

CS FOR SENATE BILL NO. 331(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/27/98

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

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

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

24 **Article 2. Licensing Requirements.**

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

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

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

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

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

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

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

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

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

20 (5) has successfully completed either

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

23 or

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

28 (6) has at least 3,000 hours of supervised experience in the practice of
29 professional counseling performed over a period of at least two years under the
30 supervision of a supervisor approved under AS 08.29.210, with at least 1,000 hours of
31 direct counseling with individuals, couples, families, or groups and at least 100 hours

1 of face-to-face supervision by a supervisor approved under AS 08.29.210 unless, under
 2 regulations of the board, the board allows the supervision to be by telephonic or
 3 electronic means because of the remote location of the counselor.

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

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

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

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

18 (1) meets the requirements of AS 08.29.110 except for
 19 AS 08.29.110(a)(5); and

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

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

28 **Article 3. Miscellaneous Provisions.**

29 **Sec. 08.29.200. Confidentiality of communications.** (a) A person licensed
 30 under this chapter may not reveal to another person a communication made to the
 31 licensee by a client about a matter concerning which the client has employed the

1 licensee in a professional capacity. This section does not apply to

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

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

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

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

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

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

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

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

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

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

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

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

27 (3) has five years of counseling experience;

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

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

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

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

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

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

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

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

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

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

24 **Article 4. General Provisions.**

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

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

31 (2) has been convicted of a felony and has not been sufficiently

1 rehabilitated to merit the public trust;

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

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

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

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

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

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

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

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

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

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

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

1 of human relationships and systems; if otherwise within the scope of this paragraph,
2 "practice of professional counseling" includes

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

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

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

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

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

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

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

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

26 (1) Board of Clinical Social Work Examiners;

27 (2) Board of Dental Examiners;

28 (3) Board of Dispensing Opticians;

29 (4) State Medical Board;

30 (5) Board of Nursing;

31 (6) Board of Examiners in Optometry;

- 1 (7) Board of Pharmacy;
 2 (8) State Physical Therapy and Occupational Therapy Board;
 3 (9) **Board of Professional Counselors;**
 4 **(10)** Board of Psychologist and Psychological Associate Examiners; and
 5 **(11)** [(10)] Board of Veterinary Examiners.

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

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

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

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

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

22 (1) applies by December 31, 1999;

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

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

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

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

3 (6) pays the required fee.

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

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

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

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

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