

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 5458

By Delegates Rohrbach and Ellington

[Originating in the Committee on Government

Administration; Reported on February 25, 2026]

1 A BILL to amend and reenact §30-1D-1, §30-3-4, §30-3-5, §30-3-6, §30-3-7, §30-3-8, §30-3-9,
2 §30-3-10, of the Code of West Virginia, 1931, as amended; to amend the code by adding a
3 new section, designated §30-3-10b, to amend said code adding a new article, designated
4 §30-3H-1, §30-3H-2, §30-3H-3, §30-3H-4, §30-3H-5, §30-3H-6, §30-3H-7, §30-3H-8, §30-
5 3H-9, §30-3H-10, §30-3H-11, and §30-3H-12; and to repeal §30-3-7a, §30-3-11, §30-3-
6 11a, §30-3-11b, and §30-3-11c, relating to professionals to be licensed by the West
7 Virginia Board of Medicine; requiring criminal background checks of any applicant for a
8 license to engage in genetic counseling; defining terms; providing for board membership;
9 providing that the board may call emergency meetings; authorizing the delegation of duties
10 by the board; repealing certain provisions pertaining to radiologist assistants; providing for
11 certain use of electronic signatures; providing for the creation of a complaint file that is
12 separate from and in addition to a licensee's historical record; providing requirements for
13 licensure to practice medicine and surgery; podiatry and administrative medicine;
14 providing for certain special license types; repealing provisions relating to endorsement
15 and temporary licensure\ repealing certain provisions relating to the practice of medicine
16 and surgery in certain nursing homes; repealing certain provisions pertaining to
17 administrative medicine licenses; creating a Genetic Counselors Practice Act; requiring
18 criminal background checks of any applicant for a license to engage in genetic counseling;
19 requiring persons to possess a valid license prior to practicing genetic counseling;
20 providing licensure requirements for genetic counseling; stating the duties and powers of
21 the board with regard to genetic counseling; providing for the practice of active candidate
22 status and American Board of Genetic Counseling permittees; authorizing the board to
23 promulgate rules for legislative approval; providing for the expiration, renewal, and
24 reinstatement of licenses to practice genetic counseling; setting certain continuing
25 education requirements; getting a genetic counselor's scope of practice; providing for
26 disciplinary proceedings involving genetic counselors; authorizing the board or the

Attorney General to seek certain injunctive relief; requiring certain reports from health care facilities; prohibiting any genetic counselor or active candidate status permittee to represent that he or she is a licensed physician; and providing that any person who violates that prohibition is guilty of a felony and, upon conviction, shall be imprisoned for not less than one nor more than two years, or be fined not more than \$2,000, or both find and imprisoned.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1D. PROVISIONS AFFECTING CERTAIN BOARDS OF LICENSURE.

§30-1D-1. Criminal background checks required of new applicants.

(a) This article shall be known as "Lynette's Law."

(b) The requirements in subsection (c) of this section for criminal background checks apply to those persons applying to be licensed in West Virginia for the first time by the boards governing licensing under the following sections: ~~Section ten, article three of this chapter; section four, article three-e of this chapter; section eight, article four of this chapter; section nine, article five of this chapter; section six, article seven of this chapter; section three, article seven-a of this chapter; section eight, article eight of this chapter; section eight, article ten of this chapter; section four, article fourteen of this chapter; and section seven, article twenty-one of this chapter~~ §30-3-10, §30-3-10b, §30-3E-4, §30-3H-5; §30-4-8; §30-5-9; §30-7-6; §30-7A-3; §30-8-8; §30-10-8; §30-14-4; and §30-21-7.

(c) A person applying for licensing to a board listed in subsection (b) of this section must submit to a state and national criminal history record check, as set forth in this subsection: *Provided*, That an applicant for a license who is an attorney at law may submit a letter of good standing from the Clerk of the Supreme Court of Appeals of West Virginia in lieu of submitting to a state and national criminal history record check.

(1) This requirement is found not to be against public policy.

(2) The criminal history record check shall be based on fingerprints submitted to the West Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

(3) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(A) Submitting fingerprints for the purposes set forth in this subsection; and

(B) Authorizing the board, the West Virginia State Police and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

(4) The results of the state and national criminal history record check may not be released to or by a private entity except:

(A) To the individual who is the subject of the criminal history record check;

(B) With the written authorization of the individual who is the subject of the criminal history record check; or

(C) Pursuant to a court order.

(5) The criminal history record check and related records are not public records for the purposes of ~~chapter twenty-nine-b~~ §29B-1-1, et seq. of this code.

(6) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

(d) Before implementing the provisions of this subsection, the board shall propose rules for legislative approval in accordance with ~~article three, chapter twenty-nine-a~~ §29A-3-1 of this code. The rules shall set forth the requirements and procedures for the criminal history check and must be consistent with standards established by the Federal Bureau of Investigation and the National Crime Prevention and Privacy Compact as authorized by ~~42 U.S.C.A. §14611~~, 34 U.S.C. § 40311 et seq.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-4. Definitions.

As used in this article:

"ABMS" means the American Board of Medical Specialties.

"ACGME" means the Accreditation Council of Graduate Medical Education.

"Administrative medicine" means administration or management related to the practice of medicine or to the delivery of health care services using the medical knowledge, skill, and judgment of a licensed physician that may affect the health of the public or medical research, excluding clinical trials on humans. Administrative medicine does not include the authority to practice clinical medicine; examine, care for, or treat patients; prescribe medications, including controlled substances; or direct or delegate medical acts or prescriptive authority to others.

"Administrative medicine license" means a medical license restricted to the practice of administrative medicine. A physician with an administrative medicine license may manage the integration of clinical medicine, strategy, operations, and other business activities related to the delivery of health care services, advise organizations, both public and private, on health care matters; authorize and deny financial payments for care; organize and direct research programs; review care provided for quality; and perform other similar duties that do not require or involve direct patient care.

"APMLE" means the American Podiatric Medical Licensing Examination.

"Approved graduate medical education" means education received through: (1) an internship, residency, or clinical fellowship program conducted in the United States and accredited by either the ACGME or AOA; or (2) a residency program conducted in Canada and accredited by RCPSC.

"Approved medical school" means an allopathic school of medicine approved by the LCME or the board and which confers the degree of medical doctor or its equivalent upon graduation.

~~(4)~~ "Board" means the West Virginia Board of Medicine established in ~~section five~~ §30-3-5 of this article code.

"Clinical medicine" includes, but is not limited to:

(A) Direct involvement in patient evaluation, diagnosis, and treatment;

(B) Prescribing, administering, or dispensing any medication;

(C) Delegating medical acts, service, or prescriptive authority; and

(D) Supervision of physicians or podiatrists who practice clinical medicine, physicians and podiatrists engaged in graduate medical education, physician assistants who render medical services in collaboration with physicians, and/or the clinical practice of any other medical professional.

"ECFMG" means the Educational Commission for Foreign Medical Graduates.

"LCME" means the Liaison Committee on Medical Education.

"License" means the legal authorization issued by the board to: a fully qualified allopathic physician to engage in the regular practice of medicine and surgery; a fully qualified podiatrist to engage in the practice of podiatric medicine and surgery; or a fully qualified physician assistant to practice in collaboration with physicians licensed under this article or §30-14-1 et seq. of this code.

~~(2)~~ "Medical peer review committee" means a committee of, or appointed by, a state or local professional medical society, or a committee of, or appointed by, a medical staff of a licensed hospital, long-term care facility or other health care facility, or any health care peer review organization as defined in ~~section one, article three-c~~ §30-3C-1 of this chapter code, or any other organization of professionals in this state formed pursuant to state or federal law and authorized to evaluate medical and health care services.

~~(3)~~ "Practice of medicine and surgery" means the diagnosis or treatment of, or operation or prescription for, any human disease, pain, injury, deformity or other physical or mental condition.

"Surgery" includes the use on humans of lasers, ionizing radiation, pulsed light and radiofrequency devices. The provisions of this section do not apply to any person who is a duly licensed health care provider under other pertinent provisions of this code and who is acting within the scope of his or her license.

(4) "Practice of podiatry" means the examination, diagnosis, treatment, prevention and care of conditions and functions of the human foot and ankle by medical, surgical and other scientific knowledge and methods; with surgical treatment of the ankle authorized only when a podiatrist has been granted privileges to perform ankle surgery by a hospital's medical staff credentialing committee based on the training and experience of the podiatrist; and medical and surgical treatment of warts and other dermatological lesions of the hand which similarly occur in the foot. When a podiatrist uses other than local anesthesia, in surgical treatment of the foot, the anesthesia must be administered by, or under the direction of, an anesthesiologist or certified registered nurse anesthetist authorized under the State of West Virginia to administer anesthesia. A medical evaluation shall be made by a physician of every patient prior to the administration of other than local anesthesia.

"Practice credential" or "credential" means any permit, certification, registration, or authorization, other than a license, issued by this Board which authorizes the credential holder to practice allopathic or podiatric medicine and surgery, or to practice as a physician assistant, to patients in West Virginia within the limits established for the specific credential type.

"RCPSC" means the Royal College of Physicians and Surgeons of Canada.

~~(5) "State health officer" means the commissioner for the Bureau for Public Health or his or her designee, which officer or designee shall be a physician and shall act as secretary of the board~~
a physician licensed to practice in this state who has been appointed pursuant to §16-1-5 of this code. The state health officer or, in the absence of an appointed state health officer, the West Virginia licensed physician designated by the appointing authority to serve as interim state health officer, shall serve as secretary of the board and shall carry out any and all responsibilities assigned in this article to the secretary of the board.

"USMLE" means the United States Medical Licensing Examination.

§30-3-5. West Virginia Board of Medicine powers and duties continued; appointment and terms of members; vacancies; removal.

1 (a) The West Virginia Board of Medicine has assumed, carried on, and succeeded to all the
2 duties, rights, powers, obligations, and liabilities heretofore belonging to or exercised by the
3 Medical Licensing Board of West Virginia. All the rules, orders, rulings, licenses, certificates,
4 permits, and other acts and undertakings of the Medical Licensing Board of West Virginia as
5 heretofore constituted have continued as those of the West Virginia Board of Medicine until they
6 expired or were amended, altered, or revoked. The board remains the sole authority for the
7 issuance of licenses to practice allopathic medicine and surgery, ~~to practice~~ and podiatry, and to
8 practice as physician assistants in this state ~~under the supervision of~~ in collaboration with
9 physicians licensed under this article. The board shall continue to be a regulatory and disciplinary
10 body for the practice of medicine and surgery, the practice of podiatry, and for physician assistants
11 in this state.

12 ~~The board shall consist of 15 members. One member shall be the state health officer ex~~
13 ~~officio, with the right to vote as a member of the board. The other 14 members shall be appointed~~
14 ~~by the Governor, with the advice and consent of the Senate. Eight of the members shall be~~
15 ~~appointed from among individuals holding the degree of doctor of medicine, and one shall hold the~~
16 ~~degree of doctor of podiatric medicine. Two members shall be physician assistants licensed by the~~
17 ~~board. Each of these members must be duly licensed to practice his or her profession in this state~~
18 ~~on the date of appointment and must have been licensed and actively practicing that profession for~~
19 ~~at least five years immediately preceding the date of appointment. Three lay members shall be~~
20 ~~appointed to represent health care consumers. Neither the lay members nor any person of the lay~~
21 ~~members' immediate families shall be a provider of or be employed by a provider of health care~~
22 ~~services. The state health officer's term shall continue for the period that he or she holds office as~~
23 ~~state health officer. Each other member of the board shall be appointed to serve a term of five~~
24 ~~years: *Provided*, That the members of the Board of Medicine holding appointments on the effective~~
25 ~~date of this section shall continue to serve as members of the Board of Medicine until the~~
26 ~~expiration of their term unless sooner removed. Each term shall begin on October 1 of the~~

~~applicable year and a member may not be appointed to more than two consecutive full terms on the board.~~

~~A person is not eligible for membership on the board who is a member of any political party executive committee or, with the exception of the state health officer, who holds any public office or public employment under the federal government or under the government of this state or any political subdivision thereof.~~

~~In making appointments to the board, the Governor shall, so far as practicable, select the members from different geographical sections of the state. When a vacancy on the board occurs and less than one year remains in the unexpired term, the appointee shall be eligible to serve the remainder of the unexpired term and two consecutive full terms on the board.~~

~~No member may be removed from office by the Governor except for official misconduct, incompetence, neglect of duty, or gross immorality: *Provided*, That the expiration, surrender, or revocation of the professional license by the board of a member of the board shall cause the membership to immediately and automatically terminate.~~

(b) The board shall consist of the following 15 members:

(1) The state health officer, who shall serve ex officio, with the right to vote as a member of the board, for the length of his or her term as state health officer;

(2) Eight allopathic physicians;

(3) One podiatrist;

(4) Two physician assistants; and

(5) Three citizen members.

(c) With the exception of the state health officer, all members shall be appointed by the Governor with the advice and consent of the Senate. In making appointments to the board, the Governor shall, so far as practicable, select the members from different geographical sections of the state.

52 (d) A person is not eligible for membership on the board who is a member of any political
53 party executive committee or, with the exception of the state health officer, who holds any public
54 office.

55 (e) To be eligible to serve on the board, physicians, podiatrists, and physician assistants
56 shall:

57 (1) Reside in West Virginia;

58 (2) Hold an active, full and unrestricted license to practice as an allopathic physician,
59 podiatrist, or physician assistant in West Virginia, and have held such license for at least five
60 years; and

61 (3) Be engaged in active clinical practice in this state as a licensed provider and have a
62 history of active clinical practice in West Virginia for the five years prior to the date of appointment.
63 "Active clinical practice" means that the licensee is engaged in the full-time practice of clinical
64 medicine in West Virginia for a minimum of 50 percent of the licensee's professional practice.

65 (f) To be eligible to serve on the board, citizen members, who represent the interests of
66 health care consumers, and who are appointed to the board after January 1, 2026:

67 (1) Shall reside in West Virginia and have a history of residing in West Virginia for at least
68 five years prior to appointment;

69 (2) May not be licensed under the provisions of this article and shall never have performed
70 any services as a licensed health care provider; and

71 (3) May not have a financial interest in the practice of the professions regulated by the
72 board. A person shall be deemed to have a financial interest in the practice of the professionals
73 regulated by the board if the individual:

74 (A) Owns or operates a business that is engaged in the delivery of health care services or
75 the provision of health care related goods, services, or staffing;

76 (B) Is married to a health care provider who is licensed to practice in this state; or

77 (C) Is employed by an entity which provides health care goods or services to West Virginia
78 patients if the individual's work responsibilities relate, in whole or in part, to the delivery of health
79 care services, health care administration, management, or policy.

80 (g) Board membership terms shall begin on October 1 of the applicable year, and a
81 member may not be appointed to more than two consecutive full terms on the board.

82 (h) When a vacancy on the board occurs and less than one year remains in the unexpired
83 term, the appointee shall be eligible to serve the remainder of the unexpired term and two
84 consecutive full terms on the board.

85 (i) A member whose term has expired may continue to serve until an eligible successor has
86 been appointed.

87 (j) A member who has served two consecutive full terms may not be selected for re-
88 appointment for at least one year after completion of his or her second full term.

89 (k) Excepting the state health officer, whose term shall be limited to their service in that
90 office, a member of the board immediately and automatically forfeits membership to the board if:

91 (1) The member's license to practice is suspended, revoked, surrendered, expired, or
92 placed in inactive status;

93 (2) The member is convicted of a felony under the laws of any jurisdiction;

94 (3) The member no longer meets the active clinical practice requirement;

95 (4) The member becomes a non-resident of this state; or

96 (5) A citizen member commences providing health care services or develops a financial
97 interest in the practice of the professions regulated by the board.

98 (l) No member may be removed from office by the Governor except for official misconduct,
99 incompetence, neglect of duty, or gross immorality.

§30-3-6. Conduct of business of West Virginia Board of Medicine; meetings; officers;
compensation; expenses; quorum.

1 Every two years the board shall elect from among its members a president and vice
2 president. Regular meetings shall be held as scheduled by the rules of the board. Special
3 meetings and emergency meetings of the board may be called by the joint action of the president
4 and vice president or by any three members of the board ~~on seven days' prior written notice by~~
5 ~~mail postage prepaid or electronic means or, in case of emergency, on two days' notice by~~
6 ~~telephone and electronic means~~. With the exception of the state health officer, members of the
7 board shall receive compensation and expense reimbursement in accordance with ~~section eleven,~~
8 ~~article one~~ §30-1-11 of this ~~chapter~~code.

9 A majority of the membership of the board constitutes a quorum for the transaction of
10 business, and business is transacted by a majority vote of a quorum, except for disciplinary
11 actions which shall require the affirmative vote of not less than five members or a majority vote of
12 those present, whichever is greater.

13 Meetings of the board shall be held in public session. Disciplinary proceedings, prior to a
14 finding of probable cause as provided in ~~subsection §30-3-14(p), section fourteen~~ of this
15 ~~article~~code, shall be held in closed sessions, unless the party subject to discipline requests that
16 the proceedings be held in public session.

§30-3-7. Powers and duties of West Virginia Board of Medicine.

1 (a) The board is autonomous and, in accordance with this article, shall determine
2 qualifications of applicants for licenses and other practice credentials to practice medicine and
3 surgery, to practice podiatry, and to practice as a physician assistant ~~for a physician in~~
4 collaboration with physicians licensed under this article ~~or §30-14-1 et. seq of this code~~, and shall
5 issue licenses and other practice credentials to qualified applicants and shall regulate the
6 professional conduct and discipline of such individuals. In carrying out its functions, the board
7 may:

8 (1) Adopt such rules as are necessary to carry out the purposes of this article;

(2) Hold hearings and conduct investigations, subpoena witnesses and documents and administer oaths;

(3) Institute proceedings in the courts of this state to enforce its subpoenas for the production of witnesses and documents and its orders and to restrain and enjoin violations of this article and of any rules promulgated under it;

(4) Employ investigators, attorneys, hearing examiners, consultants and such other employees as may be necessary, who shall be exempt from the classified service of the Division of Personnel and who shall serve at the will and pleasure of the board.

(5) Enter into contracts and receive and disburse funds according to law;

(6) Establish and certify standards for ~~the supervision and certification of~~ physician assistants;

(7) Authorize medical and podiatry corporations in accordance with the limitations of ~~section fifteen~~ §30-3-15 of this article code to practice medicine and surgery or podiatry through duly licensed physicians, ~~or~~ podiatrists or physician assistants; and

(8) Establish the circumstances under which the approval of applications and the issuance of licenses and other practice credentials may be delegated to board staff; and

(9) Perform such other duties as are set forth in this article or otherwise provided for in this code.

(b) The board shall submit an annual report of its activities to the Legislature. The report shall include a statistical analysis of complaints received, charges investigated, charges dismissed after investigation, the grounds for each such dismissal and disciplinary proceedings and disposition.

§30-3-7a. Findings and Rule-making authority.

[Repealed.]

§30-3-8. State health officer to act as secretary of the board.

1 The state health officer, in addition to being a member of the board, shall act as its
2 secretary. He or she shall, together with the president of the board, sign all licenses, reports,
3 orders and other documents that may be required by the board in the performance of its duties.

4 With the authorization of the board president and secretary, the board may utilize
5 electronic signatures on licenses and other practice credentials.

**§30-3-9. Records of board; expungement; examination; notice; public information;
voluntary agreements relating to alcohol or chemical dependency; confidentiality of
same; physician-patient privileges.**

1 (a) The board shall maintain a permanent record of the names of all physicians, podiatrists,
2 and physician assistants, licensed, certified or otherwise lawfully practicing in this state and of all
3 persons applying to be so licensed to practice, along with an individual historical record for each
4 such individual containing reports and all other information furnished the board under this article or
5 otherwise. ~~Such~~ The record may include, in accordance with rules established by the board,
6 additional items relating to the individual's record of professional practice that will facilitate proper
7 review of such individual's professional competence.

8 (b) Upon a determination by the board that any report submitted to it is without merit, the
9 report shall be expunged from the individual's historical record.

10 (c) A physician, podiatrist, physician assistant or applicant, or authorized representative
11 thereof, has the right, upon request, to examine his or her own individual historical record
12 maintained by the board pursuant to this article and to place into such record a statement of
13 reasonable length of his or her own view of the correctness or relevance of any information
14 existing in such record. ~~Such~~ The statement shall at all times accompany that part of the record in
15 contention.

16 (d) A physician, podiatrist, physician assistant or applicant has the right to seek through
17 court action the amendment or expungement of any part of his or her historical record.

18 (e) A physician, podiatrist, physician assistant or applicant shall be provided written notice
19 within ~~thirty~~ 30 days of the placement and substance of any information in his or her individual
20 historical record that pertains to him or her and that was not submitted to the board by him or her.

21 (f) Except for information relating to biographical background, education, professional
22 training and practice, a voluntary agreement entered into pursuant to ~~subsection~~ §30-3-9(h) of this
23 ~~section~~code and which has been disclosed to the board, prior disciplinary action by any entity, or
24 information contained on the licensure application, the board shall expunge information in an
25 individual's historical record unless it has initiated a proceeding for a hearing upon such
26 information within two years of the placing of the information into the historical record.

27 (g) Orders and decisions of the board relating to disciplinary action against a physician,
28 podiatrist or physician assistant are public information and shall be placed into the historical
29 record.

30 (h)(1) In order to encourage voluntary participation in monitored alcohol chemical
31 dependency or major mental illness programs and in recognition of the fact that major mental
32 illness, alcoholism and chemical dependency are illnesses, a physician, podiatrist or physician
33 assistant licensed, certified or otherwise lawfully practicing in this state or applying for a license to
34 practice in this state may enter into a voluntary agreement with the physician health program as
35 defined in ~~section two, article three-d~~ §30-3D-2 of this ~~chapter~~ code. The agreement between the
36 physician, podiatrist or physician assistant and the physician health program shall include a jointly
37 agreed upon treatment program and mandatory conditions and procedures to monitor compliance
38 with the program of recovery.

39 (2) Any voluntary agreement entered into pursuant to this subsection shall not be
40 considered a disciplinary action or order by the board, shall not be disclosed to the board and shall
41 not be public information if:

42 (A) ~~Such~~The voluntary agreement is the result of the physician, podiatrist or physician
43 assistant self-enrolling or voluntarily participating in the board-designated physician health
44 program;

45 (B) The board has not received nor filed any written complaints regarding said physician,
46 podiatrist or physician assistant relating to an alcohol, chemical dependency or major mental
47 illness affecting the care and treatment of patients, nor received any reports pursuant to
48 subsection §30-3-14(b), ~~section fourteen~~ of this article~~code~~ relating to an alcohol or chemical
49 dependency impairment; and

50 (C) The physician, podiatrist or physician assistant is in compliance with the voluntary
51 treatment program and the conditions and procedures to monitor compliance.

52 (3) If any physician, podiatrist or physician assistant enters into a voluntary agreement with
53 the board-approved physician health program, pursuant to this subsection and then fails to comply
54 with or fulfill the terms of said agreement, the physician health program shall report the
55 noncompliance to the board within ~~twenty-four~~24 hours. The board may initiate disciplinary
56 proceedings pursuant to subsection §30-3-14(a)(1), ~~section fourteen~~ of this article~~code~~ or may
57 permit continued participation in the physician health program or both.

58 (4) If the board has not instituted any disciplinary proceeding as provided for in this article,
59 any information received, maintained or developed by the board relating to the alcohol or chemical
60 dependency impairment of any physician, podiatrist or physician assistant and any voluntary
61 agreement made pursuant to this subsection shall be confidential and not available for public
62 information, discovery or court subpoena, nor for introduction into evidence in any medical
63 professional liability action or other action for damages arising out of the provision of or failure to
64 provide health care services.

65 In the board's annual report of its activities to the Legislature required under ~~section seven~~
66 §30-3-7 of this article~~code~~, the board shall include information regarding the success of the
67 voluntary agreement mechanism established therein: *Provided*, That in making ~~such~~the report,

the board ~~shall~~may not disclose any personally identifiable information relating to any physician, podiatrist or physician assistant participating in a voluntary agreement as provided herein.

Notwithstanding any of the foregoing provisions, the board may cooperate with and provide documentation of any voluntary agreement entered into pursuant to this subsection to licensing boards in other jurisdictions of which the board has become aware and may be appropriate.

(i) When the board receives a report submitted pursuant to the provisions of §30-3-14 of this code, or when the board receives or initiates a complaint regarding the conduct of anyone practicing medicine or surgery, the board shall create a separate complaint file in which the board shall maintain all documents relating to the investigation and action upon the alleged conduct. The final disposition of a complaint is public information and shall be placed in the physician, podiatrist, or physician assistant's historical record.

(j) Any physician-patient or provider-patient privilege does not apply in any investigation or proceeding by the board, or by a medical peer review committee, or by a hospital governing board with respect to relevant hospital medical records, while any of the aforesaid are acting within the scope of their authority: *Provided*, That the disclosure of any information pursuant to this provision shall not be considered a waiver of any such privilege in any other proceeding.

§30-3-10. Licenses to practice allopathic and podiatric medicine and surgery ~~or podiatry~~.

~~(a) A person seeking licensure as an allopathic physician shall apply to the board.~~

~~(b) License to Practice Allopathic Medicine and Surgery. – Graduates of approved medical schools located in the United States, Canada, or Puerto Rico. The board may grant a license to practice allopathic medicine and surgery to an applicant~~ A license may be granted to an applicant who has graduated and received the degree of doctor of medicine or its equivalent from a school of medicine located within the United States, the Commonwealth of Puerto Rico, or Canada, and is approved by the ~~Liaison Committee on Medical Education~~ LCME or by the board, and who:

(1) Submits a complete application;

(2) Pays the applicable fees;

(3) Demonstrates to the board's satisfaction that the applicant:

~~(A) Is of good moral character;~~

~~(BA)~~ Is physically and mentally capable of engaging in the practice of medicine and surgery;

~~(CB)~~ Has, within 10 consecutive years, passed all component parts of the ~~United States Medical Licensing Examination~~ USMLE or any prior examination or examination series approved by the board which relates to a national standard, is administered in the English language, and is designed to ascertain an applicant's fitness to practice medicine and surgery: Provided, That the board may accept an examination sequence which was successfully completed in more than 10 consecutive years if the applicant holds current specialty board certification from a member board of ABMS;

~~(DC)~~ Has successfully completed: one year of approved graduate medical education; and

~~(i) A minimum of one year of graduate clinical training in a program is approved by the Accreditation Council for Graduate Medical Education; or~~

~~(ii) A graduate medical education residency program outside of the United States and a minimum of one year of fellowship training in the United States in a clinical field related to the applicant's residency training which was completed:~~

~~(I) At an institution that sponsors or operates a residency program in the same clinical field or a related clinical field approved by the Accreditation Council for Graduate Medical Education; or~~

~~(II) At a time when accreditation was not available for the fellowship's clinical field and the board has determined that the training was similar to accredited training due to objective standards, including, but not limited to, the presence of other accredited programs at the sponsoring institution during the applicant's clinical training at the fellowship location; and~~

~~(ED)~~ Meets any other criteria for licensure set forth in this article or in rules promulgated by the board pursuant to §30-3-7 of this code and in accordance with §29A-3-1 *et seq.* of this code.

(~~eb~~) License to Practice Allopathic Medicine and Surgery – International Medical Graduates who have completed approved graduate medical education.

The board may grant a license to practice allopathic medicine and surgery to an applicant
~~A license may be granted to an applicant~~ who has received the degree of doctor of medicine or its equivalent from a an approved school of medicine located outside of the United States, the Commonwealth of Puerto Rico, and Canada, who:

(1) Submits a complete application;

(2) Pays the applicable fees;

(3) Demonstrates to the board's satisfaction that the applicant:

~~(A) Is of good moral character;~~

~~(BA)~~ Is physically and mentally capable of engaging in the practice of medicine and surgery;

~~(CB)~~ Has, within 10 consecutive years, passed all component parts of the ~~United States Medical Licensing Examination~~ USMLE or any prior examination or examination series approved by the board which relates to a national standard, is administered in the English language, and is designed to ascertain an applicant's fitness to practice medicine and surgery: Provided, That the board may accept an examination sequence which was successfully completed in more than 10 consecutive years if the applicant holds current specialty board certification from a member board of ABMS;

~~(DC)~~ Has successfully completed:

~~(i) A minimum of two years of graduate clinical training approved by the Accreditation Council for Graduate Medical Education;~~ Two years of approved graduate medical education; or

~~(ii) A minimum of one year of graduate clinical training approved by the Accreditation Council for Graduate Medical Education or one year of fellowship training which comports with the requirements of subparagraph (iii) of this paragraph~~ One year of approved graduate medical

education and the applicant holds a current certification by a member board of the ~~American Board~~
~~of Medical Specialties~~ABMS; or

~~(iii) A graduate medical education residency program outside of the United States and a~~
~~minimum of two years of fellowship training in the United States in a clinical field related to the~~
~~applicant's residency training which was completed:~~

~~(I) At an institution that sponsors or operates a residency program in the same clinical field~~
~~or a related clinical field approved by the Accreditation Council for Graduate Medical Education; or~~

~~(II) At a time when accreditation was not available for the fellowship's clinical field and the~~
~~board has determined that the training was similar to accredited training due to objective~~
~~standards, including, but not limited to, the presence of other accredited programs at the~~
~~sponsoring institution during the applicant's clinical training at the fellowship location;~~

~~(ED) Holds a valid ECFMG certificate~~ certification ~~issued by the Educational Commission~~
~~for Foreign Medical Graduates or:~~

~~(i) Holds a full, unrestricted, and unconditional license to practice medicine and surgery~~
~~under the laws of another state, the District of Columbia, Canada, or the Commonwealth of Puerto~~
~~Rico;~~

~~(ii) Has been engaged in the practice of medicine on a full-time professional basis within~~
~~the state or jurisdiction where the applicant is fully licensed for a period of at least five years; and~~

~~(iii) Is not the subject of any pending disciplinary action by a medical licensing board and~~
~~has not been the subject of professional discipline reportable to the National Practitioner Data~~
~~Bank by a medical licensing board in any jurisdiction;~~

~~(FE)~~ Can communicate in the English language; and

~~(GF)~~ Meets any other criteria for licensure set forth in this article or in rules promulgated by
the board pursuant to §30-3-7 of this code and in accordance with §29A-3-1 *et seq.* of this code.

~~(dc)~~ License to Practice Allopathic Medicine and Surgery – International Medical
Graduates who have not completed two years of approved graduate medical education.

The board may grant a license to practice allopathic medicine and surgery to an applicant who has received the degree of doctor of medicine or its equivalent from an approved school of medicine located outside of the United States, the Commonwealth of Puerto Rico, and Canada and who has not completed approved graduate medical education in the United States or Canada if the applicant:

(1) Satisfies all the requirements of §30-3-10(b) of this code except for the completion of approved graduate medical education;

(2) Has successfully completed all requirements of an international graduate medical education residency training program;

(3) Has successfully completed a minimum of two complete years of non-accredited fellowship training in the United States in a clinical field related to the applicant's international residency training. Provided, That the training was completed at an institution that sponsors or operates an ACGME-accredited residency program in the same clinical field or a related clinical field. One complete year of approved graduate medical education may be substituted for one year of non-accredited training;

(4) The applicant submits evidence that he or she has an offer of employment to practice medicine and surgery in this state; and

(5) The proposed employer submits a letter of sponsorship identifying the physician's proposed practice plans and endorsing the physician for licensure.

(d) Administrative medicine license - Administrative medicine licensees may not practice clinical medicine.

(1) The board may issue an administrative medicine license to a physician who:

(A) Files a complete application;

(B) Pays the applicable fees;

(C) Meets all qualifications and criteria for licensure set forth in §30-3-10(a) or §30-3-10 (b) of this code and the board's legislative rules; and

112 (D) Demonstrates competency to practice administrative medicine.

113 (2) A physician applying to renew an administrative medicine license must pay the same
114 fees and meet the same requirements for renewing an active status license, including submission
115 of certification of participation in and successful completion of a minimum of 50 hours of continuing
116 medical education satisfactory to the board during the preceding two-year period.

117 (3) The board may deny an application for an administrative medicine license and may
118 discipline an administrative medicine licensee who, after a hearing, has been adjudged by the
119 board as unqualified due to any reason set forth in §30-3-14 of this code or the board's rules and
120 pursuant to the processes set forth therein.

121 (4) The board shall propose legislative rules pursuant to the provisions of §29A-3-1 et seq.
122 of this code to implement the provisions of this section and to regulate the practice of
123 administrative medicine.

124 (e) A person seeking licensure as a podiatrist shall apply to the board. A license may be
125 granted to an applicant who~~License to practice podiatric medicine and surgery - The board may~~
126 grant a license to practice podiatric medicine and surgery to an applicant who:

127 (1) Submits a complete application;

128 (2) Pays the applicable fees;

129 (3) Demonstrates to the board's satisfaction that the applicant:

130 ~~(A) Is of good moral character;~~

131 ~~(BA)~~ Is physically and mentally capable of engaging in the practice of podiatric medicine
132 and surgery;

133 ~~(CB)~~ Has graduated and received the degree of doctor of podiatric medicine or its
134 equivalent from a school of podiatric medicine approved by the Council of Podiatric Medical
135 Education or by the board;

136 ~~(DC)~~ Has, within 10 consecutive years, passed all component parts of the American
137 ~~Podiatric Medical Licensing Examination~~APMLE, or any prior examination or examination series

approved by the board which relates to a national standard, is administered in the English language, and is designed to ascertain an applicant's fitness to practice podiatric medicine;

(ED) Has successfully completed a minimum of one year of graduate clinical training in a program approved by the Council on Podiatric Medical Education or the Colleges of Podiatric Medicine. The board may consider a minimum of two years of graduate podiatric clinical training in the United States armed forces or three years' private podiatric clinical experience in lieu of this requirement; and

(FE) Meets any other reasonable criteria for licensure set forth in this article or in legislative rules promulgated by the board.

~~(e) Notwithstanding any of the provisions of this article, the board may issue a restricted license to an applicant in extraordinary circumstances under the following conditions:~~

~~(1) Upon a finding by the board that based on the applicant's exceptional education, training, and practice credentials, the applicant's practice in the state would be beneficial to the public welfare;~~

~~(2) Upon a finding by the board that the applicant's education, training, and practice credentials are substantially equivalent to the requirements of licensure established in this article;~~

~~(3) Upon a finding by the board that the applicant received his or her post-graduate medical training outside of the United States and its territories;~~

~~(4) That the restricted license issued under extraordinary circumstances is approved by a vote of three fourths of the members of the board; and~~

~~(5) That orders denying applications for a restricted license under this subsection are not appealable.~~

~~(f) The board may propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code that establish and regulate the restricted license issued to an applicant in extraordinary circumstances pursuant to the provisions of this section.~~

163 ~~(gf) Personal interviews by board members of all applicants are not required.~~ An applicant
164 for a license may be required by the board, in its discretion, to appear for a personal interview and
165 may be required to produce original documents for review by the board.

166 (hg) All licenses to practice medicine and surgery granted prior to July 1, 2008, and valid
167 on that date shall continue in full effect for the term and under the conditions provided by law at the
168 time of the granting of the license: ~~Provided, That the provisions of subsection (d) of this section do~~
169 ~~not apply to any person legally entitled to practice chiropody or podiatry in this state prior to June~~
170 ~~11, 1965: Provided, however, That all persons licensed to practice chiropody prior to June 11,~~
171 ~~1965, are permitted to use the term "chiropody-podiatry" and shall have the rights, privileges, and~~
172 ~~responsibilities of a podiatrist set out in this article.~~

173 (ih) The board ~~shall~~ may not issue a license to a person not previously licensed in West
174 Virginia whose license has been revoked or suspended in another state until reinstatement of his
175 or her license in that state.

176 (ji) The board ~~shall~~ may not issue an initial license, reinstate, or reactivate a license, to any
177 individual whose license has been revoked, suspended, surrendered, or deactivated in another
178 state based upon conduct which is substantially equivalent to an act of unprofessional conduct
179 prohibited by §30-3-14(c) of this code or the board's legislative rules, until reinstatement of his or
180 her license in that state.

181 (kj) The board need not reject a candidate for a nonmaterial technical or administrative
182 error or omission in the application process that is unrelated to the candidate's professional
183 qualifications as long as there is sufficient information available to the board to determine the
184 eligibility and qualifications of the candidate for licensure.

§30-3-10b. Special license types.

1 (a) The special license types set forth in this section may be issued by the board without
2 examination. "Without examination" means that the board may not require an applicant to sit for
3 the USMLE or any prior examination or examination series approved by the board to be eligible for

4 licensure. However, "without examination" does not include failure of any step of the USMLE or
5 any prior examination series approved by the board examination to be eligible for a license.
6 Individuals who have failed one or more steps of an approved licensing examination are not
7 eligible for licensure pursuant to this section until such time as the failed test attempt has been
8 superseded by a successful exam attempt.

1 (b) *Restricted License Issued in Extraordinary Circumstances.* – A restricted license
2 issued in extraordinary circumstances may be limited as directed by the board based upon the
3 facts and circumstances of the application. Notwithstanding any of the provisions of this article, the
4 board may, without examination, issue a restricted license to an allopathic physician applicant in
5 extraordinary circumstances who submits a complete application and pays the applicable fee
6 under the following conditions:

7 (1) Upon a finding by the board that based on the applicant's exceptional education,
8 training, and practice credentials, the applicant's practice in the state would be beneficial to the
9 public welfare;

10 (2) Upon a finding by the board that the applicant's education, training, and practice
11 credentials are substantially equivalent to the requirements of licensure established in this article;

12 (3) Upon a finding by the board that the applicant received his or her post-graduate medical
13 training outside of the United States and its territories;

14 (4) That the restricted license issued under extraordinary circumstances is approved by a
15 vote of three fourths of the members of the board; and

16 (5) That orders denying applications for a restricted license under this subsection are not
17 appealable.

18 (c) *Medical School Faculty License.* – The medical practice of a physician licensed under
19 this subsection is limited to the medical center of the medical school to where the physician holds
20 an academic faculty member appointment. A limited license issued under this section is valid for a
21 term of one year from the effective date of the faculty appointment.

(1) The board shall issue a limited license to practice allopathic medicine and surgery, without examination, to an individual appointed to a West Virginia medical school faculty who holds a valid license to practice medicine and surgery from another state, the District of Columbia, the Commonwealth of Puerto Rico, or Canada and who:

(A) Submits a complete application;

(B) Pays the applicable fees;

(C) Demonstrates to the board's satisfaction that the applicant:

(i) Is physically and mentally capable of engaging in the practice of medicine and surgery;

(ii) Is able to communicate in English;

(iii) Is a graduate of an international school of medicine which is approved by the LCME or by the World Health Organization or by the board with the degree of doctor of medicine or its equivalent;

(iv) Has successfully completed one year of approved graduate medical education or has received other training which the board determines to be substantially equivalent or in excess of this requirement;

(v) Has not committed any act in this or any other jurisdiction which would constitute the basis for disciplining a physician under §30-3-14 of this code; and

(vi) Has been offered and has accepted a faculty appointment to teach in a medical school in this state.

(2) A medical school faculty license issued pursuant to this section shall automatically expire and be void, without notice to the physician, when the physician's faculty appointment is terminated. The dean of the medical school shall notify the board within five days of the termination of a faculty appointment of a physician licensed pursuant to this section.

(3) A physician issued a medical school faculty license under this section shall keep all medical licenses issued by other jurisdictions in good standing and shall notify the board, within 15

days of its occurrence, of any denial, suspension or revocation of or any limitation placed on a medical license issued by another jurisdiction.

(d) *Summer Camp License.* - The board shall process, without fee, an allopathic or podiatric physician application for a license to provide services at a children's summer camp for not more than one specifically designated three-week period annually. Applicants shall hold unrestricted medical licensure in a U.S. state, Puerto Rico or Canada and provide evidence of graduation from an approved medical school. The license shall be issued for a period of the specifically designated three weeks only, on an annual basis.

(e) The board shall investigate applicants seeking special license types set forth in this section and may require a personal interview to review the applicant's qualifications and professional credentials.

(f) The board may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code that establish and regulate the special license types set forth herein, pursuant to the provisions of this section.

(g) A physician licensed under subsections (b) and (c) of this section may apply for license renewal. The board may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code that establish and regulate the renewal and continuing education requirements for licenses issued pursuant to this section.

§30-3-11. Endorsement of licenses to practice medicine and surgery and podiatry; fees; temporary license; summer camp doctors.

[Repealed.]

§30-3-11a. Endorsement of licenses to practice medicine and surgery as medical school faculty.

[Repealed.]

§30-3-11b. License to practice medicine and surgery at certain state veterans nursing home facilities.

[Repealed.]

§30-3-11c. Administrative medicine license.

[Repealed.]

ARTICLE 3H. GENETIC COUNSELORS PRACTICE ACT.

§30-3H-1. Purpose.

The purpose of this article is to provide for the licensure and professional discipline of genetic counselors and to provide a professional environment that encourages the delivery of quality genetic counseling services within this state, with reasonable skill and safety for patients and other recipients of genetic counseling services. This article sets forth the requirements for licensure of genetic counselors and provides for the regulation of professional discipline of genetic counseling practitioners.

§30-3H-2. Definitions.

As used in this article:

"ABGC" means the American Board of Genetic Counseling, or any successor organization recognized as an equivalent organization by the board.

"ABMG" means the American Board of Medical Genetics and Genomics, or any successor organization recognized as an equivalent organization by the board.

"ACGC" means the Accreditation Counsel for Genetic Counseling, or any successor organization recognized as an equivalent organization by the board.

"ACS" or "Active Candidate Status" means a status conferred by ABGC upon a person who has met ABGC's requirements to take the ABGC certification examination in general genetics and genetic counseling.

"ACS permit" means a permit issued to an individual who has attained Active Candidate Status to take the ABGC certification examination in general genetics and genetic counseling

which authorizes the permit holder to practice genetic counseling under the supervision of a qualified supervisor.

"ACS permittee" means a person with an ACS permit issued by the board.

"Board" means the West Virginia Board of Medicine established in §30-3-1 et seq. of this code.

"Genetic counseling" means the provision of services to individuals, couples, families, and organizations by one or more appropriately licensed individuals to address physical and psychological issues associated with the occurrence or risk of occurrence of a genetic disorder, birth defect, or genetically influenced condition or disease in an individual or a family.

"Genetic counseling intern" means a student enrolled in a genetic counseling program accredited by the ACGC or ABMG.

"Genetic counselor" means an individual who is licensed by the board to practice genetic counseling.

"Licensed physician" means an allopathic physician or an osteopathic physician holding a full, unrestricted license to practice medicine and surgery, or osteopathic medicine and surgery, pursuant to §30-3-1 et seq. of this code or §30-14-1 et seq. of this code.

"Qualified supervisor" means any person who is a genetic counselor licensed pursuant to this article or a licensed physician.

"Supervision" means supervision by a qualified supervisor who has the overall responsibility of assessing the work of an ACS permittee, including regular meetings and chart review, provided that the annual supervision contract signed by the qualified supervisor and the ACS permittee is on file with both parties. Supervision does not require the qualified supervisor to be present during the performance of services by an ACS permittee.

§30-3H-3. License required; and licensure exceptions.

2 (a) Effective July 1, 2026, and except as provided in subsection (b) of this section, a person
3 may not engage, or offer to engage, in the practice of genetic counseling to patients in this state
4 without a current, valid license issued by the board.

5 (b) The licensure requirement set forth in this article does not apply to:

6 (1) Any person, such as a physician, advanced practiced registered nurse, or physician
7 assistant, who is lawfully practicing within the scope of the person's profession, is engaged in work
8 of a nature consistent with the person's training, and has a license, permit, registration,
9 certification, or other authorization to practice his or her profession in West Virginia;

10 (2) Any person employed as a genetic counselor by the federal government or an agency
11 of the federal government, if the person provides genetic counseling services exclusively under
12 the direction and control of his or her federal employer;

13 (3) Any person assisting a genetic counselor in practice under the direct, on-premises
14 supervisions of the genetic counselor;

15 (4) A genetic counseling intern, if the genetic counseling services performed by the student
16 or intern are an integral part of the student's course of study, are performed under the direct
17 supervision of a licensed genetic counselor, and the student is practicing under the designation of
18 "genetic counseling intern";

19 (5) An ACS permittee practicing under the supervision of a qualified supervisor; or

20 (6) A person who is licensed to practice genetic counseling in another state and who is
21 providing consulting services in this state on a temporary basis, as determined by the board by
22 legislative rule, if the person satisfies all of the following:

23 (A) The person is certified by the ABGC; and

24 (B) The person received authorization from the board to provide consulting services in this
25 state on a temporary basis pursuant to the process established in legislative rule.

26 (c) Effective July 1, 2026, any person who is not licensed by the board as a genetic
27 counselor may not hold himself or herself out to the public as a genetic counselor, and may not, in

connection with his or her name or place of business, use the terms "genetic counselor", "licensed genetic counselor", or any words, letters, abbreviations or insignia indicating or implying that the person holds a genetic counseling license. ACS permittees may use the term "genetic counselor, Active Candidate Status" and may indicate that they hold an ACS permit.

§30-3H-4. Duties and powers of the board.

(a) In addition to the powers and duties of the board as set forth in §30-3-1 *et seq.* of this code, and in conformity with this article, the board shall:

(1) Establish the requirements for licenses and ACS permits;

(2) Determine the qualifications of applicants for licenses and permits to practice genetic counseling;

(3) Establish the procedures for submitting, approving, and rejecting applications for licenses and permits, including renewal and reinstatement;

(4) Propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of and carry out the purposes of this article;

(5) Receive and initiate genetic counseling complaints, conduct investigations, convene hearings, issue subpoenas for witnesses and documents and administer oaths;

(6) Institute proceedings in the courts of this state to enforce its subpoenas for the production of witnesses and documents and its orders, and to restrain and enjoin violations of this article and of any rules promulgated under it;

(7) Establish and certify standards for the supervision of ACS permittees;

(8) Establish the circumstances under which the approval of applications and the issuance of licenses and permits may be delegated to the executive director; and

(9) Perform such other duties as are set forth in this article or otherwise provided for in this code.

(b) The board's annual report to the Legislature shall include a statistical analysis of complaints received, charges investigated, charges dismissed after investigation, the grounds for each such dismissal and disciplinary proceedings and disposition.

§30-3H-5. Licensure requirements.

(a) The Board shall issue a genetic counseling license to an applicant who:

(1) Is at least 21 years of age;

(2) Submits an application for licensure to the board on a form approved by the board;

(3) Pays the applicable fee, as established in legislative rule;

(4) Submits satisfactory evidence to the board that he or she does not have a prior, unreversed, criminal conviction for a crime that bears a rational nexus to the profession of genetic counseling;

(5) Submits satisfactory evidence to the board that the applicant has earned a master's degree from a genetic counseling training program that is accredited by the ACGC, or a substantially equivalent educational program approved by the board;

(6) Provides satisfactory evidence to the board of current certification as a:

(A) Genetic counselor by the ABGC or ABMG; or

(B) Medical geneticist by the ABMG;

(7) Is mentally and physically able to engage safely in practice as a genetic counselor;

(8) Is not currently subject to any limitation, restriction, suspension, revocation, or discipline concerning a genetic counselor license, certification, or registration in any jurisdiction: *Provided, That if the board is made aware of any problems with a genetic counselor license, certification, or registration, it may elect to issue a license notwithstanding the provisions of this subdivision if doing so is consistent with protecting the public;* and

(9) Has fulfilled any other requirement specified by the board in rule for legislative approval.

(b) The board may not issue an initial license, reinstate, or reactivate a license, to any individual whose license has been revoked, suspended, surrendered, or deactivated in another

state based upon conduct which is substantially equivalent to an act of unprofessional conduct prohibited by §30-3H-9 of this code or the board's legislative rules, until reinstatement of his or her license in that state.

(c) The board shall issue a certificate of licensure to each person who is licensed under this article.

§30-3H-6. ACS Permit.

(a) An ACS permit authorizes an individual who has attained Active Candidate Status with the ABGC to practice genetic counseling under the supervision of a qualified supervisor and in accord with the board's legislative rules regarding supervised practice.

(b) The Board shall issue an ACS permit to an applicant who:

(1) Submits an application for license to the board on a form approved by the board;

(2) Pays the applicable fee, as established in legislative rule;

(3) Provides satisfactory evidence that he or she currently holds an Active Candidate Status from the ABGC; and

(4) Has fulfilled any other requirement specified by the board in legislative rule.

(c) An ACS permit granted by the board shall be valid for up to one year from the date issuance, and shall expire upon the earliest of the following:

(1) The granting of a genetic counselor license pursuant to §30-3H-4 of this code;

(2) Thirty days after an ACS permittee no longer holds an Active Candidate Status with the ABGC;

(3) Upon notice to the ACS permittee of failure of the ABGC certification exam; or

(4) One year after the issuance of the permit.

(d) An ACS permittee shall apply for and take the ABGC certification examination within 12 months of the issuance of an ACS permit by the board.

(e) The board may, and only once, extend an ACS permit for a limited period specified by the board, if the person maintains Active Candidate Status with the ABGC and has not failed the ABGC certification exam during the initial permit period.

(f) A person who holds an ABGC permit may only practice genetic counseling if he or she has entered into a written genetic counseling supervision agreement with a qualified supervisor and practices under qualified supervision at all times. The board shall promulgate rules for legislative approval governing direct supervision of a person holding an ACS permit.

(g) The board shall issue a certificate to each person who is approved for supervised genetic counseling practice under this article.

§30-3H-7. License expiration, renewal, reinstatement of expired licenses and continuing education.

(a) A license issued by the board shall expire on June 30 of odd-numbered years unless sooner suspended, revoked, or surrendered.

(b) A licensee shall renew by submitting:

(1) A complete renewal application;

(2) The renewal fee;

(3) Evidence that the renewal applicant is currently certified as a genetic counselor by the ABGC or ABMG or as a medical geneticist by the ABMG; and

(4) Evidence that the renewal candidate has completed 30 hours of continuing education as approved by the board within the preceding two-year period.

(c) If a licensee fails to timely renew his or her license, then the license automatically expires.

(d) A person who applies for initial licensure shall be exempt from the continuing education requirements for the biennial renewal period following initial licensure.

(e) The board may waive all or a portion of the continuing education requirement for biennial renewal for a licensee who shows to the satisfaction of the board that the licensee was

unable to complete the requirements due to serious illness, military services, or other demonstrated hardship.

(f) Continuing education programs and providers shall be approved by the board in accordance with standards and criteria established in legislative rule, along with criteria and process for seeking a waiver of the continuing education requirement due to illness, military service, or demonstrated hardship.

(g) If a license automatically expires and reinstatement is sought within one year of the automatic expiration, then an applicant shall submit:

(1) A complete reinstatement application;

(2) The applicable fees as set forth in legislative rule;

(3) Evidence that the reinstatement applicant is currently certified as a genetic counselor by the ABGC or ABMG or as a medical geneticist by the ABMG; and

(4) Evidence that the reinstatement applicant has completed all applicable continuing education requirements for the biennial renewal period preceding the reinstatement application.

(h) If a license automatically expires and more than one year has passed since the automatic expiration, then the individual shall apply for a new license.

§30-3H-8. Scope of practice.

(a) A genetic counselor's scope of practice includes the following:

(1) Obtaining and evaluating individual patient and patient family member medical histories to determine the genetic risk for genetic or medical conditions and diseases in a patient, his or her offspring, and other family members;

(2) Discussing with a patient and the patient's family the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk factors for genetic or medical conditions and diseases;

8 (3) Identifying, ordering, and coordinating genetic laboratory tests and other diagnostic
9 studies as appropriate for genetic assessment, consistent with practice-based competencies
10 provided by ACGC;

11 (4) Integrating genetic laboratory test results and other diagnostic studies with personal
12 and family medical history to assess and communicate risk factors for genetic or medical
13 conditions and diseases;

14 (5) Explaining to a patient and the patient's family the clinical implications of genetic
15 laboratory tests and other diagnostic studies and their results;

16 (6) Evaluating the patient's or family's responses to the condition or risk of recurrence and
17 providing patient-centered counseling and anticipatory guidance;

18 (7) Identifying and utilizing community resources that provide medical, educational,
19 financial, and psychosocial support and advocacy; and

20 (8) Providing written documentation of medical, genetic, and counseling information to
21 patients, their families, and health care professionals.

22 (b) Genetic counseling does not include diagnosis or treatment and when, in the course of
23 providing genetic counseling services to a client, a genetic counselor finds any indication of a
24 disease or condition that requires diagnosis and treatment, the genetic counselor shall refer the
25 client to a licensed physician or appropriate licensed health care provider.

26 (c) A genetic counselor may provide telehealth services. The board shall promulgate a rule
27 for legislative approval establishing the standard of care for the provision of genetic counseling via
28 telehealth.

29 (d) Nothing in this article may be construed to permit a genetic counselor to diagnose, test,
30 or treat any disease or condition.

31 (e) In the course of his or her professional practice, a genetic counselor may not
32 recommend that an expectant mother obtain an elective abortion.

(f) Notwithstanding any other provision of this code to the contrary, and to the degree permitted by federal law, genetic counselors shall be considered providers and may not be reimbursed at rates lower than other providers who render similar genetic counseling services by health insurers as well as health plans operated or paid for by the state.

§30-3H-9. Disciplinary proceedings and actions; prohibited practice.

(a) The board may receive or initiate complaints, conduct investigations, and conduct hearings to determine whether a violation of this article or any rule has occurred.

(b) All hearings and procedures related to denial of a license, and all complaints, investigations, hearings, and procedures regarding a genetic counselor license and/or an ACS permit and the discipline accorded thereto, shall be in accordance with the processes and procedures set forth in §30-3-1 *et seq.* of this code and the board's rules.

(c) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

(d) The board may deny an application for a license or other authorization to practice genetic counseling in this state and may discipline a genetic counselor or ACS permittee otherwise lawfully practicing in this state who, after a hearing, has been adjudged by the board as unqualified due to any of the following reasons:

(1) Made a material misstatement in an application for a license, or for license renewal or reinstatement, or knowingly presented or caused to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for licensure;

(2) Interfered with an investigation or disciplinary proceeding by using threats, harassment, or intentional misrepresentation of facts;

(3) Been convicted of an offense the circumstance of which bear a rational nexus to the practice of genetic counseling;

(4) Been adjudicated mentally incompetent by a court;

22 (5) Developed a physical or mental disability or other condition that presents a danger in
23 continuing to practice genetic counseling to patients, the public, or other health care personnel;

24 (6) Practiced or assisted in the practice of genetic counseling while the individual's ability to
25 practice was impaired by alcohol or other drugs or the individual was otherwise mentally or
26 physically unable to practice with reasonable skill and safety to patients, the public, or other health
27 care personnel;

28 (7) Knowingly made or caused to be made or aided or abetted in the making of a false
29 statement in any document executed in connection with the practice of genetic counseling;

30 (8) Advertised in a manner that is false, deceptive, or misleading;

31 (9) Aided, assisted, or abetted the unlawful practice of genetic counseling;

32 (10) Willfully violated a confidential communication;

33 (11) Performed the services of a genetic counselor in an unprofessional, incompetent, or
34 grossly or chronically negligent manner;

35 (12) Been removed, suspended, expelled, or placed on probation by any health care
36 facility or professional society for unprofessional conduct, incompetence, negligence, or violation
37 of any provision of the code of ethics set forth in the board's legislative rules;

38 (13) Exceeded the scope of practice for which the genetic counselor is licensed or
39 permitted to practice by the board;

40 (14) Engaged in unprofessional or unethical conduct in violation of the code of ethics
41 established by rule for legislative approval;

42 (15) Engaged in conduct while practicing genetic counseling that evidences a lack of
43 knowledge or ability to apply professional principles or skills;

44 (16) Violated this article or any rule promulgated hereunder;

45 (17) Violated any term of probation or other discipline imposed by the board; or

46 (18) Failed to complete the required number of hours of approved continuing education.

(e) Whenever it finds any person unqualified because of any of the grounds set forth in §30-3H-7(b) of this code, the board may enter an order imposing one or more of the following:

(1) Deny his or her application;

(2) Administer a public reprimand;

(3) Suspend, limit, or restrict his or her authorization to practice for up to five years;

(4) Revoke his or her license or other authorization to practice genetic counseling for any period of time that the board may find to be reasonable and necessary according to evidence presented in a hearing before the board or its designee;

(5) Require him or her to submit to care, counseling, or treatment designated by the board as a condition for initial or continued licensure or renewal of licensure or other authorization to practice genetic counseling;

(6) Require him or her to participate in a program of education prescribed by the board;

(7) Require him or her to practice under the supervision of a qualified supervisor designated or approved by the board for a specified period of time; and

(8) Assess a civil fine of no more than \$10,000.

(f) The board shall automatically terminate the license of a genetic counselor who has failed to maintain certification with the ABGC or ABMG or whose certification with either certifying board has been revoked.

(g) A genetic counselor may voluntarily surrender his or her license to the board, which may refuse to accept the surrender if the board has received allegations of unprofessional conduct against the genetic counselor. The board may negotiate stipulations in consideration for accepting the surrender of the license.

(h) The board may restore a license that has been voluntarily surrendered under this section on such terms and conditions as it considers appropriate.

71 (i) The board may report final disciplinary action taken against a genetic counselor to any
72 national database that includes information about disciplinary action taken against health care
73 professionals.

74 (j) The board may share any information it receives pursuant to an investigation, including
75 patient records and patient record information, with law-enforcement agencies, other licensing
76 boards, and other governmental agencies that are prosecuting, adjudicating, or investigating
77 alleged violations of statutes or administrative rules. An agency or board that receives the
78 information shall comply with the same requirements regarding confidentiality as those with which
79 the board shall comply.

§30-3H-10. Injunctive relief.

1 If the board has any reason to believe that any person is violating this article or any rule
2 promulgated under this article, and in addition to the complaint, investigation, and hearing
3 processes set forth herein and in §30-3-1 et seq. of this code, the board or the Attorney General
4 may bring action in the name and on behalf of the board to enjoin the person from the violation and
5 seek any other remedies available.

§30-3H-11. Health care facility reporting requirements.

1 (a) A health care facility shall report, in writing, to the board within 60 days after the
2 completion of the facility's formal disciplinary procedure or after the commencement and
3 conclusion of any resulting legal action against a licensee.

4 (b) The report shall include:

5 (1) The name of the genetic counselor practicing in the facility whose ability to practice as a
6 genetic counselor was revoked, restricted, reduced, or terminated for any cause including
7 resignation;

8 (2) All pertinent information relating to the action; and

9 (3) The formal disciplinary action taken against the genetic counselor by the facility relating
10 to professional ethics, professional incompetence, professional malpractice, or drug or alcohol
11 abuse.

12 (c) A health care facility does not need to report temporary suspensions for failure to
13 maintain records on a timely basis or for related, minor administrative matters.

§30-3H-12. Unlawful act and penalty.

1 It is unlawful for any genetic counselor or ACS permittee to represent to any person that he
2 or she is a licensed physician. A person who violates this section is guilty of a felony and, upon
3 conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more
4 than two years, or be fined not more than \$2,000, or both fined and imprisoned.