

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

3942 SHES SB 227 818

1 licensed under this chapter, a person may not use the title "social
2 worker" or a title, designation, or device indicating or tending to
3 indicate that the person is a social worker or practices social work.
4 A person may not use the letters "LBSW" as part of a title unless the
5 person is licensed as a bachelor social worker under this chapter. A
6 person may not use the letters "LMSW" as part of a title unless the
7 person is licensed as a master social worker under this chapter. A
8 person may not use the letters "LISW" as part of a title unless the
9 person is licensed as an independent social worker under this chapter.
10 Except as provided in (b) of this section, a person may not use the
11 title "social worker intern" or "social worker student."

12 (b) A student enrolled in an accredited social work program may
13 use the title "social worker intern" or "social worker student" if the
14 person's activities constitute a part of the person's supervised
15 course of study.

16 (c) A person who is not licensed under this chapter may use the
17 title "associate social worker" or a similar title while the person is
18 providing services as a social worker to the state or a political
19 subdivision of the state under the supervision of a social worker li-
20 censed under this chapter.

21 Sec. 08.87.210. CONFIDENTIALITY OF COMMUNICATIONS. A social
22 worker licensed under this chapter or an associate social worker may
23 not disclose information provided to the social worker by a client in
24 the course of their professional contact. This prohibition does not
25 apply if the

26 (1) client provides written consent to the social worker to
27 reveal the communication;

28 (2) client is incompetent and the guardian or personal
29 representative provides written consent to the social worker to reveal

*Liz:
H. Jid may
be concerned.*

*look for
model lang.
from other
state.*

*John Shaw
AG*

1 the communication;

2 (3) client is dead and a beneficiary of an insurance policy
3 on the client's life provides written consent to the social worker to
4 reveal the communication;

5 (4) communication discloses that a crime has been committed
6 or reveals an intent to commit a crime;

7 (5) client is a minor, the communication discloses that the
8 client was the victim of a crime or harmful act, and the social worker
9 reveals the communication only during the course of an official exam-
10 ination, trial or other proceeding in which the commission of the
11 crime or harmful act is a subject of inquiry;

12 (6) client brings charges against the social worker and the
13 social worker reveals the communication only as necessary to defend
14 the charges;

15 (7) licensee is subpoenaed to testify in court;

16 (8) licensee is collaborating or consulting with profes-
17 sional colleagues or an administrative superior on behalf of the
18 client;

19 (9) communication discloses information that the licensee
20 is required by state or federal laws or regulations to disclose.

21 Sec. 08.87.220. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-
22 TIONS. After a hearing, the board may impose a disciplinary sanction
23 on a person licensed under this chapter when the board finds that the
24 licensee

25 (1) secured a license through deceit, fraud, or intentional
26 misrepresentation;

27 (2) engaged in deceit, fraud, or intentional misrepresenta-
28 tion in the course of providing professional services or engaging in
29 professional activities;

1 (3) advertised professional services in a false or mislead-
2 ing manner;

3 (4) has been convicted of a crime that has a substantial
4 relationship to the licensee's activities and services or that affects
5 the licensee's ability to continue to practice competently and safely;

6 (5) intentionally or negligently engaged in or permitted
7 the performance of social work by persons under the licensee's super-
8 vision that does not conform to minimum professional standards regard-
9 less of whether actual injury occurred;

10 (6) failed to comply with this chapter, with a regulation
11 adopted under this chapter, or with an order of the board;

12 (7) continued to practice after becoming unfit due to

13 (A) professional incompetence;

14 (B) addiction or dependence on alcohol or other drugs
15 that may endanger the public by impairing the licensee's ability
16 to practice;

17 (C) physical or mental disability;

18 (8) engaged in lewd conduct in connection with the delivery
19 of professional service;

20 (9) has been held liable for malpractice in a civil action;

21 (10) has had a license revoked in another jurisdiction.

22 Sec. 08.87.230. DISCIPLINARY SANCTIONS. (a) If it finds that a
23 licensee has committed an act set out in AS 08.87.220, the board may
24 impose the following sanctions singly or in combination:

25 (1) permanently revoke a license to practice;

26 (2) suspend a license for a determinate period of time;

27 (3) censure a licensee;

28 (4) issue a letter of reprimand to the licensee;

29 (5) place a licensee on probationary status and require the

1 licensee to

2 (A) report regularly to the board upon matters involv-
3 ing the basis of probation;

4 (B) limit practice to those areas prescribed;

5 (C) continue professional education until a satisfac-
6 tory degree of skill has been attained in those areas that are
7 the basis of probation;

8 (6) impose limitations or conditions on the practice of a
9 licensee;

10 (7) refuse to renew a license.

11 (b) The board may withdraw probationary status if it finds that
12 the deficiencies that required the sanction have been remedied.

13 (c) The board may summarily suspend a license before final
14 hearing or during the appeal process if the board finds that the
15 licensee poses a clear and immediate danger to the public health and
16 safety if the licensee continues to practice. A person whose license
17 is suspended under this section is entitled to a hearing by the board
18 no later than seven days after the effective date of the order. The
19 person may appeal the suspension after a hearing to a court of compe-
20 tent jurisdiction.

21 (d) The board may reinstate a license that has been suspended or
22 revoked if the board finds after a hearing that the applicant is able
23 to practice with reasonable skill and safety.

24 (e) The board shall seek consistency in the application of
25 disciplinary sanctions. The board shall explain significant departure
26 from prior decisions involving similar situations in findings of fact
27 or orders.

28 Sec. 08.87.240. CRIMINAL PENALTY. A person who violates
29 AS 08.87.200 or 08.87.210 of this chapter is guilty of a class B

1 misdemeanor.

2 Sec. 08.87.250. INJUNCTIVE RELIEF. The board may apply to the
3 superior court for an order enjoining a person not licensed under this
4 chapter or whose license is suspended, revoked, or expired from vio-
5 lating this chapter.

6 ARTICLE 4. GENERAL PROVISIONS.

7 Sec. 08.87.300. DEFINITION. In this chapter "board" means the
8 Board of Social Worker Examiners.

9 * Sec. 5. AS 44.62.330(a) is amended by adding a new paragraph to read:

10 (53) Board of Social Worker Examiners (AS 08.87.010).

11 * : 6. Within 60 days after the effective date of this Act the
12 governor shall appoint initial members to the Board of Social Worker Exam-
13 iners. Notwithstanding AS 08.87.010 as enacted in sec. 4 of this Act,
14 initial members must consist of three persons who have a master's degree in
15 social work from a school with a social work program accredited by the
16 Council on Social Work Education, at least one of whom is engaged in the
17 private practice of social work, one person with a bachelor's degree in
18 social work from a school with a social work program accredited by the
19 Council on Social Work Education, and one public member. Notwithstanding
20 AS 08.87.020 as enacted in sec. 4 of this Act, one initial member shall
21 serve a one-year term, one initial member shall serve a two-year term, one
22 initial member shall serve a three-year term, one initial member shall
23 serve a four-year term, and one initial member shall serve a five-year
24 term, as determined by the governor.

25 * Sec. 7. (a) Notwithstanding AS 08.87.100(a) as enacted in sec. 4 of
26 this Act, a person may apply for and receive a license as a bachelor social
27 worker if the person

28 (1) holds a degree in social work from a school with a social
29 work program that is not accredited by the Council on Social Work Education

1 or a bachelor's or master's degree in a social sciences field related to
2 social work as defined by the board, and has been practicing under the
3 title "social worker" for at least 24 consecutive months before July 1,
4 1987;

5 (2) meets the requirements of AS 08.87.100(a)(1), (3) and (4);

6 or

7 (3) has been practicing social work under the supervision of a
8 person eligible to be licensed under this Act *or licensed after effective date* for at least two years, and
9 successfully completes the examination required by AS 08.87.100(a)(2).

10 (b) A person who does not meet the requirement under AS 08.87.100-
11 (a)(2) but otherwise meets the requirements of AS 08.87.100(b) may apply
12 for and receive a license as a master social worker.

13 (c) A person who does not meet the requirements under AS 08.87.-
14 100(a)(2) but otherwise meets the requirements of AS 08.87.100(c) may apply
15 for and receive a license as an independent social worker.

16 (d) An application for a license under this section must be filed
17 before July 1, 1987.

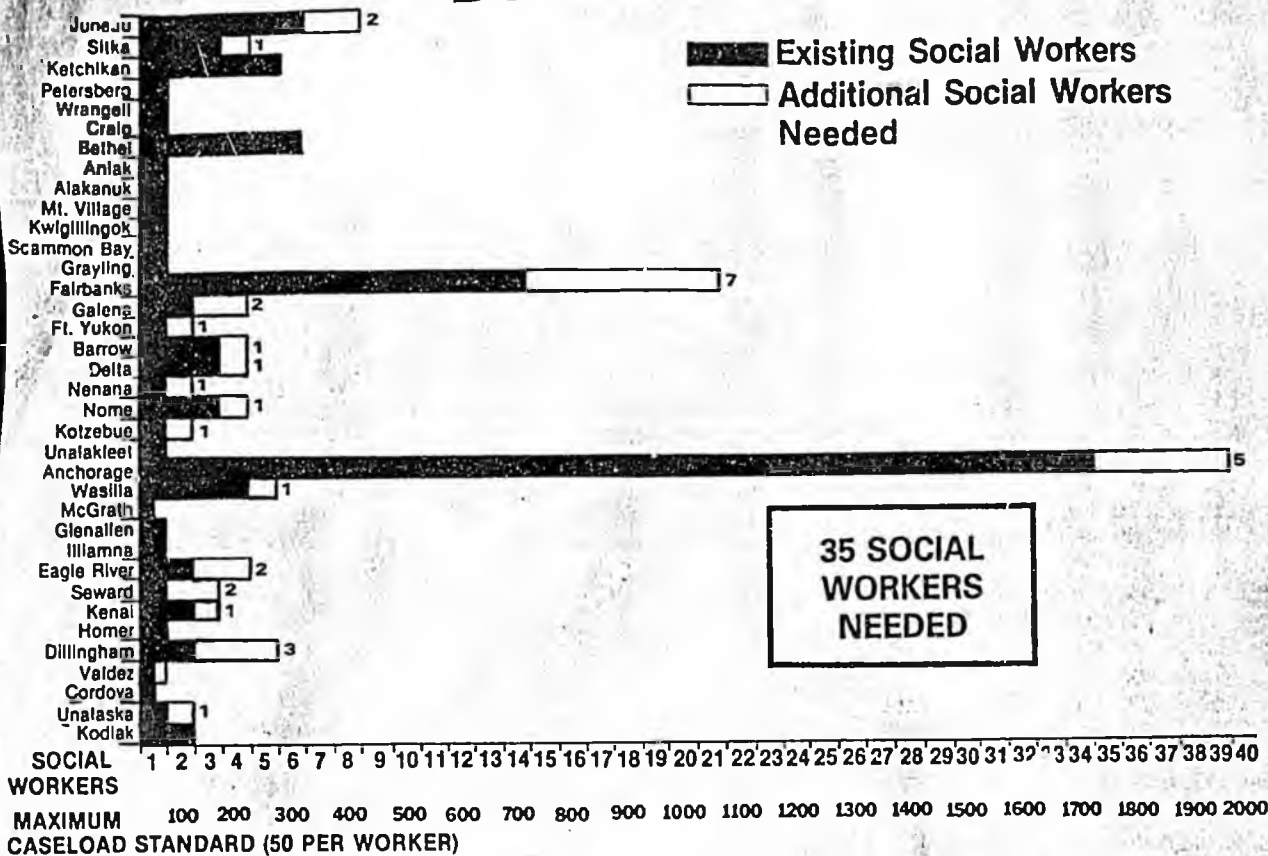
18 * Sec. 8. Notwithstanding AS 08.87.200, a person practicing social work
19 on July 1, 1985, may use a title and letters as part of the title that
20 indicate that the person is a social worker or practices social work until
21 June 30, 1987, even if the person is not licensed under AS 08.87.100 or
22 08.87.120.

23 * Sec. 9. This Act takes effect July 1, 1985.

*NASW opposed
DFYS wants
for 2-3
employees
according
to DFYS
effects
at least 14*

*DFYS
wants*

NEEDED SOCIAL WORKERS BY OFFICE



Dark lines on the chart show the current number of social workers throughout the state, with light lines representing additional social workers needed to bring their average caseload down to 50 cases per social worker. (Division of Family and Youth Services statistics)

Child problems 'load on staff'

By DAN JOLING
Staff Writer

Alaska's child abuse case overload and state personnel system present "interesting" staff problems for supervisors, according to Jim Fox, northern region manager for the Division of Family and Youth Services.

The workload forces social workers to use skills other than the ones for which they were hired. And the system gives supervisors less say than they would like in people they hire.

Fox said he picks staff based on their treatment and counseling abilities. But these days, there's much more time spent on intervention and investigation, less on direct treatment.

"We would like to be a treatment agency," Fox said. "We have the staff to be able to do good work here."

He said they're in a "case-management" mode: assessing problems, planning treatment and assigning community resources.

"Instead of doing family therapy, we go out and buy it," he said.

He also has problems with a state personnel system developed in the 1960s when 3,000 to 4,000 people worked for the state. That was 10,000 employees ago.

"In general, we have not been satisfied with the quality of applicants that the personnel system certifies," Fox said.

The minimum qualification to be a social worker is a bachelor's degree and two-years related experience. A master's degree in social work can be substituted for the experience, and five or six years experience can be substituted for the college degree.

That gets you on a master list drawn up by the Department of Administration.

"The Division (of Family and Youth Services) doesn't get to do the initial screening," Fox said.

When a vacancy opens in the Fairbanks office, the Department of Administration sends the list, marking the candidates willing to take a job here.

Supervisors then have their choice of the top five candidates.

Fox would like changes in the ranking system. For example, he believes a candidate should get extra consideration for a degree in social work rather than a certain amount of experience.

The job depends greatly on personality, an ability to get along and an ability to motivate people and get families to consider different ways to raise their children, he said.

Ten years of bad experience will not give a social worker those skills. "They may or may not be any good," he said.

He would also like to see changes in how the state creates the pool of

candidates. To avoid being swamped with applicants, the state closes its master list after a certain number of names are added. It does not open again until a certain number of people are hired.

As the list gets older, the best candidates have been picked off and the bottom of the list moves up.

"The scum tended to float to the top that way," Fox said.

You sometimes end up making choices between bad candidates, he said.

"If that's all you've got to choose from, that's all you've got to choose from."

If it's a ticklish problem in Fairbanks, it can be "bloody hell" finding someone to fill a Bush social work job, Fox said.

When there's an opening, the state must advertise for four to six weeks. Sometimes no one on the master list wants a rural job. That means petitioning to open the master list. By the time a new social worker is found and trained, four to five months may have passed. Meanwhile, there's been a significant gap in service.

"Sometimes it all falls together just right," Fox said, a phenomenon he credits to "sheer luck."

What's been the experience in Fairbanks?

"It's a mix," Fox said.

Superseded

Senate Bill 227 "An Act relating to the practice of social work and establishing a board of social worker examiners."

The Department of Commerce and Economic Development would oppose this legislation. This administration's position has consistently been opposed to additional boards without substantial evidence of public outcry or public need. This legislation does not exhibit either of these demands.

Although the bill's purpose is to assure the consumer that persons providing service under the title "social worker" have completed professional social work education, adhere to a code of professional ethics, and are subject to review by the Board of Social Worker Examiners, the legislation can only enforce the licensure requirements by a board. The bill does not protect the consumer. This is a practice act to allow social workers third party reimbursement, which can be done if they are registered without the expense of a board.

The legislation adds an additional title of "Independent" social worker, and adds "L" for licensed in front of each designation. Nationally, they are known as MSW or BSW for Master Social Worker or Bachelor of Social Worker, respectively.

The staff has identified 119 State positions of social workers. These individuals oppose licensing. The legislation does not provide for an exemption of State workers. If this legislation is approved, we would support the position for licensing State employees. This is based on the lower income population being the main users of State services, they should also be provided with an avenue of redress.

We are concerned with the confidentiality section in the bill. This section should also provide a protection statement for a social worker who treats a client who was abused by another licensee. This would enhance a public protection attitude.

This legislation directs the Governor to appoint five initial board members within 30 days. This is also unacceptable.

Harry D. Treager
Harry D. Treager, Director
Division of Occupational Licensing

April 1, 1985
Date

Loren H. Lounsbury
Loren H. Lounsbury, Commissioner
4/3/85
Date

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 227
 Title: Practice of Social Work
 & Estab. Board of Social Work
 Sponsor: Sen. Fahrenkamp
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
 Program Category Affected: Consumer Protection
Examiners
 BRU, Program or Subprogram(s) Affected:
Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		33.1	34.8	36.5	38.3	40.2
200 TRAVEL		8.8	9.2	9.7	10.2	10.7
300 CONTRACTUAL		19.3	20.3	21.3	22.4	23.5
400 SUPPLIES		1.0	1.1	1.1	1.2	1.2
500 EQUIPMENT		3.7				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		65.9	65.4	68.6	72.1	75.6

CAPITAL						
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REVENUE		78.8	2.3	67.3	2.3	71.3
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FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND		65.9	65.4	68.6	72.1	75.6
FEDERAL FUNDS						
OTHER						
TOTAL		65.9	65.4	68.6	72.1	75.6

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

The bill creates a Board of Social Work Examiners and implements licensing of all social work practitioners in the State. The bill establishes three licensing categories, and unlimited "specialties" left to the discretion of the board. (See attached for further analysis.)

Prepared By: Jennifer Strickler, Mgnt Analyst Phone: 465-2144

Division: Occupational Licensing Date: 4-4-85

Approved by Commissioner: Loren H. Lounsbury Date: 4/8/85
 Agency: Commerce & Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

Analysis, continued

SB_22Z__FISCAL_IMPACT

(NOTE: 5% inflation factor projected for FY '87 through
FY '90 for operating costs)

100__PERSONAL_SERVICES:

1 Licensing Examiner, Range 12A,
GGU, 12 months, to be located in Juneau \$33,145.82

200__TRAVEL:

NOTE: Travel costs were based on five (5) members from different
geographic regions in the State as required in the bill. The areas
used in these calculations were: Anchorage, Fairbanks, Juneau,
Kenai, Nome. Also, the bill mandates a minimum of two meetings a
year and special meetings at the call of the Chairman or a majority
of the board members. Therefore, three (3) meetings are included in
this fiscal note.

Anchorage meeting

Anchorage, transportation	-0-
Per diem at \$80 per day x 2 days	160.00
Fairbanks, transportation	212.00
Per diem at \$80 per day x 2 days	160.00
Juneau, transportation at \$352 x 2 (board member & licensing examiner)	704.00
Per diem at \$80 per day x 2 days x 2	320.00
Kenai, transportation	64.00
Per diem at \$80 per day x 2 days	160.00
Nome, transportation	406.00
Per diem at \$80 per day x 2 days	160.00
	<hr/>
	\$ 2,346.00

Juneau meeting

Juneau, transportation	-0-
Per diem at \$80 per day x 2 days	160.00
Anchorage, transportation	352.00
Per diem at \$80 per day x 2 days	160.00
Fairbanks, transportation	564.00
Per diem at \$80 per day x 3* days *(one extra day to travel)	240.00
Kenai, transportation	416.00
Per diem at \$80 per day x 3* days *(one extra day to travel)	240.00
Nome, transportation	664.00
Per diem at \$80 per day x 3* days *(one extra day to travel)	240.00
	<hr/>
	\$ 3,036.00

SB 227 Fiscal Impact, continued

Fairbanks meeting

Fairbanks, transportation	-0-
Per diem at \$90 per day x 2 days	180.00
Anchorage, transportation	212.00
Per diem at \$90 per day x 2 days	180.00
Juneau, transportation at \$564 x 2 (board member & licensing examiner)	1,128.00
Per diem at \$90 per day x 3 days x 2 (one extra day to travel)	540.00
Kenai, transportation	276.00
Per diem at \$90 per day x 2 days	180.00
Nome, transportation	456.00
Per diem at \$90 per day x 3 days (one extra day to travel)	270.00
	<hr/>
	\$ 3,422.00

300 CONTRIBUTIONAL SERVICES:

Postage, telephone, printing, publications and other operating costs	3,000.00
Computer terminal use, at \$45 per month (Licensing Examiner use only)	540.00
Professional Examination Service fees for licensing examinations: Estimated 315 examinees in FY '86 for initial licensing at \$50 each	15,750.00
Note: 315 social workers were identified by this agency.	
	<hr/>
	\$ 19,290.00

400 COMMODITIES:

Stationery, typewriter ribbons, pens, pencils, and other miscellaneous desk top supplies	1,000.00
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500 EQUIPMENT: (one time costs only)

1 desk, double pedestal, 70" x 36"	747.08
1 chair, swivel with arms	257.69
1 typewriter, IBM Selectric II	1,340.19
1 chair, side without arms	120.33
1 desk calculator	382.89
1 file cabinet, 5 drawer legal with lock	426.63
1 table 72" x 36"	426.63
	<hr/>
	\$ 3,701.44

GRAND TOTAL: \$ 65,941.26

Projected Revenues

FY 86:

Based on the number of practitioners identified, it is anticipated that 315 practitioners will be seeking initial licensure by examination.

315 x \$250 (application & exam fee)

\$ 78.8

FY 87:

Based on the assumption that there will be at least 10 new applicants (5 by examination, and 5 by credentials)

This will make a total of 325 licensees.

2.3

FY 88:

Section 08.87.130 of the bill mandates that licenses will lapse after 24 months unless it is renewed. Licenses will be issued upon completion and approval of an application. If Section 08.87.130 remains as stated, each license will be required to renew 24 months from the date of issue, thus causing administrative complications in monitoring the duration period of each license issued. To avoid such administrative difficulties, we would prefer all licenses to expire in a specific year embedded in statutes, and on a date determined by the department.

Projections for this fiscal year is based on the assumption that all licenses will be valid for a two-year period and will be renewed during this year.

Based on 325 licensees x \$200 (renewal fee) =
In addition, another 10 new licensees to make
a total of 335 practitioners.

65.0

2.3

67.3

FY 89:

Based on an estimate of 10 new licensees, 5 by examination and 5 by credentials =

This would make a total of 345 licensees.

2.3

FY 90:

Assuming this will also be a renewal year, and based on 345 licensees x \$200 renewal fee =

In addition, another 10 new licensees, to make
a total of 355 licensees =

69.0

2.3

71.3

1.	POSITION TITLE LICENSING EXAMINER I (Juneau)				RANGE/STEP 12A	DARG. UNIT GGU	PAGE/LINE	GOV.	APPROV.	DISAPP.						
2.	TYPE OF POSITION PFT	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION AWA	ELECTION DISTRICT	LEG.								
3.	CONTINUATION LEVEL				JUSTIFICATION											
4.	ADDITION				<p>This position is necessary to assist in the implementation of the provisions of SB 227. The position would assist the Board in establishing necessary files, prepare application forms for printing, publish notices of meetings and exams, prepare travel authorizations for board members, arrange for meeting rooms and examinations, and perform other administrative duties as needed.</p>											
4.	Type of Expenditure			AMOUNT												
	1	2	3													
	PERSONAL SERVICES															
5.	Salary	24.9														
6.	Benefits	4.0														
7.	Supplemental Benefits	1.5														
8.	Fixed Benefits	2.7														
9.	TOTAL PERSONAL SERVICES	01		33.1												
10.	Travel	02		1.3												
11.	Contractual	03		3.5												
12.	Commodities	04		1.0												
13.	Equipment	05		3.5												
14.	Other															
15.	TOTAL COST			42.4												
	RECEIPT CODE	FUNDING SOURCE														
16.		Federal Receipts 1002														
17.		C.F. Match 1003														
18.		General Funds 1004		42.4												
19.		I-A Receipts 1005														
20.		Program Receipts 1028														
21.		Other														
FOR BSM USE ONLY																
KEY NUMBER																

**REQUEST FOR
NEW POSITION**

AGENCY Commerce and Economic Development
PROGRAM Consumer Protection
BRU Occupational Licensing
COMPONENT Administration

Page 1 of 1
Revised Date _____

FY 86

31 Jurisdictions Regulate Profession As States Pass Laws At Record Rate

MORE STATES PASSED laws regulating the practice of social work in the six months ending July 1983 than in any similar period in history.

The legislative bodies of four states and one territory in session during that period passed regulatory acts, bringing to 31 the number of states or other major jurisdictions regulating social work.

In addition to the new laws passed in North Carolina (see story on page 8), the Virgin Islands, North Dakota, Montana, and New Hampshire, the profession scored regulatory victories in two other states, Texas and Maryland.

Both states completed "sunset" reviews of existing regulatory acts, and not only extended their duration, but strengthened their provisions.

Maryland social workers were able to overcome an initial state audit report which recommended the elimination or reduction in scope of the state law. The NASW Maryland Chapter, a coalition of social workers including the clinical societies, and the Maryland Board of Social Work Examiners were able to convince the legislature to retain the state licensing law and to extend its coverage to public employees as well.

Social workers in Texas led by the NASW chapter also overcame an unfavorable report. The chapter's response to the report was an 89-page defense of certification in the state and an aggressive lobbying and educational campaign.

In another sunset review, the Virginia Board of Social Workers was transferred from the Commerce Department to the

Department of Health Regulatory Boards, and an "umbrella board" including psychology, social work, and counseling was dismantled.

A number of other state legislatures are not that far from actions that would raise even higher the number of state regulatory laws.

For instance, Ohio's bill to license social workers and to register counselors (J.B. 205) passed the Ohio House by a vote of 70 to 20 and will be taken up by a Senate Committee in the fall.

The Georgia House has passed a regulatory bill which awaits action by the Senate in early 1984.

South Carolina's bill (S.186) passed the Senate and will be put forward in the House as H. 2310 when its next session opens in January 1984. The chapter estimates that 70 of the 124 members of the House support passage of the bill.

In Illinois, a coalition of social work organizations, including the NASW chapter, resolved a number of internal differences and introduced a bill (H.B. 1168).

(See Regulatory Laws, page 7)

Regulatory Laws

(From page 1)

for the multi-level licensure of social workers.

The legislatures of Alaska and Vermont will be considering regulatory bills in their next legislative sessions.

The following are short descriptions of the new regulatory acts, with the exception of the North Carolina bill:

Virgin Islands — The new law sets up multi-level registration (title protection) for social workers in the territory. The titles used will be "social work associate" (a nonprofessional level), "social worker" (requiring the BSW), "certified social worker" (requiring the MSW), and the "certified independent social worker" (requiring the MSW and two years in a specialization).

North Dakota — The state now has a multi-level licensure act that recognizes the "licensed social worker" (BSW required) and the "licensed certified social worker" (requiring an MSW or doctorate). It also restricts the "private practice of social work" to the LCSW with three years of post-master's, supervised experience.

Montana and New Hampshire — Both have single-level title protection acts requiring the MSW and two years' experience. Those qualified in Montana will be called "licensed social workers." Those in New Hampshire will be called "certified clinical social workers."

The New Hampshire law amends an existing act for the regulation of psychologists, adding a social worker to a board of five psychologists, a pastoral counselor, and a public representative. The law amends another state law and thereby establishes recognition of clinical social workers as independent third-party vendors. □

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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JUNEAU, ALASKA 99811
907-465-3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HESS 4-17-85 5:07pm
4-19-85 4:07pm

STATE BOARDS REGULATING SOCIAL WORK

September 1982

24 states

31 as of 9/83

*National Association of Social Workers
7981 Eastern Avenue, 4th Floor
Silver Spring, Maryland 20910*

STATE BOARDS REGULATING SOCIAL WORK - page 1

<u>STATE</u>	<u>BOARD ADDRESS</u>	<u>ADMINISTRATOR</u>	<u>CHAIRPERSON</u>
ALABAMA	Alabama State Board of Social Work Examiners 1 Court Square, Suite 110-F Montgomery, AL 36104	Kay Curry 205/832-3586	Thomas C. Struzick
ARKANSAS	Social Work Licensing Board P.O. Box 55033 Hillcrest Station Little Rock, AR 72205	Nan Ellen East 501/664-2379	Joe B. Bryan 501/753-3770
CALIFORNIA	Department of Consumer Affairs Board of Behavioral Science Examiners 1020 N Street Sacramento, CA 95814	Sam Levin, Secretary 916/445-4933	Antoinette Ziegler
COLORADO	Department of Regulatory Agencies 1525 Sherman Street Room 127 Denver, CO 80203	Thelma Bourne 303/866-2208	Roberta Bradbury
DELAWARE	Board of Social Work Examiners Office of Health Related Professional Licensing P.O. Box 1401 Dover, DE 19901	E. I. Slacum 302/736-4796	Franklin H. Everett, Jr., ACSW
FLORIDA	Department of Professional Regulation Division of Professions 130 N. Monroe Street Tallahassee, FL 32301	Jane Raker 904/487-2520	(No Board)
IDAHO	Bureau of Occupational Licensing Board of Social Work Examiners 2404 Bank Drive #312 Boise, ID 84305	M. D. Gregerson 208/334-3233	Paul Vitale

<u>STATE</u>	<u>BOARD ADDRESS</u>	<u>ADMINISTRATOR</u>	<u>CHAIRPERSON</u>
ILLINOIS	Department of Registration and Education Social Work Section 320 West Washington Street Springfield, IL 62786	Rosemary Baker 217/785-0871	Estelle Ross Gabriel, LCSW
KANSAS	Social Work Licensing 535 Kansas Avenue, Room 1102 Topeka, KS 66603	Mary Ann Gabel 913/296-3210	Jerry W. Cole
KENTUCKY	State Board of Examiners of Social Work P.O. Box 456 Frankfort, KY 40602	Betty Sapp 502/564-3296	Dorothy Miller
LOUISIANA	Louisiana State Board of Certified Social Work Examiners P.O. Box 345 Prairieville, LA 70769	Suzanne Percy 504/673-5010	Carol Holzalb
MAINE	State Board of Social Work Registration State Office Building Augusta, ME 04333	Joyce Booker 207/289-3915	Jeane C. Soule
MARYLAND	State Board of Social Work Examiners 201 W. Preston Street, 5th Floor Baltimore, MD 21201	501/383-7247	Stanley E. Weinstein, Ph.D., LCSW
MASSACHUSETTS	Board of Social Workers Division of Registration 100 Cambridge Street Boston, MA 02202	Mary Beth Maloof 617/237-5511 or 727-0076	Jacqueline Michlove

<u>STATE</u>	<u>BOARD ADDRESS</u>	<u>ADMINISTRATOR</u>	<u>CHAIRPERSON</u>
MICHIGAN	Department of Licensing and Regulation Board of Examiners for Social Work 905 Southland P.O. Box 30018 Lansing, MI 48909	Pamela K. Mayhew 517/373-1653	David L. Krugl
NEW YORK	State Board for Social Work State Education Department Cultural Education Center Albany, NY 12230	Philip R. Johnston 518/474-4974	Sr. Marian Gundell
OKLAHOMA	State Board of Licensed Social Workers 4124 N.W. 61st Terrace Oklahoma City, OK 73112	Mary Sue Counts 405/942-0679	Jerry Dillon
OREGON	State Board of Clinical Social Work 895 Sumner Street, N.W. Salem, OR 97310	Deanna Montgomery 503/378-5735	Georgine Thompson
PUERTO RICO	Board of Examiners of Social Work Box 3271 San Juan, PR 00904	Illia Ivette Amador 809/725-0142 Examining Boards Director	
RHODE ISLAND	Department of Social and Rehabilitation Services Board of Social Work Examiners 600 New London Avenue Cranston, RI 02920	Marguerite Beaubien, RSW 401/464-2121	John Carr, ACSW
SOUTH CAROLINA	Board of Registered Social Workers P.O. Box 1083 Columbia, SC 29202	Shirley Furtick 803/779-3250	Ann Dorsett, MSW, ACSW

<u>STATE</u>	<u>BOARD ADDRESS</u>	<u>ADMINISTRATOR</u>	<u>CHAIRPERSON</u>
<i>SOUTH DAKOTA</i>	Department of Commerce and Consumer Affairs Board of Social Work Examiners P.O. Box 690 Dakota Wesleyan University Mitchell, SD 57301	<i>Jill Toland</i> 605/296-6511 (Tues. & Thurs.)	<i>Dr. Betty Claymore, CSW</i> 605/255-0250, Ext. 542
<i>KENTUCKY</i>	Board of Social Work Regulation Health Related Boards Department of Public Health Ben Allen Road Nashville, TN 37216	<i>Louise Allen</i> 615/741-7227	<i>Eugene Fowlke, M.D.</i>
<i>TEXAS</i>	Council for Social Work Certification Texas Department of Human Resources P.O. Box 2960 Austin, TX 78769	<i>Michael Doughty</i> Director, S.W. Certification Section 512/441-3355, Ext. 609	<i>George H. Herbert, Ph.D.</i>
<i>UTAH</i>	Department of Registration 330 South 4th Street Salt Lake City, UT 84111	<i>Joyce Remion</i> 801/533-5711	
<i>VIRGINIA</i>	Virginia Board of Social Workers Department of Commerce 2 South Ninth Street Richmond, VA 23219	<i>Gerald Morgan</i> Acting Director 804/786-3433	<i>Frances Goddard</i>

p. 4, 5
p. 6
p. 7
p. 10
p. 11

Cramer v.
3/21/86

Original sponsor: Fahrenkamp by request

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 227 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the practice of social work and
7 establishing the Board of Social Worker Examiners;
8 and providing for an effective date."

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

10 * Section 1. PURPOSE. The purpose of this Act is to assure the consu-
11 mer that persons providing services under the title "social worker" have
12 completed professional social work education or training, adhere to a code
13 of professional ethics, and are subject to licensure by the Board of Social
14 Work Examiners.

15 * Sec. 2. AS 08.01.010 is amended by adding a new paragraph to read:
16 (25) Board of Social Worker Examiners (AS 08.87.010).

17 * Sec. 3. AS 08.03.010(c) is amended by adding a new paragraph to read:
18 (21) Board of Social Worker Examiners (AS 08.87.010) --
19 June 30, 1990.

20 * Sec. 4. AS 08 is amended by adding a new chapter to read:

21 CHAPTER 87. SOCIAL WORKERS.

22 ARTICLE 1. BOARD OF SOCIAL WORKER EXAMINERS.

23 Sec. 08.87.010. CREATION AND MEMBERSHIP OF BOARD. There is
24 created a Board of Social Worker Examiners consisting of five members,
25 including three licensed master social workers, one of whom is li-
26 censed as an independent social worker, one licensed bachelor social
27 worker, and one public member. The public member may not be licensed
28 as a social worker, employed by a licensed social worker, or have a
29 financial interest in the social work profession. To the extent

1 possible members shall be appointed from different geographic regions
2 of the state. A member who has served two successive full terms may
3 not be reappointed until four years after the expiration of the second
4 term.

5 Sec. 08.87.020. TERM OF OFFICE. Each member of the board serves
6 for a term of four years and until the member's successor is appointed
7 and qualified. An appointment to a vacancy is for the unexpired term.

8 Sec. 08.87.030. BOARD MEETINGS. The board shall meet at least
9 once a year.

10 Sec. 08.87.040. ELECTION OF OFFICERS. The board shall elect
11 from among its members a chairperson and a secretary. Officers serve
12 for a term not exceeding two years.

13 Sec. 08.87.050. REMOVAL OF BOARD MEMBERS. The governor may
14 remove a member of the board for cause. Unexcused absences from
15 meetings are cause for removal as determined by the board.

16 Sec. 08.87.060. PER DIEM AND TRAVEL. Board members receive no
17 compensation but are entitled to per diem and travel expenses author-
18 ized for members of boards and commissions under AS 39.20.180.

19 Sec. 08.87.070. POWERS AND DUTIES OF THE BOARD. The board shall

20 (1) provide for the examination of eligible applicants for
21 licenses under this chapter;

22 (2) submit an annual report of its proceedings to the
23 governor, including recommended changes to this chapter and a state-
24 ment of money received and disbursed;

25 (3) adopt nationally recognized specialty designations for
26 the private practice of social work and authorize speciality desig-
27 nations on licenses issued under this chapter;

28 (4) after a hearing, impose disciplinary sanctions against
29 a person who violates this chapter, an order of the board, or a

1 regulation of the board;

2 (5) adopt regulations relating to requirements for the
3 supervision of persons engaged in social work under this chapter who
4 are not licensed master social workers;

5 (6) adopt regulations requiring proof of continued compe-
6 tency before a license is renewed;

7 (7) adopt regulations to carry out the purposes of this
8 chapter.

9 Sec. 08.87.080. ADMINISTRATIVE PROCEDURES. The Administrative
10 Procedure Act (AS 44.62) applies to regulations and proceedings under
11 this chapter.

12 ARTICLE 2. LICENSING OF SOCIAL WORKERS.

13 Sec. 08.87.100. LICENSING OF SOCIAL WORKERS. (a) A person is
14 eligible for a license as a bachelor social worker (LBSW) if the
15 person

16 (1) is in good professional standing and is fit to practice
17 social work as determined under regulations of the board;

18 (2) has satisfactorily completed the state examination for
19 the license;

20 (3) provides three professional references to the board;

21 (4) has a bachelor's degree in social work from a school
22 with a social work program accredited by the Council on Social Work
23 Education.

24 (b) A person is eligible for a license as a master social worker
25 (LMSW) if the person meets the requirements of (a)(1) - (3) of this
26 section and has a master's degree in social work from a school with a
27 social work program accredited by the Council on Social Work Educa-
28 tion.

29 (c) A person is eligible for a license as an independent social

1 worker (LISW) if the person meets the requirements of (a)(1) - (3) of
2 this section, has a master's degree in social work from a school with
3 a social work program accredited by the Council on Social Work Educa-
4 tion, and has completed at least 24 months of supervised post-graduate
5 experience approved by the board in the field of specialty in which
6 the person intends to engage as a private practitioner.

7 Sec. 08.87.110. SCOPE OF PRACTICE. (a) A person licensed as a
8 bachelor, master, or independent social worker may provide services
9 that enhance, protect, or restore people's capacity for social func-
10 tioning whether impaired by physical, environmental, or emotional
11 factors, guided by professional social work ethics, knowledge and
12 intervention methods.

13 (b) A social worker may practice psychotherapy only if the
14 social worker is licensed as an independent social worker with a
15 clinical specialty or as a master social worker and is employed and
16 supervised in a clinical setting.

17 (c) A social worker may practice social work autonomously only
18 if

19 (1) the person is licensed as an independent social worker;

20 (2) the board has approved the specialty in which the
21 person may engage as a private practitioner and authorizes designation
22 of the speciality on the person's license;

23 (3) the license bearing a designation of speciality is
24 prominently displayed in the place the person engages in private
25 practice; and

26 (4) the person limits the private practice of social work
27 to the designated specialty.

28 (d) This section does not limit or affect the activities or
29 practice of a person who is not licensed under this chapter.

1 Sec. 08.87.120. LICENSE BY CREDENTIALS. The board shall provide
2 for licensing a person as a bachelor, master or independent social
3 worker without examination if the person

4 (1) holds a degree in social work from a school with a
5 social work program accredited by the Council on Social Work Educa-
6 tion;

7 (2) has an active license to practice social work in an-
8 other licensing jurisdiction with requirements at the time of the
9 original licensure that were similar to or higher than those of this
10 state;

11 (3) is not the subject of an unresolved complaint, review
12 procedure, or disciplinary proceeding undertaken by a professional
13 social worker association or regulatory authority;

14 (4) has not failed the examination of this state;

15 (5) has not previously had a license to practice social
16 work revoked in this or another jurisdiction;

17 (6) submits proof of continued competence as required by
18 regulation of the board; and

19 (7) pays all required fees.

20 Sec. 08.87.130. LICENSE RENEWAL REQUIRED. A license issued
21 under this chapter shall be renewed in accordance with AS 08.01.100.

22 Sec. 08.87.140. FEES. An applicant for examination, reexamina-
23 tion, or issuance or renewal of a license shall pay the fees estab-
24 lished by the department under AS 08.01.065.

25 ARTICLE 3. PROHIBITIONS AND PENALTIES.

26 Sec. 08.87.200. LICENSE REQUIRED FOR USE OF TITLE. (a) Unless
27 licensed under this chapter, a person may not use the title "social
28 worker" or a title, designation, or device indicating or tending to
29 indicate that the person is a social worker. *or practices social work* A person may not use the

1 letters "LBSW" as part of a title unless the person is licensed as a
2 bachelor social worker under this chapter. A person may not use the
3 letters "LMSW" as part of a title unless the person is licensed as a
4 master social worker under this chapter. A person may not use the
5 letters "LISW" as part of a title unless the person is licensed as an
6 independent social worker under this chapter. Except as provided in
7 (b) of this section, a person may not use the title "social worker
8 intern" or "social worker student."

9 (b) A student enrolled in an accredited social work program may
10 use the title "social worker intern" or "social worker student" if the
11 person's activities constitute a part of the person's supervised
12 course of study.

13 (c) A person who uses a title other than the titles included in
14 (a) and (b) of this section is not subject to this chapter.

15 Sec. 08.87.210. CONFIDENTIALITY OF COMMUNICATIONS. A social
16 worker licensed under this chapter may not disclose information pro-
17 vided to the social worker by a client in the course of their profes-
18 sional contact. This prohibition does not apply if the

19 (1) client provides written consent to the social worker to
20 reveal the communication;

21 (2) client is incompetent and the guardian or personal
22 representative provides written consent to the social worker to reveal
23 the communication;

24 (3) client is dead and a beneficiary of an insurance policy
25 on the client's life provides written consent to the social worker to
26 reveal the communication;

27 (4) communication discloses that a crime has been committed
28 or reveals an intent to commit a crime;

29 (5) client is a minor, the communication discloses that the

1 client was the victim of a crime or harmful act, and the social worker
2 reveals the communication only during the course of an official exam-
3 ination, trial or other proceeding in which the commission of the
4 crime or harmful act is a subject of inquiry;

5 (6) client brings charges against the social worker and the
6 social worker reveals the communication only as necessary to defend
7 the charges;

8 (7) information is revealed as part of the discovery of
9 evidence related to a court proceeding or introduced in evidence in a
10 suit, action, or proceeding in court.

*so don't
need to
amend court
rule*

11 (8) social worker is collaborating or consulting with
12 professional colleagues or an administrative superior on behalf of the
13 client;

14 (9) communication discloses information that the social
15 worker is required by state or federal laws or regulations to dis-
16 close.

17 Sec. 08.87.220. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-
18 TIONS. After a hearing, the board may impose a disciplinary sanction
19 on a person licensed under this chapter when the board finds that the
20 licensee

21 (1) secured a license through deceit, fraud, or intentional
22 misrepresentation;

23 (2) engaged in deceit, fraud, or intentional misrepresenta-
24 tion in the course of providing professional services or engaging in
25 professional activities;

26 (3) advertised professional services in a false or mislead-
27 ing manner;

28 (4) has been convicted of a crime that has a substantial
29 relationship to the licensee's activities and services or that affects

1 the licensee's ability to continue to practice competently and safely;

2 (5) intentionally or negligently engaged in or permitted
3 the performance of social work by persons under the licensee's super-
4 vision that does not conform to minimum professional standards regard-
5 less of whether actual injury occurred;

6 (6) failed to comply with this chapter, with a regulation
7 adopted under this chapter, or with an order of the board;

8 (7) continued to practice after becoming unfit due to

9 (A) professional incompetence;

10 (B) addiction or dependence on alcohol or other drugs
11 that may endanger the public by impairing the licensee's ability
12 to practice;

13 (C) physical or mental disability;

14 (8) engaged in lewd conduct in connection with the delivery
15 of professional service;

16 (9) has been held liable for malpractice in a civil action;

17 (10) has had a license revoked in another jurisdiction.

18 Sec. 08.87.230. DISCIPLINARY SANCTIONS. (a) If it finds that a
19 licensee has committed an act set out in AS 08.87.220, the board may
20 impose the following sanctions singly or in combination:

21 (1) permanently revoke a license to practice;

22 (2) suspend a license for a determinate period of time;

23 (3) censure a licensee;

24 (4) issue a letter of reprimand to the licensee;

25 (5) place a licensee on probationary status and require the
26 licensee to

27 (A) report regularly to the board upon matters involv-
28 ing the basis of probation;

29 (B) limit practice to those areas prescribed;

1 (C) continue professional education until a satisfac-
2 tory degree of skill has been attained in those areas that are
3 the basis of probation;

4 (6) impose limitations or conditions on the practice of a
5 licensee;

6 (7) refuse to renew a license.

7 (b) The board may withdraw probationary status if it finds that
8 the deficiencies that required the sanction have been remedied.

9 (c) The board may summarily suspend a license before final
10 hearing or during the appeal process if the board finds that the
11 licensee poses a clear and immediate danger to the public health and
12 safety if the licensee continues to practice. A person whose license
13 is suspended under this section is entitled to a hearing by the board
14 no later than seven days after the effective date of the order. The
15 person may appeal the suspension after a hearing to a court of compe-
16 tent jurisdiction.

17 (d) The board may reinstate a license that has been suspended or
18 revoked if the board finds after a hearing that the applicant is able
19 to practice with reasonable skill and safety.

20 (e) The board shall seek consistency in the application of
21 disciplinary sanctions. The board shall explain significant departure
22 from prior decisions involving similar situations in findings of fact
23 or orders.

24 Sec. 08.87.240. CRIMINAL PENALTY. A person who violates AS 08.-
25 87.200 or 08.87.210 of this chapter is guilty of a class B misdemean-
26 or.

27 Sec. 08.87.250. INJUNCTIVE RELIEF. The board may apply to the
28 superior court for an order enjoining a person subject to this chapter
29 or whose license is suspended, revoked, or expired from violating this

1 chapter.

2 ARTICLE 4. GENERAL PROVISIONS.

3 Sec. 08.87.450. EXEMPTION. Employees of a regional or village
4 nonprofit corporation organized under 43 U.S.C. 1601 - 1628 (Alaska
5 Native Claims Settlement Act) are exempt from this chapter.

6 Sec. 08.87.500. DEFINITION. In this chapter "board" means the
7 Board of Social Worker Examiners.

8 * Sec. 5. AS 44.62.330(a) is amended by adding a new paragraph to read:

9 (53) Board of Social Worker Examiners (AS 08.87.010).

10 * Sec. 6. Within 60 days after the effective date of this Act the
11 governor shall appoint initial members to the board of Social Worker Exam-
12 iners. Notwithstanding AS 08.87.010 as enacted in sec. 4 of this Act,
13 initial members must consist of three persons who have a master's degree in
14 social work from a school with a social work program accredited by the
15 Council on Social Work Education, at least one of whom is engaged in the
16 private practice of social work, one person with a bachelor's degree in
17 social work from a school with a social work program accredited by the
18 Council on Social Work Education, and one public member. Notwithstanding
19 AS 08.87.020 as enacted in sec. 4 of this Act, one initial member shall
20 serve a one-year term, one initial member shall serve a two-year term, one
21 initial member shall serve a three-year term, and two initial members shall
22 serve four-year terms, as determined by the governor.

23 * Sec. 7. (a) Notwithstanding AS 08.87.100(a) as enacted in sec. 4 of
24 this Act, a person may apply for and receive a license as a bachelor social
25 worker if the person

26 (1) holds a degree in social work from a school with a social
27 work program that is not accredited by the Council on Social Work Education
28 or a bachelor's or master's degree in a social sciences field related to
29 social work as defined by the board, and has been practicing under the

1 title "social worker" for at least 24 consecutive months before July 1,
2 1988;

3 (2) meets the requirements of AS 08.87.100(a)(1), (3) and (4);
4 or

5 (3) has been practicing social work under the supervision of a
6 person eligible to be licensed under this Act for at least two years, and
7 successfully completes the examination required by AS 08.87.100(a)(2).

8 (b) A person who does not meet the requirement under AS 08.87.100-
9 (a)(2) but otherwise meets the requirements of AS 08.87.100(b) may apply
10 for and receive a license as a master social worker.

11 (c) A person who does not meet the requirements under AS 08.87.-
12 100(a)(2) but otherwise meets the requirements of AS 08.87.100(c) may apply
13 for and receive a license as an independent social worker.

14 (d) An application for a license under this section must be filed
15 before July 1, 1988.

16 * Sec. 8. Notwithstanding AS 08.87.200, a person practicing social work
17 on July 1, 1986, may use a title and letters as part of the title that
18 indicate that the person is a social worker ^{or practices social work} until June 30, 1988, even if
19 the person is not licensed under AS 08.87.100 or 08.87.120.

20 * Sec. 9. This Act takes effect July 1, 1986.
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SB 227

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r u bc-licensing 3-18 0610

^Unionized social workers criticize licensing measure@C
@BY BOBB FULCHER@=

JUNEAU, Alaska (UPI) - Professional social workers covered by the major state employees' union are coming out against a move in the Legislature to require licensing of all social workers in Alaska.

A bill by Sen. Bettye Fahrenkamp, D-Fairbanks, would require the social workers to be licensed by the state, and would set up a board made up primarily of social workers to determine who gets the licenses.

The costs of the program would be paid by licensing fees.

It would cost a social worker \$100 to apply for a license, as much as \$150 to receive the license itself, and \$200 to renew the license once every two years.

The Board of Social Worker Examiners, to be made up of four social workers and one public member who is a lay person, would not receive salaries but would be reimbursed for expenses such as travel costs.

To get a license, social workers would have to pass a state test, have a bachelor's degree in social work from an accredited school, and provide "three references acceptable to the board."

Fahrenkamp said she introduced the bill at the request of the Alaska chapter of the National Association of Social Workers, whose members were concerned about maintaining the quality of social work in Alaska.

"In this particular state, hairdressers are licensed. Not to make fun of hairdressers, but it is interesting that we require a license for people who cut hair, but not for people who make important decisions that affect our daily lives," said Marsha Schneider, executive director of the Alaska chapter.

Schneider pointed out that social workers make decisions involving such essential matters as child protection and custody, and psychological care of nursing home residents.

Schneider said the Alaska chapter of the social workers' organization has received complaints about social workers in the state, but she said she was not at liberty to discuss the complaints further.

The "vast majority" of the Alaska chapter's roughly 225 members would be qualified for licenses if the bill was signed into law tomorrow, Schneider said.

Opposition to the bill is coming from among the 147 professional social workers employed by the state and covered by collective bargaining under the Alaska Public Employees Union, said Cherie Shelley, executive director of the union.

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"We have not had an opportunity to poll everyone, but the social workers we contacted in Juneau are opposed to the bill," Shelley said.

"They say it will not ensure that we don't have bad social workers. Basically, a bad social worker can get a license just like a bad doctor can," she said.

"The bill would increase the bureaucracy and it would cost money for licenses - and social workers are not the highest-paid state employees," Shelley said.

Schneider said she does not think a licensing board for social workers would be used by existing professionals to cut down on future competition.

"It would not be set up to restrict practice to people already there," Schneider said. She pointed out that there are high numbers of minorities in the field of social work, and said strong affirmative action policies are endorsed by the national association.

"I feel strongly about it that we are not an elitist group," she said.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGI LEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



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STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
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Senate Committee on Health, Education and Social Services February 12, 1986

BILL ANALYSIS

CS SB 227 (Fin), An Act relating to the practice of social work and establishing the Board of Social Work Examiners.

Section 08.03.010(c) Sunset Provision

The Board would come up for sunset review in 1990.

Section 08.87.010 Board Make-up

The Board would be composed of 2 master social workers (MSW), 1 independent social worker (ISW), 1 bachelor social worker (BSW), and 1 public member. The Board would meet at least once a year.

Section 08.87.070 Duties of the Board

Duties would include: examinations, setting standards for specialty designations, setting supervision standards, and establishing disciplinary sanctions.

Section 08.87.100 Licensing

<u>Bachelor's (LBSW)</u>	<u>Master's (LMSW)</u>	<u>Independent (LISW)</u>
Good professional standing	Same	Same
Passed state examination	Same	Same
3 references	Same	Same
Bachelor's degree in social work from school with program accredited by Council on Social Work Education	Master's degree in social work	Master's degree in social work
Supervision may be required by regulation of the Board	None	Must have completed at least 24 months of supervised post graduate experience approved by the board.

Section 08.87.110 Scope of Practice

"Enhance, protect, or restore people's capacity for social functioning."

Section 08.87.110(b) Practice of Psychotherapy

Limited to independent social workers with a clinical specialty or a master social worker (MSW) supervised in a clinical setting.

Section 08.87.110(c) Autonomous Practice

Limited to licensed independent social workers who have Board approval.

Section 08.87.120 License by Credentials

No exam would be required for social workers who hold an active license in another jurisdiction.

Section 08.87.130 License Renewal

Required every 24 months. No continuing education requirement, but Board must adopt regulations requiring proof of continued competency (08.87.070(6)).

Section 08.87.140 Fees

To be established by the Department with the approval of the Board. Intended to cover the Board's operational and administrative costs.

Section 08.87.200 Use of Title

Use of "social worker" title limited to licensed social workers. However, students enrolled in accredited program may use "social worker student" title; unlicensed state employees may use "associate social worker" title when operating under the supervision of a licensed social worker.

Section 08.87.210 Confidentiality

Required except under certain conditions (including written consent, death, criminal acts, and court proceedings). Reporting of child abuse is required.

Section 08.87.220-.240 Sanctions and Penalties

Board may impose disciplinary sanctions as outlined in the bill. Class B misdemeanor (maximum 90 day sentence) for improper use of "social worker" title.

Section 7

Grandfather Clause

For 24 months following enactment of the bill, licenses will be awarded without exam to applicants who hold a degree in social work or a related field and have been practicing for 24 consecutive months prior to application. Licenses will also be awarded to non-degreed persons who pass the exam and have been practicing for two years under a person eligible to be licensed. Application must be made prior to July 1, 1988.

MEMORANDUM

State of Alaska

TO: Barbara Dale, Special Staff
Assistant for Boards &
Commissions
Governor's Office

DATE: March 25, 1986

FILE NO:

TELEPHONE NO: 465-3600

FROM: Harold M. Brown
Attorney General

By: *Peter B. Froehlich*
Peter B. Froehlich
Assistant Attorney General

SUBJECT: Confidentiality provisions of CSSB 227(Fin) and CSHB 424(L&C)

You have forwarded to this office several questions, raised by Representative Pignalberi, about the confidentiality provisions of CSSB 227(Fin) on social workers and CSHB 424(L&C) on behavioral science professionals, including not only social workers, but also professional counselors and marriage and family therapists.

Both of these bills contain identical confidentiality provisions. Proposed AS 08.87.210, entitled "confidentiality of communications," on pages 6 and 7 of CSSB 227(Fin) was incorporated verbatim into CSHB 424(L&C) on page 15, as proposed AS 08.15.960 and with the same title. Even though these provisions are identical, only CSHB 424(L&C) complies with Uniform Rule 39(e) by referring, in sec. 15 on page 22, to the fact that its new confidentiality provision amends Rule 504 of the Alaska Rules of Evidence, and with Uniform Rule 39(c) by stating that fact generally in the bill title.

This defect in CSSB 227(Fin) is discussed in Legislative Counsel Cramer's March 6 and 7 memos to Representative Pignalberi. A possible correction of the defect is suggested in Ms. Cramer's March 7 memo to Senator Fahrenkamp. (Copies of all three memos are attached.) That suggested approach would broaden the exception to confidentiality of client communications currently provided by paragraph (7) only for when the licensee is subpoenaed to testify in court to include all stages of all court proceedings. This would mean that a licensee would be obligated to disclose client communications given in confidence in any discovery, like depositions and interrogatories, in any court case, civil or criminal, regardless of whether the licensee or the client is even a party to the case.

Such a broad exception to confidentiality means in effect that there would be no privilege for or confidentiality of client communications as long as someone interested in gaining disclosure was willing to file a lawsuit at least peripherally related to the parties or substance of the communication. If this suggested approach were taken, neither the title nor the temporary and special provisions of CSSB 227(Fin) need be changed

to mention amendment of court rules under Uniform Rule 39. Nonetheless CSSB 227(Fin) would still have to be returned to the Senate anyway, for concurrence in the House amendment to paragraph (7) of the confidentiality provision.

We are not convinced that client communications to psychotherapists should be more privileged and confidential than client communications to other behavioral science professionals. We therefore believe that the more logical approach, and the approach most likely preferable to both licensees and their clients, is to maximize the confidentiality of client communications by excepting only subpoenaed in-court testimony. This would necessitate the changes in the title and body of the bill required for amendment of court rules, as well as a two-thirds vote in each house under Art. IV, sec. 15, of the Alaska Constitution.

In either event, the same logic and considerations that apply to the social workers who would be licensed under CSSB 227(Fin) apply equally if not more so to their fellow behavioral science professionals who would also be licensed under CSHB 424(L&C). Therefore, if the substance of the latter combined licensing bill (CSHB 424(L&C)) is not simply substituted into the former social worker only licensing bill (CSSB 227(Fin)), then, at a minimum, whichever approach is chosen for one should be also used for the other.

We hope this somewhat hasty response to the questions raised by Representative Pignalberi is helpful. We recognize that the intricacies of the relationship of statutes to court rules can be as complex as the intricacies of the relationship of the legislative to the judicial branch of government. Therefore, we would appreciate the opportunity to continue working with you, legislative counsel, the sponsors of the two bills, and legislative committees to develop and refine the most appropriate and acceptable confidentiality and privilege language. We also, of course, hope to continue working with all concerned to attain a fair and cost-efficient approach to combined licensing of all behavioral science professionals rather than an arbitrarily piecemeal approach to licensing of only social workers.

PBF:md

Attachments

Barbara Dale, Special Staff
Assistant for Boards & Commissions

March 25, 1986
Page 3

cc w/attachments:

Hon. Marco Pignalberi
Alaska House of Representatives

Hon. Bettye Fahrenkamp
Alaska Senate

Hon. John Pugh, Commissioner
Dept. of Health & Social Services

Jim Ayers, Director
Legislative Relations
Governor's Office

Mike Price, Director
Div. of Family & Youth Services
Dept. of Health & Social Services

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCHY STATE CAPITOL
JUNEAU ALASKA 99811
907 465-3800

RECEIVED
Department of Law

MEMORANDUM

March 6, 1986

MAR - 6 1986

SUBJECT: Court Rule amendments in HB 317,
CSHB 424 (L&C) and CSSB 227 (Fin)
Social workers and behavioral scientists

TO: Representative Marco Pignalberi

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

AM
7:30 9:10 11:00 12:30 4:50 6:00
PM
hand delivered

You have asked whether the titles to these three bills, relating to social workers and behavioral scientists, should refer to amending court rules. CSHB 424 (Labor & Commerce) contains such a reference. Since the bills amend the scope of the psychotherapist-patient privilege, set out in Rule 504 of the Rules of Evidence, the answer is yes.

Each bill contains a section making certain communications to a licensed professional confidential. In each, there is some relaxation of the privilege for court appearances. Compare Sec. 08.87.210 of CSSB 227 (Finance), Sec. 08.15.960 of HB 317, and Sec. 08.87.210 of CSHB 424 (Labor & Commerce).

The state constitution requires that a two-thirds vote of the membership of each house is necessary to adopt a change to a court rule. (Article IV, Sec. 15, Constitution of the State of Alaska.) The question is whether the prohibition against revealing communications changes the scope of a court rule.

Rule 504, which sets out the psychotherapist-patient privilege, defines psychotherapist as

(A) a person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be, while engaged in the diagnosis or treatment of a mental or emotional condition, including alcohol or drug addiction, or (B) a person licensed or certified as a psychologist or psychological examiner

Representative Marco Pignalberi
Page 2
March 6, 1986

under the laws of any state or nation or reasonably believed by the patient to so be, while similarly engaged.

Neither social workers under CSSB 227 (Finance) or HB 317, nor behavioral scientists under CSHB 424 (Labor & Commerce) meet the definition in the Rule. Therefore, each bill extends the scope of the Rule if it grants communications to a professional privileged status. Each bill dissolves the privilege for subpoenaed court testimony (which is limited in HB 317 to cases of child or adult abuse or child neglect), but each retains the privilege for voluntary testimony, and therefore does amend the Rule of Evidence.

Under Rule 39(c), of the Uniform Rules of the Alaska State Legislature, the title must reflect the amendment to Court Rule, and under Rule 39(e)

If a bill or portion of a bill contains matter changing a supreme court rule governing practice and procedure in civil or criminal cases, the bill must contain a section expressly citing the rule and noting what change is being proposed.

If the scope of the privilege granted in the bills in question is not intended to extend into the ambit of Rule 504, then there is no need to refer to amending the rule. However, all three appear to intend to amend the Rule and therefore should both cite the Rule in the title and explain the amendment in the body of the bill.

If I may be of further assistance, please advise.

TBC:mkr
m3/129

Rule 504. Physician and Psychotherapist-Patient Privilege.

(a) **Definitions.** As used in this rule:

(1) A patient is a person who consults or is examined or interviewed by a physician or psychotherapist.

(2) A physician is a person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be.

(3) A psychotherapist is (A) a person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be, while engaged in the diagnosis or treatment of a mental or emotional condition, including alcohol or drug addiction, or (B) a person licensed or certified as a psychologist or psychological examiner under the laws of any state or nation or reasonably believed by the patient so to be, while similarly engaged.

(4) A communication is confidential if not intended to be disclosed to third persons other than those present to further the interest of the patient in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication, or persons who are participating in the diagnosis and treatment under the direction of the physician or psychotherapist, including members of the patient's family.

(b) **General Rule of Privilege.** A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of diagnosis or treatment of his physical, mental or emotional conditions, including alcohol or drug addiction, among himself, his physician or psychotherapist, or persons who are participating in the diagnosis or treatment under the direction of the physician or psychotherapist, including members of the patient's family.

(c) **Who May Claim the Privilege.** The privilege may be claimed by the patient, by his guardian, guardian ad litem or conservator, or by the personal representative of a deceased patient. The person who was the physician or psychotherapist

at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the patient.

(d) **Exceptions.** There is no privilege under this rule:

(1) *Condition and Element of Claim or Defense.* As to communications relevant to the physical, mental or emotional condition of the patient in any proceeding in which the condition of the patient is an element of the claim or defense of the patient, of any party claiming through or under the patient, of any person raising the patient's condition as an element of his own case, or of any person claiming as a beneficiary of the patient through a contract to which the patient is or was a party; or after the patient's death, in any proceeding in which any party puts the condition in issue.

(2) *Crime or Fraud.* If the services of the physician or psychotherapist were sought, obtained or used to enable or aid anyone to commit or plan a crime or fraud or to escape detection or apprehension after the commission of a crime or a fraud.

(3) *Breach of Duty Arising Out of Physician-Patient Relationship.* As to a communication relevant to an issue of breach, by the physician, or by the psychotherapist, or by the patient, of a duty arising out of the physician-patient or psychotherapist-patient relationship.

(4) *Proceedings for Hospitalization.* For communications relevant to an issue in proceedings to hospitalize the patient for physical, mental or emotional illness, if the physician or psychotherapist, in the course of diagnosis or treatment, has determined that the patient is in need of hospitalization.

(5) *Required Report.* As to information that the physician or psychotherapist or the patient is required to report to a public employee, or as to information required to be recorded in a public office, if such report or record is open to public inspection.

(6) *Examination by Order of Judge.* As to communications made in the course of an examination ordered by the court of the physical, mental or emotional condition of the patient, with respect to the particular purpose for which the examination is ordered unless the judge orders otherwise. This

exception does not apply where the examination is by order of the court upon the request of the lawyer for the defendant in a criminal proceeding in order to provide the lawyer with information needed so that he may advise the defendant whether to enter a plea based on insanity or to present a defense based on his mental or emotional condition.

(7) *Criminal Proceeding.* For physician-patient communications in a criminal proceeding. This exception does not apply to the psychotherapist-patient privilege. (Added by Supreme Court Order 364 effective August 1, 1979)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907-465 3600

MAR 7 1986

MEMORANDUM

March 7, 1986

SUBJECT: CSSB 227 (Finance)
(Social workers)

TO: Senator Bettye Fahrenkamp (SP?)

FROM: Teresa B. Cramer *JBC*
Legislative Counsel

You have requested language to ensure that Sec. 08.87.210(7) is not interpreted as attempting to amend the Rules of Evidence. I would suggest deleting the existing language on page 7, line 10 and replacing it with

(7) information is revealed as part of the discovery of evidence related to a court proceeding or introduced in evidence in a suit, action, or proceeding in a court;

If I may be of further assistance, please advise.

TC:mkr
m3/141

NOTE: SENATOR FAHRENKAMP HAS PROPOSED THIS CHANGE TO THE HOUSE H.E.S.S. COMMITTEE.

STATE OF ALASKA
THE LEGISLATURE

FOUCHY - STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 7, 1986

SUBJECT: Practice of social work
CSSB 227(Finance)

TO: Representative Marco Pignalberi

FROM: Teresa B. Cramer *JBC*
Legislative Counsel

You have asked for an opinion on the effect of the legislature enacting CSSB 227 (Finance) in its present form, without reference to amending court rules.

In Leege v. Martin, 379 P.2d 447 (Alaska 1963), the Alaska Supreme Court held that a bill is not effective to change rules of practice and procedure unless the bill specifically states that its purpose is to bring about that change. Therefore, CSSB 227 (Finance), which does not refer to amending court rules, is powerless to do so. The prohibition in sec. 08.87.210 against a social worker revealing communication from a client could not operate to make the communication a privileged communication under Rule 504 of the Rules of Evidence. Neither the client nor the social worker could rely on the statute as a basis for refusing to testify about the communication in a proceeding covered by the court rule although in other situations privilege could be invoked.

If I may be of further assistance, please advise.

TC:mkr
m3/136



Alaska State Legislature

House

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

social worker is "is testifying in a court proceeding"

MEMORANDUM

March 6, 1986

TO: Representative M. Mike Miller
Chairman House Judiciary

FROM: Representative Marco Pignalberi

RE: CSHB424 (L&C), CSSB 227 (FIN), and HB317

The above three bills are all related in that they create a board for social workers or a joint board for social workers, marital and family therapists, and professional counselors. HB424 provides in the title reference to amending Rule 504 of the Alaska Rules of Evidence. This bill, therefore has a judiciary referral. The other two bills, although they should have reference in their title too, do not. Therefore neither SB227 nor HB317 was referred to judiciary. We inquired about this and legal services provided the attached memorandum which states that the language should have been in the title and that the bills should, therefore, have been referred to judiciary. I wanted to advise you of this and await your reply.

*Bette,
This just came in
today. I wanted to
let you know ASAP.
Marco*

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 6, 1986

SUBJECT: Court Rule amendments in HB 317,
CSHB 424 (L&C) and CSSB 227 (Fin)
Social workers and behavioral scientists

TO: Representative Marco Pignalberi

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked whether the titles to these three bills, relating to social workers and behavioral scientists, should refer to amending court rules. CSHB 424 (Labor & Commerce) contains such a reference. Since the bills amend the scope of the psychotherapist-patient privilege, set out in Rule 504 of the Rules of Evidence, the answer is yes.

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Representative Marco Pignalberi
Page 2
March 6, 1986

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TBC:mkr
m3/129

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bandway areas as
(1-12)

Native nonprofits
or under contract
to the fed gov to
provide
native associations

~~Jack~~ Leshink
BIA
586-7177
Arlene Anderson
contract + grants

CFR 291-2
Indian tribes means -
All Native Vill or
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as defined in or estal pursuant
to the AWCSA which is federally
recognized as eligible by US Gov
then the Secretary for the
special programs + services
provided by the Sec to
Indians because of their
status as Indians.

COMMITTEE REPORT
SENATE

3/18/85

FURTHER: FINANCE

Date 4-17-85

Mr. President

FESS

SB 227

The Committee on practice of social work and establishing the Board of Social Worker Examiners; etc. considered SB 227

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 227
- new title
- same title and recommends to pass
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Joe Joseph

Paul Frank

Charles Stumpf

Edna De Vries Betty Johnson

Chairman DO PASS

Do Pass

Chairman recommendation