RULEMAKING ACTION:
PERMANENT final adoption

RULES:
310:406-1-2. [AMENDED]

Subchapter 5. Rules of Professional Conduct
310:406-5-1. [AMENDED]
310:406-5-2. [AMENDED]
310:406-5-3. [AMENDED]
310:406-5-4. [AMENDED]

Subchapter 7. Application for Licensure
310:406-7-2. [AMENDED]
310:406-7-3. [AMENDED]

Subchapter 13. Supervision Requirements
310:406-13-1. [REVOKED]
310:406-13-2. [REVOKED]
310:406-13-3. [REVOKED]
310:406-13-4. [REVOKED]
310:406-13-5. [REVOKED]

Subchapter 15. Fees
310:406-15-1. [AMENDED]
310:406-15-2. [REVOKED]
310:406-15-4. [AMENDED]

Subchapter 17. Continuing Education Requirements
310:406-17-4. [AMENDED]
310:406-17-6. [AMENDED]

Subchapter 19. Issuance of License
310:406-19-1. [AMENDED]
310:406-19-2. [AMENDED]
310:406-19-3. [AMENDED]
310:406-19-4. [REVOKED]
310:406-19-5. [REVOKED]
310:406-19-6. [REVOKED]

Subchapter 21. License Renewal and Expiration
310:406-21-2. [REVOKED]
310:406-21-3. [AMENDED]
310:406-21-6. [REVOKED]
310:406-21-7. [AMENDED]
310:406-21-8. [AMENDED]
310:406-21-9. [AMENDED]

Subchapter 23. Enforcement
310:406-23-2. [AMENDED]
310:406-23-4. [AMENDED]
310:406-23-5. [AMENDED]
310:406-23-7. [AMENDED]
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These rule changes are in response to the Governor's executive order on rule reduction. Items are removed and/or modified due to already being listed in statute, outdated, unused, or to clarify meaning. The substantive changes are: removed fingerprint requirement from application; revoked temporary license sections and supervision section for temporary licensees; revoked method of payment section and revoked the inactive license status section.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3 (5) AND 308 (E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2021:

SUBCHAPTER 1. GENERAL PROVISIONS

310:406-1-2. Definitions
When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:
"ABGC" means the American Board of Genetic Counseling [63:1-562(1)].
"ABMG" means the American Board of Medical Genetics [63:1-562(2)].
"Act" means Title 63, Sections 1-561 et seq., of the Oklahoma Statutes.
"Active candidate status" means an individual who has been approved by the American Board of Genetic Counseling (ABGC) to sit for the certification exam in genetic counseling.
"Board" means the State Board of Health.
"Patient" means a person receiving genetic counseling from a genetic counselor.
"Commissioner" means the State Commissioner of Health.
"Department" means the State Department of Health.
"Dual relationships" means a familial, social, financial, business, professional, close personal, sexual or other non-counseling relationship with a patient, or engaging in any activity with another person that interferes or conflicts with the LGC's professional obligation to a patient.

"Licensed genetic counselor" or "LGC" means any person who is licensed pursuant to the provisions of the Genetic Counseling Licensure Act or offers to or engages in genetic counseling. The term shall does not include those professions exempted by Section 1-566 of the Act.

SUBCHAPTER 5. RULES OF PROFESSIONAL CONDUCT

310:406-5-1. Responsibility
(a) LGCs shall accept responsibility for the consequences of their work and ensure that their services are used appropriately.
(b) LGCs shall not:
   (1) participate in, condone, or be associated with dishonesty, fraud, deceit or misrepresentation; or
   (2) LGCs shall not use their relationships with patients for personal advantage, profit, satisfaction, or interest.

310:406-5-2. Competence
(a) Genetic counseling. LGCs shall practice only within the boundaries of their competence and within professional standards, based on their education, training, and appropriate professional experience.
(b) Impairment. LGCs shall not offer or render professional services when such services may be impaired by a personal physical, mental or emotional condition(s). LGCs shall seek assistance for any such personal problem(s) with their physical, mental or emotional condition, and, if necessary, limit, suspend, or terminate their professional activities. If an LGC possesses a bias, disposition, attitude, moral persuasion or other similar condition that limits his or her ability to recommend a course of treatment or decision-making that is indicated, and under such circumstances where all other treatment and decision options are contra-indicated, then in that event the LGC shall not undertake to provide genetic counseling and will terminate the genetic counseling relationship in accordance with these rules.
(c) Opinion Testimony. LGCs shall not offer or accept an offer to engage in rendering opinion testimony relating to work performed for their patient and shall limit their role to fact witness in any matter involving that patient, unless otherwise required by law or court order.

310:406-5-3. Patient welfare
(a) Discrimination. LGCs shall not, in the rendering of professional services, participate in, condone, or promote discrimination on the basis of race, color, age, gender, religion or national origin.
(b) Confidentiality. LGCs shall maintain the confidentiality of any information received from any person or source about a patient, unless authorized in writing by the patient or otherwise authorized or required by law or court order.
(c) Confidentiality of records. LGCs shall be responsible for complying with the applicable state and federal regulations in regard to the security, safety and confidentiality of any genetic counseling record they create, maintain, transfer, or destroy whether the record is written, taped, computerized, or stored in any other medium.
(d) Requirement of records. LGCs shall maintain verifiable records necessary for rendering professional services to their patients for at least 3 (three) years beyond discontinuation of services. LGCs employed at an institution or facility that has a published records retention policy that is equal to the retention required by this subsection will be deemed to be in compliance with this subsection.
(e) Patient access to records. LGCs shall provide the patient with a copy of the patient's record in accordance with state law. In situations involving multiple patients, access to records is limited to those parts of records that do not include confidential information related to another patient.
(f) **Dual relationships.** LGCs shall not knowingly enter into a dual relationship(s) and shall take any necessary precautions to prevent a dual relationship from occurring. When the LGC reasonably suspects that he or she has inadvertently entered into a dual relationship the LGC shall record that fact in the records of the affected patient(s) and take reasonable steps to eliminate the source or agent creating or causing the dual relationship. If the dual relationship cannot be prevented or eliminated and the LGC cannot readily refer the patient to another genetic counselor or other professional, the LGC shall complete one or more of the following measures as necessary to prevent the exploitation of the patient and/or the impairment of the LGC’s professional judgment:

1. Fully disclose the circumstances of the dual relationship to the patient and secure the patient's written consent to continue providing genetic counseling; or
2. Consult with other professional(s) to understand the potential impairment to the LGC’s professional judgment and the risk of harm to the patient of continuing the dual relationship;

(g) **Invasion of privacy.** LGCs shall are not to make inquiry into persons or situations not directly associated with the patient's situation.

(h) **Referral.**

1. LGCs shall not abandon or neglect current patients without making reasonable arrangements for the continuation of necessary counseling services by another professional; and
2. When an LGC becomes cognizant of a disability or other condition that may impede, undermine or otherwise interfere with the LGC's competence or duty of responsibility to current patients, including a suspension of the LGC's license or any other situation or condition described in this Subchapter, the LGC shall promptly notify the patient in writing of the presence or existence of the disability or condition and take reasonable steps to timely terminate the genetic counseling relationship.

(i) **Providing counseling to persons of prior association.** LGCs shall not undertake to cannot provide genetic counseling to any person with whom the LGC has had any prior sexual contact or close personal relationship within the previous five (5) years.

(j) **Interaction with former patients.** LGCs shall not:

1. knowingly enter into a close personal relationship, or engage in any business or financial dealings with a former patient for two (2) years after the termination of the genetic counseling relationship; and
2. LGCs shall not engage in any activity that is or may be sexual in nature with a former patient for at least five (5) years after the termination of the genetic counseling relationship; and
3. LGCs shall not exploit or obtain an advantage over a former patient by the use of information or trust gained during the genetic counseling relationship.

310:406-5-4. **Professional standards**

(a) **Violations of other laws.** It shall be is unprofessional conduct for an LGC to violate a state or federal statute if the violation directly relates to the duties and responsibilities of the genetic counselor or if the violation involves moral turpitude.

(b) **Drug and alcohol use.** LGCs shall not render professional services while under the influence of alcohol or other mind or mood altering drugs.

(c) **Updating.** LGCs shall notify the Department of any change in address, telephone number or employment within thirty (30) days of such change.

(d) **Candor to the Department.** An LGC or an LGC candidate, in connection with a license application or an investigation conducted by the Department pursuant to OAC 310:406-23-3, shall not:

1. knowingly make a false statement of material fact;
2. fail to disclose a fact necessary to correct a misapprehension known by the LGC or LGC candidate to have arisen in the application or the matter under investigation; or,
3. fail to respond to a demand for information made by the Department or any designated representative thereof within twenty (20) days of the demand, unless a request for a protective order has been first made pursuant to Chapter 2 of this Title, in which case the LGC or LGC candidate may
await the decision concerning the issuance or denial of a protective order before making any response.

**SUBCHAPTER 7. APPLICATION FOR LICENSURE**

310:406-7-2. Application materials and forms
(a) Each application shall include the following documents:
   (1) Application form;
   (2) Official transcript, mailed from a genetic counseling training program accredited by the ABGC or ABMG;
   (3) Verification of certification by the ABGC or ABMG, or verification of active candidate status conferred by the ABGC, ABMG, or an equivalent acceptable entity;
   (4) Two (2) classifiable sets of fingerprints, and
   (5) Fees.
(b) The application form requires the following:
   (1) Identifying information;
   (2) Possession of other credentials;
   (3) Previous misconduct (if applicable);
   (4) Education;
   (5) References; and
   (6) Proposed professional practice.

310:406-7-3. Denial of license
If the Department denies any application or request for licensure the applicant or requestor shall be notified of the Department’s decision within thirty (30) days thereof and the applicant shall have has fifteen (15) days to request a hearing to review the Department’s decision. The notice shall advise the applicant or requestor of his or her right to a hearing and the time within which a request to review the Department’s decision must be submitted.

**SUBCHAPTER 13. SUPERVISION REQUIREMENTS [REVOKED]**

310:406-13-1. Purpose [REVOKED]
This Subchapter establishes the supervision requirements for individuals practicing under the authority of a temporary license.

310:406-13-2. General supervision [REVOKED]
All individuals practicing under the authority of a temporary license shall receive general supervision as required by the Act. Supervision shall at a minimum include a review of applicable genetic counseling services provided by the supervisee that have not been previously reviewed.

310:406-13-3. Frequency of supervision contact [REVOKED]
Supervision contact shall occur at least every two weeks provided patient contacts have taken place in person, in writing or electronically.

310:406-13-4. Supervisor qualification [REVOKED]
Any person serving as a supervisor to a person holding a temporary license must be a licensed genetic counselor or a licensed physician.

310:406-13-5. Documentation of supervision [REVOKED]
(a) A supervision agreement form between the supervisor and supervisee shall be received and approved by the Department prior to beginning the accrual of supervision.
(b) A supervision agreement form between the supervisor and supervisee shall be submitted annually.
(c) The supervisor and supervisee shall sign and submit a documentation of supervision form annually.
(d) The supervision agreement may be renewed annually by the Department with the submission of a new supervision agreement and the documentation of supervision provided in the previous year.

SUBCHAPTER 15. FEES

(a) Application fee. Three hundred dollars ($300.00) shall be submitted with the application form. The application fee of three hundred dollars ($300) is due with the submission of the application form.
(b) License renewal fee. After the initial two-year period of licensure, this fee is two hundred dollars ($200) and shall be submitted on or before two (2) years from the last day of the month in which the license was originally issued. The renewal fee is two hundred dollars ($200). It is due no later than every 2 years from the last day of the month the original license was issued.
(c) Late renewal fee. An additional twenty-five dollars ($25.00) shall be submitted for the late renewal of a license. A twenty-five dollar ($25) late fee is added to the renewal fee if it is not submitted within the time frame provided in (b) of this section.
(d) Replacement fee. Twenty-five dollars ($25.00) shall be submitted for the issuance of a license to replace a license, which has been lost, damaged, or is in need of revision.
(e) Inactive license fee. Twenty-five dollars ($25.00) shall be submitted with a request to place the license on inactive status.
(f) Reactivation fee. When an inactive license is reactivated, the biennial renewal fee must be paid in accordance with OAC 310:406-21-6 and shall be submitted at the time of reactivation.

Payment of all fees shall be by personal check, cashier's check, money order or cash. Payment of fees may be made by credit card or other electronic means, if acceptable by the Department. Any check returned to the Department for non-payment may result in expiration or suspension of license.

The Department shall will periodically review the fee schedule and recommend any adjustments necessary to provide funds to meet its expenses without creating an unnecessary surplus.

SUBCHAPTER 17. CONTINUING EDUCATION REQUIREMENTS

310:406-17-4. Submission of continuing education roster
LGCs shall submit a continuing education roster with the license renewal fee. Rosters must include the identity and license number of the LGC receiving continuing education, the date name, and location of the conference, the number of hours awarded, and the entity or organization sponsoring the conference. Only continuing education accrued in the preceding license renewal period may be used to satisfy the continuing education requirement for renewal.

310:406-17-6. Submission of fraudulent continuing education
The submission of fraudulent continuing education hours shall will result in disciplinary action against any person who knowingly participates in the submission.

SUBCHAPTER 19. ISSUANCE OF LICENSE

310:406-19-1. License
The Commissioner shall issue a license certificate which contains the following information: the licensee's name, license number, and highest accredited genetic counseling academic degree, and date of issue.

All licenses issued by the Commissioner shall remain the property of the Department and shall be surrendered on demand.

After the applicant fulfills all requirements for licensure the Department shall mail notification of qualification for licensure to the licensee at his or her last known address.

The Department shall replace a license that is lost, damaged, or is in need of revision upon written request and payment of the license replacement fee. Requests must include the LGC's original license or be accompanied by the damaged license, if available.

310:406-19-5. Temporary license [REVOKED]
The Department may issue a temporary license to an applicant who meets the licensure requirements.

(a) Requirements. An applicant for temporary licensure must meet the following requirements:
(1) Satisfy all of the qualifications for licensure established in the Genetic Counseling Licensure Act with the exception of certification by the ABGC, and have active candidate status conferred by the ABGC;
(2) Obtain a supervisor who is a licensed genetic counselor, or a physician licensed to practice in Oklahoma, with current ABMG certification in clinical genetics.
(b) Examination. A person granted a temporary license shall apply for and take the next examination that is available to the person as determined by ABGC. If an applicant fails the first sitting of the ABGC certification examination, the applicant may reapply for a second temporary license. A temporary license shall not be issued to an applicant who has failed the ABCG certification examination more than once.
(c) Expiration. A temporary license shall expire upon the earliest of the following:
(1) Issuance of full licensure;
(2) Thirty (30) days after failing the certification examination; or,
(3) The date printed on the temporary license.

SUBCHAPTER 21. LICENSE RENEWAL AND EXPIRATION

310:406-21-2. Initial licensing period [REVOKED]
The renewal date of the original license shall be two (2) years from the last day of the month in which the license was originally issued.

310:406-21-3. Renewal of license
The initial license will expire in two (2) years from the date of issuance unless renewed. License renewals shall expire every two years. Prior to submitting a request for license renewal the licensee must complete at least thirty (30) hours of continuing education.

310:406-21-6. Inactive status [REVOKED]
(a) An active license may be placed on inactive status by written request and payment of a one-time twenty-five dollar ($25.00) fee. An inactive license forfeits all rights and privileges granted by the license.
(b) When a license is placed on inactive status, the license and active verification cards shall be returned to the Department.
(e) When a license is placed on inactive status, it remains inactive for at least one (1) year from the date of inactivation.
(d) Active status may be reestablished upon payment of the biennial renewal fee and proof of five (5) hours of continuing education in genetics professional education per year during the time of inactive status.
(e) Thirty (30) hours of continuing education shall be submitted at the end of the two-year renewal period of a reactivated license.

310:406-21-7. Renewal notification
The Department shall mail to licensee’s last known address, at least forty-five (45) days prior to the expiration date of the LGC’s license, a notice of expiration.

310:406-21-8. Failure to renew
If the licensee fails to renew the license by the expiration date, the Department shall mail a notification to the licensee’s last known address which shall include the following:
(1) Suspension of the license and forfeiture of rights and any privilege granted pursuant to the license; and
(2) The LGC has the right to reinstate the license by payment of the renewal fee and the late renewal fee and fulfillment of all other renewal requirements for up to one (1) year following the suspension of the license.

310:406-21-9. Return of license
Licenses not renewed within the one (1) year re-instatement period shall not be reinstated and the license shall be returned to the Department.

SUBCHAPTER 23. ENFORCEMENT

310:406-23-2. Complaints
(a) Any person may file a complaint against a LGC or a person practicing genetic counseling who is not otherwise exempt from the LGC Act. A person wishing to report a complaint or alleged violation against a licensee or person practicing genetic counseling may notify the Department in writing, by telephone, or by a personal visit. The Department will determine whether the complaint alleges a possible violation of the Act or this Chapter.
(b) The complaint and the identity of the complainant shall be confidential and shall not be available for public inspection.

310:406-23-4. Filing of an action
(a) The Department may begin a disciplinary action against an LGC or a person practicing genetic counseling who is not exempt from licensure by following the procedures in Chapter 2 of this Title. The Department shall specifically state the violation(s) violated and shall state the remedy sought by the Department. Remedies A remedy may include any or all of the following: revocation of a license, suspension of a license, probation of a licensee and/or administrative penalty.
(b) If in the course of an investigation the Department determines that a licensee or candidate for licensure has engaged in conduct of a nature that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm, the Commissioner may order a summary suspension of the genetic counselor’s license or authorization to conduct genetic counseling. A presumption of imminent harm to the public shall exist if the Department determines that probable cause exists that a licensee or candidate has violated 310:406-5-3(f) or 310:406-5-4(a, b, c or e).

310:406-23-5. Hearing
Hearings shall be conducted by the Commissioner or the Commissioner's designee as specified in Chapter 2 of this Title. At the conclusion of the evidence, the Department shall recommend the most appropriate penalty at the conclusion of the evidence.

Any person found to be practicing genetic counseling without being either properly licensed, or exempt or under approved supervision as part of the licensure process shall will be ordered to cease practicing and may be subject to an administrative penalty. The Department may seek the assistance of the courts if the unauthorized practice of genetic counseling continues.

310:406-23-8. Administrative penalties
(a) The Department may assess an administrative penalty against an individual if the order includes a finding that the individual violated any of the following:
   (1) Any provision of the Act, including practicing counseling without licensure or exemption; or
   (2) Any rule within this Chapter; or
   (3) Any order issued pursuant to this Chapter.
(b) The total amount of the administrative penalty assessed shall not cannot exceed ten thousand dollars ($10,000.00) for any related series of violations.