (2) (a) 37m., Stats., following the date a license is issued.
- (4) A licensee shall retain certificates of continuing education attendance for a minimum of four years to be provided to the board upon request.

Gen Couns 3.02 Reinstatement. (1) A licensee who fails for any reason to be licensed as required under this chapter may not exercise the rights or privileges conferred by any license granted by the board.

- (2) Failure to renew a license as specified in s. Gen Couns 3.01 shall cause the license to lapse. A licensee who allows the license to lapse may apply for reinstatement of the license by the board, subject to s. 440.08 (4), Stats., as follows:

- (a) If the licensee applies for renewal of the license less than five years after its expiration, the license shall be renewed upon payment of the renewal fee.
- (b) If the licensee applies for renewal of the license five or more years after its expiration, the board shall make an inquiry to determine whether the applicant is competent to practice under the license in this state and shall impose any reasonable conditions on the renewal of the license.
- (3) A licensee who has unmet disciplinary requirements and failed to renew a license within five years of the renewal date or whose license has been surrendered or revoked may apply to have a license reinstated if the applicant provides all of the following:
 - (a) Evidence of completion of any requirements determined by the board under sub. (2) (b) if the licensee has not held an active Wisconsin license in the last five years.
 - (b) Evidence of completion of disciplinary requirements, if applicable.
 - (c) Evidence of rehabilitation or a change in circumstances, warranting reinstatement of the license.

Chapter Gen Couns 4 PRACTICE AND SUPERVISION

Gen Couns 4.01 Scope of Practice. “Genetic counseling,” as defined in s. 448.970 (3), Stats., means to do any 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, a patient’s offspring, 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 and diseases.
- (3) Identify, coordinate, and order genetic laboratory tests as appropriate for genetic assessment.
- (4) Integrate genetic laboratory test results 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 a patient’s or family’s response to the condition or risk of recurrence and provide patient-centered counseling and anticipatory guidance.
- (7) Provide written documentation of medical, genetic, and counseling information for families and healthcare professionals.

Gen Couns 4.02 Standards of Practice. Genetic counselors shall adhere to the minimum standards of practice of genetic counseling established in the profession, including the following areas:

- (1) **REFERRALS.** Referrals are not required but may be accepted from licensed healthcare professionals. Patients may also self-refer for genetic counseling services.

(2) INFORMED CONSENT. (a) Any genetic counselor who provides services to a patient shall inform the patient about the availability of reasonable alternatives and about the benefits and risks of these options. The genetic counselor shall obtain consent to perform any services prior to providing them. The reasonable genetic counselor standard is the standard for informing a patient under this section. The reasonable genetic counselor standard requires disclosure only of information that a reasonable genetic counselor would know and disclose under the circumstances.

(b) The genetic counselor's duty to inform the patient under par. (a) does not require disclosure of any of the following:

1. Detailed technical information that the patient likely would not understand.
2. Risks apparent or known to the patient.
3. Extremely remote possibilities that might falsely or detrimentally alarm the patient.
4. Information in emergencies where failure to provide certain information would be more harmful to the patient than giving the information.
5. Information in cases where the patient is incapable of consenting.
6. Information about reasonable alternatives for any condition the genetic counselor has not included in the genetic counselor's diagnosis at the time the genetic counselor informs the patient of the diagnosis.

(c) A genetic counselor's patient record shall include documentation that reasonable alternatives have been communicated to the patient and informed consent has been obtained from the patient as required under par. (a).

(3) RECORDKEEPING. (a) When patient healthcare records are not maintained by a separate entity, a genetic counselor shall ensure patient healthcare records are maintained on every patient for a period of not less than 10 years after the date of the last entry, or for a longer period as may be otherwise required by law.

(b) A patient healthcare record shall contain all of the following clinical health care information that applies to the patient's medical condition:

1. Pertinent patient history.
2. Pertinent objective findings related to examination and test results.
3. Assessment or diagnosis.
4. Recommendations for the patient.

(c) Each patient healthcare record entry shall be dated, shall identify the genetic counselor, and shall be sufficiently legible to allow interpretation by other healthcare practitioners.

Gen Couns 4.03 Supervision. (1) TEMPORARY LICENSEES. A person with a temporary license authorized in s. Gen Couns 2.02 shall practice under the supervision of a licensed genetic counselor or physician. The supervising licensed genetic counselor or physician shall be available to the temporary licensee either in-person or via electronic contact methods at all times while performing genetic counseling services. Electronic contact methods may include audio, video, or data only communication methods that are not necessarily conducted in real-time.

(2) UNLICENSED ASSISTANTS. An unlicensed person assisting in the practice of a licensed genetic counselor shall perform such assistance under the supervision of that licensed genetic counselor. The supervising licensed genetic counselor or physician shall be available to the unlicensed assistant at all times while assisting in the practice of genetic counseling. Supervisory duties for unlicensed assistants may not be delegated to other staff unless they are also licensed as a genetic counselor or a physician.

(3) GENETIC COUNSELING STUDENTS. A genetic counseling student assisting in the practice of a licensed genetic counselor may perform such assistance under the supervision of a licensed genetic counselor or physician as long as that practice is within the scope that student's genetic counseling education and training. The supervising licensed genetic counselor or physician shall be available to the genetic counseling student either in-person or via immediate virtual supervision methods. Immediate virtual supervision methods include any audio, video, or data communication method conducted in real-time. Genetic counseling students shall be supervised at all times while present in the facility they are practicing in.

Gen Couns 4.04 Unprofessional Conduct. Acts of unprofessional conduct are subject to discipline under s. 448.9707. "Unprofessional conduct" includes the following, or aiding or abetting the same:

- (1) Violating or attempting to violate subch. VIII of ch. 448, Stats., or any provision of a rule or order of the board.
- (2) Knowingly making or presenting or causing to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other item in connection with any application for licensure.
- (3) Practicing fraud, forgery, deception, collusion, or conspiracy in connection with any examination for licensure.
- (4) Engaging in false, fraudulent, deceptive, or misleading billing practices.
- (5) Giving, selling, buying, bartering, or attempting to give, sell, buy, or barter any license.
- (6) Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed to practice in this or any other state. This subsection does not apply to change of name resulting from marriage, divorce, or order by a court of record.
- (7) Any practice or conduct which may constitute a danger to the health, welfare, or safety of a patient or the public.
- (8) Practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to patients.
- (9) Practicing or attempting to practice under any license beyond the scope of that license.
- (10) Offering, undertaking, or agreeing to treat or cure a disease or condition by a secret means, method, device, or instrumentality or refusing to divulge to the board upon demand the means, method, device, or instrumentality used in the treatment of a disease or condition.
- (11) Representing that a manifestly incurable disease or condition may be or will be permanently cured.

- (12) Representing that a curable disease or condition can be cured within a stated time, if this is not the case.
- (13) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent.
- (14) Obtaining or attempting to obtain any professional fee or compensation by any form of fraud or deceit.
- (15) Willfully divulging a privileged communication or confidence entrusted by a patient or deficiencies in the character of the patient observed in the course of professional attendance, unless lawfully required to do so.
- (16) Engaging in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence.
- (17) Engaging in false, misleading or deceptive advertising.
- (18) Having a license or other credential granted by another state or any agency of the federal government which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by a state licensing authority or any agency of the federal government including the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.
- (19) Conviction of any crime the circumstances of which substantially relate to the practice of genetic counseling. A certified copy of judgement of a court record showing such conviction, within this state or without, shall be presumptive evidence.
- (20) Unlicensed practice of genetic counseling.
- (21) Violating any law or administrative rule or regulation, the circumstances of which substantially relate to the practice of genetic counseling.
- (22) Failing to report to the board or to institutional supervisory personnel any violation of the rules of this chapter by a licensee.
- (23) Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a patient. For purposes of this subsection, an adult receiving genetic counseling services shall continue to be a patient for 2 years after the termination of professional services. If the person receiving genetic counseling services is a minor, the person shall continue to be a patient for the purposes for this subsection for 2 years after the termination of services, or for 2 years after the client reaches 18 years of age, whichever is longer.
- (24) Discriminating on the basis of age, race, color, biological sex, gender, gender identity, religion, creed, national origin, ancestry, ethnicity, disability or sexual orientation by means of service provided or denied.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

This Proposed Order of the Genetic Counselors Affiliated Credentialing Board is approved for submission to the Governor and Legislature.

Dated 12/15/2023

Agency *Jessica Grzybowski*
Chairperson
Genetic Counselors Affiliated Credentialing Board

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date September 26, 2023
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Gen Couns 1 to 5 (Permanent Rule)	
4. Subject Genetic Counselors	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected s. 20.165 (1) (hg)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule These rules implement the statute changes from 2021 Wisconsin Act 25. This was achieved through the creation of a new part of the Wisconsin administrative code, chapters Gen Couns 1 through 5.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The rule will be posted on the Department's website for 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) DSPS estimates a total of \$8,800 in one-time costs and \$5,600 in annual costs for staffing and an indeterminate IT impact to implement the rule. This rule implements the statute changes from 2021 Wisconsin Act 251. The estimated one-time staffing need for .3 limited term employee (LTE) is for form and site updates, staff training, and resource development. The estimated annual staffing need for .1 full time employee (FTE) is for legal investigations, processing of records requests, license monitoring, and board meetings. The one-time and annual estimated costs cannot be absorbed in the currently appropriated agency budget.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefits of implementing this rule are the creation of the Genetic Counselors Affiliated Credentialing Board's section of the Administrative Code that aligns with Wisconsin State Statutes.	
16. Long Range Implications of Implementing the Rule	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

The long range implications of implementing this rule is clear requirements for the regulation and licensure of Genetic Counselors in Wisconsin.

17. Compare With Approaches Being Used by Federal Government
None.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Genetic Counselors in Illinois are licensed through the Illinois Department of Financial and Professional Regulation. The Genetic Counselor Licensing Act governs the practice of genetic counselors in Illinois and includes statutory direction regarding genetic counselor examination, temporary licensure, endorsement, and grounds for disciplinary action [225 Illinois Compiled Statutes ch. 135].

Genetic Counselors in Illinois are required to complete 30 hours of continuing education per 2-year license renewal cycle [Illinois Administrative Code Title 68 Part 1251 s. 1251.100]. Part 1251 of the Illinois Administrative Code further details rules for genetic counselors in the areas of licensure, examination, and granting variances. [Illinois Administrative Code Title 68 Part 1251 s. 1251.10 to 1251.110].

Iowa: Genetic Counselors in Iowa are licensed through the Iowa Board of Medicine. Chapter 148H of the Iowa Code governs the practice of genetic counselors in Iowa and includes statutes on licensure and grants administrative rulemaking authority to their Board [Iowa Code ch. 148H].

Chapter 20 of the Medicine Board Section 653 of the Iowa Administrative Code further details rules for of genetic counselors in the areas of licensure, practice, continuing education, and discipline. Each licensee is required to complete at least 30 hours of continuing education approved by the board per biennium. [653 Iowa Administrative Code ch. 20].

Michigan: Genetic Counselors in Michigan are licensed through the Michigan Department of Licensing and Regulatory Affairs. Part 170 of The Public Health Code Act 368 governs the practice of genetic counselors in Michigan. This section of the Michigan Compiled Laws includes requirements for genetic counselors regarding licensure, practice, continuing education, and standards of practice. The Michigan Board of Medicine is also responsible for the regulation of Genetic Counselors in Michigan. The board may require each licensee to provide evidence of completion of at least 75 hours within the three years immediately preceding the application for license renewal [Michigan Compiled Laws ss. 333.17091 to 333.17097].

Minnesota: Genetic Counselors in Minnesota are licensed through the Minnesota Board of Medical Practice. Chapter 147F of the Minnesota Statutes includes requirements for scope of practice, licensure requirements, grounds for disciplinary action, and continuing education. Genetic Counselors in Minnesota must either meet the licensure standards or provide evidence of completion of at least 25 hours of National Society of Genetic Counselors (NSGC) or American Board of Medical Genetics (ABMG) approved continuing education within the two years preceding renewal [Minnesota Statutes ch. 147F].

19. Contact Name

Nilajah Hardin, Administrative Rules Coordinator

20. Contact Phone Number

(608) 267-7139

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

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December 20, 2023

Chairperson Jessica Grzybowski
Genetic Counselors Affiliated Credentialing Board
4822 Madison Yards Way
PO Box 8366
Madison, WI 53708-8366

Re: Request for AG Consent to Incorporate Standards by Reference

Dear Chairperson Grzybowski:

By letter dated December 15, 2023, the Genetic Counselors Affiliated Credentialing Board (GCACB) proposed to incorporate by reference standards from the National Society of Genetic Counselors into Wisconsin Administrative Code ch Gen Couns 1, entitled "Authority, Adoption of Standards, and Definitions." Specifically, GCACB proposes to incorporate the National Society of Genetic Counselors Code of Ethics

GCACB represents that these are standards of limited public interest and relate to the practice of genetic counselors licensed in Wisconsin. The GCACB further represents that incorporation by reference of these standards, rather than printing them in the Wisconsin Administrative Code, will avoid unwarranted expense and be more efficient. Finally, GCACB represents that copies of the standards are readily available and will be on file at the Wisconsin Legislative Reference Bureau.

Chairperson Grzybowski
December 20, 2023
Page 2

For these reasons, the Attorney General consents to the incorporation of these standards into the agency's rules by reference.

Sincerely,

/s/ Lara Sutherlin

Lara Sutherlin
Administrator
Division of Legal Services

LS:rdh



A Code of Ethics is a document which attempts to clarify and guide the conduct of a professional so that the goals and values of the profession might best be served.

Preamble

Genetic counselors are health professionals with specialized education, training, and experience in medical genetics and counseling. The National Society of Genetic Counselors (NSGC) is the leading voice, authority and advocate for the genetic counseling profession. Through this code of ethics, the NSGC affirms the ethical responsibilities of its members. NSGC members are expected to be aware of the ethical implications of their professional actions and work to uphold and adhere to the guidelines and principles set forth in this code.

Introduction

A code of ethics is a document that attempts to clarify and guide the conduct of a professional so that the goals and values of the profession are best served. The NSGC Code of Ethics is based upon the distinct relationships genetic counselors have with 1) themselves, 2) their clients, 3) their colleagues, and 4) society. Each section of this code begins with an explanation of the relevant relationship, along with the key values and characteristics of that relationship. These values are drawn from the ethical principles of autonomy, beneficence, nonmaleficence and justice, and they include the professional principles of fidelity, veracity, integrity, dignity and accountability.

No set of guidelines can provide all the assistance needed in every situation, especially when different values appear to conflict. In certain areas, some ambiguity remains, allowing for the judgement of the genetic counselor(s) involved to determine how best to respond to difficult situations.

Section I: Genetic Counselors Themselves

Genetic counselors value professionalism, competence, integrity, objectivity, veracity, dignity, accountability and self-respect in themselves as well as in each other. Therefore, genetic counselors work to:

1. Seek out and acquire balanced, accurate and relevant information required for a given situation.
2. Continue their education and training to keep abreast of relevant guidelines, regulations, position statements, and standards of genetic counseling practice.
3. Work within their scope of professional practice and recognize the limits of their own knowledge, expertise, and competence.
4. Accurately represent their experience, competence, and credentials, including academic degrees, certification, licensure, and relevant training.
5. Identify and adhere to institutional and professional conflict of interest guidelines and develop mechanisms for avoiding or managing real or perceived conflict of interest when it arises
6. Acknowledge and disclose to relevant parties the circumstances that may interfere with or influence professional judgment or objectivity, or may otherwise result in a real or perceived conflict of interest.
7. Assure that institutional or professional privilege is not used for personal gain.
8. Be responsible for their own physical and emotional health as it impacts their professional judgment and performance, including seeking professional support, as needed.

Section II: Genetic Counselors and Their Clients

The counselor-client relationship is based on values of care and respect for the client's autonomy, individuality, welfare, and freedom in clinical and research interactions. Therefore, genetic counselors work to:

1. Provide genetic counseling services to their clients within their scope of practice regardless of personal interests or biases, and refer clients, as needed, to appropriately qualified professionals.
2. Clarify and define their professional role(s) and relationships with clients, disclose any real or perceived conflict of interest, and provide an accurate description of their services.
3. Provide genetic counseling services to their clients regardless of their clients' abilities, age, culture, religion, ethnicity, language, sexual orientation and gender identity.
4. Enable their clients to make informed decisions, free of coercion, by providing or illuminating the necessary facts, and clarifying the alternatives and anticipated consequences.
5. Respect their clients' beliefs, inclinations, circumstances, feelings, family relationships, sexual orientation, religion, gender identity, and cultural traditions.
6. Refer clients to an alternate genetic counselor or other qualified professional when situations arise in which a genetic counselor's personal values, attitudes and beliefs may impede his or her ability to counsel a client.
7. Maintain the privacy and security of their client's confidential information and individually identifiable health information, unless released by the client or disclosure is required by law.
8. Avoid the exploitation of their clients for personal, professional, or institutional advantage, profit or interest.

Section III: Genetic Counselors and Their Colleagues

The genetic counselors' professional relationships with other genetic counselors, trainees, employees, employers and other professionals are based on mutual respect, caring, collaboration, fidelity, veracity and support. Therefore, genetic counselors work to:

1. Share their knowledge and provide mentorship and guidance for the professional development of other genetic counselors, employees, trainees and colleagues.
2. Respect and value the knowledge, perspectives, contributions, and areas of competence of colleagues, trainees and other professionals.
3. Encourage ethical behavior of colleagues.
4. Assure that individuals under their supervision undertake responsibilities that are commensurate with their knowledge, experience and training.
5. Maintain appropriate boundaries to avoid exploitation in their relationships with trainees, employees, employers and colleagues.
6. Take responsibility and credit only for work they have actually performed and to which they have contributed
7. Appropriately acknowledge the work and contributions of others.
8. Make employers aware of genetic counselors' ethical obligations as set forth in the NSGC Code of Ethics.

Section IV: Genetic Counselors and Society

The relationships of genetic counselors with society include interest and participation in activities that have the purpose of promoting the well-being of society and access to genetic services and health care. These relationships are based on the principles of veracity, objectivity and integrity. Therefore, genetic counselors, individually or through their professional organizations, work to:

1. Promote policies that aim to prevent genetic discrimination and oppose the use of genetic information as a basis for discrimination.

2. Serve as a source of reliable information and expert opinion on genetic counseling to employers, policymakers, payers, and public officials. When speaking publically on such matters, a genetic counselor should be careful to separate their personal statements and opinions made as private individuals from statements made on behalf of their employers or professional societies.
3. Participate in educating the public about the development and application of technological and scientific advances in genetics and the potential societal impact of these advances.
4. Promote policies that assure ethically responsible research in the context of genetics.
5. Adhere to applicable laws and regulations. However, when such laws are in conflict with the principles of the profession, genetic counselors work toward change that will benefit the public interest.

Adopted 1/92 by the National Society of Genetic Counselors, Inc.; Revised 12/04, 1/06, 4/17