

HB

135



Alaska State Legislature

*Representative Peggy Wilson
Putting Alaska's Families First*

SPONSOR STATEMENT House Bill 135

"An act relating to marital and family therapists."

The law that established the Board of Marital and Family Therapy has been in place for ten years. It is time to pursue the placement of updated language within the statute.

HB 135 will bring the Alaska Statutes for Marriage and Family Therapy to the same standard as the laws regarding other counseling services in the state and Marriage and Family Therapy statutes nationally.

HB135~

- *Adds* the Board of Marital and Family Therapy to the list of boards that may request the Division of Occupational Licensing to contract for substance abuse treatment under licensed therapists,
- *Gives* the Board of Marital and Family Therapy authority to order a licensed marital and family therapist to submit to a reasonable physical or mental examination if the board has credible evidence sufficient to conclude that the therapist's physical or mental capacity to practice safely is at issue,
- *Allows* for individual client contact to be used as hours toward licensing,
- *Requires* the therapist to communicate to a potential victim or law enforcement officer if a threat of imminent serious physical harm to an identified victim has been made by a client,
- *Imposes* disciplinary sanctions with regard to therapist sexual misconduct.

HOUSE BILL 135 not only brings parity to the mental health professions in the state, it also adds additional consumer protection for Alaskans seeking professional counsel.



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Sectional analysis (HB 135)

Section 1. Adds the board of Marital and Family Therapists (hereafter "board") to the list of boards that may request the division of occupational licensing to contract for substance abuse treatment for licensed therapists (hereafter "licensees").

Section 2. Authorizes the board to require physical and mental exams of licensees.

Section 3. Changes a licensing requirement relating to post-degree clinical contact.

Section 4. Adds two more categories of circumstances when a client's communications to a licensee may be revealed to others.

Section 5. Adds a new ground for disciplinary sanctions

Section 6. Allows summary suspension of a licensee who refuses to submit to a physical or mental examination.

Section 7. Adds two new sections of law. One requires disclosure statements to clients. The other enacts a practice limitation.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE WILSON

TO: HB 135

- 1 Page 5, lines 9 - 10:
- 2 Delete "for marital and family therapy services"
- 3 Insert "by a licensed marital and family therapist"

What is a Marriage and Family Therapist?

Marriage and Family Therapists are mental health professionals trained to diagnose and treat mental and emotional disorders. MFT's specialize in treating mental disorders in the context of marriage or family relationships. Marriage and Family Therapists work with the individual, couple or family to change behavioral patterns so that problems can be resolved.

What types of services do Marriage and Family Therapists provide?

A fundamental tenet of marriage and family therapy is that individual problems are often best understood and treated in the context of the relationships in which the person is involved. Failure to address the marital or family environment, as part of the mental health treatment plan will result in decreased likelihood for a successful outcome. Therefore, marriage and family services are:

Brief
Solution Focused
Specific, with attainable goals
Designed with the "end in mind"

Marriage and Family Therapists treat a wide range of serious clinical problems including depression, alcohol and drug abuse, anorexia, and dementia.

Clients of MFTs, according to research studies, significantly improve after treatment for problems such as: adolescent substance abuse, depression and stress by family caregivers of elderly family members, clinical depression among women in distressed marriages, general child conduct disorders, child aggression, global family problems, communication and problem solving, phobias, and psychiatric symptoms.

Who licenses Marriage and Family Therapists?

Currently, forty-two states recognize and regulate marriage and family therapists as independent mental health providers. In addition, the Health Resources Services Administration recognizes the field of marriage and family therapy as one of the five core mental health disciplines for purposes of determining mental health shortage areas, and the healthcare program for military dependents. Champus/Tricare, recognizes and reimburses MFTs as independent health care providers.

How are Marriage and Family Therapists educated and trained?

Marriage and family therapy is a distinct professional discipline with graduate and postgraduate programs. To become a MFT, an individual must obtain a Master's degree or complete a doctoral program in marriage and family therapy or a related field. The

American Association for Marriage and Family Therapy (AAMFT) Commission of Accreditation of Marriage and Family Therapy Education is designated by the U.S. Department of Education as the accrediting agency for academic institutions providing master's, doctoral and postgraduate training in marriage and family therapy.

Once the formal education of the MFT is completed, the individual must obtain post-graduate clinical experience in marriage and family therapy. The training of MFTs includes direct clinical supervision by experienced clinicians. When the supervision is completed, the therapist can take a state licensing exam or the national exam for MFTs conducted by the AAMFT Regulatory Board. This exam is used as a licensure requirement in most states.

Where are MFTs employed?

While many are in private practice, MFTs can be found in schools, businesses, government agencies, hospitals and other health care facilities (i.e., community mental health centers, residential treatment facilities, legal and correctional systems and county mental health departments. In addition, many are employed in Employee Assistance Programs (EAPs).

HMOs, PPOs and other managed care companies employ and contract with MFTs for utilization review and provider screening as well as to provide mental health treatments. Insurance companies reimburse for

Sexual Exploitation - the "Two-Year Rule"

Issue

Enact a law to create a cause of action against a psychotherapist for engaging in sexual relations with a patient either during the therapeutic relationship or within two years following termination of therapy.

Background

Sexual relations between a psychotherapist and his/her patient is generally prohibited by law. Violations usually result in disciplinary action by the licensing board (revocation or suspension of the license) and/or the filing of a civil action for damages by the patient. In some states, criminal penalties can be imposed on a psychotherapist who engages in sexual relations with his/her patient. Some believe that sexual relations between a psychotherapist and a patient or former patient should be prohibited in perpetuity. **This bill would instead provide that sexual relations between a psychotherapist and his/her patient are prohibited during the therapist-patient relationship and for two years following a termination of the relationship and would create a specific cause of action against a psychotherapist for a violation.**

This bill is necessary for several reasons. First, some argue or believe that a psychotherapist may have sexual relations with an ex-patient since the law only prohibits such relationships between therapist and patient. In the past, some therapists have simply terminated the therapist-patient relationship, perhaps made a referral, and then engaged in sexual relations with their "ex-patient," either moments or days later. This is clearly inappropriate and constitutes an ethical violation in most professions. Additionally, because of the power imbalance often present in the therapist-patient relationship, some reasonable amount of time must be allowed to pass before an intimate relationship should be allowed to begin.

Therapists who exploit the trust and vulnerability of patients for their own sexual gratification, especially when it can have such devastating and long-term effects upon patients, are practicing predatory psychotherapy. Imposition of a "two-year rule" will prevent therapists from avoiding the very purpose of the long-standing prohibition against therapist-patient sex by simply terminating therapy and engaging in sexual contact shortly thereafter. Establishment of a two-year rule provides for a cooling-off period that will discourage such relationships from occurring. The burden on therapists is not great, since they are free to have sexual relations with everyone except minors and ex-patients (for two years).

Opposition

This bill could be opposed by civil libertarian groups (such as the ACLU) on the basis of the limitation of a person's right to freely associate with others. They may argue that consenting adults should be allowed to engage in sexual relations with each other regardless of their prior professional relationship. They may additionally argue that the two-year rule is an arbitrary barrier to the right of free association. Other affected professions may claim that the present law is sufficient to deal with the existing problems and that the two-year rule is excessive or unnecessary.

Sample Language

Section 43.93 of the California Civil Code is an example of a law that creates a cause of action against a psychotherapist for engaging in sexual relations with a patient within two years following termination of therapy. Licensing law provisions that prohibit sexual relations between therapist and patient should also be amended to include the "two-year rule."

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February 28, 2003

Representative Peggy Wilson
State Capital Rm. 409
Juneau, AK. 99801

Re: House Bill 135

Dear Representative Wilson,

The Regulatory Board for Licensed Marriage and Family Therapists in the State of Alaska strongly support the passage of HB 135. One of our goals for the last couple of years has been to review our laws and regulations after being licensed for about 10 years, to see if they meet current standards of practice nationally. There were several areas identified which were seen as deficient and/or not up to the standards of other mental health professions in this state and nationally. The national organization for marriage and family therapists (AAMFT) as well as the Association of Marital and Family Therapy Regulatory Board has provided us with direction and guidance in bringing our laws and regulations up to a high standard so that the Alaskan public will be protected.

House Bill 135 advances that goal in several significant ways. First and possibly foremost is the provision that addresses sexual relationships between MFTs and clients. There are no mental health professional associations of which I am aware that do not have strict sanctions and prohibitions against sexual relationships with clients and former clients. Many specify two to three years. Social Workers specify a lifetime prohibition. This provision needs to be spelled out clearly since the possible harm caused can be so egregious. Other provisions in this law are attempts to be more responsive to the public, which our Board is charged to protect. The disclosure statement section contains a description of therapist's formal education, degrees obtained and institutions attended, therapist's area of specialization, and therapist's fee schedule. We think this is an important addition to our law in that it spells out the contract between a therapist and his/her client. Many clients are not very informed about these issues and this provision clarifies them.

These are just mentioned two examples of new provisions that this law addresses. The other provisions are significant as well and we encourage you to support them vigorously as we do. The Marriage and Family Therapy Regulatory Board thanks you for your sponsorship of this bill and if there is anything we can do to support its passage please let us know.

Sincerely,

Larry Holman, LMFT, Chairperson, MFT Regulatory Board



**Alaska Association for
Marriage and Family Therapy**

2600 Denali St., Ste 450
Anchorage, Alaska 99503
Ph. (907) 272-7002

February 28, 2003

Representative Peggy Wilson
State Capital Rm 409
Juneau, AK. 99801

Re: House Bill 135

Dear Representative Wilson,

The Alaska Association for Marriage and Family Therapy appreciates your sponsorship of House Bill 135. Our organization supports this bill and was primarily responsible for initiating it. Much of the bill is housekeeping but there are parts, which are substantial changes. The addition of sexual misconduct brings MFT standards up to other mental health care professionals in the state as well as our own National Association's standards. It requires that two years must pass before a LMFT can have a sexual relationship with a former client. Sexual misconduct is one of the most problematic issues facing mental health care providers because of the nature of the relationships that are formed in the therapeutic process. Strict boundaries are absolutely necessary because of that relationship. The disclosure statement is a new provision, which is intended to inform and protect the client as a consumer of mental health services. It is a national trend in marriage and family therapy to educate the client with regards to the professional's training and specialization. In addition, it is a commonly accepted ethical procedure to make consumers aware of fees.

Again, thanks for sponsoring this bill.

Sincerely,

Susan Arth, Division President, AkAMFT