

**First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

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

LLS NO. 15-0370.01 Thomas Morris x4218

**HOUSE BILL 15-1147**

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**HOUSE SPONSORSHIP**

**Ginal,**

**SENATE SPONSORSHIP**

**Todd,**

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**House Committees**

Health, Insurance, & Environment  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

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

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**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://www.leg.state.co.us/billsummaries>.)*

The bill enacts the "Genetic Counselor Licensure Act". On and after June 1, 2016, a person cannot practice genetic counseling without being licensed by the director of the division of professions and occupations in the department of regulatory agencies. To be licensed, a person must have graduated with an appropriate genetic counseling degree and have been certified by a national body, except that the director may issue a provisional license to a candidate for certification pursuant to requirements established by rule.

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



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

4 **12-35.3-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
5 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) "ABMG" MEANS THE AMERICAN BOARD OF MEDICAL  
10 GENETICS OR AN ORGANIZATION THAT THE DIRECTOR RECOGNIZES AS  
11 BEING EQUIVALENT TO, OR A PREDECESSOR OR SUCCESSOR OF, THE  
12 ABMG.

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" MEANS THAT A PERSON HAS  
17 SUPPLIED THE ABGC WITH ALL REQUIRED DOCUMENTATION REGARDING  
18 THE PERSON'S QUALIFICATIONS SO AS TO ENABLE THE PERSON TO TAKE  
19 THE ABGC'S CERTIFICATION EXAMINATION.

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, C.R.S., OR THE DIRECTOR'S  
23 DESIGNEE.

24 (6) "GENETIC COUNSELOR" MEANS AN INDIVIDUAL WHO IS  
25 LICENSED PURSUANT TO THIS ARTICLE.

26 (7) "NSGC" MEANS THE NATIONAL SOCIETY OF GENETIC  
27 COUNSELORS OR AN ORGANIZATION THAT THE DIRECTOR RECOGNIZES AS

1 BEING EQUIVALENT TO, OR A PREDECESSOR OR SUCCESSOR OF, THE NSGC.

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

4 (a) OBTAINING AND INTERPRETING INDIVIDUAL, FAMILY, AND  
5 MEDICAL DEVELOPMENT HISTORIES;

6 (b) DETERMINING THE MODE OF INHERITANCE AND RISK OF  
7 TRANSMISSION OF GENETIC CONDITIONS;

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

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

12 (e) ASSESSING PSYCHOSOCIAL FACTORS AND RECOGNIZING SOCIAL,  
13 EDUCATIONAL, AND CULTURAL ISSUES;

14 (f) EVALUATING THE CLIENT'S OR THE CLIENT'S FAMILY'S  
15 RESPONSES TO THE CONDITION OR RISK OF RECURRENCE OF A GENETIC  
16 CONDITION AND PROVIDING CLIENT-CENTERED COUNSELING AND  
17 ANTICIPATORY GUIDANCE;

18 (g) COMMUNICATING GENETIC INFORMATION TO CLIENTS IN AN  
19 UNDERSTANDABLE MANNER;

20 (h) FACILITATING INFORMED DECISION-MAKING ABOUT TESTING  
21 AND MANAGEMENT ALTERNATIVES;

22 (i) IDENTIFYING AND EFFECTIVELY UTILIZING COMMUNITY  
23 RESOURCES THAT PROVIDE MEDICAL, EDUCATIONAL, FINANCIAL, AND  
24 PSYCHOSOCIAL SUPPORT AND ADVOCACY; AND

25 (j) PROVIDING ACCURATE WRITTEN DOCUMENTATION OF MEDICAL,  
26 GENETIC, AND COUNSELING INFORMATION FOR CLIENTS, THEIR FAMILIES,  
27 AND HEALTH CARE PROFESSIONALS.

1           **12-35.3-104. Use of titles restricted.** ONLY A PERSON LICENSED  
2 AS A GENETIC COUNSELOR MAY USE THE TITLE "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 TERM, LETTERS, OR FIGURES THAT INDICATE THAT THE PERSON IS A  
7 GENETIC COUNSELOR.

8           **12-35.3-105. License required.** ON AND AFTER JUNE 1, 2016,  
9 EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A PERSON SHALL NOT  
10 PRACTICE GENETIC COUNSELING OR REPRESENT HIMSELF OR HERSELF AS  
11 BEING ABLE TO PRACTICE GENETIC COUNSELING IN THIS STATE WITHOUT  
12 POSSESSING A VALID LICENSE ISSUED BY THE DIRECTOR IN ACCORDANCE  
13 WITH THIS ARTICLE AND RULES ADOPTED PURSUANT TO THIS ARTICLE.

14           **12-35.3-106. Licensure of genetic counselors - application -**  
15 **qualifications - rules. (1) Educational and experiential requirements.**

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

17           (I) EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION  
18 (1), PROVIDE SATISFACTORY EVIDENCE OF HAVING CERTIFICATION AS A:

19           (A) GENETIC COUNSELOR BY THE ABGC OR ABMG; OR

20           (B) MEDICAL GENETICIST BY THE ABMG; AND

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

23           (b) THE DIRECTOR SHALL ESTABLISH, BY RULE, REQUIREMENTS  
24 RELATING TO THE ISSUANCE OF A PROVISIONAL LICENSE TO PRACTICE  
25 GENETIC COUNSELING TO A CANDIDATE FOR LICENSURE WHO HAS BEEN  
26 GRANTED ACTIVE CANDIDATE STATUS BY THE ABGC IF THE CANDIDATE  
27 MEETS THE OTHER QUALIFICATIONS FOR LICENSURE. THE RULES MUST

1 ADDRESS AT LEAST THE FOLLOWING:

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

4 (II) WHETHER A GENETIC COUNSELOR WORKING UNDER 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 LICENSURE  
9 UPON A SECOND OR SUBSEQUENT FAILURE TO PASS THE CERTIFICATION  
10 EXAMINATION.

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

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

17 (3) **Licensure.** WHEN AN APPLICANT HAS FULFILLED THE  
18 REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION, THE  
19 DIRECTOR SHALL ISSUE A LICENSE OR, AS APPROPRIATE, A PROVISIONAL  
20 LICENSE, TO THE APPLICANT; EXCEPT THAT THE DIRECTOR MAY DENY A  
21 LICENSE IF THE APPLICANT HAS COMMITTED ANY ACT THAT WOULD BE  
22 GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-35.3-110.

23 (4) **Licensure by endorsement.** (a) AN APPLICANT FOR  
24 LICENSURE BY ENDORSEMENT MUST FILE AN APPLICATION AND PAY A FEE  
25 AS PRESCRIBED BY THE DIRECTOR AND MUST HOLD A CURRENT, VALID  
26 LICENSE OR REGISTRATION IN A JURISDICTION THAT REQUIRES  
27 QUALIFICATIONS SUBSTANTIALLY EQUIVALENT TO THOSE REQUIRED BY

1 SUBSECTION (1) OF THIS SECTION FOR LICENSURE.

2 (b) AN APPLICANT FOR LICENSURE BY ENDORSEMENT MUST  
3 SUBMIT WITH THE APPLICATION VERIFICATION THAT THE APPLICANT HAS  
4 ACTIVELY PRACTICED FOR A PERIOD OF TIME OR OTHERWISE MAINTAINED  
5 COMPETENCY AS DETERMINED BY THE DIRECTOR.

6 (c) UPON RECEIPT OF ALL DOCUMENTS REQUIRED BY PARAGRAPHS  
7 (a) AND (b) OF THIS SUBSECTION (4), THE DIRECTOR SHALL REVIEW THE  
8 APPLICATION AND MAKE A DETERMINATION OF THE APPLICANT'S  
9 QUALIFICATION TO BE LICENSED BY ENDORSEMENT.

10 (d) THE DIRECTOR MAY DENY THE APPLICATION FOR LICENSURE BY  
11 ENDORSEMENT IF THE APPLICANT HAS COMMITTED AN ACT THAT WOULD  
12 BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-35.3-110.

13 (5) **License renewal.** (a) A GENETIC COUNSELOR MUST RENEW HIS  
14 OR HER LICENSE ISSUED UNDER THIS ARTICLE ACCORDING TO A SCHEDULE  
15 OF RENEWAL DATES ESTABLISHED BY THE DIRECTOR. THE GENETIC  
16 COUNSELOR MUST SUBMIT AN APPLICATION IN THE FORM AND MANNER  
17 DESIGNATED BY THE DIRECTOR AND MUST PAY A RENEWAL FEE IN AN  
18 AMOUNT DETERMINED BY THE DIRECTOR.

19 (b) LICENSES ARE RENEWED OR REINSTATED IN ACCORDANCE WITH  
20 THE SCHEDULE ESTABLISHED BY THE DIRECTOR, AND THE DIRECTOR SHALL  
21 GRANT A RENEWAL OR REINSTATEMENT PURSUANT TO SECTION 24-34-102  
22 (8), C.R.S. THE DIRECTOR MAY ESTABLISH RENEWAL FEES AND  
23 DELINQUENCY FEES FOR REINSTATEMENT PURSUANT TO SECTION  
24 24-34-105, C.R.S. IF A GENETIC COUNSELOR FAILS TO RENEW HIS OR HER  
25 LICENSE PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR,  
26 THE LICENSE EXPIRES. A PERSON WHOSE LICENSE EXPIRES IS SUBJECT TO  
27 THE PENALTIES PROVIDED IN THIS ARTICLE OR SECTION 24-34-102 (8),

1 C.R.S.

2 (c) APPLICANTS FOR LICENSURE RENEWAL MUST SUBMIT PROOF OF  
3 COMPLETING THIRTY HOURS OF NSGC-APPROVED CONTINUING  
4 EDUCATION.

5 (6) **Fees.** ALL FEES COLLECTED UNDER THIS ARTICLE SHALL BE  
6 DETERMINED, COLLECTED, AND APPROPRIATED IN THE SAME MANNER AS  
7 SET FORTH IN SECTION 24-34-105, C.R.S., AND PERIODICALLY ADJUSTED  
8 IN ACCORDANCE WITH SECTION 24-75-402, C.R.S.

9 **12-35.3-107. Scope of article - exclusions.** (1) THIS ARTICLE  
10 DOES NOT PREVENT OR RESTRICT THE PRACTICE, SERVICES, OR ACTIVITIES  
11 OF:

12 (a) A PERSON LICENSED OR OTHERWISE REGULATED IN THIS STATE  
13 BY ANY OTHER LAW FROM ENGAGING IN HIS OR HER PROFESSION OR  
14 OCCUPATION AS DEFINED IN THE ARTICLE UNDER WHICH HE OR SHE IS  
15 LICENSED;

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

20 (I) THE ACTIVITIES AND SERVICES CONSTITUTE A PART OF A  
21 SUPERVISED COURSE OF STUDY;

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

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

26 (IV) THE INDIVIDUAL IS SUPERVISED BY AN INDIVIDUAL LICENSED  
27 UNDER THIS ARTICLE OR A PHYSICIAN;

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

4 (d) A LEGALLY QUALIFIED GENETIC COUNSELOR FROM ANOTHER  
5 STATE OR COUNTRY WHEN PROVIDING SERVICES ON BEHALF OF A  
6 TEMPORARILY ABSENT GENETIC COUNSELOR LICENSED IN THIS STATE, IF  
7 THE UNLICENSED GENETIC COUNSELOR IS ACTING IN ACCORDANCE WITH  
8 RULES ESTABLISHED BY THE DIRECTOR. THE UNLICENSED PRACTICE MUST  
9 NOT BE OF MORE THAN FOUR WEEKS' DURATION, AND A PERSON SHALL NOT  
10 UNDERTAKE UNLICENSED PRACTICE MORE THAN ONCE IN ANY  
11 TWELVE-MONTH PERIOD.

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

16 (b) IF IN THE COURSE OF PROVIDING A GENETIC COUNSELING  
17 SERVICE TO A CLIENT, A GENETIC COUNSELOR FINDS ANY INDICATION OF  
18 A DISEASE OR CONDITION THAT REQUIRES MEDICAL ASSESSMENT, THE  
19 GENETIC COUNSELOR SHALL REFER THE CLIENT TO A PHYSICIAN LICENSED  
20 TO PRACTICE MEDICINE.

21 **12-35.3-108. Grounds for discipline - disciplinary proceedings**  
22 **- judicial review.** (1) THE DIRECTOR MAY TAKE DISCIPLINARY ACTION  
23 AGAINST A LICENSEE IF THE DIRECTOR FINDS THAT THE LICENSEE HAS  
24 REPRESENTED HIMSELF OR HERSELF AS A LICENSED GENETIC COUNSELOR  
25 AFTER THE EXPIRATION, SUSPENSION, OR REVOCATION OF HIS OR HER  
26 LICENSE.

27 (2) THE DIRECTOR MAY REVOKE, SUSPEND, DENY, OR REFUSE TO

1 RENEW A LICENSE; PLACE A LICENSEE ON PROBATION; ISSUE A LETTER OF  
2 ADMONITION TO A LICENSEE; OR ISSUE A CEASE-AND-DESIST ORDER TO A  
3 LICENSEE IN ACCORDANCE WITH THIS SECTION UPON PROOF THAT THE  
4 LICENSEE:

5 (a) HAS ENGAGED IN A SEXUAL ACT WITH A PERSON RECEIVING  
6 SERVICES WHILE A THERAPEUTIC RELATIONSHIP EXISTED OR WITHIN SIX  
7 MONTHS IMMEDIATELY FOLLOWING TERMINATION OF THE THERAPEUTIC  
8 RELATIONSHIP. FOR THE PURPOSES OF THIS PARAGRAPH (a):

9 (I) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,  
10 OR SEXUAL PENETRATION, AS DEFINED IN SECTION 18-3-401, C.R.S.

11 (II) "THERAPEUTIC RELATIONSHIP" MEANS THE PERIOD BEGINNING  
12 WITH THE INITIAL EVALUATION AND ENDING UPON THE WRITTEN  
13 TERMINATION OF TREATMENT.

14 (b) HAS FALSIFIED INFORMATION IN AN APPLICATION OR HAS  
15 ATTEMPTED TO OBTAIN OR HAS OBTAINED A LICENSE BY FRAUD,  
16 DECEPTION, OR MISREPRESENTATION;

17 (c) IS AN EXCESSIVE OR HABITUAL USER OR ABUSER OF ALCOHOL  
18 OR HABIT-FORMING DRUGS OR IS A HABITUAL USER OF A CONTROLLED  
19 SUBSTANCE, AS DEFINED IN SECTION 18-18-102, C.R.S., OR OTHER DRUGS  
20 HAVING SIMILAR EFFECTS;

21 (d) (I) HAS FAILED TO NOTIFY THE DIRECTOR, AS REQUIRED BY  
22 SECTION 12-35.3-113 (1), OF A PHYSICAL OR MENTAL CONDITION OR  
23 ILLNESS THAT IMPACTS THE LICENSEE'S ABILITY TO PROVIDE GENETIC  
24 COUNSELING SERVICES WITH REASONABLE SKILL AND SAFETY OR THAT  
25 MAY ENDANGER THE HEALTH OR SAFETY OF INDIVIDUALS RECEIVING  
26 SERVICES;

27 (II) HAS FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A

1 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE PERSON  
2 UNABLE TO PRACTICE GENETIC COUNSELING WITH REASONABLE SKILL AND  
3 SAFETY OR THAT MAY ENDANGER THE HEALTH OR SAFETY OF PERSONS  
4 UNDER HIS OR HER CARE; OR

5 (III) HAS FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO  
6 UNDER A CONFIDENTIAL AGREEMENT ENTERED INTO PURSUANT TO  
7 SECTION 12-35.3-113 (2);

8 (e) HAS VIOLATED THIS ARTICLE OR AIDED OR ABETTED OR  
9 KNOWINGLY PERMITTED ANY PERSON TO VIOLATE THIS ARTICLE, A RULE  
10 ADOPTED UNDER THIS ARTICLE, OR ANY LAWFUL ORDER OF THE DIRECTOR;

11 (f) HAS HAD A LICENSE OR REGISTRATION SUSPENDED OR REVOKED  
12 IN ANOTHER JURISDICTION FOR ACTIONS THAT WOULD VIOLATE THIS  
13 ARTICLE OR WOULD CONSTITUTE GROUNDS FOR DISCIPLINE UNDER THIS  
14 ARTICLE IF COMMITTED IN COLORADO;

15 (g) HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO  
16 CONTENDERE TO A FELONY OR COMMITTED AN ACT SPECIFIED IN SECTION  
17 12-35.3-111. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF  
18 COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS CONCLUSIVE  
19 EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE  
20 DISCIPLINARY ACTION, THE DIRECTOR IS GOVERNED BY SECTION 24-5-101,  
21 C.R.S.

22 (h) HAS FRAUDULENTLY OBTAINED, FURNISHED, OR SOLD ANY  
23 GENETIC COUNSELING DIPLOMA, CERTIFICATE, LICENSE, OR RENEWAL OF  
24 A LICENSE OR OTHER PROFESSIONAL CREDENTIAL;

25 (i) HAS FAILED TO NOTIFY THE DIRECTOR OF THE SUSPENSION OR  
26 REVOCATION OF THE PERSON'S PAST OR CURRENTLY HELD LICENSE,  
27 CERTIFICATE, OR REGISTRATION REQUIRED TO PRACTICE GENETIC

1 COUNSELING IN THIS OR ANY OTHER JURISDICTION;

2 (j) HAS REFUSED TO SUBMIT TO A PHYSICAL OR MENTAL  
3 EXAMINATION WHEN ORDERED BY THE DIRECTOR PURSUANT TO SECTION  
4 12-35.3-110;

5 (k) HAS ENGAGED IN ANY OF THE FOLLOWING ACTIVITIES AND  
6 PRACTICES:

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

9 (II) ADMINISTERING TREATMENT, WITHOUT CLINICAL  
10 JUSTIFICATION, THAT IS DEMONSTRABLY UNNECESSARY; OR

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

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

16 (m) HAS OTHERWISE VIOLATED THIS ARTICLE OR ANY LAWFUL  
17 ORDER OR RULE OF THE DIRECTOR.

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

23 (4) (a) THE DIRECTOR MAY COMMENCE A PROCEEDING TO  
24 DISCIPLINE A LICENSEE WHEN THE DIRECTOR HAS REASONABLE GROUNDS  
25 TO BELIEVE THAT THE LICENSEE HAS COMMITTED AN ACT ENUMERATED IN  
26 THIS SECTION OR HAS VIOLATED A LAWFUL ORDER OR RULE OF THE  
27 DIRECTOR.

1 (b) IN ANY PROCEEDING UNDER THIS SECTION, THE DIRECTOR MAY  
2 ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION ANY  
3 DISCIPLINARY ACTION TAKEN AGAINST A LICENSEE OR REGISTRANT IN  
4 ANOTHER JURISDICTION IF THE VIOLATION THAT PROMPTED THE  
5 DISCIPLINARY ACTION IN THE OTHER JURISDICTION WOULD BE GROUNDS  
6 FOR DISCIPLINARY ACTION UNDER THIS ARTICLE.

7 (5) DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED IN  
8 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., 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 DURING THE  
13 DISCIPLINARY PROCEEDINGS.

14 (6) (a) NO LATER THAN THIRTY DAYS FOLLOWING THE DATE OF  
15 THE DIRECTOR'S ACTION, THE DIRECTOR SHALL NOTIFY A GENETIC  
16 COUNSELOR DISCIPLINED UNDER THIS SECTION, BY A FIRST-CLASS LETTER  
17 TO THE MOST RECENT ADDRESS PROVIDED TO THE DIRECTOR BY THE  
18 GENETIC COUNSELOR, OF THE ACTION TAKEN, THE SPECIFIC CHARGES  
19 GIVING RISE TO THE ACTION, AND THE GENETIC COUNSELOR'S RIGHT TO  
20 REQUEST A HEARING ON THE ACTION TAKEN.

21 (b) WITHIN THIRTY DAYS AFTER THE DIRECTOR SENDS THE  
22 NOTIFICATION, THE GENETIC COUNSELOR MAY FILE A WRITTEN REQUEST  
23 WITH THE DIRECTOR FOR A HEARING ON THE ACTION TAKEN. UPON  
24 RECEIPT OF THE REQUEST THE DIRECTOR SHALL GRANT A HEARING TO THE  
25 GENETIC COUNSELOR. IF THE GENETIC COUNSELOR FAILS TO FILE A  
26 WRITTEN REQUEST FOR A HEARING WITHIN THIRTY DAYS, THE ACTION OF  
27 THE DIRECTOR BECOMES FINAL ON THAT DATE.

1 (c) FAILURE OF THE GENETIC COUNSELOR TO APPEAR AT THE  
2 HEARING WITHOUT GOOD CAUSE IS A WITHDRAWAL OF HIS OR HER  
3 REQUEST FOR A HEARING, AND THE DIRECTOR'S ACTION BECOMES FINAL  
4 ON THAT DATE. FAILURE, WITHOUT GOOD CAUSE, OF THE DIRECTOR TO  
5 APPEAR AT THE HEARING IS CAUSE TO DISMISS THE PROCEEDING.

6 (7) (a) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO  
7 SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO  
8 ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS  
9 ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS PARAGRAPH (a), THE  
10 ATTORNEY GENERAL IS NOT REQUIRED TO ALLEGE OR PROVE THE  
11 INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR  
12 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED  
13 VIOLATION OF THIS ARTICLE.

14 (b) (I) IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND  
15 THIS ARTICLE, THE DIRECTOR MAY INVESTIGATE, HOLD HEARINGS, AND  
16 GATHER EVIDENCE IN ALL MATTERS RELATED TO THE EXERCISE AND  
17 PERFORMANCE OF THE POWERS AND DUTIES OF THE DIRECTOR.

18 (II) TO AID THE DIRECTOR IN ANY HEARING OR INVESTIGATION  
19 INSTITUTED PURSUANT TO THIS SECTION, THE DIRECTOR OR AN  
20 ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PARAGRAPH (c) OF  
21 THIS SUBSECTION (7) MAY ADMINISTER OATHS, TAKE AFFIRMATIONS OF  
22 WITNESSES, AND ISSUE SUBPOENAS COMPELLING THE ATTENDANCE OF  
23 WITNESSES AND THE PRODUCTION OF ALL RELEVANT RECORDS, PAPERS,  
24 BOOKS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING,  
25 INVESTIGATION, OR OTHER MATTER BEFORE THE DIRECTOR OR AN  
26 ADMINISTRATIVE LAW JUDGE.

27 (III) UPON FAILURE OF ANY WITNESS OR LICENSEE TO COMPLY

1 WITH A SUBPOENA OR PROCESS, THE DISTRICT COURT OF THE COUNTY IN  
2 WHICH THE SUBPOENAED PERSON OR LICENSEE RESIDES OR CONDUCTS  
3 BUSINESS, UPON APPLICATION BY THE DIRECTOR WITH NOTICE TO THE  
4 SUBPOENAED PERSON OR LICENSEE, MAY ISSUE TO THE PERSON OR  
5 LICENSEE AN ORDER REQUIRING THAT PERSON OR LICENSEE TO APPEAR  
6 BEFORE THE DIRECTOR; PRODUCE THE RELEVANT PAPERS, BOOKS,  
7 RECORDS, DOCUMENTARY EVIDENCE, OR MATERIALS IF SO ORDERED; OR  
8 GIVE EVIDENCE TOUCHING THE MATTER UNDER INVESTIGATION OR IN  
9 QUESTION. IF THE PERSON OR LICENSEE FAILS TO OBEY THE ORDER OF THE  
10 COURT, THE COURT MAY HOLD THE PERSON OR LICENSEE IN CONTEMPT OF  
11 COURT.

12 (c) THE DIRECTOR MAY APPOINT AN ADMINISTRATIVE LAW JUDGE  
13 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO CONDUCT  
14 HEARINGS, TAKE EVIDENCE, MAKE FINDINGS, AND REPORT THE FINDINGS  
15 TO THE DIRECTOR.

16 (8) (a) THE DIRECTOR, A MEMBER OF THE DIRECTOR'S STAFF, A  
17 PERSON ACTING AS A WITNESS OR CONSULTANT TO THE DIRECTOR, A  
18 WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE,  
19 AND A PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE IS  
20 IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BROUGHT AGAINST HIM OR  
21 HER FOR ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS  
22 DIRECTOR, STAFF, CONSULTANT, WITNESS, OR COMPLAINANT,  
23 RESPECTIVELY, IF THE INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN  
24 THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY, MADE A REASONABLE  
25 EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH HE OR SHE  
26 ACTED, AND ACTED IN THE REASONABLE BELIEF THAT THE ACTION TAKEN  
27 BY HIM OR HER WAS WARRANTED BY THE FACTS.

1           (b) A PERSON PARTICIPATING IN GOOD FAITH IN MAKING A  
2 COMPLAINT OR REPORT OR IN AN INVESTIGATIVE OR ADMINISTRATIVE  
3 PROCEEDING PURSUANT TO THIS SECTION IS IMMUNE FROM ANY CIVIL OR  
4 CRIMINAL LIABILITY THAT OTHERWISE MIGHT RESULT BY REASON OF THE  
5 PARTICIPATION.

6           (9) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL  
7 REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11),  
8 C.R.S.

9           (10) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN  
10 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR,  
11 WARRANTS FORMAL ACTION, THE DIRECTOR SHALL NOT RESOLVE THE  
12 COMPLAINT BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR  
13 PROSECUTION.

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

24           (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE  
25 AND DESIST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (11), THE  
26 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER  
27 ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE HAVE OCCURRED. THE

1 HEARING SHALL BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND  
2 24-4-105, C.R.S.

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

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

21 (c) (I) THE HEARING ON AN ORDER TO SHOW CAUSE SHALL BE HELD  
22 NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE CALENDAR DAYS  
23 AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE NOTIFICATION BY  
24 THE DIRECTOR AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (12).  
25 THE HEARING MAY BE CONTINUED BY AGREEMENT OF ALL PARTIES BASED  
26 UPON THE COMPLEXITY OF THE MATTER, NUMBER OF PARTIES TO THE  
27 MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER, BUT IN NO EVENT

1 SHALL THE HEARING BE HELD LATER THAN SIXTY CALENDAR DAYS AFTER  
2 THE DATE OF TRANSMISSION OR SERVICE OF THE NOTIFICATION.

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

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

21 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET  
22 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (12), OF THE FINAL  
23 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE  
24 HEARING CONDUCTED PURSUANT TO THIS PARAGRAPH (c) TO EACH PERSON  
25 AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL ORDER  
26 ISSUED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) IS  
27 EFFECTIVE WHEN ISSUED AND IS A FINAL ORDER FOR PURPOSES OF

1 JUDICIAL REVIEW.

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

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

17 (15) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST  
18 ORDER MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION  
19 OR OF THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SUBSECTION (9) OF  
20 THIS SECTION.

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

26 (b) WHEN THE DIRECTOR SENDS A LETTER OF ADMONITION TO A  
27 LICENSEE, THE DIRECTOR SHALL NOTIFY THE LICENSEE OF THE LICENSEE'S

1 RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF  
2 THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO  
3 ADJUDICATE THE PROPRIETY OF THE CONDUCT DESCRIBED IN THE LETTER  
4 OF ADMONITION.

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

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

15 (18) A PERSON WHOSE LICENSE IS REVOKED OR WHO SURRENDERS  
16 HIS OR HER LICENSE TO AVOID DISCIPLINE UNDER THIS SECTION IS  
17 INELIGIBLE TO APPLY FOR A LICENSE UNDER THIS ARTICLE FOR AT LEAST  
18 TWO YEARS AFTER THE DATE THE LICENSE IS REVOKED OR SURRENDERED.

19 **12-35.3-109. Unauthorized practice - penalties.** A PERSON WHO  
20 PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE GENETIC COUNSELING  
21 WITHOUT AN ACTIVE LICENSE AS REQUIRED BY AND ISSUED UNDER THIS  
22 ARTICLE FOR GENETIC COUNSELORS COMMITS A CLASS 2 MISDEMEANOR  
23 AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S., FOR  
24 THE FIRST OFFENSE. FOR THE SECOND OR ANY SUBSEQUENT OFFENSE, THE  
25 PERSON COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS  
26 PROVIDED IN SECTION 18-1.3-501, C.R.S. THIS SECTION DOES NOT APPLY  
27 TO A PERSON WHO IS EXEMPTED BY THIS ARTICLE OR ANOTHER ARTICLE OF

1 THIS TITLE FROM BEING LICENSED PURSUANT TO THIS ARTICLE.

2 **12-35.3-110. 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  
6 PHYSICAL EXAMINATION ADMINISTERED BY A PHYSICIAN OR OTHER  
7 LICENSED HEALTH CARE PROFESSIONAL DESIGNATED BY THE DIRECTOR.  
8 EXCEPT WHERE DUE TO CIRCUMSTANCES BEYOND THE LICENSEE'S  
9 CONTROL, IF THE LICENSEE FAILS OR REFUSES TO UNDERGO A MENTAL OR  
10 PHYSICAL EXAMINATION, THE DIRECTOR MAY SUSPEND THE LICENSEE'S  
11 LICENSE UNTIL THE DIRECTOR HAS MADE A DETERMINATION OF THE  
12 LICENSEE'S FITNESS TO PRACTICE. THE DIRECTOR SHALL PROCEED WITH AN  
13 ORDER FOR EXAMINATION AND SHALL MAKE HIS OR HER DETERMINATION  
14 IN A TIMELY MANNER.

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

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

1 SAFETY. THE DIRECTOR MAY CONSIDER THE TESTIMONY AND REPORTS  
2 SUBMITTED BY THE LICENSEE IN CONJUNCTION WITH, BUT NOT IN LIEU OF,  
3 TESTIMONY AND EXAMINATION REPORTS OF THE PHYSICIAN DESIGNATED  
4 BY THE DIRECTOR.

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

9 **12-35.3-111. Confidential agreement to limit practice -**  
10 **violation - grounds for discipline.** (1) IF A GENETIC COUNSELOR HAS A  
11 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE PERSON  
12 UNABLE TO PRACTICE GENETIC COUNSELING WITH REASONABLE SKILL AND  
13 SAFETY TO CLIENTS, THE GENETIC COUNSELOR SHALL NOTIFY THE  
14 DIRECTOR OF THE ILLNESS OR CONDITION IN A MANNER AND WITHIN A  
15 PERIOD DETERMINED BY THE DIRECTOR. THE DIRECTOR MAY REQUIRE THE  
16 GENETIC COUNSELOR TO SUBMIT TO AN EXAMINATION PURSUANT TO  
17 SECTION 12-35.3-110 TO EVALUATE THE EXTENT OF THE ILLNESS OR  
18 CONDITION AND ITS IMPACT ON THE GENETIC COUNSELOR'S ABILITY TO  
19 PRACTICE GENETIC COUNSELING WITH REASONABLE SKILL AND SAFETY TO  
20 CLIENTS.

21 (2) (a) UPON DETERMINING THAT A GENETIC COUNSELOR WITH A  
22 PHYSICAL OR MENTAL ILLNESS OR CONDITION IS ABLE TO RENDER LIMITED  
23 SERVICES WITH REASONABLE SKILL AND SAFETY TO CLIENTS, THE  
24 DIRECTOR MAY ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE  
25 GENETIC COUNSELOR IN WHICH THE GENETIC COUNSELOR AGREES TO LIMIT  
26 HIS OR HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE  
27 ILLNESS OR CONDITION, AS DETERMINED BY THE DIRECTOR.

1 (b) AS PART OF THE AGREEMENT, THE GENETIC COUNSELOR IS  
2 SUBJECT TO PERIODIC REEVALUATION OR MONITORING AS DETERMINED  
3 APPROPRIATE BY THE DIRECTOR.

4 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS  
5 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF  
6 MONITORING.

7 (3) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR  
8 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, A GENETIC  
9 COUNSELOR IS NOT ENGAGING IN ACTIVITIES THAT ARE GROUNDS FOR  
10 DISCIPLINE PURSUANT TO SECTION 12-35.3-108. THE AGREEMENT DOES  
11 NOT CONSTITUTE A RESTRICTION OR DISCIPLINE BY THE DIRECTOR.  
12 HOWEVER, IF THE GENETIC COUNSELOR FAILS TO COMPLY WITH THE  
13 TERMS OF THE AGREEMENT, THE FAILURE CONSTITUTES A PROHIBITED  
14 ACTIVITY PURSUANT TO SECTION 12-35.3-108 (2) (d), AND THE GENETIC  
15 COUNSELOR IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION  
16 12-35.3-108.

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

20 **12-35.3-112. Professional liability insurance required - rules.**

21 (1) (a) EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (1),  
22 A PERSON SHALL NOT PRACTICE GENETIC COUNSELING UNLESS THE PERSON  
23 PURCHASES AND MAINTAINS, OR IS COVERED BY, PROFESSIONAL LIABILITY  
24 INSURANCE IN AN AMOUNT DETERMINED BY THE DIRECTOR BY RULE THAT  
25 COVERS ALL ACTS WITHIN THE SCOPE OF PRACTICE OF THE GENETIC  
26 COUNSELOR.

27 (b) THE DIRECTOR MAY EXEMPT, ON A CASE-BY-CASE BASIS OR BY

1 RULE, AN INDIVIDUAL OR CLASS OF INDIVIDUALS FROM THE INSURANCE  
2 REQUIREMENT OF THIS SECTION IF THE DIRECTOR FINDS THAT INSURANCE  
3 IS NOT REASONABLY AVAILABLE, AND THE DIRECTOR MAY LATER RESCIND  
4 THE EXEMPTION IF THE DIRECTOR FINDS THAT INSURANCE HAS BECOME  
5 REASONABLY AVAILABLE.

6 (2) THIS SECTION DOES NOT APPLY TO A GENETIC COUNSELOR WHO  
7 IS A PUBLIC EMPLOYEE ACTING WITHIN THE COURSE AND SCOPE OF THE  
8 PUBLIC EMPLOYEE'S DUTIES AND WHO IS GRANTED IMMUNITY UNDER THE  
9 "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24,  
10 C.R.S.

11 **12-35.3-113. Rule-making authority.** THE DIRECTOR SHALL  
12 PROMULGATE RULES AS NECESSARY FOR THE ADMINISTRATION OF THIS  
13 ARTICLE.

14 **12-35.3-114. Repeal of article - review of functions.** THIS  
15 ARTICLE IS REPEALED, EFFECTIVE SEPTEMBER 1, 2020. PRIOR TO THE  
16 REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE  
17 DIRECTOR'S POWERS, DUTIES, AND FUNCTIONS UNDER THIS ARTICLE AS  
18 PROVIDED IN SECTION 24-34-104, C.R.S.

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

21 **12-43-215. Scope of article - exemptions.** (10) ~~The provisions~~  
22 ~~of This article do~~ DOES not apply to:

23 (a) A professional coach, including a life coach, executive coach,  
24 personal coach, or business coach, who has had coach-specific training  
25 and who serves clients exclusively as a coach, as long as the professional  
26 coach does not engage in the practice of psychology, social work,  
27 marriage and family therapy, licensed professional counseling,

1 psychotherapy, or addiction counseling, as those practices are defined in  
2 this article; OR

3 (b) A GENETIC COUNSELOR WHO IS LICENSED UNDER ARTICLE 35.3  
4 OF THIS TITLE.

5 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **add**  
6 (51.5) (j) as follows:

7 **24-34-104. General assembly review of regulatory agencies**  
8 **and functions for termination, continuation, or reestablishment.**

9 (51.5) The following agencies, functions, or both, terminate on  
10 September 1, 2020:

11 (j) THE REGULATION OF GENETIC COUNSELORS BY THE DIRECTOR  
12 OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS UNDER ARTICLE 35.3  
13 OF TITLE 12, C.R.S.

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

16 **24-34-110. Medical transparency act of 2010 - disclosure of**  
17 **information about health care licensees - fines - rules - short title -**  
18 **legislative declaration.** (3) (a) As used in this section, "applicant" means  
19 a person applying for a new, active license, certification, or registration  
20 or to renew, reinstate, or reactivate an active license, certification, or  
21 registration to practice:

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

24 (XXIX) Naturopathic medicine pursuant to article 37.3 of title 12,  
25 C.R.S.; AND

26 (XXX) AS A GENETIC COUNSELOR PURSUANT TO ARTICLE 35.3 OF  
27 TITLE 12, C.R.S.

1           **SECTION 5. Act subject to petition - effective date -**  
2           **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
3           the expiration of the ninety-day period after final adjournment of the  
4           general assembly (August 5, 2015, if adjournment sine die is on May 6,  
5           2015); except that, if a referendum petition is filed pursuant to section 1  
6           (3) of article V of the state constitution against this act or an item, section,  
7           or part of this act within such period, then the act, item, section, or part  
8           will not take effect unless approved by the people at the general election  
9           to be held in November 2016 and, in such case, will take effect on the  
10          date of the official declaration of the vote thereon by the governor.  
11          (2) This act applies to conduct occurring on or after the applicable  
12          effective date of this act.