

**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

HOUSE SPONSORSHIP

Ginal,

SENATE SPONSORSHIP

Todd,

House Committees

Health, Insurance, & Environment
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

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

Bill Summary

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

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 READILY IDENTIFY THOSE WHO MEET THESE MINIMUM STANDARDS; AND

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

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

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

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

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

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

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

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

27 (7) "NSGC" MEANS THE NATIONAL SOCIETY OF GENETIC

1 COUNSELORS OR AN ORGANIZATION THAT THE DIRECTOR RECOGNIZES AS
2 BEING EQUIVALENT TO, OR A PREDECESSOR OR SUCCESSOR OF, THE NSGC.

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

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

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

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

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

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

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

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

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

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

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

1 AND HEALTH CARE PROFESSIONALS.

2 **12-35.3-104. Use of titles restricted.** ONLY A PERSON LICENSED
3 AS A GENETIC COUNSELOR MAY USE THE TITLE "GENETIC COUNSELOR",
4 "LICENSED GENETIC COUNSELOR", "L.G.C.", "GENE COUNSELOR",
5 "GENETIC CONSULTANT", "GENETIC ASSOCIATE", OR ANY COMBINATION OF
6 THESE TERMS OR ABBREVIATIONS OR ANY OTHER GENERALLY ACCEPTED
7 TERM, LETTERS, OR FIGURES THAT INDICATE THAT THE PERSON IS A
8 GENETIC COUNSELOR.

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

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

17 (a) EVERY APPLICANT FOR A LICENSE AS A GENETIC COUNSELOR MUST:
18 (I) EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION
19 (1), PROVIDE SATISFACTORY EVIDENCE OF HAVING CERTIFICATION AS A:
20 (A) GENETIC COUNSELOR BY THE ABGC OR ABMG; OR
21 (B) MEDICAL GENETICIST BY THE ABMG; AND
22 (II) SUBMIT AN APPLICATION AS SPECIFIED IN SUBSECTION (2) OF
23 THIS SECTION.

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

1 MEETS THE OTHER QUALIFICATIONS FOR LICENSURE. THE RULES MUST
2 ADDRESS AT LEAST THE FOLLOWING:

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

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

9 (III) THE AUTOMATIC EXPIRATION OF A PROVISIONAL LICENSURE
10 UPON A SECOND OR SUBSEQUENT FAILURE TO PASS THE CERTIFICATION
11 EXAMINATION.

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

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

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

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

1 QUALIFICATIONS SUBSTANTIALLY EQUIVALENT TO THOSE REQUIRED BY
2 SUBSECTION (1) OF THIS SECTION FOR LICENSURE.

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

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

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

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

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

1 THE PENALTIES PROVIDED IN THIS ARTICLE OR SECTION 24-34-102 (8),
2 C.R.S.

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

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

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

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

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

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

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

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

27 (IV) THE INDIVIDUAL IS SUPERVISED BY AN INDIVIDUAL LICENSED

1 UNDER THIS ARTICLE OR A PHYSICIAN;

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

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

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

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

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

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

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

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

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

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

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

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

1 (II) HAS FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A
2 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE PERSON
3 UNABLE TO PRACTICE GENETIC COUNSELING WITH REASONABLE SKILL AND
4 SAFETY OR THAT MAY ENDANGER THE HEALTH OR SAFETY OF PERSONS
5 UNDER HIS OR HER CARE; OR

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

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

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

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

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

26 (i) HAS FAILED TO NOTIFY THE DIRECTOR OF THE SUSPENSION OR
27 REVOCATION OF THE PERSON'S PAST OR CURRENTLY HELD LICENSE,

1 CERTIFICATE, OR REGISTRATION REQUIRED TO PRACTICE GENETIC
2 COUNSELING IN THIS OR ANY OTHER JURISDICTION;

3 (j) HAS REFUSED TO SUBMIT TO A PHYSICAL OR MENTAL
4 EXAMINATION WHEN ORDERED BY THE DIRECTOR PURSUANT TO SECTION
5 12-35.3-110;

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

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

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

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

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

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

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

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

1 DIRECTOR.

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

8 (5) DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED IN
9 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND THE HEARING AND
10 OPPORTUNITY FOR REVIEW SHALL BE CONDUCTED PURSUANT TO THAT
11 ARTICLE BY THE DIRECTOR OR BY AN ADMINISTRATIVE LAW JUDGE, AT THE
12 DIRECTOR'S DISCRETION. THE DIRECTOR HAS THE AUTHORITY TO EXERCISE
13 ALL POWERS AND DUTIES CONFERRED BY THIS ARTICLE DURING THE
14 DISCIPLINARY PROCEEDINGS.

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

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

1 THE DIRECTOR BECOMES FINAL ON THAT DATE.

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

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

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

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

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

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

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

1 BY HIM OR HER WAS WARRANTED BY THE FACTS.

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

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

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

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

25 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE
26 AND DESIST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (11), THE
27 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER

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

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

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

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

1 MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER, BUT IN NO EVENT
2 SHALL THE HEARING BE HELD LATER THAN SIXTY CALENDAR DAYS AFTER
3 THE DATE OF TRANSMISSION OR SERVICE OF THE NOTIFICATION.

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

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

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

1 EFFECTIVE WHEN ISSUED AND IS A FINAL ORDER FOR PURPOSES OF
2 JUDICIAL REVIEW.

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

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

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

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

27 (b) WHEN THE DIRECTOR SENDS A LETTER OF ADMONITION TO A

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

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

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

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

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

1 TO A PERSON WHO IS EXEMPTED BY THIS ARTICLE OR ANOTHER ARTICLE OF
2 THIS TITLE FROM BEING LICENSED PURSUANT TO THIS ARTICLE.

3 **12-35.3-110. Mental and physical examination of licensees.**

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

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

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

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

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

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

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

1 ILLNESS OR CONDITION, AS DETERMINED BY THE DIRECTOR.

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

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

8 (3) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR
9 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, A GENETIC
10 COUNSELOR IS NOT ENGAGING IN ACTIVITIES THAT ARE GROUNDS FOR
11 DISCIPLINE PURSUANT TO SECTION 12-35.3-108. THE AGREEMENT DOES
12 NOT CONSTITUTE A RESTRICTION OR DISCIPLINE BY THE DIRECTOR.
13 HOWEVER, IF THE GENETIC COUNSELOR FAILS TO COMPLY WITH THE
14 TERMS OF THE AGREEMENT, THE FAILURE CONSTITUTES A PROHIBITED
15 ACTIVITY PURSUANT TO SECTION 12-35.3-108 (2) (d), AND THE GENETIC
16 COUNSELOR IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION
17 12-35.3-108.

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

21 **12-35.3-112. Professional liability insurance required - rules.**

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

1 (b) THE DIRECTOR MAY EXEMPT, ON A CASE-BY-CASE BASIS OR BY
2 RULE, AN INDIVIDUAL OR CLASS OF INDIVIDUALS FROM THE INSURANCE
3 REQUIREMENT OF THIS SECTION IF THE DIRECTOR FINDS THAT INSURANCE
4 IS NOT REASONABLY AVAILABLE, AND THE DIRECTOR MAY LATER RESCIND
5 THE EXEMPTION IF THE DIRECTOR FINDS THAT INSURANCE HAS BECOME
6 REASONABLY AVAILABLE.

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

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

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

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

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

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

1 marriage and family therapy, licensed professional counseling,
2 psychotherapy, or addiction counseling, as those practices are defined in
3 this article; OR

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

6 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **add**
7 (51.5) (j) as follows:

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

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

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

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

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

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

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

27 (XXX) AS A GENETIC COUNSELOR PURSUANT TO ARTICLE 35.3 OF

1 TITLE 12, C.R.S.

2 **SECTION 5. Appropriation.** (1) For the 2015-16 state fiscal
3 year, \$58,587 is appropriated to the department of regulatory agencies.
4 This appropriation is from the division of professions and occupations
5 cash fund created in section 24-34-105 (2) (b) (I), C.R.S. To implement
6 this act, the department may use this appropriation as follows:

7 (a) \$39,137 for use by the division of professions and occupations
8 for personal services, which amount is based on an assumption that the
9 division will require an additional 0.5 FTE;

10 (b) \$5,273 for use by the division of professions and occupations
11 for operating expenses; and

12 (c) \$14,177 for the purchase of legal services.

13 (2) For the 2015-16 state fiscal year, \$14,177 is appropriated to
14 the department of law. This appropriation is from reappropriated funds
15 received from the department of regulatory agencies under paragraph (c)
16 of subsection (1) of this section. To implement this act, the department of
17 law may use this appropriation to provide legal services for the
18 department of regulatory agencies.

19 **SECTION 6. Act subject to petition - effective date -**
20 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
21 the expiration of the ninety-day period after final adjournment of the
22 general assembly (August 5, 2015, if adjournment sine die is on May 6,
23 2015); except that, if a referendum petition is filed pursuant to section 1
24 (3) of article V of the state constitution against this act or an item, section,
25 or part of this act within such period, then the act, item, section, or part
26 will not take effect unless approved by the people at the general election
27 to be held in November 2016 and, in such case, will take effect on the

- 1 date of the official declaration of the vote thereon by the governor.
- 2 (2) This act applies to conduct occurring on or after the applicable
- 3 effective date of this act.