

**CS FOR SENATE BILL NO. 331(HES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/23/98  
Referred: Judiciary

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

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, submits two letters of recommendation from professional counselors who  
3 are familiar with the applicant's practice of professional counseling, and presents  
4 evidence satisfactory to the board that the person

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

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

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

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

17 (5) has successfully completed either

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

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

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

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

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

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

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

15 (1) meets the requirements of AS 08.29.110 except for  
16 AS 08.29.110(a)(5); and

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

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

### 25 **Article 3. Miscellaneous Provisions.**

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

30 (1) a communication to a potential victim, the family of a potential  
31 victim, law enforcement authorities, or other appropriate authorities concerning a clear

1 and immediate probability of physical harm to the client, other individuals, or society;

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

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

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

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

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

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

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

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

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

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

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

24 (3) has five years of counseling experience;

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

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

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

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

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

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

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

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

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

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

#### 21                   **Article 4. General Provisions.**

#### 22           **Sec. 08.29.400. Grounds for denial of license or for disciplinary sanctions.**

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

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

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

30                   (3) used fraud, deception, misrepresentation, or bribery in securing a  
31 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 the diagnosis and  
24 treatment, other than through the use of projective techniques, of mental and emotional  
25 disorders that are referenced in the standard diagnostic nomenclature for individual,  
26 group, and organizational therapy, whether cognitive, affective, or behavioral, within  
27 the context of human relationships and systems; within the scope of that diagnosis and  
28 treatment, "practice of professional counseling" includes

29 (A) the professional application of evaluation techniques,  
30 treatments, and therapeutic services to individuals and groups for the purpose  
31 of treating the emotional and mental disorders;

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

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

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

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

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

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

16 (1) Board of Clinical Social Work Examiners;

17 (2) Board of Dental Examiners;

18 (3) Board of Dispensing Opticians;

19 (4) State Medical Board;

20 (5) Board of Nursing;

21 (6) Board of Examiners in Optometry;

22 (7) Board of Pharmacy;

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

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

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

26 **(11)** [(10)] Board of Veterinary Examiners.

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

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

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

30 (3) A psychotherapist is (A) a person authorized to practice medicine  
 31 in any state or nation, or reasonably believed by the patient to be so, while engaged

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

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

12 (1) applies by December 31, 1999;

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

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

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

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

24 (6) pays the required fee.

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

29 (b) Notwithstanding AS 08.29.010(a), enacted by sec. 1 of this Act, a counselor  
 30 appointed to the Board of Professional Counselors is not required to be a licensed professional  
 31 counselor until March 1, 2000, but must, at the time of appointment, meet the requirements

1 of AS 08.29.110(a)(1), (2), and (5).

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

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

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