

1 State of Alaska
2 Department of Commerce, Community and Economic Development
3 Division of Corporations, Business and Professional Licensing
4

5 Alaska Board of Professional Counselors
6 September 19-20, 2019 Meeting Minutes
7

8 The staff of the Division of Corporations, Business and Professional Licensing
9 prepared these draft minutes. They have not been reviewed or approved by the
10 Board.
11

12 By authority of AS 08.01.070(2), and in compliance with the provisions of AS
13 44.62, Article 6, a scheduled meeting of the Board of Professional Counselors
14 was held at 550 West 7th Ave, Suite 1560 in Anchorage, Alaska, on September
15 19-20, 2019.
16

17 Agenda Item 1 Call to Order/Roll Call Time: 9:18 a.m.
18

19 The **September 19, 2019** meeting day was called to order by Chair, Debra Hamilton at 9:23
20 a.m.
21

22 Board members present, constituting a quorum:
23

24 Debra Hamilton, Licensed Professional Counselor – *Chair*
25 Steven Kyle Cardwell, Licensed Professional Counselors – *Vice Chair*
26 Alice Baum, Licensed Professional Counselor
27 Janece Richard, Licensed Professional Counselor (only for Day 1)
28 Eleanor Vinson, Public Member
29

30 Division staff present:
31

32 Andy Khmelev, Occupational Licensing Examiner
33 Billy Homestead, Investigator
34 Greg Francois, Chief Investigator
35 Jun Maiquis, Regulations Specialist
36 Susan Pollard, Attorney VI from Department of Law
37

38 Board members absent:
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40 Janece Richard, Licensed Professional Counselor (Excused) – Only absent on Day 2
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Agenda Item 2 Review/Approve Agenda

On a motion duly made by Janece Richard, seconded by Alice Baum, and approved unanimously, it was

RESOLVED to approve the agenda for the September 19-20, 2019 meeting as amended with the addition of “application readiness” added to new business.

	APPROVE	DENY	ABSTAIN	ABSENT
Debra Hamilton	x			
Alice Baum	x			
Kyle Cardwell	x			
Eleanor Vinson	x			
Janece Richard	x			

The motion passed with no further discussion.

Agenda Item 3 Ethics Report

The board then moved on to addressing ethics, however, there were no ethics disclosures to report.

Agenda Item 4 Review & Approve Minutes (May 2019)

On a motion duly made by Kyle Cardwell, seconded by Janece Richard, and approved unanimously, it was

RESOLVED to approve the minutes from the May 9, 2019 meeting/videoconference.

	APPROVE	DENY	ABSTAIN	ABSENT
Debra Hamilton	x			
Alice Baum	x			
Kyle Cardwell	x			
Eleanor Vinson	x			
Janece Richard	x			

The motion passed with no further discussion.

86 **Agenda Item 5** **Public Comment**

87
88 The public comment was on the agenda starting at 9:15 am. The meeting started at 9:18 am,
89 and was live with the zoom line open with no calls in. Chair Hamilton then stated that they
90 will keep the line open for public comment until 9:45 am. Board member Kyle Cardwell
91 expressed concern that an associate of his wished to call in for public comment at the last
92 meeting, however was unable to do so due to the line not allowing a connection. Kyle then
93 stepped out of the room and called the zoom line in order to test it to make sure that it
94 works, and upon testing it was determined that the line is open and working. There were no
95 calls for public comment.

96
97 **Agenda Item 6** **Correspondence**

98
99 The correspondence that was received was from Rachel McCrickard who is the CEO of
100 Motivo, and she has a system for secure live video to do distance supervision. She asked to
101 be added to the agenda in order for the board to discuss distance supervision. She stated in
102 her email that 45 states are allowing clinical supervision through secure video. The board
103 looked at the email and discussed what Miss McCrickard is offering, and determined that the
104 email was mostly a sales pitch. The board also agreed that in order to change the supervision
105 policies, there would have to be a regulation change. There already is a regulation for
106 distance supervision per 12 AAC 62.220 (e), and there is a form for it available as well.

107
108 *Off the record for break at 9:47 a.m.*

109 *Back on the record at 9:50 a.m.*

110
111 **Agenda Item 7** **Investigative Report**

112
113 Chief Investigator Greg Francois introduced Investigator Billy Homestead as the new
114 investigator for the PCO program in the interim, as the normal investigator Erika Prieksat is
115 on maternity leave. They then proceeded to discuss the investigative report. The report
116 covers 4/24/19-9/2/2019. The division opened nine matters, and closed thirteen matters.
117 The remaining ten matters are ongoing and are still under active investigation.

118
119 **On a motion duly made by Kyle Cardwell and seconded by Eleanor Vinson in**
120 **accordance with AS 44.62.310(c)(2), the board unanimously moved to enter executive**
121 **session for subjects that tend to prejudice the reputation and character of any person,**
122 **provided the person may request a public discussion.**

123
124 Staff members Andy Khmelev, Greg Francois, and Billy Homestead were authorized to
125 remain in the room.

126
127 *Off the record for executive session at 9:54 a.m.*

128 *Back on the record at 11:14 a.m.*

129

130 On a motion duly made by Kyle Cardwell, seconded by Janece Richard, and
131 approved via roll call vote, it was

132
133 **RESOLVED** to accept the consent agreement of 2019-000187.

	APPROVE	DENY	ABSTAIN	ABSENT
136 Debra Hamilton			x	
137 Alice Baum			x	
138 Kyle Cardwell	x			
139 Eleanor Vinson	x			
140 Janece Richard	x			

141
142 The motion passed with no further discussion.

143
144 On a motion duly made by Eleanor Vinson, seconded by Janece Richard, and
145 approved via roll call, it was

146
147 **RESOLVED** to adopt the civil fine for 2019-000202.

	APPROVE	DENY	ABSTAIN	ABSENT
149 Debra Hamilton	x			
151 Alice Baum	x			
152 Kyle Cardwell			x	
153 Eleanor Vinson	x			
154 Janece Richard	x			

155
156 The motion passed with no further discussion.

157
158 Chair Hamilton then signed both consent agreements on the record.

159
160 *Off the record at 11:18 a.m. for break*

161 *Back on the record at 11:37 a.m.*

162
163 **Agenda Item 8 Division Update – Right Touch Regulation**

164
165 There was no financial report to give since there has been no new report since the last board
166 meeting.

167
168 Due to the absence of Division Director Sara Chambers and Deputy Director Sharon Walsh,
169 the Right Touch Regulation presentation did not happen as intended. The board members
170 instead opted to read the power point slides that were provided in the board book, and the

171 memorandum written by Director Chambers. The board then discussed their findings from
172 the power point presentation.

173
174 **On a motion duly made by Alice Baum, seconded by Eleanor Vinson, and approved**
175 **unanimously, it was**

176
177 **RESOLVED to go into recess for the lunch hour.**

	APPROVE	DENY	ABSTAIN	ABSENT
179				
180	Debra Hamilton	x		
181	Alice Baum	x		
182	Kyle Cardwell	x		
183	Eleanor Vinson	x		
184	Janece Richard	x		

185
186 *Off the record for lunch at 11:55 a.m.*

187 *Back on the record at 1:14 p.m.*

188
189 **Agenda Item 10 Old Business**

190
191 After a roll call, all members were present with the exception of Janece Richard, who joined
192 two minutes later at 1:16 pm. Jun Maiquis, the CBPL regulations specialist, and Susan
193 Pollard, the Chief Regulations Attorney from the Department of Law joined into the
194 meeting via zoom call. The board wanted to discuss the edits that the Department of Law
195 made to the telehealth regulations 12 AAC 62.400-420, which will need to be readopted.

196
197 Board member Kyle Cardwell mainly wanted to know why there were a significant amount
198 of changes, and why were they not put in the first time. Susan Pollard from Dept. of Law
199 explained that in this instance the dept of law is required by law to make sure regulations are
200 legal and abide by the constitution. She explained that when the final review came to her, she
201 wanted to make the full intent of the regulations completely clear, and that way there will be
202 less confusion when these regulations are applied. She also expressed her wish for the board
203 to look at regulation 410 specifically to make sure that the confidentiality regulations were
204 written out clearly and correctly, as she used other boards confidentiality regulations to fully
205 understand how the regulations needed to be written.

206
207 Board member Cardwell was still unsure about the confidentiality regulations if HIPAA is
208 placed into the regulations, however if someone is diagnosed with substance abuse, then its
209 42 CFR regulations for confidentiality, which overrules HIPAA. There are differences
210 between the two, as HIPAA allows you to disclose certain things that 42 CFR does not. Kyle
211 Cardwell suggest maybe adding 42 CFR added as well as HIPAA which is already in the
212 edits. Jun Maiquis cleared that up by indicating that even though 42 CFR isn't in these

213 regulations, they are federal and would overrule any state regulations as it is. There is no
214 point or purpose of adding them in, as they are in effect regardless.

215
216 The board reviewed and considered the Department of Law's edits and recommendations
217 regarding the telehealth regulations.

218
219 **On a motion duly made by Alice Baum, seconded by Eleanor Vinson, and approved,**
220 **it was**

221
222 **RESOLVED to readopt the telehealth regulations distance professional**
223 **services 12 AAC62.400-420 as amended.**
224

	APPROVE	DENY	ABSTAIN	ABSENT
225				
226	Debra Hamilton	x		
227	Alice Baum	x		
228	Kyle Cardwell		x	
229	Eleanor Vinson	x		
230	Janece Richard	x		

231
232 The certification order was signed by the Chair.

233
234 Motion passes with no further discussion.

235
236 The board moved onto reviewing 24 month supervision policy. Board member Eleanor
237 Vinson was concerned that applicants were not sufficiently meeting the 24 month
238 supervision requirement by combining days to make a full month. After a discussion, the
239 board determined that the policy is sufficient the way it is.

240
241 The board moved onto reviewing the continued education policy of applications applied by
242 credentials. As of now, per the regulations, credential applications only need 40 hours of
243 CEUs with 3 of them in ethics, and no face to face requirements, whereas the continued
244 education for a renewal, certain CEUs have to be in person or via synchronous real time
245 presentations. The board members were thinking of consolidating the regulations for the
246 licensure renewal and the applications via credentials, thereby making the credential
247 applicants also be required to do a certain amount of CEUs in person. Board member Janece
248 Richard expressed her dissatisfaction with the current continued education requirements for
249 credential applicants, and she wants for them to have the same requirements as renewals.

250
251
252 **On a motion duly made by Eleanor Vinson, seconded by Alice Baum, and approved**
253 **unanimously, it was**

254

255 **RESOLVED** to change 12 AAC 62.130(5) to read “submit verification of
 256 completion of 40 continuing education credits, including three of the
 257 continuing education credits in ethics within the previous two years
 258 immediately preceding application for licensure by credentials; the continuing
 259 education must comply with 12 AAC 62.310(d) and 12 AAC 62.320.
 260

	APPROVE	DENY	ABSTAIN	ABSENT
261 Debra Hamilton	x			
262 Alice Baum	x			
263 Kyle Cardwell	x			
264 Eleanor Vinson	x			
265 Janece Richard	x			

267
 268 Motion passes with no further discussion.
 269

270 Board then moved on to discuss the supervision requirements and supervision philosophy.
 271 Board member Kyle Cardwell suggested looking at what other states have in their
 272 supervision requirements and maybe go off of that. In order to get a delineated supervision
 273 philosophy, maybe change the form or provide them with questions to answer on the form,
 274 however this may involve a regulation change. Kyle also suggested maybe contacting a
 275 legislator and doing a statute change which would be cheaper and possibly faster.
 276

277 Due to this being mostly in statute, Debbie Hamilton suggested that her and Janece Richard,
 278 as the two board members most concerned with the supervisors, will write up and make a
 279 presentation for the next meeting.
 280

281 *Off the record for break at 2:49 p.m.*

282 *Back on the record at 3:00 p.m.*
 283

284 **Agenda Item 11 Conference Follow Up**
 285

286 Board Chair Debbie Hamilton, and Examiner Andy Khmelev attended the AASCB/NBCC
 287 joint summit in Washington DC on August 7-9, 2019. Both then presented their findings
 288 from the conference. Examiner Andy Khmelev uploaded all the power point presentations
 289 that were at the conference onto an onboard resource folder online, so that the rest of the
 290 board members would be able to access it.
 291

292 Examiner Andy Khmelev, who attended his first conference ever, gave a presentation how
 293 on a state and national level there is massive de-regulation happening, and how a lot of states
 294 find themselves in a fight to show that they are relevant. Andy also attended a staff training,
 295 and was able to even input how best to guide the general public and potential licensees
 296 through the “government red tape” and how to make bureaucracy easier to navigate.
 297

298 Chair Debbie Hamilton commented from one of the presentations of the conference that
299 one way to battle the de-regulation is to get more involved. Contacting lawmakers, legislators
300 and governors and remind them of what the licensing board does, which their primary
301 purpose is to protect the public. One of the reasons some of the libertarian organizations are
302 targeting certain laws or boards is because they don't really know what it is that the licensing
303 board does, and one way to combat is to network, collaborate, and educate them on why the
304 licensing boards need to exist.

305
306 Chair Hamilton also led a discussion on how Alaska can make it easier to have access to
307 counseling during a time of crisis or national emergency. Where would people go to seek
308 counseling during a national disaster or crisis, and how well the state is prepared to provide
309 those services should there be a disaster. The board did confirm that there are agencies and
310 organizations that do provide those services, however adding temporary licenses or certain
311 endorsements to licenses for counselors would be too big of a task to take on right now, as it
312 would create a lot more work on top of everything going on already.

313
314 The board then discussed which future conferences to attend. The third priority on the
315 annual report was AMHCA, which at this point happened in June, so the board missed it for
316 FY19. Board members asked examiner Andy Khmelev when the 2020 AMHCA conference
317 is, and if it falls under FY2020. If its in June or before, it falls under the current annual
318 report, and if it is in July or after, then the board will need to think ahead for the next annual
319 report. Alice Baum and Janece Richard have been designated to attend the FARB conference
320 in Colorado Springs January 23-26, 2020.

321
322 The board then discussed going into recess until the next day, and discussed starting the next
323 day at 10:00am instead of 9:00 am.

324
325 **On a motion duly made by Janece Richard, seconded by Alice Baum, and approved**
326 **unanimously, it was**

327
328 **RESOLVED to amend the agenda to start at 10:00 am on Friday 9/20/19.**

329
330

	APPROVE	DENY	ABSTAIN	ABSENT
331 Debra Hamilton	x			
332 Alice Baum	x			
333 Kyle Cardwell	x			
334 Eleanor Vinson	x			
335 Janece Richard	x			

336

337 The motion passed with no further discussion.

338
339
340

341 On a motion duly made by Janece Richard, seconded by Alice Baum, and approved
342 unanimately, it was

343
344 **RESOLVED** to recess until 10:00 am on 9/20/19.
345

	APPROVE	DENY	ABSTAIN	ABSENT
346 Debra Hamilton	x			
347 Alice Baum	x			
348 Kyle Cardwell	x			
349 Eleanor Vinson	x			
350 Janece Richard	x			
351				

352
353 The motion passed with no further discussion.

354
355 *Off the record until 9/20/19 on 3:57 p.m.*

356
357 **Agenda Item 13** **Roll Call/Call to Order**

358
359 The **September 20, 2019** meeting day was called to order by Chair, Debra Hamilton at 10:18
360 a.m.

361
362 Board members present, constituting a quorum:

- 363
364 Debra Hamilton, Licensed Professional Counselor – *Chair*
365 Steven Kyle Cardwell, Licensed Professional Counselors – *Vice Chair*
366 Alice Baum, Licensed Professional Counselor
367 Eleanor Vinson, Public Member

368
369 Division staff present:

370
371 Andy Khmelev, Occupational Licensing Examiner

372
373 Board members absent:

374
375 Janece Richard, Licensed Professional Counselor

376
377
378 On a motion duly made by Eleanor Vinson, seconded by Kyle Cardwell, and
379 approved unanimately, it was

380
381 **RESOLVED** to add agenda item “investigation discussion to understand
382 process”.

383

	APPROVE	DENY	ABSTAIN	ABSENT
385	Debra Hamilton	x		
386	Alice Baum	x		
387	Kyle Cardwell	x		
388	Eleanor Vinson	x		
389	Janece Richard			x

390
391 The motion passed with no further discussion.

392
393 **On a motion duly made by Kyle Cardwell, seconded by Eleanor Vinson, and**
394 **approved unanimously, it was**

395
396 **RESOLVED to add agenda item “Discuss the Alaska Counseling Association**
397 **Update”.**

	APPROVE	DENY	ABSTAIN	ABSENT
399	Debra Hamilton	x		
400	Alice Baum	x		
401	Kyle Cardwell	x		
402	Eleanor Vinson	x		
403	Janece Richard			x

404
405
406 The motion passed with no further discussion.

407
408 Chair Debbie Hamilton requested that the investigation process and Alaska Counseling
409 Association agenda items be added to old business.

410
411 Board then agrees to move onto application review, with a return to old business and new
412 business later in the day.

413
414 **On a motion duly made by Kyle Cardwell, seconded by Alice Baum, and approved**
415 **unanimously, it was**

416
417 **RESOLVED to accept the agenda as amended.**

	APPROVE	DENY	ABSTAIN	ABSENT
419	Debra Hamilton	x		
420	Alice Baum	x		
421	Kyle Cardwell	x		
422	Eleanor Vinson	x		
423	Janece Richard			x

425 Motion passes with no further discussion.

426

427 **Agenda Item 15 Application Review**

428

429 For applicant with the initials PC, the board instructed Examiner Andy Khmelev to send out
430 a written notice communicating to the applicant that the board reviewed the application, and
431 that her conditional license does not meet or exceed the Alaska state license per 08.29.120 b.
432 and 08.29.110 (6). She would need to prove she is qualified or to withdraw the application by
433 12/31/19. If the neither action is met by 12/31/19, the license would then be denied.

434

435 **On a motion duly made by Eleanor Vinson and seconded by Kyle Cardwell in**
436 **accordance with AS 44.62.310(c)(2), the board unanimously moved to enter executive**
437 **session for subjects that tend to prejudice the reputation and character of any person,**
438 **provided the person may request a public discussion.**

439

440 Staff member Andy Khmelev was authorized to remain in the room.

441

442 *Off the record for executive session at 11:11 a.m.*

443 *Back on the record at 12:15 p.m.*

444

445 Board member Kyle Cardwell was absent for a few moments while speaking with
446 Investigator Billy Homestead.

447

448 **On a motion duly made by Alice Baum, seconded by Eleanor Vinson, and approved**
449 **via roll call vote, it was**

450

451 **RESOLVED to accept the distance supervision for Katie Kostelyk as**
452 **requested retroactively.**

453

	APPROVE	DENY	ABSTAIN	ABSENT
454 Debra Hamilton	x			
455 Alice Baum	x			
456 Kyle Cardwell				x
457 Eleanor Vinson	x			
458 Janece Richard				x

460

461 Motion passed with no further discussion.

462

463 After Kyle Cardwell's return with a discussion with the investigator, Examiner Andy
464 Khmelev will ask his supervisor why the counselor program doesn't do a search of the
465 practitioner databank to ensure that licensees are not in violation when they first apply.

466

467

468 On a motion duly made by Eleanor Vinson, seconded by Alice Baum, and approved
469 unanimately, it was

470
471 **RESOLVED** to accept the application for Kerry Potts with additional letters of
472 recommendation.

473

	APPROVE	DENY	ABSTAIN	ABSENT
474 Debra Hamilton	x			
475 Alice Baum	x			
476 Kyle Cardwell	x			
477 Eleanor Vinson	x			
478 Janece Richard				x

479

480
481 Motion passed with no further discussion.

482
483 **Agenda Item 10 Old Business**

484
485 The board moved onto to discuss the added items to the agenda.

486
487 Board member Kyle Cardwell tried to reach out to the counseling association and got no
488 response. It appears that the association is either inactive or defunct. Chair Debbie Hamilton
489 encourages to have professional counselors revive their association, and the board stated on
490 record that they welcome working with them collaboratively.

491
492 The board requested Examiner Andy Khmelev to check in with regulations specialist Jun
493 Maiquis to get an updated on the regulation revisions that were submitted back in September
494 2018.

495
496 The board moved onto to discuss the investigations process. Board member Eleanor Vinson
497 wishes to have some progress with the investigative matrix, which had been discussed at
498 prior meetings. Examiner Andy Khmelev will need to reach out to the investigative staff to
499 see if there is a copy of the old matrix for PCO that delineated offences and corresponding
500 monetary sanctions, and gather information from similar boards like CSW and MFT to see if
501 they have matrixes they use and see if we can use them as examples.

502
503 The board was wondering if it's possible to have a designated reviewing board member
504 specifically for the purpose of investigations, and that the recommendations by the reviewing
505 board member or members comes before the full board before voting, before the offer is
506 sent to the respondent. At this time, the consent agreements go to the licensee first, then to
507 the board for adoption, and the board is wondering if it's possible to do it the other way
508 around. Having the board vote on it first, and then send it to the licensee. Essentially, this
509 would give the board more of a voice for consent agreements, and give more suggestion. If
510 this isn't a possibility, the board would like an explanation as to why.

511 **Agenda Item 14** **New Business**

512

513 The only new business to discuss at this meeting was application readiness, which was added
514 the prior day per a motion. In the prior voting round, two applications went onto onboard in
515 error, and were pulled due to being incomplete. Board member Eleanor Vinson expressed
516 concern that incomplete applications were making onto voting, and was wondering if it was
517 going to be like it was in the past when people were only licensed at meetings every few
518 months compared to now, when they are posted monthly. Examiner Andy Khmelev
519 explained that those applications were indeed posted in error, and both the examiner and the
520 board members agreed that with the new onboard system that is now used monthly by the
521 board members, there is no reason to put them up unless they are fully complete, as they can
522 be reposted the next month.

523

524 **Agenda Item 16** **Board Admin Business**

525

526 The board agrees to keep the December 6, 2019 date for a one day video conference via
527 zoom. The board also agreed for a tentative meeting date for March 19-20, 2020, and the
528 board will attempt to put in a travel request for the meeting to be held in person in
529 Anchorage.

530

531 Board member Kyle Cardwell announced that he is resigning from the board after this
532 meeting, as he is relocating to Washington state and will no longer be able to serve on the
533 board.

534

535 Task List:

536

- 537 • Board Chair Debbie Hamilton and Janece Richard will be doing a task force to
538 explore other supervision application requirements.
- 539 • Examiner Andy Khmelev will need to communicate with applicant PC about her
540 license not meeting the standards. He will be sending a status letter.
- 541 • Examiner Andy Khmelev will check with Regulation Specialist Jun Maiquis on the
542 status of the 2018 regulation changes that were submitted.
- 543 • Examiner Andy Khmelev will need to reach out to investigative staff to see if there is
544 a copy of the old matrix for PCO that delineated offences and corresponding
545 monetary sanctions, and gather information from similar boards like CSW and MFT
546 to see if they have matrixes they use and see if we can use them as examples.
- 547 • Examiner Andy Khmelev will put on December agenda to nominate and vote for the
548 vice chair.
- 549 • Janece Richard and Alice Baum have been asked to attend the FARB training in
550 January 2020 if approved, and the board highly advocates and requests this approval
551 due to the value of networking with other state boards, as well as further training to
552 serve this board.

553

554 The board also stated they want clarification and request that in the process of investigation,
555 the board have a reviewing member that makes a recommendation be brought to the board
556 for a vote before it is presented to the respondent, and an explanation as to why if this is not
557 a possibility.

558
559 Chair Debbie Hamilton also wanted to put on the record that these in person meetings are
560 highly valued and the members are much more efficient. Board members will continue to
561 advocate that these meetings are better in person. Kyle goes on record as a departing
562 member is that these meetings being less in person makes it less desirable to be on the
563 board. The board members also reiterate that there is funding for this, and its gathered from
564 the constituents and it's not really saving the debt much by not doing it. Debbie Hamilton
565 requests that the March meeting be in person in Anchorage.

566
567 **On a motion duly made by Kyle Cardwell, seconded by Alice Baum, and approved**
568 **unanimously, it was**

569
570 **RESOLVED to adjourn the meeting at 1:31 p.m. on 9/20/19.**

571

	APPROVE	DENY	ABSTAIN	ABSENT
572 Debra Hamilton	x			
573 Alice Baum	x			
574 Kyle Cardwell	x			
575 Eleanor Vinson	x			
576 Janece Richard				x

577

578
579
580 *Off the record at 1:31 p.m.*

581
582
583
584 _____
585 Andy Khmelev, Occupational Licensing Examiner Date

586
587
588 _____
589 Debra Hamilton, Board of Professional Counselors Chair Date

590
591 **k**