

BILL ANALYSIS

H.B. 2053
By: Klick
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In Texas, the practice of genetic counseling is not regulated, leaving patients vulnerable to negligence or substandard care by individuals without training or certification. Several states have an established licensure process for genetic counselors, including New Mexico, Oklahoma, Arkansas, Louisiana, Alabama, and Georgia. H.B. 2053 seeks to establish licensing procedures for genetic counselors under the Texas Department of Licensing and Regulation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 2 of this bill.

ANALYSIS

H.B. 2053 amends the Occupations Code to establish licensing requirements for the practice of genetic counseling and to establish the Licensed Genetic Counselor Advisory Board. The bill sets out the scope of that practice, which includes, among other activities, obtaining and evaluating individual, family, and medical histories to determine the risk for a genetic or medical condition or disease in a patient or patient's family members.

Licensing Requirements

H.B. 2053 requires a person to hold a genetic counselor license in order to act as a genetic counselor, engage in the practice of genetic counseling, or take certain actions to represent or imply that the person is a licensed genetic counselor in Texas. That licensing requirement takes effect September 1, 2022, and may not be construed to prohibit a physician or an employee or other person acting under a physician's delegated authority from representing to a patient or the public that the physician, employee, or person provides genetic counseling.

H.B. 2053 sets out license application requirements. To be eligible for a genetic counselor license, a license applicant must present evidence to the Texas Department of Licensing and Regulation (TDLR) that the applicant meets the following criteria:

- has passed an examination by a certifying entity, as defined by the bill, or an equivalent examination in genetic counseling approved by TDLR;
- is currently certified by a certifying entity in genetic counseling or medical genetics;
- has met the educational requirements of a certifying entity, which must include a master's degree in genetic counseling or medical genetics or an equivalent educational standard adopted by the certifying entity;

- is in compliance with all professional, ethical, and disciplinary standards established by the certifying entity; and
- is not subject to any disciplinary action by the certifying entity.

The bill sets the license expiration as the second anniversary of the date of issuance and provides for license renewal. The genetic counseling license does not authorize the practice of medicine as defined by state law.

H.B. 2053 exempts from its provisions a physician licensed in Texas who is not a licensed genetic counselor. The bill authorizes the following persons to engage in the practice of genetic counseling without holding a license:

- a person who is licensed, certified, or registered to practice in Texas in a health care-related occupation, acts within the occupation's scope of practice, and does not use the title "genetic counselor" or represent or imply the person is licensed as a genetic counselor;
- a student or intern who is pursuing a course of study or engaged in an applicable occupational or graduate-level training program and acting within the scope of the occupation or training program; and
- a certified genetic counselor who is not a Texas resident, performs an activity or provides a service in Texas for not more than 30 days during any year, and meets any other requirement established by Texas Commission of Licensing and Regulation (TCLR) rule.

For such purposes, a student or intern includes a trained genetic counselor or doctoral medical geneticist who has applied to take the certification examination and has not failed that examination more than twice.

Administration and Enforcement

H.B. 2053 requires TCLR to adopt rules for the administration and enforcement of the bill's provisions, set fees in amounts reasonable and necessary to cover the costs of that administration, and adopt rules that establish standards of ethical practice. The bill requires TDLR to do the following:

- administer and enforce the bill's provisions;
- evaluate license applicants' qualifications;
- provide for the examination of license applicants;
- issue a license to a compliant applicant who pays the required fees and meets any additional requirements established by TCLR rule;
- provide reasonable assistance to a person who wishes to file a complaint regarding a person or activity regulated under the license requirement;
- issue subpoenas, examine witnesses, and administer oaths under state law in connection with a hearing under the bill's provisions; and
- investigate persons engaging in practices that violate the bill's provisions.

The bill establishes the confidentiality of complaint and investigation information and provides for authorized disclosures, including the disclosure of notices of alleged violations and final disciplinary actions.

H.B. 2053 authorizes TCLR or TDLR's executive director to deny, revoke, or suspend a license, refuse to renew a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of the bill's licensing requirements, related rules, or an order of TCLR or TDLR's executive director. The bill authorizes TCLR, TDLR, or TDLR's executive director, effective September 1, 2022, to enforce the licensing requirements, rules, or orders by imposing an administrative or other penalty and taking enforcement actions authorized by law.

H.B. 2053 requires TCLR to adopt the rules, procedures, and fees necessary to administer the bill's provisions not later than May 1, 2022.

Licensed Genetic Counselor Advisory Board

H.B. 2053 creates the Licensed Genetic Counselor Advisory Board to provide advice and recommendations to TDLR on technical matters relevant to the administration of genetic counselor licensing. The bill does the following with respect to the board:

- sets out the composition of the nine-member board, appointed by TCLR's presiding officer with the approval of TCLR;
- provides for the designation of the presiding officer, conduct of the board, reimbursement of members' expenses, and the process to fill a board vacancy;
- limits board members to two consecutive six-year terms;
- authorizes a person who meets the license eligibility requirements to be appointed as an initial licensed genetic counselor member of the board regardless of whether the person holds a license; and
- requires TCLR's presiding officer, in making initial appointments, to designate three members for terms expiring February 1, 2023, three members for terms expiring February 1, 2025, and three members for terms expiring February 1, 2027.

The bill includes genetic counselors among the health-related professions to which certain requirements relating to the role of advisory boards in TCLR rulemaking apply.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2021.