

Please contact [madeline.delgreco@maryland.gov](mailto:madeline.delgreco@maryland.gov) with any comments.

## **10.32.24 Licensure of Genetic Counselors**

### **.01 Scope.**

- A. This chapter governs the practice of genetic counseling.*
- B. Except as provided in § C— D of this regulation, on or after January 1, 2024, an individual shall be licensed by the Board before the individual may practice genetic counseling.*
- C. This chapter does not prohibit any student who is currently enrolled in an accredited educational program to qualify for a license as a genetic counselor from performing any of the procedures described in this chapter as part of that program's clinical curriculum on genetic counseling.*
- D. This chapter does not prohibit an individual from practicing a health occupation that the individual is authorized to practice under Health Occupations Article, Annotated Code of Maryland.*

### **.02 Incorporation by Reference.**

*The National Society of Genetic Counselors Code of Ethics (1992, revised 2017) is incorporated by reference.*

### **.03 Definitions.**

- A. In this chapter, the following terms have the meanings indicated.*
- B. Terms Defined.*
  - (1) "Accredited educational program" means an educational program that is accredited by the national accrediting council or an equivalent accrediting body recognized by the national certifying board.*
  - (2) "Board" means the State Board of Physicians.*
  - (3) "Certified genetic counselor" means an individual certified as a genetic counselor by a national certifying board.*
  - (4) "Committee" means the Genetic Counseling Advisory Committee established under Health Occupations Article, § 14-5G-05, Annotated Code of Maryland.*
  - (5) "Disciplinary panel" means a disciplinary panel of the Board established under Health Occupations Article, § 14-401, Annotated Code of Maryland.*
  - (6) Genetic Assessment.*
    - (a) "Genetic assessment" means the integration of genetic laboratory test results and other diagnostic studies with the medical histories of a patient and the patient's family members to assess the risk for the patient or the patient's family members of:*
      - (i) A genetic or medical condition or disease; and*
      - (ii) The recurrence of a genetic or medical condition or disease.*
    - (b) "Genetic assessment" includes taking medical and family histories for the purpose of genetic counseling.*
  - (7) "Good standing" has the meaning stated in 10.32.22.02(11).*
  - (8) "Immediately available" means a qualified supervisor is able to provide necessary direction in person, by telephone, or by other electronic means.*
  - (8) "License" means a license issued by the Board to practice genetic counseling.*
  - (9) "Licensed genetic counselor" means an individual who is licensed by the Board, in accordance with Health Occupations Article, Title 14, Subtitle 5G, Annotated Code of Maryland, to practice genetic counseling as a genetic counselor in the State.*
  - (10) "Licensee" means a licensed genetic counselor or a supervised genetic counselor.*
  - (11) "National accrediting council" means the Accreditation Council for Genetic Counseling, or its successor, that accredits education programs for genetic counselors.*
  - (12) "National certifying board" means the American Board of Genetic Counseling, its predecessor, or its successor, that certifies genetic counselors.*
  - (13) Practice Genetic Counseling.*

- (a) “Practice genetic counseling” means:
- (i) Obtaining and evaluating the medical histories of a patient and the patient’s family members for purposes of a genetic assessment;
  - (ii) Discussing the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic or medical conditions or diseases.
  - (iii) Identifying, ordering, and coordinating genetic laboratory tests and other diagnostic studies, as appropriate, for purposes of a genetic assessment;
  - (iv) Using the medical histories obtained from the patient and the patient’s family members for purposes of a genetic assessment;
  - (v) Explaining the clinical implications of genetic laboratory tests and other diagnostic studies and the results of the tests and studies and communicating the risk factors for genetic or medical conditions or diseases identified by a genetic assessment;
  - (vi) Evaluating the responses of a patient and the patient’s family members to the results of a genetic assessment and providing counseling and anticipatory guidance for a genetic or medical condition or disease;
  - (vii) Identifying and using community resources that provide medical, educational, financial, and psychosocial support and advocacy for a genetic or medical condition or disease; and
  - (viii) Providing written documentation of medical, genetic, and counseling information for a patient, a patient’s family members, or appropriate health care professionals.
- (b) “Practice genetic counseling” does not include diagnosing or treating an illness, a disease, or a condition.
- (14) “Qualified supervisor” means:
- (a) A licensed genetic counselor who has practiced for a minimum of 3 years after passing the national certifying examination; or
  - (b) A physician who has been licensed in the State for a minimum of 5 years.
- (15) “Supervised genetic counselor” means an individual who is licensed by the Board, in accordance with Health Occupations Article §14-5G-14, to practice genetic counseling under the supervision of a qualified supervisor.
- (16) “Supervision” means the ongoing, direct, clinical review for the purposes of training or teaching by a qualified supervisor who monitors the performance of a supervised genetic counselor’s supervised interaction with a patient and provides consultations, chart reviews, guidance, and instructions with respect to the clinical skills and competencies of the supervised genetic counselor, as well as documented face-to-face meetings on at least a monthly basis.
- (17) “Supervised interaction” means an interaction between a supervised genetic counselor and a patient where a qualified supervisor is immediately available.

#### **.04 Genetic Counseling Advisory Committee.**

A. The Board shall appoint members of the Committee as follows:

- (1) Three individuals who practice genetic counseling who:
  - (a) Are in good standing with the Board;
  - (b) Are a resident of the State with at least 1 year of active genetic counseling experience as a licensed, supervised, or certified genetic counselor within the 5-year period immediately preceding the date of the appointment; and
  - (c) On or after January 1, 2024, are licensed genetic counselors;
- (2) Three practicing licensed physicians who:
  - (a) Are in good standing with the Board; and
  - (b) Have experience working with genetic counselors; and
- (3) One consumer member who:
  - (a) Shall be a member of the general public; and
  - (b) May not:
    - (i) Practice, or ever have practiced genetic counseling, or any other health care profession;
    - (ii) Be, or ever have been, in training to practice genetic counseling or any other health care profession;
    - (iii) Have a household member who is a health care professional or is in training to be a health care professional;
    - (iv) Participate, or ever have participated, in a commercial or professional field related to genetic counseling;
    - (v) Have a household member who participates in a commercial or professional field related to genetic counseling;
    - (vi) Have had, within 2 years before appointment, a financial interest in a person regulated by the Board; or
    - (vii) Have had, within 2 years of appointment, a financial interest in the provision of goods or services to genetic counselors or to the field of genetic counseling.

*B. Tenure.*

- (1) The term of a member is 3 years.*
- (2) The terms of the members are staggered.*
- (3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.*
- (4) An individual may be reappointed for a second 3-year term, but the individual may not serve more than two consecutive 3-year terms.*
- (5) The terms of the initial members of the Committee shall expire as follows:*
  - (a) Two members in 2024;*
  - (b) Two members in 2025; and*
  - (c) Three members in 2026.*

*C. Vacancy.*

- (1) If a vacancy occurs, the Board shall appoint a new member to serve on the Committee.*
- (2) The successor member shall only serve for the remainder of the term unless reappointed.*

*D. Chair. From among its members, the Committee shall elect a chair every 2 years.*

*E. Quorum.*

- (1) A quorum of the Committee consists of five members.*
  - (2) Business may not be conducted at a Committee meeting unless there is a quorum.*
- F. In addition to the powers set forth elsewhere in this chapter, the Committee may develop and make recommendations to the Board in any matters related to the regulation of the practice of genetic counseling.*

## ***.05 Code of Ethics.***

*A genetic counselor in the State shall follow The National Society of Genetic Counselors Code of Ethics.*

## ***.06 Application for Initial Licensure as a Genetic Counselor.***

*A. An applicant for a license as a licensed genetic counselor or a supervised genetic counselor shall:*

- (1) Complete an application on a form provided by the Board;*
- (2) Pay the required application fee set by the Board in accordance with Regulation .12 of this chapter;*
- (3) Be 18 years old or older;*
- (4) Be of good moral character;*
- (5) Demonstrate spoken and written competency in English by any of the following:*
  - (a) Documentation of graduation from a recognized English-speaking high school or undergraduate school after at least 3 years of enrollment;*
  - (b) Documentation of graduation from a recognized English-speaking professional school; or*
  - (c) Documentation of receiving a grade of at least:*
    - (i) 26 on the "Speaking Section" of the Internet-based Test of English as a Foreign Language; and*
    - (ii) 79 on the total score of the Internet-based Test of English as a Foreign Language;*
- (6) If applicable, provide documentation of licensure, certification, or registration from all states and jurisdictions where the applicant has ever held a license, certificate, or registration in any health profession;*
- (7) Have no history of public disciplinary action taken, or pending, against any license currently or previously held or expired; and*
- (8) Complete a criminal history records check in accordance with Health Occupations Article, § 14-308.1, Annotated Code of Maryland.*

*B. An applicant for a license as a licensed genetic counselor or a supervised genetic counselor shall submit satisfactory evidence of graduation from an accredited educational program.*

*C. Except as provided in § D of this regulation, an applicant for a license as a licensed genetic counselor shall submit to the Board satisfactory evidence of certification by a national certifying board.*

*D. If an applicant for a license as a licensed genetic counselor does not meet the requirement under § C of this regulation, the applicant may qualify for licensure as a licensed genetic counselor if the applicant:*

- (1) Has worked as a genetic counselor for:*

- (a) At least 10 years before January 1, 2024; and*
- (b) At least 5 consecutive years immediately preceding the date on which the applicant submits the application for licensure;*
- (2) Has graduated from an accredited educational program;*
- (3) Submits to the Board three letters of recommendation from licensed physicians who have been licensed for at least 5 years or certified genetic counselors eligible for licensure and who:*
  - (a) Have worked with the applicant in an employment or professional setting for 3 years before the applicant submits the application for licensure; and*
  - (b) Can attest to the applicant's competency in providing genetic counseling services.*
- E. An applicant for a license as a supervised genetic counselor shall submit to the Board satisfactory evidence that the applicant has applied for the first available national certifying examination.*
- F. The Board may not issue a supervised genetic counselor license to an applicant if the applicant has failed the national certifying examination two or more times.*

### ***.07 Referral to Other Health Care Practitioners.***

*If, while practicing genetic counseling, a licensed genetic counselor or supervised genetic counselor determines that a patient requires diagnosis, treatment, or management, the genetic counselor shall:*

- A. Refer the patient to a licensed physician or another appropriate health care practitioner; and*
- B. Document the referral in the patient's medical record.*

### ***.08 Scope of Practice.***

*The scope of practice of a licensed genetic counselor or a supervised genetic counselor includes the following:*

- A. Obtaining and interpreting individual or family medical and developmental histories;*
- B. Determining the mode of inheritance and risk of transmission of genetic conditions and of birth defects, including evaluating the risks from exposure to possible mutagens and teratogens;*
- C. Discussing the inheritance features, natural history, means of diagnosis, and management of genetic conditions and birth defects;*
- D. Identifying, ordering, coordinating, and explaining the clinical implications of genetic laboratory tests and other diagnostic studies and their results;*
- E. Integrating genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic or medical conditions and diseases;*
- F. Assessing psychosocial factors;*
- G. Recognizing social, educational, and cultural issues;*
- H. Evaluating the patient's or family's responses to the condition or risk of recurrence and providing patient-centered counseling and anticipatory guidance; and*
- I. Facilitating informed decision-making about testing, management, and alternatives.*

### ***.09 Supervised Genetic Counselors.***

*A. Term and Expiration.*

- (1) A supervised genetic counselor license shall expire on the earliest of:*
  - (a) The issuance of a genetic counselor license to the supervised genetic counselor;*
  - (b) On notice of the second failure of the supervised genetic counselor to pass the certification examination; or*
  - (c) 1 year after the date of issuance.*
- (2) A supervised genetic counselor license may not be renewed or extended beyond the 1-year expiration date.*
- (3) A supervised genetic counselor who has not passed the certification examination within two examination cycles may not continue practicing under the supervised genetic counselor license.*

*B. Supervision.*

- (1) A supervised genetic counselor may practice only under the supervision of a qualified supervisor.*
- (2) The supervised genetic counselor and the qualified supervisor shall enter into a written supervision contract that:*

- (a) Specifies the manner of supervision;*
  - (b) Specifies any alternative qualified supervisors, as appropriate;*
  - (c) Is signed by the supervised genetic counselor and the qualified supervisor; and*
  - (d) Is maintained by both the supervised genetic counselor and the qualified supervisor and made available upon request to the Board.*
- (3) Delegation of duties by a qualified supervisor beyond the scope of practice or failure to appropriately supervise a supervised genetic counselor may be considered unprofessional conduct in the practice of the qualified supervisor's profession.*

## ***.10 Renewal and Reinstatement of Licensure as a Licensed Genetic Counselor.***

*A. At least 1 month before the license expires, the Board shall send a renewal notice to the licensed genetic counselor that states:*

- (1) The date on which the current license expires;*
- (2) The date by which the renewal application shall be received by the Board for the renewal to be issued before the license expires; and*
- (3) The amount of the renewal fee set by the Board in accordance with Regulation .12 of this chapter.*

*B. Renewal.*

*(1) The Board may not renew a license until the Office of the Comptroller or the Maryland Department of Labor has verified that the individual has paid all undisputed taxes and unemployment insurance contributions, or arranged for repayment, as required by COMAR 10.31.02.*

*(2) An individual who has been licensed by the Board as a licensed genetic counselor may renew the license every 2 years on or before the date specified by the Board by:*

- (a) Submitting a renewal application on the form supplied by the Board;*
- (b) Paying the required renewal fee set by the Board in accordance with Regulation .12 of this chapter; and*
- (c) Attesting to:*

- (i) Current certification by the national certifying board; or*
- (ii) Completion of at least 50 hours of continuing education credits approved by the national certifying board, earned during the 2-year period preceding the expiration of the license for genetic counseling.*

*(3) Documentation of continuing education.*

*(a) A genetic counselor shall obtain documentation of attendance at continuing education and retain the documentation for 6 years.*

*(b) The documentation shall contain, at a minimum, the following information:*

- (i) Program title;*
- (ii) Sponsor's name;*
- (iii) Genetic counselor's name;*
- (iv) Inclusive date or dates and location of the program;*
- (v) The number of continuing education hours earned; and*
- (vi) Documented verification that the genetic counselor attended the program by stamp, signature, print-out, or other official proof.*

*(b) Proof of maintenance of certification by the national certifying board may be used to document compliance with the continuing education requirements specified in this regulation.*

*(c) The Board may request a genetic counselor to submit evidence of having met the continuing education requirements specified in this regulation.*

*(d) If a genetic counselor cannot demonstrate completion of the required continuing education credit hours, the Board may impose a civil penalty of up to \$100 per missing continuing education credit hour.*

*C. Reinstatement.*

*(1) The Board shall reinstate the license of a licensed genetic counselor who has failed to renew the license for any reason if the genetic counselor:*

- (a) Applies for reinstatement after the date the license expires;*
- (b) Provides documentation of current certification by the national certifying board;*
- (c) Completes a criminal history records check in accordance with Health Occupations Article, §14-308.1, Annotated Code of Maryland; and*
- (d) Pays to the Board the reinstatement fee set by the Board in accordance with Regulation .12 of this chapter.*

*D. Reinstatement of a Revoked or Surrendered License.*

- (1) On the application of an individual whose license has been revoked or surrendered, a disciplinary panel, on the affirmative vote of a majority of the quorum, may in its discretion reinstate a revoked or surrendered license.
- (2) When a time period is not stated in an order for revocation or letter of surrender, the disciplinary panel may not entertain an application for post-disciplinary reinstatement until at least 3 years after the date of the order or letter of surrender.
- (3) A revocation of a license may not be for less than 1 year.
- (4) A disciplinary panel may not entertain an application for post-disciplinary reinstatement after an order of revocation unless:
  - (a) Any time period stated in the order has expired;
  - (b) Any condition set out in the order has been fulfilled;
  - (c) The applicant has filed a formal application and paid the fee set by the Board in accordance with Regulation .12 of this chapter; and
  - (d) The applicant:
    - (i) Applies for reinstatement after the date the license expires;
    - (ii) Provides documentation of current certification by the national certifying board;
    - (iii) Completes a criminal history records check in accordance with Health Occupations Article, § 14-308.1, Annotated Code of Maryland;
- (5) A disciplinary panel shall entertain applications for reinstatement pursuant to the procedures and standards of COMAR 10.32.02.06.
- (6) A disciplinary panel may not entertain applications for reinstatement if a revocation or surrender is permanent.

## **.11 Change in Name or Address.**

- A. A licensed genetic counselor or supervised genetic counselor shall notify the Board in writing of a change of name or address within 60 days after the change.
- B. If a licensed genetic counselor or supervised genetic counselor fails to notify the Board within the time required under § A of this regulation, the licensed genetic counselor or supervised genetic counselor may be subject to an administrative penalty of \$100.

## **.12 Fees.**

The following fees are applicable to licensed genetic counselors and supervised genetic counselors:

- A. Initial licensed genetic counselor licensure fee – \$300;
- B. Supervised genetic counselor licensure fee – \$100;
- C. License renewal fees:
  - (1) License renewal fee – \$250; and
  - (2) Maryland Health Care Commission fee – as determined by the Maryland Health Care Commission in accordance with COMAR 10.25.03;
- D. Reinstatement fee – \$300;
- E. Written verification of license fee – \$25; and
- F. Replacement of license fee – \$25.

## **.13 Prohibited conduct.**

- A. Subject to the hearing provisions set forth in Health Occupations Article, §14-405, Annotated Code of Maryland, a disciplinary panel may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:
  - (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
  - (2) Fraudulently or deceptively uses a license;
  - (3) Is guilty of unprofessional or immoral conduct while practicing genetic counseling;
  - (4) Is professionally, physically, or mentally incompetent;
  - (5) Abandons a patient;
  - (6) Is habitually intoxicated;

- (7) *Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in Criminal Law Article, § 5-101, Annotated Code of Maryland;*
- (8) *Provides professional services while:*
  - (a) *Under the influence of alcohol; or*
  - (b) *Using any narcotic or controlled dangerous substance as defined in Criminal Law Article, § 5-101, Annotated Code of Maryland, or any other drug that is in excess of therapeutic amounts without valid medical indication;*
- (9) *Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;*
- (10) *Willfully makes or files a false report or record in the practice of genetic counseling;*
- (11) *Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;*
- (12) *Breaches patient confidentiality;*
- (13) *Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;*
- (14) *Knowingly makes a misrepresentation while practicing genetic counseling;*
- (15) *Knowingly practices genetic counseling with an unauthorized individual or aids an unauthorized individual in practicing genetic counseling;*
- (16) *Knowingly delegates a genetic counseling duty to an unlicensed individual;*
- (17) *Grossly overutilizes health care services;*
- (18) *Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;*
- (19) *Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;*
- (20) *Fails to meet appropriate standards for the delivery of genetic counseling services;*
- (21) *Knowingly submits false statements to collect fees for which services are not provided;*
- (22) *Has been subject to an investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes and has:*
  - (a) *Surrendered the license, if any, issued by the state or country; or*
  - (b) *Allowed the license, if any, issued by the state or country to expire or lapse;*
- (23) *Knowingly fails to report suspected child abuse in violation of Family Law Article, §5-704, Annotated Code of Maryland;*
- (24) *Practices or attempts to practice beyond their authorized scope of practice;*
- (25) *Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;*
- (26) *Practices or attempts to practice genetic counseling procedures or uses or attempts to use genetic assessments if the applicant or licensee has not received education and training in the performance of the procedure or the use of the genetic assessment;*
- (27) *Fails to cooperate with a lawful investigation of the Board or a disciplinary panel;*
- (28) *Fails to complete a criminal history records check under Health Occupations Article, § 14-308.1, Annotated Code of Maryland; or*
- (29) *Violates any provision of this title or any rule or regulation pertaining to genetic counseling that is adopted by the Board, the State, or the federal government.*

*B. Crimes of Moral Turpitude.*

- (1) *Proceedings for crimes of moral turpitude under Health Occupations Article, § 14-5G-18(c), Annotated Code of Maryland, shall be held in accordance with COMAR 10.32.02.07.*
- (2) *On the filing of certified docket entries with the Board by the Office of the Attorney General, the Board shall order the suspension of a license if the licensee is convicted of, or pleads guilty or nolo contendere with respect to, a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.*
- (3) *After completion of the appellate process, if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, the Board shall order the revocation of a license on the certification by the Office of the Attorney General.*

## **.14 Required Reports.**

*A. Except as provided in § B, C, or F of this regulation, hospitals, related institutions, alternative health systems as defined in Health Occupations Article, § 1-401, Annotated Code of Maryland, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensed genetic counselor or supervised genetic counselor for any reason that might be grounds for disciplinary action under Health Occupations Article, § 14-5G-18, Annotated Code of Maryland, or any regulation in this chapter.*

*B. If the action taken by a hospital, related institution, alternative health system, or employer under § A of this regulation relates to alcohol or drug impairment, the hospital, related institution, alternative health system, or employer is not required to report the licensed genetic counselor or supervised genetic counselor to the Board if:*

*(1) The hospital, related institution, alternative health system, or employer knows that the licensed genetic counselor or supervised genetic counselor is:*

*(a) In an alcohol or drug treatment program that is accredited by the Joint Commission or is certified by the Maryland Department of Health; or*

*(b) Under the care of a health care practitioner who is competent and capable of dealing with alcoholism and drug abuse;*

*(2) The hospital, related institution, alternative health system, or employer is able to verify that the licensed genetic counselor or supervised genetic counselor remains in the treatment program until discharge; and*

*(3) The action or condition of the licensed genetic counselor or supervised genetic counselor has not caused injury to an individual while the genetic counselor is practicing genetic counseling.*

*C. If a licensed genetic counselor or supervised genetic counselor enters, or is considering entering, an alcohol or drug treatment program that is accredited by the Joint Commission or that is certified by the Maryland Department of Health, the licensed genetic counselor or supervised genetic counselor shall notify the hospital, related institution, alternative health system, or employer of the licensed genetic counselor or supervised genetic counselor's decision to enter the treatment program.*

*D. If the licensed genetic counselor or supervised genetic counselor fails to provide the notice required under § C of this regulation, and the hospital, related institution, alternative health system, or employer learns that the licensed genetic counselor or supervised genetic counselor has entered a treatment program, the hospital, related institution, alternative health system, or employer shall report to the Board that the licensed genetic counselor or supervised genetic counselor has entered a treatment program and has failed to provide the required notice.*

*E. Noncompliance.*

*(1) If the licensed genetic counselor or supervised genetic counselor is found to be noncompliant with the treatment program's policies and procedures while in the treatment program, the treatment program shall notify the hospital, related institution, alternative health system, or employer of the licensed genetic counselor or supervised genetic counselor's noncompliance.*

*(2) On receipt of the notification required under §E(1) of this regulation, the hospital, related institution, alternative health system, or employer of the licensed genetic counselor or supervised genetic counselor shall report the licensed genetic counselor or supervised genetic counselor's noncompliance to the Board.*

*F. An individual is not required under this regulation to make any report that would be in violation of any federal or State law, rule, or regulation concerning the confidentiality of alcohol and drug abuse patient records.*

*G. The hospital, related institution, alternative health system, or employer shall submit a required report within 10 days of any action described in this regulation.*

*H. A report made under this regulation is not subject to subpoena or discovery in a civil action other than a proceeding arising out of a hearing and decision of the Board under Health Occupations Article, Title 14, Annotated Code of Maryland.*

## **.15 Penalties, Fines, and Sanctioning Guidelines**

*A. An individual who violates any provision of Health Occupations Article, Title 14, Subtitle 5G, Annotated Code of Maryland, is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year, or both.*

*B. An individual who violates any provision of Health Occupations Article, Title 14, Subtitle 5G, Annotated Code of Maryland, or any regulation in this chapter, is subject to a civil fine of not more than \$5,000 to be levied by a disciplinary panel.*

*C. The Board shall pay any penalty collected under §A or B of this regulation into the Board of Physicians Fund.*

*D. Failure to Make a Required Report.*

*(1) A disciplinary panel may impose a fine up to \$1,000 for a hospital, related institution, alternative health system, or employer who fails to make a report to the Board required by Regulation .14 of this chapter.*

*(2) The Board shall deposit any funds collected under §D(1) of this regulation into the State's General Fund.*

*E. General Application of Sanctioning Guidelines.*

*(1) §§ E and F of this regulation and Regulation .16 of this chapter do not apply to offenses for which a mandatory sanction is set by statute or regulation.*

*(2) Except as provided in § F of this regulation, for violations of the sections of the Maryland Genetic Counseling Act listed in the sanctioning guidelines, a disciplinary panel may not impose a sanction less severe than the minimum listed in the sanctioning guidelines or more severe than the maximum listed in the sanctioning guidelines for each offense.*

*(3) Ranking of Sanctions.*

*(a) For the purposes of this regulation, the severity of sanctions is ranked as follows, from the least severe to the most severe:*

*(i) Reprimand;*

*(ii) Probation;*

*(iii) Suspension; and*

*(iv) Revocation.*

*(b) A stayed suspension in which the stay is conditioned on the completion of certain requirements is ranked as probation.*

*(c) A stayed suspension which does not meet the criteria for § E(3)(b) of this regulation is ranked as a reprimand.*

*(4) A disciplinary panel may impose more than one sanction, provided that the most severe sanction neither exceeds the maximum nor is less than the minimum sanction permitted in the sanctioning guidelines.*

*(5) Any sanction may be accompanied by conditions reasonably related to the offense or to the rehabilitation of the offender. The inclusion of conditions does not change the ranking of the sanction.*

*(6) If a licensee has violated more than one ground for discipline as set out in the sanctioning guidelines:*

*(a) The sanction with the highest severity ranking shall be used to determine which ground will be used in developing a sanction; and*

*(b) A disciplinary panel may impose concurrent sanctions based on other grounds violated.*

*(7) Notwithstanding the sanctioning guidelines set forth in Regulation .16 of this chapter, in order to resolve a pending disciplinary action, a disciplinary panel and the licensee may agree to a surrender of license or a consent order with terms and sanction agreed to by a disciplinary panel, the administrative prosecutor, and the licensee.*

*(8) Depending on the facts and circumstances of each case, and to the extent that the facts and circumstances apply, a disciplinary panel may consider the aggravating and mitigating factors set forth in § F(4) and (5) of this regulation and may in its discretion determine, based on those factors, that an exception should be made and that the sanction in a particular case should fall outside the range of sanctions listed in the sanctioning guidelines.*

*(9) If a disciplinary panel imposes a sanction that departs from the sanctioning guidelines as set forth in Regulation .16 of this chapter, the disciplinary panel shall state the reasons for doing so in its final decision and order.*

*F. Aggravating and Mitigating Factors.*

*(1) Depending on the facts and circumstances of each case, and to the extent that the facts and circumstances apply, a disciplinary panel may consider the aggravating and mitigating factors set out in § F(4) and (5) of this regulation and may in its discretion determine, based on those factors, that an exception should be made and that the sanction in a particular case should fall outside the range of sanctions listed in the sanctioning guidelines.*

*(2) Nothing in this regulation requires a disciplinary panel or an Administrative Law Judge to make findings of fact with respect to any of these factors.*

*(3) The existence of one or more of these factors does not impose on a disciplinary panel or an Administrative Law Judge any requirement to articulate its reasoning for not exercising its discretion to impose a sanction outside of the range of sanctions set out in the sanctioning guidelines.*

*(4) Mitigating factors may include, but are not limited to, the following:*

*(a) The absence of a prior disciplinary record;*

*(b) The offender self-reported the incident;*

*(c) The offender voluntarily admitted the misconduct, made full disclosure to the Board, and was cooperative during the Board proceedings;*

*(d) The offender implemented remedial measures to correct or mitigate the harm arising from the misconduct;*

*(e) The offender made good faith efforts to make restitution or to rectify the consequences of the misconduct;*

- (f) The offender has been rehabilitated or exhibits rehabilitative potential;
  - (g) The misconduct was not premeditated;
  - (h) There was no potential harm to patients or the public or other adverse impact; or
  - (i) The incident was isolated and is not likely to recur.
- (5) Aggravating factors may include, but are not limited to, the following:
- (a) The offender has a previous criminal or administrative disciplinary history;
  - (b) The offense was committed deliberately or with gross negligence or recklessness;
  - (c) The offense had the potential for or actually did cause patient harm;
  - (d) The offense was part of a pattern of detrimental conduct;
  - (e) The offender committed a combination of factually discrete offenses adjudicated in a single action;
  - (f) The offender pursued his or her financial gain over the patient's welfare;
  - (g) The patient was especially vulnerable;
  - (h) The offender attempted to hide the error or misconduct from patients or others;
  - (i) The offender concealed, falsified, or destroyed evidence or presented false testimony or evidence;
  - (j) The offender did not cooperate with the investigation; or
  - (k) Previous attempts to rehabilitate the offender were unsuccessful.
- (6) A departure from the sanctioning guidelines set forth in Regulation .16 of this chapter is not a ground for any hearing or appeal of a Board action.

**G. Offenses Related to Continuing Medical Education Credits.**

(1) If a licensee has submitted an application claiming the completion of continuing medical education credits and the licensee fails to document the completion of such continuing medical education credits when audited by the Board, the licensee may be charged under one or more of the following, as appropriate:

- (a) Health Occupations Article, § 14-5G-18(a)(3), Annotated Code of Maryland;
- (b) Health Occupations Article, § 14-5G-18(a)(10), Annotated Code of Maryland; and
- (c) Health Occupations Article, § 14-5G-18(a)(11), Annotated Code of Maryland.

(2) Upon finding a violation, a disciplinary panel may impose any discipline authorized under Health Occupations Article, § 14-5G-18, Annotated Code of Maryland, and the sanctioning guidelines.

**H. Payment of Fines.**

(1) An individual shall pay to the Board any fine imposed under this regulation within 15 calendar days of the date of the order, unless the order specifies otherwise.

(2) Filing an appeal under State Government Article, § 10-222, Annotated Code of Maryland, does not stay payment of a fine imposed by the Board pursuant to this regulation.

(3) If an individual fails to pay, in whole or in part, a fine imposed by the Board pursuant to this regulation, the Board may not restore, reinstate, or renew a license until the fine has been paid in full.

(4) In its discretion, the Board may refer all cases of delinquent payment to the Central Collection Unit of the Department of Budget and Management to institute and maintain proceedings to ensure prompt payment.

**.16 Sanctioning Guidelines for Genetic Counselors.**

A. Subject to provisions of Regulation .14E and F of this chapter, a disciplinary panel may impose sanctions as outlined in § B of this regulation on genetic counselors and supervised genetic counselors for violations of Health Occupations Article, § 14-5G-18, Annotated Code of Maryland.

**B. Range of Sanctions.**

Ground	Maximum Sanction	Minimum Sanction	Maximum Fine	Minimum Fine
(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another	Revocation	Reprimand with probation for 2 years	\$5,000	\$1,000
(2) Fraudulently or deceptively uses a license	Revocation	Probation	\$5,000	\$1,000

<i>(3) Is guilty of unprofessional or immoral conduct while practicing genetic counseling</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$1,000</i>
<i>(4) Incompetence. (a) Is professionally incompetent</i>	<i>Revocation</i>	<i>Suspension until professional incompetence is addressed to Board's satisfaction</i>	<i>\$5,000</i>	<i>\$1,000</i>
<i>(b) Is physically or mentally incompetent</i>	<i>Revocation</i>	<i>Suspension until physical or mental incompetence is addressed to Board's satisfaction</i>	<i>\$5,000</i>	<i>\$0</i>
<i>(5) Abandons a patient</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$1,000</i>
<i>(6) Is habitually intoxicated</i>	<i>Revocation</i>	<i>Suspension until licensee is in treatment and has been abstinent for 6 months</i>	<i>\$5,000</i>	<i>\$0</i>
<i>(7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in Criminal Law Article, § 5-101, Annotated Code of Maryland</i>	<i>Revocation</i>	<i>Suspension until licensee is in treatment and has been abstinent for 6 months</i>	<i>\$5,000</i>	<i>\$0</i>
<i>(8) Provides professional services while: (a) Under the influence of alcohol; or (b) Using any narcotic or controlled substance as defined in Criminal Law Article, § 5-101, Annotated Code of Maryland, or any other drug that is in excess of therapeutic amounts without valid medical indication</i>	<i>Revocation</i>	<i>Suspension until licensee is in treatment and has been abstinent for 6 months</i>	<i>\$5,000</i>	<i>\$500</i>
<i>(9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain</i>	<i>Suspension for 5 years</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$1,000</i>
<i>(10) Willfully makes or files a false report or record in the practice of genetic counseling</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$1,000</i>
<i>(11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$1,000</i>

<i>recording of a report, or induces another to fail to file or record a report</i>				
<i>(12) Breaches patient confidentiality</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$1,000</i>
<i>(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$500</i>
<i>(14) Knowingly makes a misrepresentation while practicing genetic counseling</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$1,000</i>
<i>(15) Knowingly practices genetic counseling with an unauthorized individual or aids an unauthorized individual in practicing genetic counseling</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$1,000</i>
<i>(16) Knowingly delegates a genetic counseling duty to an unlicensed individual</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$1,000</i>
<i>(17) Grossly overutilizes health care services</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$1,000</i>
<i>(18) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$1,000</i>
<i>(19) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under the Board's disciplinary statutes</i>	<i>Penalty comparable to what the Board imposes under equivalent State ground for discipline</i>	<i>Penalty equivalent to that imposed by original licensing authority if this is less than the Board sanction would be</i>	<i>Fine comparable to what the Board imposes under equivalent State ground for discipline</i>	<i>Fine equivalent to that imposed by the original licensing authority if this is lesser than the Board sanction would be</i>
<i>(20) Fails to meet appropriate standards for the delivery of genetic counseling services</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$500</i>
<i>(21) Knowingly submits false statements to collect fees for which services are not provided</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$1,000</i>
<i>(22) Has been subject to an investigation or disciplinary</i>	<i>Penalty comparable to</i>	<i>Penalty equivalent to that</i>	<i>Fine comparable to what the Board</i>	<i>Fine equivalent to</i>

<i>action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes and has: (a) Surrendered the license, if any, issued by the state or country; or (b) Allowed the license, if any, issued by the state or country to expire or lapse</i>	<i>what the Board imposes under equivalent State ground for discipline</i>	<i>imposed by original licensing authority if this is less than the Board sanction would be</i>	<i>imposes under equivalent Maryland ground for discipline</i>	<i>that imposed by the original licensing authority if this is lesser than the Board sanction would be</i>
<i>(23) Knowingly fails to report suspected child abuse in violation of Family Law Article, § 5-704, Annotated Code of Maryland</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$500</i>
<i>(24) Practices or attempts to practice beyond the authorized scope of practice</i>	<i>Revocation</i>	<i>Suspension for 3 months</i>	<i>\$5,000</i>	<i>\$2,500</i>
<i>(25) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive</i>	<i>Suspension for 1 year</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$500</i>
<i>(26) Practices or attempts to practice genetic counseling procedures or uses or attempts to use genetic assessments if the applicant or licensee has not received education and training in the performance of the procedure or the use of the genetic assessment</i>	<i>Revocation</i>	<i>Suspension for 3 months</i>	<i>\$5,000</i>	<i>\$2,500</i>
<i>(27) Fails to cooperate with a lawful investigation of the Board or a disciplinary panel</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$1,000</i>
<i>(28) Fails to complete a criminal history records check under Health Occupations Article, § 14-308.1, Annotated Code of Maryland</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$500</i>
<i>(29) Violates any provision of this title or any rule or regulation pertaining to genetic counseling that is adopted by the Board, the State, or the federal government</i>	<i>Revocation</i>	<i>Reprimand</i>	<i>\$5,000</i>	<i>\$500</i>