

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 19-0837.01 Thomas Morris x4218

SENATE BILL 19-133

SENATE SPONSORSHIP

Ginal and Todd, Tate

HOUSE SPONSORSHIP

Michaelson Jenet and Buckner,

Senate Committees

Health & Human Services
Finance
Appropriations

House Committees

Public Health Care & Human Services
Finance
Appropriations

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, 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

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
2nd Reading Unamended
April 23, 2019

SENATE
3rd Reading Unamended
March 27, 2019

SENATE
Amended 2nd Reading
March 26, 2019

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

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

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

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

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

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

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

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

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

27 (b) DETERMINING THE MODE OF INHERITANCE AND RISK OF

- 1 TRANSMISSION OF GENETIC CONDITIONS;
- 2 (c) DISCUSSING THE INHERITANCE, FEATURES, NATURAL HISTORY,
3 AND MEANS OF DIAGNOSIS OF GENETIC CONDITIONS;
- 4 (d) IDENTIFYING, COORDINATING, ORDERING, AND EXPLAINING
5 GENETIC LABORATORY TESTS AND OTHER DIAGNOSTIC STUDIES;
- 6 (e) ASSESSING PSYCHOSOCIAL FACTORS AND RECOGNIZING SOCIAL,
7 EDUCATIONAL, AND CULTURAL ISSUES;
- 8 (f) EVALUATING THE CLIENT'S OR THE CLIENT'S FAMILY'S
9 RESPONSES TO THE GENETIC CONDITION OR RISK OF RECURRENCE OF A
10 GENETIC CONDITION AND PROVIDING CLIENT-CENTERED COUNSELING AND
11 ANTICIPATORY GUIDANCE;
- 12 (g) COMMUNICATING GENETIC INFORMATION TO CLIENTS;
- 13 (h) FACILITATING INFORMED DECISION-MAKING ABOUT TESTING
14 AND MANAGEMENT ALTERNATIVES;
- 15 (i) IDENTIFYING AND UTILIZING COMMUNITY RESOURCES THAT
16 PROVIDE MEDICAL, EDUCATIONAL, FINANCIAL, AND PSYCHOSOCIAL
17 SUPPORT AND ADVOCACY; AND
- 18 (j) PROVIDING ACCURATE WRITTEN DOCUMENTATION OF MEDICAL,
19 GENETIC, AND COUNSELING INFORMATION FOR CLIENTS, THEIR FAMILIES,
20 AND HEALTH CARE PROFESSIONALS.

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

23 (8) "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 **12-35.3-104. Use of titles restricted.** ONLY A PERSON LICENSED
27 AS A GENETIC COUNSELOR UNDER THIS ARTICLE 35.3 MAY USE THE TITLE

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

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

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

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

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

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

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

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

1 LICENSES;

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

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

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

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

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

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

26 (b) LICENSES ARE RENEWED OR REINSTATED IN ACCORDANCE WITH
27 THE SCHEDULE ESTABLISHED BY THE DIRECTOR, AND THE DIRECTOR SHALL

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

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

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

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

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

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

1 PROGRAM, IF:

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

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

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

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

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

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

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

26 (b) IF, IN THE COURSE OF PROVIDING GENETIC COUNSELING TO A
27 CLIENT, A GENETIC COUNSELOR FINDS ANY INDICATION OF A DISEASE OR

1 CONDITION THAT REQUIRES MEDICAL ASSESSMENT, THE GENETIC
2 COUNSELOR SHALL REFER THE CLIENT TO A PHYSICIAN LICENSED TO
3 PRACTICE MEDICINE PURSUANT TO ARTICLE 36 OF THIS TITLE 12.

4 **12-35.3-108. Grounds for discipline - disciplinary proceedings**
5 **- injunctive relief - immunity - cease-and-desist orders - judicial**

6 **review - definitions.** (1) THE DIRECTOR MAY TAKE DISCIPLINARY ACTION
7 AGAINST A PERSON IF THE DIRECTOR FINDS THAT THE PERSON HAS
8 REPRESENTED THAT THE PERSON IS A GENETIC COUNSELOR AFTER THE
9 EXPIRATION, SUSPENSION, OR REVOCATION OF THE PERSON'S LICENSE.

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

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

18 (2)(a):

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

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

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

27 (c) IS AN EXCESSIVE OR HABITUAL USER OR ABUSER OF ALCOHOL

1 OR HABIT-FORMING DRUGS OR IS A HABITUAL USER OF A CONTROLLED
2 SUBSTANCE, AS DEFINED IN SECTION 18-18-102, OR OTHER DRUGS HAVING
3 SIMILAR EFFECTS;

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

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

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

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

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

26 (g) HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO
27 CONTENDERE TO A FELONY OR COMMITTED AN ACT SPECIFIED IN SECTION

1 12-35.3-109. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF
2 COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS CONCLUSIVE
3 EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
4 DISCIPLINARY ACTION, THE DIRECTOR IS GOVERNED BY SECTION 24-5-101.

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

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

12 (j) HAS REFUSED TO SUBMIT TO A MENTAL OR PHYSICAL
13 EXAMINATION IF ORDERED BY THE DIRECTOR PURSUANT TO SECTION
14 12-35.3-110;

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

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

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

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

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

26 (3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS
27 SECTION, THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE

1 GROUND FOR DISCIPLINE WERE WILLFUL BUT MAY CONSIDER WHETHER
2 THE ACTIONS WERE WILLFUL WHEN DETERMINING THE NATURE OF
3 DISCIPLINARY SANCTIONS TO BE IMPOSED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 OF ADMONITION.

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

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

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

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

26 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
27 DESIST PURSUANT TO SUBSECTION (12)(a) OF THIS SECTION, THE

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

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

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

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

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

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

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

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

1 PERSON AGAINST WHOM THE DIRECTOR HAS ISSUED THE FINAL ORDER. A
2 FINAL ORDER ISSUED PURSUANT TO SUBSECTION (13)(c)(III) OF THIS
3 SECTION IS EFFECTIVE WHEN ISSUED AND IS A FINAL ORDER FOR PURPOSES
4 OF JUDICIAL REVIEW.

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

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

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

24 (17) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO
25 SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO
26 ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS ARTICLE
27 35.3. WHEN SEEKING AN INJUNCTION PURSUANT TO THIS SUBSECTION (17),

1 THE ATTORNEY GENERAL IS NOT REQUIRED TO ALLEGE OR PROVE THE
2 INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR
3 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED
4 VIOLATION OF THIS ARTICLE 35.3.

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

7 **12-35.3-109. Unauthorized practice - penalties.** A PERSON WHO
8 PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE GENETIC COUNSELING
9 WITHOUT AN ACTIVE LICENSE AS REQUIRED BY AND ISSUED PURSUANT TO
10 THIS ARTICLE 35.3 COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE
11 PUNISHED AS PROVIDED IN SECTION 18-1.3-501 FOR THE FIRST OFFENSE.
12 FOR THE SECOND OR ANY SUBSEQUENT OFFENSE, THE PERSON COMMITS A
13 CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
14 18-1.3-501.

15 **12-35.3-110. Mental and physical examination of licensees.**

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

27 (2) IN AN ORDER REQUIRING A LICENSEE TO UNDERGO A MENTAL

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

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

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

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

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

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

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

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

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

1 (2)(d), AND THE GENETIC COUNSELOR IS SUBJECT TO DISCIPLINE IN
2 ACCORDANCE WITH SECTION 12-35.3-108.

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

6 **12-35.3-112. Professional liability insurance required - rules.**

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

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

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

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

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

27 **12-43-215. Scope of article - exemptions.** (10) ~~The provisions~~

1 of This ~~article do~~ ARTICLE 43 DOES not apply to:

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

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

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

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

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

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

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

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

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

5 (XXX) GENETIC COUNSELING PURSUANT TO ARTICLE 35.3 OF
6 TITLE 12.

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

9 **ARTICLE 228**

10 **Genetic Counselor Licensure Act**

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

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

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

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

23 (c) DECLARES THAT:

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

1 (II) ENACTMENT OF THIS ARTICLE 228 WILL PROTECT THE HEALTH
2 OF THE PUBLIC BY BROADENING AFFORDABLE ACCESS TO APPROPRIATE
3 AND RELIABLE GENETIC COUNSELING.

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

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

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

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

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

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

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

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

27 (b) DETERMINING THE MODE OF INHERITANCE AND RISK OF

1 TRANSMISSION OF GENETIC CONDITIONS:

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

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

6 (e) ASSESSING PSYCHOSOCIAL FACTORS AND RECOGNIZING SOCIAL,
7 EDUCATIONAL, AND CULTURAL ISSUES:

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

12 (g) COMMUNICATING GENETIC INFORMATION TO CLIENTS:

13 (h) FACILITATING INFORMED DECISION-MAKING ABOUT TESTING
14 AND MANAGEMENT ALTERNATIVES:

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

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

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

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

27 12-228-105. Use of titles restricted. ON AND AFTER JUNE 1, 2020.

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

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

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

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

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

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

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

1 FOLLOWING:

2 (I) THE TERMS OF, RENEWAL OF, AND FEES FOR PROVISIONAL
3 LICENSES:

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

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

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

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

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

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

26 (b) ALL LICENSES ISSUED PURSUANT TO THIS ARTICLE 228 ARE
27 SUBJECT TO THE RENEWAL, EXPIRATION, REINSTATEMENT, AND

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

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

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

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

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

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

27 (I) THE ACTIVITIES AND SERVICES CONSTITUTE A PART OF A

1 SUPERVISED COURSE OF STUDY;

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

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

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

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

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

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

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

1 PRACTICE MEDICINE PURSUANT TO ARTICLE 240 OF THIS TITLE 12.

2 **12-228-109. Grounds for discipline - disciplinary proceedings**

3 **- cease-and-desist orders - definitions.** (1) THE DIRECTOR MAY TAKE

4 DISCIPLINARY OR OTHER ACTION AGAINST A PERSON AS AUTHORIZED BY

5 SECTION 12-20-404 IF THE DIRECTOR FINDS THAT THE PERSON HAS

6 REPRESENTED THAT THE PERSON IS A GENETIC COUNSELOR AFTER THE

7 EXPIRATION, SUSPENSION, OR REVOCATION OF THE PERSON'S LICENSE.

8 (2) THE DIRECTOR MAY TAKE DISCIPLINARY OR OTHER ACTION

9 AUTHORIZED BY SECTION 12-20-404 AGAINST A LICENSEE UPON PROOF

10 THAT THE LICENSEE:

11 (a) HAS ENGAGED IN A SEXUAL ACT WITH AN INDIVIDUAL

12 RECEIVING SERVICES WHILE A THERAPEUTIC RELATIONSHIP EXISTED OR

13 WITHIN SIX MONTHS IMMEDIATELY FOLLOWING TERMINATION OF THE

14 THERAPEUTIC RELATIONSHIP. FOR THE PURPOSES OF THIS SUBSECTION

15 (2)(a):

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

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

18 (II) "THERAPEUTIC RELATIONSHIP" MEANS THE PERIOD BEGINNING

19 WITH THE INITIAL EVALUATION AND ENDING UPON THE WRITTEN

20 TERMINATION OF TREATMENT.

21 (b) HAS FALSIFIED INFORMATION IN AN APPLICATION OR HAS

22 ATTEMPTED TO OBTAIN OR HAS OBTAINED A LICENSE BY FRAUD,

23 DECEPTION, OR MISREPRESENTATION;

24 (c) IS AN EXCESSIVE OR HABITUAL USER OR ABUSER OF ALCOHOL

25 OR HABIT-FORMING DRUGS OR IS A HABITUAL USER OF A CONTROLLED

26 SUBSTANCE, AS DEFINED IN SECTION 18-18-102 (5), OR OTHER DRUGS

27 HAVING SIMILAR EFFECTS;

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

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

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

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

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

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

1 DISCIPLINARY ACTION, THE DIRECTOR IS GOVERNED BY SECTIONS
2 12-20-202 (5) AND 24-5-101.

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

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

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

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

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

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

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

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

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

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

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

19 (6) THE DIRECTOR MAY:

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

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

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

27 (8) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL

1 REVIEW IN ACCORDANCE WITH SECTION 12-20-408.

2 **12-228-110. Mental and physical examination of licensees.**

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

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

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

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

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

8 **12-228-111. Confidential agreement to limit practice.**

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

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

15 **12-228-112. Professional liability insurance required - rules.**

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

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

26 **12-228-113. Unauthorized practice.** A PERSON WHO PRACTICES
27 OR OFFERS OR ATTEMPTS TO PRACTICE GENETIC COUNSELING WITHOUT AN

1 ACTIVE LICENSE ISSUED PURSUANT TO THIS ARTICLE 228 IS SUBJECT TO
2 PENALTIES PURSUANT TO SECTION 12-20-407 (1)(b).

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

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

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

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

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

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

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

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

1 offense and, for the second or any subsequent offense, commits a class 1
2 misdemeanor and shall be punished as provided in section 18-1.3-501, if
3 the person engages in any of the following activities:

4 (II.5) PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE GENETIC
5 COUNSELING WITHOUT AN ACTIVE LICENSE ISSUED PURSUANT TO ARTICLE
6 228 OF THIS TITLE 12:

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

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

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

18 (XXIX) Naturopathic medicine pursuant to article 250 of this title
19 12; AND

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

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

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

27 (f) A professional coach, including a life coach, executive coach,

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

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

9 **SECTION 10. Appropriation.** (1) For the 2019-20 state fiscal
10 year, \$33,622 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) \$13,374 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 0.2 FTE;

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

19 (c) \$15,545 for use by the executive director's office and
20 administrative services for the purchase of legal services.

21 (2) For the 2019-20 state fiscal year, \$15,545 is appropriated to
22 the department of law. This appropriation is from reappropriated funds
23 received from the department of regulatory agencies under subsection
24 (1)(c) of this section and is based on an assumption that the department
25 of law will require an additional 0.1 FTE. To implement this act, the
26 department of law may use this appropriation to provide legal services for
27 the department of regulatory agencies.

1 **SECTION 11. Act subject to petition - effective date.**

2 (1) Except as otherwise provided in subsection (2) of this section, this act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2020 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.

12 (2) Sections 5 through 9 of this act take effect only if House Bill
13 19-1172 becomes law, in which case sections 5 through 9 take effect
14 October 1, 2019.

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