

State of Utah  
Administrative Rule Analysis

## NOTICE OF PROPOSED RULE

- \* The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- \* Please address questions regarding information on this notice to the agency.
- \* The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- \* The full text of all rule filings may also be inspected at the Division of Administrative Rules.

|   |                   |                 |                    |
|---|-------------------|-----------------|--------------------|
| DAR file no:                                |                   | Date filed:     |                    |
| State Admin Rule Filing Id:                 |                   | Time filed:     |                    |
|   | <b>Agency No.</b> | <b>Rule No.</b> | <b>Section No.</b> |
| <b>Utah Admin. Code Ref (R no.):</b>        | <b>R</b> 156      | -               | 75                 |
| <b>Changed to Admin. Code Ref. (R no.):</b> | <b>R</b>          | -               | -                  |

|           |                           |  |              |                 |
|-----------|---------------------------|--|--------------|-----------------|
| <b>1.</b> | <b>Agency:</b>            | Commerce/Division of Occupational and Professional Licensing |              |                 |
|           | <b>Room no.:</b>          |  |              |                 |
|           | <b>Building:</b>          | Heber M. Wells Building                                      |              |                 |
|           | <b>Street address 1:</b>  | 160 East 300 South   |              |                 |
|           | <b>Street address 2:</b>  |  |              |                 |
|           | <b>City, state, zip:</b>  | Salt Lake City UT 84111-2316                                 |              |                 |
|           | <b>Mailing address 1:</b> | PO Box 146741  |              |                 |
|           | <b>Mailing address 2:</b> |  |              |                 |
|           | <b>City, state, zip:</b>  | Salt Lake City UT 84114-6741                                 |              |                 |
|           | <b>Contact person(s):</b> |  |              |                 |
|           | <b>Name:</b>              | <b>Phone:</b>  | <b>Fax:</b>  | <b>E-mail:</b>  |
|           | Richard Oborn             | 801-530-6767   | 801-530-6511 | roborn@utah.gov |
|           |                           |  |              |                 |
|           |                           |  |              |                 |

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

|           |  |
|-----------|--|
| <b>2.</b> | <b>Title of rule or section (catchline):</b>   |
|           | Genetic Counselors Licensing Act Rule  |
| <b>3.</b> | <b>Type of notice:</b>   |
|           | New ___; Amendment XX; Repeal ___; Repeal and Reenact ___  |
| <b>4.</b> | <b>Purpose of the rule or reason for the change:</b>   |
|           | The Division and Genetic Counselor Licensing Board reviewed the rule and determined that it was necessary to make the following amendments: (1) modify the length of time individuals may hold a temporary license; (2) eliminate the possibility of issuance of a second temporary license; (3) decrease the amount of continuing education genetic counselors must complete as a requirement for license renewal; (4) further define unprofessional conduct; and (5) make grammatical and stylistic changes. |
| <b>5.</b> | <b>This change is a response to comments from the Administrative Rules Review Committee.</b>   |
|           | No XX; Yes ___   |
| <b>6.</b> | <b>Summary of the rule or change:</b>  |

Section 302b: All temporary licenses currently expire on December 31 immediately following the next available American Board of Genetic Counseling (ABGC) examination date. Individuals have only one opportunity per year to take the ABGC exam. For this reason, the rule allows them to obtain the temporary license a second time. Beginning in 2014, individuals will have two opportunities per year to take the exam. This upcoming increase in exam availability led the Board to recommend a rule amendment to decrease the length of time individuals may hold temporary licenses to 18 months and to not allow individuals to obtain a temporary license a second time. Section 304: Currently, genetic counselors must complete 50 hours of continuing education during every renewal cycle. In an effort to decrease regulation and to be more consistent with requirements for national ABGC certification renewal, the Board recommends this requirement be decreased to 40 hours. Section 502: The proposed amendment makes it unprofessional conduct for a genetic counselor to fail to provide general supervision to a temporary genetic counselor when under their supervision.

**7. Aggregate anticipated cost or savings to:**

**A) State budget:**

**Affected:** No \_\_\_; Yes XX

The Division will incur minimal costs of approximately \$100 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

**B) Local government:**

**Affected:** No XXX; Yes \_\_\_

The proposed amendments only impact genetic counselors and temporary genetic counselors. As a result, the proposed amendments do not apply to local governments.

**C) Small businesses ("small business" means a business employing fewer than 50 persons):**

**Affected:** No \_\_\_; Yes XX

The proposed amendments only impact genetic counselors and temporary genetic counselors. Small businesses that employ temporary genetic counselors may experience some cost impact due to the inability to apply for the temporary license a second time; however, the extent of the cost impact is insignificant because cost impact is offset by the increase in availability of the exam. Small businesses that employ genetic counselors may also experience a cost savings due to the decrease in the number of continuing education hours required for license renewal. The cost of continuing education for genetic counselors ranges from \$25 to \$40 for every 10 hours of continuing education, plus registration and transportation costs if applicable.

**D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):**

**Affected:** No \_\_\_; Yes XX

The proposed amendments only impact genetic counselors and temporary genetic counselors. Some genetic counselors may experience cost savings due to the decrease in the amount of continuing education required for license renewal. Under the proposed amendment, genetic counselors are required to complete 10 fewer hours of continuing education. As a result, some genetic counselors will save money they would have otherwise spent in order to complete 10 additional hours of continuing education. The cost of continuing education for genetic counselors ranges from \$25 to \$40 for every 10 hours of continuing education, plus registration and transportation costs if applicable. Many licensees already complete 50 hours of continuing education every two years in order to maintain their ABGC certification. Temporary genetic counselors may experience some cost impact due to the inability to apply for the temporary license a second time; however, the extent of cost impact is insignificant because it is likely offset by the increase in availability of the exam.

**8. Compliance costs for affected persons:**

The proposed amendments only impact genetic counselors and temporary genetic counselors. Some genetic counselors may experience cost savings due to the decrease in the amount of continuing education required for license renewal. Under the proposed amendment, genetic counselors are required to complete 10 fewer hours of continuing education. As a result, some genetic counselors will save money they would have otherwise spent in order to complete 10 additional hours of continuing education. The cost of continuing education for genetic counselors ranges from \$25 to \$40 for every 10 hours of continuing education, plus registration and transportation costs if applicable. Many licensees already complete 50 hours of continuing education every two years in order to maintain their ABGC. Temporary genetic counselors may experience some cost impact due to the inability to apply for the temporary license a second time; however, the extent of cost impact is insignificant because it is likely offset by the increase in availability of the exam.

|     |   |  |
|-----|---|--|
| 9.  | <b>A) Comments by the department head on the fiscal impact the rule may have on businesses:</b>   |  |
|     | <p>The proposed amendment requires a person to test and qualify for a non-temporary genetic counselor license at or before the time the temporary license expires, rather than applying to renew the temporary license. Affected businesses will incur the associated licensing costs at an earlier date than they would under the existing rule, but the actual cost of licensing remains unchanged. The proposed amendment also reduces the number of continuing education hours that are required to renew a genetic counselor license. Affected businesses will experience nominal savings from this reduction. Finally, the filing establishes that it is unprofessional conduct for a licensed genetic counselor to fail to supervise an affiliated individual holding a temporary license. No fiscal impact to businesses is anticipated from this change.</p> |  |
|     | <b>B) Name and title of department head commenting on the fiscal impacts:</b>   |  |
|     | Francine A. Giani, Executive Director   |  |
| 10. | <b>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.</b>  |  |
|     | <b>State code or constitution citations (required)</b> (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :   |  |
|     | Subsection 58-1-106(1)(a)   | Subsection 58-1-202(1)(a)  |
|     | Subsection 58-75-302(2)   | Subsection 58-75-303(2)  |
|     |   |  |
| 11. | <b>This rule adds, updates, or removes the following title of materials incorporated by references</b> (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; <i>if none, leave blank</i> ):   |  |
|     |   | <b>First Incorporation</b>   |
|     |   | <b>Second Incorporation</b>  |
|     | <b>Official Title of Materials Incorporated (from title page)</b>   |  |
|     | <b>Publisher</b>  |  |
|     | <b>Date Issued</b>  |  |
|     | <b>Issue, or version</b>  |  |
|     | <b>ISBN Number (optional)</b>   |  |
|     | <b>ISSN Number (optional)</b>   |  |
|     | <b>Cost of Incorporated Reference</b>   |  |
|     | <b>Action: Adds, updates, or removes</b>  |  |
|     | (If this rule incorporates more than two items by reference, please attach additional pages)  |  |
| 12. | <b>The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)   |  |
|     | <b>A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):</b>  | 06/14/2013   |
|     | <b>B) A public hearing (optional) will be held:</b>   |  |
|     | <b>On (mm/dd/yyyy):</b>   | <b>At (hh:mm AM/PM):</b>   |
|     | 05/23/2013  | 9:00 am  |
|     |   | <b>At (place):</b><br>160 East 300 South, Conference Room 474<br>(4th floor), Salt Lake City, Utah |
|     |   |  |
|     |   |  |
| 13. | <b>This rule change may become effective on (mm/dd/yyyy):</b>   |  |
|     | 06/21/2013  |  |
|     | NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.  |  |

|   |                    |                        |
|---|--------------------|------------------------|
| <b>14. Indexing information -- keywords</b> (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")); may not include the name of the agency: | licensing          | occupational licensing |
|   | genetic counselors |                        |

|  |             |
|--|-------------|
| <b>15. Attach an RTF document containing the text of this rule change</b><br>(filename): | R156-75.pro |
|--|-------------|

**To the agency:** Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

**AGENCY AUTHORIZATION**

|  |                             |                              |            |
|--|-----------------------------|------------------------------|------------|
| <b>Agency head or designee, and title:</b> | Mark B. Steinagel, Director | <b>Date</b><br>(mm/dd/yyyy): | 04/22/2013 |
|--|-----------------------------|------------------------------|------------|

**R156. Commerce, Occupational and Professional Licensing.**

**R156-75. Genetic Counselors Licensing Act Rule.**

**R156-75-302b. Qualifications for Licensure - Temporary License.**

In accordance with Subsection 58-75-302(2), the requirements for temporary licensure are established as follows:

(1) An applicant shall meet all ~~[the]~~ qualifications for licensure as established in Subsection 58-75-302(1) with the exception of Subsection 58-75-302(1)(e), and have active candidate status conferred by the ABGC.

(2) An individual practicing under the authority of a temporary license ~~[must]~~ shall practice under the general supervision of a licensed genetic counselor or a licensed physician certified in clinical genetics by the American Board of Medical Genetics.

(3) ~~[In accordance with]~~ A temporary license issued under Subsection 58-1-303(1)(a) [ , a temporary license ] shall expire on the date a non-temporary license is issued or 18 months after issuance of the temporary license, whichever is earlier. An individual may apply for and obtain a temporary license only one time and it shall not be renewed or extended ~~[December 31 immediately following the next available ABGC certification exam date. If the applicant fails the first sitting of the ABGC certification exam, the applicant may reapply for a second temporary license].~~

(4) A temporary license shall not be issued if the applicant has failed the ABGC certification examination more than once.

**R156-75-304. Continuing Education.**

(1) In accordance with Subsections 58-1-203(1)(g), 58-1-308(3)(b) and Section 58-75-303, there is created a continuing education requirement as a condition for renewal or reinstatement of licenses issued under Title 58, Chapter 75.

(2) Continuing education shall consist of ~~[50]~~ 40 hours (~~[5]~~ 4 CEU~~[s]~~) in each preceding two year licensing cycle and ~~[must]~~ shall be approved for recertification purposes by the ABGC.

(3) A licensee shall be responsible for maintaining competent records of completed ~~[qualified professional]~~ continuing education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to qualified professional education to demonstrate it meets the requirements under this section.

(4) A licensee requesting a waiver of the continuing education requirement shall comply with requirements established by rule in R156-1-308 ~~[who documents circumstances which prevent~~

~~the licensee from meeting the continuing professional education requirements established under this section may apply to be excused from the requirement for a period of up to two years. It is the responsibility of the licensee to document the reasons and justify why the requirement could not be met].~~

**R156-75-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) violating any provision of the Code of Ethics established by the National Society of Genetic Counselors (NSGC), revised January 2006, which is hereby adopted and incorporated by reference; and

(2) if licensed as a genetic counselor and contracted to provide general supervision to a temporary genetic counselor, failing to provide such supervision as defined in Subsection R156-75-102(2).

**KEY: licensing, occupational licensing, genetic counselors**

**Date of Enactment or Last Substantive Amendment: [~~July 9, 2012~~2013]**

**Notice of Continuation: October 20, 2011**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-75-302(2); 58-75-303(2)**