Rhode Island Department of Health

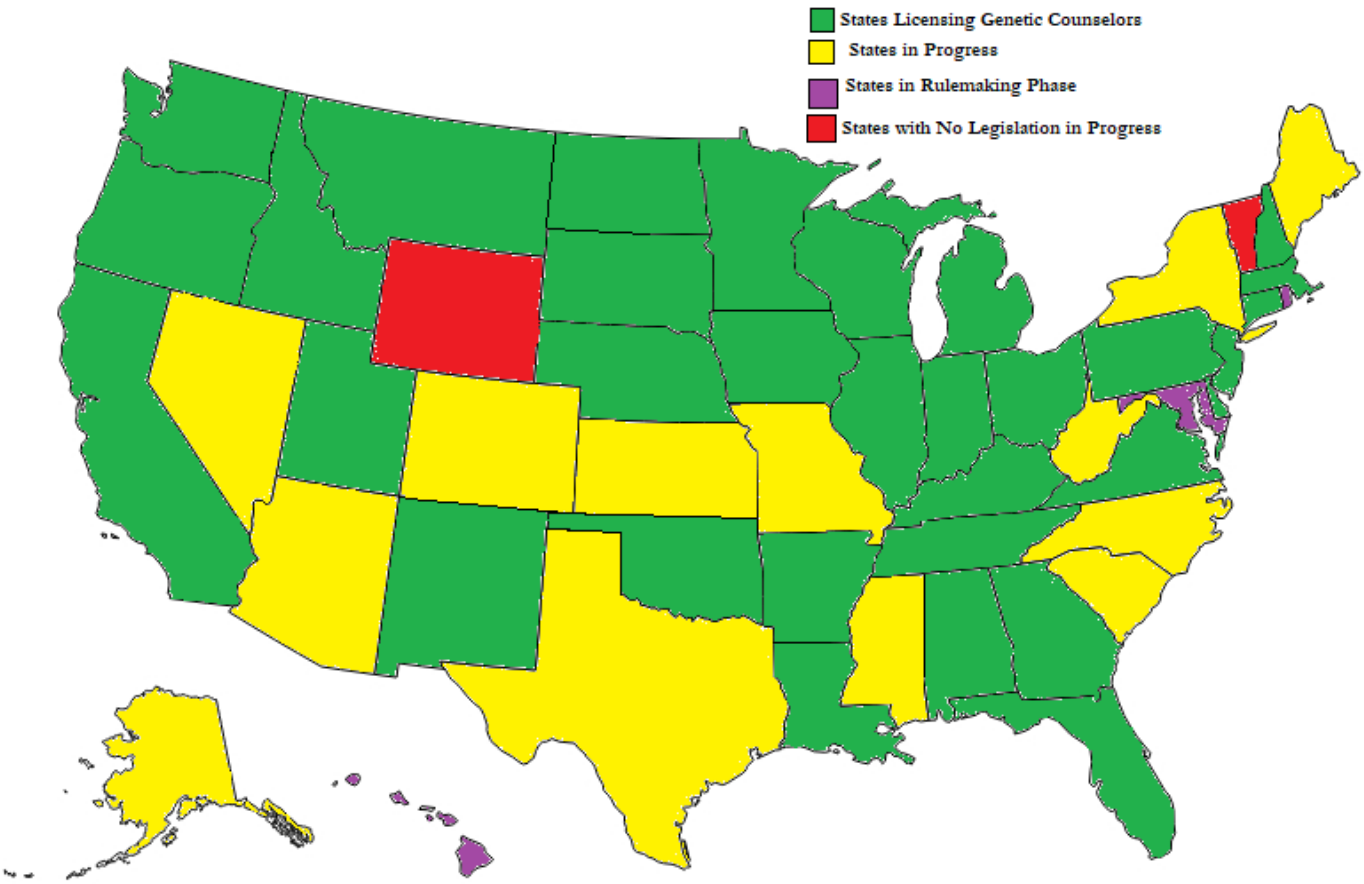
Genetic Counselors

216-RICR-40-15-36

27 June 2023

Background

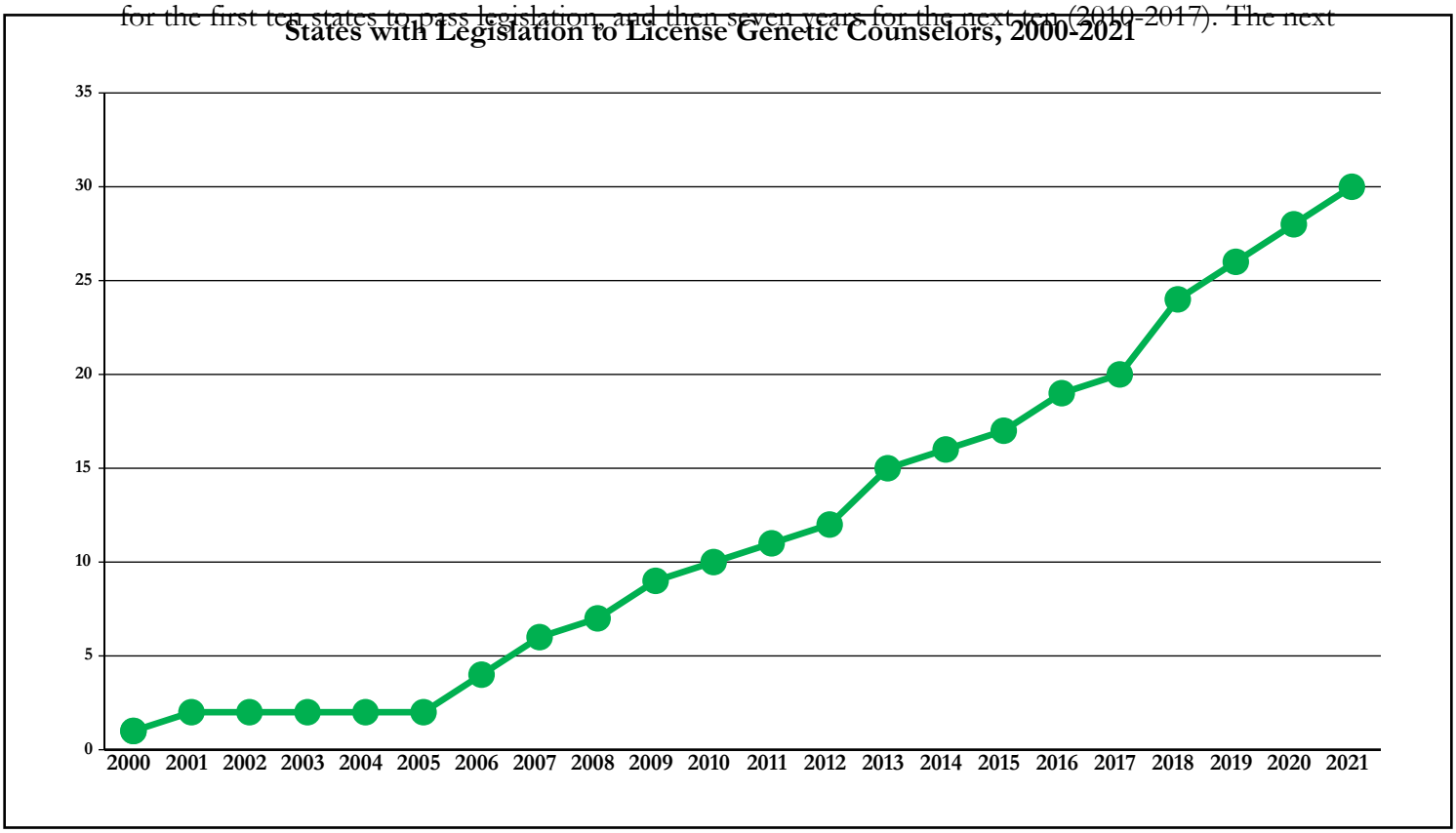
The Rhode Island Department of Health (RIDOH) is proposing to adopt *Genetic Counselors* (216-RICR-40-05-36) in response to the passing of the Genetic Counselors Licensing Act (R.I. Gen. Laws Chapter 5-92) which was enacted on June 29, 2022. According to R.I. Gen. Laws § 5-92-5(2): "the Department shall have the following powers and duties…to promulgate regulations and adopt such rules as are necessary to regulate genetic counselors." The Department of Health proposes adopting 216-RICR-40-05-36 in response to the aforementioned statute.



As noted in the graphic displayed above, as of July 2023, there were thirty-two states which licensed genetic counselors and there were three states with laws enacted and regulations in progress (one of which was Rhode Island). There were also thirteen states with legislation in progress and only two states that did not license genetic counselors and did not have any legislative action in place.[1]

[1] National Society for Genetic Counselors, States Issuing Licenses for Genetic Counselors, https://www.nsgc.org/Policy- Research-and-Publications/State-Licensure-for-Genetic-Counselors/States-Issuing-Licenses.

The chart below shows the initial stagnation in legislation requiring genetic counselors to be licensed and the subsequent growth in states implementing similar legislation. It took ten years (2000-2010) for the first ten states to pass legislation, and then seven years for the next ten (2010-2017). The next



Genetic counselors work with patients to assess their risk for a range of inherited conditions, including birth defects and hereditary diseases. Their work also involves assessing the results of genetic tests and supporting individuals and families in making decisions based upon these results by providing expertise and knowledge of risks involved.[2] Genetic counselors may specialize in a particular field such as prenatal, cancer, or pediatric genetics.

Hospitals are overwhelmingly the largest employers of genetic counselors. The United States Bureau of Labor Statistics (BLS) reports that just over half (51%) of all genetic counselors recorded were employed by state, local, or private hospitals.[3] The need to license and oversee genetic counselors is imperative when the job outlook for this profession is considered. Between 2021 and 2031, employment of genetic counselors is expected to rise eighteen percent (18%), 1.5 times higher than the twelve percent (12%) expected of other healthcare and technical occupations and 3.6 times higher than the five percent (5%) anticipated for all occupations.[4]

[2] US Bureau of Labor Statistics, Occupational Outlook Handbook, Genetic Counselors, https://www.bls.gov/ooh/healthcare/genetic- counselors.htm#tab-6.
[3] US Bureau of Labor Statistics, Occupational Outlook Handbook, Genetic Counselors, https://www.bls.gov/ooh/healthcare/genetic- counselors.htm#tab-3.
[4] US Bureau of Labor Statistics, Occupational Outlook Handbook, Genetic Counselors, https://www.bls.gov/ooh/healthcare/genetic- counselors.htm#tab-6.

The Rhode Island Legislature introduced the Genetic Counselors Licensing Act on January 6, 2022 and it was officially enacted on June 29, 2022. This legislation allows Rhode Island to align with most other states more closely in licensing genetic counselors.

Proposed Adoption

The Department is proposing to adopt a new regulation for the licensing of genetic counselors. The text of this proposed adoption will be based largely on the text of R.I. Gen. Laws Chapter 5-92.

The proposed rule includes text in § 36.5.1(F) which is in response to the statutory requirement that provisions be included for supervision by a valid license holder when the supervisor is not physically present.

Other variations from the statute include:

- § 36.4(B) – This section includes specific provisions for continuing education as well as the requirement that the evidence of completion be kept for at least three years and is subject to random audit;
- § 36.4(C) – This section allows the Department to consider exceptions from the required CEUs for licensees with good cause shown.
- § 36.5.1(D) which includes a fee associated with the request for an extension of a provisional license as set forth in 216-RICR-10-05-2, *Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*; and,
- § 36.8 – a severability section.

Status Quo

If the status quo were to be maintained, there would not be any regulations in place for the licensing of genetic counselors and the requirements of the statute would not be met. As noted above as of July 2023, thirty-two states license genetic counselors while two more (excluding Rhode Island) were developing regulations and thirteen more were in the process of developing legislation to implement such licenses. If all of these states were to promulgate regulations, this would make Rhode Island one of only three states without such regulations. Without these regulations, genetic counselors would continue to be unlicensed in Rhode Island, keeping the state within the minority of those that do not license or, more importantly, regulate and provide oversight of the profession by setting standards for obtaining a license.

Benefits

The most beneficial aspect of the proposed adoption is that it will allow the Department to have greater oversight into the actions of genetic counselors to ensure the public is safe while receiving accurate information and appropriate care. By providing requirements for licensure by genetic counselors, the Department is able to verify the educational backgrounds and experiences of those who practice genetic counseling and ensure that only those who meet all of the proper requirements hold themselves out to be licensed genetic counselors.

There is also expected to be a financial benefit for the Department as a direct result of these regulations. Previously, genetic counselors were not required to be licensed in Rhode Island and therefore, they were not subjected to a licensing fee. R.I. Gen. Laws Chapter 5-92 sets the fee for initial licensure and renewals every twenty-four months at $170.00 each. According to the United States Bureau of Labor Statistics, there were approximately 2,900 genetic counselors in the United States as of 2021. Considering that Rhode Island's population only comprises 0.33% of the nation's total population, we can estimate that there are approximately 10 genetic counselors in the state.[5] In consultation with the National Society of Genetic Counselors, it was determined that there are likely to be approximately 30 to 70 additional out-of-state licensees who will be practicing via telemedicine.[6] If they were all to become licensed in 2023 when this regulation is expected to take effect, it can be surmised that the state would see limited revenue from general licenses in 2024 as the majority of license renewals would be due in 2025. Based upon the current projections, it is expected that the state would see increased revenue nearly every year, as it is expected that there would be an 18% rise in genetic counselors between 2023 and 2033. Therefore, there would likely be an additional five to eleven licensees by 2031.

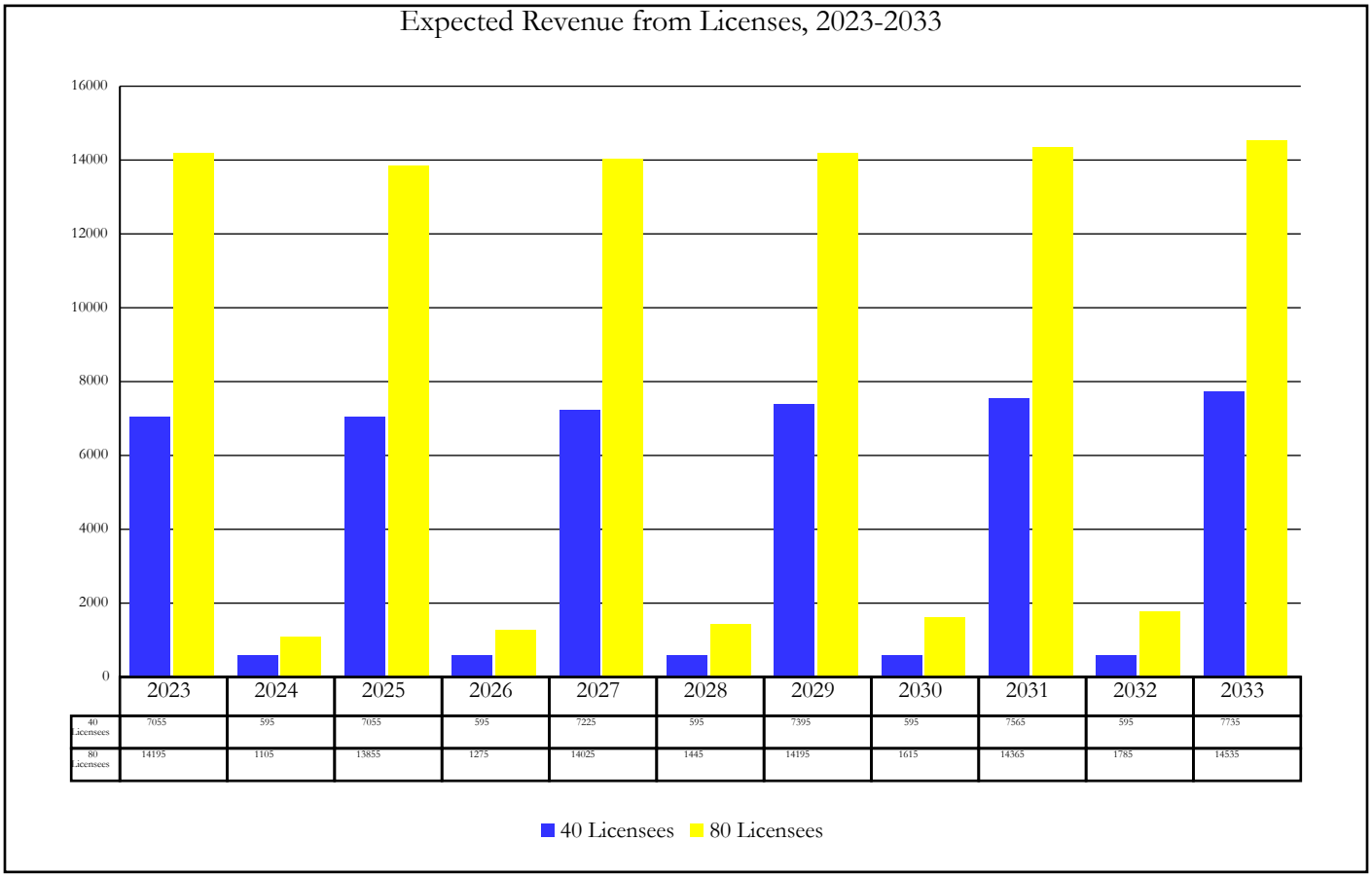
As for provisional licensees, it is expected that in FY2023, there will be approximately 7.5% as many provisional licensees as full licensees. The number is then expected to grow at the same rate of 1.8% of the number of full licenses annually thereafter. Additionally, each provisional licensee from the prior year is expected to then become a full licensee the following year.

The table below shows the projected number of licensees based upon this expected growth of 1.8% annually through 2033.[7]

Year	40 Full Licenses	Provisional Licensees,[8]	80 Full Licenses	Provisional Licensees,[9]
2023	**40**	**3**	**80**	**6**
2024	**3**	**0.72**	**6**	**1.44**
2025	**41**	**0.72**	**81**	**1.44**
2026	**3**	**0.72**	**7**	**1.44**
2027	**42**	**0.72**	**82**	**1.44**
2028	**3**	**0.72**	**8**	**1.44**
2029	**43**	**0.72**	**83**	**1.44**
2030	**3**	**0.72**	**9**	**1.44**
2031	**44**	**0.72**	**84**	**1.44**
2032	**3**	**0.72**	**10**	**1.44**
2033	**45**	**0.72**	**85**	**1.44**

[5] United States Census Bureau, 2020 Census Apportionment Results, https://www.census.gov/data/tables/2020/dec/2020- apportionment-data.html.
[6] This figure was provided during a consultation with the NGSC and is only intended to represent an estimate based upon current nationwide trends and expected results.
[7] The figures in this table round down to the nearest whole number to represent the number of licenses that would be granted under the projected figures.
[8] Projected addition of 18% of 40 over ten-year span. Because 1.8% of 40 is 0.72, there will be approximately three new licensees in 2024 and then one additional new licensee every other year thereafter as the provisional licensee from the previous even-numbered year is expected to become a full licensee the following year.
[9] Projected addition of 18% of 80 over ten-year span. Because 1.8% of 80 is 1.44, there will be approximately three six licensees in 2024 and then one additional new licensee every year thereafter as the provisional licensee from the previous year is expected to become a full licensee the following year.

Below is a graph showing the expected revenue for RIDOH for licenses based upon the projected growth between 2023 and 2033.

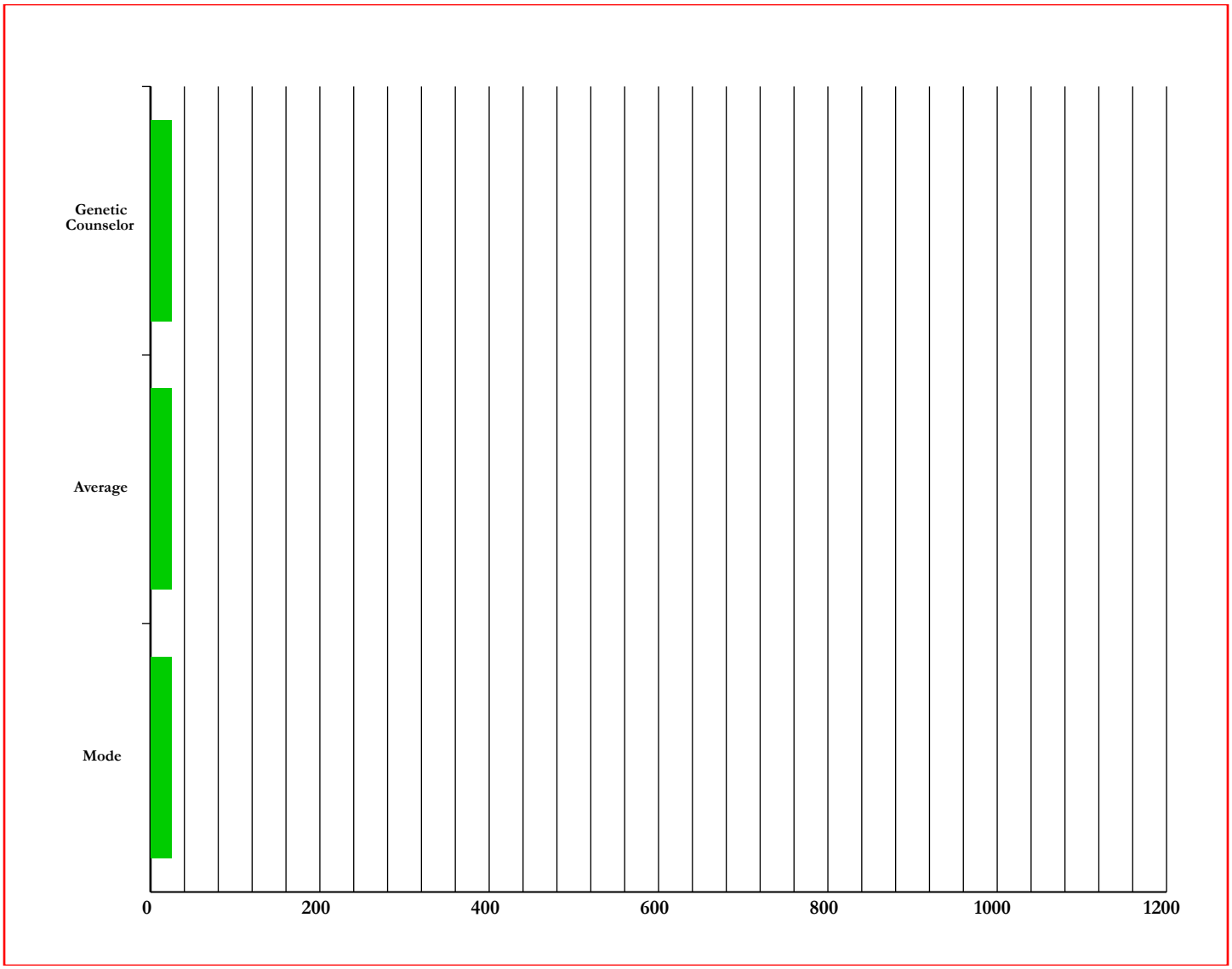


Another benefit of the proposed adoption is that it establishes standards for the supervisors required for provisional licensees. The statute providing the authority for the Department to adopt these regulations requires RIDOH to include rules for situations in which a supervisor may not be physically present with the provisional licensee. Regardless of whether or not the supervisor is present, they are required to record "the manner, frequency and duration, subject matter, and supervisor's impressions" contemporaneously, providing for detailed record keeping.

Another benefit of the proposed adoption is the development of the provisional license category itself. Currently, since genetic counselors are not required to be licensed in Rhode Island, they do not need to be supervised prior to taking the required examinations. Under the proposed regulations, supervision would be required for these provisional licensees, adding an additional level of experience for those seeking to perform genetic counseling.

Costs

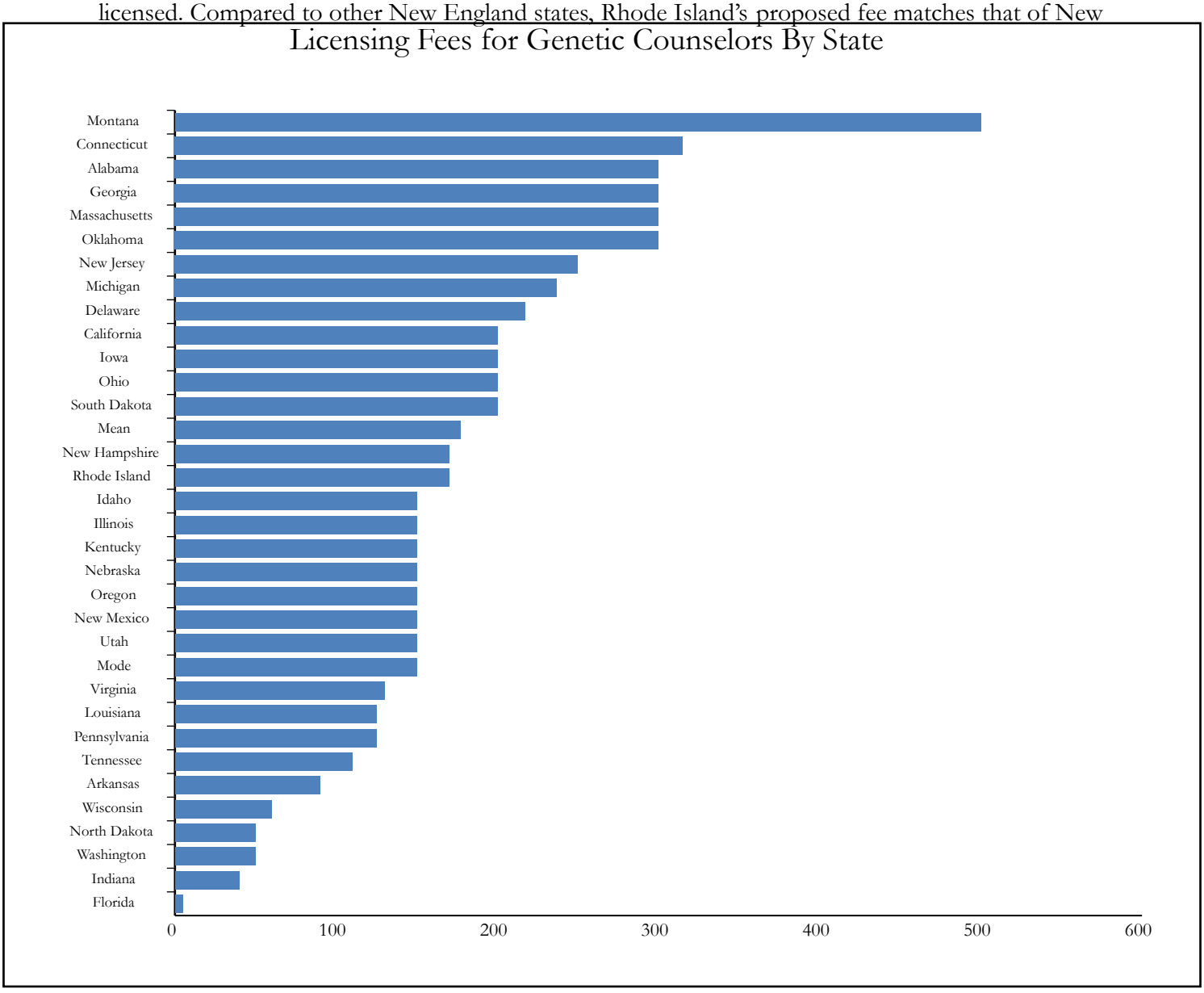
The anticipated cost to both the state and to licensees as a result of these proposed regulations becoming effective is minimal. Licensed genetic counselors will be required to pay a fee of $170.00 for their initial licensure, and they will then be required to pay an additional $170.00 to renew their license every twenty-four months.



The chart above shows a sample of sixty different initial license fees charged by the Department. While the most commonly assessed licensing fee is $25.00, the average among those sampled was $157.63, just below the fee that is to be charged for a genetic counselor license.[10] Based on the above stated information, the licensing fee for genetic counselors is only $12.37 above the average fee assessed out of a large sample of current licensing fees, and therefore is unlikely to be considered unreasonably expensive.

[10] These fees, however, are not scaled to match the twenty-four month effective period of the proposed genetic counselor licenses. Many of the licenses issued by RIDOH expired on the same date annually or biennially, meaning that not all licenses of a certain type are valid for the same number of days, as the length of the license's validity is dependent on the date it was granted. For example, with a license that expires on June 1st of every even-numbered year, if the licensee is granted a license on March 1, 2024, their license would only be valid for three months, but a licensee who is granted a license on June 2, 2024 would have their license be valid for two years minus one day.

Additionally, a study of the licensing fees in other states (below) reveals that Rhode Island's fee for full licensure is $7.00 less than the average of $177.00 among states where genetic counselors are licensed. The mode of the analyzed data was $150.00, a fee that is charged by seven states, and therefore Rhode Island is slightly above the most common fee in states where genetic counselors are licensed. Compared to other New England states, Rhode Island's proposed fee matches that of New



The cost to the State of Rhode Island is expected to be minimal as well. There will be a slight cost for the labor required to process the new license types, however, the number of individuals expected to apply for licensure is between 40 and 80 full licensees and 3 to 6 provisional licensees. This is not expected to increase the amount of work performed by the licensing department to a significant degree, possibly only adding an additional 0.83 to 1.65 applications for processing each week.

There will also be a fee of $85.00 for provisional licenses which will be paid by the licensee. The number of provisional licensees is expected to be approximately 7.5% of the number of full

licensees in FY2023. This number will then remain a constant of 1.8% of the number of total full licensees each year (0.72 to 1.44). Since provisional licensees are only expected to remain provisional for one year, we expect this number to remain constant over time. The $85.00 fee is 50% of the full license fee and although it does represent a cost to the licensee, it is not considered a significant financial investment.

Regulatory Alternatives, Results and Determination

In developing the proposed amendments, the Department considered Not creating a provisional license category for genetic counselors. This option was not pursued as it would be in conflict with the statute which established the provisional category. Additionally, not having a provisional license category for genetic counselors would not allow individuals who have completed the educational requirements to practice under the supervision of a license holder prior to taking the required examination. For these reasons, the Department did not pursue this alternative.

Based on the information presented above, RIDOH has determined that the proposed amendments are the most effective options available and therefore, they will be presented as proposed.