

**SB**

**263**

<target><bill>SB 263</bill><subject>SB  
263</subject><comm>SFIN26</comm></target>

# Alaska State Legislature



*Interim:*  
716 West 4th Ave.  
Anchorage, Alaska 99501  
(907) 269-0199

*Session:*  
State Capitol Building  
Juneau, Alaska 99801-1182  
(907) 465-4945

## Legislative Budget & Audit Committee

### SB 263 SPONSOR STATEMENT

**TITLE:** "An Act extending the termination date of the Board of Professional Counselors; and providing for an effective date."

The Board of Professional Counselors (BPC) was established under the provisions of Title 8, Chapter 29 of Alaska Statutes. BPC consists of five members appointed by the governor. Four members must be professional counselors and one member must be appointed from the general public. Board members serve staggered terms of four years.

The division provides administrative and investigative assistance to occupational boards including BPC. Administrative assistance includes budgetary services and functions such as collection of fees, maintaining files, receiving and issuing application forms, and publishing notice of examinations, meetings, and proposed regulations.

In the opinion of Legislative Audit, the BPC should continue to regulate professional counselors. The board is serving the public interest by promoting the competence and integrity of those who provide services to the public as licensed professional counselors.

SB 263, if enacted, would extend the Board for eight years to June 30, 2018.

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/12/10

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Finance Committee considered SENATE BILL NO. 263

## SB 263 EXTEND BOARD OF PROFESSIONAL COUNSELORS

"An Act extending the termination date of the Board of Professional Counselors; and providing for an effective date."

and recommends:

- be replaced with  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

**SENATE BILL:**  
 Same Title  
 New Title

---

**HOUSE BILL:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

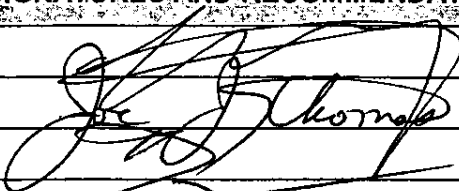
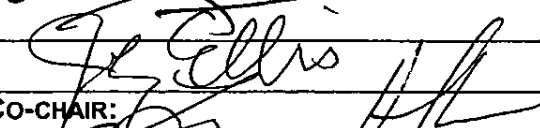


**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
CED	3/8/10	✓			

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Huggins Thomas Toman	<del>✓</del>			
	Ellis	✓			
CO-CHAIR: 	Hoffman	✓			
CO-CHAIR: 	Stedman	✓			

# FISCAL NOTE

**STATE OF ALASKA**  
**2010 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SB 263  
 (S) Publish Date: 3/12/10

Identifier (file name): SB263-CED-CBPL-3-8-10 Dept. Affected: DCCED  
 Title: Extend Board of Professional Counselors RDU: Corp, Bus, & Prof Licensing (117)  
 Component: Corp, Bus, & Prof Licensing  
 Sponsor: Senate Rules by Request  
 Requester: Senate Labor and Commerce Component Number: 2360

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
<b>OPERATING EXPENDITURES</b>								
Personal Services	0.0	34.0	34.0	34.0	34.0	34.0	34.0	34.0
Travel	0.0	13.5	13.5	13.5	13.5	13.5	13.5	13.5
Contractual	0.0	3.3	3.3	3.3	3.3	3.3	3.3	3.3
Supplies	0.0	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>50.9</b>	<b>50.9</b>	<b>50.9</b>	<b>50.9</b>	<b>50.9</b>	<b>50.9</b>	<b>50.9</b>
<b>CAPITAL EXPENDITURES</b>								
<b>CHANGE IN REVENUES ( 1156 )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other: RSS (1156)	0.0	50.9	50.9	50.9	50.9	50.9	50.9	50.9
<b>TOTAL</b>	<b>0.0</b>	<b>50.9</b>	<b>50.9</b>	<b>50.9</b>	<b>50.9</b>	<b>50.9</b>	<b>50.9</b>	<b>50.9</b>

Estimate of any current year (FY2010) cost: 0.0

**POSITIONS**

Full-time							
Part-time							
Temporary							

**ANALYSIS:** (Attach a separate page if necessary)

SB 263 extends the Board of Professional Counselors to June 30, 2018. In accordance with AS 08.03.020 funding extends one year following the termination date allowing the Board to conclude its affairs. The FY2011 funding is included in the Operating Budget request and costs shown are an average of direct costs for a biennial licensing period.

Travel expenses represent transportation and per diem for the 5 member board and 1 staff to meet at least 2 times each year in accordance with AS 08.01.070.

The program is required to cover costs with licensing fees under AS 08.01.065, and revenue generated by board fees are anticipated to cover its full operating costs. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Division Operations Manager  
 Division: Corporations, Business & Professional Licensing  
 Approved by: Emil Notti, Commissioner  
Commerce, Community, and Economic Development

Phone (907) 465-2144  
 Date/Time 2/18/2010 10:30AM  
 Date 3/8/2010

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE



Division of Legislative Audit

P.O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347  
legaudit@legis.state.ak.us

October 26, 2009

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Professional Counselors (BPC), and the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,  
AND ECONOMIC DEVELOPMENT  
BOARD OF PROFESSIONAL COUNSELORS

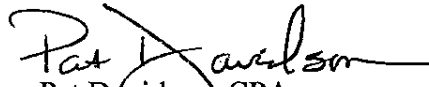
September 30, 2009

Audit Control Number  
08-20061-09

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Under AS 08.03.010(c)(17), the board will terminate on June 30, 2010. If the legislature does not extend the termination date, the board will have one year to conclude its administrative operations.

In our opinion, BPC's termination date should be extended until June 30, 2018. The board is serving the public interest by promoting the competence and integrity of those who provide services to the public as licensed professional counselors.

This audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

  
Pat Davidson, CPA  
Legislative Auditor

# TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology .....	1
Organization and Function .....	3
Report Conclusions.....	5
Findings and Recommendations.....	7
Analysis of Public Need .....	11
Agency Response:	
Office of the Governor .....	17
Department of Commerce, Community, and Economic Development .....	19
Board of Professional Counselors .....	21

## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and Title 44 of the Alaska Statutes, we have reviewed the activities and operations of the Board of Professional Counselors (BPC). As required by state law, the legislative committees of reference are to consider this report when determining whether to extend the termination date for BPC. Currently under AS 08.03.010(c)(17), the board will terminate on June 30, 2010. If the legislature does not extend the termination date for the board, BPC will have one year to conclude its administrative operations.

### Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of BPC should be extended.
2. To determine if BPC is operating in the public interest.
3. To determine if the board has exercised appropriate regulatory oversight of licensed professional counselors.

The assessment of BPC's performance was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the board.

### Scope and Methodology

Our audit reviewed BPC's operations and activities for the period spanning FY 05 through FY 09. The major areas of our review were licensing, investigations, board proceedings, and duplication of efforts. We reviewed and evaluated the following;

1. Applicable statutes and regulations to identify changes. The board's participation in the change process was reviewed to help assess board activities;
2. Licensee files and related documentation to determine whether licenses were issued in accordance with state law;
3. Board meeting minutes and Department of Commerce, Community, and Economic Development, Division of Corporations, Business, and Professional Licensing correspondence files to identify board activities and help assess performance;
4. BPC's annual reports to identify BPC membership, goals, accomplishments, and financial activity;
5. BPC-related public notices published in the *Anchorage Daily News* and the State's online notification system to ensure meeting and regulations were properly noticed;

6. BPC-related case and complaint files for cases or complaints opened from May 25, 2004 through February 18, 2009 to gain an understanding of the types of complaints and to evaluate the investigative process;
7. Board revenues and expenditures for the audit period were reviewed to identify BPC's financial surplus/deficit and to assess the adequacy of license fees; and
8. Board member resumes and related information maintained by the Office of the Governor to ensure that board members were qualified to serve on the board in accordance with state law.

We also interviewed two board members and various division staff including the licensing examiner, investigators and administrative staff to gain an understanding of the board's activities and performance.

## ORGANIZATION AND FUNCTION

The Board of Professional Counselors (BPC) was established under the provisions of Title 8, Chapter 29 of Alaska Statutes. BPC consists of five members appointed by the governor. Four members must be professional counselors and one member must be appointed from the general public. Board members serve staggered terms of four years.

The board regulates the practice of professional counselors. BPC sets the minimum standards to practice in Alaska through the following measures:

1. Examining and issuing licenses to qualified applicants;
2. Establishing continuing education requirements for license renewal;
3. Adopting a code of ethics for professional counselors;
4. Establishing education and training requirements that must be met before professional counselors can administer and use assessment instruments described in AS 08.29.490(1)(c);
5. Adopting regulations necessary to enforce BPC; and
6. Imposing disciplinary sanctions on persons who violate the statutes or regulations related to the licensure of professional counselors.

Exhibit 1

**Board of Professional Counselors  
(As of June 30, 2009)**

Professional Members

Tashawna Olson, Chair  
Jennifer Burkholder  
Ray DePalatis  
Emily Zimbrich

Public Members

Lillian Mitchell

An applicant can be licensed by meeting the licensing requirements under AS 08.29.110 which includes passing a written examination required by the board. Alternatively, AS 08.29.120 permits applicants to obtain their initial professional counseling license through possession of the appropriate credentials. In order to be licensed by credentials, an applicant must provide proof of licensure by another jurisdiction. BPC must find that the other jurisdiction has the same or higher licensure requirements in comparison to the State of Alaska.

The Department of Commerce, Community, and Economic Development (DCCED),  
Division of Corporations, Business and Professional Licensing

The division provides administrative and investigative assistance to occupational boards including BPC. Administrative assistance includes budgetary services and functions such as

collection of fees, maintaining files, receiving and issuing application forms, and publishing notice of examinations, meetings, and proposed regulations.

Alaska Statute 08.01.087 empowers DCCED with the authority to conduct an investigation on its own initiative or in response to a complaint. The division may implement the following:

1. Conduct an investigation if it appears a person is engaged or is about to engage in a prohibited professional practice;
2. Bring an action in Superior Court to enjoin the act;
3. Examine the books and records of an individual; and
4. Issue subpoenas for the attendance of witnesses and records.

## REPORT CONCLUSIONS

The Board of Professional Counselors' (BPC) termination date should be extended to June 30, 2018.

BPC should continue to regulate professional counselors. The board is serving the public interest by promoting the competence and integrity of those who provide services to the public as licensed professional counselors.

BPC has conducted its business in a satisfactory manner. It continues to propose regulation changes to improve the board's effectiveness and ensure that professional counselors are properly licensed.

Alaska Statute 08.03.010(c)(17) terminates BPC on June 30, 2010. If not extended by the legislature, under AS 08.03.020, the board will have a one-year period to administratively conclude its affairs. We recommend the legislature extend the board's termination date to June 30, 2018.

The Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing's investigation unit is not addressing all investigations in a timely manner.

We reviewed BPC complaints and cases received and processed by the division's investigative unit during the period May 2004 to February 2009. Of the 14 complaints/cases reviewed, five had periods of inactivity greater than four months. We also found that investigators record information in the investigative database and close and/or open cases in an inconsistent manner. These findings are addressed in Recommendation No. 2.

Improvements are needed in the division's administrative support to the board.

Several deficiencies were noted in the administrative support provided to BPC. The information contained in the annual reports prepared by division staff was often inaccurate and incomplete. The methodologies used to account for BPC revenues and expenditures were inconsistent and, in some cases, inaccurate. Furthermore, important information was not forwarded to investigative staff. These deficiencies were caused by untrained/inexperienced staff, a lack of written procedures for support functions, and an incorrect assumption that investigative staff were already aware of certain information. The deficiencies are described in Recommendation No. 1.

(Intentionally left blank)

## FINDINGS AND RECOMMENDATIONS

During the 2005 Board of Professional Counselors (BPC) sunset review, we recommended BPC and the Board of Marital and Family Therapy (BMFT) be combined into a single oversight and licensing board. The Department of Community, Commerce, and Economic Development's (DCCED) commissioner favored the recommendation, but chairs of both BMFT and BPC objected. There has been no evidence of further interest or intent by legislators regarding board combination during the scope of this sunset review. Consequently, we did not reiterate the recommendation.

### Recommendation No. 1

DCCED's Division of Corporations, Business and Professional Licensing's professional licensing administrative officer should take steps to improve its administrative support.

Unqualified staff and a lack of documented procedures led to several deficiencies in administrative support. Specifically:

- Required annual fee analyses were not done for FY 07 through FY 09.
- FY 06 and FY 07 annual reports contained errors in license statistics.
- Financial data was missing from FY 05 and FY 07 annual reports.
- Indirect costs for the division were treated inconsistently between fiscal periods.
- Hearing fees were inconsistently treated as indirect versus direct costs between fiscal periods.
- Information related to a licensee with an open investigation was not routed to the division's investigative staff.

The division's professional licensing section is responsible for performing various administrative tasks to support board activities. Per AS 08.01.050, DCCED duties include: collecting and recording fees; maintaining records and files; compiling and maintaining a current register of licensees; arranging for printing and advertising; and providing inspection, enforcement, and investigative services to occupational boards. The division is also responsible for annually reviewing occupational boards' fee levels to determine whether an occupation's regulatory costs are approximately equal to fee collections related to that occupation. BPC is required by AS 08.01.070 to submit, before the end of the fiscal year, an annual performance report to the DCCED stating the board's accomplishments, activities, and needs. Professional licensing's policy is to produce a single annual report incorporating both board and division information requirements.

All the deficiencies in administrative support, except for the last one noted above, were caused by a key administrative staff member that was unqualified and untrained for the position. This was further exasperated by insufficient procedures for accounting for revenues

and expenditures and for preparing financial reports. Information was not routed to the division's investigative staff because a licensing examiner mistakenly believed that the investigative staff was already aware of the information.

Inadequate administrative support hampers BPC's ability to fulfill its responsibilities and may provide policymakers misleading information. Failing to forward salient licensee information to investigative staff could allow a licensee to inappropriately continue to practice. We recommend professional licensing's administrative officer take steps to improve administrative support.

#### Recommendation No. 2

The division's chief investigator should establish procedures to ensure information is consistently recorded in the case management system and should take steps to ensure complaints/cases are investigated in a timely manner.

We reviewed the professional counselor complaints/cases opened by the investigative unit during the period May 2004 to February 2009. Of the 14 complaints/cases reviewed, three complaints and two cases were inactive for over four months. Additionally, investigators did not open/close cases or record information in the investigative database in a consistent manner.

It is the division's responsibility to provide investigative support for BPC. Investigators examine and research each complaint to determine jurisdiction and whether a violation exists. If the complaint meets these conditions, a case is opened and a priority is assigned. The priority reflects the level of imminent danger to the public.

Investigative staff attributes the delays to higher priority cases and tasks taking precedence. The staff also believes the investigative database contributed to the problem. The database does not have a user-friendly mechanism for flagging inactive cases. Consequently, supervisors/investigators cannot effectively monitor caseloads. Ineffective monitoring leads to unnecessary delays. We also found a lack of procedures to ensure investigators consistently record information in the case management system.

Complaints and cases that are not investigated timely may allow licensees who are practicing inappropriately or outside their scope to continue these violations. Additionally, not standardizing the data within the database limits its usefulness.

Cases with life threatening repercussions should take priority. However, it is still reasonable for the public to expect that all complaints against licensees will be addressed as efficiently as possible. We recommend the division's chief investigator take steps to ensure complaints/cases are investigated timely. We further recommend that the chief investigator establish procedures to ensure information is consistently recorded in the case management system.

Recommendation No. 3

The division's professional licensing supervisors should take steps to ensure salient investigative information is forwarded to the investigative section.

In one case, the division's investigative staff suspended an investigation when a licensee became uncooperative. The licensee stopped cooperating with investigators once a related civil lawsuit was filed. Although the licensee responded refused to communicate with investigative staff, he attached a letter to his license-renewal form admitting the ethical violation and agreeing to abide by necessary sanctions. The licensing examiner believed that the investigative staff were privy to the letter and did not forward it. Furthermore, the licensing examiner did not forward the letter on to the Board for consideration because BPC does not routinely review renewal forms. As a result, the investigation remained stalled and the licensee continued to maintain an active license and was free to seek out-of-state licensure.

Alaska Statute 08.01.050 requires DCCED to provide inspection, enforcement, and investigative services to occupational licensing boards regarding all licenses issued by or through the department. The licensing examiner should have forwarded the licensee's letter to the investigative unit and possibly BPC. By not completing an investigation and bringing the results to the board for consideration, a licensee allowed to maintain an active practice and/or seek out-of-state licensure when they might have otherwise been subject to disciplinary sanctions.

We recommend the division's professional licensing supervisors take steps to ensure salient investigative information is forwarded to the investigative section.

Recommendation No. 4

The Office of the Governor should take steps to make the necessary appointments to keep BPC at full membership.

BPC is made up of five members – one representative from the general public and four licensed professionals. One professional is employed in the private sector, and one is employed in the public sector. One public member seat was open for 12 months during FY 04 through FY 05. One licensed professional seat was vacant for 11 months during FY 08 through FY 09.

Alaska Statute 08.29.010 requires the Office of the Governor to appoint both public and professional board members. Maintaining board membership that includes public and professional members, ensures a balanced representation. The lack of sufficient BPC members prevents the board from conducting business with the appropriate public and professional input and perspective.

Accordingly, we recommend that BPC and the Governor's office work to fill appointments to all seats on the board, with particular emphasis on public member seats, designed to represent the State's citizenry.

## A ANALYSIS OF PUBLIC NEED D

The following analyses of board activities relate to the public need factors defined in AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

***Determine the extent to which the board, commission, or program has operated in the public interest.***

The Board of Professional Counselors (BPC) has operated in the public interest by licensing qualified individuals. The board established licensing requirements and minimal practice standards that licensed, professional counselors must adhere to in the course of practice. BPC has established regulations governing its duties and licensure requirements, enforced laws for issuing licenses in a uniform and consistent manner, held meetings, and administered examinations in accordance with statutory requirements.

***Determine the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.***

According to AS 08.01.065(c), the Department of Commerce, Community, and Economic Development (DCCED) must “*establish fee levels... so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation.*” BPC reviews and provides feedback on changes in fees proposed by DCCED’s Division of Corporations, Business and Professional Licensing. Exhibit 2 (on the following page) reflects BPC’s financial information for the period FY 05 through FY 09.

Professional counselors renew licenses during even-numbered fiscal years. By the end of FY 04, BPC’s biennial roll-forward balance was \$266,600. In response to the surplus, licensing fees were reduced from \$500 to \$200 beginning FY 05. As noted in Recommendation No.1, there was no fee analysis performed for FY 07, FY 08, or FY 09, and revenue and expenditure information was inconsistently provided to BPC. From the surplus shown in the summary schedule on the following page, licensing fees should be analyzed for adequacy before the FY 10 renewal period.

Exhibit 2

<b>State of Alaska</b> <b>Board of Professional Counselors</b> <b>Schedule of Revenues and Expenditures</b> <b>FY 05 - FY 09</b> (Unaudited)					
	<u>FY 05</u>	<u>FY 06</u>	<u>FY 07</u>	<u>FY 08</u>	<u>FY 09</u>
Revenue	\$ 29,300	\$ 71,800	\$ 12,600	\$ 84,300	\$ 16,100
Direct Expenditures					
Personal					
Services	27,800	31,300	28,900	39,000	42,500
Travel	1,800	8,900	12,100	14,800	17,800
Contractual	5,600	7,300	3,400	3,100	4,300
Supplies & Equipment	100	100	100	0	300
Total Direct Expenditures	35,300	47,600	44,500	56,900	64,900
Indirect Expenditures	16,500	15,900	21,700	20,400	19,400
Total Expenditures	51,800	63,500	66,200	77,300	84,300
Net Income (Loss)	(22,500)	8,300	(53,600)	7,000	(68,200)
Beginning Surplus (Deficit)	266,700	244,200	252,500	198,900	205,900
Ending Surplus (Deficit)	\$ 244,200	\$ 252,500	\$ 198,900	\$ 205,900	\$ 137,700

***Determine the extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.***

During FY 07, BPC promoted two statutory changes by testifying in legislative committee meetings. One restricted the title of 'professional counselor' to those licensed – this change was enacted via AS 08.29.100(a). Another included professional counselors in the list of licensed providers who may not be discriminated against regarding insurance reimbursement – this was enacted via AS 21.36.090(d).

During FY 08, BPC recommended a statutory change to require continuing education for the renewal of approved professional counselor supervisors. BPC also recommended a statute change to address distance counseling, so that further regulations for this new trend of counseling could be created. To date, neither of these statutory changes has been made.

The board also supported the division in the pursuit of a statutory change that would provide a combined legal trust for various mental health boards. The trust is intended to provide advanced funding for costly legal issues or investigations and provide for consistent license fees over fiscal periods.

***Determine the extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.***

The location, date, and time of upcoming BPC meetings and notices of proposed changes in regulations are posted on the State's online public notice system, and published in the *Anchorage Daily News* with adequate time for interested individuals to attend or to submit written comment for review. Board minutes reflect public participation and BPC's meeting agendas reflect time for public comment.

***Determine the extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.***

The board proposed a number of regulation changes during the period under review. The proposed changes were advertised on the State's online public notice system and published in the *Anchorage Daily News* in time for interested individuals to attend or to submit written comment for review. Additionally, the division's regulations specialist maintains a list of interested parties and contacts these individuals prior to any proposed regulation change. As already noted, BPC's meeting agendas set aside time for public comment.

***Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.***

From May 2004 through February 2009, the division's investigative unit opened 13 complaints and 20 cases related to BPC licensees or applicants.

Eleven of the complaints/cases were alleged ethics violations or sexual misconduct, and eight were license application issues. The remaining complaints/cases were made up of practicing beyond the license scope, incompetence, and compliance with continuing education requirements.

We reviewed 10 of the 33 investigative complaint/case files. Five were carried out in a timely manner and five were delayed and marked with significant periods of inactivity (discussed in Recommendation No. 2). We also reviewed four cases assigned to the

division's paralegal, and found that these were investigated and resolved in a reasonable and timely manner.

Four of the 33 complaints/cases were still open investigations. Of the 29 resolved complaints/cases, eight resulted in disciplinary license action.

There were no BPC related complaints filed with the Office of Victim's Rights, the Human Rights Commission or the Office of the Ombudsman.

***Determine the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.***

BPC has ensured only qualified applicants receive a professional counselor license. An applicant may apply for licensure by either credentials or examination. Requirements for licensing are stringent and eliminate applicants who do not have the necessary educational background or adequate work experience.

Applicants licensed by credentials are required to have been licensed in another jurisdiction with licensing requirements similar to the State of Alaska. These applicants must list the requirements of their prior licensing jurisdiction and disclose any disciplinary actions against them. Those licensed by examination pass a uniform computer-based test, and provide a record of their required academic credit hours and supervised/unsupervised contact hours in the field of counseling.

The State allows people to counsel without a license. However, as noted previously, since AS 08.29.100 was enacted, those without a license may not profess to be a licensed professional counselor, a professional counselor, or a licensed counselor, or make use of a title, words, letters, or abbreviations that may reasonably be confused with the title of "licensed professional counselor," "professional counselor," or "licensed counselor." BPC license activity for the past five fiscal years is presented below:

Licenses Issued	Newly Issued					Total at June 30, 2009
	FY 05	FY 06	FY07	FY08	FY09	
Professional Counselors	34	51	35	48	39	449

***Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.***

We did not find any evidence that BPC was not in compliance with state personnel practices, including affirmative action.

***Determine the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.***

As discussed in Recommendation No. 1, the administrative support provided by the division's professional licensing section was not accurate, comprehensive, or consistent. The administrative staff should provide the necessary and required information so that the board can perform its functions and serve the public interest effectively and efficiently.

As discussed in Recommendation No. 4, the Office of the Governor should take steps to expedite BPC appointments.

***Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.***

BPC has met its purpose and objectives effectively and efficiently during the period under review.

BPC enacted a number of regulation changes. Most significantly, it passed regulations requiring criminal background checks of all applicants, a clear step toward protecting the public interest. It also added continuing education requirements for its licensed supervisors to help regulate the quality of supervised experience of its licensees, enacted board attendance provisions, and made various changes to clarify existing regulations.

***Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.***

BPC uses the information produced by a national association in order to license and regulate locally while considering Alaska's unique needs. We determined that there was no substantial duplication of efforts between the BPC and the national counseling organization.

We compared various elements of professional counseling to several other mental health licenses (marital and family therapists, social workers, and psychologists and psychological examiners). There are similarities in the issues treated, intervention techniques, and client populations. Regulations for professional counselors and marital and family therapists effectively permit cross-training between the two license types. There are common issues for groups, such as professional accessibility for supervised experience, license portability, distance counseling, and background checks.

Though similarities exist, there are still some distinctions between the license types and professional philosophies. Though there are parallels and some possible duplication of efforts between these license types, there are sufficient practical and philosophical distinctions that it is reasonable that these professions be licensed separately.

(Intentionally left blank)

STATE CAPITOL  
PO Box 110001  
Juneau, Alaska 99811-0001  
907-465-3500  
fax: 907-465-3532



550 West 7<sup>th</sup> Avenue # 1700  
Anchorage, Alaska 99501  
907-269-7450  
fax 907-269-7463  
www.gov.alaska.gov  
Governor@alaska.gov

Office of Governor Sean Parnell  
STATE OF ALASKA

December 7, 2009

Ms. Kristin Dolquist, CPA  
Audit Manager  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811-3300

RECEIVED  
DEC 07 2009  
LEGISLATIVE AUDIT

Dear Ms. Dolquist,

This letter is in response to your November 6, 2009 "CONFIDENTIAL" preliminary audit report on *A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Professional Counselors, September 21, 2009*.

Regarding recommendation No. 4: The Office of the Governor should take steps to make the necessary appointments to keep the Board of Professional Counselors (BPC) at full membership:

The Office of the Governor concurs with this recommendation, and currently, the board is at full membership. As the new Director of the Office of Boards and Commissions, I am committed to assisting the Governor in making timely appointments that allow the boards to function productively. Two licensee seats on the board expire on March 1, 2010, and I intend to make recommendations for the Governor's review well in advance of that expiration date.

Your report also mentioned the issue of combining BPC with the Board of Marital and Family Therapy (BMFT) into a single oversight and licensing board. If that recommendation is proposed in the future, I am supportive of those efforts. Unless significant difficulties arise, combining boards that operate in close proximity to each other in related fields, such as BPC and BMFT, leads to a more efficient State government.

If you need additional information, please contact me at 907-465-3934.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Hooley".

Jason Hooley  
Director  
Boards and Commissions

cc: Michael Nizich, Chief of Staff, Office of the Governor

(Intentionally left blank)



STATE OF ALASKA  
DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

Office of the Commissioner

*Sean Parnell, Governor*  
*Emil Notti, Commissioner*

December 2, 2009

Ms. Pat Davidson, Legislative Auditor  
Legislative Audit Division  
P.O. Box 113300  
Juneau, AK 99811-3300

RECEIVED  
DEC 03 2009  
LEGISLATIVE AUDIT

Dear Ms. Davidson:

Thank you for the opportunity to comment on the preliminary audit report on the Board of Professional Counselors (BPC).

Recommendation No. 1: The division's professional licensing administrative officer should take steps to improve administrative support.

The department agrees with this recommendation. The division has undergone a number of changes in key management positions and is optimistic about improvements being made to its internal cost-accounting system and documentation of procedures.

Recommendation No. 2: The division's chief investigator should establish procedures to ensure investigators consistently enter information into the case management system and should take steps to ensure complaints/cases are investigated timely.

For several years, the division has attempted to obtain a new case management tracking system for the Investigations Unit. The current case management system is old and the information that can be added to the system is limited. We now have the funding and a contract for the construction of a new case management tracking system. We anticipate it to be operational by April 2010 and it will help eliminate the voids found in the BPC investigations.

Recommendation No. 3: The division's professional licensing supervisors should take steps to ensure salient investigative information is forwarded to the investigative section.

The department agrees with this recommendation and is making every effort to improve communications between office staff and office locations.

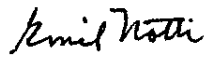
Recommendation No. 4: The Office of the Governor should take steps to make the necessary appointments to keep BPC at full membership.

The department agrees with this recommendation.

P.O. Box 110800, Juneau, Alaska 99811-0800  
Telephone: (907) 465-2500 Fax: (907) 465-5442 Text Telephone: (907) 465-5437  
Email: [questions@commerce.state.ak.us](mailto:questions@commerce.state.ak.us) Website: <http://www.commerce.state.ak.us/>

The department concurs with the extension of BPC to June 30, 2018. Thank you again for the opportunity to comment on the preliminary audit report.

Sincerely,



Emil Notti  
Commissioner



**Shawnie Olson – Counseling Services**

Box 2914  
Homer, AK 99603  
907-235-8808 or 235-8886  
[saje@ak.net](mailto:saje@ak.net)

November 15, 2009

Alaska State Legislature  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK  
99811-3300

**RECEIVED**  
**NOV 19 2009**  
**LEGISLATIVE AUDIT**

Dear Auditors:

This is the Board of Professional Counselors response to the Sunset Audit that was conducted on the Board of Professional Counselors, Alaska in the fall of 2009. As chair of this Board, I understand that it is my responsibility to reply to this audit.

The Board appreciates the time and energy put forth by the representatives who conducted the Sunset Audit. This letter will respond to the recommendations made in the report:

1. The first recommendation deals with the Department of Community, Commerce, and Economic Development's (DCCED) Division of Corporations, Business and professional Licensing professional licensing administrative officer. The request is that the Division improves its administrative support to the Board. The Board admits to being unaware that it didn't receive many of the items enumerated in your report and was not made aware of errors. Therefore, we appreciate the information that this data should come to the Board (and be accurate) so that we are better able to serve the Licensed Professional Counselors in the state of Alaska. We appreciate the Division's support and hope that we can work even better together in the future.
2. The second recommendation states that the Division's chief investigator take action to ensure that information is recorded in a consistent manner and that the cases be investigated in a timely manner. It is the Board's understanding that these delays were due to more pressing cases. The Board is grateful for the investigative process and our newly assigned investigator is already very involved with the Board.
3. The third recommendation deals with investigative information not being passed to the investigative section. The Board was unaware of this issue. Our current licensing examiner works diligently to support the work of the Board and her service is commendable.
4. The fourth recommendation states that the Office of the Governor should take steps to make appointments to the BCP in order to keep it at full membership. I personally asked the Division many times to encourage the Office to fill positions. It is a small

4. The fourth recommendation states that the Office of the Governor should take steps to make appointments to the BCP in order to keep it at full membership. I personally asked the Division many times to encourage the Office to fill positions. It is a small

2

Board that is scattered across the state. We must have three members present to have a quorum. Processing a large number of new licensees and working through renewal applications is arduous without a full Board in attendance. The Board appreciates this recommendation.

The Board of Professional Counselors appreciates the recommendations of the Sunset Audit to continue their work and to act as a solo Board representing the Licensed Professional Counselors in the state of Alaska. Our goal is to make things run more smoothly and efficiently as we strive to protect the public.

Thank you for providing this audit.

Sincerely,



Shawnie Olson, LPC

Board of Professional Counselors, Chair