

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 18-0658.01 Thomas Morris x4218

HOUSE BILL 18-1114

HOUSE SPONSORSHIP

Ginal and Buckner,

SENATE SPONSORSHIP

Todd,

House Committees

Health, Insurance, & Environment
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF GENETIC COUNSELORS, AND, IN**
102 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill enacts the "Genetic Counselor Licensure Act". On and after June 1, 2019, a person cannot practice genetic counseling without being licensed by the director of the division of professions and occupations in the department of regulatory agencies. To be licensed, a person must have graduated with an appropriate genetic counseling degree and have been certified by a national body, except that the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
April 12, 2018

HOUSE
Amended 2nd Reading
April 6, 2018

director:

- ! May issue a provisional license to a candidate for certification pursuant to requirements established by rule; and
- ! Shall license a genetic counselor who graduated from a Colorado genetic counseling training program, has at least 15 years of experience, and provides at least 3 letters of recommendation.

The bill gives title protection to genetic counselors and standard licensing, rule-making, and disciplinary powers to the director. Genetic counselors must have insurance unless the director, by rule, finds that insurance is not reasonably available. The bill repeals the act on September 1, 2022. Genetic counselors are subject to the mandatory disclosures of the "Michael Skolnik Medical Transparency Act of 2010".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 35.3 to title 12 as follows:

ARTICLE 35.3

Genetic Counselor Licensure Act

12-35.3-101. Short title. THE SHORT TITLE OF THIS ARTICLE 35.3 IS THE "GENETIC COUNSELOR LICENSURE ACT".

12-35.3-102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY:

(a) FINDS THAT THERE IS A PUBLIC NEED FOR RELIABLE AND AFFORDABLE GENETIC COUNSELING SERVICES PROVIDED BY READILY IDENTIFIABLE AND COMPETENT PRACTITIONERS;

(b) DETERMINES THAT A LICENSURE REQUIREMENT IS NECESSARY TO MEET THIS PUBLIC NEED, INCLUDING A DEFINED SCOPE OF PRACTICE AND TITLE PROTECTION FOR LICENSED GENETIC COUNSELORS TO ASSURE CONSUMERS THE RIGHT TO CHOOSE THOSE FROM WHOM THEY RECEIVE INFORMATION AND ADVICE; AND

1 (c) DECLARES THAT:

2 (I) ITS INTENT IN ENACTING THIS ARTICLE 35.3 IS TO ESTABLISH
3 MINIMUM STANDARDS OF EDUCATION, EXPERIENCE, AND EXAMINATION
4 FOR PROFESSIONAL GENETIC COUNSELORS SO THAT THE PUBLIC CAN
5 READILY IDENTIFY THOSE WHO MEET THESE MINIMUM STANDARDS; AND

6 (II) ENACTMENT OF THIS ARTICLE 35.3 WILL PROTECT THE HEALTH
7 OF THE PUBLIC BY BROADENING AFFORDABLE ACCESS TO APPROPRIATE
8 AND RELIABLE GENETIC COUNSELING.

9 **12-35.3-103. Definitions.** AS USED IN THIS ARTICLE 35.3, UNLESS
10 THE CONTEXT OTHERWISE REQUIRES:

11 (1) "ABGC" MEANS THE AMERICAN BOARD OF GENETIC
12 COUNSELING OR AN ORGANIZATION THAT THE DIRECTOR RECOGNIZES AS
13 BEING EQUIVALENT TO, OR A PREDECESSOR OR SUCCESSOR OF, THE ABGC.

14 (2) "ABMGG" MEANS THE AMERICAN BOARD OF MEDICAL
15 GENETICS AND GENOMICS OR AN ORGANIZATION THAT THE DIRECTOR
16 RECOGNIZES AS BEING EQUIVALENT TO, OR A PREDECESSOR OR SUCCESSOR
17 OF, THE ABMGG.

18 (3) "ACGC" MEANS THE ACCREDITATION COUNCIL FOR GENETIC
19 COUNSELING OR AN ORGANIZATION THAT THE DIRECTOR RECOGNIZES AS
20 BEING EQUIVALENT TO, OR A PREDECESSOR OR SUCCESSOR OF, THE ACGC.

21 (4) "ACTIVE CANDIDATE STATUS" OR "ACS" MEANS THAT A
22 PERSON IN AN ACS-ELIGIBLE APPLICANT CATEGORY HAS SUPPLIED THE
23 ABGC WITH ALL DOCUMENTATION REQUIRED TO TAKE THE ABGC'S
24 CERTIFICATION EXAMINATION AND HAS BEEN APPROVED BY THE ABGC TO
25 TAKE THE EXAMINATION IN A SPECIFIC CYCLE.

26 (5) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
27 PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY

1 AGENCIES, CREATED IN SECTION 24-34-102, OR THE DIRECTOR'S DESIGNEE.

2 (6) "GENETIC COUNSELOR" OR "LICENSEE" MEANS AN INDIVIDUAL
3 WHO IS LICENSED PURSUANT TO THIS ARTICLE 35.3.

4 (7) "NSGC" MEANS THE NATIONAL SOCIETY OF GENETIC
5 COUNSELORS OR AN ORGANIZATION THAT THE DIRECTOR RECOGNIZES AS
6 BEING EQUIVALENT TO, OR A PREDECESSOR OR SUCCESSOR OF, THE NSGC.

7 (8) "PRACTICE OF GENETIC COUNSELING" INCLUDES THE
8 FOLLOWING ACTIVITIES:

9 (a) OBTAINING AND INTERPRETING INDIVIDUAL, FAMILY, AND
10 MEDICAL DEVELOPMENT HISTORIES;

11 (b) DETERMINING THE MODE OF INHERITANCE AND RISK OF
12 TRANSMISSION OF GENETIC CONDITIONS;

13 (c) DISCUSSING THE INHERITANCE, FEATURES, NATURAL HISTORY,
14 AND MEANS OF DIAGNOSIS OF GENETIC CONDITIONS;

15 (d) IDENTIFYING, COORDINATING, ORDERING, AND EXPLAINING
16 GENETIC LABORATORY TESTS AND OTHER DIAGNOSTIC STUDIES;

17 (e) ASSESSING PSYCHOSOCIAL FACTORS AND RECOGNIZING SOCIAL,
18 EDUCATIONAL, AND CULTURAL ISSUES;

19 (f) EVALUATING THE CLIENT'S OR THE CLIENT'S FAMILY'S
20 RESPONSES TO THE GENETIC CONDITION OR RISK OF RECURRENCE OF A
21 GENETIC CONDITION AND PROVIDING CLIENT-CENTERED COUNSELING AND
22 ANTICIPATORY GUIDANCE;

23 (g) COMMUNICATING GENETIC INFORMATION TO CLIENTS;

24 (h) FACILITATING INFORMED DECISION-MAKING ABOUT TESTING
25 AND MANAGEMENT ALTERNATIVES;

26 (i) IDENTIFYING AND UTILIZING COMMUNITY RESOURCES THAT
27 PROVIDE MEDICAL, EDUCATIONAL, FINANCIAL, AND PSYCHOSOCIAL

1 SUPPORT AND ADVOCACY; AND

2 (j) PROVIDING ACCURATE WRITTEN DOCUMENTATION OF MEDICAL,
3 GENETIC, AND COUNSELING INFORMATION FOR CLIENTS, THEIR FAMILIES,
4 AND HEALTH CARE PROFESSIONALS.

5 **12-35.3-104. Use of titles restricted.** ONLY A PERSON LICENSED
6 AS A GENETIC COUNSELOR UNDER THIS ARTICLE 35.3 MAY USE THE TITLE
7 "GENETIC COUNSELOR", "LICENSED GENETIC COUNSELOR", "L.G.C.",
8 "GENE COUNSELOR", "GENETIC CONSULTANT", "GENETIC ASSOCIATE", OR
9 ANY COMBINATION OF THESE TERMS OR ABBREVIATIONS OR ANY OTHER
10 GENERALLY ACCEPTED TERM, LETTERS, OR FIGURES THAT INDICATE THAT
11 THE PERSON IS A GENETIC COUNSELOR.

12 **12-35.3-105. License required.** ON AND AFTER JUNE 1, 2019,
13 EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE 35.3, A PERSON SHALL
14 NOT PRACTICE GENETIC COUNSELING OR REPRESENT HIMSELF OR HERSELF
15 AS BEING ABLE TO PRACTICE GENETIC COUNSELING IN THIS STATE WITHOUT
16 POSSESSING A VALID LICENSE ISSUED BY THE DIRECTOR IN ACCORDANCE
17 WITH THIS ARTICLE 35.3 AND RULES ADOPTED PURSUANT TO THIS ARTICLE
18 35.3.

19 **12-35.3-106. Licensure of genetic counselors - application -**
20 **qualifications - rules. (1) Educational and experiential requirements.**

21 (a) EVERY APPLICANT FOR A LICENSE AS A GENETIC COUNSELOR MUST:

22 (I) EXCEPT AS SPECIFIED IN SUBSECTION (1)(b) [REDACTED] OF THIS
23 SECTION, PROVIDE SATISFACTORY EVIDENCE TO THE DIRECTOR OF HAVING
24 CERTIFICATION AS A GENETIC COUNSELOR BY THE ABGC OR ABMGG;
25 AND

26 (II) SUBMIT AN APPLICATION AS SPECIFIED IN SUBSECTION (2) OF
27 THIS SECTION.

1 (b) THE DIRECTOR SHALL ESTABLISH, BY RULE, REQUIREMENTS FOR
2 ISSUING A PROVISIONAL LICENSE TO PRACTICE GENETIC COUNSELING TO A
3 CANDIDATE FOR LICENSURE WHO HAS BEEN GRANTED ACTIVE CANDIDATE
4 STATUS BY THE ABGC IF THE CANDIDATE MEETS THE OTHER
5 QUALIFICATIONS FOR LICENSURE. THE RULES MUST ADDRESS AT LEAST THE
6 FOLLOWING:

7 (I) THE TERMS OF, RENEWAL OF, AND FEES FOR PROVISIONAL
8 LICENSES;

9 (II) WHETHER A GENETIC COUNSELOR WORKING PURSUANT TO A
10 PROVISIONAL LICENSE MUST BE UNDER THE GENERAL SUPERVISION OF A
11 LICENSED HEALTH CARE PROVIDER AND, IF SO, BY WHOM AND UNDER
12 WHAT CONDITIONS; AND

13 (III) THE AUTOMATIC EXPIRATION OF A PROVISIONAL LICENSURE
14 UPON A SECOND OR SUBSEQUENT FAILURE TO PASS THE CERTIFICATION
15 EXAMINATION.

16

17 (2) **Application.** (a) IF AN APPLICANT HAS FULFILLED THE
18 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, THE APPLICANT MAY
19 APPLY FOR LICENSURE UPON PAYMENT OF A LICENSE APPLICATION FEE IN
20 AN AMOUNT DETERMINED BY THE DIRECTOR.

21 (b) THE APPLICATION MUST BE IN THE FORM AND MANNER
22 DESIGNATED BY THE DIRECTOR.

23 (3) **Licensure.** IF AN APPLICANT HAS FULFILLED THE
24 REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION, THE
25 DIRECTOR SHALL ISSUE A LICENSE OR, AS APPROPRIATE, A PROVISIONAL
26 LICENSE, TO THE APPLICANT; EXCEPT THAT THE DIRECTOR MAY DENY A
27 LICENSE IF THE APPLICANT HAS COMMITTED ANY ACT THAT WOULD BE

1 GROUND FOR DISCIPLINARY ACTION PURSUANT TO SECTION 12-35.3-108.

2 (4) **License renewal.** (a) A GENETIC COUNSELOR MUST RENEW HIS
3 OR HER LICENSE ISSUED PURSUANT TO THIS ARTICLE 35.3 ACCORDING TO
4 A SCHEDULE OF RENEWAL DATES ESTABLISHED BY THE DIRECTOR. THE
5 GENETIC COUNSELOR MUST SUBMIT AN APPLICATION IN THE FORM AND
6 MANNER DESIGNATED BY THE DIRECTOR AND MUST PAY A RENEWAL FEE
7 IN AN AMOUNT DETERMINED BY THE DIRECTOR.

8 (b) LICENSES ARE RENEWED OR REINSTATED IN ACCORDANCE WITH
9 THE SCHEDULE ESTABLISHED BY THE DIRECTOR, AND THE DIRECTOR SHALL
10 GRANT A RENEWAL OR REINSTATEMENT PURSUANT TO SECTION 24-34-102
11 (8). THE DIRECTOR MAY ESTABLISH RENEWAL FEES AND DELINQUENCY
12 FEES FOR REINSTATEMENT PURSUANT TO SECTION 24-34-105. IF A GENETIC
13 COUNSELOR FAILS TO RENEW HIS OR HER LICENSE PURSUANT TO THE
14 SCHEDULE ESTABLISHED BY THE DIRECTOR, THE LICENSE EXPIRES. A
15 PERSON WHOSE LICENSE EXPIRES IS SUBJECT TO THE PENALTIES PROVIDED
16 IN THIS ARTICLE 35.3 OR SECTION 24-34-102 (8).

17 (c) APPLICANTS FOR LICENSURE RENEWAL MUST SUBMIT PROOF OF
18 HAVING COMPLETED THIRTY HOURS OF NSGC-APPROVED CONTINUING
19 EDUCATION.

20 (5) **Fees.** ALL FEES COLLECTED PURSUANT TO THIS ARTICLE 35.3
21 SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE SAME
22 MANNER AS SET FORTH IN SECTION 24-34-105 AND PERIODICALLY
23 ADJUSTED IN ACCORDANCE WITH SECTION 24-75-402.

24 **12-35.3-107. Scope of article - exclusions.** (1) THIS ARTICLE
25 35.3 DOES NOT PREVENT OR RESTRICT THE PRACTICE, SERVICES, OR
26 ACTIVITIES OF:

27 (a) A PERSON LICENSED OR OTHERWISE REGULATED IN THIS STATE

1 BY ANY OTHER LAW FROM ENGAGING IN HIS OR HER PROFESSION OR
2 OCCUPATION AS DEFINED IN THE LAW PURSUANT TO WHICH HE OR SHE IS
3 LICENSED, SPECIFICALLY INCLUDING PERSONS LICENSED PURSUANT TO THE
4 "COLORADO MEDICAL PRACTICE ACT" AND ACTING AS NECESSARY, IN HIS
5 OR HER JUDGMENT, TO ENGAGE IN THE PRACTICE OF MEDICINE AS DEFINED
6 IN SECTION 12-36-106 (1);

7 (b) A PERSON PURSUING A COURSE OF STUDY LEADING TO A
8 DEGREE IN GENETIC COUNSELING OR AN EQUIVALENT DEGREE, AS
9 AUTHORIZED BY THE DIRECTOR, FROM AN ACGC-ACCREDITED SCHOOL OR
10 PROGRAM, IF:

11 (I) THE ACTIVITIES AND SERVICES CONSTITUTE A PART OF A
12 SUPERVISED COURSE OF STUDY;

13 (II) THE PERSON IS DESIGNATED BY A TITLE THAT CLEARLY
14 INDICATES THE PERSON'S STATUS AS A STUDENT;

15 (III) THE PERIOD OF SUPERVISED PRACTICE DOES NOT EXCEED TWO
16 YEARS, UNLESS THE DIRECTOR PROVIDES WRITTEN APPROVAL; AND

17 (IV) THE INDIVIDUAL IS SUPERVISED BY A GENETIC COUNSELOR OR
18 A PHYSICIAN;

19 (c) A PERSON WHO IS EMPLOYED BY THE UNITED STATES OR A
20 STATE GOVERNMENT OR ANY OF ITS BUREAUS, DIVISIONS, OR AGENCIES
21 WHILE IN THE DISCHARGE OF THE EMPLOYEE'S OFFICIAL DUTIES; OR

22 (d) A LEGALLY QUALIFIED GENETIC COUNSELOR FROM ANOTHER
23 STATE OR COUNTRY WHEN PROVIDING SERVICES ON BEHALF OF A
24 TEMPORARILY ABSENT GENETIC COUNSELOR LICENSED IN THIS STATE, IF
25 THE UNLICENSED GENETIC COUNSELOR IS ACTING IN ACCORDANCE WITH
26 RULES ESTABLISHED BY THE DIRECTOR. THE UNLICENSED PRACTICE MUST
27 NOT BE OF MORE THAN FOUR WEEKS' DURATION, AND A PERSON SHALL NOT

1 UNDERTAKE UNLICENSED PRACTICE MORE THAN ONCE IN ANY
2 TWELVE-MONTH PERIOD.

3 (2) (a) NOTHING IN THIS ARTICLE 35.3 AUTHORIZES A GENETIC
4 COUNSELOR TO ENGAGE IN THE PRACTICE OF MEDICINE, AS DEFINED IN
5 SECTION 12-36-106, OR ANY OTHER FORM OF HEALING OR COUNSELING
6 EXCEPT AS AUTHORIZED BY THIS ARTICLE 35.3.

7 (b) IF, IN THE COURSE OF PROVIDING A GENETIC COUNSELING
8 SERVICE TO A CLIENT, A GENETIC COUNSELOR FINDS ANY INDICATION OF
9 A DISEASE OR CONDITION THAT REQUIRES MEDICAL ASSESSMENT, THE
10 GENETIC COUNSELOR SHALL REFER THE CLIENT TO A PHYSICIAN LICENSED
11 TO PRACTICE MEDICINE.

12 **12-35.3-108. Grounds for discipline - disciplinary proceedings**
13 **- judicial review.** (1) THE DIRECTOR MAY TAKE DISCIPLINARY ACTION
14 AGAINST A LICENSEE IF THE DIRECTOR FINDS THAT THE LICENSEE HAS
15 REPRESENTED HIMSELF OR HERSELF AS A LICENSED GENETIC COUNSELOR
16 AFTER THE EXPIRATION, SUSPENSION, OR REVOCATION OF HIS OR HER
17 LICENSE.

18 (2) THE DIRECTOR MAY REVOKE, SUSPEND, DENY, OR REFUSE TO
19 RENEW A LICENSE; PLACE A LICENSEE ON PROBATION; ISSUE A LETTER OF
20 ADMONITION TO A LICENSEE; OR ISSUE A CEASE-AND-DESIST ORDER TO A
21 LICENSEE IN ACCORDANCE WITH THIS SECTION UPON PROOF THAT THE
22 LICENSEE:

23 (a) HAS ENGAGED IN A SEXUAL ACT WITH A PERSON RECEIVING
24 SERVICES WHILE A THERAPEUTIC RELATIONSHIP EXISTED OR WITHIN SIX
25 MONTHS IMMEDIATELY FOLLOWING TERMINATION OF THE THERAPEUTIC
26 RELATIONSHIP. FOR THE PURPOSES OF THIS SUBSECTION (2)(a):

27 (I) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,

1 OR SEXUAL PENETRATION, AS DEFINED IN SECTION 18-3-401.

2 (II) "THERAPEUTIC RELATIONSHIP" MEANS THE PERIOD BEGINNING
3 WITH THE INITIAL EVALUATION AND ENDING UPON THE WRITTEN
4 TERMINATION OF TREATMENT.

5 (b) HAS FALSIFIED INFORMATION IN AN APPLICATION OR HAS
6 ATTEMPTED TO OBTAIN OR HAS OBTAINED A LICENSE BY FRAUD,
7 DECEPTION, OR MISREPRESENTATION;

8 (c) IS AN EXCESSIVE OR HABITUAL USER OR ABUSER OF ALCOHOL
9 OR HABIT-FORMING DRUGS OR IS A HABITUAL USER OF A CONTROLLED
10 SUBSTANCE, AS DEFINED IN SECTION 18-18-102, OR OTHER DRUGS HAVING
11 SIMILAR EFFECTS;

12 (d) (I) HAS FAILED TO NOTIFY THE DIRECTOR, AS REQUIRED BY
13 SECTION 12-35.3-111 (1), OF A PHYSICAL OR MENTAL CONDITION OR
14 ILLNESS THAT IMPAIRS THE LICENSEE'S ABILITY TO PROVIDE GENETIC
15 COUNSELING SERVICES WITH REASONABLE SKILL AND SAFETY OR THAT
16 MIGHT ENDANGER THE HEALTH OR SAFETY OF INDIVIDUALS RECEIVING
17 SERVICES;

18 (II) HAS FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A
19 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE PERSON
20 UNABLE TO PRACTICE GENETIC COUNSELING WITH REASONABLE SKILL AND
21 SAFETY OR THAT MIGHT ENDANGER THE HEALTH OR SAFETY OF PERSONS
22 UNDER HIS OR HER CARE; OR

23 (III) HAS FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO
24 UNDER A CONFIDENTIAL AGREEMENT ENTERED INTO PURSUANT TO
25 SECTION 12-35.3-111 (2);

26 (e) HAS VIOLATED, OR AIDED OR ABETTED OR KNOWINGLY
27 PERMITTED ANY PERSON TO VIOLATE, THIS ARTICLE 35.3, A RULE ADOPTED

1 PURSUANT TO THIS ARTICLE 35.3, OR A LAWFUL ORDER OF THE DIRECTOR;

2 (f) HAS HAD A LICENSE OR REGISTRATION SUSPENDED OR REVOKED
3 IN ANOTHER JURISDICTION FOR ACTIONS THAT WOULD VIOLATE THIS
4 ARTICLE 35.3 OR WOULD CONSTITUTE GROUNDS FOR DISCIPLINE UNDER
5 THIS SECTION IF COMMITTED IN COLORADO;

6 (g) HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO
7 CONTENDERE TO A FELONY OR COMMITTED AN ACT SPECIFIED IN SECTION
8 12-35.3-109. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF
9 COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS CONCLUSIVE
10 EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
11 DISCIPLINARY ACTION, THE DIRECTOR IS GOVERNED BY SECTION 24-5-101.

12 (h) HAS FRAUDULENTLY OBTAINED, FURNISHED, OR SOLD ANY
13 GENETIC COUNSELING DIPLOMA, CERTIFICATE, LICENSE, OR RENEWAL OF
14 A LICENSE OR OTHER PROFESSIONAL CREDENTIAL;

15 (i) HAS FAILED TO NOTIFY THE DIRECTOR OF THE SUSPENSION OR
16 REVOCATION OF THE PERSON'S PAST OR CURRENTLY HELD LICENSE,
17 CERTIFICATE, OR REGISTRATION REQUIRED TO PRACTICE GENETIC
18 COUNSELING IN THIS OR ANY OTHER JURISDICTION;

19 (j) HAS REFUSED TO SUBMIT TO A PHYSICAL OR MENTAL
20 EXAMINATION IF ORDERED BY THE DIRECTOR PURSUANT TO SECTION
21 12-35.3-110;

22 (k) HAS ENGAGED IN ANY OF THE FOLLOWING ACTIVITIES AND
23 PRACTICES:

24 (I) ORDERING OR PERFORMING, WITHOUT CLINICAL JUSTIFICATION,
25 DEMONSTRABLY UNNECESSARY LABORATORY TESTS OR STUDIES;

26 (II) ADMINISTERING DEMONSTRABLY UNNECESSARY TREATMENT
27 WITHOUT CLINICAL JUSTIFICATION; OR

1 (III) AN ACT OR OMISSION THAT IS CONTRARY TO GENERALLY
2 ACCEPTED STANDARDS OF THE PRACTICE OF GENETIC COUNSELING;

3 (l) HAS FAILED TO PROVIDE ADEQUATE OR PROPER SUPERVISION OF
4 A PROVISIONALLY LICENSED GENETIC COUNSELOR OR ANY UNLICENSED
5 PERSON IN THE PRACTICE OF GENETIC COUNSELING; OR

6 (m) HAS OTHERWISE VIOLATED THIS ARTICLE 35.3 OR A LAWFUL
7 ORDER OR RULE OF THE DIRECTOR.

8 (3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS
9 SECTION, THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE
10 GROUNDS FOR DISCIPLINE WERE WILLFUL BUT MAY CONSIDER WHETHER
11 SUCH ACTIONS WERE WILLFUL WHEN DETERMINING THE NATURE OF
12 DISCIPLINARY SANCTIONS TO BE IMPOSED.

13 (4) (a) THE DIRECTOR MAY COMMENCE A PROCEEDING TO
14 DISCIPLINE A LICENSEE IF THE DIRECTOR HAS REASONABLE GROUNDS TO
15 BELIEVE THAT THE LICENSEE HAS COMMITTED AN ACT ENUMERATED IN
16 THIS SECTION.

17 (b) IN ANY PROCEEDING PURSUANT TO THIS SECTION, THE
18 DIRECTOR MAY ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY
19 ACTION AGAINST A LICENSEE ANY DISCIPLINARY ACTION TAKEN AGAINST
20 THE LICENSEE IN ANOTHER JURISDICTION IF THE VIOLATION THAT
21 PROMPTED THE DISCIPLINARY ACTION IN THE OTHER JURISDICTION WOULD
22 BE GROUNDS FOR DISCIPLINARY ACTION PURSUANT TO THIS ARTICLE 35.3.

23 (5) DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED IN
24 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, AND THE HEARING AND
25 OPPORTUNITY FOR REVIEW SHALL BE CONDUCTED PURSUANT TO THAT
26 ARTICLE BY THE DIRECTOR OR BY AN ADMINISTRATIVE LAW JUDGE, AT THE
27 DIRECTOR'S DISCRETION. THE DIRECTOR HAS THE AUTHORITY TO EXERCISE

1 ALL POWERS AND DUTIES CONFERRED BY THIS ARTICLE 35.3 DURING THE
2 DISCIPLINARY PROCEEDINGS.

3 (6) (a) NO LATER THAN THIRTY DAYS FOLLOWING THE DATE OF THE
4 DIRECTOR'S ACTION, THE DIRECTOR SHALL NOTIFY A GENETIC COUNSELOR
5 DISCIPLINED PURSUANT TO THIS SECTION, BY A FIRST-CLASS LETTER TO
6 THE MOST RECENT ADDRESS PROVIDED TO THE DIRECTOR BY THE GENETIC
7 COUNSELOR, OF THE ACTION TAKEN, THE SPECIFIC CHARGES GIVING RISE
8 TO THE ACTION, AND THE GENETIC COUNSELOR'S RIGHT TO REQUEST A
9 HEARING ON THE ACTION TAKEN.

10 (b) WITHIN THIRTY DAYS AFTER THE DIRECTOR SENDS THE
11 NOTIFICATION, THE GENETIC COUNSELOR MAY FILE A WRITTEN REQUEST
12 WITH THE DIRECTOR FOR A HEARING ON THE ACTION TAKEN. UPON RECEIPT
13 OF THE REQUEST, THE DIRECTOR SHALL GRANT A HEARING TO THE GENETIC
14 COUNSELOR. IF THE GENETIC COUNSELOR FAILS TO FILE A WRITTEN
15 REQUEST FOR A HEARING WITHIN THIRTY DAYS, THE ACTION OF THE
16 DIRECTOR BECOMES FINAL ON THAT DATE.

17 (c) FAILURE OF THE GENETIC COUNSELOR TO APPEAR AT THE
18 HEARING WITHOUT GOOD CAUSE IS A WITHDRAWAL OF HIS OR HER
19 REQUEST FOR A HEARING, AND THE DIRECTOR'S ACTION BECOMES FINAL ON
20 THAT DATE. FAILURE, WITHOUT GOOD CAUSE, OF THE DIRECTOR TO
21 APPEAR AT THE HEARING IS CAUSE TO DISMISS THE PROCEEDING.

22 (7) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO
23 SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO
24 ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS ARTICLE
25 35.3. WHEN SEEKING AN INJUNCTION PURSUANT TO THIS SUBSECTION (7),
26 THE ATTORNEY GENERAL IS NOT REQUIRED TO ALLEGE OR PROVE THE
27 INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR

1 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED
2 VIOLATION OF THIS ARTICLE 35.3.

3 (8) (a) IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24 AND THIS
4 ARTICLE 35.3, THE DIRECTOR MAY INVESTIGATE, HOLD HEARINGS, AND
5 GATHER EVIDENCE IN ALL MATTERS RELATED TO THE EXERCISE AND
6 PERFORMANCE OF THE POWERS AND DUTIES OF THE DIRECTOR.

7 (b) (I) TO AID THE DIRECTOR IN ANY HEARING OR INVESTIGATION
8 INSTITUTED PURSUANT TO THIS SECTION, THE DIRECTOR OR AN
9 ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO SUBSECTION (8)(c)
10 OF THIS SECTION MAY ADMINISTER OATHS, TAKE AFFIRMATIONS OF
11 WITNESSES, AND ISSUE SUBPOENAS COMPELLING THE ATTENDANCE OF
12 WITNESSES AND THE PRODUCTION OF ALL RELEVANT RECORDS, PAPERS,
13 BOOKS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING,
14 INVESTIGATION, OR OTHER MATTER BEFORE THE DIRECTOR OR AN
15 ADMINISTRATIVE LAW JUDGE.

16 (II) UPON FAILURE OF ANY WITNESS OR LICENSEE TO COMPLY WITH
17 A SUBPOENA OR PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH
18 THE SUBPOENAED PERSON OR LICENSEE RESIDES OR CONDUCTS BUSINESS,
19 UPON APPLICATION BY THE DIRECTOR WITH NOTICE TO THE SUBPOENAED
20 PERSON OR LICENSEE, MAY ISSUE TO THE PERSON OR LICENSEE AN ORDER
21 REQUIRING THAT PERSON OR LICENSEE TO APPEAR BEFORE THE DIRECTOR;
22 PRODUCE THE RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
23 EVIDENCE, OR MATERIALS IF SO ORDERED; OR GIVE EVIDENCE TOUCHING
24 THE MATTER UNDER INVESTIGATION OR IN QUESTION. IF THE PERSON OR
25 LICENSEE FAILS TO OBEY THE ORDER OF THE COURT, THE COURT MAY HOLD
26 THE PERSON OR LICENSEE IN CONTEMPT OF COURT.

27 (c) THE DIRECTOR MAY APPOINT AN ADMINISTRATIVE LAW JUDGE

1 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, TO CONDUCT
2 HEARINGS, TAKE EVIDENCE, MAKE FINDINGS, AND REPORT THE FINDINGS
3 TO THE DIRECTOR.

4 (9) (a) THE DIRECTOR, A MEMBER OF THE DIRECTOR'S STAFF, A
5 PERSON ACTING AS A WITNESS OR CONSULTANT TO THE DIRECTOR, A
6 WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED PURSUANT TO THIS
7 ARTICLE 35.3, AND A PERSON WHO LODGES A COMPLAINT PURSUANT TO
8 THIS ARTICLE 35.3 ARE IMMUNE FROM LIABILITY IN ANY CIVIL ACTION
9 BROUGHT AGAINST HIM OR HER FOR ACTS OCCURRING WHILE ACTING IN HIS
10 OR HER CAPACITY AS DIRECTOR, STAFF, CONSULTANT, WITNESS, OR
11 COMPLAINANT, RESPECTIVELY, IF THE INDIVIDUAL WAS ACTING IN GOOD
12 FAITH WITHIN THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY, MADE A
13 REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH
14 HE OR SHE ACTED, AND ACTED IN THE REASONABLE BELIEF THAT THE
15 ACTION TAKEN BY HIM OR HER WAS WARRANTED BY THE FACTS.

16 (b) A PERSON PARTICIPATING IN GOOD FAITH IN MAKING A
17 COMPLAINT OR REPORT OR IN AN INVESTIGATIVE OR ADMINISTRATIVE
18 PROCEEDING PURSUANT TO THIS SECTION IS IMMUNE FROM ANY CIVIL OR
19 CRIMINAL LIABILITY THAT OTHERWISE MIGHT RESULT BY REASON OF THE
20 PARTICIPATION.

21 (10) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL
22 REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106(11).

23 (11) IF A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
24 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR,
25 WARRANTS FORMAL ACTION, THE DIRECTOR SHALL NOT RESOLVE THE
26 COMPLAINT BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR
27 PROSECUTION.

1 (12) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
2 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
3 A LICENSEE IS ACTING IN A MANNER THAT IS AN IMMINENT THREAT TO THE
4 HEALTH AND SAFETY OF THE PUBLIC OR THAT A PERSON IS ACTING OR HAS
5 ACTED WITHOUT THE REQUIRED LICENSE, THE DIRECTOR MAY ISSUE AN
6 ORDER TO CEASE AND DESIST THE ACTIVITY. THE DIRECTOR SHALL SET
7 FORTH IN THE ORDER THE STATUTES AND RULES ALLEGED TO HAVE BEEN
8 VIOLATED, THE FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION,
9 AND THE REQUIREMENT THAT ALL UNLAWFUL ACTS OR UNLICENSED
10 PRACTICES IMMEDIATELY CEASE.

11 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
12 DESIST PURSUANT TO SUBSECTION (12)(a) OF THIS SECTION, THE
13 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
14 ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE 35.3 HAVE OCCURRED.
15 THE HEARING SHALL BE CONDUCTED PURSUANT TO SECTIONS 24-4-104
16 AND 24-4-105.

17 (13) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
18 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
19 A PERSON HAS VIOLATED ANY PROVISION OF THIS ARTICLE 35.3, THEN, IN
20 ADDITION TO EXERCISING ANY OTHER POWER GRANTED BY THIS ARTICLE
21 35.3, THE DIRECTOR MAY ISSUE TO THE PERSON AN ORDER TO SHOW CAUSE
22 AS TO WHY THE DIRECTOR SHOULD NOT ISSUE A FINAL ORDER DIRECTING
23 THE PERSON TO CEASE AND DESIST FROM THE UNLAWFUL ACT OR
24 UNLICENSED PRACTICE.

25 (b) THE DIRECTOR SHALL PROMPTLY NOTIFY A PERSON AGAINST
26 WHOM AN ORDER TO SHOW CAUSE HAS BEEN ISSUED PURSUANT TO
27 SUBSECTION (13)(a) OF THIS SECTION OF THE ISSUANCE OF THE ORDER

1 ALONG WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL BASIS FOR
2 THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A HEARING ON THE
3 ORDER. THE DIRECTOR MAY SERVE THE NOTICE BY PERSONAL SERVICE, BY
4 FIRST-CLASS, POSTAGE PREPAID UNITED STATES MAIL, OR IN ANOTHER
5 MANNER AS MAY BE PRACTICABLE. PERSONAL SERVICE OR MAILING OF AN
6 ORDER OR DOCUMENT PURSUANT TO THIS SUBSECTION (13)(b)
7 CONSTITUTES NOTICE OF THE ORDER TO THE PERSON.

8 (c) (I) THE HEARING ON AN ORDER TO SHOW CAUSE SHALL BE HELD
9 NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE CALENDAR DAYS
10 AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE NOTIFICATION BY
11 THE DIRECTOR AS PROVIDED IN SUBSECTION (13)(b) OF THIS SECTION. THE
12 HEARING MAY BE CONTINUED BY AGREEMENT OF ALL PARTIES BASED UPON
13 THE COMPLEXITY OF THE MATTER, NUMBER OF PARTIES TO THE MATTER,
14 AND LEGAL ISSUES PRESENTED IN THE MATTER, BUT IN NO EVENT SHALL
15 THE HEARING BE HELD LATER THAN SIXTY CALENDAR DAYS AFTER THE
16 DATE OF TRANSMISSION OR SERVICE OF THE NOTIFICATION.

17 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
18 BEEN ISSUED PURSUANT TO SUBSECTION (13)(a) OF THIS SECTION DOES
19 NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE
20 THAT NOTIFICATION WAS PROPERLY SENT OR SERVED ON THE PERSON
21 PURSUANT TO SUBSECTION (13)(b) OF THIS SECTION AND SUCH OTHER
22 EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS
23 APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS
24 AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE
25 ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER BECOMES FINAL
26 AS TO THAT PERSON BY OPERATION OF LAW. THE HEARING SHALL BE
27 CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105.

1 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
2 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
3 HAS ACTED WITHOUT THE REQUIRED LICENSE, OR HAS ENGAGED OR IS
4 ABOUT TO ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF
5 THIS ARTICLE 35.3, THE DIRECTOR MAY ISSUE A FINAL CEASE-AND-DESIST
6 ORDER DIRECTING THE PERSON TO CEASE AND DESIST FROM FURTHER
7 UNLAWFUL ACTS OR UNLICENSED PRACTICES.

8 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
9 FORTH IN SUBSECTION (13)(b) OF THIS SECTION, OF THE FINAL
10 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
11 HEARING CONDUCTED PURSUANT TO THIS SUBSECTION (13)(c) TO EACH
12 PERSON AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL
13 ORDER ISSUED PURSUANT TO SUBSECTION (13)(c)(III) OF THIS SECTION IS
14 EFFECTIVE WHEN ISSUED AND IS A FINAL ORDER FOR PURPOSES OF JUDICIAL
15 REVIEW.

16 (14) THE DIRECTOR MAY ENTER INTO A STIPULATION WITH A
17 PERSON IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE EVIDENCE
18 PRESENTED TO THE DIRECTOR, THAT THE PERSON HAS ENGAGED OR IS
19 ABOUT TO ENGAGE IN AN UNLICENSED ACT OR PRACTICE OR AN ACT OR
20 PRACTICE CONSTITUTING A VIOLATION OF THIS ARTICLE 35.3, A RULE
21 PROMULGATED PURSUANT TO THIS ARTICLE 35.3, OR AN ORDER ISSUED
22 PURSUANT TO THIS ARTICLE 35.3.

23 (15) IF A PERSON FAILS TO COMPLY WITH A FINAL
24 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
25 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE
26 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
27 AND IF SO REQUESTED THE ATTORNEY SHALL BRING, SUIT FOR A

1 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
2 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

3 (16) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST
4 ORDER MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION
5 OR OF THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SUBSECTION (10) OF
6 THIS SECTION.

7 (17) (a) THE DIRECTOR MAY SEND A LETTER OF ADMONITION TO A
8 LICENSEE IF A COMPLAINT OR INVESTIGATION DISCLOSES AN INSTANCE OF
9 MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES NOT
10 WARRANT FORMAL ACTION BUT SHOULD NOT BE DISMISSED AS BEING
11 WITHOUT MERIT.

12 (b) IF THE DIRECTOR SENDS A LETTER OF ADMONITION TO A
13 LICENSEE, THE DIRECTOR SHALL NOTIFY THE LICENSEE OF THE LICENSEE'S
14 RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF
15 THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO
16 ADJUDICATE THE PROPRIETY OF THE CONDUCT DESCRIBED IN THE LETTER
17 OF ADMONITION.

18 (c) IF THE LICENSEE TIMELY REQUESTS ADJUDICATION, THE
19 DIRECTOR SHALL VACATE THE LETTER OF ADMONITION AND PROCESS THE
20 MATTER BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

21 (18) THE DIRECTOR MAY SEND A CONFIDENTIAL LETTER OF
22 CONCERN TO A LICENSEE IF A COMPLAINT OR INVESTIGATION DISCLOSES
23 AN INSTANCE OF CONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
24 NOT WARRANT FORMAL ACTION BY THE DIRECTOR AND SHOULD BE
25 DISMISSED, BUT THE DIRECTOR HAS NOTICED CONDUCT BY THE LICENSEE
26 THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED.

27 (19) A PERSON WHOSE LICENSE IS REVOKED OR WHO SURRENDERS

1 HIS OR HER LICENSE TO AVOID DISCIPLINE PURSUANT TO THIS SECTION IS
2 INELIGIBLE TO APPLY FOR A LICENSE PURSUANT TO THIS ARTICLE 35.3 FOR
3 AT LEAST TWO YEARS AFTER THE DATE THE LICENSE IS REVOKED OR
4 SURRENDERED.

5 **12-35.3-109. Unauthorized practice - penalties.** A PERSON WHO
6 PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE GENETIC COUNSELING
7 WITHOUT AN ACTIVE LICENSE AS REQUIRED BY AND ISSUED PURSUANT TO
8 THIS ARTICLE 35.3 FOR GENETIC COUNSELORS COMMITS A CLASS 2
9 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
10 18-1.3-501, FOR THE FIRST OFFENSE. FOR THE SECOND OR ANY
11 SUBSEQUENT OFFENSE, THE PERSON COMMITS A CLASS 1 MISDEMEANOR
12 AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501. THIS
13 SECTION DOES NOT APPLY TO A PERSON WHO IS EXEMPTED BY THIS
14 ARTICLE 35.3 OR ANOTHER ARTICLE OF THIS TITLE 12 FROM BEING
15 LICENSED PURSUANT TO THIS ARTICLE 35.3.

16 **12-35.3-110. Mental and physical examination of licensees.**
17 (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A
18 LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY,
19 THE DIRECTOR MAY ORDER THE LICENSEE TO TAKE A MENTAL OR PHYSICAL
20 EXAMINATION ADMINISTERED BY A PHYSICIAN OR OTHER LICENSED
21 HEALTH CARE PROFESSIONAL DESIGNATED BY THE DIRECTOR. EXCEPT
22 WHERE DUE TO CIRCUMSTANCES BEYOND THE LICENSEE'S CONTROL, IF THE
23 LICENSEE FAILS OR REFUSES TO UNDERGO A MENTAL OR PHYSICAL
24 EXAMINATION, THE DIRECTOR MAY SUSPEND THE LICENSEE'S LICENSE
25 UNTIL THE DIRECTOR HAS MADE A DETERMINATION OF THE LICENSEE'S
26 FITNESS TO PRACTICE. THE DIRECTOR SHALL PROCEED WITH AN ORDER FOR
27 EXAMINATION AND SHALL MAKE HIS OR HER DETERMINATION IN A TIMELY

1 MANNER.

2 (2) IN AN ORDER REQUIRING A LICENSEE TO UNDERGO A MENTAL
3 OR PHYSICAL EXAMINATION, THE DIRECTOR SHALL STATE THE BASIS OF
4 THE DIRECTOR'S REASONABLE CAUSE TO BELIEVE THAT THE LICENSEE IS
5 UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY. FOR
6 PURPOSES OF A DISCIPLINARY PROCEEDING AUTHORIZED PURSUANT TO
7 THIS ARTICLE 35.3, THE LICENSEE IS DEEMED TO HAVE WAIVED ALL
8 OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING PHYSICIAN'S OR
9 LICENSED HEALTH CARE PROFESSIONAL'S TESTIMONY OR EXAMINATION
10 REPORTS ON THE GROUNDS THAT THEY ARE PRIVILEGED
11 COMMUNICATIONS.

12 (3) THE LICENSEE MAY SUBMIT TO THE DIRECTOR TESTIMONY OR
13 EXAMINATION REPORTS FROM A PHYSICIAN CHOSEN BY THE LICENSEE AND
14 PERTAINING TO ANY CONDITION THAT THE DIRECTOR HAS ALLEGED MAY
15 PRECLUDE THE LICENSEE FROM PRACTICING WITH REASONABLE SKILL AND
16 SAFETY. THE DIRECTOR MAY CONSIDER THE TESTIMONY AND REPORTS
17 SUBMITTED BY THE LICENSEE IN CONJUNCTION WITH, BUT NOT IN LIEU OF,
18 TESTIMONY AND EXAMINATION REPORTS OF THE PHYSICIAN DESIGNATED
19 BY THE DIRECTOR.

20 (4) THE RESULTS OF A MENTAL OR PHYSICAL EXAMINATION
21 ORDERED BY THE DIRECTOR SHALL NOT BE USED AS EVIDENCE IN ANY
22 PROCEEDING OTHER THAN ONE BEFORE THE DIRECTOR, ARE NOT A PUBLIC
23 RECORD, AND SHALL NOT BE MADE AVAILABLE TO THE PUBLIC.

24 **12-35.3-111. Confidential agreement to limit practice -**
25 **violation - grounds for discipline.** (1) IF A GENETIC COUNSELOR HAS A
26 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE PERSON
27 UNABLE TO PRACTICE GENETIC COUNSELING WITH REASONABLE SKILL AND

1 SAFETY TO CLIENTS, THE GENETIC COUNSELOR SHALL NOTIFY THE
2 DIRECTOR OF THE ILLNESS OR CONDITION IN A MANNER AND WITHIN A
3 PERIOD DETERMINED BY THE DIRECTOR. THE DIRECTOR MAY REQUIRE THE
4 GENETIC COUNSELOR TO SUBMIT TO AN EXAMINATION PURSUANT TO
5 SECTION 12-35.3-110 TO EVALUATE THE EXTENT OF THE ILLNESS OR
6 CONDITION AND ITS IMPACT ON THE GENETIC COUNSELOR'S ABILITY TO
7 PRACTICE GENETIC COUNSELING WITH REASONABLE SKILL AND SAFETY TO
8 CLIENTS.

9 (2) (a) UPON DETERMINING THAT A GENETIC COUNSELOR WITH A
10 PHYSICAL OR MENTAL ILLNESS OR CONDITION IS ABLE TO RENDER LIMITED
11 SERVICES WITH REASONABLE SKILL AND SAFETY TO CLIENTS, THE
12 DIRECTOR MAY ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE
13 GENETIC COUNSELOR IN WHICH THE GENETIC COUNSELOR AGREES TO LIMIT
14 HIS OR HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE
15 ILLNESS OR CONDITION, AS DETERMINED BY THE DIRECTOR.

16 (b) AS PART OF THE AGREEMENT, THE GENETIC COUNSELOR IS
17 SUBJECT TO PERIODIC REEVALUATION OR MONITORING AS DETERMINED
18 APPROPRIATE BY THE DIRECTOR.

19 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS
20 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF
21 MONITORING.

22 (3) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR
23 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, A GENETIC
24 COUNSELOR IS NOT ENGAGING IN ACTIVITIES THAT ARE GROUNDS FOR
25 DISCIPLINE PURSUANT TO SECTION 12-35.3-108. THE AGREEMENT DOES
26 NOT CONSTITUTE A RESTRICTION OR DISCIPLINE BY THE DIRECTOR.
27 HOWEVER, IF THE GENETIC COUNSELOR FAILS TO COMPLY WITH THE TERMS

1 OF THE AGREEMENT, THE FAILURE CONSTITUTES A PROHIBITED ACTIVITY
2 PURSUANT TO SECTION 12-35.3-108 (2)(d), AND THE GENETIC COUNSELOR
3 IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION 12-35.3-108.

4 (4) THIS SECTION DOES NOT APPLY TO A GENETIC COUNSELOR
5 SUBJECT TO DISCIPLINE FOR PROHIBITED ACTIVITIES AS DESCRIBED IN
6 SECTION 12-35.3-108 (2)(c).

7 **12-35.3-112. Professional liability insurance required - rules.**

8 (1) A PERSON SHALL NOT PRACTICE GENETIC COUNSELING UNLESS THE
9 PERSON PURCHASES AND MAINTAINS, OR IS COVERED BY, PROFESSIONAL
10 LIABILITY INSURANCE IN AN AMOUNT DETERMINED BY THE DIRECTOR BY
11 RULE THAT COVERS ALL ACTS WITHIN THE SCOPE OF PRACTICE OF THE
12 GENETIC COUNSELOR.

13 [REDACTED]
14 (2) THIS SECTION DOES NOT APPLY TO A GENETIC COUNSELOR WHO
15 IS A PUBLIC EMPLOYEE ACTING WITHIN THE COURSE AND SCOPE OF THE
16 PUBLIC EMPLOYEE'S DUTIES AND WHO IS GRANTED IMMUNITY PURSUANT
17 TO THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF
18 TITLE 24.

19 **12-35.3-113. Rule-making authority.** THE DIRECTOR SHALL
20 PROMULGATE RULES AS NECESSARY FOR THE ADMINISTRATION OF THIS
21 ARTICLE 35.3.

22 **12-35.3-114. Repeal of article - review of functions.** THIS
23 ARTICLE 35.3 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025. BEFORE THE
24 REPEAL, THE DIRECTOR'S POWERS, DUTIES, AND FUNCTIONS PURSUANT TO
25 THIS ARTICLE 35.3 ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH
26 SECTION 24-34-104.

27 **SECTION 2.** In Colorado Revised Statutes, 12-43-215, **amend**

1 (10) as follows:

2 **12-43-215. Scope of article - exemptions.** (10) ~~The provisions~~
3 ~~of This article do~~ ARTICLE 43 DOES not apply to:

4 (a) A professional coach, including a life coach, executive coach,
5 personal coach, or business coach, who has had coach-specific training
6 and who serves clients exclusively as a coach, as long as the professional
7 coach does not engage in the practice of psychology, social work,
8 marriage and family therapy, licensed professional counseling,
9 psychotherapy, or addiction counseling, as those practices are defined in
10 this ~~article~~ ARTICLE 43; OR

11 (b) A GENETIC COUNSELOR WHO IS LICENSED PURSUANT TO
12 ARTICLE 35.3 OF THIS TITLE 12.

13 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **add**
14 **(26)(a)(VIII)** as follows:

15 **24-34-104. General assembly review of regulatory agencies**
16 **and functions for termination, continuation, or reestablishment.**

17 **(26) (a)** The following agencies, functions, or both, are scheduled for
18 repeal on September 1, **2025**:

19 **(VIII)** THE REGULATION OF GENETIC COUNSELORS BY THE
20 DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS PURSUANT
21 TO ARTICLE 35.3 OF TITLE 12.

22 **SECTION 4.** In Colorado Revised Statutes, 24-34-110, **amend**
23 **(3)(a)(XXVIII)** and **(3)(a)(XXIX)**; and **add (3)(a)(XXX)** as follows:

24 **24-34-110. Medical transparency act of 2010 - disclosure of**
25 **information about health care licensees - fines - rules - short title -**
26 **legislative declaration.** (3) (a) As used in this section, "applicant" means
27 a person applying for a new, active license, certification, or registration

1 or to renew, reinstate, or reactivate an active license, certification, or
2 registration to practice:

3 (XXVIII) As a surgical assistant or surgical technologist pursuant
4 to article 43.2 of title 12; ~~C.R.S.~~; and

5 (XXIX) Naturopathic medicine pursuant to article 37.3 of title 12;
6 ~~C.R.S.~~; AND

7 (XXX) AS A GENETIC COUNSELOR PURSUANT TO ARTICLE 35.3 OF
8 TITLE 12.

9 **SECTION 5. Appropriation.** (1) For the 2018-19 state fiscal
10 year, \$22,677 is appropriated to the department of regulatory agencies.
11 This appropriation is from the division of professions and occupations
12 cash fund created in section 24-34-105 (2)(b)(I), C.R.S. To implement
13 this act, the department may use this appropriation as follows:

14 (a) \$9,982 for use by the division of professions and occupations
15 for personal services, which amount is based on an assumption that the
16 division will require an additional 0.1 FTE;

17 (b) \$4,703 for use by the division of professions and occupations
18 for operating expenses; and

19 (c) \$7,992 for the purchase of legal services.

20 (2) For the 2018-19 state fiscal year, \$7,992 is appropriated to the
21 department of law. This appropriation is from reappropriated funds
22 received from the department of regulatory agencies under subsection
23 (1)(c) of this section. To implement this act, the department of law may
24 use this appropriation to provide legal services for the department of
25 regulatory agencies.

26 **SECTION 6. Act subject to petition - effective date -**
27 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following

1 the expiration of the ninety-day period after final adjournment of the
2 general assembly (August 8, 2018, if adjournment sine die is on May 9,
3 2018); except that, if a referendum petition is filed pursuant to section 1
4 (3) of article V of the state constitution against this act or an item, section,
5 or part of this act within such period, then the act, item, section, or part
6 will not take effect unless approved by the people at the general election
7 to be held in November 2018 and, in such case, will take effect on the
8 date of the official declaration of the vote thereon by the governor.

9 (2) This act applies to conduct occurring on or after the applicable
10 effective date of this act.