

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
BOARD OF PROFESSIONAL COUNSELORS
April 25 & 26, 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 April 25 & 26, 2013, in Anchorage, Alaska.

Thursday, April 25, 2013

Call to Order/Roll Call

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

Emily Zimbrich, Licensed Professional Counselor – Haines, Chair
Jennifer Burkholder, Licensed Professional Counselor – Anchorage
Lillian Mitchell, Public Member – Anchorage
Anne Brainerd, Licensed Professional Counselor – Fairbanks
Debra Hamilton, Licensed Professional Counselor - Soldotna

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

Don Habeger, Director
Misty Frawley, Administrative Officer, by telephone
Michelle Wall-Rood, Investigator
Edward Riefle, Investigator
Dawn Hannasch, Licensing Examiner
Eleanor Vinson, Licensing Examiner, by telephone

New Vice-Chair

By Board consent, Anne Brainerd will be the Vice-Chair.

Ethics Reports

There were no ethics violations to report.

Agenda Item 1 – Review Agenda

The Board reviewed the agenda.

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

RESOLVED to accept the agenda as amended.

Agenda Item 2 – Review Minutes

The minutes from the January 31-February 1, 2013 meeting were reviewed.

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

RESOLVED to accept the January 31-February 1, 2013 minutes, as amended.

Agenda Item 3 – Legal Advise – Retaining Records

The Board had previously been asked how long a person had to retain their patient records. The Board had requested legal advice from the Attorney General's Office.

The Board had asked:

- Is there any state law that specifies a minimum time frame of how long counseling records must be retained by licensed professional counselor?
- Are there any other state laws that might provide guidance for our board of professional counselors to communicate to licensees?

They received the following answer:

There is no Alaska law that specifies a minimum time frame for records retention by professional counselors. However, the counselor's governing statutes requires the board to adopt by regulation a code of ethics that must be observed by licensees, and that code that the board has adopted provides some records retention guidelines. The ACA code has two sections addressing records retentions.

From ACA Code of Ethics:

A.1.b. Records

Counselors maintain records necessary for rendering professional services to their clients and as required by laws, regulations, or agency or institution procedures. Counselors include sufficient and timely documentation in their client records to facilitate the delivery and continuity of needed services. Counselors take reasonable steps to ensure that documentation in records accurately reflects client progress and services provided. If errors are made in client records, counselors take steps to properly note the correction of such errors according to agency or institutional policies.

B.6.g. Storage and Disposal After Termination

Counselors store records following termination of services to ensure reasonable future access, maintain records in accordance with state and federal statutes governing records, and dispose of client records and other sensitive materials in a manner that protects client confidentiality. When records are of an artistic nature, counselors obtain client (or guardian) consent with regards to handling of such records or documents

The AG's office suggested the Board may wish to adopt an amendment (regulation) to clarify and offered two examples.

The Board discussed doing this and Ms. Brainerd offered information regarding 7 AAC 81.180, retention of records containing behavioral health information. It contains language that would have a provider retain

records for seven years following the termination of services for adults and for seven years after a juvenile turns eighteen years of age.

The Board stated that they will work on putting the language of 7 AAC 81.180 into their regulations.

Upon a motion by Jennifer Burkholder and seconded by Debra Hamilton, and approved unanimously, it was

RESOLVED to work on a motion to create and adopt a regulation regarding retention of records related to 7 AAC 81.180

Agenda Item 4. Investigations Reports

Investigator Michelle Wall-Rood gave the Investigative Report to the Board. There are two open investigations; four complaints; and one in-take.

The Investigator gave a brief talk on the investigations process for the board members.

Upon a motion by Jennifer Burkholder and seconded by Lillian Mitchell, 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: 11:07 am

Out of Executive Session: 11:42 am

Agenda Item 5 – Public Comment

There was no public comment.

Agenda Item 6– Board Financial Subcommittee

The subcommittee did not meet and have nothing to report.

Agenda Item 7– Budget Report

Attending the budget report portion of the meeting was Don Habeger, Director of the Division of Corporations, Business.

At the end of the third quarter for FY13, the board had a deficit of \$124,133.

At the last meeting, the Board had discussed the 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. The Division had gone back ten years for the new amounts. The Board Finance Subcommittee, comprised of (previous) Board Members DePalatis and Olson, had submitted the findings of the subcommittee, arguing that the Department did not include the first licensing year's worth of revenue, which would change the amounts and put the Board back into surplus revenue. The Board felt that the ten year budget recalculation was incorrect.

There was exchange between the Chair, the Board, and the Director. The Chair and other members questioned why the fees must go up; they felt that the Board/licensees were being penalized for the Division's mistakes.

The Director reported that the Division did look at the issue of what the Chair referred to as "the money that disappeared". He reported that it was very difficult to pin down the expense side; the state keeps records for ten years and they only have those last ten years' records.

There were many things happening that would have been expenses that do not have a paper trail at this time. The Legislative Audit shows that there were (from 1998-2001) the Division opened 18 cases related to Professional Counselors. In 2001, there were still 9 cases related to licensure not settled that went to hearings. Instead of guessing, the Division had decided to use the existing data, going back to FY01. The issue is that there is documented licensure (payments)(in 2000, for instance), but there is no expense side documented in the accounting.

The Director explained that, in 2009, there was a Legislative Audit that observed that there were no annual fee analysis and there were accounting and paper errors. This audit noted that the fees should have gone up for the 2009 - 2010 licensing period; it was noted that there was accounting deficiencies, bookkeeping errors.

Since 2010 the Division has been cleaning up the record keeping and fiscal processes. There are checks and balances now that did not exist before and there are now quarterly reports.

There is some legislation being worked on that could be of help. For instance, there is a request for general funds to pay for investigations.

The Chair enquired about amnesty from the fees. Board Member Brainerd will write a letter requesting appropriations to cover the deficit.

The Director discussed with the Board the amount the fees may have to be increased. The fees currently in regulation are:

12 AAC 02.325. BOARD OF PROFESSIONAL COUNSELORS. The following fees are established for professional counselors:

- (1) application fee for any initial license, \$50;
- (2) license fee for all or part of any initial biennial license period, \$275;
- (3) any biennial license renewal fee, \$275;
- (4) any board-approved supervisor fee, \$50;
- (5) examination fee, \$25.

Upon a motion by Anne Brainerd and seconded by Debra Hamilton, and approved unanimously, with Chair Zimbrich abstaining, it was

RESOLVED to recommend to the Director Don Habeger to advise the Department to implement the following fees:

- **application fee for any initial license \$125**
- **license fee for all or part of any initial biennial license period \$575**
- **any board-approved supervisor fee \$125**
- **examination fee \$75**

Upon a motion by Lillian Mitchell and seconded by Anne Brainerd, and approved unanimously, it was

RESOLVED to send a letter to Don Habeger to request a letter of explanation for our licensees to include: Explain how we came to have a deficit and why fee changes.

APRIL 26, 2013, Returned to:

Agenda Item 7– Budget Report

Jennifer Burkholder spoke and said that she would like to reconsider the motion that was made yesterday.

Upon a motion by Jennifer Burkholder and seconded by Debra Hamilton, and approved unanimously, it was

RESOLVED to reconsider the motion that was made yesterday regarding the increasing the LPC fees based upon the fact that the State mismanaged monies for Licensed Professional Counselors.

There were several points that Ms. Burkholder wished to make, among them:

- Raising licensing fees to make up for the State misplaced monies is not in the best interest of the Licensees.
- The Board of Licensed Professional Counselors should act within the best interests of the Licensees.
- The Board of Licensed Professional Counselors cannot recommend raising fees to make up a short fall created by the mismanagement of the State.

Board Member Burkholder rescinded her “Yes” vote made on April 25, 2013, regarding the increasing the LPC fees based on the above bullets.

Chair Zimbrich pointed out that the points listed did not solve their problem.

Member Hamilton had determined that a lower fee could cover the deficit. There was a long discussion that included considering no board travel (but this raised a question of public safety and effectiveness of the Board); how aggressive to be toward reducing the deficit; and trends of expenses. The Board does not agree with the 82 percent increase that the Division would like to see.

Upon a motion duly made by Debra Hamilton, seconded by Lillian Mitchell, and approved by roll call vote, it was:

RESOLVED to recommend to Director Habeger to consider that we increase the current fees to:

- **license fee for all or part of any initial biennial license period \$450**
- **application fee for any initial license \$125**
- **any board-approved supervisor fee \$125**
- **examination fee \$75**

Roll Call Vote:

Jennifer Burkholder - NO
Lillian Mitchell - YES
Anne Brainerd - NO
Debra Hamilton - YES

Because there was a tie vote, the Chair voted:

Emily Zimbrich - YES

Agenda Item 8– CACREP & Federal Jobs Update

During the last meeting, the Board discussed the problem that a national group called the Council for Accreditation of Counseling & Related Educational Programs (CACREP), had lobbied the Federal Government for certain counselors to be included in 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, although it has the same requirement as those put forth by CACREP. In addition, CACREP accreditation has not been, and is not likely to be, granted to any Alaskan University in the foreseeable future.

The Board asked that the Division request that the Governor appeal to the Federal Government to not implement these rules (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) until modifications can be made which will allow Alaska's LPCs to be included as independent practitioners under TRICARE, VA & ASAP.

They asked 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 National Counselor Examination for Licensure and Certification (NCE) be listed as an acceptable examination alongside the NMHCE.

Director Habeger reported that he sent the letter on to the Governor's Office. The Board asked if he would find out if anything had been done and he agreed to look into it.

Agenda Item 9 – Application Review

The Board reviewed 32 applications and 5 continuing education providers' approval requests.

Upon a motion by Jennifer Burkholder and seconded by Lillian Mitchell, 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

ABELLO, EVELYN
CARDWELL, STEVEN
GRONEMEIER, LAUREY
MACLAUGHLIN, JENNIFER
MAYER, SUSAN
RUEDA, ODILA
SHIELDS, NOAH

PC BY CREDENTIALS

WEKENMAN, THOMAS

PC SUPERVISOR

CRANOR, MARTHA
DEW, EDGAR
GRAVES, KATHLEEN
RHODES, DENISE
SPIRA, DEBORAH
WATTS, ANGELA
YAMAMOTO, LESLIE

CEU

Cornerstone Clinic Medical & Counseling Center
Integration Summit

HCCA-Health Care Compliance Assoc
Alaska Regional Annual Conf

OCS/DHSS
Early Childhood Mental Health Institute

Early Childhood Mental Health Institute
Early Childhood Mental health – Progress & Opportunities

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

RESOLVED to adjourn the meeting.

Meeting adjourned at 5:30 pm until Friday, April 26, 2013 at 9:00 am.

Friday, April 26, 2013

Call to Order/Roll Call

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

Emily Zimbrich, Licensed Professional Counselor – Haines, Chair
Jennifer Burkholder, Licensed Professional Counselor – Anchorage
Lillian Mitchell, Public Member – Anchorage
Anne Brainerd, Licensed Professional Counselor – Fairbanks
Debra Hamilton, Licensed Professional Counselor - Soldotna

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

Dawn Hannasch, Licensing Examiner
Eleanor Vinson, Licensing Examiner, by telephone

Agenda Item 10 – Reports

A. AKCA Liaison Report

There was no report for this meeting.

Agenda Item 11. Old Business

A. ACA Code of Ethics-subcommittee report

The Board had 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 previously consisted of Emily Zimbrich and Ray DePalatis.

The Board appointed a new subcommittee. The members are: Anne Brainerd and Debra Hamilton.

The question is whether or not the Alaska Board of Professional Counselors will write their own code of ethics; stay with the ACA code; or go with NBCC or AMHCA codes. There are those who feel that the ACA Code of Ethics is getting intrusive, especially for faith-based counseling. It gives the public more leverage than it gives the clinician; it puts the clinician at high risk.

This will be brought back to the next meeting, where the new subcommittee will give information.

B. Regulations

The changes to 12 AAC 62.100 (c) and 12 AAC 62.110 (d) have been public noticed, with no public comment. The Board has paid special attention to the cost to private persons of the regulatory action being taken. This action is not expected to require an increase in appropriations.

The Board agreed that they would adopt the changes dealing with sections 12 AAC 62.100 (c), and 12 AAC 62.110(d), as was public noticed.

Upon a motion by Jennifer Burkholder and seconded by Anne Brainerd, and approved unanimously, it was

RESOLVED to accept the recommendation to change the regulations of 12 AAC 61.100 by repealing section (c) and in 12 AAC 62.100 (d) that we add “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 12 – Correspondence

A. Zock-exam extension

Ms. Zock requested and was granted an extension to her examination time limit.

B. Blackburn-conflict of interest

Mr. Blackburn stated that he had selected a supervisor that is a colleague in his department who has a private practice. He asked if this would be considered a conflict of interest. The Board’s determination was that, no, it did not create a conflict of interest.

C. Miller-MMPI

Ms. Miller asked if she was qualified to administer MMPI-R 2 to her clients based on her credentials. The board directed her to contact the MMPI for that question.

D. Haller-Art Therapy & courses before degree

Ms. Haller had two questions. The first question was whether or not an Art Therapy program would be accepted and the second question asked if the courses she completed before her graduate degree program would be applicable to her licensure application.

The Board has no problem with Art Therapy degrees as long as they are fall under 12 AAC 62.120. Approved Degrees.

If the graduate courses that a person takes prior to their graduate degree program are not incorporated into their degree, the Board cannot count them toward the sixty required graduate semester hours needed for licensure. This is because of the language found in statute 08.29.110.

Agenda Item 13 – New Business

There was no new business.

Agenda Item 14 – Year End Reports

A. Prioritize Travel

The Board discussed not traveling in order to lower the cost of the Board, but this raised questions about public safety and the effectiveness of the Board.

There will be three Board meetings per year and the travel priority is as follows:

Upon a motion by Debra Hamilton and seconded by Anne Brainerd and approved unanimously, it was

RESOLVED to make the following travel priorities, with the top priority being the LPC Board meetings:

- 1. The American Association of State Counseling Boards (AASCB)**
- 2. NBCC State Board Licensure Board Training**
- 3. CLEAR Conference**
- 4. State Conference (AkAC) for state counseling association**
- 5. AMHCA**
- 6. The American Counseling Association (ACA)**

B. Goals & Objectives

The Board determined what their goals and objectives would be for the FY14 yearly report.

C. Narrative for Year End Report

This will be written later by the Chair.

Agenda Item 15 – Board Business

A. Task List

All-work on Code of Ethics

Anne Brainerd and Debra Hamilton – present code of ethic information at next meeting

B. Sign Wall Certificates

Wall certificates were signed.

C. Future Meetings

April 25-26, 2013 – Anchorage

August 22 & 23, 2013 – Anchorage
(later changed to August 15 & 16, 2013))

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. Conferences/training

The Board has approved the following conferences/attendees:

1. The American Association of State Counseling Boards (AASCB) – Anne Brainerd & Staff
(alternate is Emily Zimbrich)
2. NBCC State Board Licensure Board Training – Debra Hamilton & Staff
(alternate is Jennifer Burkholder)
3. CLEAR Conference – Lillian Mitchell (alternate is Debra Hamilton)
4. State Conference (AkAC) for state counseling association – Emily Zimbrich
5. AMHCA – Jennifer Burkholder (alt Lillian Mitchell)
6. The American Counseling Association (ACA) – no one chosen

Upon a motion by Lillian Mitchell, seconded by Debra Hamilton and approved unanimously it was

RESOLVED to adjourn the meeting.

Meeting adjourned at 12:45 am.