

**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
BOARD OF PROFESSIONAL COUNSELORS
January 31 & February 1, 2013**

Minutes of Meeting

By authority of AS 08.01.070(2) and in compliance with the provisions of AS 08.95.020, Article 1, a scheduled meeting of the Board of Professional Counselors was held January 31 and February 1, 2013, in Anchorage, Alaska.

Thursday, January 31, 2013

Call to Order/Roll Call

Board Members Present and constituting a quorum of the Board were:

Tashawna Olson, Chairperson, Licensed Professional Counselor – Homer
Emily Zimbrich, Licensed Professional Counselor – Haines
Jennifer Burkholder, Licensed Professional Counselor – Anchorage
Dr. Ray DePalatis, Licensed Professional Counselor – Anchorage
Lillian Mitchell, Public Member – Anchorage

Attending at various times from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing were:

Don Habeger, Director, by telephone
Sara Chambers, Operations Manager
Misty Frawley, Administrative Officer, by telephone
Michelle Wall-Rood, Investigator
Michelle Johnston, Records & Licensing Examiner, by telephone
Eleanor Vinson, Licensing Examiner

Attending from the public:

Gloria Bamby-Merit

Ethics Reports

There were no ethics violations to report.

Agenda Item 1 – Review Agenda

The Board reviewed the agenda.

Upon a motion by Ray DePalatis and seconded by Shawnie Olson, and approved unanimously, it was RESOLVED to accept the agenda as amended.

Agenda Item 2 – CACREP & Federal Jobs

There was extensive discussion regarding how the Council for Accreditation of Counseling and Related Educational Programs (CACREP) has lobbied the federal government to use attendance at a CACREP accredited school as a requirement for a professional counselor to be working for/being paid by TRICARE; the Department of Veterans' Affairs; and ASAP.

This is a serious problem, as the requirements that a counselor attend a CACREP accredited school and take a particular exam-the NCMHCE-are not licensure requirements in the state of Alaska, though Alaska has equally stringent licensing requirements. It means a majority of Alaska licensed Professional Counselors will not be able to work for the VA and other Federal agencies.

The Board sees this as causing a severe curtailment to the services available to Veterans and service members in Alaska.

There is a problem in that, if the federal government uses the CACREP rules, a huge percentage of counselors will not be included and the Board feels that this not in the best interest of the public.

The following is the letter the Board has sent to the Governor of Alaska (through the Department); and offices of Alaska's U.S. Senators and U. S. Representative. It will stand as the Board's statement on the issue:

Date: 11/8/12

Title: Most of Alaska's Licensed Professional Counselors (LPCs) will be unable to work under new TriCare and VA rules by December 2014:

Rule changes are being implemented which must be revised in order to keep Alaska's LPCs from being excluded from working under several Federal Government Programs. As a result of these new rules, military personnel and veterans living in Alaska who are covered by TRICARE and VA, along with many Alaska Native beneficiaries are in danger of being denied access to current and future mental health care provided by Alaska's LPCs.

The affected work areas include:

* TRICARE

* The Department of Veterans' Affairs

* Army Substance Abuse Program (ASAP)

* Various Alaskan mental health organizations contracted to provide mental services under these programs to Alaska Native Beneficiaries.

THE PROBLEM: A national group called the Council for Accreditation of Counseling & Related Educational Programs (CACREP), has lobbied the Federal Government for certain counselors to be included in these work areas where previously only Clinical Social Workers, Psychologists and Psychiatrists could be certified to receive payment for their services. **The problem for Alaska is that CACREP's goal was to open these federal work areas only to professional counselors who graduated from programs that have CACREP accreditation. This would exclude most of Alaska's LPCs, because Alaska does not require CACREP accreditation for licensure.** Furthermore, CACREP accreditation has not been, and is not likely to be granted to any Alaskan University in the foreseeable future.

CACREP's lobbying efforts have succeeded in influencing the development of Federal rules and standards, (specifically Department of Defense 32 CFR Part 199.4 Basic Program Benefits & 199.6 TRICARE – authorized providers, which relates to TRICARE; and VA Handbook 5005/42: Appendix G43: Licensed Professional Mental Health Counselor Qualification Standard GS-101 Section 2.b, which relates to the Department of Veteran's affairs). **In both these cases, language requiring CACREP accreditation was inserted, thereby excluding the majority of Alaska's LPCs from the work areas that are affected by these regulations.**

Finally, the TMA (TRICARE Management Authority) rules (32 CFR Part 199.6) do allow counselors with non-CACREP accredited degrees a chance to “grandfather” in to certification, however the test they decided to require (the NMHCE: National Mental Health Counselors Exam) is not the test required by statute for licensure for Alaskan LPCs (the NCE: National Counselor Exam), and so it creates a barrier and a disincentive to certification for qualified Alaskan LPCs.

THE SOLUTION: The Board of Professional Counselors is requesting that your office take action to keep DOD 32 CFR Part 199.4,6 and VA Handbook 5005/42: Appendix G43: Licensed Professional Mental Health Counselor Qualification Standard GS-101 Section 2.b from being implemented until modifications can be made which will allow Alaska’s LPCs to be included as independent practitioners under TRICARE, VA & ASAP. Specifically, we strongly recommend that the CACREP accreditation language be dropped from each of these documents, and replaced with the words “from a regionally accredited institution”, and that the NCE be listed as an acceptable examination alongside the NMHCE.

Sincerely,

Ray DePalatis, PHD, LPC

Along with the other members of the Alaska Board of Professional Counselors
Tashawna Olson, MS, MA, LPC, Board Chair
Jennifer Burkholder, MS, LPC, NCC
Emily Zimbrich, LPC, CDC II
Lillian Mitchell, RN, MAT

Appendix 1: FACTS

FACTS: Like the rest of the nation, Alaska is facing a mounting mental health crisis as military personnel return from multiple deployments in Iraq and Afghanistan in desperate need of counseling services. Suicide rates within the military ranks are on the rise and this increase is thought to be related to cumulative stress from extended combat duty (Army 'stand down' focuses day on suicide prevention training: ADN, 9/26/12). The Federal government has recognized the need to utilize civilian providers to help address the crisis, but the number of mental health providers in Alaska has not kept pace with this increased demand. A Government Accounting Office report dated June 2011 entitled DEFENSE HEALTH CARE: Access to Civilian Providers under TRICARE Standard and Extra notes that among other things, “beneficiaries’ access to mental health care is affected by provider shortages” and laments the government’s limitations in addressing the impediments to access to civilian providers. (GAO, 2011, p.14).

In an effort to improve this situation, TRICARE contractors have recently been directed to begin certifying Licensed Professional Counselors as “Mental Health Counselors” eligible for independent practice. To date, mental health counselors have only been allowed to see TRICARE clients under the supervision of a physician. This new certification is happening according to the requirements established by the Department of Defense (DOD) in a rulemaking that was issued in December of 2011 (32 CFR Part 199.4,6). Unfortunately, the TRICARE Management Activity (TMA) has inadvertently written rules that will seriously decrease the number of mental health counselors available in Alaska who will be certified to help our active-duty military members and their families. Similarly, the VA, in attempting to increase the number of mental health providers in the VA system, has inadvertently issued qualification standards for counselors that discriminate against Alaska’s LPCs, thereby blocking veterans from receiving their services.

Alaska’s LPC standards for licensure are already some of the most rigorous in the country. For example we require a 60-credit master’s or doctorate degree in counseling from a regionally accredited institution, 2 years and 3000 hours of post-graduate supervised experience with 100 hours of face-to-face supervision. A CACREP degree is not required for LPC licensure in Alaska, although the Alaska licensure requirements are very close to those advocated by CACREP.

To have its counseling program accredited by CACREP, a University must go through a lengthy approval process to demonstrate that it meets the standards set forth by CACREP. Although there are several regionally accredited counseling programs in the State of Alaska, due to a few overly stringent elements of the CACREP model, none of

the counseling programs in the State of Alaska have been able to obtain CACREP accreditation, nor are any likely to do so in the foreseeable future due to the size of our population.

Additionally, as part the requirements for counselors to have access to these work areas, CACREP also lobbied for the use of a specific counseling examination called the National Clinical Mental Health Counselor Examination (NCMHC). Although the State of Alaska will accept this examination in some circumstances as part of the LPC licensing process, a different examination, the National Counselor Examination for Licensure and Certification (NCE), is required for licensure by Alaska regulation. Few Alaska LPCs, therefore, have taken the NCMHC. TRICARE rule 32 CFR Part 199.6 does allow for a transition period in which counselors who pass this exam may be certified up until December 31, 2014, but it is a rigorous and expensive exam, and many LPCs will elect not to take it.

Although we have over 520 LPCs in Alaska, few of them will be eligible to work under the affected programs after December 2014 should these rules remain unchanged. After that the physician referral and supervision option is being eliminated. At that time only those who can meet the new restrictive requirements will be able to be certified for work in these programs. Data from a recent list-serve survey of 52 Alaskan mental health practitioners (Levy, 2012) supports this concern. Although it was a small survey, 34 of the participants were LPCs who are currently certified to treat TRICARE clients under physician referral and supervision. Of those 34, only 12 (35%) believe they will be able to continue doing so when the new rules go into effect. Based on this survey, it is clear that a majority of LPCs currently providing services to TRICARE beneficiaries will be unable to continue after the rule changes become final.

The Board of Professional Counselors is greatly concerned about this situation, and believes that should these unnecessarily restrictive rules and standards remain in their current form, only a very small percentage of Alaska Licensed Professional Counselors will be able to work for TRICARE, ASAP, or the VA, including Alaskan mental health providers contracted through these programs to provide service to Alaska Native beneficiaries. As a result, hundreds of military personnel and their families in Alaska will have to stop treatment with their current LPC therapists and try to find another counselor after December 2014. Finally the TMA and the VA will have inadvertently succeeded in making the military mental health crisis in Alaska much worse by blocking 520+ highly skilled civilian mental health providers from being available to give desperately needed assistance to our military beneficiaries and their families.

Dr. DePalatis reminded the Board of three main points:

1. The committee who came up with the rules for the Federal Government made it clear that they were asked how best to insure the highest quality of care—the task force did not consider access to care for veterans.
2. The committee had concern regarding continuity of care.
3. The DOD said the goal is to balance quality with access to care. However, Dr. DePalatis feels that it seems that if CACREP rules are moved forward, there will be a restriction on the access of care.

Dr. DePalatis cautioned that, whatever moves forward, the question will be how to enable current counselors to continue to provide the care, perhaps with ‘grandfathering’.

The Board was in unanimous agreement that they wanted the letter sent to the Governor.

Agenda Item 3 – Budget Report

A. Report/Deficit

The Board met with Don Habeger, Director, and Misty Frawley, Administrative Officer, by telephone, and Sara Chambers, Operations Manager, to discuss the previous/current budget reports in which the Board went from a surplus of \$128,258 to a deficit of \$27,950 in one quarterly report's time period.

Previously, Ms. Frawley stated she went back ten years, but was unable to show specifically why they were in debt. The Board Finance Subcommittee, comprised of Board Members DePalatis and Olson, submitted the findings of the subcommittee.

Dr. DePalatis and Chair Olson pointed out that, in the ten year report, the first year's revenues were not included in the calculations. The Committee feels that the report used to calculate debt did not go back far enough. The first year was a year when over 300 licenses were issued at fees over \$700.00. The Board feels that by not including that first year, the budget recalculating is incorrect.

There was a long discussion. The Director acknowledged the information and will review it.

Ms. Chambers reported on travel. She states that the Legislature did not give the Division the amount requested. When determining who can travel, the Division priority is the required board meetings; second is the Division travel (her, the Director, the Administrative Officer, etc); third is out of state travel for board members; and the fourth-lowest priority is given to out of state staff training/conferences. The amount the Board receives for travel is not dependent upon whether or not the board has surplus funds, it depends on what the Legislature has given the Division for travel.

The Division is attempting to review costs, hoping to make the travel money go further. For instance, rental cars reimbursement for board members is being re-considered. Other things that can affect the amount of funding available for Board use could be travel for investigations and Division travel not used.

There was also discussion regarding state's inability to accept third party paid travel (by national organizations) without using a system in which the state must pay for the travel and have the organization reimburse the state. The reimbursement goes to the general fund; not back to the individual boards. This means that what was potentially free travel is now counted the same as when the state pays without reimbursements.

Ms. Chambers told the Board that it is a state policy that, if you are traveling on state business, the state must pay it.

Agenda Item 4 – Review Minutes

The minutes from the October 4-5, 2012 meeting were reviewed.

Upon a motion by Jennifer Burkholder and seconded by Ray DePalatis, and approved unanimously, it was

RESOLVED to accept the October 4-5, 2013 minutes, as amended.

Agenda Item 5 – Public Comment

Ms. Gloria Bamby-Merit asked questions regarding obtaining a license by transition (grandfathering); but it is no longer allowed, as it was used only at the beginning of licensure and the law has since been rescinded. She also had questions regarding supervision hours and their expiration.

Agenda Item 6. Investigations Reports

Investigator Michelle Wall-Rood gave the Investigative Report to the Board. There are two open in-takes and two open complaints. Since the last meeting two cases were closed with license action for unethical conduct.

Upon a motion by Ray DePalatis and seconded by Jennifer Burkholder, and approved unanimously, it was

RESOLVED to go into Executive Session, with staff, under authority of AS 44.62.310 in order to discuss an application.

Into Executive Session: 1:34 pm

Out of Executive Session: 1:50 pm

Agenda Item 7. New Business

A. Supervision Hours

Dr. DePalatis had received a question regarding the two years of supervision for licensure hours. There was a question as to whether or not there were statutes/regulations regarding exactly where in the two years that the 100 hours of direct supervision were to go. There is not anything specific.

Sec. 08.29.110. Qualifications for licensure....

(6) has, after earning the degree required under either (5)(A) or (B) of this subsection, had at least 3,000 hours of supervised experience in the practice of professional counseling performed over a period of at least two years under the supervision of a supervisor approved under AS 08.29.210, with at least 1,000 hours of direct counseling with individuals, couples, families, or groups and at least 100 hours of face-to-face supervision by a supervisor approved under AS 08.29.210 ...

Agenda Item 8 – Application Review

The Board reviewed 19 applications and 3 continuing education providers' approval requests.

Upon a motion by Jennifer Burkholder and seconded by Emily Zimbrich, and approved unanimously, it was

RESOLVED to approve the following list of applications for with the stipulation that the information in the applicant's files will take precedence over the information in the minutes:

PC BY EXAMINATION

KIMERLING, KRISTEN
NIEDERER, DESIREE
OWEN, DAMITO

PC BY CREDENTIALS

ALLEN, LEAH

REINSTATE LICENSE

POTTER, STEPHEN

CEU

Alaska Division of Vocational Rehabilitation

Substance Abuse within the Deaf & Hard of Hearing Community
Occurring Mental illness & Substance Abuse

Alaska Juvenile Justice

Girl Matters: Core & Building Blocks Training

Upon a motion by Jennifer Burkholder and seconded by Lillian Mitchell, and approved unanimously, it was

RESOLVED to adjourn the meeting.

Meeting adjourned at 4:30 pm until Friday, February 1, 2013 at 9:00 am.

Friday, February 1, 2013

Call to Order/Roll Call

Board Members Present and constituting a quorum of the Board were:

Tashawna Olson, Chairperson, Licensed Professional Counselor – Homer
Emily Zimbrich, Licensed Professional Counselor – Haines
Jennifer Burkholder, Licensed Professional Counselor – Anchorage
Dr. Ray DePalatis, Licensed Professional Counselor – Anchorage
Lillian Mitchell, Public Member – Anchorage

Attending at various times from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing were:

Eleanor Vinson, Licensing Examiner

Agenda Item 9 – Reports

A. AKCA Liaison Report

Jennifer Burkholder is the Liaison with the Alaska Counseling Association.

Ms. Burkholder reported that the AKCA has sent an advocacy letter to the congressional delegation about the Tricare issue.

The AKCA is doing a membership drive; they are offering 2013 members a free distance training.

They are sending a representative to Cincinnati for the ACA Conference and regional meeting. They are beginning to plan a joint conference with other professional group, probably in April 2014. Requests for their quarterly workshops are being taken.

B. AASCB Conference Report

Tashawna Olson attended the American Association of State Counseling Boards' annual conference. Ms. Olson spoke regarding ACA, the American Counseling Association, which had a presence at the AASCB conference. Some of the ACA issues: Imposition of counseling and religion; issue of when is a client a client; social media moving faster than the rules and regulations are for distance counseling; bartering; sliding fee scale-is it ethical.

AASCB has decided to discontinue portability until LPCs are nationally united on their title, their educational requirements and their supervised hour requirements. It should be noted that a consensus has been reached and LPCs nation-wide will be called Licensed Professional Counselors. The other two sub-committees are making great progress to require 60 graduate credit hours for the degree (AK established this in the beginning) and the same supervised hours that Alaska already requires.

She also reported that CACREP was a presence at the AASCB meeting. She reported that there is a movement trying to change education requirements (CORE accreditation group).

Agenda Item 10. Old Business

A. ACA Code of Ethics-subcommittee report

The Board has a subcommittee looking into the ACA Code of Ethics and alternatives. The Board would like to be able to pick out what is important enough for sanctions. The subcommittee consists of Emily Zimbrich and Ray DePalatis. Dr. DePalatis will be leaving the Board at the end of March and has left information for whoever is the next subcommittee member. He has compiled the state statutes and regulations from states that do not use the ACA as their codes of ethics. Some have a formulated free standing document; some have it listed in their statutes and regulations.

Dr. DePalatis recommended that the board look at the common threads of the different codes and determine what is important to the Board. Remember that ACA is coming out with a new code and we do not know what is in it. He notes that a codes of ethics is a guide to solve problems; a guide for investigators. At this time, ACA is writing rules for our state.

B. Regulations

The following is being public noticed:

12 AAC 62.100(c) will be repealed and 12 AAC 62.110(d) is amended to read:

(d) Except as provided in 12 AAC 62.100(e), an applicant who has passed an examination specified in (a) or (b) of this section must retake the examination if the applicant has not been issued an initial license within three years of passing the examination. For good cause shown, the board may, in its discretion, grant an extension of up to two years of use of the examination.

Agenda Item 11 – Correspondence

A. Weeg-record keeping

Ms. Weeg asked how long a therapist needs to keep client records before destroying them.

The Board does not have any statutes/regulations that answer that question and are not aware of any set standards. The Board discussed that they do not wish to have a formal Attorney General's opinion, but would like guidance on this question.

Upon a motion by Ray DePalatis and seconded by Tashawna Olson, and approved unanimously, it was

RESOLVED to move that a question be sent to the Legal Department as follows: Is there any state law that specifies a minimum time frame for how long counseling records must be retain by Alaskan Licensed Professional Counselors? If not, is there any other state law that might provide for a recommendation that could be made by our Board to our licensees regarding this subject.

B. Agbeley – FYI

This was a request from an individual wanting a statement as to whether or not they needed a license. It was an FYI for Board, letting them see the answer. They had no comment or change of reply.

C. Miller-video conference

Ms. Miller had a question regarding supervision through tele/video. She asked if the group supervision would count toward her licensure supervision.

The Board determined, that, “no”, as she was not in a remote area and had not been granted permission for alternate supervision before it began. This answer was based on the following:

12 AAC 62.220. SUPERVISED EXPERIENCE. ...

(e) Before the supervision begins, an applicant who practices in a remote location may submit a written request to the board to allow supervision by telephonic or electronic means in lieu of the face-to-face supervision required under AS 08.29.110(a)(6). The board may approve telephonic or electronic supervision in lieu of face-to-face supervision of an applicant who practices in a remote location if the board determines that

- (1) approved counselor supervisors are not practicing at, or within a reasonable distance of, that location; or
- (2) the approved counselor supervisors practicing at that location cannot provide appropriate supervision because of the supervisor’s relationship to the applicant, a possible conflict of interest, or other good cause shown.

D. Latsha-supervision hours

Ron Latsha asked about supervision: I was studying EMDR and had been working with a Certified LPC Supervisor who Provided supervision for EMDR as well as my cases in Fort Yukon. We only met on a monthly basis for 4 months after the initial EMDR supervision and training. Can my supervisor sign of on my Clinical and Counseling hours for the time.

The Board determined it would depend on whether or not the supervisor was an approved Professional Counselor Supervisor. If they are approved, the time may be counted.

E. Davis-Alt CEUs-(switched to voting)

A licensee asked to be excused from face-to-face CEU requirements. The Board switched this to a voting decision. The determination was made that the face to face requirement would not be excused. Living in Kodiak is not considered a reason to be excused from face to face continuing education hours.

As a reminder, the Board noted the following clarification regarding face to face continuing education:

If the video/internet conference is in real-time (not recorded), meets the requirements of someone attending a conference in person and attendance can be verified, it would be considered “face-to-face”

F. Rollins-supervision

Ms. Rollins asked if group supervision could count as “face-to-face supervision”, or if only one-on-one supervision that is “face-to-face” supervision.

The Board referred to the following:

Sec. 08.29.110. Qualifications for licensure....

(6) has, after earning the degree required under either (5)(A) or (B) of this subsection, had at least 3,000 hours of supervised experience in the practice of professional counseling performed over a period of at least two years under the supervision of a supervisor approved under AS 08.29.210, with at least 1,000 hours of direct counseling with individuals, couples, families, or groups and at least 100 hours of face-to-face supervision by a supervisor approved under AS 08.29.210....

12 AAC 62.220. SUPERVISED EXPERIENCE....

(d) Except as provided in (e) of this section, at least 50 hours of the 100 hours of face-to-face supervised experience required under AS 08.29.110(a)(6) must be accumulated by an applicant in a one-on-one setting with a supervisor certified as an approved counselor supervisor under 12 AAC 62.200. An applicant may accumulate the remaining 50 hours of supervised experience in a one-on-one setting or a group setting with a supervisor certified as an approved counselor supervisor under 12 AAC 62.200.

G. Cohen-supervision hours

An individual asked about how to count supervision when the clinical/licensure supervisor is gone for a period of time. It was asked that, if there is a supervisor in the department, but does not meet face-to-face with the supervisee, can it count toward licensure hours.

The Board’s decision was that the time cannot count toward licensure hours. If they did not meet face-to-face, they were not under their supervision.

Sec. 08.29.110. Qualifications for licensure....

(6) has, after earning the degree required under either (5)(A) or (B) of this subsection, had at least 3,000 hours of supervised experience in the practice of professional counseling performed over a period of at least two years under the supervision of a supervisor approved under AS 08.29.210, with at least 1,000 hours of direct counseling with individuals, couples, families, or groups and at least 100 hours of face-to-face supervision by a supervisor approved under AS 08.29.210

Sec. 08.29.490. Definitions. In this chapter,....

(2) "supervision" means supervision in which the supervisor is available to provide clinical oversight to the supervisee either in person or by a communication device.

Agenda Item 12 – Board Business

A. Task List

Emily Zimbrich will continue an Ethics subcommittee.

Ray DePalatis will work on code of ethics

Ray DePalatis will write letter describing concerns regarding the budget

B. Sign Wall Certificates

Wall certificates were signed.

C. Future Meetings

April 25-26, 2013 – Anchorage

August 29-30, 2013 – Anchorage (tentative)

Meetings will begin at 9:30 am on the first day and at 9:00 am on the second day.

D. Sign Meeting Minutes

The minutes from the previous meeting were signed.

E. Travel Authorizations

Travel authorizations were signed by Board members and paperwork turned in.

F. Ethics reports

There were no ethics reports this meeting.

G. Conferences/training

The Board has approved the following conferences/attendees:

ACA – Lillian Mitchell

AMHCA – Jennifer Burkholder (alt is Lillian Mitchell)

Upon a motion by Jennifer Burkholder, seconded by Lillian Mitchell, and approved unanimously it was

RESOLVED to adjourn the meeting.

Meeting adjourned at 11:20 am.