

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
Statutory Authority: 24 Delaware Code, Section 1799I(c) (24 **Del.C.** §1799I(c))
24 **DE Admin. Code** 1799

FINAL

ORDER

1799 Genetic Counselor Advisory Council

After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on March 4, 2016 at a scheduled meeting of the Genetic Counselor Advisory Council ("the Council") of the Board of Medical Licensure and Discipline ("the Board") to receive comments regarding proposed amendments to the Council's rules and regulations. The Council had proposed revisions to its rules and regulations pertaining to license renewal and continuing education requirements. Specifically, a new Section 4.4 has been added to provide that, as a condition of renewal, each licensee must maintain his/her certification with the American Board of Genetic Counseling, the American Board of Medical Genetics or an organization that is recognized as equivalent by the Board. The required number of continuing education units has been changed from five to three and the breakdown of hours has been revised accordingly. These changes were proposed in the interests of greater clarity for licensees.

The proposed changes to the rules and regulations were published in the *Register of Regulations*, Volume 19, Issue 8, on February 1, 2016. The public hearing took place on March 4, 2016 at a scheduled Council meeting. Notice of the March 4, 2016 hearing was published in the *News Journal* (Exhibit 1) and the *Delaware State News*. Exhibit 2. Pursuant to 29 **Del.C.** §10118(a), the date to receive final written comments was March 19, 2016, 15 days following the public hearing. The Council deliberated on the proposed revisions at its regularly scheduled meeting on July 15, 2016.

Summary of the Evidence and Information Submitted

The following exhibits were made a part of the record:

Council Exhibit 1: *News Journal* Affidavit of Publication.

Council Exhibit 2: *Delaware State News* Affidavit of Publication.

The Council received no written or public comment.

Findings of Fact and Conclusions

The public was given notice and an opportunity to provide the Council with comments in writing and by testimony on the proposed amendments to the Council's rules and regulations. The Council did not receive any written comments and no members of the public attended the hearing to offer verbal comment.

In deliberations, the Council noted a typographical error in Section 5.3.2.2. "PACs may substitute for up .06 Category 1 CEU" should read "PACS may substitute for up to 0.6 category 1 CEU."

Pursuant to the Administrative Procedures Act, 29 **Del.C.** §10118(c), if an agency makes a non-substantive change to a proposed regulation, the agency shall not be required to re-propose the regulation change and go through the hearing process again. Because the change here is the matter of placement of a period, this non-substantive change is indicated in the regulation attached hereto as Exhibit A.

Pursuant to 24 **Del.C.** §1799I(c), the Council has the statutory authority to promulgate rules and regulations governing the practice of genetic counseling after a public hearing and subject to the approval of the Board. Given the absence of comment, either by testimony or in writing, the Council recommends to the Board that it approve the rules and regulations as published, with one non-substantive change, and attached hereto as Exhibit A.

RECOMMENDATION TO THE BOARD OF MEDICAL LICENSURE AND DISCIPLINE

By the unanimous affirmative vote of the undersigned members, the Genetic Counselor Advisory Council hereby adopts the rules and regulations as published in the *Register of Regulations* of February 1, 2016, Volume 19, Issue 8 and recommends approval of such rules and regulations as amended to the Board of Medical Licensure and Discipline.

If approved by the Board, these rules and regulations will be effective ten days after publication of the Board's final order in the *Register of Regulations*.

Respectfully submitted this 15th day of July, 2016.

Zohra J. Ali-Khan Catts, Chairperson (absent)

Sara Ennis Mora, Vice Chairperson

Garrett H. Colmorgen, M.D.
Angela Duker

Becky Milewski

AND NOW, this 19th day of July, 2016;

WHEREAS, the Board of Medical Licensure and Discipline has considered the attached recommendation of the Genetic Counselor Advisory Council for approval of amended rules and regulations related to license renewal and continuing education; and

WHEREAS, the Board has determined to approve the aforesaid rules and regulations as proposed by the Genetic Counselor Advisory Council and attached hereto as Exhibit A.

NOW THEREFORE IT IS ORDERED by the Board of Medical Licensure and Discipline:

1. The rules and regulations recommended by the Genetic Counselor Advisory Council governing license renewal and continuing education are hereby approved by the Board of Medical Licensure and Discipline.
2. The rules and regulations shall be effective ten days after publication of this Final Order in the *Register of Regulations*.

IT IS SO ORDERED this 19th day of July, 2016:

Gregory Adams, M.D.	Malvine Richard, Ed.D.
Garrett H. Colmorgen, M.D.	Mary Ryan
Stephen Cooper, M.D.	N.C. Vasuki
Georges A. Dahr, M.D.	Brian Villar, M.D.
Joseph M. Parise, D.O.	Sharon Williams-Mayo
Karyl Rattay, 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 Section 15.0]~~ 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:~~ License renewal shall be accomplished online at www.dpr.delaware.gov and shall include:
 - 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;~~
 - 4.2.2 ~~providing other information as may be required by the Council to ascertain the licensee's good standing;~~

- 4.2.31 ~~attesting on the renewal application to having completed~~ attestation of completion of the continuing education required by [Rule Section] 5.0; and
- 4.2.42 payment of fees as determined by the Division of Professional Regulation.
- 4.3 As a condition of renewal, each licensee shall maintain his/her certification with the American Board of Genetic Counseling, the American Board of Medical Genetics, or an organization that is recognized as equivalent.
- 4.4 As a condition of renewal, the licensee shall provide the Council with any other information as may be required by the Council to ascertain the licensee's good standing.
- 4.35 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 and 4.2.2 subsections 4.2 - 4.4]~~ 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.
- 4.46 No licensee will be permitted to renew his/her license once the one (1) year period has expired.
- 4.57 The former licensee may re-apply under the same conditions that govern applicants for new licensure under 24 Del.C. Ch. 17, Subchapter 11.
- 4.68 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)~~ three (3) 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 Section] 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 Section] 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 (21.5 CEUs) is required, all of which shall be Category 1 CEUs pursuant to subsection 5.3.2; licensed for two or more years, the full amount (~~53~~ 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 should be scaled to fit the biennial renewal period. The breakdown of CEUs should shall be as follows: ABGC guidelines for recertification and be scaled for the renewal period. For example current guidelines state: at least 60% 2 Category 1 CEUs, and up to but no more than 40% 1 Category 2 CEUs, PACs may substitute for up to [06 0.6] Category 1 CEUs for up to 20% of the total CEUs. Therefore, for a full 2 year renewal cycle the CEU breakdown should be comprised of at least 3.0 Category 1 CEUs, up to but no more than 2.0 Category 2 CEUs. If using PACs the breakdown would be as follows: at least 2.0~~

~~Category 1 CEUs, up to but no more than 2.0 Category 2 CEUs and up to but no more than 1.0 PACs.~~

16 DE Reg. 652 (12/01/12)

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.

15 DE Reg. 544 (10/01/11)

16 DE Reg. 652 (12/01/12)

20 DE Reg. 190 (09/01/16) (Final)