

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Health and Government Operations Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 1040
State Board of Physicians – Genetic Counselors - Licensing
DATE: February 19, 2020
(3/6)
POSITION: Oppose as drafted

The Maryland Judiciary opposes House Bill 1040 as drafted. This proposed legislation would require the State Board of Physicians (hereafter “the Board”) to establish a state licensing program for genetic counselors. The bill identifies criteria for issuing, denying, or revoking a license, and it outlines a hearing process to be followed by the Board. The bill indicates that anyone aggrieved by a final decision of the Board may petition for judicial review, and the bill indicates that the board may appeal any decision that reverses or modifies a Board action. The bill establishes criminal and civil penalties for practicing genetic counseling without a license.

The Judiciary is concerned that the bill’s procedures for judicial appeals of Board decisions, as described in the bill at Health Occupations Article, § 14-5G-19, are unclear or are contradictory with existing law. Specifically, the bill provides that an appeal “shall be made as provided for judicial review of final decisions in Title 10, Subtitle 2 of the State Government Article.” State Government Article § 10-222(e) allows a court to stay a final decision as the “court considers proper” but the bill states that a stay may not be granted pending judicial review. Also, at § 14-5G-19(c), the bill states that the “Board may appeal from any decision that reverses or modifies its order” but the bill does not say whether another party that is aggrieved by a final decision of the circuit court may appeal. These procedures need clarification so that they can be applied appropriately by courts.

cc. Hon. Alfred Carr
Judicial Council
Legislative Committee
Kelley O’Connor