

SENATE BILL NO. 331

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE BY REQUEST

Introduced: 2/25/98

Referred: HESS, Judiciary

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

1 commercial or professional field related to counseling; or

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

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

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

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

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

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

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

21 **Article 2. Licensing Requirements.**

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

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

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

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

31 **Sec. 08.29.110. Qualifications for licensure.** (a) The board shall issue a

1 professional counselor license to a person who applies for the license, submits the
2 required fee, and presents evidence satisfactory to the board that the person

3 (1) is at least 18 years of age;

4 (2) has not been convicted of a felony or of a crime involving moral
5 turpitude; however, if the applicant has been convicted of a felony or of a crime
6 involving moral turpitude, the applicant may rebut the presumption that the applicant
7 is unfit to practice professional counseling by submitting evidence of sufficient
8 rehabilitation and present fitness to perform the duties of a licensed professional
9 counselor;

10 (3) has submitted the statement of professional intent required under
11 AS 08.29.140;

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

15 (5) has successfully completed either

16 (A) an earned doctoral degree in counseling or a related
17 professional field from a regionally accredited institution of higher education;
18 or

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

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

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

1 **Sec. 08.29.120. Licensure by credential.** (a) Except as provided in (b) of
2 this section, the board may issue a license under this chapter to a person who is
3 licensed in another jurisdiction to practice professional counseling if the board finds
4 that the other jurisdiction has substantially the same or higher licensure requirements
5 as this state.

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

10 **Sec. 08.29.130. Licensure of foreign-educated applicants.** The board may
11 issue a license under this chapter to a person who has completed an educational
12 program in a college or university in a foreign country if the applicant

13 (1) meets the requirements of AS 08.29.110 except for
14 AS 08.29.110(a)(5); and

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

19 **Sec. 08.29.140. Statement of professional intent.** An application for a license
20 under this chapter must include a statement of professional intent that describes the
21 intended use of the license, the client populations with whom the applicant will work,
22 areas of counseling specialization, if any, and the counseling procedures the applicant
23 plans to use, including the applicant's theoretical orientation and preferred intervention
24 strategies.

25 **Sec. 08.29.150. License renewal.** Renewal of a license under this chapter may
26 not be granted unless the licensee

27 (1) within the 24 months immediately preceding the renewal date, has
28 completed the continuing education requirements established by the board; and

29 (2) submits to the board written confirmation that the licensee's
30 statement of professional intent submitted under AS 08.29.140 remains accurate or
31 submits a new statement of professional intent.

1 **Article 3. Miscellaneous Provisions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (3) has five years of counseling experience;

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

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

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

8 **Sec. 08.29.220. Disclosure statement.** A client may not be charged a fee for
9 professional counseling services unless, before the performance of the services, the
10 client was furnished a copy of a professional disclosure statement that contained

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

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

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

18 (4) the applicable fee schedule listed by type of service or hourly rate;

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

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

27 **Article 4. General Provisions.**

28 **Sec. 08.29.400. Grounds for denial of license or for disciplinary sanctions.**
29 The board may impose a disciplinary sanction under AS 08.01.075 on a person
30 licensed under this chapter or deny a license to a person when the board finds that the
31 person

1 (1) is using or has used alcohol, drugs, or other substances to an extent
2 that impairs the licensee's ability to engage in the practice of professional counseling;

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

5 (3) is under investigation in this or another jurisdiction for an act that
6 would constitute a violation of this chapter; a sanction may be imposed after the
7 investigation is completed;

8 (4) used fraud, deception, misrepresentation, or bribery in securing a
9 license under this chapter or in obtaining permission to take an examination required
10 under this chapter;

11 (5) is incompetent or has committed misconduct, fraud,
12 misrepresentation, or dishonesty in the performance of the functions of a licensed
13 professional counselor;

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

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

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

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

23 (10) was issued a license based on a material mistake of fact;

24 (11) used an advertisement or solicitation that is false, misleading, or
25 deceptive to the general public or the person to whom the advertisement was primarily
26 directed; or

27 (12) failed to respond within 30 days to a written communication from
28 the board concerning an investigation by the board or failed to make available to the
29 board a relevant record with respect to an investigation about the licensee's conduct
30 or background.

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

1 (1) "practice of professional counseling" means the diagnosis and
 2 treatment of mental and emotional disorders that are referenced in the standard
 3 diagnostic nomenclature for individual, group, and organizational therapy, whether
 4 cognitive, affective, or behavioral, within the context of human relationships and
 5 systems; "practice of professional counseling" includes

6 (A) the professional application of assessments and treatments
 7 of psychotherapeutic services to individuals and groups for the purpose of
 8 treating the diagnosed emotional and mental disorders;

9 (B) an applied understanding of the dynamics of the individual
 10 and of group interactions, along with the application of psychotherapeutic and
 11 counseling techniques for the purpose of resolving intrapersonal and
 12 interpersonal conflict and changing perceptions, attitudes, and behaviors in the
 13 area of human relationships;

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

17 * **Sec. 2.** AS 08.01.050(d) is amended to read:

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

22 (1) Board of Clinical Social Work Examiners;

23 (2) Board of Dental Examiners;

24 (3) Board of Dispensing Opticians;

25 (4) State Medical Board;

26 (5) Board of Nursing;

27 (6) Board of Examiners in Optometry;

28 (7) Board of Pharmacy;

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

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

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

1 **(11)** [(10)] Board of Veterinary Examiners.

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

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

13 * **Sec. 4.** TRANSITIONAL PROVISION. Notwithstanding this Act, the Board of
14 Professional Counselors shall issue a license under AS 08.29, enacted by sec. 1 of this Act,
15 to an applicant who

16 (1) applies by December 31, 1999;

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

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

23 (4) meets the requirements of AS 08.29.110(a)(1) - (3), enacted by sec. 1 of
24 this Act, and is not subject to denial of a license under AS 08.29.400, enacted by sec. 1 of this
25 Act;

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

28 (6) submits to the board a copy of a professional disclosure statement, as
29 described in AS 08.29.220, enacted by sec. 1 of this Act; and

30 (7) pays the required fee.

31 * **Sec. 5.** REGULATIONS; INITIAL BOARD MEMBERSHIP. (a) The Board of

1 Professional Counselors established under sec. 1 of this Act may proceed to adopt regulations
2 required to implement this Act, but the regulations may not take effect until the effective date
3 of the bill section being implemented by the regulations.

4 (b) Notwithstanding AS 08.29.010(a), enacted by sec. 1 of this Act, a counselor
5 appointed to the Board of Professional Counselors is not required to be a licensed professional
6 counselor until March 1, 2000, but must, at the time of appointment, meet the requirements
7 of AS 08.29.110(a)(1), (2), and (5).

8 * **Sec. 6.** AS 08.29.010, enacted by sec. 1 of this Act, and sec. 5 of this Act take effect
9 immediately under AS 01.10.070(c).

10 * **Sec. 7.** Section 4 of this Act takes effect January 1, 1999.

11 * **Sec. 8.** Except as provided in secs. 6 and 7 of this Act, this Act takes effect
12 March 1, 1999.