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November 18, 2019

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and U.S. Mail

Mr. John Thurston
Secretary of State
State Capitol – Room 026
Little Rock, AR 72201-1094

**Re: My Client: Arkansas State Medical Board
Rule 43 – Genetic Counselor Licensure**

To Whom It May Concern:

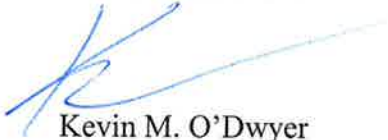
Enclosed please find the following documents:

1. Arkansas Register Transmittal Sheet; and
2. Rule 34 – Genetic Counselor Licensure.

Please file this accordingly.

Sincerely,

HOPE, TRICE, O'DWYER & WILSON, P.A.



Kevin M. O'Dwyer
Attorney for the Arkansas State Medical Board

KMO:ena
enclosure

cc: Ms. Amy Embry, Executive Director (via e-mail Amy.Embry@armedicalboard.org)
Matt Gilmore (via e-mail matt.gilmore@arkansas.gov)

ARKANSAS REGISTER

Transmittal Sheet Use only for FINAL and EMERGENCY RULES



Secretary of State
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**For Office
Use Only:**

Effective Date _____ Code Number _____

Name of Agency Division of Health Related Board and Commissions/Arkansas State Medical Board

Department Department of Health

Contact Amy Embry, Executive Director E-mail Amy.Embry@armedicalboard.org Phone 501-296-1802

Statutory Authority for Promulgating Rules _____

Rule Title: Rule 43 - Genetic Counselor Licensure

Intended Effective Date
(Check One)

Date

Emergency (ACA 25-15-204)

Legal Notice Published

9/3/2019 9/10/2019 9/17/2019

10 Days After Filing (ACA 25-15-204)

Final Date for Public Comment

10/3/2019

Other _____
(Must be more than 10 days after filing date.)

Reviewed by Legislative Council

11/15/2019

Adopted by State Agency

10/3/2019

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Kevin M. O'Dwyer

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Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Amy E. Embry
Signature

501-296-1892

Amy.Embry@armedicalboard.org

Phone Number

E-mail Address

Executive Director

Title

11-18-19

Date

RULE 43

CLEAN COPY

GENETIC COUNSELOR LICENSURE

A. Pursuant to Arkansas Code Annotated § 17-95-1101, this Rule shall be known and cited as the "Rule 43 - Arkansas Genetic Counselor Licensure."

B. Pursuant to Arkansas Code Annotated § 17-95-1102, definitions as used in this Rule: "Genetic counseling" means the process of assisting individuals with understanding and adapting to the medical, psychological, and familial implications of genetic contributions to disease, which includes without limitation:

1. Interpreting family and medical histories to assess the chance of disease occurrence or recurrence.
2. Educating an individual or an individual's family about inheritance, testing, management, prevention, resources, and research.
3. Counseling an individual or an individual's family to promote informed choices and adaptation to the risk or condition.
4. Estimating the likelihood of occurrence or recurrence of any potentially inherited or genetically influenced condition which may involve:
 - a. Obtaining and analyzing a complete health history of the individual and the individual's family;
 - b. Reviewing the pertinent medical records;
 - c. Evaluating the risks from exposure to possible mutagens or teratogens; and
 - d. Discussing genetic testing or assist in the diagnosis of a condition to determine the carrier status of one (1) or more family members.
5. Assisting the individual, the individual's family, the individual's healthcare provider, or the public to:
 - a. Appreciate the medical, psychological, and social implications of a disorder, including the features, variability, usual course, and management options of the disorder;
 - b. Learn how genetic factors contribute to the disorder and affect the chance for recurrence of the condition in other family members;
 - c. Understand available options for coping with, preventing, or reducing the chance of occurrence or recurrence of a condition; and

- d. Understand genetic tests, including without limitation diagnostic genetic tests, screening tests, or predispositional genetic tests, coordinate testing for inherited disorders, and interpret complex genetic test results.
6. Facilitating an individual's or an individual's family's:
 - a. Exploration of the perception of risk and burden associated with a genetic disorder;
 - b. Decision-making regarding testing or medical interventions consistent with their beliefs, goals, needs, resources, culture, and ethical or moral views; and
 - c. Adjustment and adaption to the condition or their genetic risk by addressing needs for psychological, social, and medical support.
 7. "Licensed genetic counselor" means a person who is licensed under this Rule to engage in the practice of genetic counseling; and
 8. "Supervision" means the ongoing, direct clinical review for the purposes of training or teaching, by an approved supervisor who monitors the performance of a person's supervised interaction with a client and provides regular documented face-to-face consultation, guidance, and instructions with respect to the clinical skills and competencies of the person supervised.
 9. "Supervision" may include without limitation the review of case presentation, audio tapes, video tapes, and direct observation.
- C. Pursuant to Arkansas Code Annotated § 17-95-1103 exemptions from genetic licensure. This Rule does not require licensure as a genetic counselor of:
1. An individual who is *licensed* or *lawfully* permitted to *practice by this* state as a healthcare professional and who is practicing within his or her scope of practice, including without limitation a physician or an advanced practice registered nurse.
 2. An *individual* who has successfully completed an accredited genetic counseling training program and who is:
 - a. Reapplying for the American Board of Genetic Counseling certification examination and gathering logbook case numbers under supervision in an approved genetic counseling training site; or
 - b. Practicing under direct supervision of a licensed physician.

3. A student enrolled in an approved academic program in genetic counseling if the practice constitutes a part of a supervised course of study and the student is designated by a title that clearly indicates the student's status as a student or trainee.

4. An individual who is employed by a state genetics center to provide education regarding single gene conditions, including without limitation sickle cell, cystic fibrosis, and hemoglobinopathies.

5. An individual described in subdivision E(4) of this section shall not use the title "genetic counselor" or any other title tending to indicate that he or she is a genetic counselor unless he or she is licensed in this state.

a. A visiting genetic counselor who is certified by the American Board of Genetic Counseling or American Board of Medical Genetics from outside the state performing activities and services for a period of thirty (30) days each year.

b. A visiting genetic counselor shall be licensed if the license is available in his or her home state.

D. Pursuant to Arkansas Code Annotated § 17-95-1104, Authority of the Arkansas State Medical Board. The Arkansas State Medical Board shall:

1. Receive, review, and approve applications for genetic counselor licensure.
2. Issue, renew, suspend, revoke, or deny licensure as a genetic counselor.
3. Conduct hearings on investigative and disciplinary proceedings.
4. Maintain a database of all licensees and all persons whose license has been suspended, revoked, or denied.
 - a. Access to a database under subdivision D of this section shall be available upon written request.
5. Perform other functions and duties required to carry out this Rule.

E. Pursuant to Arkansas Code Annotated § 17-95-1105 Title Protection. A person shall not use or assume the titled "licensed genetic counselor" or "genetic counselor" or use any words, letters, abbreviations, or insignia indicating or implying that the person holds a genetic counselor license unless the person is licensed by the Arkansas State Medical Board.

F. Pursuant to Arkansas Code Annotated § 17-95-1106 Genetic counselor licensure. The Arkansas State Medical Board shall license as a *licensed genetic* counselor an applicant who:

1. Submits an application approved by the Arkansas State Medical Board.

2. Pays an application fee of \$90.00 that is comparable to other fees for licensure of other midlevel healthcare professionals licensed by the Arkansas State Medical Board and provides evidence of:

a. Having earned a master's degree from a genetic counseling training program that is accredited by the American Board of Genetic Counseling or an equivalent as determined by the American Board of Genetic Counseling or the American Board of Medical Genetics; and

b. Meets the examination requirements for certification and has current certification as a genetic counselor by the American Board of Genetic Counseling or the American Board of Medical Genetics.

3. The Arkansas State Medical Board may issue a license to an applicant who provides evidence that he or she is licensed to practice as a genetic counselor in another state or territory if the requirements for licensure in the other state or territory are equal to the requirements in this Rule.

4. The issuance of a license by reciprocity shall be at the sole discretion of the Arkansas State Medical Board. The Board shall issue a license by reciprocity if:

a. The applicant submits a fully-executed application, the required fee of \$90.00;

b. Evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas';

c. Evidence of current and active licensure in the state; and

d. Evidence that the other state's licensure requirements match those of Arkansas and this Rule.

G. Pursuant to Arkansas Code Annotated § 17-95-1107, Renewal of genetic counselor license.

1. Except in the case of a temporary license under § 17-95-1108, a license shall be valid for a two-year period from the date of issuance.

2. Upon receipt of a renewal application and renewal fees of \$100.00, the Board shall renew a license to practice as a *licensed genetic* counselor.

3. As a condition of licensure renewal, a *licensed genetic* counselor shall submit documentation that he or she has completed fifty (50) hours of continuing education units approved by the Board.

4. A *licensed genetic* counselor is responsible for maintaining:

a. Competent records of having completed qualified professional education for a period of four (4) years after close of the two-year period to which the records pertain; and

b. Information with respect to having completed a qualified professional education to demonstrate that the education meets the requirements of this Rule.

5. The Arkansas State Medical Board may waive the continuing education requirement or grant an extension of time to complete the continuing education requirement in cases of retirement, illness, disability, or other undue hardship.

H. Pursuant to Arkansas Code Annotated § 17-95-1108 the Arkansas State Medical Board may issue a temporary license.

The Arkansas State Medical Board may issue a temporary license, to an applicant who does not meet the certification requirement in § 17-95-1106 if the applicant:

a. Has been granted an active-candidate status by the American Board of Genetic Counseling; and

b. Applies for and takes the certification examination within twelve (12) months of the issuance of a temporary license and submits an application and application fees of \$50.00.

2. A temporary license is valid for one (1) year from the date of issuance.

3. A temporary license may be renewed for one (1) year if the applicant fails his or her first attempt to pass the certification examination of the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics.

4. An application for renewal shall be signed by a supervisor of the applicant.

5. A temporary license shall expire automatically upon the earliest of:

a. The date of issuance of a license under § 17-95-1106;

b. Ninety (90) days after the date that the applicant fails on his or her second attempt to pass the certification examination; or

c. The date printed on the temporary license.

6. As a condition of a temporary licensure, an applicant shall work under the supervision of a licensed genetic counselor or a licensed physician with current American Board of Genetic Counseling certification in clinical genetics when the applicant provides genetic counseling services.

7. A temporary license shall not be issued if the applicant has failed the American Board of Genetic Counseling certification examination more than two (2) times.

I. Pursuant to Arkansas Code Annotated § 17-95-1109 Denial, Suspension, Revocation, or Refusal to Renew – Censure.

1. The Arkansas State Medical Board may deny, suspend, revoke, or refuse to renew a license, or may reprimand, censure, place on probation, or otherwise discipline a licensee, upon proof that the licensee has:

- a. Obtained or attempted to obtain a license by fraud or deception;
- b. Been convicted of a felony under state or federal law;
- c. Been adjudicated mentally ill or incompetent by a court;
- d. Used illicit drugs or intoxicating *liquors, narcotics, controlled substances, or other drugs or stimulants* to an extent that adversely affects the practice of genetic counseling;
- e. Engaged in unethical or unprofessional conduct, including without limitation willful acts, negligence, or incompetence in the course of professional practice;
- f. Violated any provision of this Rule or any rule of the Board; or
- g. Been denied licensure or disciplined in another state or territory in connection with a license in another state or territory.

2. A licensee under subsection I(1) of this section shall promptly deliver his or her license to the Board if the licensee:

- a. Has his or her license suspended or revoked; or
- b. Surrenders his or her license with or without prejudice if the surrender is approved by the Board.

3. The Board may restore a license or remove a probation on a license based upon the decision of the Board after a hearing.

J. Pursuant to Arkansas Code Annotated § 17-95-1110 Surrendering license due to retirement.

1. In order to retire his or her license, a licensed genetic counselor shall file an affidavit with the Arkansas State Medical Board stating the date on which the individual will retire or has retired, and other information determined necessary by the Board.

2. If a licensed genetic counselor retires his or her licensed as described in subsection J(1) of this section, the individual shall apply for licensure as provided in § 17-95-1106 and is not liable for renewal fees that may accrue during the retirement period.