

**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
BOARD OF PROFESSIONAL COUNSELORS
August 24 – 25, 2006
Atwood Building, 550 West 7th Ave., Room 240, Anchorage, Alaska**

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 August 24 and 25, 2006, in Anchorage, Alaska. The meeting address is Atwood Building, 550 West 7th Ave., Conference Room 240.

Thursday, August 24, 2006

Agenda Item 1 – Call to Order and Roll Call

The Chair called the meeting to order at 8:30 a.m.

Members present and constituting a quorum of the Board were:

Shawnie Olson, Board Chair, Professional Counselor
Kerry Turnbow, Professional Counselor
Randy Morton, Public Member
Emily Zimbrich, Professional Counselor
Jennifer Burkholder, Professional Counselor

In attendance from the Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development, was:

Eleanor Vinson, Licensing Examiner
Rhonda Leatham, Accounting Technician (by telephone)
Steve Winker, Paralegal (by telephone)

Public Attendance:

Anne Henry, former Chairperson

Agenda Item 2 – Review Minutes

- February 16 – 17, 2006 meeting

Previous correspondence: Discussion: 60 credit issue and UAA

Ms. Henry noted that the previous licensing examiner had written a letter to UAA/UAF regarding their programs and the Board's 60 credit requirement, as requested, but had no response.

Ms. Henry also encouraged Board members to review the minutes of previous meetings, going back eight years as it was very important to know the legal precedent that was set previously.

The Board requested that the licensing examiner copy the last eight years' worth of minutes and distribute them to the Board members.

Upon a motion by Kerry Turnbow, seconded by Randy Morton, and approved unanimously, it was

RESOLVED to approve the February 16-17, 2006 minutes as presented

- April 21, 2006 Teleconference

Correction to teleconference minutes: Board Chair Olson noted that she did not say that Mr. A. had to attend the meeting in Anchorage. Emily Zimbrich pointed out that the Board requested he attend only one meeting, in Juneau in 2007, not Anchorage. The minutes will be changed (top of page 3) accordingly.

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

RESOLVED to approve the April 21, 2006, teleconference minutes as amended

Agenda Item 3 – General Correspondence

3. A. AASCB – Membership Dues

The Board discussed the AASCB dues.

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

RESOLVED to approve paying this year’s AASCB dues

3. B. Carol Bobby/CACREP Exec Director - 2008 Standard for Accreditation

Anne Henry suggested that someone on the Board review and see if there is a red flag-anything against statutes or regulations. Need to review their standards and see if the national matches.

It was decided the person attending the American Association of State Counseling Boards (AACP) meeting in January should do so.

One member of the Board will go to the AACP meeting as the delegate – Shawnie Olson
One member of the Board will be the alternate – Emily Zimbrich

Shawnie Olson, because she is the delegate attending, will review the CACREP information.

3. C. Sharon Whitaker - “Life Coaching”

This was an “FYI” item and the Board determined no response was needed. There was discussion regarding credentialing requirements and it was noted by Anne Henry that Alaska has license restrictions, but do not have practice restrictions. A statute would be needed to change it.

Kerry Turnbow added that some who are doing the “Life Coaching” have no education for counseling.

3. D. Rita Maloy-NBCC - Future of AASCB

It was discussed and Kerry Turnbow noted that internet counseling will push this

3. E. License Commission of Americas: Licensing of aromatherapy, biofeedback, homeopathic, hypnotist, naturopathic, neurotherapy, nutritional & reflexology professionals

Discussion showed that the board has no problem with anyone trying to standardize; but question whether or not they are just taking fees. The Board noted as an FYI that it has nothing to do with the Board.

9:45 am Break

10::00 return from break

Agenda Item 4 – Regulations

4. A. Unexcused Board absences

Discussion: Responsibilities of being a Board member and on putting in regulations to give the Board a way to deal with unexcused absences.

The Board has authority to create regulations under Sec. 08.01.02. Board organization.

Discussion on clearly defining what an unexcused absence is; who would accept an absence as excused (the Board Chair). The Board indicated that they felt it would be a good regulation to pursue. The history of the Board showed that this was a good idea. Travel problems would be an accepted absence, for instance, as would extreme illness. Consensus was that if you appear by teleconference when you are weathered out, then that is not an absence.

The question of missing a planned meeting versus missing a last minute teleconference was discussed. The consensus was that the Board wished to go forward with addressing the possible problem of unexcused absences by Board members. They liked the idea that if you were unexcused three times, you were removed.

Upon a motion by Kerry Turnbow, seconded by Emily Zimbrich, and approved unanimously, it was

RESOLVED to create a regulation that three or more unexcused absences from meetings are cause for removal

Discussion on motion: The Board wants the word “unexcused” left in. The Board also agreed that the decision regarding “unapproved” would be up to the Board Chairperson. There was also discussion regarding having the majority of the Board be able to make the decision.

Jennifer Burkholder requested the meeting start later, as she has difficulty dropping her children off that early at the nanny and was requesting reimbursement for day care costs.

It was noted that there is probably no way to get daycare costs paid.

The Board discussed starting after the flights come in and to let people have time to drive in. Discussion on where to have future meetings in Anchorage.

Emily Zimbrich asked about getting a state ID card. The Chair asked the licensing examiner to find out if the Board members could get ID cards.

9:45 am – Break Off record

10:04 am – Back on record

4. B. Re-adoption 12 AAC 62.120(d) and 12 AAC 62.300

Discussion: Revision in regulations.

The Board had an email from the Regulations Specialist to the Board Chair regarding the fact that the Department of law, during its final review, had found two sections in the revisions that did not conform to the Board’s statutory authority. Those changes were to sections 12.AAC 62.120(d) and 12 AAC 62.300.

The regulations specialist had given the Board two options for revision and they chose revised draft Option B, dated 8/29/06.

- 12 AAC 62.310(b): Will add “including instruction in real time in real-time audio and audio-visual courses”. Initially it did not say this. A glitch that was caught.
- 12 AAC 62.320(b)(2)(H): A name change on letter (H) Alaska Commission on Behavioral Health Certification

- 12 AAC 62.320(b) (2): add letters N through Q so they are automatically recognized for CEUs. These are:
 - (N) Co-Occurring Disorders Institute, Inc
 - (O) Alaska Rural Behavioral Health Training Academy
 - (P) National Association of Alcohol and Drug Abuse Counselors
 - (Q) Regional Alcohol and drug Abuse Counselor Training Program
- 12 AAC 62.900: Updated code of ethics. Updated regulation will reflect we have an updated ACA code.
- 12 AAC 62.300: Dept of law wanted changes to the “submit and pass a jurisprudence exam questionnaire....” The Board will re-visit this revision, but took it out of today’s consideration under Option B.
- 12 AAC 62.120(d): Specifying what we mean by an approved program. The Department of law indicated that the Board needed to be more specific about what the Board meant by “approved”. Historically, the Board wanted to be more specific, but the Department of Law had proposed new language other than what the Board wanted.

Regulations Specialist Maiquis and Supervisor Cori Hondolero joined the meeting by telephone at 10:10 am.

The Board stated that Option B, not to include changes to 12 AAC 62.300 or 12 AAC 62.120(d), was what the Board wanted. The discussion was as follows:

- Regarding 62.200: The Board wanted something to reflect the fact that the supervisor may be coming from another state or other jurisdiction and change the date about someone entering into supervision having the six current hours of training. Kerry Turnbow stated that it showed the intent of the Board in clarifying some things.

There was Board discussion on revisions 12 AAC 62.120(d) APPROVED DEGREES and about it going back to reflect the related statute.

Anne Henry began discussion: We cannot change what is in the statute, so we should leave this part of the regulations change as it is and cut out of this packet. The goal was to give the Board the option to approve additional hours, but the statute does not let us. The Board wanted the option, but it is clear in the statute and the statute would have to be changed.

The Board was in consensus that they not accept this part of the revision.

Maiquis said he understood from the AG’s office that by taking out the accreditation, it left it with no standards.

AAG Deborah Behr joined the meeting telephonically at Regulation Specialist’s request and the Board discussed their intent regarding 62.120.

Shawnie Olson explained that it had been the intent of the Board to make it easier for someone, in an area where access to a university is limited, to obtain the required 60 graduate semester hours required under AS.08.29.110.(a)(5)(B). The Board wished to provide a broader base to help them get a few classes out of the way-for those that only need a few credits to complete.

AAG Behr pointed out the problem is that the statute may have to be amended to reach the outcome that the Board wishes. The statute – 08.29.110(a)(5)(B) – says it must be from an “accredited” institution.

The Board indicated they are in agreement that they would leave the regulation 12 AAC 62.120 alone as it reads at this time, since the proposed changes would not have the effect they wished for.

AAG Behr left (telephonic) meeting.

The Board stated they are happy with changes to 12 AAC 62.200 (4) and (5).

12 AAC 62.310(b) is amended to reflect the intention to give people the opportunity to take classes over the internet, tapes and the like by adding “including instructor in real-time audio and audio-visual courses”.

12 AAC 62.320(b)(2) is amended to give automatic approval in order to reduce the paperwork caused by making these providers submit CEU authorization paperwork every time they offered a class. It will save everyone money, time and energy.

12AAC62.900. Code of Ethics: This shows that the Board wish to reflect that we use the ACA

Upon a motion by Kerry Turnbow, seconded by Jennifer Burkholder, and approved unanimously, it was

RESOLVED to adopt the regulation changes as they appear, specifically, 62.200 (a)(4) and (5), 62.310(b), 62.320(b)(2)(H), 62.320(b)(2), and 62.900 and not that we not adopt changes to 12 AAC 62.120(d)

The Board requested that Regulations Specialist Maiquis begin work on regulations regarding board absences. The authorization comes from the statute 08.01.020. Mr. Maiquis agreed and will bring draft to next board meeting. He will also check other programs and look at their requirements to help determine where in the regulations it would be put.

Kerry Turnbow advised that the Board wants it to read as we adopted: "A board may provide by regulation that three or more unexcused absences from meetings are cause for removal".

Discussion on regulation process and its checks and balances and how the public comments can have impact.

Agenda Item 5 – Old Business

5. A. CEU credit for Board members

Discussion showed that it had come up several time in the past. Emily Zimbrich voiced support for it.

Shawnie Olson noted that there are no perks for being on the board and the CEUs could be one of them. This is good.

Kerry Turnbow believed it had to be available for anyone who attends the meeting. There was discussion regarding other Boards offering similar CEUs (do not know of any) and the interest that will be generated for people to attend meetings.

Discussion on how many CEUs would be given; regulation must read "up to 20 hours CEUs per renewal period".

The Board felt it would be good for people to attend and it would be an "in person" CEUs.

Upon a motion by Emily Zimbrich, seconded by Kerry Turnbow, and approved unanimously, it was

RESOLVED to adopt the regulation having LPC Board members and other LPCs may receive up to 20 hours of CEUs per renewal period by attending face-to-face Board of Professional Counselors' Meetings.

5. B. Discussion: When credential candidate does not have 60 credits?

There was discussion regarding how the Board has sympathy in certain instances, but must still say "no" to them. There are people who choose to do things differently, but we cannot make exceptions.

Shawnie Olson discussed this: As a Board, we are charged to follow the letter of the law. We must, even if we do not agree with it.

Ann Henry discussed the fact that if we do not follow the letter of the law, we open up law suits; costs. There had been talk about putting equivalency in the statutes; lay out equivalencies clearly. You could say the Board has the capacity to recognize the equivalency and lay out what is equivalent. It is a big discussion about what

it will mean and what you will take. A lot of people have lots of experience and CEUs and are denied. More people moving around and more call for this.

Shawnie Olson was concerned with specific as to what you will accept and what you will not take. You could have something else come along that makes more sense than what we have put in the statute. Said Board needed information and to make sure it is consistent and fair. It was noted that when the Board does move forward with this that the information go out to associations, schools, etc.

Discussion on statewide associations.

Anne Henry will contact the Alaska Association and see what is going on with them.

5. C. Discussion: LPC supervisor: 5 yr experience/5 yrs post-masters experience

Discussion on experience before licensure.

Kerry Turnbow noted that some students have clinical experience before they graduate from internships.

Emily Zimbrich asked if we want supervisor with five years experience, but without the five years post-master. Anne Henry explained that initially, when the regulation went into effect, it was very general in order to get people to become supervisors. Now there are a lot of people who are supervisors, so this needs to be tightened up. This would need statutory change: Five years postmaster experience vs. five years experience under 08.29.210 (3).

There was discussion on different ways to change statutes, such as “housekeeping” bills for small changes.

Shawnie Olson suggested it be brought to the Juneau meeting.

The Board discussed what is involved in becoming a counseling supervisor; other changes or stiffer requirements. Consensus was that the Board would like to see a requirement of five year post-licensed experience, instead of merely five years experience. It was noted that those who are already supervisors would be ‘grandfathered’ and a specific date would be needed. The Board wishes it to begin July 1.

Upon a motion by Kerry Turnbow, seconded by Jennifer Burkholder, and approved unanimously, it was

RESOLVED to amend section 08.29.210(3) change to read five years of post licensure counseling experience to become effective July 1, 2008.

5. D. Discuss: Supervisors & their licensure

- Must they be licensed in order to “supervise?”

This was answered under 5.C. above: Yes.

- Ethics review questionnaire for LPC supervisors

Kerry Turnbow was concerned when we were sitting down and going over licensure of supervisors, as we approve the standards, that the philosophical approach was all that was required.

Concern: Should we tighten it a little bit? The supervisor needs to know what they are doing. Do other Boards have supervisors? We do not have to have renewals of supervisory approval. Need to look at cost of it, also.

Emily Zimbrich felt it was already covered with the requirements of license renewals.

Kerry Turnbow would like to see supervisory CEU for renewal and he will on an investigation of what other Boards do and come back to this Board with a report.

Anne Henry noted that there needs to be a statutory change. We have the authority to make a change. There will be a cost for the statute change. The Board discussed on how much to charge for renewal and how often a supervisor would need to renew.

5. E. Update on website information

The Board had previously requested the minutes be posted to the internet. The Board would like their posted minutes to follow the style of the Board of Chiropractic Examiners' web page.

Consumer brochure & disclosure form

We have a brochure saying, basically, "This is what an LPC is". It is sent out with new licenses. The Board would like this to be on the website, but first will be brought to the next meeting for updates.

5. F. Denied CEU - Alaska Attachment & Bonding Association

Discussion about having denied their CEUs. The Board was not in favor of their type of therapy; interfere with people's rights and restrain them. (Referred to ACA ethical code.) A letter was sent to them, quoting our statutes, but there was no reply from them. Other Boards are concerned, but unknown if any other Board has approved them. Will check with other Boards, especially the Board of Psychology.

Agenda Item 6 – Public comment

No public comment

11:50 a.m. Break for lunch

1:19 p.m. Back on record

Agenda Item 7 – New Business

7. A. Discussion: 21.36.090 – Unfair Discrimination

Former Board Chair Anne Henry addressed the Board regarding third party billings.

The insurance companies can say they will reimburse for social workers, marriage and family therapists, and others, but they do not for LPCs because we are not on the list. We have not been in a position before to say we are equal. After recent legislation, we are in a good position now to pursue third party reimbursement. We are in now on parity with other mental health professions. We can do civil commitments and psychotherapy (in the statutes) now.

Ms. Henry would like the Board to go for third party reimbursement. Need to put legislation through to change things. Insurance companies should have to reimburse us as well; we are recognized professionals in the state.

Suggested legislation: Through the Department of Commerce, Community and Economic Development (Commissioner through Director) to the Governor and request an amendment to 21.36.090(d) (to include licensed) professional counselors. Ms. Henry does not feel that it would be opposed by anyone, except perhaps the insurance companies.

Unknown when this legislation was initiated. The Licensed Professional Counselors have not previously asked to be included.

Kerry Turnbow noted that this will not preclude, as far as our licenses are concerned, there could be other things in the insurance company policies/terms that deny us

Upon a motion by Jennifer Burkholder, seconded by Kerry Turnbow, and approved unanimously, it was

RESOLVED that we request the Division Director propose legislation to amend 21.36.090(d) to include professional counselors on the provider list.

Discussion regarding

- Finding supportive legislators to co-sponsor. Opposition to this would come from the business end of things. LPCs serve a third of the people in the state needing mental health.
- On previous changes made to regulations.

7. B. Testing practices in regards to LPCs

Questions about the psychological tests.

Kerry Turnbow - Can LPCs administer psychological tests such as MNVI?

Emily Zimbrich answered: As long as in your graduate studies you did test and measurements.

Board discussion: If you have been trained to administer it, you may; except those things excluded because of regulations. You can make a professional decision to not do it, even if you were trained if you are not ethically comfortable doing so.

LPCs cannot do projective and individually administered intelligence tests. Some people have trouble with that.

Unknown if many LPCs have expressed a wish to do intelligence tests. How many stifled by not being able to administer these projective tests? Kerry Turnbow felt the projective testing should be done by LPCs.

Discussion on:

- omitting the restriction in the regulations.
- modification of the definition 08.29.490 will be put on next meeting agenda.
- on exactly how/what to do to modify the regulation/statute. (Drop word "projective" vs. taking out the whole section)

7. C. Portability proposal project

Anne Henry spoke on this: It is a "bank" where you can put in information regarding your licensing, such as credentials, transcripts, etc., all located in a safe place. There is an existing program that wishes to get states to accept it as a legitimate information source; to let all information come from the 'portability bank'. There is a conflict in our statutes.

There was discussion:

- board wishes to see what supply and demand is and to get a sense of where it is going before they change statutes. The consensus was that it will be something for the future and we must find out if it is beneficial. More information would be needed on it.
- how it would save the Board time and work; on how it would help in the instance of something like Hurricane Katrina.

7. D. Background checks for LPC applicants

To date, there are no background checks; the Board checks the licensing requirements, but has no way at this time to check on their background.

Shawnie Olson – Historically, when someone signs off on someone without a high recommendation, the Board had not "rubber stamped" the applicant. This would be cause for the Board to go back and look closer at the applicant. We take it all seriously.

Discussion on making sure the Board does not license predators and different licensing requirements for different recertification.

Kerry Turnbow – with Homeland Security, there are is an enormous amount of change in all areas and agencies regarding this process.

Emily Zimbrich – with a background check, we would know if they were a child predator. Do we want background checks?

There was discussion on:

- when you would require background checks.
- on private practice or other type of practice and their requirements.
- regarding the different types of background checks and the time involved.

Shawnie Olson – concern about making the licensing process more arduous by trips to Police/Troopers and more costs (for background checks).

Discussion on:

- what could happen if one expensive case comes along.
- how the grandfathering historically allowed problematic people to be licensed in various areas.

Emily Zimbrich – I feel there is an ethical responsibility to the people the Board serves to make sure that the licensed professional counselors do not have a criminal background that involves rape, incest or child abuse.

Discussion on:

- not everyone gets caught.
- what crimes would not block licensure?
- criteria for refusal; how it would be put into regulations.
- how to establish standards?
- be consistent; make no exceptions.
- cases that make it difficult to follow.

Emily Zimbrich will check into this and see what other boards and agencies are doing.

Anne Henry - We are talking about people who prey on vulnerable people.

Right now it is up to the Board's discretion but the Board must pay attention to what was done previously. For instance, there is a precedent that someone who is un-operative with the Board and will not respond to the Board's questions will be refused. If you are in counseling, that is not a bad thing, it is a good thing, but it 'flags' the file.

7. E. On-line renewal process

Questions on whether or not this is a difficult process. (Will check with Cori to see if it helps with the workload.)

What would it take to do it and is it something the Board wishes to pursue. Would the jurisprudence exam be able to do on-line?

Board requested that the licensing examiner look into this.

Break at 2:34 pm

Return at 2:40 pm

Agenda Item 8 – Paralegal / MOA Revocation of license

8. A. MOA Revocation of license

Joined by Steve Winker, Paralegal, via telephone. Mr. Winker presented for consideration the Motion for Entry of Default and Revocation of Professional Counselor License; Memorandum in Support of Motion for Entry of Default and Revocation of Professional Counselor License; and Order of Default and Findings of Fact, Conclusions of Law and Final Decision in the case numbered 3700-06-004, regarding Cheryl A. Huber.

The Paralegal presented the accusation regarding compliance with CEU audit. An accusation was filed (exhibit H) regarding compliance with continuing education. It lays out the issues. Ms. Huber did not respond to the accusation, so it is a default proceeding. Board needs to go through the exhibits listed. It is an order of default and findings of fact; an order that the license be revoked. There is a provision that she can be reinstated within one year. If she complies and has the required CEUs, then the order falls into place. This is where she would pay the fine and have a mandatory audit. If she does not respond and come back within one year, then she would have to wait one year when she does re-apply.

There was discussion that it was pretty "cut and dried" in that she had not responded.

Upon a motion by Randy Morton, seconded by Emily Zimbrich, and approved unanimously, it was

RESOLVED that we adopt the decision and order, in reference to Sheryl Huber, that is laid out and presented by Paralegal Steve Winker.

Original order was signed by Chairperson Shawnie Olson.

8. B. Review summary of continuing education

1. Phase Two Development & Professional Training

Paralegal Steven Winker presented a continuing education review form for the Board to determine whether a licensee had satisfactorily verified meeting the continuing education (CE) requirements to renew their license.

This involved accepting Phase Two Training and Development Conferences. Chairperson Shawnie Olson was knowledgeable about what this person presented, having taught another section (Phase One), and explained it to the Board.

The Board discussed the following regulation and if the Board will give the ten contact hours for the Phase Two Training presentation:

12 AAC 62.320. APPROVED CONTINUING EDUCATION. (a) To be accepted by the board, continuing education must contribute directly to the professional competency of a professional counselor and must be directly related to the skills and knowledge required to implement professional counseling principles and methods. (b) The following continuing education will be accepted by the board if related to professional counseling as provided in (a) of this section: (4) first-time preparation and presentation of a professional counseling course, seminar, or workshop; the board will accept up to a maximum of 10 contact hours allocated among all professional counselors involved in the preparation and presentation;

Board (except Chairperson) was polled on approval (accept the ten CEU for the training they gave for Phase Two) or not:

- Kerry Turnbow – approve
- Randy Morton – approve
- Emily Zimbrich – approve
- Jennifer Burkholder – approve

Board notified Mr. Winker that it was accepted and the licensee had complied with the audit. Discussion about how clear the information is. It was noted that there is a centralized regulation that says the CEU is good for the date that it is graded/completed. (Mr. Winker left (telephonic) meeting).

Discussion by Board regarding 12 AAC 62.320 (b) (4) and how many times your are a “first-time” presenter and what “presenting” is. What the total CEUs a presenter can receive and how many presentations a person may make.

Agenda Item 9 – Budget Report

The Board was joined (by telephone) by Rhonda Leatham, Accounting Technician, for the budget report. The budget information had been distributed to the Board previously. Ms. Leatham briefly went through the expenditures and revenue report for Fiscal Year 2006, as of August 11, 2006 (though not final, as books are not closed yet). There was discussion regarding what direct and indirect expenditures are, roll-forward balances, and other information on the report.

Agenda Item 10 – Application Review

Shawnie Olson gave a short explanation for new members regarding what to look for in the different applications.

The Board reviewed twenty applications.

Clarification discussion on reciprocity and the Alaska protocol and the following regulation, which was used to find two applications as “approved pending”:

Sec. 08.29.120. Licensure by credential. (a) Except as provided in (b) of this section, the board may issue a license under this chapter to a person who is licensed in another jurisdiction to practice professional counseling if the board finds that the other jurisdiction has substantially the same or higher licensure requirements as this state.

4:35 p.m. Adjourn

Friday, August 25, 2006

Agenda Item 11 – Call to Order/Roll Call

The Chair called the meeting to order at 8:29 a.m.

Members present and constituting a quorum of the Board were:

Shawnie Olson, Board Chair, Professional Counselor – Homer
Kerry Turnbow, Professional Counselor – Fairbanks
Randy Morton, Public Member – Nome
Emily Zimbrich, Professional Counselor – Haines
Jennifer Burkholder, Professional Counselor - Anchorage

In attendance from the Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development, was:

Eleanor Vinson, Licensing Examiner
Susan Winton, Investigator

Also in attendance:

Dave Brower, AAG
Anne Henry, former chairperson, member of public

Agenda Item 12 – ACA Conference

Kerry Turnbow gave a review of his attendance at the American Counseling Association Conference in Montreal. He reported that medicine by telephone/teleconference is a big issue, although Alaska is already familiar with this. He stated he attended exceptional workshops that included information on e-counseling; Issues in American Indian/Alaska Native mental health workshop; secondary trauma stress workshops for counselors; military issue workshops; Reality Therapy; spirituality; Family Therapy and others. Mr. Turnbow commented and discussed some of the speakers, such as Tipper Gore.

Return to Agenda Item 10 – Application Review

Discussion continued from previous day regarding Sec. 08.29.120. Licensure by credential. The Board determined what was missing from some of the states in reference to what Alaska requires.

Agenda Item 13 – Investigator

Report

Investigator Susan Winton joined the meeting and introduced herself to the Board and presented the current investigations report. There is one open investigation, plus one new complaint. Three investigations had been closed since the last LPC meeting.

There was discussion regarding Mr. Abernathy's two year probation. The full fine was paid, including the suspended amount. The Investigator is following up to see if he has complied regarding CEUs. If he has, the certificates will be presented to the Board.

Discussion of confidential information

**Upon a motion by Emily Zimbrich, seconded by Randy Morton, and approved unanimously, it was
RESOLVED to go into Executive Session.**

Into Executive Session at 9:07 a.m. for the review of information regarding confidential cases.

Back on the record at 9:45 a.m.

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

RESOLVED to postpone a decision concerning the licensing of Mr. Moen until Investigator Winton obtains more information.

Agenda Item 14 – Legal Opinion (Old Business)

Dave Brower, Assistant Attorney General, joined the meeting by telephone. This was regarding a request for legal opinion update on the legality of E-Therapy.

AAG Brower stated there are no very specific guidelines regarding enforcement, protection of consumers, and discipline. Regarding some of the questions the Board requested a legal opinion on, at this point, some of the questions asked are not susceptible to an opinion of the Attorney General.

Question:

Will the Attorney General go into another state to prosecute someone practicing e-therapy on someone in Alaska because they would be considered practicing illegally?

Answer:

No. The Alaska Attorney General cannot go into another state to prosecute someone. The prosecutor would have to have jurisdiction and the prosecution would have to occur here. It is unclear if he/she would have it and what the issue would be. For instance, a counselor in Missouri counseling someone in Alaska: Is the therapist licensed and where? If the Alaska person accesses the Missouri counselor's website, there is probably a disclaimer on the website but that really has no effect. The question of where the counseling occurred—which state—and that question is not answered.

If the Alaska Board finds out that someone has given bad therapy over an internet site in another state, about all the Board could do is to contact the other state's Board.

There could be a question of ACA ethics.

Effects Doctrine might come into play if someone out of state treats someone in Alaska. The Supreme Court has said that in the case where there is Federal jurisdiction or other state jurisdiction, and the sovereign jurisdictions involved do not take action regarding a crime; then the state (of Alaska in that instance) could assert jurisdiction if they had a sufficient reason to and it was important.

This could come into play if someone in Alaska was harmed by someone (counselor) from another state. There is also a question of how many times it must occur.

Question:

Would the AG seek civil or criminal damages?

Answer:

It would be on a case by case basis. It is a misdemeanor crime to hold yourself out as a licensed counselor, but it is unlikely there has been felony prosecution for the crime.

Question:

Would the AG prosecute people who are legally practicing in the state of Alaska for treating outside the state by E-therapy?

Answer:

Possibly, but it would be better if the Board took action. There is also a question of cost to people; what if they do not want to get on a plane to go to a therapist and want to use the internet?

There is not much case law

Question:

What if the Alaska counselor is treating someone in Idaho and tells the patient he is not licensed in Idaho, but the patient does not care. Are there grounds there for pursuing the counselor?

Answer:

According to statute, a person could practice in Alaska without being licensed, but cannot profess to be licensed.

Reading that statute literally, a person could practice/advertise in Alaska as a professional counselor, just cannot say they are a licensed counselor.

There was discussion regarding changing the statutes and on the name of the Board being Board of Professional Counselors, not Board of Licensed Counselors. At the time the statutes were set up and language put together, it was not seen as a problem.

Question:

What are the ramifications and consequences or what are the jurisdiction limitations?

Answer:

There is no answer. Some states have the out-of-state doctor register to give telephonic or computer medical advice in that state. (not licensed, just registered)

Question:

How should the Division staff respond to questions about internet or telephone counseling?

Answer:

People who avail themselves to the internet need to avail themselves to information; assume responsibility. That person needs to ask where they are licensed before engaging in counseling. E counseling could be good for those who do not want to go to face to face therapy and most reputable sites advise you to go to someone local. There are thousands of websites-it would be hard to regulate.

Anne Henry noted that this is an issue in the national scene; It is more and more of an issue. Another thing coming up is things such as Wal-Mart's telephonic counseling done by people who have only Bachelor's degrees. There will be more real-time therapy done on-line.

Kerry Turnbow – So, one of the best things to do at this point is education of the people by putting it on the website?

AG Brower responded affirmative and, that, 08.29.020 Duties of the Board, would allow you to adopt a specific ethics code for something such as the internet. It would not be a jurisdictional issue, but the Board can determine what an ethical, responsible counselor would do on the internet.

It would be legitimate for the Alaska Board to notify another state Board if they received a complaint from someone in Alaska about internet counseling being done by someone in another state. The Alaska Board would not be overstepping their boundaries. It is one of the issues in the Effects Doctrine but it might be more practical for the Alaska Board to simply notify the other state's board. It is protection of the public and before the internet, each state probably found it easier to protect the people in their own state.

The Board has no jurisdiction over an unlicensed person (not professing to be licensed) in Alaska and giving counseling over the internet. If they are licensed, the Board has jurisdiction. The Board would do the same thing as if the person harmed was in Alaska. The Board has jurisdiction if they provided counseling in Alaska, whether the patient is in Alaska or another state. The Board would use the code of ethics.

Ann Henry asked about a statute package for all Boards who are foreseeing a problem with the E-Counseling.

There was discussion regarding Alaska having a register. AG Brower believes that the Board has the authority to write regulations regarding internet therapy that involve the ethics of a person providing the internet therapy. However, the Alaska Board cannot tell someone in Missouri, who is calling into Alaska, that they must have a license in Missouri because we only regulate the Alaska practice. The Alaska counselor would have to follow Alaska's rules, no matter who they are counseling.

Break 10:28 a.m.

Return from break at 10:40 a.m.

Return to Agenda Item 10 – Application Review

Returning to the question or whether or not the other states in the applications would meet Alaska's requirements:

Jennifer Burkholder – reporting on applicant from New Mexico – Alaska requires 3000 hours of professional counseling and this applicant has only 1000. Alaska requires 60 hours post graduate credits, but this New Mexico person has only 48 credits and 9 practicum hours (all required by New Mexico). New Mexico is not on our accepted list. We cannot give this person a license. This person must come up with a total number of 60 graduate hours. New Mexico does not have what 08.29.120 requires. Refer her to section 08.29.110 emphasis (5) (B) and (6).

Sec. 08.29.110. Qualifications for licensure. (a) (5) has successfully completed either

(A) or

(B) an earned master's degree in counseling or a related professional field, from a regionally or nationally accredited institution of higher education approved by the board, and at least 60 graduate semester hours in counseling during or after earning the master's degree; and

(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 unless, under regulations of the board, the board allows the supervision to be by telephonic or electronic means because of the remote location of the counselor.

Sec. 08.29.120. Licensure by credential. (a) Except as provided in (b) of this section, the board may issue a license under this chapter to a person who is licensed in another jurisdiction to practice professional counseling if the board finds that the other jurisdiction has substantially the same or higher licensure requirements as this state.

Randy Morton – reported on applicant from Hawaii – whose state requirements are only a minimum of 48 post graduate hours. (request transcript). Their state requirements do not have the 1000 hours of direct supervision requirement nor is their 3000 hours have to be supervised. The Board needs documentation that she has this. Direct her to 08.29.120 and 08.29.110(5)(B) and (6).

Both of the applications that are approved pending must go back to the Board for final approval.

Return to Agenda Item 4 – Regulations

The Board returned to regulations. The Board wishes to make some changes to Sec. 08.29.100. (a) (2) which reads:

Sec. 08.29.100. Unlicensed use of title prohibited. (a) A person who is not licensed under this chapter may not (1) profess to be a licensed professional counselor or a licensed counselor; or

(2) make use of a title, words, letters, or abbreviations that may reasonably be confused with the title of "licensed professional counselor" or "licensed counselor."

(b) Violation of this section is a class B misdemeanor, except that a third or subsequent conviction for violating this section is a class C felony.

The Board had determined that they wish add "professional counselor" to the wording.

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

RESOLVED that we approve changes to Sec. 08.29.100. Unlicensed use of Title Prohibited. (a)(2) To read: (2) make use of a title, words, letters, or abbreviations that may reasonably be confused with the title of "licensed professional counselor", "licensed counselor", or "professional counselor".

Upon a motion by Randy Morton, seconded by Kerry Turnbow, and approved unanimously, it was

RESOLVED to amend Sec. 08.29.100. Unlicensed use of Title Prohibited. (a)(1) To read: (1) profess to be a licensed professional counselor, or a licensed counselor, or professional counselor; or

Shawnie Olson: The Board Need to entertain changing the definition regarding testing and pull out, in 08.29.490 " , other than through the use of projective testing or individually administered intelligence tests"

Kerry Turnbow pointed out that the Board had the authority to do this under:

Sec. 08.29.020. Duties of the board. (a) In addition to the duties specified in AS 08.01, the board shall (4) establish education and training requirements that must be met before a professional counselor can administer and use assessment instruments described in AS 08.29.490(1)(C); and

There should not be an exception as found in the definitions.

As it reads now:

Sec. 08.29.490. Definitions. In this chapter,

(1) "practice of professional counseling" means, subject to (C) of this paragraph, the application of principles, methods, or procedures of the counseling profession to diagnose or treat, other than through the use of projective testing or individually administered intelligence tests, mental and emotional disorders that are referenced in the standard diagnostic nomenclature for individual, group, and organizational therapy, whether cognitive, affective,

or

behavioral, within the context of human relationships and systems; if otherwise within the scope of this paragraph, "practice of professional counseling" includes

(C) consistent with regulations adopted by the board under AS 08.29.020(a)(4), administration and use of appropriate assessment instruments that measure or diagnose problems or dysfunctions within the course of

human

growth and development as part of a counseling process or in the development of a treatment plan;

Upon a motion by Kerry Turnbow, seconded by Emily Zimbrich, and approved unanimously, it was

RESOLVED to amend statute Sec. 08.29.490. (1). That it be changed to read:

(1) "practice of professional counseling" means, subject to (C) of this paragraph, the application of principles, methods, or procedures of the counseling profession to diagnose or treat, (AND TAKE OUT UNDERLINE SECTION) other than through the use of projective testing or individually administered intelligence tests, mental and emotional disorders that are referenced in the standard diagnostic nomenclature for individual, group, and organizational therapy, whether cognitive,

Return to Agenda Item 10 – Application Review

Discussion of Professional Fitness Questions on the Social Work application.

The Board wishes to change the verbiage on the application for Licensed Professional Counselor, to delete the five year timeline on questions asked the applicants related to their professional fitness. The Board wishes to

change “within the past five years” to “have you ever” on the professional fitness questions numbers five, six and seven.

The Board wanted the five year timeline questions left “as-is” in other places, such as the letters of recommendation.

The Board noted that saying “yes” to one of the questions is not an automatic refusal. Discussion followed regarding grounds for denial of licenses.

Upon a motion by Kerry Turnbow, seconded by Randy Morton, and approved unanimously, it was

RESOLVED that we accept the following people for Professional Counselor Licensure by Credential:

Steven Barker
Joy Helfrich

Upon a motion by Kerry Turnbow, seconded by Randy Morton, and approved unanimously, it was

RESOLVED that we accept the following people for Professional Counselor Licensure by Examination:

John Contway
Julie Hadden
Terry Kelly
Mary McCarthy
John Myers
Rebecca Shaw
Benjamin Washburn

Upon a motion by Kerry Turnbow, seconded by Randy Morton, and approved unanimously, it was

RESOLVED that we accept the following people for Reinstatement of their Professional Counselor Licensure:

David Ketchell
Tamra Matlock

Upon a motion by Kerry Turnbow, seconded by Randy Morton, and approved unanimously, it was

RESOLVED that we accept the following people for Professional Counselor Supervisor:

Joshua Arvidson
Mary Brockie
Glenn Hodges
Barbara Price

Upon a motion by Emily Zimbrich, seconded by Randy Morton, and approved unanimously, it was

RESOLVED that we approve pending the following people for Professional Counselor Licensure by Credential:

Emmy Bean
Kay Carlson

Upon a motion by Kerry Turnbow, seconded by Randy Morton, and approved unanimously, it was

RESOLVED that we accept the following workshops for CEUs:

Association of Play Therapy & Institute for Continuing
Education

Texas Neuro Rehab Center & Oaks
Childhood Behavior disorders/Autistics/FAS

Alaska Rural Behavioral Health-Child Youth
Services Track-Advanced

Upon a motion by Kerry Turnbow, seconded by Randy Morton, and approved unanimously, it was

**RESOLVED that we Approve-Pending the following person for Professional Counselor
Supervisor:**

Glenn Hodges

Agenda Item 15 – Board Business

A. Task List

Shawnie Olson

Look at CACREP standards and compare with Alaska's

Kerry Turnbow

Investigate what other Boards nation-wide do concerning supervisory renewal and return to the Board
with suggestions

Randy Morton

Emily Zimbrich

Research project as to what other Boards do regarding background checks

Jennifer Burkholder

Eleanor Vinson

Change old Minutes

Go back 8 years and copy minutes and send out to Board members

Paperwork to pay membership

Locate other teleconference minutes

Check into Board IDs

Give regulations specialist the information

Give Shawnie mailing labels

Send Kerry Turnbow other Board's information (regulations)

Obtain information regarding on-line renewals and questionnaire

Continuing education form-match the regulation

Send copy of Pharmacy Board applications to all Board members

Send Board members copy of consumer brochure and disclosure form

Send Board email regarding how many licensed in Alaska

B. Sign Wall Certificates (done)

C. Schedule future meetings

2007 meetings

The meetings will be on Thursdays and Fridays. They will start late on Thursday (10:30 am) and be completed to catch late afternoon flights on the Friday afternoons.

February 22 and 23 in Juneau

September 20 and 21 in Fairbanks

American Counseling Association (ACA) meeting in Detroit in April 2007

Discussion regarding the value of going and it was determined that there would be a main attendee and an alternate: Emily Zimbrich will attend with Jennifer Burkholder as alternate

D. Sign Meeting Minutes (done)

E. Discuss Travel Authorizations/collect & sign (done)

F. Ethics reports, if needed (none turned in)

Upon a motion by Kerry Turnbow, seconded by Emily Zimbrich, and approved unanimously, it was

RESOLVED that the Board of Professional Counselors adjourn.

There were no objections and the meeting was adjourned at 11:51 a.m.

Respectfully Submitted:

Eleanor Vinson, Licensing Examiner

Approved:

Shawnie Olson, Chair
Board of Professional Counselors

Date:_____

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