

HOUSE CS FOR CS FOR SENATE BILL NO. 331(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/5/98

Referred: Rules

**Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE BY
REQUEST**

A BILL

FOR AN ACT ENTITLED

**1 "An Act regulating licensed professional counselors; regulating use of the titles
2 'licensed professional counselor' and 'licensed counselor'; amending Rule 504(a)(3),
3 Alaska Rules of Evidence; and providing for an effective date."**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. AS 08 is amended by adding a new chapter to read:

6 Chapter 29. Licensed Professional Counselors.

7 Article 1. Board of Professional Counselors.

8 Sec. 08.29.010. Board creation; membership. (a) There is established the
9 Board of Professional Counselors consisting of five members appointed by the
10 governor, one of whom is a public member and four of whom are licensed professional
11 counselors.

12 (b) In addition to the requirements for public members under AS 08.01.025,
13 the public member of the board may not

14 (1) ever have been a licensed professional counselor or employed in a

commercial or professional field related to counseling; or

(2) live in a household with a person who is or has been, or have an immediate family member who is or has been, a licensed professional counselor or employed in a commercial or professional field related to professional counseling; in this paragraph, "immediate family member" means a parent, sibling, or child related by blood, marriage, or adoption.

(c) Of the four counselor members of the board, at least one shall be employed in the private sector and at least one shall be employed in the public sector.

Sec. 08.29.020. Duties of the board. (a) In addition to the duties specified in AS 08.01, the board shall

(1) license professional counselors, establish criteria for supervisor certification, and certify approved counselor supervisors under this chapter; the board may provide for licensure in areas of counseling specialization;

(2) establish continuing education requirements for the renewal of a license under this chapter;

(3) adopt, by regulation, a code of ethics that must be observed by persons licensed under this chapter;

(4) establish education and training requirements that must be met before a professional counselor can administer and use assessment instruments described in AS 08.29.490(1)(C).

(b) The board may delegate to the Department of Commerce and Economic Development, and the department may perform, a duty for which the board has authority.

Article 2. Licensing Requirements.

Sec. 08.29.100. Unlicensed use of title prohibited. (a) A person who is not licensed under this chapter may not

(1) profess to be a licensed professional counselor or a licensed counselor; or

(2) make use of a title, words, letters, or abbreviations that may reasonably be confused with the title of "licensed professional counselor" or "licensed counselor."

(b) Violation of this section is a class B misdemeanor, except that a third or subsequent conviction for violating this section is a class C felony.

Sec. 08.29.110. Qualifications for licensure. (a) The board shall issue a professional counselor license to a person who applies for the license, submits the required fee, submits two letters of recommendation from professional counselors who are familiar with the applicant's practice of professional counseling, and presents evidence satisfactory to the board that the person

(1) is at least 18 years of age;

(2) is not under investigation in this or another jurisdiction for an act that would constitute a violation of this chapter;

(3) has passed a written examination as required by the board; the board may provide that passing a nationally recognized examination for professional counselors is sufficient to meet the examination requirement of this paragraph;

(4) has successfully completed either

(A) an earned doctoral degree in counseling or a related professional field from a regionally accredited institution of higher education approved by the board; or

(B) an earned master's degree in counseling or a related professional field consisting of at least 48 semester hours and at least 12 other graduate semester hours in counseling during or after earning the master's degree, for a total of at least 60 hours; and

(5) has at least 3,000 hours of supervised experience in the practice of professional counseling performed over a period of at least two years under the supervision of a supervisor approved under AS 08.29.210, with at least 1,000 hours of direct counseling with individuals, couples, families, or groups and at least 100 hours of face-to-face supervision by a supervisor approved under AS 08.29.210 unless, under regulations of the board, the board allows the supervision to be by telephonic or electronic means because of the remote location of the counselor.

(b) The board may, in its regulations, specify the areas of study that must be covered in order to meet the educational requirements of (a) of this section.

Sec. 08.29.120. Licensure by credential. (a) Except as provided in (b) of

1 this section, the board may issue a license under this chapter to a person who is
 2 licensed in another jurisdiction to practice professional counseling if the board finds
 3 that the other jurisdiction has substantially the same or higher licensure requirements
 4 as this state.

5 (b) The board may not license under this section a person who is under
 6 investigation in this or another jurisdiction for an act that would constitute a violation
 7 of this chapter until the investigation is complete and disciplinary sanctions, if any, are
 8 imposed and the person has complied with the sanctions.

9 **Sec. 08.29.130. Licensure of foreign-educated applicants.** The board may
 10 issue a license under this chapter to a person who

11 (1) has completed a doctorate or master's degree educational program
 12 in counseling or a related professional field in a foreign college or university approved
 13 by the board;

14 (2) meets the requirements of AS 08.29.110 except for
 15 AS 08.29.110(a)(4); and

16 (3) demonstrates to the satisfaction of the board that the applicant's
 17 experience, command of the English language, and completed academic program meet
 18 the standards of a relevant academic program of an accredited educational institution
 19 in the United States.

20 **Sec. 08.29.140. License renewal.** Renewal of a license under this chapter may
 21 not be granted unless the licensee, within the 24 months immediately preceding the
 22 renewal date, has completed the continuing education requirements established by the
 23 board.

24 **Article 3. Miscellaneous Provisions.**

25 **Sec. 08.29.200. Confidentiality of communications.** (a) A person licensed
 26 under this chapter may not reveal to another person a communication made to the
 27 licensee by a client about a matter concerning which the client has employed the
 28 licensee in a professional capacity. This section does not apply to

29 (1) a communication to a potential victim, the family of a potential
 30 victim, law enforcement authorities, or other appropriate authorities concerning a clear
 31 and immediate probability of physical harm to the client, other individuals, or society;

(2) a case conference or case consultation with other mental health professionals at which the patient is not identified;

(3) the release of information that the client in writing authorized the licensee to reveal;

(4) information released to the board during the investigation of a complaint or as part of a disciplinary or other proceeding; or

(5) situations where the rules of evidence applicable to the psychotherapist-patient privilege allow the release of the information.

(b) Notwithstanding (a) of this section, a person licensed under this chapter shall report incidents of

(1) child abuse or neglect as required by AS 47.17;

(2) harm or assaults suffered by an elderly person or disabled adult as required by AS 47.24.

(c) Information obtained by the board under (a)(4) of this section is confidential and is not a public record for purposes of AS 09.25.110 - 09.25.140.

Sec. 08.29.210. Supervisor certification. (a) The board shall approve and certify a person as an approved counselor supervisor for the purposes of this chapter if the person

(1) is licensed under this chapter as a professional counselor or is a licensed clinical social worker, licensed marital and family therapist, licensed psychologist, or licensed psychological associate;

(2) submits an application for certification and the appropriate fee;

(3) has five years of counseling experience;

(4) provides to the board for its approval or disapproval a statement that details the person's supervision philosophy, orientation, and experience; and

(5) meets other criteria that may be established by the board in regulations.

(b) Certification under (a) of this section remains in effect, without the need for renewal of the certification, until the person's licensure as a professional counselor is revoked, suspended, or otherwise lapses.

Sec. 08.29.220. Disclosure statement. A client may not be charged a fee for

professional counseling services unless, before the performance of the services, the client was furnished a copy of a professional disclosure statement that contained

(1) the name, title, business address, and business telephone number of the professional counselor;

(2) a description of the formal professional education of the professional counselor, including the institutions attended and the degrees received from them;

(3) the professional counselor's areas of specialization and the services available;

(4) the professional counselor's fee schedule listed by type of service or hourly rate;

(5) at the bottom of the first page of the statement, the following sentence: "This information is required by the Board of Professional Counselors which regulates all licensed professional counselors," followed by the name, address, and telephone number of the board's office.

Sec. 08.29.230. Limitation of practice. Notwithstanding that a specific act is within the definition of the "practice of professional counseling," a person licensed under this chapter may not perform the act if the person lacks appropriate education or training related to the act.

Article 4. General Provisions.

Sec. 08.29.400. Grounds for denial of license or for disciplinary sanctions.

The board may impose a disciplinary sanction under AS 08.01.075 on a person licensed under this chapter or deny a license to a person when the board finds that the person

(1) has an addiction to, or severe dependency on, alcohol or other drugs that impairs the person's ability to engage safely in the practice of professional counseling;

(2) has been convicted of a felony and has not been sufficiently rehabilitated to merit the public trust;

(3) used fraud, deception, misrepresentation, or bribery in securing a license under this chapter or in obtaining permission to take an examination required

1 under this chapter;

2 (4) is incompetent or has committed misconduct, fraud,
3 misrepresentation, or dishonesty in the performance of the functions of a licensed
4 professional counselor;

5 (5) violated, or assisted another individual to violate, a provision of this
6 chapter or a regulation adopted under this chapter;

7 (6) impersonated a person who holds a license under this chapter;

8 (7) has had a license to practice counseling revoked or suspended in
9 another jurisdiction upon grounds for which the license issued under this chapter could
10 be revoked or suspended; this paragraph does not apply to revocations or suspensions
11 for failure to pay a renewal fee in another jurisdiction;

12 (8) assisted another person who is not licensed under this chapter in an
13 attempt to represent the person to the public as a licensed professional counselor;

14 (9) was issued a license based on a material mistake of fact;

15 (10) used an advertisement or solicitation that is false, misleading, or
16 deceptive to the general public or the person to whom the advertisement was primarily
17 directed; or

18 (11) failed to respond within 30 days to a written communication from
19 the board concerning an investigation by the board or failed to make available to the
20 board a relevant record with respect to an investigation about the licensee's conduct
21 or background.

22 **Sec. 08.29.490. Definitions.** In this chapter,

23 (1) "practice of professional counseling" means, subject to (C) of this
24 paragraph, the application of principles, methods, or procedures of the counseling
25 profession to diagnose or treat, other than through the use of projective testing or
26 individually administered intelligence tests, mental and emotional disorders that are
27 referenced in the standard diagnostic nomenclature for individual, group, and
28 organizational therapy, whether cognitive, affective, or behavioral, within the context
29 of human relationships and systems; if otherwise within the scope of this paragraph,
30 "practice of professional counseling" includes

31 (A) the professional application of evaluation techniques,

1 treatments, and therapeutic services to individuals and groups for the purpose
2 of treating the emotional and mental disorders;

3 (B) an applied understanding of the dynamics of the individual
4 and of group interactions, along with the application of therapeutic and
5 counseling techniques for the purpose of resolving intrapersonal and
6 interpersonal conflict and changing perceptions, attitudes, and behaviors in the
7 area of human relationships; and

8 (C) consistent with regulations adopted by the board under
9 AS 08.29.020(a)(4), administration and use of appropriate assessment
10 instruments that measure or diagnose problems or dysfunctions within the
11 course of human growth and development as part of a counseling process or
12 in the development of a treatment plan;

13 (2) "supervision" means supervision in which the supervisor is available
14 to provide clinical oversight to the supervisee either in person or by a communication
15 device.

16 * **Sec. 2.** AS 08.01.010 is amended by adding a new paragraph to read:

17 (35) Board of Professional Counselors (AS 08.29.010).

18 * **Sec. 3.** AS 08.01.050(d) is amended to read:

19 (d) At the request of one of the following boards, the department may contract
20 with public agencies and private professional organizations to provide assistance and
21 treatment to persons licensed by the board who abuse alcohol, other drugs, or other
22 substances:

23 (1) Board of Clinical Social Work Examiners;

24 (2) Board of Dental Examiners;

25 (3) Board of Dispensing Opticians;

26 (4) State Medical Board;

27 (5) Board of Nursing;

28 (6) Board of Examiners in Optometry;

29 (7) Board of Pharmacy;

30 (8) State Physical Therapy and Occupational Therapy Board;

31 (9) **Board of Professional Counselors;**

1 **(10)** Board of Psychologist and Psychological Associate Examiners; and

2 **(11)** [(10)] Board of Veterinary Examiners.

3 * **Sec. 4.** AS 08.03.010(c) is amended by adding a new paragraph to read:

4 (21) Board of Professional Counselors (AS 08.29.010) -- June 30, 2002.

5 * **Sec. 5.** Rule 504(a)(3), Alaska Rules of Evidence, is amended to read:

6 (3) A psychotherapist is (A) a person authorized to practice medicine
 7 in any state or nation, or reasonably believed by the patient to be so, while engaged
 8 in the diagnosis or treatment of a mental or emotional condition, including alcohol or
 9 drug addiction, (B) a person licensed or certified as a psychologist or psychological
 10 examiner under the laws of any state or nation or reasonably believed by the patient
 11 so to be, while similarly engaged, [OR] (C) a person licensed as a marital or family
 12 therapist under the laws of a state or nation or reasonably believed by the patient so
 13 to be, while similarly engaged, **or (D) a person licensed as a professional counselor**
 14 **under the laws of a state or nation, or reasonably believed by the patient so to be,**
 15 **while similarly engaged.**

16 * **Sec. 6.** TRANSITIONAL PROVISION. Notwithstanding this Act, the Board of
 17 Professional Counselors shall issue a license under AS 08.29, enacted by sec. 1 of this Act,
 18 to an applicant who

19 (1) applies by December 31, 1999;

20 (2) submits documentation that the applicant holds a master's or doctorate
 21 degree in counseling or a related professional field;

22 (3) submits, on a form provided by the department, documentation from an
 23 employer, a supervisor, or a professional peer that the applicant has practiced professional
 24 counseling in the state for at least 24 months during the five years immediately preceding the
 25 date of application;

26 (4) meets the requirements of AS 08.29.110(a)(1) and (2), enacted by sec. 1
 27 of this Act, and is not subject to denial of a license under AS 08.29.400, enacted by sec. 1 of
 28 this Act;

29 (5) submits two letters of recommendation from professional counselors who
 30 are familiar with the applicant's work; and

31 (6) pays the required fee.

1 * **Sec. 7.** REGULATIONS; INITIAL BOARD MEMBERSHIP. (a) The Board of
2 Professional Counselors established under sec. 1 of this Act may proceed to adopt regulations
3 required to implement this Act, but the regulations may not take effect until the effective date
4 of the bill section being implemented by the regulations.

5 (b) Notwithstanding AS 08.29.010(a), enacted by sec. 1 of this Act, a counselor
6 appointed to the Board of Professional Counselors is not required to be a licensed professional
7 counselor until March 1, 2000, but must, at the time of appointment, meet the requirements
8 of AS 08.29.110(a)(1) and (4).

9 * **Sec. 8.** AS 08.29.010, enacted by sec. 1 of this Act, and secs. 2, 4, and 7 of this Act take
10 effect immediately under AS 01.10.070(c).

11 * **Sec. 9.** Section 6 of this Act takes effect January 1, 1999.

12 * **Sec. 10.** Except as provided in secs. 8 and 9 of this Act, this Act takes effect
13 March 1, 1999.