

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**Genetic Counselor Advisory Council**

Statutory Authority: 16 Delaware Code, Section 1799I(c) (16 **Del.C.** §1799I(c))

**FINAL**

**REPORT**

The Genetic Counselor Advisory Council (“Council”) established to assist the Board of Medical Licensure and Discipline (“Board”) in the performance of its duty relating to the regulation of genetic counselors is authorized by 24 **Del.C.** §1799I(c) to promulgate rules and regulations governing the practice of genetic counseling.

Pursuant to 24 **Del.C.** §1799I(c) the Council proposes to establish regulations regarding renewal of licensure, continuing education requirements and audits, and crimes substantially related to the practice of genetic counseling.

Pursuant to 29 **Del.C.** §10115, notice of the proposed amendments to the rules and regulations was published on August 1, 2011, in the Delaware *Register of Regulations*, Volume 15, Issue 2. Public notice of these proposed modifications to the Rules and Regulations was also published in two (2) newspapers of general circulation.

Pursuant to such notice a public hearing was conducted by the Council on September 9, 2011.

**SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

No members of the public commented at the hearing. No written comments were received in response to the proposed regulations.

**FINDINGS OF FACT WITH RESPECT TO THE EVIDENCE AND INFORMATION SUBMITTED**

There was no public comment received at the public hearing. No written comments were received in response to the proposed regulations.

The Council is a relatively new regulatory body and proposed to establish some very basic rules governing the practice of genetic counseling in Delaware: Regulation 1.0 sets forth the authority of the Council to establish regulations; Regulation 2.0 provides definitions for the Council, Regulation 3.0 states the purpose of the rules and regulations; Regulation 4.0 establishes the requirements and provides guidance to individuals seeking to renew a license to practice genetic counseling in the state of Delaware; Regulation 5.0 sets forth the minimum continuing education requirements a licensee must complete during each renewal period; Regulation 6.0 establishes the process the Council and Board will use to audit continuing education compliance and the review and hearing process; and Regulation 7.0 identifies those crimes substantially related to the practice of genetic counseling for purposes of licensure and discipline as those crimes set forth in Board of Medical Licensure and Discipline Rule 29.

The Council has proposed one non-substantive change to further clarify the requirements of Regulation 5.3.2.2. As published Regulation 5.3.2.2 provided:

5.3.2.2 The percentage of CEUs obtained in each category designated by ABGC should be scaled to fit the biennial renewal period,

The Council believes that the regulation is clearer and more instructive with examples:

5.3.2.2 The percentage of CEUs obtained in each category should be scaled to fit the biennial renewal period. The breakdown of CEUs should follow ABGC guidelines for recertification and be scaled for the renewal period. For example current guidelines state: at least 60% Category 1 CEUs, up to but no more than 40% Category 2 CEUs, PAC's may substitute for Category 1 CEUs for up to 20%. Therefore, for a full 2 year renewal cycle the CEU breakdown should be comprised of at least 3.75 Category 1 CEU's, up to but no more than 2.5 Category 2 CEU's. If using PACs the breakdown would be as follows: at least 2.5 Category 1 CEUs, up to but no more than 2.5 Category 2 CEU's and up to but no more than 1.25 PACs CEU's.

The Council finds that the proposed change to Regulation 5.3.2.2 is non-substantive and does not require re-publication of the proposed regulation.

The Medical Practice Act *Statement of Purpose* at 24 **Del.C.** §1701 provides:

“Recognizing that the practice of medicine and the practice of certain other healthcare professions are privileges

and not natural rights, it is hereby considered a matter of policy in the interest of public health, safety and welfare to provide laws covering the granting of those privileges and their subsequent use and control to provide regulations to the end that the public health, safety and welfare are promoted and that the public is properly protected from the unprofessional, improper, unauthorized, or unqualified practice of medicine and practice of certain other healthcare professions and from unprofessional conduct by persons unauthorized to practice medicine or to practice certain other healthcare professions.”

The Council finds that the proposed regulations meet the Council and Board’s primary objectives of protecting the public by establishing minimum standards renewal, continuing education and by identifying crimes substantially related to the practice of the genetic counseling.

In summary, the Council finds that adopting the proposed regulations meets the objectives of protecting the public as set forth in 24 **Del.C.** §1701 and are in the best interest of the citizens of the State of Delaware.

### **THE LAW**

The rulemaking authority of the Counsel and Board is provided by 24 **Del.C.** §1799I(c).

### **RECOMMENDATION**

Based on the findings, conclusions and the above discussion, it is the recommendation of the undersigned members of the Genetic Counselors Advisory Council to the Board of Medical Licensure and Discipline that the Board approve the proposed Rules and Regulations of the Genetic Counselors Advisory Council to be effective ten (10) days after their final publication in the Delaware *Register of Regulations*.

**Respectfully submitted this 9<sup>th</sup> day of September, 2011:**

Zohra J. Ali-Khan Catts, Council Member, Chair  
Sara Ennis, Council Member, Vice Chair  
Beth A. Keena, Council Member

### **ORDER**

**AND NOW**, to-wit, this 13<sup>th</sup> day of September, 2011;

**WHEREAS**, the Board has considered the attached Report of the Genetic Counselor Advisory Council concerning the hearing on the proposed establishment of the Rules and Regulations of the Genetic Counselor Advisory Council; and

**WHEREAS**, the Board finds that the Board and council have authority to establish regulations that the Board has determined to accept Council’s Report and approve the proposed Rule and Regulations set forth in the attached report.

**NOW THEREFORE:**

The proposed regulations of the Genetic Counselor Advisory Council as are hereby approved with the one non-substantive change to Regulation 5.3.2.1 noted in the Council’s Report.

**IT IS SO ORDERED:**

#### **BOARD OF MEDICAL LICENSURE AND DISCIPLINE**

Gregory Adams, M.D.	Evelyn Mendez, Public Member
John Banks, Public Member, Secretary	Raymond L. Moore, Sr., Public Member, President
George Brown, Public Member	Anthony M. Policastro, M.D.
Vonda Calhoun, Public Member	Karyl Rattay, M.D.
Stephen Cooper, M.D.	Mary Ryan, Public Member
Thomas Desperito, M.D.	Oluseyi Senu-Oke, M.D.
Vincent Lobo, D.O.	Daryl Sharman, M.D.

### **1799 Genetic Counselor Advisory Council**

#### **1.0 Source of Authority**

The Rules and Regulations herein contained constitute, comprise, and shall be known as the Rules and Regulations of the Genetic Counselor Advisory Council of the Board of Medical Licensure and Discipline, and are hereby promulgated, pursuant to 24 **Del.C.** §1799I(c).

#### **2.0 Definitions**

Whenever used in these Rules and Regulations unless expressly otherwise stated, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated.

"Board" means Delaware Board of Medical Licensure and Discipline.

"Council" means the Genetic Counselor Advisory Council of the Board of Medical Licensure and Discipline.

"Crime Substantially Related to the Practice of Genetic Counseling" means those crimes identified in Rule 29 of the Rules and Regulations of the Board of Medical Licensure and Discipline.

### **3.0 Purpose**

The purpose of the rules and regulations is to establish minimal acceptable levels of safe practice to protect the general public and to serve as a guide for the Council and Board to evaluate the safe and effective practice of genetic counseling.

### **4.0 Renewal of License**

- 4.1 Each license shall be renewed biennially. The failure of the Council and/or Board to notify a licensee of his/her expiration date and subsequent renewals does not, in any way, relieve the licensee of the requirement to renew his/her certificate pursuant to the regulations of the Council and 24 Del.C. Ch. 17, Subchapter 11.
- 4.2 Renewal may be effected by:
  - 4.2.1 filing a renewal application on the prescribed online application approved by the Council and provided by the Division of Professional Regulation. License renewal may be accomplished online at [www.dpr.delaware.gov](http://www.dpr.delaware.gov);
  - 4.2.2 providing other information as may be required by the Council to ascertain the licensee's good standing;
  - 4.2.3 attesting on the renewal application to having completed the continuing education required by Rule 5.0;
  - 4.2.4 payment of fees as determined by the Division of Professional Regulation.
- 4.3 Failure of a licensee to renew his/her license shall cause his/her license to expire. A licensee whose license has expired may renew his/her license within one (1) year after the expiration date upon fulfilling items 4.2.1 - 4.2.4 above, certifying that he/she has not practiced genetic counseling in Delaware while his/her license has expired, and paying the renewal fee and a late fee as determined by the Division of Professional Regulation.
- 4.4 No licensee will be permitted to renew his/her license once the one (1) year period has expired.
- 4.5 The former licensee may re-apply under the same conditions that govern applicants for new licensure under 24 Del.C. Ch. 17, Subchapter 11.
- 4.6 No genetic counselor shall practice in the State of Delaware during the period of time that his/her Delaware license has expired.

### **5.0 Continuing Education**

- 5.1 Continuing Education Credit Hours Required for Renewal
  - 5.1.1 Licensees are required to complete five (5) Continuing Education Units (CEU) biennially. A continuing education unit is equivalent to ten contact hours (a contact hour is 60 minutes). Licensees shall retain all certificates and other documented evidence of participation in an approved/accredited continuing education program for a period of at least (5) five years.
  - 5.1.2 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the Requirements of Rule 5.0.
  - 5.1.3 Attestation must be completed electronically at the time of renewal.
  - 5.1.4 Licensees selected for random audit pursuant to Rule 6.0 will be required to supplement the attestation with attendance verification.
  - 5.1.5 CEU hours shall be prorated for new licensees. A licensee for renewal shall follow the following schedule of reporting CEUs: if, at the time of renewal, you have been licensed for less than one year, NO continuing education is required; licensed for more than one year, but less than two years, half of the continuing education (2.5 CEUs) is required; licensed for two or more years, the full amount (5 CEUs) is required.
- 5.2 Exemptions
  - 5.2.1 A licensee who because of a physical or mental illness during the license period could not complete the continuing education requirement may apply through the Council to the Board of Medical Licensure and Discipline for a waiver. A waiver would provide for an extension of time or exemption from some or all of the continuing education requirements for one (1) renewal period. Should the illness extend beyond one (1) renewal period, a new request must be submitted.

5.2.2 A request for a waiver may be submitted up to the time of renewal

5.3 Acceptable Activities /Continuing Education Program Offerings

5.3.1 The overriding consideration in determining whether a specific activity/program qualifies as acceptable continuing education shall be that it is a planned program of learning which contributes directly to professional competence in the practice of Genetic Counseling

5.3.2 Licensees shall demonstrate that they have obtained CEUs in the categories and according to the criteria established by the American Board of Genetic Counselors (ABGC) for recertification, as may be amended from time to time.

5.3.2.1 CEUs must be completed during the biennial renewal cycle.

5.3.2.2 The percentage of CEUs obtained in each category [designated by ABGC] should be scaled to fit the biennial renewal period. [The breakdown of CEUs should follow ABGC guidelines for recertification and be scaled for the renewal period. For example current guidelines state: at least 60% Category 1 CEUs, up to but no more than 40% Category 2 CEUs, PAC's may substitute for Category 1 CEUs for up to 20%. Therefore, for a full 2 year renewal cycle the CEU breakdown should be comprised of at least 3.75 Category 1 CEU's, up to but no more than 2.5 Category 2 CEU's. If using PACs the breakdown would be as follows: at least 2.5 Category 1 CEUs, up to but no more than 2.5 Category 2 CEU's and up to but no more than 1.25 PACs CEU's.]

**6.0** **Audit of Continuing Education Unit Hours**

6.1 Audits Each Biennium

6.1.1 The Division of Professional Regulation shall randomly select from the list of renewed licensees a percentage of licensees, determined by the Council to be audited. The Council may also audit based on complaints or charges against an individual license, relative to compliance with continuing education requirements or based on a finding of past non-compliance during prior audits.

6.2 Documentation.

6.2.1 When a licensee is selected for audit, the licensee shall be required to submit documentation showing detailed accounting of the various CEUs claimed by the licensee. Licensees selected for random audit are required to supplement the attestation with supporting materials which may include a syllabus, agenda, itinerary or brochure published by the sponsor of the activity and a document showing proof of attendance (i.e., certificate, a signed letter from the sponsor attesting to attendance, report of passing test score). The Council shall attempt to verify the CEUs shown on the documentation provided by the licensee. Upon completion of the review, the Council will decide whether the licensee's CEUs meet the requirements of these regulations.

6.2.2 Any continuing education not meeting all provisions of these regulations shall be rejected in part or in whole by the Council.

6.2.3 Any incomplete or inaccurate documentation of continuing education may be rejected in part or in whole by the Council

6.2.4 Any continuing education that is rejected must be replaced by acceptable continuing education within a reasonable period of time established by the Council. This continuing education will not be counted towards the next renewal period.

6.3 Council Review and Hearing Process.

6.3.1 The Council shall review all documentation requested of any licensee shown on the audit list. If the Council determines the licensee has met the requirements, the licensee's license shall remain in effect. If the Council determines the licensee has not met the requirements, the licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. This hearing will be conducted to determine if there are any extenuating circumstances justifying the apparent noncompliance with these regulations. Unjustified noncompliance with these regulations shall be considered unprofessional conduct and grounds for discipline pursuant to 24 **Del.C.** §1799P(a)(5), subject to final approval of the Council's written recommendation by the Board.

**7.0** **Crimes Substantially Related to the Practice of Genetic Counseling**

Pursuant to 24 **Del.C.** §1799P(a)(6) the crimes determined by the Board to be substantially related to the practice of medicine are also determined to be substantially related to the practice of genetic counseling and may result in the denial of a license and/or disciplinary action against a licensee.

