

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

November 17, 2020
10:00 a.m. Central Time
Nebraska State Office Building – Lower Level A
301 Centennial Mall South, Lincoln, Nebraska
Phone call information: 888-820-1398; Participant code: 3213662#

The purpose of this hearing is to receive comments on proposed changes to Title 172, Chapter 92 of the Nebraska Administrative Code (NAC) – *Licensure of Genetic Counselors*. The proposed changes update definitions; remove all duplicative statutory language from the regulations; and remove any repetitive regulatory language that would be found in 172 NAC 10. Additional proposed changes include updating the unprofessional conduct section to reference to 172 NAC 88.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Due to the current public health crisis, the agency will enforce any Directed Health Measure Order on the size of gatherings that is in effect at the time of the hearing. In order to encourage participation in this public hearing, a phone conference line will be set up for any member of the public to call in and provide oral comments.

Interested persons may provide verbal comments by participating via phone conference line by calling 888-820-1398; Participant code: 3213662#.

Interested persons may provide written comments by mail, fax, or email, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or dhhs.regulations@nebraska.gov, respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8223. Individuals with hearing impairments may call DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 172	Prepared by: Jesse Cushman
Chapter: 92	Date prepared: 7-3-19
Subject: Licensure of Genetic Counselors	Telephone: (402) 471-4915

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency: **No Change**

Political Subdivision: **No Change**

Regulated Public: **No Change**

If indeterminable, explain why:

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 92 LICENSURE OF GENETIC COUNSELORS

001. SCOPE AND AUTHORITY. These regulations govern the licensure of genetic counselors under Nebraska Revised Statute (Neb. Rev. Stat.) §§ 38-3401 to 38-3425 of the Genetic Counseling Practice Act and the Uniform Credentialing Act.

002. DEFINITIONS. Definitions are set out in the Genetic Counseling Practice Act, the Uniform Credentialing Act, and 172 Nebraska Administrative Code (NAC) 10.

003. LICENSE REQUIREMENTS. To obtain a license, an individual must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the licensing requirements of Neb. Rev. Stat. §§ 38-3418 to 38-3420 and 172 NAC 10.

004. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The applicant must meet the requirements set out in 172 NAC 10 and this chapter. All genetic counseling licenses except for provisional licenses expire on October 1 of each even-numbered year.

004.01 CONTINUING COMPETENCY. The continuing competency requirement for genetic counselors is either:

- (A) Recertification with the American Board of Genetic Counseling by examination or by continuing education; or
- (B) Recertification with the American Board of Medical Genetics by participating in Maintenance of Certification.

004.02 PROVISIONAL LICENSE RENEWAL. An application for renewal of a provisional license must:

- (A) Be signed by both the provisional license holder and a qualified supervisor; and
- (B) Provide documentation of maintaining active candidate status with the national genetic counseling board or the national medical genetics board.

005. UNPROFESSIONAL CONDUCT. Unprofessional conduct is set out in Neb. Rev. Stat. § 38-179, and 172 NAC 88 as applicable to the profession of genetic counseling.

006. REINSTATEMENT. The applicant must meet the requirements set out in 172 NAC 10.

007. FEES. Fees are set out in 172 NAC 2 and this chapter.

DRAFT
08-26-2019

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 92

007.01 LICENSE FEE. The fee for initial and provisional license is \$150.

007.02 RENEWAL FEE. The fees for renewal of a full license is \$110, and the renewal fee for a provisional license is \$55.

TITLE 172 _____ PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 92 _____ LICENSURE OF GENETIC COUNSELORS

~~92-001 SCOPE AND AUTHORITY:~~ These regulations govern the licensure of genetic counselors under the Genetic Counseling Practice Act and the Uniform Credentialing Act. Persons providing genetic counseling services to patients located in Nebraska must be licensed as a genetic counselor in Nebraska unless they are exempt under the Act(s). ~~Section kept in section 001 as modified.~~

~~92-002 DEFINITIONS:~~ For purposes of these regulations, definitions in the Uniform Credentialing Act and the Genetic Counseling Practice Act and the following definitions are hereby adopted. ~~Section kept in section 002 as modified.~~

~~Attest or attestation~~ means that the individual declares that all statements on the application are true and complete.

~~Complete application~~ means an application that contains all of the information requested on the application, with attestation to its truth and completeness, and that is submitted with the required fees and all required documentation.

~~Licensure in another jurisdiction~~ means holding a credential that authorizes the individual to engage in the profession of genetic counseling which would otherwise be unlawful, from the District of Columbia or any state, territory, or possession of the United States of America, or any province of Canada.

~~Military service~~ means full-time duty in the active military service of the United States, a National Guard call to active service for more than 30 consecutive days, or active service as a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration. Military service may also include any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. (From the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as it existed on January 1, 2007.)

~~Served in the regular armed forces~~ has the same meaning as “military service” in these regulations.

~~92-003 INITIAL LICENSE:~~ To receive a license, an individual must submit a complete application, pay the appropriate fee, and meet the following: ~~Section kept in section 003 as modified.~~

~~92-003.01 Age and Good Character: Be at least 19 years old and of good character;~~

~~92-003.02 Citizenship/Lawful Presence: Be a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a credential under the Uniform Credentialing Act, or a nonimmigrant lawfully present in the United States who is eligible for a credential under the Uniform Credentialing Act; and~~

~~92-003.03 Experience: Be certified as a genetic counselor by either the national genetic counseling board or the national medical genetics board.~~

~~92-003.03A To receive a license to practice as a genetic counselor, an individual must be certified as a genetic counselor by either the national genetic counseling board or the national medical genetics board.~~

~~92-003.03B To receive a license to practice as a genetic counselor on the basis of licensure in another jurisdiction under substantially equivalent requirements as determined by the Department, with the recommendation of the Board.~~

~~92-003.03C To receive a provisional license to practice as a genetic counselor, an individual must have been granted active candidate status by the national genetic counseling board.~~

~~92-003.04 Denied or Withdrawn Applications~~

~~92-003.04A Denied Applications: An applicant for a genetic counseling license or a provisional genetic counseling license whose application is denied by the Department will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.~~

~~92-003.04B Withdrawn Applications: An applicant for a genetic counseling license or a provisional genetic counseling license may request to withdraw the application. A request to withdraw an application will be granted:~~

- ~~1. When the application is incomplete; or~~
- ~~2. When the request for withdrawal is received within five business days of the receipt of a complete application.~~

~~If a request to withdraw an application is granted, the applicant will be allowed the return of his/her fee, except for a \$25 administrative fee to be retained by the Department.~~

92-004 RENEWAL

92-004.01 Genetic Counselors: An individual who wants to renew his/her license to practice as a genetic counselor must, prior to the expiration date, file an application for renewal, pay the fee, and demonstrate compliance with continuing competency requirements. section kept in section 004 as modified

~~92-004.01A Continuing Competency: The continuing competency requirement for genetic counselors is either:~~

- ~~1. Recertification with the American Board of Genetic Counseling by examination or by continuing education; or~~
- ~~2. Recertification with the American Board of Medical Genetics by participating in Maintenance of Certification.~~ **section kept in section 004 as modified**

~~92-004.01B Waivers for Military Service~~

- ~~1. Licensees actively engaged in military service are not required to pay the renewal fee.~~
- ~~2. The Department may waive continuing competency requirements if a licensee has served in the regular armed forces of the U.S. during part of the credentialing period immediately preceding the renewal date.~~

~~92-004.02 Provisional License: A provisional license is valid for no more than one year from the date of issuance but may be renewed for one additional year if the applicant fails the certification examination one time.~~

~~An application for renewal of the provisional license must:~~

- ~~1. Be signed by both the provisional license holder and a qualified supervisor;~~ **section kept in section 004 as modified**
- ~~2. Be filed within 30 days of when the applicant fails to pass the complete certification examination; and~~
- ~~3. Provide documentation of maintaining active candidate status with the national genetic counseling board or the national medical genetics board.~~ **Highlighted section kept in section 004 as modified.**

92-005 DISCIPLINARY ACTION

~~92-005.01 Grounds for Discipline: A genetic counseling license may be denied, refused renewal, or have other disciplinary measures taken against it for grounds specified in Neb. Rev. Stat. § 38-178 or for unprofessional conduct.~~

~~92-005.02 Unprofessional Conduct: Unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of genetic counseling or the ethics of the profession, regardless of whether a person, patient, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to the acts set out in Neb. Rev. Stat. § 38-179 and the following: **Section kept in section 005 as modified.**~~

1. ~~Refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department;~~ Section moved to 172 NAC 88 as modified
2. ~~A departure from or failure to conform to the ethics of the genetic counseling profession, which ethics are found in the National Society of Genetic Counselors Code of Ethics;~~
3. ~~Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer;~~
4. ~~Refusing to provide professional service to a person because of such person's race, creed, color, or national origin; and~~ Section moved to 172 NAC 88 as modified
5. ~~Refusal to undergo an examination defining competency as required by the Board.~~ Section moved to 172 NAC 88 as modified

~~92-006 REINSTATEMENT:~~ This section applies to individuals previously credentialed in Nebraska who seek the authority to return to practice in Nebraska with a valid Nebraska credential. Individuals may apply for reinstatement as follows: Section kept in section 006 as modified.

1. ~~An individual whose credential has expired, been placed on inactive status, voluntarily surrendered for an indefinite period of time, or suspended or limited for disciplinary reasons, may apply for reinstatement at any time.~~
2. ~~An individual whose credential has been voluntarily surrendered for a definite period of time may apply for reinstatement after that period of time has elapsed.~~
3. ~~An individual whose credential has been revoked may apply for reinstatement only after a period of two years has elapsed from the date of revocation.~~
4. ~~An individual whose credential has been permanently voluntarily surrendered may not apply for reinstatement.~~

The voluntary surrender of a credential may be unrelated to disciplinary matters, or may be done to resolve a pending disciplinary matter, in lieu of disciplinary action, or in response to a notice of disciplinary action.

92-007 FEES

~~92-007.01~~ For initial licensure as a genetic counselor, the fee of \$150. Section kept in section 007 as modified.

~~92-007.02~~ For a provisional license to practice as a genetic counselor, the fee of \$150. Section kept in section 007 as modified.

~~92-007.03~~ For the biennial renewal of licensure as a genetic counselor, the fee of \$110. Section kept in section 007 as modified.

~~92-007.04~~ For the renewal of a provisional license to practice as a genetic counselor, the fee of \$55. Section kept in section 007 as modified.