

SENATE COMMITTEE OF REFERENCE REPORT

_____ Date February 21, 2019
Chair of Committee

Committee on Health & Human Services.

After consideration on the merits, the Committee recommends the following:

SB19-133 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend printed bill, page 24, strike lines 6 through 15 and substitute:

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3 **repealed and reenacted by House Bill 19-1172** article 228 as follows:

4 **ARTICLE 228**

5 **Genetic Counselor Licensure Act**

6 **12-228-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 228 IS
7 THE "GENETIC COUNSELOR LICENSURE ACT".

8 **12-228-102. Legislative declaration.** (1) THE GENERAL
9 ASSEMBLY HEREBY:

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

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

18 (c) DECLARES THAT:

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

23 (II) ENACTMENT OF THIS ARTICLE 228 WILL PROTECT THE HEALTH
24 OF THE PUBLIC BY BROADENING AFFORDABLE ACCESS TO APPROPRIATE

1 AND RELIABLE GENETIC COUNSELING.

2 **12-228-103. Applicability of common provisions.** ARTICLES 1,
3 20, AND 30 OF THIS TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS
4 ARTICLE 228.

5 **12-228-104. Definitions.** AS USED IN THIS ARTICLE 228, UNLESS
6 THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

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

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

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

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

31 (e) ASSESSING PSYCHOSOCIAL FACTORS AND RECOGNIZING SOCIAL,
32 EDUCATIONAL, AND CULTURAL ISSUES;

33 (f) EVALUATING THE CLIENT'S OR THE CLIENT'S FAMILY'S
34 RESPONSES TO THE GENETIC CONDITION OR RISK OF RECURRENCE OF A
35 GENETIC CONDITION AND PROVIDING CLIENT-CENTERED COUNSELING AND
36 ANTICIPATORY GUIDANCE;

37 (g) COMMUNICATING GENETIC INFORMATION TO CLIENTS;

38 (h) FACILITATING INFORMED DECISION-MAKING ABOUT TESTING
39 AND MANAGEMENT ALTERNATIVES;

40 (i) IDENTIFYING AND UTILIZING COMMUNITY RESOURCES THAT
41 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 (6) "GENETIC COUNSELOR" OR "LICENSEE" MEANS AN INDIVIDUAL
6 WHO IS LICENSED PURSUANT TO THIS ARTICLE 228 TO PRACTICE GENETIC
7 COUNSELING.
8 (7) "NSGC" MEANS THE NATIONAL SOCIETY OF GENETIC
9 COUNSELORS OR AN ORGANIZATION THAT THE DIRECTOR RECOGNIZES AS
10 BEING EQUIVALENT TO, OR A PREDECESSOR OR SUCCESSOR OF, THE NSGC.
11 **12-228-105. Use of titles restricted.** ON AND AFTER JUNE 1, 2020,
12 ONLY A PERSON LICENSED AS A GENETIC COUNSELOR UNDER THIS ARTICLE
13 228 MAY USE THE TITLE OR ABBREVIATION "GENETIC COUNSELOR",
14 "LICENSED GENETIC COUNSELOR", "L.G.C.", "GENE COUNSELOR",
15 "GENETIC CONSULTANT", "GENETIC ASSOCIATE", OR ANY COMBINATION OF
16 THESE TERMS OR ABBREVIATIONS OR ANY OTHER GENERALLY ACCEPTED
17 TERMS, LETTERS, OR FIGURES THAT INDICATE THAT THE PERSON IS A
18 GENETIC COUNSELOR.
19 **12-228-106. License required.** ON AND AFTER JUNE 1, 2020,
20 EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE 228, A PERSON SHALL
21 NOT ENGAGE IN THE PRACTICE OF GENETIC COUNSELING OR REPRESENT
22 THAT THE PERSON IS ABLE TO PRACTICE GENETIC COUNSELING IN THIS
23 STATE WITHOUT POSSESSING A VALID LICENSE ISSUED BY THE DIRECTOR
24 IN ACCORDANCE WITH THIS ARTICLE 228 AND RULES ADOPTED PURSUANT
25 TO THIS ARTICLE 228.
26 **12-228-107. Licensure of genetic counselors - application -**
27 **qualifications - renewal - continuing education - fees - rules.**
28 (1) **Educational and experiential requirements.** (a) EVERY APPLICANT
29 FOR A LICENSE AS A GENETIC COUNSELOR MUST:
30 (I) EXCEPT AS SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION,
31 PROVIDE SATISFACTORY EVIDENCE TO THE DIRECTOR OF CERTIFICATION AS
32 A GENETIC COUNSELOR BY THE ABGC OR ABMGG; AND
33 (II) SUBMIT AN APPLICATION AS SPECIFIED IN SUBSECTION (2) OF
34 THIS SECTION.
35 (b) THE DIRECTOR SHALL ESTABLISH, BY RULE, REQUIREMENTS FOR
36 ISSUING A PROVISIONAL LICENSE TO PRACTICE GENETIC COUNSELING TO A
37 CANDIDATE FOR LICENSURE WHO HAS BEEN GRANTED ACTIVE CANDIDATE
38 STATUS BY THE ABGC. THE RULES MUST ADDRESS AT LEAST THE
39 FOLLOWING:
40 (I) THE TERMS OF, RENEWAL OF, AND FEES FOR PROVISIONAL
41 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 12-228-109.

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

23 (b) ALL LICENSES ISSUED PURSUANT TO THIS ARTICLE 228 ARE
24 SUBJECT TO THE RENEWAL, EXPIRATION, REINSTATEMENT, AND
25 DELINQUENCY FEE PROVISIONS SPECIFIED IN SECTION 12-20-202 (1) AND
26 (2). IF A GENETIC COUNSELOR FAILS TO RENEW THE GENETIC COUNSELOR'S
27 LICENSE PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR,
28 THE LICENSE EXPIRES. A PERSON WHOSE LICENSE EXPIRES IS SUBJECT TO
29 THE PENALTIES PROVIDED IN THIS ARTICLE 228 OR SECTION 12-20-202 (1).

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

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

36 **12-228-108. Scope of article - exclusions.** (1) THIS ARTICLE 228
37 DOES NOT PREVENT OR RESTRICT THE PRACTICE, SERVICES, OR ACTIVITIES
38 OF:

39 (a) A PERSON LICENSED OR OTHERWISE REGULATED IN THIS STATE
40 BY ANY OTHER LAW FROM ENGAGING IN THE PERSON'S PROFESSION OR
41 OCCUPATION AS DEFINED IN THE LAW PURSUANT TO WHICH THE PERSON IS

1 LICENSED OR OTHERWISE REGULATED, SPECIFICALLY INCLUDING PERSONS
2 LICENSED PURSUANT TO THE "COLORADO MEDICAL PRACTICE ACT",
3 ARTICLE 240 OF THIS TITLE 12, AND ACTING AS NECESSARY, IN THE
4 PERSON'S JUDGMENT, TO ENGAGE IN THE PRACTICE OF MEDICINE AS
5 DEFINED IN SECTION 12-240-107 (1);

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

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

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

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

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

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

21 (d) AN INDIVIDUAL FROM ANOTHER STATE OR COUNTRY WHO IS
22 CERTIFIED BY THE ABGC OR ABMGG AND IS NOT A LICENSED GENETIC
23 COUNSELOR IN THIS STATE WHEN ENGAGING IN GENETIC COUNSELING ON
24 BEHALF OF A TEMPORARILY ABSENT GENETIC COUNSELOR, IF THE
25 UNLICENSED INDIVIDUAL IS ACTING IN ACCORDANCE WITH RULES
26 ESTABLISHED BY THE DIRECTOR. THE UNLICENSED PRACTICE MUST NOT BE
27 OF MORE THAN FOUR WEEKS' DURATION, AND A PERSON SHALL NOT
28 UNDERTAKE UNLICENSED PRACTICE MORE THAN ONCE IN ANY
29 TWELVE-MONTH PERIOD.

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

34 (b) IF, IN THE COURSE OF PROVIDING GENETIC COUNSELING TO A
35 CLIENT, A GENETIC COUNSELOR FINDS ANY INDICATION OF A DISEASE OR
36 CONDITION THAT REQUIRES MEDICAL ASSESSMENT, THE GENETIC
37 COUNSELOR SHALL REFER THE CLIENT TO A PHYSICIAN LICENSED TO
38 PRACTICE MEDICINE PURSUANT TO ARTICLE 240 OF THIS TITLE 12.

39 **12-228-109. Grounds for discipline - disciplinary proceedings**
40 **- cease-and-desist orders - definitions.** (1) THE DIRECTOR MAY TAKE
41 DISCIPLINARY OR OTHER ACTION AGAINST A PERSON AS AUTHORIZED BY

1 SECTION 12-20-404 IF THE DIRECTOR FINDS THAT THE PERSON HAS
2 REPRESENTED THAT THE PERSON IS A GENETIC COUNSELOR AFTER THE
3 EXPIRATION, SUSPENSION, OR REVOCATION OF THE PERSON'S LICENSE.

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

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

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

14 (II) "THERAPEUTIC RELATIONSHIP" MEANS THE PERIOD BEGINNING
15 WITH THE INITIAL EVALUATION AND ENDING UPON THE WRITTEN
16 TERMINATION OF TREATMENT.

17 (b) HAS FALSIFIED INFORMATION IN AN APPLICATION OR HAS
18 ATTEMPTED TO OBTAIN OR HAS OBTAINED A LICENSE BY FRAUD,
19 DECEPTION, OR MISREPRESENTATION;

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

24 (d) (I) HAS FAILED TO NOTIFY THE DIRECTOR OF A PHYSICAL
25 ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH
26 DISORDER THAT IMPAIRS THE LICENSEE'S ABILITY TO PROVIDE GENETIC
27 COUNSELING WITH REASONABLE SKILL AND SAFETY OR THAT MIGHT
28 ENDANGER THE HEALTH OR SAFETY OF INDIVIDUALS RECEIVING THE
29 COUNSELING;

30 (II) HAS FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A
31 PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL
32 HEALTH DISORDER THAT RENDERS THE PERSON UNABLE TO PRACTICE
33 GENETIC COUNSELING WITH REASONABLE SKILL AND SAFETY OR THAT
34 MIGHT ENDANGER THE HEALTH OR SAFETY OF PERSONS UNDER THE
35 LICENSEE'S CARE; OR

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

39 (e) HAS VIOLATED, OR AIDED OR ABETTED OR KNOWINGLY
40 PERMITTED ANY PERSON TO VIOLATE, THIS ARTICLE 228, AN APPLICABLE
41 PROVISION OF ARTICLE 20 OR 30 OF THIS TITLE 12, A RULE ADOPTED

1 PURSUANT TO THIS ARTICLE 228, OR A LAWFUL ORDER OF THE DIRECTOR;
2 (f) HAS HAD A LICENSE, CERTIFICATION, OR REGISTRATION
3 SUSPENDED OR REVOKED IN ANOTHER JURISDICTION FOR ACTIONS THAT
4 WOULD VIOLATE THIS ARTICLE 228 OR WOULD CONSTITUTE GROUNDS FOR
5 DISCIPLINE UNDER THIS SECTION IF COMMITTED IN COLORADO;
6 (g) HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO
7 CONTENDERE TO A FELONY. A CERTIFIED COPY OF THE JUDGMENT OF A
8 COURT OF COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS
9 CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
10 DISCIPLINARY ACTION, THE DIRECTOR IS GOVERNED BY SECTIONS
11 12-20-202 (5) AND 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 MENTAL OR PHYSICAL
20 EXAMINATION IF ORDERED BY THE DIRECTOR PURSUANT TO SECTION
21 12-228-110;
22 (k) HAS ENGAGED IN ANY OF THE FOLLOWING ACTIVITIES AND
23 PRACTICES:
24 (I) ORDERING, WITHOUT CLINICAL JUSTIFICATION, DEMONSTRABLY
25 UNNECESSARY LABORATORY TESTS OR STUDIES; OR
26 (II) AN ACT OR OMISSION THAT IS CONTRARY TO GENERALLY
27 ACCEPTED STANDARDS OF GENETIC COUNSELING; OR
28 (l) HAS FAILED TO PROVIDE ADEQUATE OR PROPER SUPERVISION OF
29 A PROVISIONALLY LICENSED GENETIC COUNSELOR OR ANY UNLICENSED
30 PERSON IN THE PRACTICE OF GENETIC COUNSELING, IF REQUIRED BY RULE
31 PURSUANT TO SECTION 12-228-107 (1)(b).
32 (3) THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE
33 GROUNDS FOR DISCIPLINE PURSUANT TO SUBSECTION (2) OF THIS SECTION
34 WERE WILLFUL BUT MAY CONSIDER WHETHER THE ACTIONS WERE WILLFUL
35 WHEN DETERMINING THE NATURE OF DISCIPLINARY SANCTIONS TO BE
36 IMPOSED.
37 (4) (a) THE DIRECTOR MAY COMMENCE A PROCEEDING TO
38 DISCIPLINE A LICENSEE IF THE DIRECTOR HAS REASONABLE GROUNDS TO
39 BELIEVE THAT THE LICENSEE HAS COMMITTED AN ACT ENUMERATED IN
40 THIS SECTION.
41 (b) IN ANY PROCEEDING PURSUANT TO THIS SECTION, THE

1 DIRECTOR MAY ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY
2 ACTION AGAINST A LICENSEE ANY DISCIPLINARY ACTION TAKEN AGAINST
3 THE LICENSEE IN ANOTHER JURISDICTION IF THE VIOLATION THAT
4 PROMPTED THE DISCIPLINARY ACTION IN THE OTHER JURISDICTION WOULD
5 BE GROUNDS FOR DISCIPLINARY ACTION PURSUANT TO THIS ARTICLE 228.

6 (5) ACTIONS UNDER THIS SECTION ARE GOVERNED BY SECTION
7 12-20-403. DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED IN
8 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, AND THE HEARING AND
9 OPPORTUNITY FOR REVIEW SHALL BE CONDUCTED PURSUANT TO THAT
10 ARTICLE BY THE DIRECTOR OR BY AN ADMINISTRATIVE LAW JUDGE, AT THE
11 DIRECTOR'S DISCRETION. THE DIRECTOR HAS THE AUTHORITY TO EXERCISE
12 ALL POWERS AND DUTIES CONFERRED BY THIS ARTICLE 228 DURING THE
13 DISCIPLINARY PROCEEDINGS.

14 (6) THE DIRECTOR MAY:

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

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

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

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

24 **12-228-110. Mental and physical examination of licensees.**

25 (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A
26 LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY,
27 THE DIRECTOR MAY ORDER THE LICENSEE TO TAKE A MENTAL OR PHYSICAL
28 EXAMINATION ADMINISTERED BY A HEALTH CARE PROVIDER DESIGNATED
29 BY THE DIRECTOR. EXCEPT WHERE DUE TO CIRCUMSTANCES BEYOND THE
30 LICENSEE'S CONTROL, IF THE LICENSEE FAILS OR REFUSES TO UNDERGO A
31 MENTAL OR PHYSICAL EXAMINATION, THE DIRECTOR MAY SUSPEND THE
32 GENETIC COUNSELOR'S LICENSE UNTIL THE DIRECTOR HAS MADE A
33 DETERMINATION OF THE LICENSEE'S FITNESS TO PRACTICE. THE DIRECTOR
34 SHALL PROCEED WITH AN ORDER FOR EXAMINATION AND SHALL MAKE A
35 DETERMINATION IN A TIMELY MANNER.

36 (2) IN AN ORDER REQUIRING A LICENSEE TO UNDERGO A MENTAL
37 OR PHYSICAL EXAMINATION, THE DIRECTOR SHALL STATE THE BASIS OF
38 THE DIRECTOR'S REASONABLE CAUSE TO BELIEVE THAT THE LICENSEE IS
39 UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY. FOR
40 PURPOSES OF A DISCIPLINARY PROCEEDING AUTHORIZED PURSUANT TO
41 THIS ARTICLE 228, THE LICENSEE IS DEEMED TO HAVE WAIVED ALL

1 OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING HEALTH CARE
2 PROVIDER'S TESTIMONY OR EXAMINATION REPORTS ON THE GROUNDS
3 THAT THEY ARE PRIVILEGED COMMUNICATIONS.

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

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

16 **12-228-111. Confidential agreement to limit practice.**

17 (1) EXCEPT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, SECTION
18 12-30-108 CONCERNING CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE
19 APPLIES TO THIS ARTICLE 228.

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

23 **12-228-112. Professional liability insurance required - rules.**

24 (1) A PERSON SHALL NOT PRACTICE GENETIC COUNSELING UNLESS THE
25 PERSON PURCHASES AND MAINTAINS, OR IS COVERED BY, PROFESSIONAL
26 LIABILITY INSURANCE IN AN AMOUNT DETERMINED BY THE DIRECTOR BY
27 RULE THAT COVERS ALL ACTS WITHIN THE SCOPE OF PRACTICE OF THE
28 GENETIC COUNSELOR.

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

34 **12-228-113. Unauthorized practice.** A PERSON WHO PRACTICES
35 OR OFFERS OR ATTEMPTS TO PRACTICE GENETIC COUNSELING WITHOUT AN
36 ACTIVE LICENSE ISSUED PURSUANT TO THIS ARTICLE 228 IS SUBJECT TO
37 PENALTIES PURSUANT TO SECTION 12-20-407 (1)(b).

38 **12-228-114. Rule-making authority.** THE DIRECTOR SHALL
39 PROMULGATE RULES PURSUANT TO SECTION 12-20-204.

40 **12-228-115. Repeal of article - review of functions.** THIS
41 ARTICLE 228 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2026. BEFORE THE

1 REPEAL, THE DIRECTOR'S POWERS, DUTIES, AND FUNCTIONS PURSUANT TO
2 THIS ARTICLE 228 ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH
3 SECTION 24-34-104.

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

6 **12-20-404. Disciplinary actions - regulator powers -**
7 **disposition of fines.** (1) **General disciplinary authority.** If a regulator
8 determines that an applicant, licensee, certificate holder, or registrant has
9 committed an act or engaged in conduct that constitutes grounds for
10 discipline or unprofessional conduct under a part or article of this title 12
11 governing the particular profession or occupation, the regulator may:

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

15 (D.5) ARTICLE 228 OF THIS TITLE 12 CONCERNING GENETIC
16 COUNSELORS;

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

19 **12-20-407. Unauthorized practice of profession or occupation**
20 **- penalties - exclusions.** (1) (b) A person commits a class 2 misdemeanor
21 and shall be punished as provided in section 18-1.3-501 for the first
22 offense and, for the second or any subsequent offense, commits a class 1
23 misdemeanor and shall be punished as provided in section 18-1.3-501, if
24 the person engages in any of the following activities:

25 (II.5) PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE GENETIC
26 COUNSELING WITHOUT AN ACTIVE LICENSE ISSUED PURSUANT TO ARTICLE
27 228 OF THIS TITLE 12;

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

31 **12-30-102. Medical transparency act of 2010 - disclosure of**
32 **information about health care licensees - fines - rules - short title -**
33 **legislative declaration - repeal.** (3) (a) As used in this section,
34 "applicant" means a person applying for a new, active license,
35 certification, or registration or to renew, reinstate, or reactivate an active
36 license, certification, or registration to practice:

37 (XXVIII) As a surgical assistant or surgical technologist pursuant
38 to article 310 of this title 12; ~~and~~

39 (XXIX) Naturopathic medicine pursuant to article 250 of this title
40 12; AND

41 (XXX) GENETIC COUNSELING PURSUANT TO ARTICLE 228 OF THIS

1 TITLE 12.

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

5 **12-245-217. Scope of article - exemptions.** (2) ~~The provisions~~
6 of This article 245 ~~shall~~ DOES not apply to:

7 (f) A professional coach, including a life coach, executive coach,
8 personal coach, or business coach, who has had coach-specific training
9 and who serves clients exclusively as a coach, as long as the professional
10 coach does not engage in the practice of psychology, social work,
11 marriage and family therapy, licensed professional counseling,
12 psychotherapy, or addiction counseling, as those practices are defined in
13 this article 245; OR

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

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

17 (1) Except as otherwise provided in subsection (2) of this section, this act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2020 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.

27 (2) Sections 5 through 9 of this act take effect only if House Bill
28 19-1172 becomes law, in which case sections 5 through 9 take effect
29 October 1, 2019."

30 Renumber succeeding subsection accordingly.

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