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Support SB 34 - State Board of Physicians - Genetic Counselors - Licensing

The Issue

- Currently, there is no licensure pathway for genetic counselors in the state of Maryland.
- The state of Maryland has not established professional standards for genetic counselors practicing in the state or a disciplinary infrastructure for practitioners that fail to uphold the ethical standards of the profession
- Telemedicine is a critical mode of service delivery in genetic counseling and limited to providers who are licensed by a state body
    - Federal licensure waivers instituted during the COVID-19 pandemic have increased genetic counseling access to many Marylanders, however, these waivers cannot be relied upon to continue.

SB 34 Primary Purposes and Functions

- Providing licensure for genetic counselors:
    - Safeguards patients from the unregulated practice of genetic counseling
    - Establishes a professional accountability structure commensurate with similar allied health professions
    - Increases access to genetic counseling services through telemedicine
    - Enhances Maryland's competitive advantage to retain the state's pool of genetic counselors
- Establishes a Genetic Counseling Advisory Committee under the State Board of Physicians which will be tasked with:
    - Creating genetic counseling licensure regulations
    - Instituting licensure fees and renewal requirements for genetic counselors
    - Establishing penalties for noncompliance with licensure requirements

Background

- Twenty-six states currently license genetic counselors, the majority of whom house these licensing bodies in their respective state board of physicians
- Genetic counselors require a master's degree, board certification, and continuing education requirements
- Stakeholders and the Maryland Board of Physicians have made significant efforts to collaborate in the production of this bill, which passed unanimously in the Senate during the previous session

Sponsored Amendments

- Adjusted Advisory Committee representation:
    - 4 genetic counselors, 2 physicians, 1 consumer member
- Increased regulation on out of state practice to be limited to consultation
- Enhanced the supervision language and clarify supervision contract requirements for counselors recently graduated waiting to sit for certification exam
    - Clarified the requirements of the supervision contract
    - Mandated genetic counselor trainees disclose their licensure status while practicing during the 12 months post-graduation

SB0034/443523/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

19 JAN 21
11:15:24

BY: Senator Lam
(To be offered in the Education, Health, and Environmental Affairs Committee)

AMENDMENTS TO SENATE BILL 34
(First Reading File Bill)

AMENDMENT NO. 1

On page 2, in line 14, after “inaccuracies;” insert “authorizing a genetic counselor trainee to practice genetic counseling under certain circumstances; requiring a genetic counselor trainee to work under the supervision of a certain qualified supervisor at all times while practicing genetic counseling; requiring a qualified supervisor to take certain actions when providing general supervision to a genetic counselor trainee; requiring a genetic counselor trainee and a qualified supervisor to have a certain supervision contract; requiring a genetic counselor trainee to provide certain information to certain patients;”; and in line 29, strike “14–5G–28” and substitute “14–5G–29”.

AMENDMENT NO. 2

On page 8, in line 11, strike “**IN**” and substitute “**BY AND RESIDING IN**”; strike beginning with “**AND**” in line 12 down through “**YEAR**” in line 13 and substitute “**, IF THE GENETIC COUNSELOR IS ENGAGED IN CONSULTATION WITH A PHYSICIAN OR GENETIC COUNSELOR LICENSED IN THE STATE ABOUT A PARTICULAR PATIENT AND DOES NOT DIRECT PATIENT CARE**”; and strike beginning with “**UNDER**” in line 20 down through “**ORGANIZATION**” in line 24 and substitute “**IN ACCORDANCE WITH § 14–5G–22 OF THIS SUBTITLE**”.

On page 15, strike in their entirety lines 17 and 18; and in lines 19, 21, 27, 29, and 31, strike “**(17)**”, “**(18)**”, “**(19)**”, “**(20)**”, and “**(21)**”, respectively, and substitute “**(16)**”, “**(17)**”, “**(18)**”, “**(19)**”, and “**(20)**”, respectively.

(Over)

On page 16, in lines 8, 10, 12, 14, 18, 22, and 24, strike "**(22)**", "**(23)**", "**(24)**", "**(25)**", "**(26)**", "**(27)**", and "**(28)**", respectively, and substitute "**(21)**", "**(22)**", "**(23)**", "**(24)**", "**(25)**", "**(26)**", and "**(27)**", respectively.

On page 21, after line 19, insert:

"**14–5G–22.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "GENETIC COUNSELOR TRAINEE" MEANS AN INDIVIDUAL WHO GRADUATED FROM A GENETIC COUNSELING TRAINING PROGRAM ACCREDITED BY A NATIONAL ACCREDITING ORGANIZATION.

(3) "QUALIFIED SUPERVISOR" MEANS A LICENSED GENETIC COUNSELOR OR A PHYSICIAN WHO PROVIDES GENERAL SUPERVISION FOR A GENETIC COUNSELOR TRAINEE UNDER THIS SECTION.

(B) A GENETIC COUNSELOR TRAINEE MAY PRACTICE GENETIC COUNSELING IN ACCORDANCE WITH THIS SECTION UNDER THE SUPERVISION OF A QUALIFIED COUNSELOR DURING THE 12–MONTH PERIOD IMMEDIATELY FOLLOWING THE INDIVIDUAL'S GRADUATION FROM A GENETIC COUNSELING TRAINING PROGRAM ACCREDITED BY A NATIONAL ACCREDITING ORGANIZATION.

(C) A GENETIC COUNSELOR TRAINEE SHALL WORK UNDER THE GENERAL SUPERVISION OF A QUALIFIED SUPERVISOR, WITH WHOM THE TRAINEE HAS AN ANNUAL SUPERVISION CONTRACT, AT ALL TIMES WHILE PRACTICING GENETIC COUNSELING.

(D) WHEN PROVIDING GENERAL SUPERVISION, A QUALIFIED SUPERVISOR:

(1) SHALL BE RESPONSIBLE FOR ASSESSING THE WORK OF THE GENETIC COUNSELOR TRAINEE, INCLUDING THROUGH REGULAR MEETINGS AND CHART REVIEW; AND

(2) IS NOT REQUIRED TO BE PHYSICALLY PRESENT WHILE THE GENETIC COUNSELOR TRAINEE PRACTICES GENETIC COUNSELING.

(E) A GENETIC COUNSELOR TRAINEE AND A QUALIFIED SUPERVISOR SHALL HAVE AN ANNUAL SUPERVISION CONTRACT THAT:

(1) IS SIGNED BY BOTH THE GENETIC COUNSELOR TRAINEE AND THE QUALIFIED SUPERVISOR;

(2) IS MAINTAINED BY THE GENETIC COUNSELOR TRAINEE AND THE QUALIFIED SUPERVISOR FOR A PERIOD OF 5 YEARS AFTER THE DATE ON WHICH THE CONTRACT IS SIGNED; AND

(3) INCLUDES:

(I) THE DATE ON WHICH THE GENETIC COUNSELOR TRAINEE GRADUATED FROM A GENETIC COUNSELING TRAINING PROGRAM; AND

(II) THE DATE AFTER WHICH THE GENETIC COUNSELOR TRAINEE MAY NOT PRACTICE AS A GENETIC COUNSELOR TRAINEE UNDER THIS SECTION.

(F) THE GENETIC COUNSELOR TRAINEE SHALL PROVIDE TO EACH PATIENT:

(1) NOTICE OF THE GENETIC COUNSELOR TRAINEE'S STATUS AS A GENETIC COUNSELOR TRAINEE; AND

(2) THE IDENTITY OF THE GENETIC COUNSELOR TRAINEE'S QUALIFIED SUPERVISOR.";

and in lines 20 and 25, strike "**14–5G–22.**" and "**14–5G–23.**", respectively, and substitute "**14–5G–23.**" and "**14–5G–24.**", respectively.

On page 22, in lines 4, 9, 20, and 30, strike "**14–5G–24.**", "**14–5G–25.**", "**14–5G–26.**", and "**14–5G–27.**", respectively, and substitute "**14–5G–25.**", "**14–5G–26.**", "**14–5G–27.**", and "**14–5G–28.**", respectively; and in lines 21 and 22 and 25 and 26, in each instance, strike "**§§ 14–5G–22 THROUGH 14–5G–25**" and substitute "**§§ 14–5G–23 THROUGH 14–5G–26**".

On page 23, in line 3, strike "**14–5G–28.**" and substitute "**14–5G–29.**".

SB0034/673327/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

21 JAN 21
15:38:17

BY: Senator Lam
(To be offered in the Education, Health, and Environmental Affairs Committee)

AMENDMENTS TO SENATE BILL 34
(First Reading File Bill)

On page 5, in line 25, after "**COUNSELORS;**" insert "**AND**"; in line 26, strike "**THREE**" and substitute "**TWO**"; and strike beginning with "**; AND**" in line 26 down through "**MEMBER**" in line 27.

On page 6, strike in their entirety lines 7 through 20, inclusive; and in line 21, strike "**(E)**" and substitute "**(D)**".

On page 7, in line 4, strike "**(F)**" and substitute and "**(E)**".

On page 23, strike beginning with "one" in line 13 down through "member" in line 14 and substitute "two members who are certified genetic counselors"; and in line 15, strike "two members who are certified genetic counselors" and substitute "one member who is a certified genetic counselor".

THE AMERICAN SOCIETY OF
Breast Surgeons

National Society of
Genetic
Counselors

ASBrS-NSGC Joint Statement of Medical Societies Regarding Genetic Testing Requirements

Summary:

In an effort to emphasize the importance of genetic testing and to facilitate high-value genetics services by all clinicians, the ASBrS and the NSGC recognize the common goal of delivering quality genetic testing as part of optimal patient care for our patients. We want to assure that all patients who are eligible for testing have access. We recognize that some breast surgeons are prevented from ordering testing by institutional policies or insurer requirements. We believe any barriers to genetic testing pose the risk of exacerbating disparities in access to care.

It is proposed that:

1. Every patient who sees a breast surgeon should be evaluated for hereditary risk of cancer, potential need for genetic testing and/or genetic counseling.

   Breast surgeons with sufficient experience and appropriate training in hereditary risk assessment/genetic testing should be able to order genetic testing when indicated. The breast surgeon should be knowledgeable in genetic testing and be able to provide patient education, counseling, and make recommendations to their patients regarding genetic testing and genetically-targeted care pathways, consistent with the American College of Surgeons’ Commission on Cancer and National Accreditation Program for Breast Centers Standards on Cancer Risk Assessment, Genetic Counseling and Genetic Testing.

2. Genetic Counselors are a vital resource and provide valuable support in education, testing, and interpretation of genetic test results. A team approach to care is ideal, including both high-quality breast surgeons and genetics professionals for consultation and assistance as needed.

3. There are a multitude of different and equally effective genetic counseling service delivery models including in person and telemedicine. When necessary, these services can be made available within the particular time of surgical decision making for breast cancer treatment.

4. Increasing efforts will continue to facilitate the delivery of high value genetic counseling services through leveraging alternative service delivery models and fostering collaborative approaches to genetics service delivery between both genetics and non-genetics providers. This will effectively promote our mutual goal of providing hereditary risk assessment and genetic testing for all appropriate patients.

Jill R Dietz MD

Jill R. Dietz, MD, FACS
President
The American Society of Breast Surgeons

Gillian Hooker, PhD, ScM, LCGC
President
National Society of Genetic Counselors

The DNA Exchange

BY DNAEXCHANGEGUEST | NOVEMBER 30, 2020 · 4:58 PM

Bias In The Genetic Counseling Profession: Reimagining The Certification Exam

By Sarah Hopkins

Sarah Hopkins, MS, CGC works as a genetic counselor in a bleeding disorder clinic in NYC. She also works as a project coordinator for a COVID19 biobank. On Twitter @SarahGenetics

It has been observed for decades that genetic counseling is an overwhelmingly white profession. The profession has been sensitive to this, and organization leaders have endeavored to eliminate bias and reduce barriers to the field. In particular, it's been recognized that the Board exam has biased questions. Unlike in nursing or medicine, however, we don't know whether our Board pass rates vary by ethnicity because those data are not collected.

Standardized testing has disadvantaged people of color in numerous fields of testing since the early 1900s. Among the founders of standardized testing was Princeton psychologist and eugenicist Carl Brigham, who wrote that the SAT would help prove the superiority of the white race and prevent "the infiltration of white blood into the Negro." Standardized tests helped place US soldiers in units segregated by race and test score. Test scores have repeatedly been shown to predict the test taker's race and wealth, and not clinical competence. Civil rights lawsuits on behalf of people of color and students with disabilities have challenged the use of standardized testing in undergraduate and graduate admissions, as well as in certification in other professions.

Educational institutions have been dropping the tests, even more so during the pandemic. While Board certification is required by states that grant licensure, and most employers require it, that doesn't mean the Boards must continue in their current form.

Genetic counselors have devoted years of practice analyses and committee work towards removing bias in Board questions, and yet ethnic stereotyping persists. Racism continues through unconscious and unquestioned assumptions. I just learned from an MTV video, of all places, that the term "Caucasian," which we genetic counselors are among the last groups to use, is outdated and absurd. The Boards continue to be no more enlightened than I am. The exam I took featured a question with a Chinese American family silently refusing to discuss their shame surrounding a genetic condition. Another question described an "East Indian family," a eurocentric term best abandoned along with Caucasian. The East Indian couple features a husband making all the decisions while the wife sits silently. The only woman in the exam who has children with more than one partner is Hispanic. Inherited genetic conditions in the exam are "common in Jewish communities because of arranged marriages." One question asks about the use of interpreters and assumes you, the genetic counselor, are fluent only in English, and not, say, Mandarin.

Many, if not most genetic counselors are concerned with the lack of diversity in the field, about inequity in recruitment, admission, curriculum, hiring and promotion. We podcast and blog about it, we tweet and post, we meet virtually and in person. But trying to eliminate bias in multiple choice exams ignores the original mistake of using these exams in the first place. We're rearranging deck chairs on the Titanic.

Multiple choice tests do not lend themselves to the subtlety that is required in clinical practice. Patients don't present with five choices. If we want to ensure graduates are ready to practice, then we should use open-ended questions. Internist and essayist Danielle Ofri recommends that physician recertification be open-book, and not timed. She argues that open-book tests would mimic real life, that in clinical practice, memorization of facts alone is insufficient. We look things up and consult colleagues. Relying solely on memory, she writes, amounts to malpractice.

Open-ended questions are also preferable to multiple choice because they easily allow for change. We'll change our minds in one year, five years, ten years about which test to order, how we refer to an ethnic group, the way we approach a diagnosis. Multiple choice tests don't allow the kind of nimble approach we need as our practice changes. When we cling to a multiple choice exam to confer certification on genetic counselors, we are putting ourselves at the mercy of the testing industry. We are not allowing for inevitable change in a field that changes more quickly than most.

Exam questions could be written by a required number of genetic counselors who are from underrepresented ethnic groups. The Boards could be graded by genetic counselors, using an agreed-upon rubric developed by experts in each area. Graders could be awarded continuing education credits for their work. Pass rates should be reported by ethnic groups, perhaps over a three-year period, to enhance anonymity.

The challenges we face with the pandemic, coupled with the imperative to address systemic racism provide an opening to imagine a new approach to certification. We should dispense with a testing method that has never served our profession well. Next stop: diversifying graduate admissions.

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