

HB

135

Alaska State Legislature

Representative Peggy Wilson
Putting Alaska's Families First

MEMORANDUM

TO: Senator Fred Dyson
Chair, Senate Health Education and Social Services

FROM: Representative Peggy Wilson *SW*

DATE: April 5, 2003

RE: Committee Substitute House Bill 135 (HESS)

Please schedule CSHB 135(HESS) for a hearing in the Senate Health Education and Social Services Committee

Attached are:

1. CSHB 135(HESS)
2. Sponsor Statement
3. Sectional Analysis
4. Support letters

Thank you for your consideration of CSHB 135(HESS). If you have any questions, please do not hesitate to contact me.

Alaska State Legislature

Representative Peggy Wilson
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SPONSOR STATEMENT CS House Bill 135 (HESS)

"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.

CS 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.

CS HB135 (HESS)~

- *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.

CS HOUSE BILL 135 (HESS) 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 CS HB 135 (Hess)

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.

Section 7 was amended by deleting the words "for marital and family therapy services" on page 5, lines 9-10, and inserting "by a licensed marital and family therapist".



**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

**Larry Holman M.S. LMFT
Susitna Counseling and Associates
2600 Denali St. Ste 450
Anchorage, AK. 99503
Ph. (907) 272-7002 Fax (907) 272-2851**

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

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."

Amendment
By Green

Page 5
Live 9-11

Delete all language after
Disclosure statement.

Replace with

Before the performance of services the client will be furnished a copy of a professional disclosure statement that contains

SENATE COMMITTEE REPORT

DATE: 4/4/03

FURTHER: Labor and Commerce

DATE TURNED
IN TO OFFICE: _____

Health, Education & Social Services Committee considered CS FOR HOUSE BILL NO. 135(HES)

HB 135 MARITAL & FAMILY THERAPISTS

"An Act relating to marital and family therapists."

and recommends:

be replaced with S CS FOR CS HB 135 (HES)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:

same title
 new title

House Bill:

same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
CED	3/3		X	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		DO PASS	DO NOT PASS	NO REC	AMEND
Davis	<i>Bettye Davis</i>	✓			
Wilken	<i>Gary Wilken</i>			✓	
Green	<i>Ludy Green</i>			✓	
Guess	<i>Michael Guess</i>			✓	
Dyson	CHAIR: <i>Paul Dyson</i>			✓	