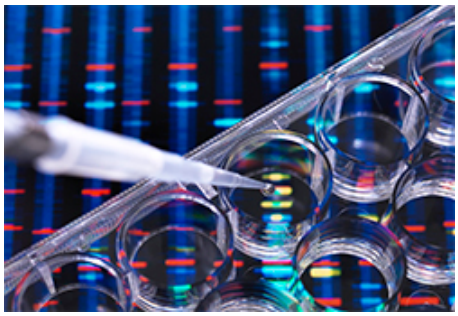
Florida Joins List of States Requiring Licensure for Genetic Counselors



Many allied health professionals are subject to state-level licensing requirements that can vary from jurisdiction-to-jurisdiction. What may be required in New York to hold a medical professional license may differ dramatically from what is required in Illinois or Texas, for instance. One state's requirements may be onerous and administratively taxing; another state's requirements to serve as the same type of medical professional may be quite simple. Assessing licensing requirements for medical professionals from state to state can also involve rapid change, with state legislatures and state licensing boards revising and changing standards on a regular basis.

Most recently, Florida has joined a number of states that require the licensure of genetic counselors by the Florida Department of Health. Genetic counselors play an increasingly important role in the delivery of care. These professionals hold specialized training in genetics and help patients better understand family history, heredity, and how conditions can arise. Genetic counselors can also aid family members in making better and more knowledgeable choices when it comes to selecting patient care, assisting with questions about the most appropriate testing, educating about genetic disorders, and even helping people cope with troubling diagnoses. The **National Society of Genetic Counselors** ("NSGC") describes genetic counselors as "not doctors" but having advanced training in medical genetics and counseling to guide patients on inherited diseases and conditions. Given this advanced training, and given the critical role that genetic counselors can play with patients, according to NSGC, at least 30 states require licensure for the practice of genetic counseling, Florida being the latest state to join this list.

The New Florida Genetic Counseling Licensing Requirement. Florida's **Genetic Counseling Workforce Act** **(the "Law")**, which became effective on July 1, 2021, requires genetic counselors to meet specific qualifications and examination requirements and to register to hold a genetic counseling license. The Law defines "genetic counseling" to include activities such as: obtaining and evaluating individual, family, and medical histories to determine genetic risk for genetic or medical conditions and diseases in a patient, his or her offspring, and other family members; 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 and providing written documentation of medical, genetic, and counseling information for families and health care professionals. The Law prohibits the unlicensed practice of genetic counseling, calling it a second degree misdemeanor to, among other things, "[p]ractice genetic counseling or hold [oneself] out as a genetic counselor or as being able to practice genetic counseling or to render genetic counseling services without a license," unless specifically exempted. § 483.916. This is a broadly worded prohibition and could very conceivably be applied to out-of-state practitioners. The only exemptions are for commissioned medical officers in the U.S. Armed Forces or Public Health Service or health care practitioners (like physicians, nurses, or physicians assistants) operating within the scope of his or her license.

For those who are required to register and hold a Florida genetic counseling license, the Law requires that an individual (1) has a master's degree in genetic counseling or a doctoral degree from a medical genetics training program; and (2) has passed an examination to be certified by such by either the American Board of Genetic Counseling, the American Board of Medical Genetics or Genomics, the Canadian Association of Genetic Counsellors, the American Board of Medical Genetics and Genomics or the Canadian College of Medical Geneticists.

The Telehealth Gap. Genetic counseling is unique in that evaluating a patient's health and family history and genetic test results could be done almost entirely via telehealth technologies. Genetic counselors could conceivably see patients all over the country and deliver equally effective services whether someone is next door or several time zones away. But, the law includes a gap: under the new Florida Law, the legislature did not add genetic counseling to the list of Florida's telehealth providers.

The Law's failure to include genetic counselors on the list of Florida's "**telehealth providers**" (Florida Statute Sec. 56.47(1)(b)) is quite likely a legislative oversight and is not intended to prohibit genetic counselors from leveraging telehealth technologies to deliver their services. As written, however, under the new Law, if genetic counselors do employ telehealth to deliver genetic counseling services to patients in Florida, it could technically be found to fall outside the scope of practice and could conceivably be considered the unlicensed practice of genetic counseling, which is a misdemeanor (FL Stat. §§ 483.916(2)).

This concern is highlighted when it comes to out-of-state genetic counselors. The Law does not distinguish between in-state and out-of-state genetic counselors. This means that out-of-state genetic counselors may also find themselves subject to the Law's background and registration requirements if providing services to Florida residents. In fact, the Law does not require that applicants for licensure be Florida based or pass a Florida specific exam. The examinations required for licensure are national and international board exams. Accordingly, an out-of-state genetic counselor would most likely be required to obtain licensure to provide services to Florida residents. But, taken together with the Law's silence on telehealth usage, this means that a genetic counselor based elsewhere in the country could conceivably register as a genetic counselor in Florida but not be able to use telehealth technologies to deliver that care.

Next Steps. The Florida Department of Health's **genetic counseling licensing page is available here**. We will continue to monitor if Florida legislature updates the Law to add genetic counselors to the definition of telehealth providers, and whether the state issues additional guidance for out-of-state practitioners and the requirements they must meet. We will also continue to assess whether other states will join Florida in requiring licensure for genetic counselors.