

STATE OF ALASKA

**BOARD OF
PROFESSIONAL COUNSELORS**

Board Meeting

State Office Building 9th Floor,
Conference Room B

May 9-10, 2019

Bill Walker
OFFICE OF THE GOVERNOR

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ROSTER

Board of Professional Counselors

NAME	APPOINTED	REAPPOINTED	EXPIRES
Baum, Alice (Anchorage) Licensed Professional Counselor	03/01/2018		03/01/2022
Cardwell, Steven (Fairbanks) Licensed Professional Counselor	11/15/2017		03/01/2021
Hamilton, Debra (Soldotna) Licensed Professional Counselor	03/01/2013	03/01/2017	03/01/2021
Richard, Jenece (Anchorage) Licensed Professional Counselor	03/01/2018		03/01/2022
Vinson, Eleanor (Juneau) Public	10/26/2016		03/01/2020

[Board Fact Sheet](#)

STATE OF ALASKA
BOARD OF PROFESSIONAL COUNSELORS
333 WILLOUGHBY AVE., 9TH FLOOR, CONF. ROOM B; JUNEAU, AK

GCI Conference Line: 1-800-315-6338
Access Code: 52538

Thursday, May 9, 2019

	<u>TIME</u>	<u>TOPIC</u>	<u>LEAD PERSON</u>
1.	9:00 a.m.	Call to Order & Roll Call	Chair
2.	9:02 a.m.	Review & Approve Agenda	Chair
3.	9:06 a.m.	Ethics Report	Chair
4.	9:10 a.m.	Review & Approve Minutes February 2019	Chair
5.	9:15 a.m.	Public Comment	Chair
6.	9:30 a.m.	Old Business • TBD	Chair
7.	10:00 a.m.	Investigative Report	Inv. E. Priekstat
8.	10:30 a.m.	Investigative Training	Chief Inv. Francois and Inv. E Priekstat
9.	11:30 a.m.	Division Update 3 rd Quarter Fiscal Report	Dir. S. Chambers(or) M. Dumas (or) M. Wales
10.	12:00 p.m.	Lunch	
11.	1:00 p.m.	Legislative Update	Dir. S. Chambers
12.	1:30 p.m.	Tabled Application	Chair
13.	2:30 p.m.	Review Correspondence	Chair
14.	2:45 p.m.	New Business • TBD	Chair

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15. 3:15 p.m. **Annual Report**
2018 Annual Report
16. 4:15 p.m. **Board Admin Business**
- Schedule Upcoming Meetings
 - Task List
17. 4:30 p.m. **Recess/Adjourn until 9:00 am 5/10/19** (recess only if necessary)

State of Alaska
DEPARTMENT OF LAW

ETHICS ACT PROCEDURES FOR BOARDS & COMMISSIONS

All board and commission members and staff should be familiar with the Executive Branch Ethics Act procedures outlined below.

Who Is My Designated Ethics Supervisor (DES)?

Every board or commission subject to the Ethics Act¹ has several ethics supervisors designated by statute.

- The chair serves as DES for board or commission members.
- The chair serves as DES for the executive director.
- The executive director serves as DES for the staff.
- The governor is the DES for a chair.²

What Do I Have To Disclose?

The Ethics Act requires members of boards and commissions to disclose:

- Any matter that is a potential conflict of interest with actions that the member may take when serving on the board or commission.
- Any circumstance that may result in a violation of the Ethics Act.
- Any personal or financial interest (or that of an immediate family member) in a state grant, contract, lease or loan that is awarded or administered by the member's board or commission.
- The receipt of certain gifts.

The executive director of the board or commission and its staff, as state employees, must also disclose:

- Compensated outside employment or services.
- Volunteer service, if any compensation, including travel and meals, is paid or there is a potential conflict with state duties.

- For more information regarding the types of matters that may result in violations of the Ethics Act, board or commission members should refer to the guide, *"Ethics Information for Members of Boards and Commissions."* The executive director and staff should refer to the guide, *Ethics Information for Public Employees.* Both guides and disclosure forms may be found on the [Department of Law's ethics website](#).

How Do I Avoid Violations of the Ethics Act?

- Make timely disclosures!
- Follow required procedures!
- Provide all information necessary to a correct evaluation of the matter!³
- When in doubt, disclose and seek advice!
- Follow the advice of your DES!

What Are The Disclosure Procedures for Board and Commission Members?

The procedural requirements for disclosures by members are set out in AS 39.52.220 and 9 AAC 52.120. One goal of these provisions is to help members avoid violations of the Ethics Act. The procedures provide the opportunity for members to seek review of matters in advance of taking action to ensure that actions taken will be consistent with the Act.

Procedure for declaring actual or potential conflicts.

Members must declare potential conflicts and other matters that may violate the Ethics Act **on the public record and in writing to the chair**.

Disclosure on the public record. Members must identify actual and potential conflicts orally at the board or commission's public meeting **in advance** of participating in deliberations or taking any official action on the matter.

- A member must always declare a conflict and may choose to refrain from voting, deliberations or other participation regarding a matter.⁴
- If a member is uncertain whether participation would result in a violation of the Act, the member should disclose the circumstances and seek a determination from the chair.

Disclosure in writing at a public meeting. In addition to an oral disclosure at a board or commission meeting, members' disclosures must be made in writing.

- If the meeting is recorded, a tape or transcript of the meeting is preserved **and** there is a method for identifying the declaration in the record, an oral disclosure may serve as the written disclosure.
- Alternatively, the member must note the disclosure on the Notice of Potential Violation disclosure form and the chair must record the determination.

Confidential disclosure in advance of public meeting. Potential conflicts may be partially addressed in advance of a board or commission's public meeting based on the published meeting agenda or other board or commission activity.

- A member identifying a conflict or potential conflict submits a Notice of Potential Violation to the chair, as DES, in advance of the public meeting.
- This written disclosure is considered confidential.
- The chair may seek advice from the Attorney General.
- The chair makes a written determination, also confidential, whether the disclosed matter represents a conflict that will result in a violation of the Ethics Act if the member participates in official action addressing the matter.⁵
- If so, the chair directs the member to refrain from participating in the matter that is the subject of the disclosure.
- An oral report of the notice of potential violation and the determination that the member must refrain from participating is put on the record at a public meeting.⁶

Determinations at the public meeting. When a potential conflict is declared by a member for the public record, the following procedure must be followed:

- The chair states his or her determination regarding whether the member may participate.
- Any member may then object to the chair's determination.
- If an objection is made, the members present, excluding the member who made the disclosure, vote on the matter.
- *Exception:* A chair's determination that is made consistent with advice provided by the Attorney General may not be overruled.
- If the chair, or the members by majority vote, determines that a violation will exist if the disclosing member continues to participate, the member must refrain from voting, deliberating or participating in the matter.⁷

If the chair identifies a potential conflict, the same procedures are followed. If possible, the chair should forward a confidential written notice of potential violation to the Office of the Governor for a determination in advance of the board or commission meeting. If the declaration is first

made at the public meeting during which the matter will be addressed, the members present, except for the chair, vote on the matter. If a majority determines that a violation of the Ethics Act will occur if the chair continues to participate, the chair shall refrain from voting, deliberating or participating in the matter. A written disclosure or copy of the public record regarding the oral disclosure should be forwarded to the Office of the Governor for review by the chair's DES.

Procedures for Other Member Disclosures

A member's interest in a state grant, contract, lease or loan and receipt of gifts are disclosed by filling out the appropriate disclosure form and submitting the form to the chair for approval. The disclosure forms are found on the [Department of Law's ethics website](#).

What Are The Disclosure Procedures for Executive Directors and Staff?

Ethics disclosures of the executive director or staff are made in writing to the appropriate DES (chair for the executive director and the executive director for staff).

- Disclosure forms are found on the ethics website, noted above.

Notices of Potential Violations. Following receipt of a written notice of potential violation, the DES investigates, if necessary, and makes a written determination whether a violation of the Ethics Act could exist or will occur. A DES may seek advice from the Attorney General. If feasible, the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee of the personal or financial interests giving rise to the potential violation.

- These disclosures are not required to be made part of the public record.
- A copy of a determination is provided to the employee.
- Both the notice and determination are confidential.

Other Disclosures. The DES also reviews other ethics disclosures and either approves them or determines what action must be taken to avoid a violation of the Act. In addition to the disclosures of certain gifts and interests in the listed state matters, state employees must disclose all outside employment or services for compensation.

- The DES must provide a copy of an approved disclosure or other determination the employee.

How Are Third Party Reports of Potential Violations or Complaints Handled?

Any person may report a potential violation of the Ethics Act by a board or commission member or its staff to the appropriate DES or file a complaint alleging actual violations with the Attorney General.

- Notices of potential violations and complaints must be submitted in **writing** and **under oath**.
- Notices of potential violations are investigated by the appropriate DES who makes a written determination whether a violation may exist.⁸
- Complaints are addressed by the Attorney General under separate procedures outlined in the Ethics Act.
- **These matters are confidential**, unless the subject waives confidentiality or the matter results in a public accusation.

What Are The Procedures for Quarterly Reports?

Designated ethics supervisors must submit copies of notices of potential violations received and the corresponding determinations to the Attorney General for review by the state ethics attorney as part of the quarterly report required by the Ethics Act.

- Reports are due in April, July, October and January for the preceding quarter.
- A sample report may be found on the Department of Law's ethics website.
- An executive director may file a quarterly report on behalf of the chair and combine it with his or her own report.
- If a board or commission does not meet during a quarter and there is no other reportable activity, the DES advises the Department of Law Ethics Attorney by e-mail at ethicsreporting@alaska.gov and no other report is required.

If the state ethics attorney disagrees with a reported determination, the attorney will advise the DES of that finding. If the ethics attorney finds that there was a violation, the member who committed the violation is not liable if he or she fully disclosed all relevant facts reasonably necessary to the ethics supervisor's or commission's determination and acted consistent with the determination.

How Does A DES or Board or Commission Get Ethics Advice?

A DES or board or commission may make a **written request** to the Attorney General for an opinion regarding the application of the Ethics Act. In practice, the Attorney General, through the state ethics attorney, also provides **advice by phone or e-mail** to designated ethics supervisors, especially when time constraints prevent the preparation of timely written opinions.

- A request for advice and the advisory opinion are confidential.
- The ethics attorney endeavors to provide prompt assistance, although that may not always be possible.
- The DES must make his or her determination addressing the potential violation based on the opinion provided.

It is the obligation of each board or commission member, as well as the staff, to ensure that the public's business is conducted in a manner that is consistent with the standards set out in the Ethics Act. We hope this summary assists you in ensuring that your obligations are met.

¹ The Act covers a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch of state government.

² The governor has delegated the DES responsibility to Guy Bell, Administrative Director of the Office of the Governor.

³ You may supplement the disclosure form with other written explanation as necessary. Your signature on a disclosure certifies that, to the best of your knowledge, the statements made are true, correct and complete. False statements are punishable.

⁴ In most, but not all, situations, refraining from participation ensures that a violation of the Ethics Act does not occur. Abstention does not cure a conflict with respect to a significant direct personal or financial interest in a state grant, contract, lease or loan because the Ethics Act prohibition applies whether or not the public officer actually takes official action.

⁵ The chair must give a copy of the written determination to the disclosing member. There is a determination form available on the Department of Law's ethics web page. The ethics supervisor may also write a separate memorandum.

⁶ In this manner, a member's detailed personal and financial information may be protected from public disclosure.

⁷ When a matter of particular sensitivity is raised and the ramifications of continuing without an advisory opinion from the Attorney General may affect the validity of the board or commission's action, the members should consider tabling the matter so that an opinion may be obtained.

⁸ The DES provides a copy of the notice to the employee who is the subject of the notice and may seek input from the employee, his or her supervisor and others. The DES may seek advice from the Attorney General. A copy of the DES' written determination is provided to the subject employee and the complaining party. The DES submits a copy of both the notice and the determination to the Attorney General for review as part of the DES' quarterly report. If feasible,

the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee of the personal or financial interests giving rise to the potential violation.

6/14

The Attorney General and Department of Law staff may not provide legal advice to private citizens or organizations. Please contact an attorney if you need legal advice. The [Alaska Lawyer Referral Service](#) or your local bar association may be able to assist you in locating a lawyer.

Alaska Department of Law

1031 West 4th Avenue, Suite 200

Anchorage, AK 99501

attorney.general@alaska.gov

Phone: (907) 269-5100 | Fax: (907) 276-3697

TTY: 907-258-9161

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Ethics Disclosure Form

<p style="text-align: center;">CONFIDENTIAL REQUEST FOR ETHICS DETERMINATION</p>
--

TO: _____, Designated Ethics Supervisor

(Identify Your Department, Agency, Public Corporation, Board, Commission)

I request advice regarding the application of the Executive Branch Ethics Act (AS 39.52.010 - .960) to my situation. The situation involves the following:

I have provided additional information in the attached document(s).

I believe the following provisions of the Ethics Act may apply to my situation:

- AS 39.52.120, Misuse of Official Position
- AS 39.52.130, Improper Gifts
- AS 39.52.140, Improper Use or Disclosure of Information
- AS 39.52.150, Improper Influence in State Grants, Contracts, Leases or Loans
- AS 39.52.160, Improper Representation
- AS 39.52.170, Outside Employment Restricted
- AS 39.52.180, Restrictions on Employment after Leaving State Service
- AS 39.52.190, Aiding a Violation Prohibited

I understand that I should refrain from taking any official action relating to this matter until I receive your advice. If the circumstances I described above may result in a violation of AS 39.52.110 - .190, I intend that this request serve as my disclosure of the matter in accordance with AS 39.52.210 or AS 39.52.220.

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Division, Board, Commission)

(Position Title)

(Location)

Designated Ethics Supervisor: Provide a copy of your written determination to the employee advising whether action is necessary under AS 39.52.210 or AS 39.52.220, and send a copy of the determination and disclosure to the attorney general with your quarterly report.

Ethics Disclosure Form

Receipt of Gift

TO: _____, Designated Ethics Supervisor, _____
(Agency, Public Corporation, Board,
Commission or Council)

This disclosure reports receipt of a gift with value in excess of \$150.00 by me or my immediate family member, as required by AS 39.52.130(b) or (f).

1. Is the gift connected to my position as a state officer, employee or member of a state board or commission?

Yes No

2. Can I take or withhold official action that may affect the person or entity that gave me the gift?

Yes No

(If you answer "No" to both questions, you do not need to report this gift. If the answer to either question is "Yes," or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.)

The gift is _____

Identify gift giver by full name, title, and organization or relationship, if any:

Describe event or occasion when gift was received or other circumstance explaining the reason for the gift:

My estimate of its value is \$ _____ The date of receipt was _____

The gift was received by a member of my family. Who? _____

If you checked "Yes" to question 2 above, explain the official action you may take that affects the giver (attach additional page, if necessary):

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Division)

(Position Title)

(Location)

Ethics Supervisor Determination: Approve Disapproved

Designated Ethics Supervisor*

(Date)

**Designated Ethics Supervisor: Provide a copy of the approval or disapproval to the employee. If action is necessary under AS 39.52.210 or AS 39.52.220, attach a determination stating the reasons and send a copy of the determination and disclosure to the attorney general with your quarterly report.*

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 February 7-8, 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 the Robert Atwood Building, 550 W. 7th Ave., 102 in Anchorage,
15 Alaska, and at the State Office Building, 9th floor conference room A in Juneau,
16 Alaska, on February 7-8, 2019.
17

18 Agenda Item 1 Call to Order/Roll Call Time: 9:32 a.m.
19

20 The February 7, 2019 meeting day was called to order by Chair, Debra Hamilton at 9:32
21 a.m.
22

23 Board members present, constituting a quorum:
24

25 Debra Hamilton, Licensed Professional Counselor PCOP366 - *Chair*
26 Alice Baum, Licensed Professional Counselor PCOP929
27 Steven Kyle Cardwell, Licensed Professional Counselor PCOP801
28 Eleanor Vinson, Public Member
29

30 Division staff present:
31

32 Andy Khmelev, Occupational Licensing Examiner
33 Dawn Hannasch, Records and Licensing Supervisor
34 Erika Priekstat, Investigator
35 Glenn Hoskinson, Administrative Assistant III
36 Sara Chambers, Division Director
37 Sharon Walsh, Division Deputy Director
38 Marylene Wales, Accountant III
39

40 Board members absent:
41

42 Janece Richard, Licensed Professional Counselor PCOP620 (Excused)

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Agenda Item 2 Review/Approve Agenda

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

RESOLVED to approve the agenda for the February 7-8, 2019 meeting

	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 from December 2018

The board proceeded to review the minutes from a teleconference that took place on December 14, 2018. Eleanor Vinson suggested that in the future, rather than use just first names for staff members, add titles prior to their names such as staff member, examiner, or staff supervisor so that in case the minutes are reviewed in the future, there doesn't need to be any research as to who is who. Chair Hamilton then requested that the minutes be amended on lines 98, 103 and 104 to reflect staff titles.

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

RESOLVED to approve the minutes from the December 14, 2018 teleconference as amended.

	APPROVE	DENY	ABSTAIN	ABSENT
Debra Hamilton	x			
Alice Baum	x			
Kyle Cardwell	x			

85	Eleanor Vinson	x	
86	Janece Richard		x

87
88 The motion passed with no further discussion.

89
90 **Agenda Item 5 Public Comment**

91
92 Due to technical difficulties setting up the video conferencing system, which never did end
93 up working, the meeting did not start until 9:32am instead of 9:00am as originally intended.
94 However all board members were present and the phone line was open to accept calls for
95 public comment. No members of the public made appearances in Juneau, Anchorage, or via
96 phone. As a result, the board members decided that public comment started at 9:15 am and
97 ended at 9:42 am.

98
99 **Agenda Item 6 Old Business**

100
101 The board’s old business included a review of public comment from the prior regulation
102 project, which was Technology-Assisted Distance Professional Services, 12 AAC 62.400-420
103 which was tabled on 12/14/18.

104
105 Kyle Cardwell wanted to know how other boards handle requirements for telehealth. Staff
106 supervisor Dawn Hannasch was called back into the room so that the board can get her
107 input on how other licensing boards handle telehealth. Dawn confirmed that federal law
108 indeed overrides state law, and an individual who has an active license in another state can
109 practice on federal or native land without an Alaskan license. Dawn explained that if you are
110 licensed in Alaska, you are required to follow the law in Alaska. If an individual is licensed in
111 another state, the individual would have to abide by the statutes and regulations of the state
112 that they are licensed in, even if telehealth is against the law in that state and they are
113 providing services within Alaska on federal/tribal land.

114
115 Upon further discussion, Dawn informed the board that she would email the members with
116 sample regulations from other licensing programs, and that should the members wish to do
117 further research on the matter, the regulations would be on each licensing programs website.

118
119 **On a motion duly made by Alice Baum, seconded by Kyle Cardwell, and approved**
120 **via roll call vote, it was**

121
122 **RESOLVED to table the discussion until the following day on 2/7/19 upon**
123 **receipt of further information.**

	APPROVE	DENY	ABSTAIN	ABSENT
125	Debra Hamilton	x		
126	Alice Baum	x		

128	Kyle Cardwell	x		
129	Eleanor Vinson		x	
130	Janece Richard			x

131
132 The motion passed with no further discussion.

133
134 **Agenda Item 7 Investigative Report**

135
136 Investigator Erika Priekstat joined the meeting for the investigative report. Investigator
137 Priekstat reported that there were no changes from the prior investigative report with the
138 exception of case # 2018-001201 which closed in December instead of January.

139
140 *Off the record for break at 10:36 am*
141 *Back on the record at 10:52 am*

142
143 **Agenda Item 8 Division Update**

144
145 Division Director Sara Chambers, Deputy Director Sharon Walsh, and Accountant Marylene
146 Wales joined the meeting to discuss the division update. Director Chambers went over the
147 financials for the counselor program for quarters 1 and 2 for fiscal year 2019. There is an
148 overall surplus of \$245,912.

149
150 Board member Kyle Cardwell expressed his concerns and frustrations regarding travel
151 denial, and asked Director Chambers if there would be a possible way to reinstate in person
152 meetings compared to doing it remotely. Director Chambers replied that with the new
153 administration there needs to be a demonstrated business need to get travel approved.
154 Follow up concern was getting travel denied for national conferences, to which Director
155 Chambers replied by stating it is a goal to have the members travel to at least one conference
156 per fiscal year.

157
158 Fee analysis shows there will most likely be a \$250 reduction in licensing fees. This stems
159 from a projected \$470,000 surplus at the end of 2020, which could potentially draw the
160 attention of the licensees and legislative audit. In order to keep from getting to such a high
161 surplus, the fees would be cut to lower the projected surplus to \$267,086 at the end of 2020.

162
163 **On a motion duly made by Kyle Cardwell, seconded by Alice Baum, and approved**
164 **unanimously, it was**

165
166 **RESOLVED to accept the division proposal for reduction in fees.**

	APPROVE	DENY	ABSTAIN	ABSENT
168				
169	Debra Hamilton	x		
170	Alice Baum	x		

171	Kyle Cardwell	x		
172	Eleanor Vinson	x		
173	Janece Richard			x

174
175 The motion passed with no further discussion.

176
177 The meeting went into recess for lunch.

178
179 *Off the record for lunch at 12:03 pm*
180 *Back on the record at 1:19 pm*

181
182 **Agenda Item 9 Continue Tabled Application Review**

183
184 Review tabled applications. The first tabled ballot from the prior voting cycle required the
185 board to enter executive session.

186
187 **On a motion duly made by Eleanor Vinson and seconded by Kyle Cardwell in**
188 **accordance with AS 44.62.310(c)(2), the board unanimously moved to enter executive**
189 **session for subjects that tend to prejudice the reputation and character of any person,**
190 **provided the person may request a public discussion.**

191
192 Board staff Andy Khmelev and Dawn Hannasch were authorized to remain in the room.

193
194 *Off the record for executive session at 1:25 pm*
195 *Back on the record at 3:03 pm*

196
197 Upon return from application review the application review continued.

198
199 **On a motion duly made by Eleanor Vinson, seconded by Kyle Cardwell, and**
200 **approved unanimously, it was**

201
202 **RESOLVED to table the application for supervisor for W.C. until she can**
203 **provide the contact hours of CEU's required under 12 AAC 62.200(a)(4)**

	APPROVE	DENY	ABSTAIN	ABSENT
205				
206	Debra Hamilton	x		
207	Alice Baum	x		
208	Kyle Cardwell	x		
209	Eleanor Vinson	x		
210	Janece Richard			x

211
212 The motion passed with no further discussion.

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

215
216 **RESOLVED** to table the application for supervisor for J. L. until he can meet
217 the requirements as designated in executive session prior to the next board
218 meeting on May 9-10, 2019.

219

	APPROVE	DENY	ABSTAIN	ABSENT
220 Debra Hamilton	x			
221 Alice Baum	x			
222 Kyle Cardwell	x			
223 Eleanor Vinson	x			
224 Janece Richard				x

225
226
227 The motion passed with no further discussion. Staff will send a letter to the applicant
228 requesting the information.

229
230 *Off record for break at 3:07 pm*
231 *Back on record at 3:27 pm*

232
233 Application review continued after break. The remaining ballots were reviewed via onboard
234 website and each member cast their vote through their personal devices.

235
236 **On a motion duly made by Kyle Cardwell, seconded by Eleanor Vinson, and**
237 **approved unanimately, it was resolved to recess for the day until 2/8/19 at 9:00 am.**

238
239 *Off the record for recess until the following day at 4:19 pm.*

240
241 **Agenda Item 12 Roll Call/Call to Order**

242
243 The **February 8, 2019** meeting day was called to order by Chair, Debra Hamilton at 9:15
244 a.m.

245
246 Board members present, constituting a quorum:

- 247
248 Debra Hamilton, Licensed Professional Counselor PCOP366 - *Chair*
249 Alice Baum, Licensed Professional Counselor PCOP929
250 Steven Kyle Cardwell, Licensed Professional Counselor PCOP801
251 Eleanor Vinson, Public Member

252
253 Division staff present:

254
255 Andy Khmelev, Occupational Licensing Examiner

257 Dawn Hannasch, Records and Licensing Supervisor
258 Erika Priekstat, Investigator

259
260 Board members absent:

261
262 Janece Richard, Licensed Professional Counselor PCOP620 (Excused)

263
264 **Agenda Item 13** Correspondence

265
266 There was no correspondence to discuss.

267
268 **Agenda Item 14** New Business

269
270 Eleanor Vinson asked about modifications to regulations regarding out of state CEUs for
271 supervisor experience. Chair Hamilton said that those regulations are still with the
272 regulations specialist. No further new business to discuss.

273
274 **Agenda Item 15** Annual Report

275
276 Chair Hamilton described the narrative statement, which is a summary of why the board of
277 counselors is necessary and what kind of things that the board has done to protect the
278 public. There has been a full board for a year, and chair discussed the board travel for
279 conferences that they have made. Chair then discussed a recommended budget for the
280 upcoming year and upcoming travel for conferences as well as goals and objectives.

281
282 The board suggested that if the telehealth regulations are approved, then the board should
283 travel to the NBCC conference to be in good standing with them.

284
285 In regards to conference travel, staff supervisor Dawn Hannasch advised the board to list
286 any or all conferences that they wish to travel to, which increases chances of something
287 getting approved, and whichever conference is highest priority should be listed on top even
288 if its already paid for due to the fact that even 100% reimbursable travel had been denied in
289 the recent past. The board decided that the AASCB should be place at number one, with the
290 priority list as follows:

- 291
292 1. AASCB
293 2. NBCC
294 3. AMHCA
295 4. FARB
296 5. CLEAR

297
298 The board agreed along with Dawn that the FARB conference is better for staff
299 development than for the actual board members.

300

301 Chair Hamilton also expressed that even though they did get a lot accomplished in the
302 meeting the prior day, she expressed her frustration of having to do it all telephonically.
303 Other board members expressed their frustration as well by stating that it was cumbersome
304 and difficult to do this via phone, and that it limits communication by not giving the public
305 as much access as it did in the past. Board agreed that when they were all present in one
306 room for the September meeting a lot was accomplished with a handful of regulations
307 getting pushed through.

308

309 *Off the record for break at 10:41am*

310 *Back on record at 11:02 am*

311

312 Upon return from break, the board discussed the goals and objectives for FY19. The chair
313 went over the FY18 goals and board chair Hamilton will write up the annual report for
314 FY19 which will be provided at the next board meeting. Chair Hamilton requested staff
315 member Andy Khmelev to provide her with numbers of how many LPC and supervisors
316 that there are currently active, which Andy will provide prior to the next board meeting.

317

318 **Agenda Item 6 Old Business**

319

320 Due to not having enough information the prior day, the board voted to table the discussion
321 on Technology-Assisted Distance Professional Services, 12 AAC 62.400-420 which was
322 previously tabled on 12/14/18. Since the tabling of this discussion, staff supervisor Dawn
323 Hannasch was able to obtain some information to the board on how different licensing
324 boards handle telehealth. Staff member Andy Khmelev explained to the board that the
325 Board of Psychology has these regulations on their radar, but nothing in place at this time.
326 Andy provided a few pages of minutes from the Clinical Social Workers prior board meeting
327 for the board to review.

328

329 Board member Kyle Cardwell expressed his concern about the code of ethics that are
330 adopted for distance professional services from NBCC, which requires there to be a
331 disclosure of services statement even for short sessions. Board member Eleanor Vinson
332 commented that if they were to change anything on these regulations, it could be a two year
333 setback. Lengthy discussion followed as the board members debate the different code ethics.
334 Supervisor Dawn Hannasch confirmed with the board that once a code of ethics is adopted,
335 it is no longer tied with the organization, but rather it becomes state law. After a further
336 lengthy discussion on the regulations project, the matter had to be set aside due to
337 Investigator Erika Priekstat calling in on the phone to discuss a consent agreement from
338 earlier that the board requested clarification on.

339

340 The board wanted know if the licensee for consent agreement #2018-000539 was on
341 probation and if someone enters a consent agreement, are they automatically in a probation
342 status due to being in a consent agreement. Investigator Priekstat confirmed that in order for
343 a licensee to be on probation, it must be outlined in the consent agreement itself. The board

344 requests board staff Andy Khmelev for a copy of the boards disciplinary matrix to ensure
345 that there won't be future confusion with consent agreements.

346
347 **On a motion duly made by Eleanor Vinson, seconded by Alice Baum, and approved**
348 **via roll call vote, it was**

349
350 **RESOLVED to accept 12 AAC 62.400-420 as reviewed.**

	APPROVE	DENY	ABSTAIN	ABSENT
352 Debra Hamilton	x			
353 Alice Baum	x			
354 Kyle Cardwell		x		
355 Eleanor Vinson	x			
356 Janece Richard				x

357
358
359 The motion passed with no further discussion.

360
361 **Agenda Item 16 Lunch – Board elected to skip lunch to finish meeting earlier**

362
363 **Agenda Item 17 Board Admin Business**

364
365 The board discussed future board meetings for the year. After a discussion, the board agreed
366 to keep the next meeting for May 9-10, 2019. The board tentatively scheduled a meeting for
367 September 19-20, 2019 in Anchorage, and a possible teleconference in July with no set date
368 at this time.

369
370 The board chair will need to sign the minutes from the prior teleconference, however with
371 the meeting taking place in both Juneau and Anchorage, signing the minutes at the meeting
372 was not possible, so staff member Andy Khmelev will email the finalized minutes to the
373 board chair for a signature, and the chair will mail them back to the office in Juneau.

374
375 Andy then went over his task list to the board which was to send the board members
376 legislative protocol training, obtain 6 CEUs from an applicant whose application was
377 previously tabled, obtain information on how many applicants were licensed in the fiscal year
378 for the annual report, and send the board the disciplinary matrix. The task of obtaining the
379 number of applicants can be deferred until closer to the May meeting, since there will be
380 more application review between now and then.

381
382 The board agreed that member Kyle Cardwell will be the board liaison for the Alaska
383 Counseling Association, and he will be following up with them to find out what level of
384 activity they are having at this time.

385

386 The board had a discussion as to which member goes to which conference. Kyle Cardwell
387 and Janece Richard will be the designated ones to attend the AASCB conference, Debra
388 Hamilton and Eleanor Vinson will be the designated ones to attend the NBCC with the
389 possibility of a staff member if approved, Alice Baum will be the one designated to attend
390 AMHCA. The board would like Alice Baum to also attend the FARB conference, along with
391 a staff member.

392
393 **On a motion duly made by Kyle Cardwell, seconded by Alice Baum, and approved**
394 **unanimously, it was resolved to adjourn the meeting as of 2:09 pm on 2/8/19.**

395
396 *Off the record at 2:09 pm*

397
398
399
400 _____
401 Andy Khmelev, Occupational Licensing Examiner Date

402
403
404
405 _____
406 Debra Hamilton, Board of Professional Counselors Chair Date

407
408
409
410
411



THE STATE
of **ALASKA**

GOVERNOR MICHAEL J. DUNLEAVY

Department of Commerce, Community,
and Economic Development

DIVISION OF CORPORATIONS, BUSINESS, AND
PROFESSIONAL LICENSING
Anchorage Office

550 West Seventh Avenue, Suite 1500
Anchorage, AK 99501-3567
Main: 907.269.8160
Fax 907.269.8195

MEMORANDUM

DATE: April 23, 2019
TO: Alaska Board of Professional Counselors
THRU: Sonia Lipker, Senior Investigator *SL*
FROM: Erika Prieksat, Investigator *EP*
RE: Investigative Report for the May 9, 2019, Meeting

The following information was compiled as an investigative report to the Board for the period of January 24, 2019, through April 23, 2019. This report includes all investigations, complaints, and intake matters handled since the last report. The Division **opened ten (10) matters** and **closed four (4) matters**. **Fourteen (14) matters** remain on going and/or under active investigation. Matters opened by the Paralegal in Juneau, regarding continuing education audits and license action resulting from those matters are not covered in this report.

<u>CASE #</u>	<u>OPENED</u>	<u>VIOLATION TYPE</u>
2017-001134	11/01/17	Fraud or misrepresentation
2018-001213	10/11/18	Violating professional ethics
2018-001215	10/12/18	Unethical Conduct
2018-001245	10/22/18	Unprofessional Conduct
2018-001380	12/12/18	Unethical Conduct
2019-000165	2/13/19	Unethical Conduct
2019-000187	2/20/19	Unethical Conduct
2019-000193	2/21/19	Unethical Conduct
2019-000202	2/25/19	Falsified Application
2019-000217	2/27/19	Unethical Conduct
2019-000354	3/26/19	Unprofessional Conduct
2019-000357	4/3/19	Unprofessional Conduct
2019-000358	4/1/19	Standard of Care
2019-000394	4/15/19	Standard of Care

OPEN: TOTAL = 14

<u>CASE #</u>	<u>VIOLATION TYPE</u>	<u>CLOSED</u>	<u>CLOSURE</u>
2018-000539	Unlicensed practice or activity	1/31/19	License Action
2018-000657	Unethical Conduct	2/1/19	No Action – No Violation
2018-001203	Violating professional ethics	3/1/19	No Action - No Violation
2019-000303	Unethical Conduct	4/19/19	Incomplete Complaint

CLOSED: TOTAL = 4

Board of Professional Counselors
Schedule of Revenues and Expenditures

	FY 12	FY 13	FY 14	FY 15	FY16	FY17	FY18	FY19 1st - 3rd Qtr
Licensing Revenue	\$ 142,890	\$ 17,685	\$ 231,595	\$ 41,641	\$ 402,810	\$ 84,985	\$ 345,905	\$ 61,385
Allowable Third Party Reimbursement	-	-	2,608	-	182	-	\$ 246	\$ -
Total Revenue	142,890	17,685	234,203	41,641	402,992	84,985	346,151	61,385
Direct Expenditures								
Personal Services	62,520	58,266	62,610	69,553	57,670	45,704	75,441	65,040
Travel	10,981	15,305	16,324	26,311	13,354	12,659	13,655	3,102
Contractual	6,534	4,790	10,648	12,740	26,720	6,154	4,949	2,333
Supplies	243	400	66	149	199	124	68	108
Equipment	-	-	-	-	-	-	-	-
Total Direct Expenditures	80,278	78,761	89,648	108,753	97,943	64,641	94,113	70,583
Indirect Expenditures*	32,228	35,447	40,982	51,150	40,499	38,897	52,890	39,668
Total Expenses	112,506	114,208	130,630	159,903	138,442	103,538	147,003	110,251
Annual Surplus (Deficit)	30,384	(96,523)	103,573	(118,262)	264,550	(18,553)	199,148	(48,866)
Beginning Cumulative Surplus (Deficit)	(88,616)	(58,232)	(154,755)	(51,182)	(169,444)	95,106	76,553	275,701
Ending Cumulative Surplus (Deficit)	\$ (58,232)	\$ (154,755)	\$ (51,182)	\$ (169,444)	\$ 95,106	\$ 76,553	\$ 275,701	\$ 226,835

** For the first three quarters, indirect costs are based on the prior fiscal year's total indirect amount on a percent of year completed basis.

The 4th quarter board reports reflect the current year's actual indirect expenses allocated to the boards.

Biennium November 1, 2017 — October 31, 2019

Appropriation	(All)
AL Sub Unit	(All)
PL Task Code	PCO1

Sum of Expenditures		Object Type Code				Grand Total
Object Code	Object Name	1000	2000	3000	4000	
1011	Regular Compensation	34,928.96				34,928.96
1014	Overtime	3.83				3.83
1023	Leave Taken	4,944.85				4,944.85
1028	Alaska Supplemental Benefit	2,449.86				2,449.86
1029	Public Employee's Retirement System Defined Benefits	652.96				652.96
1030	Public Employee's Retirement System Defined Contribution	1,995.50				1,995.50
1034	Public Employee's Retirement System Defined Cont Health Reim	1,427.22				1,427.22
1035	Public Employee's Retirement Sys Defined Cont Retiree Medical	346.55				346.55
1037	Public Employee's Retirement Sys Defined Benefit Unfnd Liab	4,327.82				4,327.82
1039	Unemployment Insurance	83.17				83.17
1040	Group Health Insurance	10,279.88				10,279.88
1041	Basic Life and Travel	15.74				15.74
1042	Worker's Compensation Insurance	426.55				426.55
1047	Leave Cash In Employer Charge	918.93				918.93
1048	Terminal Leave Employer Charge	532.45				532.45
1053	Medicare Tax	554.21				554.21
1069	SU Business Leave Bank Contributions	31.53				31.53
1077	ASEA Legal Trust	60.08				60.08
1079	ASEA Injury Leave Usage	5.54				5.54
1080	SU Legal Trst	14.55				14.55
1970	Personal Services Transfer	1,039.84				1,039.84
2000	In-State Employee Airfare			323.56		323.56
2001	In-State Employee Surface Transportation			82.50		82.50
2002	In-State Employee Lodging			398.00		398.00
2003	In-State Employee Meals and Incidentals			153.00		153.00
2005	In-State Non-Employee Airfare			156.66		156.66
2007	In-State Non-Employee Lodging			186.00		186.00
2008	In-State Non-Employee Meals and Incidentals			150.00		150.00
2009	In-State Non-Employee Taxable Per Diem			192.00		192.00
2010	In-State Non-Employee Non-Taxable Reimbursement			43.34		43.34
2036	Cash Advance Fee			2.46		2.46
2970	Travel Cost Transfer			1,414.88		1,414.88
3002	Memberships				900.00	900.00
3035	Long Distance				11.51	11.51
3036	Local/Equipment Charges				357.84	357.84
3045	Postage				126.16	126.16
3046	Advertising				733.67	733.67
3069	Commission Sales				28.75	28.75
3088	Inter-Agency Legal				165.72	165.72
4002	Business Supplies					108.41
3970	Contractual Transfer				9.50	9.50
Grand Total		65,040.02	3,102.40	2,333.15	108.41	70,583.98

From: [Richard Powell](#)
To: [Board of Professional Counselors \(CED sponsored\)](#)
Subject: Fwd: Correction to Alaska Board of Counseling Minutes
Date: Sunday, April 28, 2019 4:44:56 AM

----- Forwarded message -----

From: **Richard Powell** <mpowell@oakland.edu>
Date: Sun, Apr 28, 2019 at 7:47 AM
Subject: Correction to Alaska Board of Counseling Minutes
To: <boardofprofessionalcounselors@alaska.gov>, <rissa.teske@alaska.gov>
Cc: Jeri Stevens <downhill@zwi.net>, Joel Miller <jmiller@amhca.or>

Dear Chairperson and Members of the Alaska Board of Counseling,

It was my pleasure to meet with you and field questions on December 14, 2018. I thoroughly enjoyed our conversation and felt that the discussion we had was informative and meaningful. However, I recently reviewed the minutes of the meeting. One statement in the minutes that was attributed to me I cannot endorse. The minutes read: "Mr. Powell states that there isn't anything in the AMHCA code right now that restricts referrals." My intent was not to convey this point. The AMHCA code does prohibit discrimination and contains the following provisions:

Section C.2.a: Mental health counselors do not condone or engage in any discrimination based on ability, age, color, culture, disability, ethnic group, gender, gender identity, race, religion, national origin, politic beliefs, sexual orientation, marital status, or socioeconomic status.

Section C.2.c: Mental health counselors have a responsibility to educate themselves about their own biases toward those of different races, creeds, identities, orientations, cultures, and physical and mental abilities; and then to seek consultation, supervision and or counseling in order to prevent those biases interfering with the counseling process

Section I.4.d: Mental health counselors are aware of their own values, attitudes, beliefs, and behaviors, as well as how these apply in a society with clients from diverse ethnic, social, cultural, religious, and economic backgrounds.

Section C.1.g. Recognize the important need to be competent in regard to cultural diversity and are sensitive to the diversity of varying populations as well as to changes in cultural expectations and values over time.

Thus, a blanket statement that the AMHCA Code of Ethics does not have any restrictions on referrals is inaccurate, and it was not my intention in our meeting to convey that information. It is foreseeable that some actions involved in referring away potential clients may be discriminatory or may indicate that the counselor is falling short of the mark in regards to her duty to be aware of her values and not allow biases to interfere with counseling. For example, a counselor that refuses to see any Latino/Latina clients solely on the basis of race would be discriminatory and therefore unethical.

The point I had hoped to convey was that how the Code is interpreted and applied in Alaska is within the purview of the Board and the Alaskan legislature. All situations should be regarded on a case by case basis. I did not want to indicate how the Code would apply either way in a hypothetical where the issue was competence versus religious belief because such a scenario should be decided based on a careful application of ethical principles to the unique facts of the case. I apologize for any statements on my part that indicated otherwise.

All my best,

Richard

cc: Jeri Stevens, Chairperson, AMHCA Board of Ethics

cc: Joel Miller, Executive Director and CEO, AMHCA

From: [Hoffard, Renee \(CED\)](#)
To: [Khmelev, Andy A \(CED\)](#)
Subject: RE: FARB Member Board Invitation
Date: Wednesday, April 10, 2019 9:45:37 AM
Attachments: [image002.png](#)

Andy,

Add it to the correspondence for the May board meeting; the board will need to vote to determine if they want this membership.

Respectfully,

Fannie Renee Hoffard

Records & Licensing Supervisor

907-465-2525

907-465-2974 (FAX)

renee.hoffard@alaska.gov



From: Khmelev, Andy A (CED)
Sent: Wednesday, April 10, 2019 9:42 AM
To: Hoffard, Renee (CED) <renee.hoffard@alaska.gov>
Subject: FW: FARB Member Board Invitation

Hi Renee,

Is there anything that needs to be done with this?

Thanks!

Andy Khmelev

Occupational Licensing Examiner

Division of Corporations, Business and Professional Licensing

Alaska Dept. of Commerce, Community and Economic Development

Phone: 907-465-8444

Website: commerce.alaska.gov/web/cbpl

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From: connect farb.org <connect@farb.org>

Sent: Wednesday, March 20, 2019 8:26 AM

To: Khmelev, Andy A (CED) <andy.khmelev@alaska.gov>; Petz, Connie J (CED) <connie.petz@alaska.gov>; chase.parkey@alaska.gov; Bartlett, Lacey E (CED) <lacey.bartlett@alaska.gov>; Wiard, Tracy L (CED) <tracy.wiard@alaska.gov>; patricia.lonergan@alaska.gov

Subject: FARB Member Board Invitation



We invite you to join FARB as a Member Board!

The Federation of Associations of Regulatory Boards (FARB) mission is to advance excellence in regulation of the professions in the interest of public protection. FARB provides interaction among individuals and agencies involved in regulatory law and the licensing of professional with the goal of protecting the public. Member associations, individuals, and other organizations that seek to strengthen and uphold the standard of licensed professionals are invited to become members.

Consider some of the many **benefits** of membership:

- * Discounted registration to FARB Conferences
- * Free access to FARB Model Documents
- * Discounted subscription to FARB's Top Regulatory Cases
- * Access to the FARB community for information exchange
(see full list of benefits at www.FARB.org)

Dues are \$175 **for a Regulatory Board Membership**. Membership benefits extend to all board members, attorneys and staff for one year from the date of renewal. For your convenience, please find an application form attached. Feel

free to download and submit with a check for payment, or submit by email to membersupport@farb.org.

Thank you for your support of FARB and we hope to see you at a conference soon!

Community Engagement Team
1466 Techny Road, Northbrook, IL 60062
Ph: 847-559-FARB (3272)
Email: CONNECT@FARB.org
Web: www.FARB.org
#commonsenseregulation

Mark Your Calendars:

FARB's 27th Annual Regulatory Law Seminar (RLS) will be October 3-6, 2019 in St. Louis, Missouri

FARB's 44th Annual Forum will be Jan 23-26, 2020 in Colorado Springs, Colorado

Try it today: FARB's www.lookupalicense.org -THE professional licensure verification service!

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FARB Regulatory Board Membership Application

_____ hereby requests a **FARB Regulatory Board Membership**.

Regulatory Board Members of FARB shall be governmental regulatory boards involved in the regulation of a licensed profession or occupation. Regulatory Board member benefits extend to all regulatory member board staff, current serving board members, and representative board attorney(s). Annual rate: \$175.00

FARB Regulatory Board Membership \$175.00 (see payment information below)

Please complete information below. ALL fields are required (see also page 2):

Full Name of Organization: _____

Main Contact Person: _____

General Phone#: _____

Direct Phone#: _____

Street Address/PO Box: _____

Suite/Dept./Other: _____

City/State/Zip/Country: _____

Website: _____

Email: _____

Please complete PAYMENT information below.

Check enclosed (# _____) **OR** Pay by credit card (please call FARB to process)

Please return this form along with your payment to:

Federation of Associations of Regulatory Boards

1466 Techny Road

Northbrook, IL 60062

Ph: 847-559-FARB (3272)

Fax: 847-714-9796

MEMBERSUPPORT@FARB.org

SIGNATURE _____

(Individual or Agency/Organization Representative)



FARB Regulatory Board Membership Application (cont.)

Please indicate any individuals in your organization that may have access to the membership benefits (i.e., Staff, Attorneys, Current Board Members, etc.):

Name	Title	Email