

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0837.01 Thomas Morris x4218

SENATE BILL 19-133

SENATE SPONSORSHIP

Ginal and Todd,

HOUSE SPONSORSHIP

Michaelson Jenet,

Senate Committees

Health & Human Services
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF GENETIC COUNSELORS.**

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, 2020, 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 been certified by a national body, except that the director may issue a provisional license to a candidate for certification pursuant to requirements established by rule.

The bill gives title protection to genetic counselors and standard

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.

1 OF THE PUBLIC BY BROADENING AFFORDABLE ACCESS TO APPROPRIATE
2 AND RELIABLE GENETIC COUNSELING.

3 **12-35.3-103. Definitions.** AS USED IN THIS ARTICLE 35.3, UNLESS
4 THE CONTEXT OTHERWISE REQUIRES:

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

8 (2) "ABMGG" MEANS THE AMERICAN BOARD OF MEDICAL
9 GENETICS AND GENOMICS OR AN ORGANIZATION THAT THE DIRECTOR
10 RECOGNIZES AS BEING EQUIVALENT TO, OR A PREDECESSOR OR SUCCESSOR
11 OF, THE ABMGG.

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

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

20 (5) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
21 PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY
22 AGENCIES CREATED IN SECTION 24-34-102 OR THE DIRECTOR'S DESIGNEE.

23 (6) "GENETIC COUNSELING" INCLUDES THE FOLLOWING ACTIVITIES:

24 (a) OBTAINING AND INTERPRETING INDIVIDUAL, FAMILY, MEDICAL,
25 AND DEVELOPMENT HISTORIES;

26 (b) DETERMINING THE MODE OF INHERITANCE AND RISK OF
27 TRANSMISSION OF GENETIC CONDITIONS;

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

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

5 (e) ASSESSING PSYCHOSOCIAL FACTORS AND RECOGNIZING SOCIAL,
6 EDUCATIONAL, AND CULTURAL ISSUES;

7 (f) EVALUATING THE CLIENT'S OR THE CLIENT'S FAMILY'S
8 RESPONSES TO THE GENETIC CONDITION OR RISK OF RECURRENCE OF A
9 GENETIC CONDITION AND PROVIDING CLIENT-CENTERED COUNSELING AND
10 ANTICIPATORY GUIDANCE;

11 (g) COMMUNICATING GENETIC INFORMATION TO CLIENTS;

12 (h) FACILITATING INFORMED DECISION-MAKING ABOUT TESTING
13 AND MANAGEMENT ALTERNATIVES;

14 (i) IDENTIFYING AND UTILIZING COMMUNITY RESOURCES THAT
15 PROVIDE MEDICAL, EDUCATIONAL, FINANCIAL, AND PSYCHOSOCIAL
16 SUPPORT AND ADVOCACY; AND

17 (j) PROVIDING ACCURATE WRITTEN DOCUMENTATION OF MEDICAL,
18 GENETIC, AND COUNSELING INFORMATION FOR CLIENTS, THEIR FAMILIES,
19 AND HEALTH CARE PROFESSIONALS.

20 (7) "GENETIC COUNSELOR" OR "LICENSEE" MEANS AN INDIVIDUAL
21 WHO IS LICENSED PURSUANT TO THIS ARTICLE 35.3.

22 (8) "NSGC" MEANS THE NATIONAL SOCIETY OF GENETIC
23 COUNSELORS OR AN ORGANIZATION THAT THE DIRECTOR RECOGNIZES AS
24 BEING EQUIVALENT TO, OR A PREDECESSOR OR SUCCESSOR OF, THE NSGC.

25 **12-35.3-104. Use of titles restricted.** ONLY A PERSON LICENSED
26 AS A GENETIC COUNSELOR UNDER THIS ARTICLE 35.3 MAY USE THE TITLE
27 OR ABBREVIATION "GENETIC COUNSELOR", "LICENSED GENETIC

1 COUNSELOR", "L.G.C.", "GENE COUNSELOR", "GENETIC CONSULTANT",
2 "GENETIC ASSOCIATE", OR ANY COMBINATION OF THESE TERMS OR
3 ABBREVIATIONS OR ANY OTHER GENERALLY ACCEPTED TERMS, LETTERS,
4 OR FIGURES THAT INDICATE THAT THE PERSON IS A GENETIC COUNSELOR.

5 **12-35.3-105. License required.** ON AND AFTER JUNE 1, 2020,
6 EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE 35.3, A PERSON SHALL
7 NOT ENGAGE IN THE PRACTICE OF GENETIC COUNSELING OR REPRESENT
8 THAT THE PERSON IS ABLE TO PRACTICE GENETIC COUNSELING IN THIS
9 STATE WITHOUT POSSESSING A VALID LICENSE ISSUED BY THE DIRECTOR
10 IN ACCORDANCE WITH THIS ARTICLE 35.3 AND RULES ADOPTED PURSUANT
11 TO THIS ARTICLE 35.3.

12 **12-35.3-106. Licensure of genetic counselors - application -**
13 **qualifications - renewal - continuing education - fees - rules.**

14 (1) **Educational and experiential requirements.** (a) EVERY APPLICANT
15 FOR A LICENSE AS A GENETIC COUNSELOR MUST:

16 (I) EXCEPT AS SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION,
17 PROVIDE SATISFACTORY EVIDENCE TO THE DIRECTOR OF CERTIFICATION AS
18 A GENETIC COUNSELOR BY THE ABGC OR ABMGG; AND

19 (II) SUBMIT AN APPLICATION AS SPECIFIED IN SUBSECTION (2) OF
20 THIS SECTION.

21 (b) THE DIRECTOR SHALL ESTABLISH, BY RULE, REQUIREMENTS FOR
22 ISSUING A PROVISIONAL LICENSE TO PRACTICE GENETIC COUNSELING TO A
23 CANDIDATE FOR LICENSURE WHO HAS BEEN GRANTED ACTIVE CANDIDATE
24 STATUS BY THE ABGC. THE RULES MUST ADDRESS AT LEAST THE
25 FOLLOWING:

26 (I) THE TERMS OF, RENEWAL OF, AND FEES FOR PROVISIONAL
27 LICENSES;

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

5 (III) THE AUTOMATIC EXPIRATION OF A PROVISIONAL LICENSE
6 UPON A SECOND FAILURE TO PASS A CERTIFICATION EXAMINATION.

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

11 (b) THE APPLICATION MUST BE IN THE FORM AND MANNER
12 DESIGNATED BY THE DIRECTOR.

13 (3) **Licensure.** IF AN APPLICANT HAS FULFILLED THE
14 REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION, THE
15 DIRECTOR SHALL ISSUE A LICENSE OR, AS APPROPRIATE, A PROVISIONAL
16 LICENSE TO THE APPLICANT; EXCEPT THAT THE DIRECTOR MAY DENY A
17 LICENSE IF THE APPLICANT HAS COMMITTED ANY ACT THAT WOULD BE
18 GROUNDS FOR DISCIPLINARY ACTION PURSUANT TO SECTION 12-35.3-108.

19 (4) **License renewal - continuing education.** (a) A GENETIC
20 COUNSELOR MUST RENEW A LICENSE ISSUED PURSUANT TO THIS ARTICLE
21 35.3 ACCORDING TO A SCHEDULE OF RENEWAL DATES ESTABLISHED BY
22 THE DIRECTOR. THE GENETIC COUNSELOR MUST SUBMIT AN APPLICATION
23 IN THE FORM AND MANNER DESIGNATED BY THE DIRECTOR AND MUST PAY
24 A RENEWAL FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR.

25 (b) LICENSES ARE RENEWED OR REINSTATED IN ACCORDANCE WITH
26 THE SCHEDULE ESTABLISHED BY THE DIRECTOR, AND THE DIRECTOR SHALL
27 GRANT A RENEWAL OR REINSTATEMENT PURSUANT TO SECTION 24-34-102

1 (8). THE DIRECTOR MAY ESTABLISH RENEWAL FEES AND DELINQUENCY
2 FEES FOR REINSTATEMENT PURSUANT TO SECTION 24-34-105. IF A GENETIC
3 COUNSELOR FAILS TO RENEW THE GENETIC COUNSELOR'S LICENSE
4 PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR, THE
5 LICENSE EXPIRES. A PERSON WHOSE LICENSE EXPIRES IS SUBJECT TO THE
6 PENALTIES PROVIDED IN THIS ARTICLE 35.3 OR SECTION 24-34-102 (8).

7 (c) APPLICANTS FOR LICENSE RENEWAL MUST SUBMIT PROOF OF
8 HAVING COMPLETED THIRTY HOURS OF NSGC-APPROVED CONTINUING
9 EDUCATION WITHIN THE PREVIOUS LICENSING PERIOD.

10 (5) **Fees.** ALL FEES COLLECTED PURSUANT TO THIS ARTICLE 35.3
11 SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE SAME
12 MANNER AS SET FORTH IN SECTION 24-34-105.

13 **12-35.3-107. Scope of article - exclusions.** (1) THIS ARTICLE
14 35.3 DOES NOT PREVENT OR RESTRICT THE PRACTICE, SERVICES, OR
15 ACTIVITIES OF:

16 (a) A PERSON LICENSED OR OTHERWISE REGULATED IN THIS STATE
17 BY ANY OTHER LAW FROM ENGAGING IN THE PERSON'S PROFESSION OR
18 OCCUPATION AS DEFINED IN THE LAW PURSUANT TO WHICH THE PERSON IS
19 LICENSED OR OTHERWISE REGULATED, SPECIFICALLY INCLUDING PERSONS
20 LICENSED PURSUANT TO THE "COLORADO MEDICAL PRACTICE ACT",
21 ARTICLE 36 OF THIS TITLE 12, AND ACTING AS NECESSARY, IN THE PERSON'S
22 JUDGMENT, TO ENGAGE IN THE PRACTICE OF MEDICINE AS DEFINED IN
23 SECTION 12-36-106 (1);

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

1 (I) THE ACTIVITIES AND SERVICES CONSTITUTE A PART OF A
2 SUPERVISED COURSE OF STUDY;

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

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

7 (IV) THE PERSON IS SUPERVISED BY A GENETIC COUNSELOR OR A
8 PHYSICIAN LICENSED PURSUANT TO ARTICLE 36 OF THIS TITLE 12;

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

12 (d) AN INDIVIDUAL FROM ANOTHER STATE OR COUNTRY WHO IS
13 CERTIFIED BY THE ABGC OR ABMGG AND IS NOT A LICENSED GENETIC
14 COUNSELOR IN THIS STATE WHEN ENGAGING IN GENETIC COUNSELING ON
15 BEHALF OF A TEMPORARILY ABSENT GENETIC COUNSELOR, IF THE
16 UNLICENSED INDIVIDUAL IS ACTING IN ACCORDANCE WITH RULES
17 ESTABLISHED BY THE DIRECTOR. THE UNLICENSED PRACTICE MUST NOT BE
18 OF MORE THAN FOUR WEEKS' DURATION, AND A PERSON SHALL NOT
19 UNDERTAKE UNLICENSED PRACTICE MORE THAN ONCE IN ANY
20 TWELVE-MONTH PERIOD.

21 (2) (a) NOTHING IN THIS ARTICLE 35.3 AUTHORIZES A GENETIC
22 COUNSELOR TO ENGAGE IN THE PRACTICE OF MEDICINE, AS DEFINED IN
23 SECTION 12-36-106(1), OR ANY OTHER FORM OF HEALING OR COUNSELING
24 EXCEPT AS AUTHORIZED BY THIS ARTICLE 35.3.

25 (b) IF, IN THE COURSE OF PROVIDING GENETIC COUNSELING TO A
26 CLIENT, A GENETIC COUNSELOR FINDS ANY INDICATION OF A DISEASE OR
27 CONDITION THAT REQUIRES MEDICAL ASSESSMENT, THE GENETIC

1 COUNSELOR SHALL REFER THE CLIENT TO A PHYSICIAN LICENSED TO
2 PRACTICE MEDICINE PURSUANT TO ARTICLE 36 OF THIS TITLE 12.

3 **12-35.3-108. Grounds for discipline - disciplinary proceedings**
4 **- injunctive relief - immunity - cease-and-desist orders - judicial**
5 **review - definitions.** (1) THE DIRECTOR MAY TAKE DISCIPLINARY ACTION

6 AGAINST A PERSON IF THE DIRECTOR FINDS THAT THE PERSON HAS
7 REPRESENTED THAT THE PERSON IS A GENETIC COUNSELOR AFTER THE
8 EXPIRATION, SUSPENSION, OR REVOCATION OF THE PERSON'S LICENSE.

9 (2) THE DIRECTOR MAY REVOKE, SUSPEND, DENY, OR REFUSE TO
10 RENEW A LICENSE; PLACE A LICENSEE ON PROBATION; OR ISSUE A LETTER
11 OF ADMONITION TO A LICENSEE IN ACCORDANCE WITH THIS SECTION UPON
12 PROOF THAT THE LICENSEE:

13 (a) HAS ENGAGED IN A SEXUAL ACT WITH AN INDIVIDUAL
14 RECEIVING SERVICES WHILE A THERAPEUTIC RELATIONSHIP EXISTED OR
15 WITHIN SIX MONTHS IMMEDIATELY FOLLOWING TERMINATION OF THE
16 THERAPEUTIC RELATIONSHIP. FOR THE PURPOSES OF THIS SUBSECTION

17 (2)(a):

18 (I) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
19 OR SEXUAL PENETRATION, AS DEFINED IN SECTION 18-3-401.

20 (II) "THERAPEUTIC RELATIONSHIP" MEANS THE PERIOD BEGINNING
21 WITH THE INITIAL EVALUATION AND ENDING UPON THE WRITTEN
22 TERMINATION OF TREATMENT.

23 (b) HAS FALSIFIED INFORMATION IN AN APPLICATION OR HAS
24 ATTEMPTED TO OBTAIN OR HAS OBTAINED A LICENSE BY FRAUD,
25 DECEPTION, OR MISREPRESENTATION;

26 (c) IS AN EXCESSIVE OR HABITUAL USER OR ABUSER OF ALCOHOL
27 OR HABIT-FORMING DRUGS OR IS A HABITUAL USER OF A CONTROLLED

1 SUBSTANCE, AS DEFINED IN SECTION 18-18-102, OR OTHER DRUGS HAVING
2 SIMILAR EFFECTS;

3 (d) (I) HAS FAILED TO NOTIFY THE DIRECTOR, AS REQUIRED BY
4 SECTION 12-35.3-111 (1), OF A PHYSICAL ILLNESS, MENTAL CONDITION, OR
5 BEHAVIORAL OR MENTAL HEALTH DISORDER THAT IMPAIRS THE LICENSEE'S
6 ABILITY TO PROVIDE GENETIC COUNSELING WITH REASONABLE SKILL AND
7 SAFETY OR THAT MIGHT ENDANGER THE HEALTH OR SAFETY OF
8 INDIVIDUALS RECEIVING THE COUNSELING;

9 (II) HAS FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A
10 PHYSICAL ILLNESS, MENTAL CONDITION, OR BEHAVIORAL OR MENTAL
11 HEALTH DISORDER THAT RENDERS THE PERSON UNABLE TO PRACTICE
12 GENETIC COUNSELING WITH REASONABLE SKILL AND SAFETY OR THAT
13 MIGHT ENDANGER THE HEALTH OR SAFETY OF PERSONS UNDER THE
14 LICENSEE'S CARE; OR

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

18 (e) HAS VIOLATED, OR AIDED OR ABETTED OR KNOWINGLY
19 PERMITTED ANY PERSON TO VIOLATE, THIS ARTICLE 35.3, A RULE ADOPTED
20 PURSUANT TO THIS ARTICLE 35.3, OR A LAWFUL ORDER OF THE DIRECTOR;

21 (f) HAS HAD A LICENSE, CERTIFICATION, OR REGISTRATION
22 SUSPENDED OR REVOKED IN ANOTHER JURISDICTION FOR ACTIONS THAT
23 WOULD VIOLATE THIS ARTICLE 35.3 OR WOULD CONSTITUTE GROUNDS FOR
24 DISCIPLINE UNDER THIS SECTION IF COMMITTED IN COLORADO;

25 (g) HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO
26 CONTENDERE TO A FELONY OR COMMITTED AN ACT SPECIFIED IN SECTION
27 12-35.3-109. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF

1 COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS CONCLUSIVE
2 EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
3 DISCIPLINARY ACTION, THE DIRECTOR IS GOVERNED BY SECTION 24-5-101.

4 (h) HAS FRAUDULENTLY OBTAINED, FURNISHED, OR SOLD ANY
5 GENETIC COUNSELING DIPLOMA, CERTIFICATE, LICENSE, OR RENEWAL OF
6 A LICENSE OR OTHER PROFESSIONAL CREDENTIAL;

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

11 (j) HAS REFUSED TO SUBMIT TO A MENTAL OR PHYSICAL
12 EXAMINATION IF ORDERED BY THE DIRECTOR PURSUANT TO SECTION
13 12-35.3-110;

14 (k) HAS ENGAGED IN ANY OF THE FOLLOWING ACTIVITIES AND
15 PRACTICES:

16 (I) ORDERING, WITHOUT CLINICAL JUSTIFICATION, DEMONSTRABLY
17 UNNECESSARY LABORATORY TESTS OR STUDIES; OR

18 (II) AN ACT OR OMISSION THAT IS CONTRARY TO GENERALLY
19 ACCEPTED STANDARDS OF GENETIC COUNSELING;

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

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

25 (3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS
26 SECTION, THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE
27 GROUNDS FOR DISCIPLINE WERE WILLFUL BUT MAY CONSIDER WHETHER

1 THE ACTIONS WERE WILLFUL WHEN DETERMINING THE NATURE OF
2 DISCIPLINARY SANCTIONS TO BE IMPOSED.

3 (4) (a) THE DIRECTOR MAY COMMENCE A PROCEEDING TO
4 DISCIPLINE A LICENSEE IF THE DIRECTOR HAS REASONABLE GROUNDS TO
5 BELIEVE THAT THE LICENSEE HAS COMMITTED AN ACT ENUMERATED IN
6 THIS SECTION.

7 (b) IN ANY PROCEEDING PURSUANT TO THIS SECTION, THE
8 DIRECTOR MAY ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY
9 ACTION AGAINST A LICENSEE ANY DISCIPLINARY ACTION TAKEN AGAINST
10 THE LICENSEE IN ANOTHER JURISDICTION IF THE VIOLATION THAT
11 PROMPTED THE DISCIPLINARY ACTION IN THE OTHER JURISDICTION WOULD
12 BE GROUNDS FOR DISCIPLINARY ACTION PURSUANT TO THIS ARTICLE 35.3.

13 (5) DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED IN
14 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, AND THE HEARING AND
15 OPPORTUNITY FOR REVIEW SHALL BE CONDUCTED PURSUANT TO THAT
16 ARTICLE BY THE DIRECTOR OR BY AN ADMINISTRATIVE LAW JUDGE, AT THE
17 DIRECTOR'S DISCRETION. THE DIRECTOR HAS THE AUTHORITY TO EXERCISE
18 ALL POWERS AND DUTIES CONFERRED BY THIS ARTICLE 35.3 DURING THE
19 DISCIPLINARY PROCEEDINGS.

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

24 (b) (I) TO AID THE DIRECTOR IN ANY HEARING OR INVESTIGATION
25 INSTITUTED PURSUANT TO THIS SECTION, THE DIRECTOR OR AN
26 ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO SUBSECTION (6)(c)
27 OF THIS SECTION MAY ADMINISTER OATHS, TAKE AFFIRMATIONS OF

1 WITNESSES, AND ISSUE SUBPOENAS COMPELLING THE ATTENDANCE OF
2 WITNESSES AND THE PRODUCTION OF ALL RELEVANT PAPERS, BOOKS,
3 RECORDS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING,
4 INVESTIGATION, OR OTHER MATTER BEFORE THE DIRECTOR OR AN
5 ADMINISTRATIVE LAW JUDGE.

6 (II) UPON FAILURE OF ANY WITNESS OR LICENSEE TO COMPLY WITH
7 A SUBPOENA OR PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH
8 THE SUBPOENAED PERSON OR LICENSEE RESIDES OR CONDUCTS BUSINESS,
9 UPON APPLICATION BY THE DIRECTOR WITH NOTICE TO THE SUBPOENAED
10 PERSON OR LICENSEE, MAY ISSUE TO THE PERSON OR LICENSEE AN ORDER
11 REQUIRING THAT PERSON OR LICENSEE TO APPEAR BEFORE THE DIRECTOR;
12 PRODUCE THE RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
13 EVIDENCE, OR MATERIALS IF SO ORDERED; OR GIVE EVIDENCE TOUCHING
14 THE MATTER UNDER INVESTIGATION OR IN QUESTION. IF THE PERSON OR
15 LICENSEE FAILS TO OBEY THE ORDER OF THE COURT, THE COURT MAY HOLD
16 THE PERSON OR LICENSEE IN CONTEMPT OF COURT.

17 (c) THE DIRECTOR MAY APPOINT AN ADMINISTRATIVE LAW JUDGE
18 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24 TO CONDUCT HEARINGS,
19 TAKE EVIDENCE, MAKE FINDINGS, AND REPORT THE FINDINGS TO THE
20 DIRECTOR.

21 (7) (a) THE DIRECTOR, A MEMBER OF THE DIRECTOR'S STAFF, A
22 PERSON ACTING AS A WITNESS OR CONSULTANT TO THE DIRECTOR, A
23 WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED PURSUANT TO THIS
24 ARTICLE 35.3, AND A PERSON WHO LODGES A COMPLAINT PURSUANT TO
25 THIS ARTICLE 35.3 ARE IMMUNE FROM LIABILITY IN ANY CIVIL ACTION
26 BROUGHT AGAINST THE INDIVIDUAL FOR ACTS OCCURRING WHILE ACTING
27 IN THE INDIVIDUAL'S CAPACITY AS DIRECTOR, STAFF, CONSULTANT,

1 WITNESS, OR COMPLAINANT, RESPECTIVELY, IF THE INDIVIDUAL WAS
2 ACTING IN GOOD FAITH WITHIN THE SCOPE OF THE INDIVIDUAL'S
3 RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE
4 FACTS OF THE MATTER AS TO WHICH THE INDIVIDUAL ACTED, AND ACTED
5 IN THE REASONABLE BELIEF THAT THE ACTION TAKEN BY THE INDIVIDUAL
6 WAS WARRANTED BY THE FACTS.

7 (b) A PERSON PARTICIPATING IN GOOD FAITH IN MAKING A
8 COMPLAINT OR REPORT OR IN AN INVESTIGATIVE OR ADMINISTRATIVE
9 PROCEEDING PURSUANT TO THIS SECTION IS IMMUNE FROM ANY CIVIL OR
10 CRIMINAL LIABILITY THAT OTHERWISE MIGHT RESULT BY REASON OF THE
11 PARTICIPATION.

12 (8) IF A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
13 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR,
14 WARRANTS FORMAL ACTION, THE DIRECTOR SHALL NOT RESOLVE THE
15 COMPLAINT BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR
16 PROSECUTION.

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

22 (b) IF THE DIRECTOR SENDS A LETTER OF ADMONITION TO A
23 LICENSEE, THE DIRECTOR SHALL NOTIFY THE LICENSEE OF THE LICENSEE'S
24 RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF
25 THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO
26 ADJUDICATE THE PROPRIETY OF THE CONDUCT DESCRIBED IN THE LETTER
27 OF ADMONITION.

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

4 (10) THE DIRECTOR MAY SEND A CONFIDENTIAL LETTER OF
5 CONCERN TO A LICENSEE IF A COMPLAINT OR INVESTIGATION DISCLOSES
6 AN INSTANCE OF CONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
7 NOT WARRANT FORMAL ACTION BY THE DIRECTOR AND SHOULD BE
8 DISMISSED, BUT THE DIRECTOR HAS NOTICED CONDUCT BY THE LICENSEE
9 THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED.

10 (11) A PERSON WHOSE LICENSE IS REVOKED OR WHO SURRENDERS
11 THE PERSON'S LICENSE TO AVOID DISCIPLINE PURSUANT TO THIS SECTION
12 IS INELIGIBLE TO APPLY FOR A LICENSE PURSUANT TO THIS ARTICLE 35.3
13 FOR TWO YEARS AFTER THE DATE THE LICENSE IS REVOKED OR
14 SURRENDERED.

15 (12) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
16 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
17 A LICENSEE IS ACTING IN A MANNER THAT IS AN IMMINENT THREAT TO THE
18 HEALTH AND SAFETY OF THE PUBLIC OR THAT A PERSON IS ACTING OR HAS
19 ACTED WITHOUT THE REQUIRED LICENSE, THE DIRECTOR MAY ISSUE AN
20 ORDER TO CEASE AND DESIST THE ACTIVITY. THE DIRECTOR SHALL SET
21 FORTH IN THE ORDER THE STATUTES AND RULES ALLEGED TO HAVE BEEN
22 VIOLATED, THE FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION,
23 AND THE REQUIREMENT THAT ALL UNLAWFUL ACTS OR UNLICENSED
24 PRACTICES IMMEDIATELY CEASE.

25 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
26 DESIST PURSUANT TO SUBSECTION (12)(a) OF THIS SECTION, THE
27 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER

1 ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE 35.3 HAVE OCCURRED.
2 THE HEARING SHALL BE CONDUCTED PURSUANT TO SECTIONS 24-4-104
3 AND 24-4-105.

4 (13) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
5 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
6 A PERSON HAS VIOLATED ANY PROVISION OF THIS ARTICLE 35.3, THEN, IN
7 ADDITION TO EXERCISING ANY OTHER POWER GRANTED BY THIS ARTICLE
8 35.3, THE DIRECTOR MAY ISSUE TO THE PERSON AN ORDER TO SHOW CAUSE
9 AS TO WHY THE DIRECTOR SHOULD NOT ISSUE A FINAL ORDER DIRECTING
10 THE PERSON TO CEASE AND DESIST FROM THE UNLAWFUL ACT OR
11 UNLICENSED PRACTICE.

12 (b) THE DIRECTOR SHALL PROMPTLY NOTIFY A PERSON AGAINST
13 WHOM AN ORDER TO SHOW CAUSE HAS BEEN ISSUED PURSUANT TO
14 SUBSECTION (13)(a) OF THIS SECTION OF THE ISSUANCE OF THE ORDER
15 ALONG WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL BASIS FOR
16 THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A HEARING ON THE
17 ORDER. THE DIRECTOR MAY SERVE THE NOTICE BY PERSONAL SERVICE, BY
18 FIRST-CLASS, POSTAGE PREPAID UNITED STATES MAIL, OR IN ANOTHER
19 MANNER AS MAY BE PRACTICABLE. PERSONAL SERVICE OR PROOF OF
20 RECEIPT OF MAILING OF AN ORDER OR DOCUMENT PURSUANT TO THIS
21 SUBSECTION (13)(b) CONSTITUTES NOTICE OF THE ORDER TO THE PERSON.

22 (c) (I) THE DIRECTOR SHALL HOLD THE HEARING ON AN ORDER TO
23 SHOW CAUSE NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE
24 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
25 NOTIFICATION BY THE DIRECTOR AS PROVIDED IN SUBSECTION (13)(b) OF
26 THIS SECTION. THE DIRECTOR MAY CONTINUE THE HEARING BY
27 AGREEMENT OF ALL PARTIES BASED UPON THE COMPLEXITY OF THE

1 MATTER, NUMBER OF PARTIES TO THE MATTER, AND LEGAL ISSUES
2 PRESENTED IN THE MATTER, BUT IN NO EVENT SHALL THE DIRECTOR HOLD
3 THE HEARING LATER THAN SIXTY CALENDAR DAYS AFTER THE DATE OF
4 TRANSMISSION OR SERVICE OF THE NOTIFICATION.

5 (II) IF A PERSON AGAINST WHOM THE DIRECTOR HAS ISSUED AN
6 ORDER TO SHOW CAUSE PURSUANT TO SUBSECTION (13)(a) OF THIS
7 SECTION DOES NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT
8 EVIDENCE THAT NOTIFICATION WAS PROPERLY SENT OR SERVED ON THE
9 PERSON PURSUANT TO SUBSECTION (13)(b) OF THIS SECTION AND SUCH
10 OTHER EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS
11 APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS
12 AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE
13 ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER BECOMES FINAL
14 AS TO THAT PERSON BY OPERATION OF LAW. THE HEARING SHALL BE
15 CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105.

16 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
17 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
18 HAS ACTED WITHOUT THE REQUIRED LICENSE, OR HAS ENGAGED OR IS
19 ABOUT TO ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF
20 THIS ARTICLE 35.3, THE DIRECTOR MAY ISSUE A FINAL CEASE-AND-DESIST
21 ORDER DIRECTING THE PERSON TO CEASE AND DESIST FROM FURTHER
22 UNLAWFUL ACTS OR UNLICENSED PRACTICES.

23 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
24 FORTH IN SUBSECTION (13)(b) OF THIS SECTION, OF THE FINAL
25 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
26 HEARING CONDUCTED PURSUANT TO THIS SUBSECTION (13)(c) TO EACH
27 PERSON AGAINST WHOM THE DIRECTOR HAS ISSUED THE FINAL ORDER. A

1 FINAL ORDER ISSUED PURSUANT TO SUBSECTION (13)(c)(III) OF THIS
2 SECTION IS EFFECTIVE WHEN ISSUED AND IS A FINAL ORDER FOR PURPOSES
3 OF JUDICIAL REVIEW.

4 (14) THE DIRECTOR MAY ENTER INTO A STIPULATION WITH A
5 PERSON IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE EVIDENCE
6 PRESENTED TO THE DIRECTOR, THAT THE PERSON HAS ENGAGED OR IS
7 ABOUT TO ENGAGE IN AN UNLICENSED ACT OR PRACTICE OR AN ACT OR
8 PRACTICE CONSTITUTING GROUNDS FOR ADMINISTRATIVE SANCTION
9 PURSUANT TO THIS ARTICLE 35.3 OR A VIOLATION OF THIS ARTICLE 35.3,
10 A RULE PROMULGATED PURSUANT TO THIS ARTICLE 35.3, OR AN ORDER
11 ISSUED PURSUANT TO THIS ARTICLE 35.3.

12 (15) IF A PERSON FAILS TO COMPLY WITH A FINAL
13 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
14 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE
15 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
16 AND IF SO REQUESTED THE ATTORNEY SHALL BRING, SUIT FOR A
17 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
18 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

19 (16) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST
20 ORDER MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION
21 OR OF THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SUBSECTION (18) OF
22 THIS SECTION.

23 (17) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO
24 SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO
25 ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS ARTICLE
26 35.3. WHEN SEEKING AN INJUNCTION PURSUANT TO THIS SUBSECTION (17),
27 THE ATTORNEY GENERAL IS NOT REQUIRED TO ALLEGE OR PROVE THE

1 INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR
2 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED
3 VIOLATION OF THIS ARTICLE 35.3.

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

6 **12-35.3-109. Unauthorized practice - penalties.** A PERSON WHO
7 PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE GENETIC COUNSELING
8 WITHOUT AN ACTIVE LICENSE AS REQUIRED BY AND ISSUED PURSUANT TO
9 THIS ARTICLE 35.3 COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE
10 PUNISHED AS PROVIDED IN SECTION 18-1.3-501 FOR THE FIRST OFFENSE.
11 FOR THE SECOND OR ANY SUBSEQUENT OFFENSE, THE PERSON COMMITS A
12 CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
13 18-1.3-501.

14 **12-35.3-110. Mental and physical examination of licensees.**

15 (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A
16 LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY,
17 THE DIRECTOR MAY ORDER THE LICENSEE TO TAKE A MENTAL OR PHYSICAL
18 EXAMINATION ADMINISTERED BY A HEALTH CARE PROVIDER DESIGNATED
19 BY THE DIRECTOR. EXCEPT WHERE DUE TO CIRCUMSTANCES BEYOND THE
20 LICENSEE'S CONTROL, IF THE LICENSEE FAILS OR REFUSES TO UNDERGO A
21 MENTAL OR PHYSICAL EXAMINATION, THE DIRECTOR MAY SUSPEND THE
22 GENETIC COUNSELOR'S LICENSE UNTIL THE DIRECTOR HAS MADE A
23 DETERMINATION OF THE LICENSEE'S FITNESS TO PRACTICE. THE DIRECTOR
24 SHALL PROCEED WITH AN ORDER FOR EXAMINATION AND SHALL MAKE A
25 DETERMINATION IN A TIMELY MANNER.

26 (2) IN AN ORDER REQUIRING A LICENSEE TO UNDERGO A MENTAL
27 OR PHYSICAL EXAMINATION, THE DIRECTOR SHALL STATE THE BASIS OF

1 THE DIRECTOR'S REASONABLE CAUSE TO BELIEVE THAT THE LICENSEE IS
2 UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY. FOR
3 PURPOSES OF A DISCIPLINARY PROCEEDING AUTHORIZED PURSUANT TO
4 THIS ARTICLE 35.3, THE LICENSEE IS DEEMED TO HAVE WAIVED ALL
5 OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING HEALTH CARE
6 PROVIDER'S TESTIMONY OR EXAMINATION REPORTS ON THE GROUNDS
7 THAT THEY ARE PRIVILEGED COMMUNICATIONS.

8 (3) THE LICENSEE MAY SUBMIT TO THE DIRECTOR TESTIMONY OR
9 EXAMINATION REPORTS FROM A HEALTH CARE PROFESSIONAL CHOSEN BY
10 THE LICENSEE AND PERTAINING TO ANY CONDITION THAT THE DIRECTOR
11 HAS ALLEGED MAY PRECLUDE THE LICENSEE FROM PRACTICING WITH
12 REASONABLE SKILL AND SAFETY. THE DIRECTOR MAY CONSIDER THE
13 TESTIMONY AND REPORTS SUBMITTED BY THE LICENSEE IN CONJUNCTION
14 WITH, BUT NOT IN LIEU OF, TESTIMONY AND EXAMINATION REPORTS OF THE
15 HEALTH CARE PROVIDER DESIGNATED BY THE DIRECTOR.

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

20 **12-35.3-111. Confidential agreement to limit practice -**
21 **violation - grounds for discipline.** (1) IF A GENETIC COUNSELOR HAS A
22 PHYSICAL ILLNESS, MENTAL CONDITION, OR BEHAVIORAL OR MENTAL
23 HEALTH DISORDER THAT RENDERS THE PERSON UNABLE TO PRACTICE
24 GENETIC COUNSELING WITH REASONABLE SKILL AND SAFETY TO CLIENTS,
25 THE GENETIC COUNSELOR SHALL NOTIFY THE DIRECTOR OF THE ILLNESS,
26 CONDITION, OR DISORDER IN A MANNER AND WITHIN A PERIOD
27 DETERMINED BY THE DIRECTOR. THE DIRECTOR MAY REQUIRE THE

1 GENETIC COUNSELOR TO SUBMIT TO AN EXAMINATION PURSUANT TO
2 SECTION 12-35.3-110 TO EVALUATE THE EXTENT OF THE ILLNESS,
3 CONDITION, OR DISORDER AND ITS IMPACT ON THE GENETIC COUNSELOR'S
4 ABILITY TO PRACTICE GENETIC COUNSELING WITH REASONABLE SKILL AND
5 SAFETY TO CLIENTS.

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

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

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

20 (3) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR
21 PURSUANT TO THIS SECTION, A GENETIC COUNSELOR IS NOT ENGAGING IN
22 ACTIVITIES THAT ARE GROUNDS FOR DISCIPLINE PURSUANT TO SECTION
23 12-35.3-108. THE AGREEMENT DOES NOT CONSTITUTE A RESTRICTION OR
24 DISCIPLINE BY THE DIRECTOR. HOWEVER, IF THE GENETIC COUNSELOR
25 FAILS TO COMPLY WITH THE TERMS OF THE AGREEMENT, THE FAILURE
26 CONSTITUTES A PROHIBITED ACTIVITY PURSUANT TO SECTION 12-35.3-108
27 (2)(d), AND THE GENETIC COUNSELOR IS SUBJECT TO DISCIPLINE IN

1 ACCORDANCE WITH SECTION 12-35.3-108.

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

5 **12-35.3-112. Professional liability insurance required - rules.**

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

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

16 **12-35.3-113. Rule-making authority.** THE DIRECTOR SHALL
17 PROMULGATE RULES AS NECESSARY FOR THE ADMINISTRATION OF THIS
18 ARTICLE 35.3.

19 **12-35.3-114. Repeal of article - review of functions.** THIS
20 ARTICLE 35.3 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2026. BEFORE THE
21 REPEAL, THE DIRECTOR'S POWERS, DUTIES, AND FUNCTIONS PURSUANT TO
22 THIS ARTICLE 35.3 ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH
23 SECTION 24-34-104.

24 **SECTION 2.** In Colorado Revised Statutes, 12-43-215, **amend**
25 (10) as follows:

26 **12-43-215. Scope of article - exemptions.** (10) ~~The provisions~~
27 ~~of This article do~~ ARTICLE 43 DOES not apply to:

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

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

10 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **add**
11 (27)(a)(VIII) as follows:

12 **24-34-104. General assembly review of regulatory agencies**
13 **and functions for repeal, continuation, or reestablishment - legislative**
14 **declaration - repeal.** (27) (a) The following agencies, functions, or both,
15 are scheduled for repeal on September 1, 2026:

16 (VIII) THE REGULATION OF GENETIC COUNSELORS BY THE
17 DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS IN
18 ACCORDANCE WITH ARTICLE 35.3 OF TITLE 12.

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

21 **24-34-110. Medical transparency act of 2010 - disclosure of**
22 **information about health care licensees - fines - rules - short title -**
23 **legislative declaration - repeal.** (3) (a) As used in this section,
24 "applicant" means a person applying for a new, active license,
25 certification, or registration or to renew, reinstate, or reactivate an active
26 license, certification, or registration to practice:

27 (XXVIII) As a surgical assistant or surgical technologist pursuant

1 to article 43.2 of title 12; ~~C.R.S.~~; and
2 (XXIX) Naturopathic medicine pursuant to article 37.3 of title 12;
3 ~~C.R.S.~~ AND
4 (XXX) GENETIC COUNSELING PURSUANT TO ARTICLE 35.3 OF
5 TITLE 12.

6 **SECTION 5.** In Colorado Revised Statutes, **add to title 12 as**
7 **repealed and reenacted by House Bill 19-1172** article 228 as follows:

8 **ARTICLE 228**

9 **Genetic Counselor Licensure Act**

10 **12-228-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 228 IS
11 **THE "GENETIC COUNSELOR LICENSURE ACT".**

12 **12-228-102. Legislative declaration.** (1) THE GENERAL
13 **ASSEMBLY HEREBY:**

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

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

22 **(c) DECLARES THAT:**

23 **(I) ITS INTENT IN ENACTING THIS ARTICLE 228 IS TO ESTABLISH**
24 **MINIMUM STANDARDS OF EDUCATION, EXPERIENCE, AND EXAMINATION**
25 **FOR PROFESSIONAL GENETIC COUNSELORS SO THAT THE PUBLIC CAN**
26 **READILY IDENTIFY THOSE WHO MEET THESE MINIMUM STANDARDS; AND**

27 **(II) ENACTMENT OF THIS ARTICLE 228 WILL PROTECT THE HEALTH**

1 OF THE PUBLIC BY BROADENING AFFORDABLE ACCESS TO APPROPRIATE
2 AND RELIABLE GENETIC COUNSELING.

3 **12-228-103. Applicability of common provisions.** ARTICLES 1,
4 20, AND 30 OF THIS TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS
5 ARTICLE 228.

6 **12-228-104. Definitions.** AS USED IN THIS ARTICLE 228, UNLESS
7 THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

23 (5) "GENETIC COUNSELING" INCLUDES THE FOLLOWING ACTIVITIES:

24 (a) OBTAINING AND INTERPRETING INDIVIDUAL, FAMILY, MEDICAL,
25 AND DEVELOPMENT HISTORIES;

26 (b) DETERMINING THE MODE OF INHERITANCE AND RISK OF
27 TRANSMISSION OF GENETIC CONDITIONS;

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

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

5 (e) ASSESSING PSYCHOSOCIAL FACTORS AND RECOGNIZING SOCIAL,
6 EDUCATIONAL, AND CULTURAL ISSUES;

7 (f) EVALUATING THE CLIENT'S OR THE CLIENT'S FAMILY'S
8 RESPONSES TO THE GENETIC CONDITION OR RISK OF RECURRENCE OF A
9 GENETIC CONDITION AND PROVIDING CLIENT-CENTERED COUNSELING AND
10 ANTICIPATORY GUIDANCE;

11 (g) COMMUNICATING GENETIC INFORMATION TO CLIENTS;

12 (h) FACILITATING INFORMED DECISION-MAKING ABOUT TESTING
13 AND MANAGEMENT ALTERNATIVES;

14 (i) IDENTIFYING AND UTILIZING COMMUNITY RESOURCES THAT
15 PROVIDE MEDICAL, EDUCATIONAL, FINANCIAL, AND PSYCHOSOCIAL
16 SUPPORT AND ADVOCACY; AND

17 (j) PROVIDING ACCURATE WRITTEN DOCUMENTATION OF MEDICAL,
18 GENETIC, AND COUNSELING INFORMATION FOR CLIENTS, THEIR FAMILIES,
19 AND HEALTH CARE PROFESSIONALS.

20 (6) "GENETIC COUNSELOR" OR "LICENSEE" MEANS AN INDIVIDUAL
21 WHO IS LICENSED PURSUANT TO THIS ARTICLE 228 TO PRACTICE GENETIC
22 COUNSELING.

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

26 **12-228-105. Use of titles restricted.** ON AND AFTER JUNE 1, 2020,
27 ONLY A PERSON LICENSED AS A GENETIC COUNSELOR UNDER THIS ARTICLE

1 228 MAY USE THE TITLE OR ABBREVIATION "GENETIC COUNSELOR",
2 "LICENSED GENETIC COUNSELOR", "L.G.C.", "GENE COUNSELOR",
3 "GENETIC CONSULTANT", "GENETIC ASSOCIATE", OR ANY COMBINATION OF
4 THESE TERMS OR ABBREVIATIONS OR ANY OTHER GENERALLY ACCEPTED
5 TERMS, LETTERS, OR FIGURES THAT INDICATE THAT THE PERSON IS A
6 GENETIC COUNSELOR.

7 **12-228-106. License required.** ON AND AFTER JUNE 1, 2020,
8 EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE 228, A PERSON SHALL
9 NOT ENGAGE IN THE PRACTICE OF GENETIC COUNSELING OR REPRESENT
10 THAT THE PERSON IS ABLE TO PRACTICE GENETIC COUNSELING IN THIS
11 STATE WITHOUT POSSESSING A VALID LICENSE ISSUED BY THE DIRECTOR
12 IN ACCORDANCE WITH THIS ARTICLE 228 AND RULES ADOPTED PURSUANT
13 TO THIS ARTICLE 228.

14 **12-228-107. Licensure of genetic counselors - application -**
15 **qualifications - renewal - continuing education - fees - rules.**

16 **(1) Educational and experiential requirements.** (a) EVERY APPLICANT
17 FOR A LICENSE AS A GENETIC COUNSELOR MUST:

18 (I) EXCEPT AS SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION,
19 PROVIDE SATISFACTORY EVIDENCE TO THE DIRECTOR OF CERTIFICATION AS
20 A GENETIC COUNSELOR BY THE ABGC OR ABMGG; AND

21 (II) SUBMIT AN APPLICATION AS SPECIFIED IN SUBSECTION (2) OF
22 THIS SECTION.

23 (b) THE DIRECTOR SHALL ESTABLISH, BY RULE, REQUIREMENTS FOR
24 ISSUING A PROVISIONAL LICENSE TO PRACTICE GENETIC COUNSELING TO A
25 CANDIDATE FOR LICENSURE WHO HAS BEEN GRANTED ACTIVE CANDIDATE
26 STATUS BY THE ABGC. THE RULES MUST ADDRESS AT LEAST THE
27 FOLLOWING:

1 (I) THE TERMS OF, RENEWAL OF, AND FEES FOR PROVISIONAL
2 LICENSES;

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

7 (III) THE AUTOMATIC EXPIRATION OF A PROVISIONAL LICENSE
8 UPON A SECOND FAILURE TO PASS A CERTIFICATION EXAMINATION.

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

13 (b) THE APPLICATION MUST BE IN THE FORM AND MANNER
14 DESIGNATED BY THE DIRECTOR.

15 (3) **Licensure.** IF AN APPLICANT HAS FULFILLED THE
16 REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION, THE
17 DIRECTOR SHALL ISSUE A LICENSE OR, AS APPROPRIATE, A PROVISIONAL
18 LICENSE TO THE APPLICANT; EXCEPT THAT THE DIRECTOR MAY DENY A
19 LICENSE IF THE APPLICANT HAS COMMITTED ANY ACT THAT WOULD BE
20 GROUND FOR DISCIPLINARY ACTION PURSUANT TO SECTION 12-228-109.

21 (4) **License renewal - continuing education.** (a) THE GENETIC
22 COUNSELOR MUST SUBMIT AN APPLICATION IN THE FORM AND MANNER
23 DESIGNATED BY THE DIRECTOR AND MUST PAY A RENEWAL FEE IN AN
24 AMOUNT DETERMINED BY THE DIRECTOR.

25 (b) ALL LICENSES ISSUED PURSUANT TO THIS ARTICLE 228 ARE
26 SUBJECT TO THE RENEWAL, EXPIRATION, REINSTATEMENT, AND
27 DELINQUENCY FEE PROVISIONS SPECIFIED IN SECTION 12-20-202 (1) AND

1 (2). IF A GENETIC COUNSELOR FAILS TO RENEW THE GENETIC COUNSELOR'S
2 LICENSE PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR,
3 THE LICENSE EXPIRES. A PERSON WHOSE LICENSE EXPIRES IS SUBJECT TO
4 THE PENALTIES PROVIDED IN THIS ARTICLE 228 OR SECTION 12-20-202 (1).

5 (c) APPLICANTS FOR LICENSE RENEWAL MUST SUBMIT PROOF OF
6 HAVING COMPLETED THIRTY HOURS OF NSGC-APPROVED CONTINUING
7 EDUCATION WITHIN THE PREVIOUS LICENSING PERIOD.

8 (5) Fees. ALL FEES COLLECTED PURSUANT TO THIS ARTICLE 228
9 SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE MANNER
10 SET FORTH IN SECTION 12-20-105.

11 12-228-108. Scope of article - exclusions. (1) THIS ARTICLE 228
12 DOES NOT PREVENT OR RESTRICT THE PRACTICE, SERVICES, OR ACTIVITIES
13 OF:

14 (a) A PERSON LICENSED OR OTHERWISE REGULATED IN THIS STATE
15 BY ANY OTHER LAW FROM ENGAGING IN THE PERSON'S PROFESSION OR
16 OCCUPATION AS DEFINED IN THE LAW PURSUANT TO WHICH THE PERSON IS
17 LICENSED OR OTHERWISE REGULATED, SPECIFICALLY INCLUDING PERSONS
18 LICENSED PURSUANT TO THE "COLORADO MEDICAL PRACTICE ACT",
19 ARTICLE 240 OF THIS TITLE 12, AND ACTING AS NECESSARY, IN THE
20 PERSON'S JUDGMENT, TO ENGAGE IN THE PRACTICE OF MEDICINE AS
21 DEFINED IN SECTION 12-240-107 (1);

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

26 (I) THE ACTIVITIES AND SERVICES CONSTITUTE A PART OF A
27 SUPERVISED COURSE OF STUDY;

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

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

5 (IV) THE PERSON IS SUPERVISED BY A GENETIC COUNSELOR OR A
6 PHYSICIAN LICENSED PURSUANT TO ARTICLE 240 OF THIS TITLE 12;

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

10 (d) AN INDIVIDUAL FROM ANOTHER STATE OR COUNTRY WHO IS
11 CERTIFIED BY THE ABGC OR ABMGG AND IS NOT A LICENSED GENETIC
12 COUNSELOR IN THIS STATE WHEN ENGAGING IN GENETIC COUNSELING ON
13 BEHALF OF A TEMPORARILY ABSENT GENETIC COUNSELOR, IF THE
14 UNLICENSED INDIVIDUAL IS ACTING IN ACCORDANCE WITH RULES
15 ESTABLISHED BY THE DIRECTOR. THE UNLICENSED PRACTICE MUST NOT BE
16 OF MORE THAN FOUR WEEKS' DURATION, AND A PERSON SHALL NOT
17 UNDERTAKE UNLICENSED PRACTICE MORE THAN ONCE IN ANY
18 TWELVE-MONTH PERIOD.

19 (2) (a) NOTHING IN THIS ARTICLE 228 AUTHORIZES A GENETIC
20 COUNSELOR TO ENGAGE IN THE PRACTICE OF MEDICINE, AS DEFINED IN
21 SECTION 12-240-107 (1), OR ANY OTHER FORM OF HEALING OR
22 COUNSELING EXCEPT AS AUTHORIZED BY THIS ARTICLE 228.

23 (b) IF, IN THE COURSE OF PROVIDING GENETIC COUNSELING TO A
24 CLIENT, A GENETIC COUNSELOR FINDS ANY INDICATION OF A DISEASE OR
25 CONDITION THAT REQUIRES MEDICAL ASSESSMENT, THE GENETIC
26 COUNSELOR SHALL REFER THE CLIENT TO A PHYSICIAN LICENSED TO
27 PRACTICE MEDICINE PURSUANT TO ARTICLE 240 OF THIS TITLE 12.

1 **12-228-109. Grounds for discipline - disciplinary proceedings**

2 **- cease-and-desist orders - definitions.** (1) THE DIRECTOR MAY TAKE
3 DISCIPLINARY OR OTHER ACTION AGAINST A PERSON AS AUTHORIZED BY
4 SECTION 12-20-404 IF THE DIRECTOR FINDS THAT THE PERSON HAS
5 REPRESENTED THAT THE PERSON IS A GENETIC COUNSELOR AFTER THE
6 EXPIRATION, SUSPENSION, OR REVOCATION OF THE PERSON'S LICENSE.

7 (2) THE DIRECTOR MAY TAKE DISCIPLINARY OR OTHER ACTION
8 AUTHORIZED BY SECTION 12-20-404 AGAINST A LICENSEE UPON PROOF
9 THAT THE LICENSEE:

10 (a) HAS ENGAGED IN A SEXUAL ACT WITH AN INDIVIDUAL
11 RECEIVING SERVICES WHILE A THERAPEUTIC RELATIONSHIP EXISTED OR
12 WITHIN SIX MONTHS IMMEDIATELY FOLLOWING TERMINATION OF THE
13 THERAPEUTIC RELATIONSHIP. FOR THE PURPOSES OF THIS SUBSECTION

14 (2)(a):

15 (I) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
16 OR SEXUAL PENETRATION, AS DEFINED IN SECTION 18-3-401.

17 (II) "THERAPEUTIC RELATIONSHIP" MEANS THE PERIOD BEGINNING
18 WITH THE INITIAL EVALUATION AND ENDING UPON THE WRITTEN
19 TERMINATION OF TREATMENT.

20 (b) HAS FALSIFIED INFORMATION IN AN APPLICATION OR HAS
21 ATTEMPTED TO OBTAIN OR HAS OBTAINED A LICENSE BY FRAUD,
22 DECEPTION, OR MISREPRESENTATION;

23 (c) IS AN EXCESSIVE OR HABITUAL USER OR ABUSER OF ALCOHOL
24 OR HABIT-FORMING DRUGS OR IS A HABITUAL USER OF A CONTROLLED
25 SUBSTANCE, AS DEFINED IN SECTION 18-18-102 (5), OR OTHER DRUGS
26 HAVING SIMILAR EFFECTS;

27 (d) (I) HAS FAILED TO NOTIFY THE DIRECTOR OF A PHYSICAL

1 ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH
2 DISORDER THAT IMPAIRS THE LICENSEE'S ABILITY TO PROVIDE GENETIC
3 COUNSELING WITH REASONABLE SKILL AND SAFETY OR THAT MIGHT
4 ENDANGER THE HEALTH OR SAFETY OF INDIVIDUALS RECEIVING THE
5 COUNSELING;

6 (II) HAS FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A
7 PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL
8 HEALTH DISORDER THAT RENDERS THE PERSON UNABLE TO PRACTICE
9 GENETIC COUNSELING WITH REASONABLE SKILL AND SAFETY OR THAT
10 MIGHT ENDANGER THE HEALTH OR SAFETY OF PERSONS UNDER THE
11 LICENSEE'S CARE; OR

12 (III) HAS FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO
13 UNDER A CONFIDENTIAL AGREEMENT ENTERED INTO PURSUANT TO
14 SECTIONS 12-228-111 AND 12-30-108;

15 (e) HAS VIOLATED, OR AIDED OR ABETTED OR KNOWINGLY
16 PERMITTED ANY PERSON TO VIOLATE, THIS ARTICLE 228, AN APPLICABLE
17 PROVISION OF ARTICLE 20 OR 30 OF THIS TITLE 12, A RULE ADOPTED
18 PURSUANT TO THIS ARTICLE 228, OR A LAWFUL ORDER OF THE DIRECTOR;

19 (f) HAS HAD A LICENSE, CERTIFICATION, OR REGISTRATION
20 SUSPENDED OR REVOKED IN ANOTHER JURISDICTION FOR ACTIONS THAT
21 WOULD VIOLATE THIS ARTICLE 228 OR WOULD CONSTITUTE GROUNDS FOR
22 DISCIPLINE UNDER THIS SECTION IF COMMITTED IN COLORADO;

23 (g) HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO
24 CONTENDERE TO A FELONY. A CERTIFIED COPY OF THE JUDGMENT OF A
25 COURT OF COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS
26 CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
27 DISCIPLINARY ACTION, THE DIRECTOR IS GOVERNED BY SECTIONS

1 12-20-202 (5) AND 24-5-101.

2 (h) HAS FRAUDULENTLY OBTAINED, FURNISHED, OR SOLD ANY
3 GENETIC COUNSELING DIPLOMA, CERTIFICATE, LICENSE, OR RENEWAL OF
4 A LICENSE OR OTHER PROFESSIONAL CREDENTIAL;

5 (i) HAS FAILED TO NOTIFY THE DIRECTOR OF THE SUSPENSION OR
6 REVOCAION OF THE PERSON'S PAST OR CURRENTLY HELD LICENSE,
7 CERTIFICATE, OR REGISTRATION REQUIRED TO PRACTICE GENETIC
8 COUNSELING IN THIS OR ANY OTHER JURISDICTION;

9 (j) HAS REFUSED TO SUBMIT TO A MENTAL OR PHYSICAL
10 EXAMINATION IF ORDERED BY THE DIRECTOR PURSUANT TO SECTION
11 12-228-110;

12 (k) HAS ENGAGED IN ANY OF THE FOLLOWING ACTIVITIES AND
13 PRACTICES:

14 (I) ORDERING, WITHOUT CLINICAL JUSTIFICATION, DEMONSTRABLY
15 UNNECESSARY LABORATORY TESTS OR STUDIES; OR

16 (II) AN ACT OR OMISSION THAT IS CONTRARY TO GENERALLY
17 ACCEPTED STANDARDS OF GENETIC COUNSELING; OR

18 (l) HAS FAILED TO PROVIDE ADEQUATE OR PROPER SUPERVISION OF
19 A PROVISIONALLY LICENSED GENETIC COUNSELOR OR ANY UNLICENSED
20 PERSON IN THE PRACTICE OF GENETIC COUNSELING, IF REQUIRED BY RULE
21 PURSUANT TO SECTION 12-228-107 (1)(b).

22 (3) THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE
23 GROUNDS FOR DISCIPLINE PURSUANT TO SUBSECTION (2) OF THIS SECTION
24 WERE WILLFUL BUT MAY CONSIDER WHETHER THE ACTIONS WERE WILLFUL
25 WHEN DETERMINING THE NATURE OF DISCIPLINARY SANCTIONS TO BE
26 IMPOSED.

27 (4) (a) THE DIRECTOR MAY COMMENCE A PROCEEDING TO

1 DISCIPLINE A LICENSEE IF THE DIRECTOR HAS REASONABLE GROUNDS TO
2 BELIEVE THAT THE LICENSEE HAS COMMITTED AN ACT ENUMERATED IN
3 THIS SECTION.

4 (b) IN ANY PROCEEDING PURSUANT TO THIS SECTION, THE
5 DIRECTOR MAY ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY
6 ACTION AGAINST A LICENSEE ANY DISCIPLINARY ACTION TAKEN AGAINST
7 THE LICENSEE IN ANOTHER JURISDICTION IF THE VIOLATION THAT
8 PROMPTED THE DISCIPLINARY ACTION IN THE OTHER JURISDICTION WOULD
9 BE GROUNDS FOR DISCIPLINARY ACTION PURSUANT TO THIS ARTICLE 228.

10 (5) ACTIONS UNDER THIS SECTION ARE GOVERNED BY SECTION
11 12-20-403. DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED IN
12 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, AND THE HEARING AND
13 OPPORTUNITY FOR REVIEW SHALL BE CONDUCTED PURSUANT TO THAT
14 ARTICLE BY THE DIRECTOR OR BY AN ADMINISTRATIVE LAW JUDGE, AT THE
15 DIRECTOR'S DISCRETION. THE DIRECTOR HAS THE AUTHORITY TO EXERCISE
16 ALL POWERS AND DUTIES CONFERRED BY THIS ARTICLE 228 DURING THE
17 DISCIPLINARY PROCEEDINGS.

18 (6) THE DIRECTOR MAY:

19 (a) ISSUE A LETTER OF ADMONITION UNDER THE CIRCUMSTANCES
20 SPECIFIED IN AND IN ACCORDANCE WITH SECTION 12-20-404 (4);

21 (b) SEND A LICENSEE A CONFIDENTIAL LETTER OF CONCERN UNDER
22 THE CIRCUMSTANCES SPECIFIED IN SECTION 12-20-404 (5).

23 (7) THE DIRECTOR MAY ISSUE CEASE-AND-DESIST ORDERS UNDER
24 THE CIRCUMSTANCES AND IN ACCORDANCE WITH THE PROCEDURES
25 SPECIFIED IN SECTION 12-20-405.

26 (8) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL
27 REVIEW IN ACCORDANCE WITH SECTION 12-20-408.

1 **12-228-110. Mental and physical examination of licensees.**

2 (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A
3 LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY,
4 THE DIRECTOR MAY ORDER THE LICENSEE TO TAKE A MENTAL OR PHYSICAL
5 EXAMINATION ADMINISTERED BY A HEALTH CARE PROVIDER DESIGNATED
6 BY THE DIRECTOR. EXCEPT WHERE DUE TO CIRCUMSTANCES BEYOND THE
7 LICENSEE'S CONTROL, IF THE LICENSEE FAILS OR REFUSES TO UNDERGO A
8 MENTAL OR PHYSICAL EXAMINATION, THE DIRECTOR MAY SUSPEND THE
9 GENETIC COUNSELOR'S LICENSE UNTIL THE DIRECTOR HAS MADE A
10 DETERMINATION OF THE LICENSEE'S FITNESS TO PRACTICE. THE DIRECTOR
11 SHALL PROCEED WITH AN ORDER FOR EXAMINATION AND SHALL MAKE A
12 DETERMINATION IN A TIMELY MANNER.

13 (2) IN AN ORDER REQUIRING A LICENSEE TO UNDERGO A MENTAL
14 OR PHYSICAL EXAMINATION, THE DIRECTOR SHALL STATE THE BASIS OF
15 THE DIRECTOR'S REASONABLE CAUSE TO BELIEVE THAT THE LICENSEE IS
16 UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY. FOR
17 PURPOSES OF A DISCIPLINARY PROCEEDING AUTHORIZED PURSUANT TO
18 THIS ARTICLE 228, THE LICENSEE IS DEEMED TO HAVE WAIVED ALL
19 OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING HEALTH CARE
20 PROVIDER'S TESTIMONY OR EXAMINATION REPORTS ON THE GROUNDS
21 THAT THEY ARE PRIVILEGED COMMUNICATIONS.

22 (3) THE LICENSEE MAY SUBMIT TO THE DIRECTOR TESTIMONY OR
23 EXAMINATION REPORTS FROM A HEALTH CARE PROFESSIONAL CHOSEN BY
24 THE LICENSEE AND PERTAINING TO ANY CONDITION THAT THE DIRECTOR
25 HAS ALLEGED MAY PRECLUDE THE LICENSEE FROM PRACTICING WITH
26 REASONABLE SKILL AND SAFETY. THE DIRECTOR MAY CONSIDER THE
27 TESTIMONY AND REPORTS SUBMITTED BY THE LICENSEE IN CONJUNCTION

1 WITH, BUT NOT IN LIEU OF, TESTIMONY AND EXAMINATION REPORTS OF THE
2 HEALTH CARE PROVIDER DESIGNATED BY THE DIRECTOR.

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

7 **12-228-111. Confidential agreement to limit practice.**

8 (1) EXCEPT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, SECTION
9 12-30-108 CONCERNING CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE
10 APPLIES TO THIS ARTICLE 228.

11 (2) THIS SECTION AND SECTION 12-30-108 DO NOT APPLY TO A
12 LICENSEE SUBJECT TO DISCIPLINE FOR PROHIBITED ACTIVITIES AS
13 DESCRIBED IN SECTION 12-228-109 (2)(c).

14 **12-228-112. Professional liability insurance required - rules.**

15 (1) A PERSON SHALL NOT PRACTICE GENETIC COUNSELING UNLESS THE
16 PERSON PURCHASES AND MAINTAINS, OR IS COVERED BY, PROFESSIONAL
17 LIABILITY INSURANCE IN AN AMOUNT DETERMINED BY THE DIRECTOR BY
18 RULE THAT COVERS ALL ACTS WITHIN THE SCOPE OF PRACTICE OF THE
19 GENETIC COUNSELOR.

20 (2) THIS SECTION DOES NOT APPLY TO A GENETIC COUNSELOR WHO
21 IS A PUBLIC EMPLOYEE ACTING WITHIN THE COURSE AND SCOPE OF THE
22 PUBLIC EMPLOYEE'S DUTIES AND WHO IS GRANTED IMMUNITY PURSUANT
23 TO THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF
24 TITLE 24.

25 **12-228-113. Unauthorized practice.** A PERSON WHO PRACTICES
26 OR OFFERS OR ATTEMPTS TO PRACTICE GENETIC COUNSELING WITHOUT AN
27 ACTIVE LICENSE ISSUED PURSUANT TO THIS ARTICLE 228 IS SUBJECT TO

1 PENALTIES PURSUANT TO SECTION 12-20-407 (1)(b).

2 **12-228-114. Rule-making authority.** THE DIRECTOR SHALL
3 PROMULGATE RULES PURSUANT TO SECTION 12-20-204.

4 **12-228-115. Repeal of article - review of functions.** THIS
5 ARTICLE 228 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2026. BEFORE THE
6 REPEAL, THE DIRECTOR'S POWERS, DUTIES, AND FUNCTIONS PURSUANT TO
7 THIS ARTICLE 228 ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH
8 SECTION 24-34-104.

9 **SECTION 6.** In Colorado Revised Statutes, 12-20-404, **add as**
10 **relocated by House Bill 19-1172 (1)(c)(II)(D.5) as follows:**

11 **12-20-404. Disciplinary actions - regulator powers -**
12 **disposition of fines. (1) General disciplinary authority.** If a regulator
13 determines that an applicant, licensee, certificate holder, or registrant has
14 committed an act or engaged in conduct that constitutes grounds for
15 discipline or unprofessional conduct under a part or article of this title 12
16 governing the particular profession or occupation, the regulator may:

17 (c) (II) A regulator is not authorized under this subsection (1)(c)
18 to impose a fine on a licensee, certificate holder, or registrant regulated
19 under the following:

20 (D.5) ARTICLE 228 OF THIS TITLE 12 CONCERNING GENETIC
21 COUNSELORS;

22 **SECTION 7.** In Colorado Revised Statutes, 12-20-407, **add as**
23 **relocated by House Bill 19-1172 (1)(b)(II.5) as follows:**

24 **12-20-407. Unauthorized practice of profession or occupation**
25 **- penalties - exclusions. (1) (b) A person commits a class 2 misdemeanor**
26 **and shall be punished as provided in section 18-1.3-501 for the first**
27 **offense and, for the second or any subsequent offense, commits a class 1**

1 misdemeanor and shall be punished as provided in section 18-1.3-501, if
2 the person engages in any of the following activities:

3 (II.5) PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE GENETIC
4 COUNSELING WITHOUT AN ACTIVE LICENSE ISSUED PURSUANT TO ARTICLE
5 228 OF THIS TITLE 12:

6 **SECTION 8.** In Colorado Revised Statutes, 12-30-102, **amend**
7 **as relocated by House Bill 19-1172 (3)(a)(XXVIII) and (3)(a)(XXIX):**
8 **and add as relocated by House Bill 19-1172 (3)(a)(XXX) as follows:**

9 **12-30-102. Medical transparency act of 2010 - disclosure of**
10 **information about health care licensees - fines - rules - short title -**
11 **legislative declaration - repeal.** (3) (a) As used in this section,
12 "applicant" means a person applying for a new, active license,
13 certification, or registration or to renew, reinstate, or reactivate an active
14 license, certification, or registration to practice:

15 (XXVIII) As a surgical assistant or surgical technologist pursuant
16 to article 310 of this title 12; and

17 (XXIX) Naturopathic medicine pursuant to article 250 of this title
18 12; AND

19 (XXX) GENETIC COUNSELING PURSUANT TO ARTICLE 228 OF THIS
20 TITLE 12.

21 **SECTION 9.** In Colorado Revised Statutes, 12-245-217, **amend**
22 **as relocated by House Bill 19-1172 (2) introductory portion and (2)(f):**
23 **and add as relocated by House Bill 19-1172 (2)(g) as follows:**

24 **12-245-217. Scope of article - exemptions.** (2) The provisions
25 of This article 245 shall DOES not apply to:

26 (f) A professional coach, including a life coach, executive coach,
27 personal coach, or business coach, who has had coach-specific training

1 and who serves clients exclusively as a coach, as long as the professional
2 coach does not engage in the practice of psychology, social work,
3 marriage and family therapy, licensed professional counseling,
4 psychotherapy, or addiction counseling, as those practices are defined in
5 this article 245; OR

6 (b) A GENETIC COUNSELOR WHO IS LICENSED PURSUANT TO
7 ARTICLE 228 OF THIS TITLE 12.

8 **SECTION 10. Act subject to petition - effective date.**

9 (1) Except as otherwise provided in subsection (2) of this section, this act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2020 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.

19 (2) Sections 5 through 9 of this act take effect only if House Bill
20 19-1172 becomes law, in which case sections 5 through 9 take effect
21 October 1, 2019.

22 (3) This act applies to conduct occurring on or after the applicable
23 effective date of this act.