

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.101.413 and the adoption of) PROPOSED AMENDMENT AND
NEW RULES I, II, and III pertaining to) ADOPTION
licensure of genetic counselors)

TO: All Concerned Persons

1. On December 1, 2021, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment and adoption of the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/85471318220>
Meeting ID: 854 7131 8220, Passcode: 148825
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 854 7131 8220, Passcode: 148825

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Genetic Counselors Licensing Program no later than 5:00 p.m., on November 24, 2021, to advise us of the nature of the accommodation that you need. Please contact Carrie Baker, Genetic Counselors Licensing Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2004; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or cbaker@mt.gov.

3. GENERAL REASONABLE NECESSITY STATEMENT: The 2021 Montana Legislature enacted Chapter 206, Laws of 2021 (House Bill 217), an act requiring licensure of genetic counselors and establishing genetic counselor licensure requirements and scope of practice. The bill was signed by the Governor and became effective on April 16, 2021, and is codified in Title 37, chapter 49, MCA. The department is amending ARM 24.101.413 and adopting NEW RULES I through III to implement the legislation by setting licensure and annual renewal fees, establishing requirements for licensees' continuing education, and setting forth behavior considered as unprofessional conduct for genetic counselors.

4. The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

24.101.413 RENEWAL DATES AND REQUIREMENTS (1) through (4) remain the same.

(5) The following are renewal dates for the professions and occupations listed:

(a) through (n) remain the same.

	BOARD OR PROGRAM JURISDICTION	LICENSE CATEGORY	FREQUENCY	RENEWAL DATE
(o)	<u>Genetic Counselors</u>	<u>Genetic Counselor</u>	<u>Annually</u>	<u>April 1</u>

(o) through (al) remain the same but are renumbered (p) through (am).
(6) and (7) remain the same.

AUTH: 37-1-101, 37-1-141, MCA

IMP: 37-1-101, 37-1-141, MCA

5. The rules proposed to be adopted are as follows:

NEW RULE I FEE SCHEDULE

- (1) Application fee \$500
- (2) Renewal fee 250
- (3) Temporary license 50
- (4) Additional standardized fees are specified in ARM 24.101.403.
- (5) All fees are nonrefundable.

AUTH: 37-1-134, 37-49-103, 37-49-201, MCA

IMP: 37-1-134, 37-49-103, 37-49-201, MCA

REASON: The department is adopting this new rule to set licensure fees and further implement House Bill 217. The department is required to set fees related to the program area that provide the amount of money needed for the operation of the program's services per 37-1-134, MCA. The legislation requires the department to license and regulate genetic counselors and the proposed fees will enable the department to meet this mandate. The department continuously monitors the budgets and spending of all licensure boards and programs, and will adjust this program's licensure fees through future rulemaking as needed. The department estimates that the proposed genetic counselor fees will affect approximately 108 applicants and renewing licensees for an annual revenue of \$36,900.

NEW RULE II CONTINUING EDUCATION REQUIREMENTS (1) The department will not pre-approve continuing education (CE) programs or sponsors.

(2) Licensees are responsible for selecting quality programs that focus on protecting the health, safety, and welfare of the public and contribute to genetic counselors' professional knowledge and competence. Acceptable CE activities:

- (a) directly relate to the scope of practice of genetic counseling as defined in 37-49-202, MCA;
 - (b) review existing concepts and techniques;
 - (c) convey information beyond the basic professional education;
 - (d) update knowledge on the practice and advances in genetic counseling;
 - (e) reinforce professional conduct or ethical obligations of the licensee;
- and/or
- (f) are conducted by an individual or group qualified by practical or academic experience.
- (3) Licensees must obtain 24 hours (60 minutes per hour) of CE annually, prior to renewal.
- (4) Licensees shall affirm an understanding of their recurring duty to comply with CE requirements as part of license renewal.
- (5) Continuing education requirements will not apply until after the licensee's first renewal.
- (6) The department may randomly audit up to 50 percent of renewed licensees.
- (7) Licensees must maintain documentation of completed CE for three years and provide documentation to the department upon request.
- (8) Licensees found to be in noncompliance with CE requirements may be subject to administrative suspension.
- (9) Licensees may request exemption from CE requirements due to hardship. Requests will be considered by the department.

AUTH: 37-49-103, MCA

IMP: 37-49-103, MCA

NEW RULE III UNPROFESSIONAL CONDUCT (1) In addition to the conduct specified in 37-1-410, MCA, the department defines unprofessional conduct for genetic counselors as follows:

- (a) violation of any state or federal statute or rule regulating the practice of genetic counseling;
- (b) incompetence, negligence, or use of any procedure in the practice of genetic counseling which creates an unreasonable risk of physical or mental harm or serious financial loss to the client;
- (c) failing to report the unsafe or unlicensed practice of genetic counseling to the department;
- (d) practice beyond the scope of practice of the license per 37-49-202, MCA;
- (e) failing to cooperate with an investigation by or request for information from the department;
- (f) failing to adequately supervise auxiliary staff; and
- (g) practicing genetic counseling while the license is inactive, expired, suspended, or revoked.

AUTH: 37-49-103, MCA

IMP: 37-49-103, MCA

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Genetic Counselors Licensing Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to cbaker@mt.gov, and must be received no later than 5:00 p.m., December 3, 2021.

7. An electronic copy of this notice of public hearing is available at <https://bsd.dli.mt.gov/>. Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this program. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all program administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Genetic Counselors Licensing Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to cbaker@mt.gov; or made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. Program staff attempted to contact the primary bill sponsor by telephone and e-mail on September 20, 2021, and by regular USPS mail on September 24, 2021.

10. Regarding the requirements of 2-4-111, MCA, the department has determined that the amendment of ARM 24.101.413 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the department has determined that the adoption of NEW RULES I through III will not significantly and directly impact small businesses.

Documentation of the department's above-stated determinations is available upon request to the Genetic Counselors Licensing Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2004; facsimile (406) 841-2305; or to cbaker@mt.gov.

11. Department staff will preside over and conduct this hearing.

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 26, 2021.