

1 IN THE SENATE

BY KERTTULA

2

SENATE BILL NO. 423

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to regulation of the practice of  
7 marital and family therapy; amending Rule 504 of the  
8 Alaska Rules of Evidence; and providing for an effec-  
9 tive date."

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

11 \* Section 1. LEGISLATIVE FINDINGS. The legislature finds that marital  
12 and family therapy is a practice that affects the public health, safety,  
13 and welfare and that the activities of persons who represent themselves to  
14 the public as marital and family therapists require regulation and control  
15 by the state in the public interest.

16 \* Sec. 2. AS 08 is amended by adding a new chapter to read:

17 CHAPTER 63. MARITAL AND FAMILY THERAPISTS.

18 ARTICLE 1. REGULATION OF MARITAL AND FAMILY THERAPISTS.

19 Sec. 08.63.010. POWERS AND DUTIES OF THE DEPARTMENT. The de-  
20 partment shall

21 (1) establish objective examination requirements for licen-  
22 sure under this chapter;

23 (2) examine applicants and issue licenses under this chap-  
24 ter to the applicants it finds qualified;

25 (3) establish continuing education requirements for license  
26 renewal;

27 (4) adopt codes of ethical practice for persons licensed  
28 under this chapter;

29 (5) hold disciplinary hearings, and order the disciplinary

1 sanction of a person who violates this chapter or a regulation adopted  
2 under this chapter;

3 (6) enforce the provisions of this chapter and adopt regu-  
4 lations necessary to implement this chapter.

5 Sec. 08.63.020. STANDARDS COMMITTEE. (a) The department shall  
6 appoint a standards committee for the practice of marital and family  
7 therapy.

8 (b) The standards committee consists of two members who are  
9 licensed marital and family therapists and a public member.

10 (c) The standards committee shall advise the department on the  
11 licensing and regulation of marital and family therapists.

12 (d) The standards committee shall meet at least annually and may  
13 hold special meetings at the call of the chair, or at the request of  
14 the department, or on the written notice of two committee members.  
15 The committee may hold meetings by telephone or other electronic  
16 media.

17 (e) An action of the department regarding the regulation of  
18 marital and family therapists is not effective without the approval of  
19 the standards committee.

20 (f) Members of the standards committee are appointed for stag-  
21 gered terms of four years. A member may not serve more than two  
22 complete consecutive terms, except that a member may serve until a  
23 successor is appointed and qualified.

24 (g) The members of the standards committee shall elect officers  
25 as they consider appropriate and necessary for terms of one year.

26 (h) The members of the standards committee do not receive com-  
27 pensation but are entitled to per diem and travel expenses authorized  
28 by law for committees under AS 39.20.180.

29 Sec. 08.63.030. PROCEDURES. The Administrative Procedure Act

1 (AS 44.62) applies to proceedings held and regulations adopted under  
2 this chapter.

3 ARTICLE 2. MARITAL AND FAMILY THERAPISTS.

4 Sec. 08.63.110. QUALIFICATIONS FOR LICENSE TO PRACTICE. The  
5 department shall issue a license to practice marital and family thera-  
6 py to a person who

- 7 (1) applies on a form provided by the department;  
8 (2) pays the application fee;  
9 (3) furnishes evidence satisfactory to the department that  
10 the person

11 (A) has not engaged in conduct that is a ground for  
12 imposing disciplinary sanctions under AS 08.63.250;

13 (B) holds a master's degree, doctorate, or equivalent  
14 degree, from an accredited educational institution approved by  
15 the department and the standards committee, for which the person  
16 has completed a course of study that included one year of su-  
17 pervised marital and family therapy clinical practice and courses  
18 in

- 19 (i) marital and family therapy;  
20 (ii) marital and family studies;  
21 (iii) human development;  
22 (iv) professional studies or professional ethics  
23 and law; and  
24 (v) research;

25 (C) after receiving a degree described in (B) of this  
26 paragraph, has

- 27 (i) practiced marital and family therapy within  
28 three years before the person's application, including 1,500  
29 hours of direct clinical contact with couples, families, and

1 individuals with mental or emotional disorders or adjustment  
2 problems relating to marital, family, or personal problems;  
3 and

4 (ii) completed at least 200 hours of supervised  
5 clinical contact, including 100 hours of individual super-  
6 vision and 100 hours of group supervision, approved by the  
7 department; and

8 (4) passes a written or oral examination administered by  
9 the department.

10 Sec. 08.63.120. LICENSURE BY CREDENTIALS. The department shall  
11 issue a license to practice marital and family therapy to a person who

12 (1) meets the requirements of AS 08.63.110(1), (2), and  
13 (3); and

14 (2) is licensed as a marital and family therapist in anothe-  
15 er state that has requirements for licensure that are substantially  
16 equal to or are more rigorous than the requirements of this state.

17 Sec. 08.63.130. LICENSE FOR SUPERVISED PRACTICE. (a) The  
18 department shall issue a license for the supervised practice of mari-  
19 tal and family therapy as a marital therapy associate or a family  
20 therapy associate to a person who meets the requirements of AS 08.63.-  
21 110(1), (2), and (3)(A) - (B).

22 (b) A licensee under this section may practice only

23 (1) under the direct supervision of a supervisor approved  
24 by the department; and

25 (2) in a clinic, social service agency, or other setting  
26 approved by the department.

27 (c) A license for supervised practice expires four years from  
28 the date of issuance and may not be renewed.

29 (d) A licensee under this section shall submit to the department

1 for its approval a proposed plan for satisfying the supervision re-  
2 quirements of AS 08.63.110(3)(C).

3 (e) The department shall revoke a license for supervised prac-  
4 tice if the person fails the examination required under AS 08.63.110  
5 two times.

6 Sec. 08.63.140. AUTHORIZED SUPERVISORS. (a) A person may not  
7 supervise a marital therapy associate or a family therapy associate  
8 unless approved by the department to be a supervisor.

9 (b) A person who supervises a marital therapy associate or a  
10 family therapy associate under this section shall

11 (1) have a license to practice marital and family therapy;

12 (2) have practiced marital and family therapy for five  
13 years; and

14 (3) meet the minimum standards established by the depart-  
15 ment for approved supervisors.

16 Sec. 08.63.150. TEMPORARY LICENSE FOR THE PRACTICE OF MARITAL  
17 AND FAMILY THERAPY. (a) The department shall issue a temporary  
18 license for the practice of marital and family therapy to an applicant  
19 who satisfies the requirements of AS 08.63.110(1) - (3) and has been  
20 approved by the department to take the marital and family therapy  
21 examination.

22 (b) A person may practice under a temporary license until the  
23 department issues the results of the first marital and family therapy  
24 examination given after issuance of the person's temporary license.  
25 If the person fails to take the examination on the date scheduled, the  
26 temporary license lapses on the day of the examination.

27 Sec. 08.63.160. USE OF TITLE. (a) A person may not use the  
28 title "marital and family therapist" or other title, designation, or  
29 device indicating that the person is a marital and family therapist

1 unless the person is licensed as a marital and family therapist.

2 (b) A person who holds a license issued under AS 08.63.130 shall  
3 use the title "marital therapy associate," "family therapy associate,"  
4 or other title approved by the department.

5 ARTICLE 3. GENERAL PROVISIONS.

6 Sec. 08.63.210. FEES. The department shall, by regulations  
7 adopted under AS 08.01.065, establish fees for marital and family  
8 therapists for the following:

- 9 (1) application;  
10 (2) examination and reexamination;  
11 (3) credential review;  
12 (4) license;  
13 (5) temporary license;  
14 (6) supervised practice license;  
15 (7) renewal of license.

16 Sec. 08.63.220. RENEWAL. A license to practice marital and  
17 family therapy may be renewed under AS 08.01.100 upon submission of  
18 evidence satisfactory to the department that the licensee has not  
19 committed an act that is grounds for discipline under AS 08.63.250.

20 Sec. 08.63.230. PRIVILEGED COMMUNICATIONS. A person licensed  
21 under this chapter or an employee of a person licensed under this  
22 chapter may not reveal to another person a communication made to the  
23 licensee or the employee by a client about a matter concerning which  
24 the client has employed the licensee in a professional capacity. This  
25 section does not apply to

26 (1) a case conference with other persons licensed under  
27 this chapter or with psychologists, psychological associates, physi-  
28 cians, or surgeons;

29 (2) a case in which the client in writing authorized the

1 licensee or the employee to reveal a communication;

2 (3) a case where an immediate threat of serious physical  
3 harm to an identifiable victim is communicated to the licensee or the  
4 employee by a client;

5 (4) disclosures of confidential communications required  
6 under Rule 504, Alaska Rules of Evidence; or

7 (5) proceedings conducted by the department where the  
8 disclosure of confidential communications is necessary to defend  
9 against charges by the client that the licensee or the employee has  
10 violated provisions of this chapter.

11 Sec. 08.63.240. EXEMPTIONS. (a) This chapter does not apply to

12 (1) a person who practices marital and family therapy  
13 consistent with the accepted standards and code of ethics of the  
14 person's profession;

15 (2) a member of the clergy;

16 (3) an employee of a governmental unit, educational insti-  
17 tution, a Native health corporation, or nonprofit agency who is re-  
18 quired to practice marital and family therapy during the employment if

19 (A) the employer maintains appropriate supervision of  
20 the person's practice;

21 (B) the person practices marital and family therapy as  
22 part of the duties for which the person is employed; and

23 (C) the person does not render or offer to render  
24 marital and family therapy services to the public for compensa-  
25 tion in addition to the salary the person receives from the  
26 governmental unit, educational institution, Native health corpo-  
27 ration, or nonprofit agency;

28 (4) a student, intern, or resident pursuing a course of  
29 study approved by the department, if the activities of the student,

1 intern, or resident constitute part of a supervised course of study  
2 and the student, intern, or resident is designated by a title that  
3 indicates that the person is training to be a marital and family  
4 therapist.

5 (b) A person exempt under this section may not use a title or  
6 description stating or implying that the person is licensed under this  
7 chapter.

8 Sec. 08.63.250. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-  
9 TIONS. After a hearing, the department may impose a disciplinary  
10 sanction on a person licensed to practice marital and family therapy  
11 when the department finds that the person

12 (1) secured a license through deceit, fraud, or intentional  
13 misrepresentation;

14 (2) engaged in deceit, fraud, or intentional misrepresenta-  
15 tion in the course of providing professional services or engaging in  
16 professional activities;

17 (3) advertised professional services in a false or mislead-  
18 ing manner;

19 (4) has been convicted of a felony or other crime that  
20 affects the person's ability to practice competently and safely;

21 (5) failed to comply with a provision of this chapter or a  
22 regulation adopted under this chapter, or an order of the department;

23 (6) continued to practice after becoming unfit due to

24 (A) professional incompetence;

25 (B) addiction or severe dependency on alcohol or  
26 another drug that impairs the person's ability to practice  
27 safely;

28 (C) physical or mental disability;

29 (7) engaged in lewd or immoral conduct in connection with

1 the delivery of professional services to clients;

2 (8) has had a license to practice in another state revoked  
3 or suspended for a reason other than a fee dispute; or

4 (9) has violated the code of ethics adopted by the depart-  
5 ment for the practice of marital and family therapy.

6 Sec. 08.63.260. DISCIPLINARY SANCTIONS. (a) The department may  
7 impose the following sanctions singly or in combination:

8 (1) permanently revoke a license to practice;

9 (2) suspend a license for a specific period;

10 (3) censure or reprimand a licensee;

11 (4) impose limitations or conditions on the professional  
12 practice of a licensee;

13 (5) require a licensee to submit to peer review;

14 (6) impose professional education requirements until a  
15 satisfactory degree of skill has been attained in those aspects of  
16 professional practice determined by the department to need improve-  
17 ment;

18 (7) impose probation and require the licensee to report  
19 regularly to the department upon matters involving the basis for the  
20 probation;

21 (8) accept a voluntary surrender of a license;

22 (9) impose a civil fine not to exceed \$5,000.

23 (b) The department may withdraw a limitation, condition, or  
24 probationary status if it finds that the deficiency that required the  
25 sanction has been remedied.

26 (c) The department may summarily suspend a license before final  
27 hearing or during the appeals process if the department finds that the  
28 licensee poses a clear and immediate danger to the public welfare and  
29 safety if the licensee continues to practice. A person whose license

1 is suspended under this section is entitled to a hearing by the de-  
2 partment within seven days after the effective date of the order. The  
3 person may appeal the suspension after the hearing to the superior  
4 court.

5 (d) The department may reinstate a license that has been sus-  
6 pended or revoked if the department finds after a hearing that the  
7 applicant is able to practice with reasonable skill and safety.

8 (e) The department may return a license that has been voluntari-  
9 ly surrendered if the department determines that the licensee is com-  
10 petent to resume practice and that applicable renewal fees are paid.

11 (f) The department shall seek consistency in the application of  
12 disciplinary sanctions. The department shall explain a significant  
13 departure from prior decisions involving similar situations in its  
14 findings of fact or orders.

15 Sec. 08.63.270. PENALTIES. A person who violates this chapter  
16 or regulations adopted under this chapter for which a specific penalty  
17 is not provided is guilty of a class B misdemeanor.

18 Sec. 08.63.290. DEFINITIONS. In this chapter, unless the con-  
19 text indicates otherwise,

20 (1) "advertise" includes issuing or causing to be distri-  
21 buted a card, sign, or device to a person, or causing, permitting, or  
22 allowing a sign or marking on or in a building or structure, or in a  
23 newspaper, magazine, or directory, or on radio or television, or using  
24 other means designed to secure public attention;

25 (2) "course" means a class of at least three credit hours  
26 in a graduate program at an accredited educational institution or an  
27 institution approved by the department and the standards committee;

28 (3) "department" means the Department of Commerce and  
29 Economic Development;

1           (4) "practice of marital and family therapy" means the  
2 diagnosis and treatment of mental and emotional disorders that are  
3 referenced in the standard diagnostic nomenclature for marital and  
4 family therapy, whether cognitive, affective, or behavioral, within  
5 the context of human relationships, particularly marital and family  
6 systems; marital and family therapy involves

7           (A) the professional application of assessments and  
8 treatments of psychotherapeutic services to individuals, couples,  
9 and families for the purpose of treating the diagnosed emotional  
10 and mental disorders;

11           (B) an applied understanding of the dynamics of mari-  
12 tal and family interactions, along with the application of psy-  
13 chotherapeutic and counseling techniques for the purpose of  
14 resolving intrapersonal and interpersonal conflict and changing  
15 perceptions, attitudes, and behaviors in the area of human rela-  
16 tionships and family life;

17           (5) "supervision" means face-to-face consultation, direc-  
18 tion, review, evaluation, and assessment of the practice of the person  
19 being supervised, including direct observation and the review of case  
20 presentations, audio tapes, and video tapes.

21 \* Sec. 3. AS 08.01.010 is amended by adding a new paragraph to read:

22           (28) regulation of the practice of marital and family thera-  
23 py under AS 08.63.

24 \* Sec. 4. AS 08.01.050(a)(4) is amended to read:

25           (4) notify applicants of acceptance or rejection as de-  
26 termined by the board or as determined by the department under  
27 AS 08.11 for audiologists, under AS 08.40 for electrical administra-  
28 tors, under AS 08.45 for naturopaths, [OR] under AS 08.55 for hearing  
29 aid dealers, or under AS 08.63 for marital and family therapists;

1 \* Sec. 5. AS 08.01.050(a)(9) is amended to read:

2 (9) issue licenses or temporary licenses as authorized by  
3 the board or as authorized by the department under AS 08.11 for  
4 audiologists, under AS 08.40 for electrical administrators, under  
5 AS 08.45 for naturopaths, [OR] under AS 08.55 for hearing aid dealers,  
6 or under AS 08.63 for marital and family therapists;

7 \* Sec. 6. AS 08.02.010(a) is amended to read:

8 (a) An audiologist licensed under AS 08.11, a person licensed in  
9 the state as a chiropractor under AS 08.20, a dentist under AS 08.36,  
10 a marital and family therapist under AS 08.63, a medical practitioner  
11 or osteopath under AS 08.64, a registered nurse under AS 08.68, an  
12 optometrist under AS 08.72, a registered pharmacist under AS 08.80, a  
13 registered physical therapist or occupational therapist under  
14 AS 08.84, or a psychologist under AS 08.86, shall use as professional  
15 identification appropriate letters or a title after that person's name  
16 which represents that person's specific field of practice. The let-  
17 ters or title shall appear on all signs, stationery or other advertis-  
18 ing in which the person offers or displays personal professional  
19 services to the public. In addition, a person engaged in the practice  
20 of medicine or osteopathy as defined in AS 08.64.380, or a person  
21 engaged in any manner in the healing arts who diagnoses, treats,  
22 tests, or counsels other persons in relation to human health or dis-  
23 ease and uses the letters "M.D." or the title "doctor" or "physician"  
24 or another title that tends to show that the person is willing or  
25 qualified to diagnose, treat, test, or counsel another person, shall  
26 clarify the letters or title by adding the appropriate specialist  
27 designation, if any, such as "dermatologist", "radiologist",  
28 "audiologist", "naturopath", or the like.

29 \* Sec. 7. AS 08.03.010(c) is amended by adding a new paragraph to read:

1 (21) Standards committee for the practice of marital and  
2 family therapy (AS 08.63.020) -- June 30, 1992.

3 \* Sec. 8. AS 09.55.560(1) is amended to read:

4 (1) "health care provider" means an audiologist licensed  
5 under AS 08.11; a chiropractor licensed under AS 08.20; a dental  
6 hygienist licensed under AS 08.32; a dentist licensed under AS 08.36;  
7 a marital and family therapist licensed under AS 08.63; a nurse li-  
8 censed under AS 08.68; a dispensing optician licensed under AS 08.71;  
9 a naturopath licensed under AS 08.45; an optometrist licensed under  
10 AS 08.72; a pharmacist licensed under AS 08.80; a physical therapist  
11 or occupational therapist licensed under AS 08.84; a physician  
12 licensed under AS 08.64; a podiatrist; a psychologist and a psycho-  
13 logical associate licensed under AS 08.86; and a hospital as defined  
14 in AS 18.20.130, including a governmentally owned or operated hospi-  
15 tal; a corporate entity covered under AS 21.88.050(b)(11); and an  
16 employee of a health care provider acting within the course and scope  
17 of employment;

18 \* Sec. 9. AS 21.88.900(a)(9) is amended to read:

19 (9) "health care provider" means an audiologist licensed  
20 under AS 08.11; a chiropractor licensed under AS 08.20; a dental  
21 hygienist licensed under AS 08.32; a dentist licensed under AS 08.36;  
22 a marital and family therapist licensed under AS 08.63; a nurse li-  
23 censed under AS 08.68; a dispensing optician licensed under AS 08.71;  
24 an optometrist licensed under AS 08.72; a pharmacist licensed under  
25 AS 08.80; a physical therapist or occupational therapist licensed  
26 under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a  
27 psychologist and a psychological associate licensed under AS 08.86; a  
28 hospital as defined in AS 18.20.130, including a governmentally owned  
29 or operated hospital; a corporate entity covered under AS 21.88.-

1 050(b)(11); an employee of a health care provider acting within the  
2 course and scope of employment;

3 \* Sec. 10. AS 21.88.900 is amended by adding a new paragraph to read:

4 (18) "marital and family therapist" means a person licensed  
5 under AS 08.63.

6 \* Sec. 11. AS 47.17.070(9) is amended to read:

7 (9) "practitioner of the healing arts" includes  
8 chiropractors, dental hygienists, dentists, health aides, marital and  
9 family therapists, nurses, nurse practitioners, occupational thera-  
10 pists, occupational therapy assistants, optometrists, osteopaths,  
11 naturopaths, physical therapists, physical therapy assistants, physi-  
12 cians, physician's assistants, psychiatrists, psychologists, psycho-  
13 logical associates, audiologists licensed under AS 08.11, hearing aid  
14 dealers licensed under AS 08.55, religious healing practitioners, and  
15 surgeons;

16 \* Sec. 12. INITIAL APPOINTMENTS TO THE STANDARDS COMMITTEE. In making  
17 the initial appointments of professional members to the standards committee  
18 for the practice of marital and family therapy under AS 08.63.020, added by  
19 sec. 2 of this Act, a person is eligible for appointment to a standards  
20 committee as a marital and family therapist-member if the person holds a  
21 master's degree or doctorate that included one year of supervised marital  
22 and family therapy clinical practice and courses in marital and family  
23 therapy, marital and family studies, human development, professional  
24 studies or professional ethics and law, and research.

25 \* Sec. 13. (a) Notwithstanding AS 08.63.110, added by sec. 2 of this  
26 Act, the Department of Commerce and Economic Development shall issue a  
27 license to practice marital and family therapy to a person who

28 (1) applies before July 1, 1989;

29 (2) satisfies the requirements of AS 08.63.110(1), (2), and

1 (3)(A), added by sec. 2 of this Act;

2 (3) holds a master's degree or doctorate from an accredited  
3 educational institution either in

4 (A) marital and family therapy; or

5 (B) an appropriate course of study approved by the depart-  
6 ment and substantially equivalent to the following: three courses in  
7 marital and family studies; three courses in marital and family ther-  
8 apy; three courses in marital and family studies; three courses in  
9 human development; one course in research; one course in professional  
10 studies or professional law and ethics; and one year of supervised  
11 clinical practice;

12 (4) either

13 (A) within three years before the person's application, has  
14 practiced marital and family therapy including at least 1,500 hours of  
15 direct clinical contact with couples, families, and individuals with  
16 mental or emotional disorders or adjustment problems relating to  
17 marital, family, or personal problems and has been supervised in the  
18 clinical contact for at least 200 hours, including 100 hours of indi-  
19 vidual supervision; or

20 (B) is a clinical member of the American Association of  
21 Marriage and Family Therapy; and

22 (5) has practiced marital and family therapy as a resident of  
23 the state immediately preceding the application.

24 (b) The department shall liberally construe the requirements of this  
25 section for the purposes of licensing as a marital and family therapist  
26 every person who merits licensing by virtue of the person's education,  
27 training, and experience.

28 (c) A license issued under this section is for all purposes a license  
29 issued under AS 08.63.

1     \* Sec. 14. AS 08.63.230, added by sec. 2 of this Act, has the effect of  
2 amending Rule 504 of the Alaska Rules of Evidence by creating a privilege  
3 to refuse to disclose information for licensed marital and family thera-  
4 pists and for their employees.

5     \* Sec. 15. This Act takes effect July 1, 1988.