

Department of Legislative Services  
 Maryland General Assembly  
 2002 Session

FISCAL NOTE

House Bill 1133 (Delegate Finifter)  
 Environmental Matters

Maryland Genetic Counselors Act

This bill provides for the regulation of genetic counselors by a State Board of Genetic Counselors within the Department of Health and Mental Hygiene. The bill specifies the board's duties and requires individuals to be licensed genetic counselors before they may conduct genetic testing in the State.

Fiscal Summary

**State Effect:** General fund revenues increase by \$10,800 in FY 2003. Out-year revenues increase to account for certification of new counselors and certification of provisional licensees. General fund expenditures increase by \$123,000 in FY 2003. Out-year expenditures include annualization and inflation.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
GF Revenue	\$10,800	\$10,300	\$10,300	\$14,600	\$14,900
GF Expenditure	123,000	152,000	155,800	159,800	164,100
Net Effect	(\$112,200)	(\$141,700)	(\$145,500)	(\$145,200)	(\$149,200)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** None.

Analysis

**Bill Summary:**

*Board Composition:* This bill creates a nine-member State Board of Genetic Counselors. Members serve three-year terms and the chairman is elected by a majority of the

members. Members of the board do not receive compensation for service, but are entitled to reimbursement for expenses.

*Board Duties:* The board is required to make recommendations to the Secretary of DHMH on the appropriate professional guidelines for genetic counselors, as well as recommendations on genetic tests that predict disease or disability with very high probability and whether the Secretary should require counseling as part of the informed consent to undergo these genetic tests. The board must also recommend criteria for physicians to recognize the need to refer patients to licensed genetic counselors.

The board is required to consult with the Joint National Institutes of Health and Federal Department of Energy working group on the ethical, legal, and social implications of the Human Genome Project, assess the reliability of each new test annually, and recommend rules that ensure the use of genetic testing will not unduly infringe on civil rights.

The board is required to make recommendations to the Governor and the General Assembly to ensure that the use of a new genetic test by insurers, employers, or educational institutions will not cause discrimination or a compromise of individual liberties. The board must make recommendations that ensure the availability of adequate genetic counseling to eligible individuals and create equitable access to the benefits of genetic testing to all citizens. The board may adopt regulations to carry out its functions.

*Registration of Genetic Counselors:* The bill requires an individual to be registered as a licensed genetic counselor before conducting any genetic testing in Maryland. Registration fees are determined through board regulation. All applicants must be at least 21 years old and of good moral character. The bill specifies the requirements for registration as a licensed genetic counselor and a provisional licensed genetic counselor. A provisional license expires after two years and may not be renewed more than three times.

*Board Discipline:* The board is authorized to discipline a licensed genetic counselor who fails to respect patient confidentiality, respect a patient's culture, beliefs, or emotional well-being. The board may discipline a licensed genetic counselor who fails to refer patients to other professionals when the counselor is unable to provide adequate care or a licensed counselor who fails to abide by the board's standards of professional conduct. The board must adopt regulations to establish disciplinary proceedings for licensed genetic counselors.

**Current Law:** An insurer, nonprofit health service plan, or health maintenance organization (HMO) may not use genetic information or a test, or a request for genetic services, to affect in any way the terms or conditions of a health insurance policy or contract. These entities may not request or require a genetic test, its results, or genetic information to determine whether or not to issue or renew health benefits or coverage.

These entities may not release identifiable genetic information or the results of a genetic test to any person who is not an employee of the insurer, nonprofit health service provider, the HMO, or a participating health care provider without the prior written authorization of the individual from whom the test results or genetic information was obtained. If authorized, the disclosure of identifiable genetic information must only be for the purpose of providing medical care or conducting research that has been approved by a federally established institutional review board. The Insurance Commissioner is authorized to issue orders if the provisions regarding the use of genetic tests are violated.

**Background:** According to the National Conference of State Legislatures, in 2001, Utah enacted a bill that requires licensing of genetic counselors. The National Society of Genetic Counselors reports that California enacted licensing legislation in 2000. States other than Maryland that are considering licensing legislation in 2002 are New Jersey and New York.

**State Revenues:** According to the American Board of Genetic Counseling, the entity responsible for certification of genetic counselors, there are currently 47 certified genetic counselors in Maryland who would be eligible for licensure under this bill. The Department of Health and Mental Hygiene (DHMH) plans to charge a \$200 licensing fee on an annual basis ( $47 \times \$200 = \$9,400$ ). DHMH also advises that 14 people would currently be eligible for the provisional license, which must be renewed every two years. DHMH advises that \$100 would be charged for the provisional license, on a biennial basis. Total revenues in fiscal 2003 would be \$10,800 ( $\$9,400 + \$1,400$ ).

The American Board of Genetic Counseling issues the certification examinations once every three years. Counselors may only be certified after taking the examination. The examination is scheduled for late 2002. The next one will not occur until late 2005. The increase in fiscal 2004 is due to an estimated increase of three in the number of certified counselors who could take the examination in fiscal 2003 (50 total). The American Board of Genetic Counselors advises that 125 to 150 people graduate annually in the field of genetic counseling. The estimate assumes that three new people per year would graduate from Maryland and become eligible for the provisional licenses. New graduates in fiscal 2004 and 2005 would not become eligible to take the certification exam until fiscal 2006. The increase in fiscal 2006 revenues accounts for three counselors each in fiscal 2004, 2005, and 2006, who will have to wait until fiscal 2006 to take the certification exam. Also, the 14 people who could be issued provisional licenses in fiscal 2003 would be able to take the certification exam in fiscal 2006. The estimate is based on all applicants passing the certification examination. The fiscal 2007 estimate is based on a total of 73 people who would be registered as licensed counselors and 3 new graduates who would pay the provisional licensing fee.

**State Expenditures:** Fiscal 2003 general fund expenditures are expected to increase by \$122,998 for the operation of the new board. This includes two part-time employees (a

0.5 program manager and a 0.5 administrative specialist) to manage the licensees and provide staff assistance to the board. Annual operating expenses include \$13,329 for board member expense reimbursement, \$12,000 annually for board member travel, both in-state and to national conferences, and \$37,500 for consulting services to help provide evaluations of genetic tests and their impacts as required under the bill:

Salaries	\$44,449
Member Reimbursement	13,329
Travel	12,000
Other Operating Expenses	<u>53,220</u>
<b>Total FY 2003 Expenditures</b>	<b>\$122,998</b>

DHMH advises that an additional \$400,000 may be needed in fiscal 2003 to purchase special licensing software for a state-of the-art database system. The Department of Legislative Services advises, however, that existing software currently used for other health licensing boards could be adapted to manage the licensees of the State Board of Genetic Counselors.

Out-year expenditures are based on salary increases of 3.5% annually, annualization and inflation.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene; National Society of Genetic Counselors, Inc.; American Board of Genetic Counseling; National Conference of State Legislatures; Department of Legislative Services

**Fiscal Note History:** First Reader - March 18, 2002  
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