

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 20-0737.01 Thomas Morris x4218

SENATE BILL 20-040

SENATE SPONSORSHIP

Ginal and Todd, Hansen, Priola, Tate, Winter

HOUSE SPONSORSHIP

Buckner and Michaelson Jenet,

Senate Committees

Health & Human Services
Finance
Appropriations

House 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://leg.colorado.gov>.)

The bill enacts the "Genetic Counselor Licensure Act". On and after June 1, 2021, a person cannot practice genetic counseling without being licensed by the director of the division of professions and occupations in the department of regulatory agencies. To be licensed, a person must have been certified by a national body; except that the director may issue a provisional license to a candidate for certification

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

SENATE
3rd Reading Unamended
March 4, 2020

SENATE
Amended 2nd Reading
March 3, 2020

pursuant to requirements established by rule.

The bill gives title protection to genetic counselors and standard licensing, rule-making, and disciplinary powers to the director. Genetic counselors must have insurance. The bill repeals the act on September 1, 2027, subject to sunset review. Genetic counselors are subject to the mandatory disclosures of the "Michael Skolnik Medical Transparency Act of 2010".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 228 to
3 title 12 as follows:

4 **ARTICLE 228**

5 **Genetic Counselor Licensure Act**

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

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

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

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

18 (c) DECLARES THAT:

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

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

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

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

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

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

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

20 (4) "ACTIVE CANDIDATE STATUS" MEANS THAT AN INDIVIDUAL
21 HAS SUBMITTED TO THE ABGC ALL DOCUMENTATION REQUIRED TO TAKE
22 AND HAS BEEN APPROVED BY ABGC TO TAKE THE ABGC CERTIFICATION
23 EXAMINATION IN A SPECIFIC TIME FRAME.

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

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

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

1 TRANSMISSION OF GENETIC CONDITIONS;

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

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

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

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

12 (g) COMMUNICATING GENETIC INFORMATION TO CLIENTS;

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

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

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

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

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

27 **12-228-105. Use of titles restricted.** ON AND AFTER JUNE 1, 2021,

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

8 **12-228-106. License required.** ON AND AFTER JUNE 1, 2021,
9 EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE 228, A PERSON SHALL
10 NOT ENGAGE IN THE PRACTICE OF GENETIC COUNSELING OR REPRESENT
11 THAT THE PERSON IS ABLE TO PRACTICE GENETIC COUNSELING IN THIS
12 STATE WITHOUT POSSESSING A VALID LICENSE ISSUED BY THE DIRECTOR
13 IN ACCORDANCE WITH THIS ARTICLE 228 AND RULES ADOPTED PURSUANT
14 TO THIS ARTICLE 228.

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

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

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

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

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

1 FOLLOWING:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 SUPERVISED COURSE OF STUDY;

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

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

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

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

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

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

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

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

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

3 **- cease-and-desist orders - definitions.** (1) THE DIRECTOR MAY TAKE
4 DISCIPLINARY OR OTHER ACTION AGAINST A PERSON AS AUTHORIZED BY
5 SECTION 12-20-404 IF THE DIRECTOR FINDS THAT THE PERSON HAS
6 REPRESENTED THAT THE PERSON IS A GENETIC COUNSELOR AFTER THE
7 EXPIRATION, SUSPENSION, OR REVOCATION OF THE PERSON'S LICENSE.

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

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

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

18 (II) "THERAPEUTIC RELATIONSHIP" MEANS THE PERIOD BEGINNING
19 WITH THE INITIAL EVALUATION AND ENDING UPON THE WRITTEN
20 TERMINATION OF TREATMENT.

21 (b) HAS FALSIFIED INFORMATION IN AN APPLICATION OR HAS
22 ATTEMPTED TO OBTAIN OR HAS OBTAINED A LICENSE BY FRAUD,
23 DECEPTION, OR MISREPRESENTATION;

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

1 (d) HAS FAILED TO:

2 (I) NOTIFY THE DIRECTOR OF A PHYSICAL ILLNESS, PHYSICAL
3 CONDITION, SUBSTANCE USE DISORDER, AS DEFINED IN SECTION 27-82-102,
4 OR BEHAVIORAL OR MENTAL HEALTH DISORDER THAT IMPAIRS THE
5 LICENSEE'S ABILITY TO PROVIDE GENETIC COUNSELING WITH REASONABLE
6 SKILL AND SAFETY OR THAT MIGHT ENDANGER THE HEALTH OR SAFETY OF
7 INDIVIDUALS RECEIVING THE COUNSELING;

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

14 (III) COMPLY WITH THE LIMITATIONS AGREED TO UNDER A
15 CONFIDENTIAL AGREEMENT ENTERED INTO PURSUANT TO SECTIONS
16 12-30-108 AND 12-228-111;

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

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

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

1 CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
2 DISCIPLINARY ACTION, THE DIRECTOR IS GOVERNED BY SECTIONS
3 12-20-202 (5) AND 24-5-101.

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

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

11 (j) HAS REFUSED TO SUBMIT TO A MENTAL OR PHYSICAL
12 EXAMINATION IF ORDERED BY THE DIRECTOR PURSUANT TO SECTION
13 12-228-110;

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

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

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

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

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

1 IMPOSED.

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

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

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

20 (6) THE DIRECTOR MAY:

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

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

25 (c) ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES
26 AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION
27 12-20-405.

1 (7) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL
2 REVIEW IN ACCORDANCE WITH SECTION 12-20-408.

3 **12-228-110. 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 PHYSICAL
7 EXAMINATION ADMINISTERED BY A HEALTH CARE PROVIDER DESIGNATED
8 BY THE DIRECTOR. EXCEPT WHERE DUE TO CIRCUMSTANCES BEYOND THE
9 LICENSEE'S CONTROL, IF THE LICENSEE FAILS OR REFUSES TO UNDERGO A
10 MENTAL OR PHYSICAL EXAMINATION, THE DIRECTOR MAY SUSPEND THE
11 GENETIC COUNSELOR'S LICENSE UNTIL THE DIRECTOR HAS MADE A
12 DETERMINATION OF THE LICENSEE'S FITNESS TO PRACTICE. THE DIRECTOR
13 SHALL PROCEED WITH AN ORDER FOR EXAMINATION AND SHALL MAKE A
14 DETERMINATION 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 PURSUANT TO
20 THIS ARTICLE 228, THE LICENSEE IS DEEMED TO HAVE WAIVED ALL
21 OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING HEALTH CARE
22 PROVIDER'S TESTIMONY OR EXAMINATION REPORTS ON THE GROUNDS
23 THAT THEY ARE PRIVILEGED COMMUNICATIONS.

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

1 REASONABLE SKILL AND SAFETY. THE DIRECTOR MAY CONSIDER THE
2 TESTIMONY AND REPORTS SUBMITTED BY THE LICENSEE IN CONJUNCTION
3 WITH, BUT NOT IN LIEU OF, TESTIMONY AND EXAMINATION REPORTS OF THE
4 HEALTH CARE PROVIDER DESIGNATED 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 **12-228-111. Confidential agreement to limit practice.**

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

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

16 **12-228-112. Professional liability insurance required - rules.**

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

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

27 **12-228-113. Unauthorized practice.** A PERSON WHO PRACTICES

1 OR OFFERS OR ATTEMPTS TO PRACTICE GENETIC COUNSELING WITHOUT AN
2 ACTIVE LICENSE ISSUED PURSUANT TO THIS ARTICLE 228 IS SUBJECT TO
3 PENALTIES PURSUANT TO SECTION 12-20-407 (1)(b).

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

6 **12-228-115. Repeal of article - review of functions.** THIS
7 ARTICLE 228 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2027. BEFORE THE
8 REPEAL, THE DIRECTOR'S POWERS, DUTIES, AND FUNCTIONS PURSUANT TO
9 THIS ARTICLE 228 ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH
10 SECTION 24-34-104.

11 **SECTION 2.** In Colorado Revised Statutes, 12-20-404, **add**
12 (1)(c)(II)(D.5) as follows:

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

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

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

24 **SECTION 3.** In Colorado Revised Statutes, 12-20-407, **add**
25 (1)(b)(II.5) as follows:

26 **12-20-407. Unauthorized practice of profession or occupation**
27 **- penalties - exclusions.** (1) (b) A person commits a class 2 misdemeanor

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

5 (II.5) PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE GENETIC
6 COUNSELING WITHOUT AN ACTIVE LICENSE ISSUED PURSUANT TO ARTICLE
7 228 OF THIS TITLE 12;

8 **SECTION 4.** In Colorado Revised Statutes, 12-30-102, **amend**
9 (3)(a)(XXVIII) and (3)(a)(XXIX); and **add** (3)(a)(XXX) as follows:

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

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

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

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

22 **SECTION 5.** In Colorado Revised Statutes, 12-245-217, **amend**
23 (2) introductory portion, (2)(e)(IV), and (2)(f); and **add** (2)(g) as follows:

24 **12-245-217. Scope of article - exemptions.** (2) ~~The provisions~~
25 ~~of This article 245 shall~~ DOES not apply to:

26 (e) A person who resides in another state and who is currently
27 licensed or certified as a psychologist, marriage and family therapist,

1 clinical social worker, professional counselor, or addiction counselor in
2 that state to the extent that the licensed or certified person performs
3 activities or services in this state, if the activities and services are:

4 (IV) Disclosed to the public that the person is not licensed or
5 certified in this state; ~~or~~

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

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

15 **SECTION 6.** In Colorado Revised Statutes, 24-34-104, **add**
16 (28)(a)(III) as follows:

17 **24-34-104. General assembly review of regulatory agencies**
18 **and functions for repeal, continuation, or reestablishment - legislative**
19 **declaration - repeal.** (28) (a) The following agencies, functions, or both,
20 are scheduled for repeal on September 1, 2027:

21 (III) THE POWERS, DUTIES, AND FUNCTIONS OF THE DIRECTOR OF
22 THE DIVISION OF PROFESSIONS AND OCCUPATIONS PURSUANT TO ARTICLE
23 228 OF TITLE 12.

24 **SECTION 7. Appropriation. (1) For the 2020-21 state fiscal**
25 **year, \$35,895 is appropriated to the department of regulatory agencies.**
26 **This appropriation is from the division of professions and occupation**
27 **cash fund created in section 24-34-105(2)(b), C.R.S. To implement this**

1 act, the department may use this appropriation as follows:

2 (a) \$13,705 for use by the division of professions and occupations
3 for personal services, which amount is based on an assumption that the
4 division will require an additional 0.2 FTE;

5 (b) \$6,200 for use by the division for operating expenses; and

6 (c) \$15,990 for the purchase of legal services.

7 (2) For the 2020-21 state fiscal year, \$15,990 is appropriated to
8 the department of law. This appropriation is from reappropriated funds
9 received from the department of regulatory agencies under subsection
10 (1)(c) of this section and is based on an assumption that the department
11 of law will require an additional 0.1 FTE. To implement this act, the
12 department of law may use this appropriation to provide legal services for
13 the department of regulatory agencies.

14 **SECTION 8. Act subject to petition - effective date -**
15 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
16 the expiration of the ninety-day period after final adjournment of the
17 general assembly (August 5, 2020, if adjournment sine die is on May 6,
18 2020); except that, if a referendum petition is filed pursuant to section 1
19 (3) of article V of the state constitution against this act or an item, section,
20 or part of this act within such period, then the act, item, section, or part
21 will not take effect unless approved by the people at the general election
22 to be held in November 2020 and, in such case, will take effect on the
23 date of the official declaration of the vote thereon by the governor.

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