



WEST VIRGINIA SECRETARY OF STATE
KRIS WARNER
ADMINISTRATIVE LAW DIVISION

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 Office of West Virginia
 Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Medicine TITLE-SERIES: 11-17
 RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No
 RULE NAME: Licensure and Regulation of Genetic Counselors
 and Active Candidate Status Permits
 CITE STATUTORY AUTHORITY: W. Va. Code § 30-3H-4, § 30-1-7a, § 30-1D-1(d).

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/08/2026 4:30 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Jamie C. Frame, Executive Administrative Assistant and Office Manager
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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule provides the regulatory framework for the licensure, regulation and discipline of genetic counselor practice in West Virginia. The rule also provides the framework for the issuance of active candidate status (ACS) permits to individuals eligible to take the American Board of Genetic Counseling certification examination. The rule sets forth: qualifications for genetic counselor licensure, renewal, reinstatement and reactivation of expired licenses; qualifications and requirements for ACS permits; the application processes and fees; scope of practice for genetic counselors; prohibitions; supervision requirements for ACS permittees and qualified supervisors; continuing education requirements; telehealth standards for genetic counselors; professional conduct requirements; complaint, investigation, audit and disciplinary procedures; denial of licensure and disciplinary penalties; grounds for mental and physical examination; and provisional licensure.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

During the 2026 legislative session, the West Virginia legislature passed HB 5458, which created the Genetic Counselors Practice Act under W. Va. Code § 30-3H-1 et seq. The Genetic Counselors Practice Act provides for the licensure and regulation of genetic counselors and ACS permittees in West Virginia by the Board of Medicine. The bill directed the Board of Medicine to propose rules for legislative approval to implement the Genetic Counselors Practice Act.

HB 5458, including the Genetic Counselors Practice Act, took effect on June 7, 2026. The newly enacted legislation provides that effective July 1, 2026, a person may not practice genetic counseling to patients in West Virginia without a current valid license issued by the Board, unless exempted under W. Va. Code § 30-3H-3(b).

Section 2 provides definitions relevant to the rule and incorporates definitions set forth in W. Va. Code § 30-3H-2.

Section 3 provides, in accordance with W. Va. Code § 30-3H-3(b), that effective July 1, 2026, a person may not practice or offer to practice genetic counseling to patients in West Virginia without a current valid license issued by the Board, unless exempted under W. Va. Code § 30-3H-3(b). This section also sets forth certain protective titles and adopts the Board's record keeping requirements and related confidentiality provisions under W. Va. Code § 30-3-9 for genetic counselors and ACS permittees.

Section 4 establishes that the Board issues genetic counselor licenses and ACS permits, and provides general rules regarding application processes.

Section 5 sets forth the qualifications for initial licensure as a genetic counselor, the application process and required documents and information from applicants, including the statutory requirement of a criminal history record check, and establishes a \$150 application fee. This section also provides for the circumstances which disqualify an applicant from licensure.

Section 6 provides that a license is issued for a term of two years, establishes the licensure renewal process and requirements and a \$150 licensure renewal fee.

Section 7 establishes processes and requirements to reinstate/reactivate expired licenses and establishes a \$150 reinstatement/reactivation fee.

Section 8 incorporates the scope of practice for genetic counselors set forth in W. Va. Code § 30-3H-8(a). Section 8 also reiterates the statutory limitations and prohibitions of genetic counselor practice in West Virginia.

Section 9 establishes the qualifications for an ACS permit, the application process and the required documents and information from applicants, and establishes a \$50 application fee. This section limits the term of an ACS permit to one year, and allows for the one-time extension of the term for an additional one year. This section also provides that an ACS permittee may only practice genetic counseling under the auspices of, and pursuant

to, a written supervision agreement with a qualified supervisor.

Section 10 relates to required written supervision agreements for ACS permittees and establishes the supervisory duties of a qualified supervisor.

Section 11 relates to continuing education requirements for genetic counselors, and requires successful completion of at least 30 hours of continuing education in genetic counseling during the preceding two-year licensure cycle to be eligible for renewal. This section requires that licensees must certify successful completion of all required continuing education in their renewal application. This section also authorizes the Board to conduct continuing education audits, and provides for the disciplinary action against licensees for failure to complete all required continuing education. This section also provides for the Board to approve a waiver of the continuing education requirements for a license, on a case-by-case basis, if the licensee was unable to complete all continuing education requirements due to serious illness, military service, or other clearly identifiable hardship.

Section 12 sets forth the standard of care and requirements for providing genetic counseling services to West Virginia patients via telehealth.

Section 13 relates to the licensure denial, complaint and disciplinary procedures for genetic counselors and ACS permittees. This section adopts and incorporates by reference the processes and procedures established under the Medical Practice Act, the Administrative Procedure Act, and the Boards procedural rule, 11 CSR 3, for genetic counselors and ACS permittees.

Section 14 sets forth the grounds for licensure denial and disciplinary action of genetic counselors and ACS permits. This section also incorporates the grounds for professional misconduct set forth in the Medical Practice Act and section 12 of the Boards rule 11 CSR 1A, and the Boards rule prohibiting sexual misconduct set forth in 11 CSR 16. This section also provides for the confidentiality of the complaint and investigation process, reporting requirements, and allows the Board to cooperate with state and federal law enforcement conducting a criminal investigation of a licensee or ACS permittee.

Section 15 relates to the Boards ability to require a mental and physical examination of an applicant, licensee or permittee at the expense of the Board, and the process associated therewith.

Section 16 relates to eligibility for provisional licensure in West Virginia for genetic counselor applicants currently practicing in West Virginia during the Boards initial implementation of genetic counseling licensure in West Virginia.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jamie C Frame -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 11
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF MEDICINE

SERIES 17
LICENSURE AND REGULATION OF GENETIC COUNSELORS AND ACTIVE
CANDIDATE STATUS PERMITS

§11-17-1. General.

- 1.1. Scope. -- This rule establishes requirements and procedures for licensure and regulation of genetic counselors, including active candidate status permits, supervision, scope of practice, continuing education, renewal and reinstatement, telehealth, and disciplinary processes.
- 1.2. Authority. -- W. Va. Code § 30-3H-4, § 30-1-7a, § 30-1D-1(d). The Legislature created the Genetic Counselors Practice Act, placed administration with the West Virginia Board of Medicine, and directed the Board to propose rules for legislative approval to implement the Act.
- 1.3. Filing Date. --
- 1.4. Effective Date. --
- 1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon August 1, 2031.

§11-17-2. Definitions.

2.1. The following terms have the same meanings as defined in W. Va. Code §30-3H-2: ABGC, ABMG, ACGC, Active Candidate Status (or “ACS”), ACS permit, Board, genetic counseling, genetic counseling intern, genetic counselor, licensed physician, qualified supervisor, and supervision.

2.2. “Supervision agreement” means the written agreement between an ACS permittee and a qualified supervisor meeting the requirements of this rule and is filed with Board.

2.3. “Continuing education” or “CE” means post-licensure learning activities approved under § 11-17-11 of this rule.

2.4. “Licensee” means a genetic counselor licensed pursuant to the provisions of W. Va. Code § 30-3H-1 *et seq.* and this rule.

2.5. “Telehealth” means the mode of delivering genetic counseling services via technology as set forth in § 11-17-12 of this rule.

§11-17-3. License Requirement; Titles; Historical Records.

3.1. Effective July 1, 2026, a person may not practice or offer to practice genetic counseling to patients in West Virginia without a current, valid license issued by the Board, except as provided by W. Va. Code § 30-3H-3(b).

3.2. Only individuals licensed by the Board may use the titles “genetic counselor” or “licensed genetic counselor,” and ACS permittees may use the designation “genetic counselor, Active Candidate Status.”

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3.3. The historical record keeping requirements, notice requirements, confidentiality provisions, disclosure limitations and expungement privileges established in W. Va. Code § 30-3-9 shall also govern genetic counselors and ACS permittees.

§11-17-4. Categories; Applications; Burden on Applicant; Issuance

4.1. Categories. -- Genetic Counselor License; ACS Permit.

4.2. Applications shall be submitted on Board-approved forms with all required documentation and fees. Applications shall be available on the Board's website.

4.3. The Board may require personal interviews and original and/or verified documents to determine eligibility.

4.4. The Board need not reject a candidate for a nonmaterial technical or administrative error unrelated to professional qualifications when sufficient information exists to determine eligibility.

4.5. The burden of satisfying the Board of the applicant's qualifications for licensure or an ACS permit is upon the applicant. The Board may deny an application for a genetic counselor license or ACS permit to any applicant determined to be unqualified by the Board.

4.6. Board staff are authorized to process applications and issue genetic counselor licenses and ACS permits if the underlying application is complete and does not contain unresolved unusual circumstances or discrepant information regarding the applicant's eligibility. All other applications, once complete, shall be presented to the Board for review and action.

§11-17-5. Qualification and Application for a License to Practice as a Genetic Counselor.

5.1. The minimum qualifications for initial licensure as a genetic counselor are set forth in W. Va. Code § 30-3H-5.

5.2. An application for a license to practice as a genetic counselor shall be completed on a form provided by the Board, which is available on the Board's website. The Board shall not consider an application or decide upon the issuance of a license to an applicant until the complete application, including all third-party documentation or verification, is on file with the Board and the Board has had at least 15 days to review the application.

5.3. An application for licensure as a genetic counselor must be accompanied by payment of a nonrefundable application fee of \$150.

5.4. Applicants must provide the following information:

5.4.1. The applicant's name, email address, home address, preferred mailing address and primary practice location address(es) and telephone numbers;

5.4.2. Demographic information of the applicant, such as date of birth, sex, etc.;

5.4.3. A photograph taken within the previous 12 months which substantially resembles the applicant;

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5.4.4. A copy of the applicant's birth certificate, certificate of naturalization, or passport to be used in identifying the applicant, and verifying his or her date of birth and the appropriate spelling of his or her name;

5.4.5. Evidence establishing that the applicant:

5.4.5.a. Is at least 21 years of age;

5.4.5.b. Earned a master's degree from a genetic counseling training program accredited by the ACGC, or an equivalent as determined by the ABGC or the ABMG;

5.4.6. Verification of current certification as a:

5.4.6.a. Genetic counselor by the ABGC or ABMG; or

5.4.6.b. Medical geneticist by the ABMG.

5.4.7. A report from the National Practitioner Data Bank and documentation and/or certification which establishes that the applicant is not currently subject to any limitation, restriction, suspension, revocation, or discipline concerning a genetic counselor license, certification, or registration in any jurisdiction;

5.4.8. Information with respect to the applicant's professional practice, character and fitness to practice as a genetic counselor;

5.4.9. A list of jurisdictions in which the applicant has applied for licensure, the disposition of such applications, and a list of licenses the applicant holds or has ever held and the current status of each license;

5.4.10. The applicant submits to a criminal history record check as set forth in section 5.5 of this rule;

5.4.11. Other information as determined by the Board which relates to whether the applicant is mentally and physically able to engage safely in practice as a genetic counselor; and

5.4.12. Additional information identified by the Board for licensure.

5.5. Criminal history record check.

5.5.1. All applicants for an initial license to practice as a genetic counselor in West Virginia shall request and submit to the Board the results of a state and a national criminal history record check.

5.5.2. The purpose of the criminal history record check is to assist the Board in obtaining information that may be related to the applicant's fitness for licensure.

5.5.3. In addition to the State Police, the Board may contract with and designate a company specializing in the services required by this section instead of requiring the applicant to apply directly with the West Virginia State Police or similar out-of-state agency for the criminal history records checks. Provided, that any such company must utilize protocols consistent with standards established by the Federal Bureau of Investigation and the National Crime Prevention and Privacy Compact.

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5.5.4. The applicant shall furnish to the State Police, or other organization duly designated by the Board, a full set of fingerprints and any additional information required to complete the criminal history record check.

5.5.5. The applicant is responsible for any fees required by the State Police, or other organization duly designated by the Board, for the actual costs of the fingerprinting and the actual costs of conducting a complete criminal history record check.

5.5.6. The Board may require the applicant to obtain a criminal history record check from a similar Board approved agency or organization in the state of the applicant's residence, if outside of West Virginia.

5.5.7. The applicant shall authorize the release of all records obtained by the criminal history record check to the Board.

5.5.8. A criminal history record check submitted in support of an application for licensure must have been requested by the applicant no earlier than 12 months immediately prior to the Board's receipt of the applicant's application for licensure.

5.5.9. An initial licensure application is not complete until the Board receives the results of a state and national criminal history record check conducted by the State Police of another entity duly authorized by the Board. The Board shall not grant an application for licensure submitted by any applicant who fails or refuses to submit the criminal history record check required by this section.

5.5.10. Should criminal offenses be reported on an applicant's criminal history record check, the Board shall consider the nature, severity, and recency of offenses, as well as rehabilitation and other factors on a case by case basis for licensure.

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

5.5.11.a. To the individual who is the subject of the criminal history record check;

5.5.11.b. With the written authorization of the individual who is the subject of the criminal history record check; or

5.5.11.c. Pursuant to a court order.

5.5.12. Criminal history record checks and related records are not public records for the purposes of W. Va. Code § 29B-1-1 *et. seq.*

5.6. The Board may require an applicant to provide original documents and/or certified documents in support of an application for licensure. The application, together with all documents submitted, becomes the property of the Board and shall not be returned.

5.7. An applicant may be required to appear before Board members at the meeting at which his or her application is to be considered.

5.8. Prohibitions on issuance. --

5.8.1. The Board may not issue an initial license, reinstate, or reactivate a license, to any applicant 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 W. Va. Code § 30-3H-

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9, section 14 of this rule, any of the grounds set forth in W. Va. Code § 30-3-14(c) or W. Va. Code R. § 11-1A-12, until reinstatement of his or her license in that state.

5.8.2. The Board may not issue an initial license, reinstate, or reactivate a license, to any applicant that has a prior, unreversed, criminal conviction for a crime that bears a rational nexus to the profession of genetic counseling, unless required by W. Va. Code § 30-1-24(b)(3).

§11-17-6. License Term; Renewal; Expiration; Automatic Termination.

6.1. With the exception of an initial license, a license to practice as a genetic counselor is issued for a term of two years.

6.2. Licensure renewal for all licensed genetic counselors, regardless of the date the license was first issued, shall occur prior to June 30 of every even year. A license shall expire if not renewed by the renewal deadline, which shall be set by the Board and published on the Board's website.

6.3. A genetic counselor license shall be renewed upon timely submission of a fully completed renewal application form and payment of a nonrefundable renewal fee of \$150.

6.4. Renewal applications are available on the Board's website. A licensee shall maintain current contact information on file with the Board including: a preferred mailing address; home address; current practice locations; telephone number; and a current email. A licensee shall notify the Board of any changes to such contact information within 15 days of the change.

6.5. It is the responsibility of the licensee to submit a renewal application before the renewal deadline set by the Board. Failure of the licensee to receive a renewal application or a renewal notice does not constitute justification for any genetic counselor to practice on an expired license.

6.6. The Board's genetic counselor renewal application form shall include, and applicants must provide, the following information:

6.6.1. The applicant's name email address, home address, preferred mailing address and primary practice location address(es) and telephone numbers;

6.6.2. Demographic information of the applicant, such as date of birth, sex, etc.;

6.6.3. Information with respect to the applicant's professional practice, character and fitness to practice as a genetic counselor;

6.6.4. A statement of all other jurisdictions in which the applicant is licensed to practice as a genetic counselor;

6.6.5. Verification that the renewal applicant is currently certified:

6.6.5.a. As a genetic counselor by the ABGC or ABMG; or

6.6.5.b. As a medical geneticist by the ABMG.

6.6.6. Certification of successful completion of all continuing education requirements;

6.6.7. Other information required by the Board for renewal of a license.

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6.7. Automatic Termination. The license of a genetic counselor shall automatically terminate if licensee fails to maintain certification with the ABGC or ABMG or if the licensee's certification with either certifying board has been revoked. The genetic counselor may reapply for licensure upon restoration of certification.

§11-17-7. Reinstatement and Reactivation of License.

7.1. Reinstatement. A genetic counselor may seek reinstatement of an expired license within one year of the expiration by submitting:

7.1.1. A complete reinstatement application, which includes all information and certifications required for licensure renewal pursuant to section 6.6 of this rule, and any required supporting documentation;

7.1.2. Payment of a non-refundable reinstatement application fee of \$150.

7.1.3. Written documentation evidencing successful completion of all required continued education requirements for the biennial renewal period preceding the reinstatement application.

7.2. Reactivation. If more than one year has passed since a genetic counselor's license automatically expired, the former licensee shall apply anew for licensure pursuant to section 5 of this rule. A license granted pursuant to this subsection does not constitute an initial license. If licensure is granted, the Board shall reactivate the license and reissue the individual's original license number.

§11-17-8. Scope of Practice for Genetic Counselors; Prohibitions.

8.1. A genetic counselor's scope of practice is set forth in W. Va. Code § 30-3H-8(a).

8.2. Referral obligation. Genetic counseling does not include diagnosis or treatment. When in the scope of genetic counseling a genetic counselor finds any indication of disease or conditions requiring diagnosis or treatment, the genetic counselor must refer the client to a licensed physician or appropriate licensed health care provider.

8.3. Prohibitions. --

8.3.1. Genetic counselors may not diagnose, test or treat any disease or condition.

8.3.2. Genetic counselors may not recommend an expectant mother to obtain an elective abortion in the course of his or her professional practice.

§11-17-9. ACS Permits; Application; Term; Supervision.

9.1. An individual who has attained Active Candidate Status with the ABGC may apply to the Board for an ACS Permit.

9.2. An ACS Permit authorizes the permittee to practice genetic counseling under the supervision of a qualified supervisor in accord with this rule.

9.3. An application for an ACS permit shall be completed on a form provided by the Board, which is available on the Board's website. The Board will not consider an application or decide upon the issuance of an ACS permit to an applicant until the complete application, including all third-party documentation

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and/or verification, is on file with the Board and the Board has had at least 15 business days to review the application.

9.4. An application for an ACS permit must be accompanied by payment of a nonrefundable application fee of \$50.

9.5. Applicants for an ACS permit must provide the following information:

9.5.1. The applicant's name, email address, home address, preferred mailing address and primary practice location address(es) and telephone numbers;

9.5.2. Demographic information of the applicant, such as date of birth, sex, etc.;

9.5.3. Verification that the applicant currently holds Active Candidate Status from the ABGC;

9.5.4. A supervision agreement on a form approved by the Board that is signed by the ACS permit applicant and a qualified supervisor;

9.6. Term and expiration. An ACS permit is valid for up to one year from the date of issuance, and shall expire upon the earliest of the following:

9.6.1. Upon obtaining West Virginia licensure as a genetic counselor;

9.6.2. Thirty days after an ACS permittee no longer holds Active Candidate Status with the ABGC;

9.6.3. Upon notice to the ACS permittee of his or her failure of the ABGC certification exam; or

9.6.4. One year after issuance of the ACS permit.

9.7. An ACS permittee shall apply for and take the ABGC exam within 12 months of issuance of an ACS permit. The Board may, once only, extend the permit for a limited period not to exceed 12 months, if Active Candidate Status is maintained and no exam failure occurred during the initial 12 month period.

9.8. An ACS permittee may only practice genetic counseling under the auspices of, and pursuant to, a written supervision agreement with a qualified supervisor.

9.9. An ACS permit is not a license to practice genetic counseling in West Virginia, and an ACS permittee may not practice genetic counseling outside the scope of his or her written supervision agreement.

9.10. Receipt of an ACS permit does not entitle an applicant to receive a license to practice genetic counseling in West Virginia. An individual who seeks to be licensed to practice genetic counseling in West Virginia must apply and meet the qualifications and criteria for licensure set forth in W. Va. Code § 30-3H-5 and the Board's legislative rules.

9.11. An ACS permittee may apply for a West Virginia genetic counselor license when he or she becomes eligible. The ACS permit shall expire upon West Virginia licensure as a genetic counselor.

§11-17-10. Supervision Agreements for ACS Permittees.

10.1. A qualified supervisor means a West Virginia Board-licensed genetic counselor holding a full, unrestricted license or a West Virginia licensed physician. A licensed physician means an allopathic

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physician or osteopathic physician holding a full, unrestricted license pursuant to W. Va. Code §§ 30-3-1 et seq. or 30-14-1 et seq.

10.2. Supervision by a qualified supervisor includes overall responsibility for assessing the ACS permittee's work, including having regular meetings and chart reviews. Supervision does not require the qualified supervisor to be present at all times during the performance of services by an ACS permittee, unless deemed appropriate by the qualified supervisor.

10.3. An ACS permittee 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.

10.4. A copy of the supervision agreement shall be maintained by both the ACS Permittee and qualified supervisor, and kept on file at any practice locations of the ACS permittee.

§11-17-11. Continuing Education; Renewal Certification; Waivers.

11.1. Licensees must successfully complete at least 30 hours of continuing education ("CE") in genetic counseling during the preceding two-year licensure cycle to be eligible for licensure renewal.

11.2. As a condition of renewal of licensure, a licensee shall certify his or her successful completion of all required CE during the applicable reporting period.

11.3. Applicants for initial licensure are exempt from CE requirements for the biennial renewal period following initial licensure.

11.4. Credit for CE may be earned for the successful completion of Category I activities approved by the ABGC, ABMG or the National Society of Genetic Counselors ("NSGC").

11.5. Licensees shall retain records of all CE activities for a period of six years and produce them upon Board request.

11.6. The Board may conduct such audits and investigations as it considers necessary to assure compliance with CE requirements and to verify the accuracy of a renewal applicant's certification of CE compliance.

11.7. Failure or refusal of a licensee to provide written documentation upon request by the Board as set forth in subsections 11.5 and 11.6 of this rule constitutes prima facie evidence of renewing a license by fraudulent misrepresentation and the licensee is subject to disciplinary proceedings.

11.8. A licensee's failure to successfully complete all required CE within the applicable two-year reporting period constitutes unprofessional conduct that is grounds for disciplinary action.

11.9. The Board may, on a case-by-case determination, waive all or a portion of the CE requirements for biennial renewal, for a licensee who establishes to the satisfaction of the Board that the licensee was unable to complete all CE requirements due to military service, serious illness or other clearly identifiable and demonstrated hardship.

§11-17-12. Telehealth Standards for Genetic Counseling.

12.1. The practice of genetic counseling occurs where the patient is located at the time the genetic counseling services, including telehealth services, are provided.

12.2. Genetic counseling services may be provided via telehealth to patients located in West Virginia by active licensees of the Board acting within their scope of practice.

12.3. Establishment of Genetic Counselor-Patient Relationship. A genetic counselor-patient relationship may be established through:

12.3.1. An in-person patient encounter;

12.3.2. Telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing, or similar secure video services during the initial patient encounter;

12.3.3. Audio-only calls or conversations that occur in real time.

12.4. While real-time audio-only communications may be utilized to establish the genetic counselor-patient relationship, communication through audio-visual communication is preferable, if available or possible. Real-time audio communications may not be utilized when its use does not conform to the standard of care.

12.5. The genetic counselor-patient relationship may not be established through text-based communications such as email, internet questionnaires, text-based messaging, or other written forms of communication. Provided, this rule does not prohibit the use of text-based communications for responding to established patients or providing cross-coverage for a provider who has established a genetic counselor-patient relationship with the patient through an in-person encounter.

12.6. A telehealth genetic counselor has the duty to practice in a manner consistent with:

12.6.1. The provider's experience, training and scope of practice;

12.6.2. The professional conduct standards established in this state for the provider's profession;
and

12.6.3. The standard of care applicable to the provider's practice.

12.7. The standard of care for the provision of genetic counseling services is the same for services provided in-person and services provided via telemedicine technologies. Provided, the selection of telemedicine technologies for a patient encounter must permit the provider to meet the standard of care for the patient's particular issue and presentation.

12.8. When providing genetic counseling services via telehealth, the provider shall:

12.8.1. Verify the identity and location of the patient;

12.8.2. Provide the patient with confirmation of the identity and professional qualifications of the telehealth provider;

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12.8.3. Provide the patient with the physical location and contact information for the telehealth provider;

12.8.4. Establish or maintain a provider-patient relationship that conforms to the scope of practice, professional conduct standards, and standard of care;

12.8.5. Determine whether telemedicine technologies are appropriate for the patient's presentation;

12.8.6. Obtain the patient's consent to receive telehealth services;

12.8.7. Conduct all appropriate evaluations and history of the patient consistent with the standard of care for in-person encounters;

12.8.8. Create and maintain medical records for the patient which justify the genetic counseling services and which verify compliance with the requirements of this rule.

12.9. A telehealth provider shall maintain a patient medical record for each patient for whom telehealth services are provided. The patient record shall be accessible to the provider and patient and be maintained consistent with the laws and legislative rules governing patient health care records. All state and federal laws governing the confidentiality of medical records and information, and governing patient access to medical records shall apply to records of telehealth encounters.

12.10. Nothing in this section shall prohibit an ACS permittee from providing telehealth services under the supervision of the ACS permittee's qualified supervisor and in accord with the supervision agreement, the standard of care, and this rule.

§11-17-13. License Denial, Complaint and Disciplinary Procedures.

13.1. The licensure denial, complaint and disciplinary process and procedures and appeal rights set forth in the contested case hearing procedure, W. Va. Code § 29A-5-1 et seq., the Medical Practice Act, section 12 of the Board's rule 11 CSR 1A and the Board's procedural rule 11 CSR 3, apply to genetic counselors and ACS permittees.

13.2. If the Board determines the evidence in its possession indicates that a genetic counselor or ACS permittee's continuation in practice or unrestricted practice constitutes an immediate danger to the public, the Board may take any of the actions provided in W. Va. Code § 30-3H-9(e) on a temporary basis and without a hearing if institution of proceedings for a hearing before the Board are initiated simultaneously with the temporary action and begin within 15 days of the action. The Board shall render its decision within five days of the conclusion of a hearing under this subsection.

§11-17-14. Denial of Licensure and Discipline.

14.1. The Board may deny an application for genetic counselor license, ACS permit, or other authorization to practice as a genetic counselor, 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:

14.1.1. Any ground set forth in W. Va. Code § 30-3H-9(d);

14.1.2. Conduct by a genetic counselor or ACS permittee which is equivalent to any of the grounds cited for the discipline of physicians or podiatric physicians in W. Va. Code § 30-3-14(c), section 12 of the

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Board's rule 11 CSR 1A, and/or the Board's rule prohibiting sexual misconduct by health care practitioners set forth in 11 CSR 16;

14.1.3. Failure to comply with, or engaging in conduct in violation of, any portion of this rule, the provisions of W. Va. Code § 30-3H-1, et seq., and any other rule of the Board;

14.1.4. Impersonation of a licensed physician or physician assistant;

14.1.5. Misrepresentation that the genetic counselor or ACS permittee is a physician, physician assistant, or that the genetic counselor holds any position for which he or she is not qualified by license, training or experience to hold;

14.1.6. Knowingly permitting another person to misrepresent the genetic counselor or ACS permittee as a physician or physician assistant;

14.1.7. Misrepresentation or concealment of any material fact in obtaining a genetic counselor license or ACS permit, or a reinstatement or reactivation of a genetic counselor license;

14.1.8. Practicing outside or beyond the scope of practice for a genetic counselor, or practicing beyond his or her level of competence, education, training and/or experience.

14.1.9. Failing to meet the standard of practice in connection with any supervising agreement with an ACS permittee.

14.1.10. Practicing as an ACS permittee:

14.1.10.a. In the absence of a supervision agreement;

14.1.10.b. Outside or beyond the scope of an ACS permit or supervision agreement;

14.1.10.c. Beyond his or her level of competence, education, training and/or experience.

14.2. If the Board determines that a genetic counselor or ACS permittee is unqualified, the Board may enter an order denying an application or imposing any limitation, restriction or other disciplinary measure set forth in W. Va. Code § 30-3H-9(e).

14.3. The confidentiality of the Board's complaint and investigation processes as set forth in section 11 of 11 CSR 1A apply to genetic counselor licensees and ACS permittees.

14.4. The Board may report final disciplinary actions to the national practitioner data bank.

14.5. The Board shall cooperate with and assist any state or federal law enforcement agency, any state or federal regulatory agency and/or any state or federal prosecuting attorney conducting an investigation or a prosecution of a licensee or credential holder by providing the entity information that is relevant to an investigation or prosecution. Information disclosed by the Board to any entity pursuant to this subsection remains confidential and may not be disclosed by the recipient agency, except as necessary to further the investigation. Information received by the Board from state or federal law enforcement agencies, state of federal regulatory agencies or state or federal prosecuting attorneys shall remain confidential and may not be disclosed by the Board except as necessary to further the Board's investigation or when disclosure to the responding licensee is required by W. Va. Code § 30-3-14(i).

§11-17-15. Mental and Physical Examination.

15.1. The Board under any circumstances may require a licensed genetic counselor, ACS permittee or a person applying for licensure or other authorization to practice as a genetic counselor in this state to submit to a physical or mental examination by a physician or physicians approved by the Board. The expense of the examination shall be paid by the Board.

15.2. A genetic counselor submitting to an examination has the right, at his or her expense, to designate another physician to be present at the examination and make an independent report to the Board.

15.3. An applicant, licensee or ACS permittee is considered to have given his or her consent to submit to all examinations when requested to do so in writing by the Board and to have waived all objections to the admissibility of the testimony or examination report of an examining physician on the ground that the testimony or report is privileged communication.

15.4. If a person fails or refuses to submit to an examination under circumstances which the Board finds are not beyond his or her control, failure or refusal is prima facie evidence of his or her inability to practice as a genetic counselor competently and in compliance with the standards of acceptable and prevailing genetic counselor practice.

§11-17-16. Provisional Licensure

16.1. In order to ensure continuity of care during the implementation of genetic counseling licensure in West Virginia, the Board, through its Executive Director, has the discretion issue a provisional license to a genetic counselor licensure applicant who:

16.1.1. Holds a license to practice genetic counseling in another state;

16.1.2. Is currently practicing genetic counseling to West Virginia patients, and has been practicing in West Virginia for a minimum of 90 days;

16.1.3. Submits a completed application for a genetic counselor license to the Board before June 30, 2026;

16.1.4. Holds active certification as a genetic counselor by the ABGC or ABMG, or as a medical geneticist by the ABMG; and

16.1.5. Has submitted a copy of their diploma and an NPDB report and is not known to have any eligibility issues for unrestricted licensure;

16.2. The provisional license authorizes the holder to temporarily continue to provide genetic counseling services in West Virginia.

16.3. The provisional license remains valid until the Board grants or denies licensure to the applicant, or until terminated by the Board based upon additional information which demonstrates the applicant's ineligibility for or disqualification from licensure.