

CHAPTER 271
SB 135-FN – FINAL VERSION

03/07/13 0356s
5June2013... 1718h
06/26/13 2089CofC
06/26/13 2190EBA

2013 SESSION

13-0874
10/01

SENATE BILL ***135-FN***

AN ACT relative to the regulation of the practice of genetic counseling.

SPONSORS: Sen. Carson, Dist 14; Sen. Lasky, Dist 13; Sen. Gilmour, Dist 12; Rep. Rosenwald, Hills 30; Rep. Harding, Graf 13

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill establishes the genetic counselors governing board in the office of licensed allied health professionals for the regulation of the practice of genetic counseling in this state. The bill also requires that professionals exempted from licensure but engaged in genetic counseling comply with the disclosure requirements applicable to genetic counselors.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to the regulation of the practice of genetic counseling.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 271:1 New Chapter; Genetic Counselors. Amend RSA by inserting after chapter 326-J the
2 following new chapter:

CHAPTER 326-K

GENETIC COUNSELORS

3
4
5 326-K:1 Definitions. In this chapter and RSA 328-F:

6 I. "ABGC" means the American Board of Genetic Counseling, its equivalent, or successor.

7 II. "ABMG" means the American Board of Medical Genetics, its equivalent, or successor.

8 III. "Board" means the genetic counselors governing board established in RSA 328-F.

9 IV. "Genetic counselor" means an individual, who is licensed by the board under this
10 chapter, to engage in the practice of genetic counseling.

11 V. "NSGC" means the National Society of Genetic Counselors, its equivalent, or successor.

12 VI. "Practice of genetic counseling" means, for the purposes of advising an individual client,
13 a client's family, or other licensed health care professionals:

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

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

19 (c) Identifying and coordinating genetic laboratory tests and other diagnostic studies as
20 appropriate for the genetic assessment;

21 (d) Integrating genetic laboratory test results and other diagnostic studies with personal
22 and family medical history to assess and communicate risk factors for genetic or medical conditions
23 and diseases;

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

26 (f) Evaluating the client's or family's responses to the condition or risk of recurrence and
27 provide client-centered counseling and anticipatory guidance; and

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1 (g) Providing written documentation of medical, genetic, and counseling information for
2 families and health care professionals.

3 326-K:2 Exemptions from Licensure. Except for the requirements under RSA 326-K:8, the
4 requirements for licensure under this chapter shall not apply to:

5 I. Any person licensed by the state to practice in a profession other than that of genetic
6 counseling when acting within the scope of the person's profession and doing work of a nature
7 consistent with the person's training. Such person shall not hold himself or herself out to the public
8 as a genetic counselor.

9 II. Any person employed as a genetic counselor by the federal government or an agency
10 thereof if such person provides genetic counseling services solely under the direction and control of
11 the organization by which he or she is employed.

12 III. A student, if the following conditions apply:

13 (a) The student is enrolled in an ABGC accredited genetic counseling educational program;

14 (b) The genetic counseling services performed by the student are an integral part of the
15 student's course of study;

16 (c) The genetic counseling services are performed under the direct supervision of a
17 licensed genetic counselor; and

18 (d) The student is designated by the title, "genetic counseling intern."

19 326-K:3 Eligibility for Initial Licensure. In addition to requirements under RSA 328-F, the
20 board shall require the following as a minimum to qualify for licensure. Each applicant shall:

21 I. Comply with the NSGC Code of Ethics.

22 II. Provide satisfactory evidence of having fulfilled the following criteria:

23 (a) Genetic counselor currently certified by ABGC or ABMG; or

24 (b) Medical geneticist currently certified by ABMG.

25 III. Be at least 18 years of age.

26 IV. Be of good moral character.

27 V. Demonstrate sufficient evidence of good professional character and reliability to satisfy
28 the board that the applicant shall faithfully and conscientiously avoid professional misconduct and
29 adhere to this chapter, RSA 328-F, and the board's rules.

30 326-K:4 Provisional License.

31 I. A provisional license may be issued by the board to an applicant who meets all of the
32 requirements for licensure except for the certification component and has been granted active
33 candidate status by ABGC.

34 II. A provisional license shall be valid for the ABGC examination cycle for which active
35 candidate status by the ABGC has been granted. Such provisional license shall expire automatically
36 upon the earliest of the following:

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- 1 (a) Issuance of a full license;
- 2 (b) Thirty days after the applicant fails to pass the certification examination; or
- 3 (c) Two years from the issuance of a provisional license.

4 III. A provisional license may only be extended upon approval of the board for good cause

5 shown.

6 IV. A provisional licensed genetic counselor shall work under the general supervision of a

7 licensed genetic counselor or a licensed physician at all times during which the provisional licensed

8 genetic counselor performs genetic counseling. An application for extension of the provisional license

9 shall be signed by the supervising licensed genetic counselor or supervising licensed physician.

10 V. The board is authorized to issue conditional provisional licenses in accordance with rules

11 adopted pursuant to RSA 541-A.

12 326-K:5 Prohibition on Unlicensed Practice; Professional Identification.

13 I. No person shall practice or represent himself or herself as a genetic counselor in this state

14 without first applying for and receiving a license or provisional license from the board to practice as

15 a licensed genetic counselor.

16 II. A genetic counselor whose license is suspended or revoked or whose surrender of license

17 with or without prejudice has been accepted by the board, shall promptly deliver the original license

18 to the board.

19 III. Individuals holding currently valid licenses issued under this chapter may use the title

20 “genetic counselor” and write the designation “licensed genetic counselor” following his or her

21 written name.

22 IV. No person shall represent himself or herself or the services offered by using the term

23 genetic counselor unless he or she is licensed in accordance with this chapter. No person, who is not

24 so licensed may use in connection with his or her name or place of business, the title “genetic

25 counselor,” “licensed genetic counselor,” “gene counselor,” “genetic consultant,” “genetic associate,” or

26 any words, letters, abbreviations or insignia indicating or implying a person holds a genetic

27 counseling license, or any similar words if the intent of such use is to imply that the person is

28 licensed.

29 V. Any person who states or implies by word or act that he or she is currently licensed to

30 practice genetic counseling at a time when he or she does not hold a currently valid license shall be

31 guilty of a misdemeanor.

32 326-K:6 Reciprocity. The board may, in its discretion, grant a license under this chapter to an

33 individual certified or licensed in another state if it determines that the requirements or standards

34 for certification or licensure in that state are equivalent to, or greater than, those established by this

35 chapter.

36 326-K:7 Compensation. Notwithstanding RSA 328-F:6 and RSA 328-F:15, I(g), the members of

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1 genetic counselors governing board shall serve without compensation for attendance at meetings and
2 shall not be reimbursed for travel expenses incurred in connection with the work of the board.

3 326-K:8 Privileged Communications. In addition to RSA 328-F:28:

4 I. No person shall disclose any information or results related to a genetic evaluation,
5 assessment, laboratory test, diagnostic study, or written documentation of genetic counseling, to any
6 person other than the client without prior written consent.

7 II. Information and results may be made available to the board for use in an investigation or
8 disciplinary proceeding under RSA 328-F concerning a licensed genetic counselor only if the results
9 are coded to maintain confidentiality of the client.

10 III. A violation of this section shall be subject to a civil action by an aggrieved individual
11 and, if successful, the aggrieved individual shall be awarded special or general damages of not less
12 than \$10,000 for each violation, and costs and reasonable legal fees.

13 326-K:9 Rulemaking. In addition to rules adopted pursuant to RSA 328-F:11, the board shall
14 adopt rules pursuant to RSA 541-A relative to:

15 I. Eligibility requirements for provisional licenses.

16 II. Application procedures for provisional licenses.

17 III. The requirements for direction and supervision of those practicing under provisional
18 licenses.

19 IV. The limitations on practice imposed on those practicing under provisional licenses.

20 326-K:10 Eligibility for Renewal of Licenses. Licensees are eligible for renewal of their licenses
21 if they:

22 I. Have completed 50 hours of continuing education which meet the requirements
23 established by the board through rulemaking pursuant to RSA 541-A and at least 50 percent of
24 which are directly related to the practice of genetic counseling.

25 II. Have not violated this chapter or RSA 328-F nor demonstrated poor professional
26 character.

27 271:2 Allied Health Professionals; Definition; Governing Board. Amend RSA 328-F:2, II to read
28 as follows:

29 II. "Governing boards" means individual licensing boards of athletic trainers, occupational
30 therapy assistants, occupational therapists, recreational therapists, physical therapists, physical
31 therapist assistants, respiratory care practitioners, ~~and~~ speech-language pathologists, **and genetic**
32 **counselors**.

33 271:3 New Paragraph; Allied Health Professionals; Genetic Counseling. Amend RSA 328-F:2 by
34 inserting after paragraph IX the following new paragraph:

35 X. "Genetic counseling" means genetic counseling as defined in RSA 326-K:1.

36 271:4 Governing Board; Establishment. Amend RSA 328-F:3, I to read as follows:

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1 I. There shall be established governing boards of athletic trainers, occupational therapists,
2 recreational therapists, respiratory care practitioners, physical therapists, ~~and~~ speech-language
3 pathologists, **and genetic counselors**.

4 271:5 New Paragraph; Genetic Counselors; Governing Board; Appointment. Amend RSA 328-
5 F:4 by inserting after paragraph IX the following new paragraph:

6 X. The genetic counselors governing board shall consist of 3 licensed genetic counselors, who
7 have actively engaged in the practice of genetic counseling in this state for at least 2 years, one
8 practicing physician with experience in working with genetic counselors, and one public member.
9 Initial appointment of professional members by the governor and council shall be qualified persons
10 practicing genetic counseling in this state. All subsequent appointments or reappointments shall
11 require licensure.

12 271:6 Renewals; Reference to Genetic Counselors Added. Amend RSA 328-F:19, I to read as
13 follows:

14 I. Initial licenses and renewals shall be valid for 2 years, except that timely and complete
15 application for license renewal by eligible applicants shall continue the validity of the licenses being
16 renewed until the governing board has acted on the renewal application. Licenses issued pursuant
17 to RSA 328-A, RSA 326-G, and RSA 326-J shall expire in even-numbered years and licenses issued
18 pursuant to RSA 326-C, RSA 326-E, ~~and~~ RSA 326-F, **and RSA 326-K** shall expire in odd-numbered
19 years.

20 271:7 Genetic Testing; Disclosure; Medical Practice or Hospital. Amend RSA 141-H:2, III to
21 read as follows:

22 III. Except as provided in paragraph II, or authorized by RSA 141-J, no person shall disclose
23 to any other person that an individual has undergone genetic testing, and no person shall disclose
24 the results of such testing to any other person, without the prior written and informed consent of the
25 individual, the parent, guardian, or custodian if the individual is a minor under the age of 18, or the
26 legal guardian or conservator if the individual is an incompetent person. ~~[Discussion and disclosure~~
27 ~~of genetic testing for a patient, requested of a physician by a patient, by appropriate professionals~~
28 ~~within a physician's medical practice or hospital shall not be a violation of this chapter.]~~

29 ***IV. Nothing in this section shall be construed to regulate or apply to genetic testing***
30 ***or genetic analysis used for diagnosis and treatment of a patient by a clinical laboratory***
31 ***that has received a specimen referral from the individual patient's treating physician,***
32 ***genetic counselor, or another clinical laboratory. Nothing in this section shall be***
33 ***construed so as to waive the requirement that the treating physician obtain specific***
34 ***informed consent in accordance with the provisions of this section.***

35 271:8 Effective Date. This act shall take effect July 1, 2013.

36 Approved: July 24, 2103

Effective Date: July 1, 2013

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