

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0658.01 Thomas Morris x4218

HOUSE BILL 18-1114

HOUSE SPONSORSHIP

Ginal and Buckner,

SENATE SPONSORSHIP

Todd,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF GENETIC COUNSELORS.

Bill Summary

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

The bill enacts the "Genetic Counselor Licensure Act". On and after June 1, 2019, 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

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

1 MINIMUM STANDARDS OF EDUCATION, EXPERIENCE, AND EXAMINATION
2 FOR PROFESSIONAL GENETIC COUNSELORS SO THAT THE PUBLIC CAN
3 READILY IDENTIFY THOSE WHO MEET THESE MINIMUM STANDARDS; AND

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

7 **12-35.3-103. Definitions.** AS USED IN THIS ARTICLE 35.3, 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) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
25 PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY
26 AGENCIES, CREATED IN SECTION 24-34-102, OR THE DIRECTOR'S DESIGNEE.

27 (6) "GENETIC COUNSELOR" OR "LICENSEE" MEANS AN INDIVIDUAL

1 WHO IS LICENSED PURSUANT TO THIS ARTICLE 35.3.

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

5 (8) "PRACTICE OF GENETIC COUNSELING" INCLUDES THE
6 FOLLOWING ACTIVITIES:

7 (a) OBTAINING AND INTERPRETING INDIVIDUAL, FAMILY, AND
8 MEDICAL DEVELOPMENT HISTORIES;

9 (b) DETERMINING THE MODE OF INHERITANCE AND RISK OF
10 TRANSMISSION OF GENETIC CONDITIONS;

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

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

15 (e) ASSESSING PSYCHOSOCIAL FACTORS AND RECOGNIZING SOCIAL,
16 EDUCATIONAL, AND CULTURAL ISSUES;

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

21 (g) COMMUNICATING GENETIC INFORMATION TO CLIENTS;

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

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

27 (j) PROVIDING ACCURATE WRITTEN DOCUMENTATION OF MEDICAL,

1 GENETIC, AND COUNSELING INFORMATION FOR CLIENTS, THEIR FAMILIES,
2 AND HEALTH CARE PROFESSIONALS.

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

10 **12-35.3-105. License required.** ON AND AFTER JUNE 1, 2019,
11 EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE 35.3, A PERSON SHALL
12 NOT PRACTICE GENETIC COUNSELING OR REPRESENT HIMSELF OR HERSELF
13 AS BEING ABLE TO PRACTICE GENETIC COUNSELING IN THIS STATE WITHOUT
14 POSSESSING A VALID LICENSE ISSUED BY THE DIRECTOR IN ACCORDANCE
15 WITH THIS ARTICLE 35.3 AND RULES ADOPTED PURSUANT TO THIS ARTICLE
16 35.3.

17 **12-35.3-106. Licensure of genetic counselors - application -**
18 **qualifications - rules. (1) Educational and experiential requirements.**

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

20 (I) EXCEPT AS SPECIFIED IN SUBSECTION (1)(b) OR (1)(c) OF THIS
21 SECTION, PROVIDE SATISFACTORY EVIDENCE TO THE DIRECTOR OF HAVING
22 CERTIFICATION AS A:

23 (A) GENETIC COUNSELOR BY THE ABGC OR ABMGG; OR

24 (B) MEDICAL GENETICIST BY THE ABMGG; AND

25 (II) SUBMIT AN APPLICATION AS SPECIFIED IN SUBSECTION (2) OF
26 THIS SECTION.

27 (b) THE DIRECTOR SHALL ESTABLISH, BY RULE, REQUIREMENTS FOR

1 ISSUING A PROVISIONAL LICENSE TO PRACTICE GENETIC COUNSELING TO A
2 CANDIDATE FOR LICENSURE WHO HAS BEEN GRANTED ACTIVE CANDIDATE
3 STATUS BY THE ABGC IF THE CANDIDATE MEETS THE OTHER
4 QUALIFICATIONS FOR LICENSURE. THE RULES MUST ADDRESS AT LEAST THE
5 FOLLOWING:

6 (I) THE TERMS OF, RENEWAL OF, AND FEES FOR PROVISIONAL
7 LICENSES;

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

12 (III) THE AUTOMATIC EXPIRATION OF A PROVISIONAL LICENSURE
13 UPON A SECOND OR SUBSEQUENT FAILURE TO PASS THE CERTIFICATION
14 EXAMINATION.

15 (c) THE DIRECTOR SHALL ISSUE A LICENSE TO A GENETIC
16 COUNSELOR WHO SUBMITS AN APPLICATION REQUIRED PURSUANT TO
17 SUBSECTION (2) OF THIS SECTION AND WHO:

18 (I) WAS PRACTICING GENETIC COUNSELING ON AND BEFORE THE
19 EFFECTIVE DATE OF THIS ARTICLE 35.3;

20 (II) GRADUATED FROM A COLORADO GENETIC COUNSELING
21 TRAINING PROGRAM;

22 (III) HAS MORE THAN FIFTEEN YEARS OF PRACTICE EXPERIENCE AS
23 A GENETIC COUNSELOR; AND

24 (IV) PROVIDES THREE OR MORE LETTERS OF RECOMMENDATION.

25 (2) **Application.** (a) IF AN APPLICANT HAS FULFILLED THE
26 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, THE APPLICANT MAY
27 APPLY FOR LICENSURE UPON PAYMENT OF A LICENSE APPLICATION FEE IN

1 AN AMOUNT DETERMINED BY THE DIRECTOR.

2 (b) THE APPLICATION MUST BE IN THE FORM AND MANNER
3 DESIGNATED BY THE DIRECTOR.

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

10 (4) **License renewal.** (a) A GENETIC COUNSELOR MUST RENEW HIS
11 OR HER LICENSE ISSUED PURSUANT TO THIS ARTICLE 35.3 ACCORDING TO
12 A SCHEDULE OF RENEWAL DATES ESTABLISHED BY THE DIRECTOR. THE
13 GENETIC COUNSELOR MUST SUBMIT AN APPLICATION IN THE FORM AND
14 MANNER DESIGNATED BY THE DIRECTOR AND MUST PAY A RENEWAL FEE
15 IN AN AMOUNT DETERMINED BY THE DIRECTOR.

16 (b) LICENSES ARE RENEWED OR REINSTATED IN ACCORDANCE WITH
17 THE SCHEDULE ESTABLISHED BY THE DIRECTOR, AND THE DIRECTOR SHALL
18 GRANT A RENEWAL OR REINSTATEMENT PURSUANT TO SECTION 24-34-102
19 (8). THE DIRECTOR MAY ESTABLISH RENEWAL FEES AND DELINQUENCY
20 FEES FOR REINSTATEMENT PURSUANT TO SECTION 24-34-105. IF A GENETIC
21 COUNSELOR FAILS TO RENEW HIS OR HER LICENSE PURSUANT TO THE
22 SCHEDULE ESTABLISHED BY THE DIRECTOR, THE LICENSE EXPIRES. A
23 PERSON WHOSE LICENSE EXPIRES IS SUBJECT TO THE PENALTIES PROVIDED
24 IN THIS ARTICLE 35.3 OR SECTION 24-34-102 (8).

25 (c) APPLICANTS FOR LICENSURE RENEWAL MUST SUBMIT PROOF OF
26 HAVING COMPLETED THIRTY HOURS OF NSGC-APPROVED CONTINUING
27 EDUCATION.

1 (5) **Fees.** ALL FEES COLLECTED PURSUANT TO THIS ARTICLE 35.3
2 SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE SAME
3 MANNER AS SET FORTH IN SECTION 24-34-105 AND PERIODICALLY
4 ADJUSTED IN ACCORDANCE WITH SECTION 24-75-402.

5 **12-35.3-107. Scope of article - exclusions.** (1) THIS ARTICLE
6 35.3 DOES NOT PREVENT OR RESTRICT THE PRACTICE, SERVICES, OR
7 ACTIVITIES OF:

8 (a) A PERSON LICENSED OR OTHERWISE REGULATED IN THIS STATE
9 BY ANY OTHER LAW FROM ENGAGING IN HIS OR HER PROFESSION OR
10 OCCUPATION AS DEFINED IN THE LAW PURSUANT TO WHICH HE OR SHE IS
11 LICENSED;

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

16 (I) THE ACTIVITIES AND SERVICES CONSTITUTE A PART OF A
17 SUPERVISED COURSE OF STUDY;

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

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

22 (IV) THE INDIVIDUAL IS SUPERVISED BY A GENETIC COUNSELOR OR
23 A PHYSICIAN;

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

27 (d) A LEGALLY QUALIFIED GENETIC COUNSELOR FROM ANOTHER

1 STATE OR COUNTRY WHEN PROVIDING SERVICES ON BEHALF OF A
2 TEMPORARILY ABSENT GENETIC COUNSELOR LICENSED IN THIS STATE, IF
3 THE UNLICENSED GENETIC COUNSELOR IS ACTING IN ACCORDANCE WITH
4 RULES ESTABLISHED BY THE DIRECTOR. THE UNLICENSED PRACTICE MUST
5 NOT BE OF MORE THAN FOUR WEEKS' DURATION, AND A PERSON SHALL NOT
6 UNDERTAKE UNLICENSED PRACTICE MORE THAN ONCE IN ANY
7 TWELVE-MONTH PERIOD.

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

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

17 **12-35.3-108. Grounds for discipline - disciplinary proceedings**
18 **- judicial review.** (1) THE DIRECTOR MAY TAKE DISCIPLINARY ACTION
19 AGAINST A LICENSEE IF THE DIRECTOR FINDS THAT THE LICENSEE HAS
20 REPRESENTED HIMSELF OR HERSELF AS A LICENSED GENETIC COUNSELOR
21 AFTER THE EXPIRATION, SUSPENSION, OR REVOCATION OF HIS OR HER
22 LICENSE.

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

1 (a) HAS ENGAGED IN A SEXUAL ACT WITH A PERSON RECEIVING
2 SERVICES WHILE A THERAPEUTIC RELATIONSHIP EXISTED OR WITHIN SIX
3 MONTHS IMMEDIATELY FOLLOWING TERMINATION OF THE THERAPEUTIC
4 RELATIONSHIP. FOR THE PURPOSES OF THIS SUBSECTION (2)(a):

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

7 (II) "THERAPEUTIC RELATIONSHIP" MEANS THE PERIOD BEGINNING
8 WITH THE INITIAL EVALUATION AND ENDING UPON THE WRITTEN
9 TERMINATION OF TREATMENT.

10 (b) HAS FALSIFIED INFORMATION IN AN APPLICATION OR HAS
11 ATTEMPTED TO OBTAIN OR HAS OBTAINED A LICENSE BY FRAUD,
12 DECEPTION, OR MISREPRESENTATION;

13 (c) IS AN EXCESSIVE OR HABITUAL USER OR ABUSER OF ALCOHOL
14 OR HABIT-FORMING DRUGS OR IS A HABITUAL USER OF A CONTROLLED
15 SUBSTANCE, AS DEFINED IN SECTION 18-18-102, OR OTHER DRUGS HAVING
16 SIMILAR EFFECTS;

17 (d) (I) HAS FAILED TO NOTIFY THE DIRECTOR, AS REQUIRED BY
18 SECTION 12-35.3-111 (1), OF A PHYSICAL OR MENTAL CONDITION OR
19 ILLNESS THAT IMPAIRS THE LICENSEE'S ABILITY TO PROVIDE GENETIC
20 COUNSELING SERVICES WITH REASONABLE SKILL AND SAFETY OR THAT
21 MIGHT ENDANGER THE HEALTH OR SAFETY OF INDIVIDUALS RECEIVING
22 SERVICES;

23 (II) HAS FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A
24 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE PERSON
25 UNABLE TO PRACTICE GENETIC COUNSELING WITH REASONABLE SKILL AND
26 SAFETY OR THAT MIGHT ENDANGER THE HEALTH OR SAFETY OF PERSONS
27 UNDER HIS OR HER CARE; OR

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

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

7 (f) HAS HAD A LICENSE OR REGISTRATION SUSPENDED OR REVOKED
8 IN ANOTHER JURISDICTION FOR ACTIONS THAT WOULD VIOLATE THIS
9 ARTICLE 35.3 OR WOULD CONSTITUTE GROUNDS FOR DISCIPLINE UNDER
10 THIS SECTION IF COMMITTED IN COLORADO;

11 (g) HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO
12 CONTENDERE TO A FELONY OR COMMITTED AN ACT SPECIFIED IN SECTION
13 12-35.3-109. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF
14 COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS CONCLUSIVE
15 EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
16 DISCIPLINARY ACTION, THE DIRECTOR IS GOVERNED BY SECTION 24-5-101.

17 (h) HAS FRAUDULENTLY OBTAINED, FURNISHED, OR SOLD ANY
18 GENETIC COUNSELING DIPLOMA, CERTIFICATE, LICENSE, OR RENEWAL OF
19 A LICENSE OR OTHER PROFESSIONAL CREDENTIAL;

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

24 (j) HAS REFUSED TO SUBMIT TO A PHYSICAL OR MENTAL
25 EXAMINATION IF ORDERED BY THE DIRECTOR PURSUANT TO SECTION
26 12-35.3-110;

27 (k) HAS ENGAGED IN ANY OF THE FOLLOWING ACTIVITIES AND

1 PRACTICES:

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

4 (II) ADMINISTERING DEMONSTRABLY UNNECESSARY TREATMENT
5 WITHOUT CLINICAL JUSTIFICATION; OR

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

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

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

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

18 (4) (a) THE DIRECTOR MAY COMMENCE A PROCEEDING TO
19 DISCIPLINE A LICENSEE IF THE DIRECTOR HAS REASONABLE GROUNDS TO
20 BELIEVE THAT THE LICENSEE HAS COMMITTED AN ACT ENUMERATED IN
21 THIS SECTION.

22 (b) IN ANY PROCEEDING PURSUANT TO THIS SECTION, THE
23 DIRECTOR MAY ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY
24 ACTION AGAINST A LICENSEE ANY DISCIPLINARY ACTION TAKEN AGAINST
25 THE LICENSEE IN ANOTHER JURISDICTION IF THE VIOLATION THAT
26 PROMPTED THE DISCIPLINARY ACTION IN THE OTHER JURISDICTION WOULD
27 BE GROUNDS FOR DISCIPLINARY ACTION PURSUANT TO THIS ARTICLE 35.3.

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

8 (6)(a) NO LATER THAN THIRTY DAYS FOLLOWING THE DATE OF THE
9 DIRECTOR'S ACTION, THE DIRECTOR SHALL NOTIFY A GENETIC COUNSELOR
10 DISCIPLINED PURSUANT TO THIS SECTION, BY A FIRST-CLASS LETTER TO
11 THE MOST RECENT ADDRESS PROVIDED TO THE DIRECTOR BY THE GENETIC
12 COUNSELOR, OF THE ACTION TAKEN, THE SPECIFIC CHARGES GIVING RISE
13 TO THE ACTION, AND THE GENETIC COUNSELOR'S RIGHT TO REQUEST A
14 HEARING ON THE ACTION TAKEN.

15 (b) WITHIN THIRTY DAYS AFTER THE DIRECTOR SENDS THE
16 NOTIFICATION, THE GENETIC COUNSELOR MAY FILE A WRITTEN REQUEST
17 WITH THE DIRECTOR FOR A HEARING ON THE ACTION TAKEN. UPON RECEIPT
18 OF THE REQUEST, THE DIRECTOR SHALL GRANT A HEARING TO THE GENETIC
19 COUNSELOR. IF THE GENETIC COUNSELOR FAILS TO FILE A WRITTEN
20 REQUEST FOR A HEARING WITHIN THIRTY DAYS, THE ACTION OF THE
21 DIRECTOR BECOMES FINAL ON THAT DATE.

22 (c) FAILURE OF THE GENETIC COUNSELOR TO APPEAR AT THE
23 HEARING WITHOUT GOOD CAUSE IS A WITHDRAWAL OF HIS OR HER
24 REQUEST FOR A HEARING, AND THE DIRECTOR'S ACTION BECOMES FINAL ON
25 THAT DATE. FAILURE, WITHOUT GOOD CAUSE, OF THE DIRECTOR TO
26 APPEAR AT THE HEARING IS CAUSE TO DISMISS THE PROCEEDING.

27 (7) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO

1 SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO
2 ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS ARTICLE
3 35.3. WHEN SEEKING AN INJUNCTION PURSUANT TO THIS SUBSECTION (7),
4 THE ATTORNEY GENERAL IS NOT REQUIRED TO ALLEGE OR PROVE THE
5 INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR
6 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED
7 VIOLATION OF THIS ARTICLE 35.3.

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

12 (b) (I) TO AID THE DIRECTOR IN ANY HEARING OR INVESTIGATION
13 INSTITUTED PURSUANT TO THIS SECTION, THE DIRECTOR OR AN
14 ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO SUBSECTION (8)(c)
15 OF THIS SECTION MAY ADMINISTER OATHS, TAKE AFFIRMATIONS OF
16 WITNESSES, AND ISSUE SUBPOENAS COMPELLING THE ATTENDANCE OF
17 WITNESSES AND THE PRODUCTION OF ALL RELEVANT RECORDS, PAPERS,
18 BOOKS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING,
19 INVESTIGATION, OR OTHER MATTER BEFORE THE DIRECTOR OR AN
20 ADMINISTRATIVE LAW JUDGE.

21 (II) UPON FAILURE OF ANY WITNESS OR LICENSEE TO COMPLY WITH
22 A SUBPOENA OR PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH
23 THE SUBPOENAED PERSON OR LICENSEE RESIDES OR CONDUCTS BUSINESS,
24 UPON APPLICATION BY THE DIRECTOR WITH NOTICE TO THE SUBPOENAED
25 PERSON OR LICENSEE, MAY ISSUE TO THE PERSON OR LICENSEE AN ORDER
26 REQUIRING THAT PERSON OR LICENSEE TO APPEAR BEFORE THE DIRECTOR;
27 PRODUCE THE RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY

1 EVIDENCE, OR MATERIALS IF SO ORDERED; OR GIVE EVIDENCE TOUCHING
2 THE MATTER UNDER INVESTIGATION OR IN QUESTION. IF THE PERSON OR
3 LICENSEE FAILS TO OBEY THE ORDER OF THE COURT, THE COURT MAY HOLD
4 THE PERSON OR LICENSEE IN CONTEMPT OF COURT.

5 (c) THE DIRECTOR MAY APPOINT AN ADMINISTRATIVE LAW JUDGE
6 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, TO CONDUCT
7 HEARINGS, TAKE EVIDENCE, MAKE FINDINGS, AND REPORT THE FINDINGS
8 TO THE DIRECTOR.

9 (9) (a) THE DIRECTOR, A MEMBER OF THE DIRECTOR'S STAFF, A
10 PERSON ACTING AS A WITNESS OR CONSULTANT TO THE DIRECTOR, A
11 WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED PURSUANT TO THIS
12 ARTICLE 35.3, AND A PERSON WHO LODGES A COMPLAINT PURSUANT TO
13 THIS ARTICLE 35.3 ARE IMMUNE FROM LIABILITY IN ANY CIVIL ACTION
14 BROUGHT AGAINST HIM OR HER FOR ACTS OCCURRING WHILE ACTING IN HIS
15 OR HER CAPACITY AS DIRECTOR, STAFF, CONSULTANT, WITNESS, OR
16 COMPLAINANT, RESPECTIVELY, IF THE INDIVIDUAL WAS ACTING IN GOOD
17 FAITH WITHIN THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY, MADE A
18 REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH
19 HE OR SHE ACTED, AND ACTED IN THE REASONABLE BELIEF THAT THE
20 ACTION TAKEN BY HIM OR HER WAS WARRANTED BY THE FACTS.

21 (b) A PERSON PARTICIPATING IN GOOD FAITH IN MAKING A
22 COMPLAINT OR REPORT OR IN AN INVESTIGATIVE OR ADMINISTRATIVE
23 PROCEEDING PURSUANT TO THIS SECTION IS IMMUNE FROM ANY CIVIL OR
24 CRIMINAL LIABILITY THAT OTHERWISE MIGHT RESULT BY REASON OF THE
25 PARTICIPATION.

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

1 (11) IF A COMPLAINT OR AN INVESTIGATION DISCLOSES AN
2 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR,
3 WARRANTS FORMAL ACTION, THE DIRECTOR SHALL NOT RESOLVE THE
4 COMPLAINT BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR
5 PROSECUTION.

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

16 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
17 DESIST PURSUANT TO SUBSECTION (12)(a) OF THIS SECTION, THE
18 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
19 ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE 35.3 HAVE OCCURRED.
20 THE HEARING SHALL BE CONDUCTED PURSUANT TO SECTIONS 24-4-104
21 AND 24-4-105.

22 (13) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
23 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
24 A PERSON HAS VIOLATED ANY PROVISION OF THIS ARTICLE 35.3, THEN, IN
25 ADDITION TO EXERCISING ANY OTHER POWER GRANTED BY THIS ARTICLE
26 35.3, THE DIRECTOR MAY ISSUE TO THE PERSON AN ORDER TO SHOW CAUSE
27 AS TO WHY THE DIRECTOR SHOULD NOT ISSUE A FINAL ORDER DIRECTING

1 THE PERSON TO CEASE AND DESIST FROM THE UNLAWFUL ACT OR
2 UNLICENSED PRACTICE.

3 (b) THE DIRECTOR SHALL PROMPTLY NOTIFY A PERSON AGAINST
4 WHOM AN ORDER TO SHOW CAUSE HAS BEEN ISSUED PURSUANT TO
5 SUBSECTION (13)(a) OF THIS SECTION OF THE ISSUANCE OF THE ORDER
6 ALONG WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL BASIS FOR
7 THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A HEARING ON THE
8 ORDER. THE DIRECTOR MAY SERVE THE NOTICE BY PERSONAL SERVICE, BY
9 FIRST-CLASS, POSTAGE PREPAID UNITED STATES MAIL, OR IN ANOTHER
10 MANNER AS MAY BE PRACTICABLE. PERSONAL SERVICE OR MAILING OF AN
11 ORDER OR DOCUMENT PURSUANT TO THIS SUBSECTION (13)(b)
12 CONSTITUTES NOTICE OF THE ORDER TO THE PERSON.

13 (c) (I) THE HEARING ON AN ORDER TO SHOW CAUSE SHALL BE HELD
14 NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE CALENDAR DAYS
15 AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE NOTIFICATION BY
16 THE DIRECTOR AS PROVIDED IN SUBSECTION (13)(b) OF THIS SECTION. THE
17 HEARING MAY BE CONTINUED BY AGREEMENT OF ALL PARTIES BASED UPON
18 THE COMPLEXITY OF THE MATTER, NUMBER OF PARTIES TO THE MATTER,
19 AND LEGAL ISSUES PRESENTED IN THE MATTER, BUT IN NO EVENT SHALL
20 THE HEARING BE HELD LATER THAN SIXTY CALENDAR DAYS AFTER THE
21 DATE OF TRANSMISSION OR SERVICE OF THE NOTIFICATION.

22 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
23 BEEN ISSUED PURSUANT TO SUBSECTION (13)(a) OF THIS SECTION DOES
24 NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE
25 THAT NOTIFICATION WAS PROPERLY SENT OR SERVED ON THE PERSON
26 PURSUANT TO SUBSECTION (13)(b) OF THIS SECTION AND SUCH OTHER
27 EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS

1 APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS
2 AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE
3 ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER BECOMES FINAL
4 AS TO THAT PERSON BY OPERATION OF LAW. THE HEARING SHALL BE
5 CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105.

6 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
7 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
8 HAS ACTED WITHOUT THE REQUIRED LICENSE, OR HAS ENGAGED OR IS
9 ABOUT TO ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF
10 THIS ARTICLE 35.3, THE DIRECTOR MAY ISSUE A FINAL CEASE-AND-DESIST
11 ORDER DIRECTING THE PERSON TO CEASE AND DESIST FROM FURTHER
12 UNLAWFUL ACTS OR UNLICENSED PRACTICES.

13 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
14 FORTH IN SUBSECTION (13)(b) OF THIS SECTION, OF THE FINAL
15 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
16 HEARING CONDUCTED PURSUANT TO THIS SUBSECTION (13)(c) TO EACH
17 PERSON AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL
18 ORDER ISSUED PURSUANT TO SUBSECTION (13)(c)(III) OF THIS SECTION IS
19 EFFECTIVE WHEN ISSUED AND IS A FINAL ORDER FOR PURPOSES OF JUDICIAL
20 REVIEW.

21 (14) THE DIRECTOR MAY ENTER INTO A STIPULATION WITH A
22 PERSON IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE EVIDENCE
23 PRESENTED TO THE DIRECTOR, THAT THE PERSON HAS ENGAGED OR IS
24 ABOUT TO ENGAGE IN AN UNLICENSED ACT OR PRACTICE OR AN ACT OR
25 PRACTICE CONSTITUTING A VIOLATION OF THIS ARTICLE 35.3, A RULE
26 PROMULGATED PURSUANT TO THIS ARTICLE 35.3, OR AN ORDER ISSUED
27 PURSUANT TO THIS ARTICLE 35.3.

1 (15) IF A PERSON FAILS TO COMPLY WITH A FINAL
2 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
3 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE
4 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
5 AND IF SO REQUESTED THE ATTORNEY SHALL BRING, SUIT FOR A
6 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
7 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

8 (16) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST
9 ORDER MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION
10 OR OF THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SUBSECTION (10) OF
11 THIS SECTION.

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

17 (b) IF THE DIRECTOR SENDS A LETTER OF ADMONITION TO A
18 LICENSEE, THE DIRECTOR SHALL NOTIFY THE LICENSEE OF THE LICENSEE'S
19 RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF
20 THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO
21 ADJUDICATE THE PROPRIETY OF THE CONDUCT DESCRIBED IN THE LETTER
22 OF ADMONITION.

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

26 (18) THE DIRECTOR MAY SEND A CONFIDENTIAL LETTER OF
27 CONCERN TO A LICENSEE IF A COMPLAINT OR INVESTIGATION DISCLOSES

1 AN INSTANCE OF CONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
2 NOT WARRANT FORMAL ACTION BY THE DIRECTOR AND SHOULD BE
3 DISMISSED, BUT THE DIRECTOR HAS NOTICED CONDUCT BY THE LICENSEE
4 THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED.

5 (19) A PERSON WHOSE LICENSE IS REVOKED OR WHO SURRENDERS
6 HIS OR HER LICENSE TO AVOID DISCIPLINE PURSUANT TO THIS SECTION IS
7 INELIGIBLE TO APPLY FOR A LICENSE PURSUANT TO THIS ARTICLE 35.3 FOR
8 AT LEAST TWO YEARS AFTER THE DATE THE LICENSE IS REVOKED OR
9 SURRENDERED.

10 **12-35.3-109. Unauthorized practice - penalties.** A PERSON WHO
11 PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE GENETIC COUNSELING
12 WITHOUT AN ACTIVE LICENSE AS REQUIRED BY AND ISSUED PURSUANT TO
13 THIS ARTICLE 35.3 FOR GENETIC COUNSELORS COMMITS A CLASS 2
14 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
15 18-1.3-501, FOR THE FIRST OFFENSE. FOR THE SECOND OR ANY
16 SUBSEQUENT OFFENSE, THE PERSON COMMITS A CLASS 1 MISDEMEANOR
17 AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501. THIS
18 SECTION DOES NOT APPLY TO A PERSON WHO IS EXEMPTED BY THIS
19 ARTICLE 35.3 OR ANOTHER ARTICLE OF THIS TITLE 12 FROM BEING
20 LICENSED PURSUANT TO THIS ARTICLE 35.3.

21 **12-35.3-110. Mental and physical examination of licensees.**

22 (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A
23 LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY,
24 THE DIRECTOR MAY ORDER THE LICENSEE TO TAKE A MENTAL OR PHYSICAL
25 EXAMINATION ADMINISTERED BY A PHYSICIAN OR OTHER LICENSED
26 HEALTH CARE PROFESSIONAL DESIGNATED BY THE DIRECTOR. EXCEPT
27 WHERE DUE TO CIRCUMSTANCES BEYOND THE LICENSEE'S CONTROL, IF THE

1 LICENSEE FAILS OR REFUSES TO UNDERGO A MENTAL OR PHYSICAL
2 EXAMINATION, THE DIRECTOR MAY SUSPEND THE LICENSEE'S LICENSE
3 UNTIL THE DIRECTOR HAS MADE A DETERMINATION OF THE LICENSEE'S
4 FITNESS TO PRACTICE. THE DIRECTOR SHALL PROCEED WITH AN ORDER FOR
5 EXAMINATION AND SHALL MAKE HIS OR HER DETERMINATION IN A TIMELY
6 MANNER.

7 (2) IN AN ORDER REQUIRING A LICENSEE TO UNDERGO A MENTAL
8 OR PHYSICAL EXAMINATION, THE DIRECTOR SHALL STATE THE BASIS OF
9 THE DIRECTOR'S REASONABLE CAUSE TO BELIEVE THAT THE LICENSEE IS
10 UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY. FOR
11 PURPOSES OF A DISCIPLINARY PROCEEDING AUTHORIZED PURSUANT TO
12 THIS ARTICLE 35.3, THE LICENSEE IS DEEMED TO HAVE WAIVED ALL
13 OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING PHYSICIAN'S OR
14 LICENSED HEALTH CARE PROFESSIONAL'S TESTIMONY OR EXAMINATION
15 REPORTS ON THE GROUNDS THAT THEY ARE PRIVILEGED
16 COMMUNICATIONS.

17 (3) THE LICENSEE MAY SUBMIT TO THE DIRECTOR TESTIMONY OR
18 EXAMINATION REPORTS FROM A PHYSICIAN CHOSEN BY THE LICENSEE AND
19 PERTAINING TO ANY CONDITION THAT THE DIRECTOR HAS ALLEGED MAY
20 PRECLUDE THE LICENSEE FROM PRACTICING WITH REASONABLE SKILL AND
21 SAFETY. THE DIRECTOR MAY CONSIDER THE TESTIMONY AND REPORTS
22 SUBMITTED BY THE LICENSEE IN CONJUNCTION WITH, BUT NOT IN LIEU OF,
23 TESTIMONY AND EXAMINATION REPORTS OF THE PHYSICIAN DESIGNATED
24 BY THE DIRECTOR.

25 (4) THE RESULTS OF A MENTAL OR PHYSICAL EXAMINATION
26 ORDERED BY THE DIRECTOR SHALL NOT BE USED AS EVIDENCE IN ANY
27 PROCEEDING OTHER THAN ONE BEFORE THE DIRECTOR, ARE NOT A PUBLIC

1 RECORD, AND SHALL NOT BE MADE AVAILABLE TO THE PUBLIC.

2 **12-35.3-111. Confidential agreement to limit practice -**
3 **violation - grounds for discipline.** (1) IF A GENETIC COUNSELOR HAS A
4 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE PERSON
5 UNABLE TO PRACTICE GENETIC COUNSELING WITH REASONABLE SKILL AND
6 SAFETY TO CLIENTS, THE GENETIC COUNSELOR SHALL NOTIFY THE
7 DIRECTOR OF THE ILLNESS OR CONDITION IN A MANNER AND WITHIN A
8 PERIOD DETERMINED BY THE DIRECTOR. THE DIRECTOR MAY REQUIRE THE
9 GENETIC COUNSELOR TO SUBMIT TO AN EXAMINATION PURSUANT TO
10 SECTION 12-35.3-110 TO EVALUATE THE EXTENT OF THE ILLNESS OR
11 CONDITION AND ITS IMPACT ON THE GENETIC COUNSELOR'S ABILITY TO
12 PRACTICE GENETIC COUNSELING WITH REASONABLE SKILL AND SAFETY TO
13 CLIENTS.

14 (2) (a) UPON DETERMINING THAT A GENETIC COUNSELOR WITH A
15 PHYSICAL OR MENTAL ILLNESS OR CONDITION IS ABLE TO RENDER LIMITED
16 SERVICES WITH REASONABLE SKILL AND SAFETY TO CLIENTS, THE
17 DIRECTOR MAY ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE
18 GENETIC COUNSELOR IN WHICH THE GENETIC COUNSELOR AGREES TO LIMIT
19 HIS OR HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE
20 ILLNESS OR CONDITION, AS DETERMINED BY THE DIRECTOR.

21 (b) AS PART OF THE AGREEMENT, THE GENETIC COUNSELOR IS
22 SUBJECT TO PERIODIC REEVALUATION OR MONITORING AS DETERMINED
23 APPROPRIATE BY THE DIRECTOR.

24 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS
25 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF
26 MONITORING.

27 (3) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR

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

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

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

13 (1) (a) EXCEPT AS SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION, A
14 PERSON SHALL NOT PRACTICE GENETIC COUNSELING UNLESS THE PERSON
15 PURCHASES AND MAINTAINS, OR IS COVERED BY, PROFESSIONAL LIABILITY
16 INSURANCE IN AN AMOUNT DETERMINED BY THE DIRECTOR BY RULE THAT
17 COVERS ALL ACTS WITHIN THE SCOPE OF PRACTICE OF THE GENETIC
18 COUNSELOR.

19 (b) THE DIRECTOR MAY EXEMPT, ON A CASE-BY-CASE BASIS OR BY
20 RULE, AN INDIVIDUAL OR CLASS OF INDIVIDUALS FROM THE INSURANCE
21 REQUIREMENT OF THIS SECTION IF THE DIRECTOR FINDS THAT INSURANCE
22 IS NOT REASONABLY AVAILABLE, AND THE DIRECTOR MAY LATER RESCIND
23 THE EXEMPTION IF THE DIRECTOR FINDS THAT INSURANCE HAS BECOME
24 REASONABLY AVAILABLE.

25 (2) THIS SECTION DOES NOT APPLY TO A GENETIC COUNSELOR WHO
26 IS A PUBLIC EMPLOYEE ACTING WITHIN THE COURSE AND SCOPE OF THE
27 PUBLIC EMPLOYEE'S DUTIES AND WHO IS GRANTED IMMUNITY PURSUANT

1 TO THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF
2 TITLE 24.

3 **12-35.3-113. Rule-making authority.** THE DIRECTOR SHALL
4 PROMULGATE RULES AS NECESSARY FOR THE ADMINISTRATION OF THIS
5 ARTICLE 35.3.

6 **12-35.3-114. Repeal of article - review of functions.** THIS
7 ARTICLE 35.3 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022. BEFORE THE
8 REPEAL, THE DIRECTOR'S POWERS, DUTIES, AND FUNCTIONS PURSUANT TO
9 THIS ARTICLE 35.3 ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH
10 SECTION 24-34-104.

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

13 **12-43-215. Scope of article - exemptions.** (10) ~~The provisions~~
14 ~~of This article do~~ ARTICLE 43 DOES not apply to:

15 (a) A professional coach, including a life coach, executive coach,
16 personal coach, or business coach, who has had coach-specific training
17 and who serves clients exclusively as a coach, as long as the professional
18 coach does not engage in the practice of psychology, social work,
19 marriage and family therapy, licensed professional counseling,
20 psychotherapy, or addiction counseling, as those practices are defined in
21 this ~~article~~ ARTICLE 43; OR

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

24 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **add**
25 (23)(a)(XI) as follows:

26 **24-34-104. General assembly review of regulatory agencies**
27 **and functions for termination, continuation, or reestablishment.**

1 (23) (a) The following agencies, functions, or both, are scheduled for
2 repeal on September 1, 2022:

3 (XI) THE REGULATION OF GENETIC COUNSELORS BY THE DIRECTOR
4 OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS PURSUANT TO
5 ARTICLE 35.3 OF TITLE 12.

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

8 **24-34-110. Medical transparency act of 2010 - disclosure of**
9 **information about health care licensees - fines - rules - short title -**
10 **legislative declaration.** (3) (a) As used in this section, "applicant" means
11 a person applying for a new, active license, certification, or registration
12 or to renew, reinstate, or reactivate an active license, certification, or
13 registration to practice:

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

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

18 (XXX) AS A GENETIC COUNSELOR PURSUANT TO ARTICLE 35.3 OF
19 TITLE 12.

20 **SECTION 5. Act subject to petition - effective date -**
21 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
22 the expiration of the ninety-day period after final adjournment of the
23 general assembly (August 8, 2018, if adjournment sine die is on May 9,
24 2018); except that, if a referendum petition is filed pursuant to section 1
25 (3) of article V of the state constitution against this act or an item, section,
26 or part of this act within such period, then the act, item, section, or part
27 will not take effect unless approved by the people at the general election

1 to be held in November 2018 and, in such case, will take effect on the
2 date of the official declaration of the vote thereon by the governor.

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