

Report Highlights

Why DLA Performed This Audit

The purpose of the audit was to determine if there is a need for the board's continued existence and whether its termination date should be extended. The board is set to sunset June 30, 2018, and will have one year from that date to conclude its administrative operations.

What DLA Recommends

All prior sunset audit recommendations were either resolved or the issues still outstanding were considered insignificant. There were no new recommendations as part of the current sunset audit.

A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Marital and Family Therapy (board)

May 9, 2017

Audit Control Number 08-20103-17

REPORT CONCLUSIONS

The board is serving the public's interest by effectively licensing and regulating marital and family therapists and approving marital and family therapist supervisors. The board monitors licensees and works to ensure only qualified individuals practice in Alaska. Furthermore, the board develops and adopts regulations to improve the marital and family therapist occupation.

In accordance with AS 08.03.010(c)(11), the board is scheduled to terminate on June 30, 2018. We recommend that the legislature extend the board's termination date to June 30, 2026.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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May 24, 2017

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Marital and Family Therapy, and the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT
BOARD OF MARITAL AND FAMILY THERAPY
SUNSET REVIEW

May 9, 2017

Audit Control Number
08-20103-17

The audit was conducted as required by AS 44.66.050(a). Per AS 08.03.010(c)(11), the board is scheduled to terminate on June 30, 2018. We recommend that the legislature extend the board's termination date to June 30, 2026.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

A handwritten signature in blue ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA
Legislative Auditor

ABBREVIATIONS

AAC	Alaska Administrative Code
ACN	Audit Control Number
AS	Alaska Statute
board	Board of Marital and Family Therapy
CISA	Certified Information Systems Auditor
CPA	Certified Public Accountant
DCBPL	Division of Corporations, Business, and Professional Licensing
DCCED	Department of Commerce, Community, and Economic Development
DLA	Division of Legislative Audit
FY	Fiscal Year
SB	Senate Bill

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ORGANIZATION AND FUNCTION

Board of Marital and Family Therapy (board)

The State Board of Marital and Family Therapy (board) is a regulatory board consisting of five members appointed by the governor. The board consists of two public members and three Alaska licensed marital and family therapists.

Alaska Statutes define the practice of marital and family therapy as the diagnosis and treatment of mental and emotional disorders referenced in the standard diagnostic nomenclature for marital and family therapy. This covers all disorders, whether cognitive, affective, or behavioral, within the context of human relationships, particularly the marital and family system.

Alaska Statute 08.63.050 establishes the powers of the board. They include adopting regulations for:

1. Establishing examination, training, and education requirements for applicants seeking licensure as well as examining and issuing licenses to qualified applicants;
2. Establishing continuing education requirements for license renewal;
3. Adopting a code of ethical practice for marital and family therapy;
4. Establishing standards for supervisors and supervision of associate marital and family therapists;
5. Ensuring licensees are aware of the statutory requirements over child protection as set out in AS 47.17.020; and

Exhibit 1

Board of Marital and Family Therapy Members As of January 31, 2017

Leon Webber, Chair
Licensed Marital and Family Therapist

Linda King
Licensed Marital and Family Therapist

Kenneth McCarty
Licensed Marital and Family Therapist

Dorothea Goddard-Aguero
Public Member

Joann Young
Public Member

**The Department of
Commerce, Community,
and Economic
Development**

6. Adopting and enforcing regulations necessary to carry out the board's duties.

The board issues licenses to marital and family therapists, associate marital and family therapists, and marital and family therapists credentialed in other jurisdictions. The board may order a licensed marital and family therapist to submit to a reasonable physical or mental examination if the board has credible evidence sufficient to conclude that the licensee's physical or mental capacity to practice safely is an issue.

By statute, the Department of Commerce, Community, and Economic Development's Division of Corporations, Business, and Professional Licensing (DCBPL) provides administrative support to the board. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving application forms, publishing notices of examinations and meetings, and assisting with board regulation development.

Alaska Statute 08.01.087 gives DCBPL authority to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person is engaged or about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine or have examined the books and records of a person whose business activities require a business license or licensure by a board or occupation listed in AS 08.01.010, or whose occupation is listed in AS 08.01.010.
4. Issue subpoenas for the attendance of witnesses and records.

Alaska Statute 08.01.065 requires the department to adopt regulations that establish the amount and manner of payment of application fees, and license and supervisor fees.

REPORT CONCLUSIONS

In developing our conclusion regarding whether the Board of Marital and Family Therapy’s (board) termination date should be extended, its operations were evaluated using the 11 factors set out in AS 44.66.050(c), which are included as Appendix A of this report. Under the State’s “sunset” law, these factors are to be considered in assessing whether an entity has demonstrated a public policy need for continuing operations.

Overall, the audit concludes the board generally serves the public’s interest by effectively licensing and regulating marital and family therapists and approving marital and family therapy supervisors. The board monitors licensees and works to ensure only qualified individuals practice in Alaska. Furthermore, the board develops and adopts regulations to improve the marital and family therapy occupation.

In accordance with AS 08.03.010(c)(11), the board is scheduled to terminate on June 30, 2018. We recommend that the legislature extend the board’s termination date to June 30, 2026.

Detailed report conclusions are as follows.

The board generally operated in the public interest and does not duplicate the efforts of other entities.

Except for the development of tele-health regulations,¹ board operations were generally conducted in an effective manner. From July 1, 2014, through January 31, 2017, the board held five meetings each year, which exceeded the minimum of one required by statute. A review of 13 board meetings held during the audit period found that all but one was public noticed timely. Each meeting allowed time for public comment and a quorum was consistently met. The audit also determined that the board does not duplicate the efforts of another governmental or private sector agency.

A review of board complaint and investigative data found cases were addressed timely. There were seven complaints open or opened

¹Tele-health is a term used to describe the delivery of health services through technology.

between July 1, 2014, and January 31, 2017. Of the seven complaints, four resulted in investigations, all of which were closed during the audit period. A review of case files found cases were actively investigated.

The board worked to improve the marital and family therapy occupation by amending:

- Two regulations² to clarify procedures for applying for licensure by examination and by credentials. These changes define the required background information to be supplied by the applicant, which increases public protection.
- Two regulations³ to improve continuing education requirements for licensees. The changes added specific education requirements, such as cross culture issues, addictions, and domestic violence, and added a minimum degree requirement for instructors. Changes help ensure required continuing education serves the unique needs of Alaskans.
- Regulation 12 AAC 19.990 to define one year of supervised clinical practice as one academic year. The clarification removes previous ambiguities over supervision of an associate licensee.

The public benefit is less clear regarding the change to regulation 12 AAC 19.200(f), which clarified associate licensure requirements. The regulation requires associate candidates seeking licensure in Alaska obtain an associate license prior to accruing hours, and no therapy or counseling may begin before that license is obtained. The addition was in response to board member concerns that other states' supervisory requirements may not be up to Alaska standards, which could jeopardize public safety.

The public responded negatively to the proposed change by submitting eight written comments and one oral comment. Overall, public members were concerned that the amended regulation placed undue hardship on candidates with supervisory hours already obtained

²12 AAC 19.110 and 12 AAC 19.115.

³12 AAC 19.310 and 12 AAC 19.320.

Distance delivery of marital and family therapy slowly moved forward.

outside of Alaska. The regulation change was passed and it is unclear to what degree public comments were considered during the approval process.

Senate Bill (SB) 74, which was signed into law in 2016, created new requirements over healthcare services delivery, prescription medication, and many other related aspects of healthcare in the state. The law required mental health occupations, including marital and family therapy, implement regulations to guide the distance delivery of services through technologies (tele-health).

Even before the passage of SB 74, the board had been considering the need for tele-health regulations. The prior 2013 sunset audit found the board had been discussing distance delivery of services since 2005, yet had not moved forward with the needed changes. The prior sunset audit recommended the board develop a strategy to address the need for distance therapy and distance supervision.

A combination of complexities associated with tele-health and an insufficient skill set led to slow progress in developing regulations. After the passage of SB 74, the board could have requested assistance from the Department of Law; however, to contain costs, the board chose to independently draft the regulations. Department of Commerce, Community, and Economic Development's Division of Corporations, Business, and Professional Licensing (DCBPL) staff did assist the board by explaining the board's role in the regulation process and by providing regulatory examples.

At its February 2017 meeting, the board succeeded in approving a number of regulations to establish the basics of providing tele-health services. Approved regulations covered areas such as eligibility to practice, safety and confidentiality of communications, informed consent, and ethics. However, there is a need for additional regulations. According to the board chairperson, the remaining regulations will be based on the nationally approved tele-therapy guidelines⁴ for marital

⁴Association of Marital and Family Therapy Regulatory Boards: Tele-therapy Guidelines; September 2016.

and family therapy regulatory boards. As of the beginning of May 2017, the DCBPL licensing examiner had not forwarded the board's additional regulations to DCBPL's regulation specialist.

The board licensed individuals according to statutes and regulations.

The board operated in the public's interest by licensing marital and family therapists, in accordance with state laws and regulations. A random sample of eight licenses issued during the audit period was tested. All eight licenses were found to have been issued in compliance with statutes and regulations.

As shown in Exhibit 2, from FY 14 through FY 16, the board issued 22 new licenses, four temporary licenses, and 12 associate licenses. As of January 31, 2017, there were a total of 85 licensees, representing a 7 percent decrease when compared to the 2013 sunset audit.⁵

Exhibit 2

Board of Marital and Family Therapy License Activity FY 14 through January 31, 2017				
	New Licenses Issued (Exclusive of Renewals)			Total Licenses as of January 31, 2017
	FY 14	FY 15	FY 16	
Marital and Family Therapist License	7	7	8	72
Marital and Family Therapist Temporary License	3	1	-	-
Marital and Family Therapy Associate	4	4	4	13
Totals	14	12	12	85

Source: Compiled from DCBPL Licensing database.

⁵The prior audit identified 91 total marital and family therapy licensees as of March 2013 (ACN 08-20082-13).

DCBPL management in consultation with the board adjusted fees to cover the cost of board operations.

Primarily, the board receives its revenue from licensure and renewal fees. Renewals are conducted on a biennial basis, creating a two-year cycle in board revenues. As shown in Exhibit 4 on page 8, the board had a surplus of \$40,326 at the end of FY 16. Based on a projection of future costs and number of licensees, DCBPL determined that an increase in fees was necessary in both FY 13 and FY 17. According to management, fees will be reassessed in FY 18. Exhibit 3 below presents a schedule of fees from FY 13 through FY 17.

Exhibit 3

Board of Marital and Family Therapy License Fees (FY 14 through FY 17)					
	FY 13	FY 14	FY 15	FY 16	FY 17
Nonrefundable application fee for initial license	\$175	\$175	\$175	\$175	\$200
License fee for all or part of the initial biennial license period	665	665	665	665	800
Biennial license renewal fee	665	665	665	665	800
Four-year associate license fee for supervised practice	445	445	445	445	500
Temporary license fee	100	100	100	100	200

Source: DCBPL Regulations.

Exhibit 4

**Board of Marital and Family Therapy
Schedule of License Revenues and Expenditures
FY 13 through March 31, 2017
(Unaudited)**

	FY 13	FY 14	FY 15	FY 16	July 1, 2016 - March 31, 2017
Revenues					
Licensing Fees	\$55,500	\$12,015	\$61,048	\$9,685	\$64,550
Other Sources	-	-	-	-	1,980
Total Revenues	<u>55,500</u>	<u>12,015</u>	<u>61,048</u>	<u>9,685</u>	<u>66,530</u>
Direct Expenditures					
Personal Services	34,463	33,604	23,351	24,638	22,871
Travel	6,884	8,437	8,251	9,133	6,683
Services	2,111	5,468	5,217	2,753	1,406
Commodities	36	12	4	-	-
Total Direct Expenditures	<u>43,494</u>	<u>47,521</u>	<u>36,823</u>	<u>36,524</u>	<u>30,960</u>
Indirect Expenditures	7,064	10,550	12,972	10,226	7,670*
Total Expenditures	<u>50,558</u>	<u>58,071</u>	<u>49,795</u>	<u>46,750</u>	<u>38,630</u>
Annual Surplus (Deficit)	<u>4,942</u>	<u>(46,056)</u>	<u>11,253</u>	<u>(37,065)</u>	<u>27,900</u>
Beginning Cumulative Surplus (Deficit)	<u>107,252</u>	<u>112,194</u>	<u>66,138</u>	<u>77,391</u>	<u>40,326</u>
Ending Cumulative Surplus (Deficit)	<u>\$112,194</u>	<u>\$66,138</u>	<u>\$77,391</u>	<u>\$40,326</u>	<u>\$68,226</u>

Source: DCCED management.

* FY 17 indirect expenditures are estimated based on prior year actuals.

FINDINGS AND RECOMMENDATIONS

The prior 2013 sunset audit made three recommendations:

- The Office of the Governor and the Board of Marital and Family Therapy (board) should work together to fill vacant board seats in a timely manner.
- The division's director should continue efforts to improve the investigative case management system's integrity and confidentiality.
- The board should develop a strategy to address the need for distance therapy and distance supervision.

The prior recommendation regarding board appointments is considered resolved, as there were no extended vacancies during the audit period.

The prior audit recommendation to improve the investigative management system has been partially addressed and the outstanding issues are not significant enough to warrant restating the recommendation. The Division of Corporations, Business, and Professional Licensing (DCBPL) has addressed a number of the investigative case management system deficiencies by improving system processes to reduce lost work and increase the reliability of reported information; however, security issues related to case confidentiality remain. All investigators continue to have the ability to view and update case information for any case regardless of the business need. DCBPL management is aware of the security risk and feels the risk is justified to facilitate workload assignments.

The prior recommendation to develop a strategy for distance therapy is considered materially resolved. During FY 17, the board developed and approved higher priority tele-health regulations; however, additional regulations are needed. The board has been working on the regulations since the prior audit and anticipates completing the remaining regulations in the near future. The prolonged development of the regulations is attributed to the complexities associated with providing distance services, and a lack of board member skills sufficient to craft regulatory language.

No new recommendations were made as part of this audit.

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Board of Marital and Family Therapy (board) to determine if there is a demonstrated public need for its continued existence.

As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the board should be reestablished. Currently, under AS 08.03.010(c)(11), the board will terminate on June 30, 2018, and will have one year from that date to conclude its administrative operations.

Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest.
3. To determine the status of recommendations made in the prior sunset audit.

Scope

The assessment of operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the board. We reviewed the board's activities from FY 15 through January 31, 2017. Financial information is presented, unaudited, from FY 13 through March 31, 2017.

Methodology

During the course of our audit, we reviewed and evaluated the following:

- The prior sunset audit report (ACN 08-20082-13) to identify issues affecting the board and to identify prior sunset audit recommendations.

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- Applicable statutes and regulations to identify board functions and responsibilities, determine whether statutory or regulatory changes enhanced or impeded board activities, and help ascertain if the board operated in the public interest.
 - The State's online public notice system to verify the board meetings were adequately public noticed.
 - Board meeting minutes and annual reports to gain an understanding of board proceedings and activities, the nature and extent of public input, whether a quorum was maintained, and whether board vacancies impeded operations.
 - Expenditures, revenues, and fee levels for the board to determine whether fee levels covered the costs of operations.
 - Investigation data of the board for cases open six months or longer from FY 15 through January 31, 2017, to determine whether complaints were actively investigated.
 - Various state and news-related websites to identify complaints against the board or other board related concerns.
 - Division of Corporations, Business, and Professional Licensing (DCBPL) fee analysis tool management used to gain an understanding of the methodology for establishing board fee increases and decreases.
 - DCBPL mail ballot procedure to gain an understanding of the process.
 - Five other states' marital and family therapy supervisory requirements for comparison to Alaska requirements.
 - Public comments to supervisory and associate regulations, including public comments at board meetings, to gain an understanding of the comments and the board consideration of the comments.
 - Internal controls over the licensing database and investigative case

management system were assessed to determine if controls were properly designed and implemented.

To identify and evaluate board activities, we conducted interviews with DCBPL staff and board members. Specific issues of inquiry included board operations, regulations, duplication of effort, and complaints against the board. We also interviewed the executive director of the Association of Marital and Family Therapy Regulatory Boards to gain an understanding of Alaska's statutes and regulations for licensing requirements compared to other states.

A random sample of eight licenses was selected from 87 licensees that were active between July 1, 2014, and January 31, 2017. Applications were assessed for statutory and regulatory compliance. The sample size was based on low control and inherent risk and moderate audit risk. The sampled items were to include five initial and three renewal licensees. Testing results were projected to the population.

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APPENDIX SUMMARY

In developing our conclusion regarding whether the Board of Marital and Family Therapy’s (board) termination date should be extended, its operations were evaluated using the 11 factors set out in AS 44.66.050(c). Under the State’s “sunset” law, these factors are to be considered in assessing whether an entity has demonstrated a public policy need for continuing operations.

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APPENDIX A

Analysis Of Public Need Criteria (AS 44.66.050(c))

A determination as to whether a board or commission has demonstrated a public need for its continued existence must take into consideration the following factors:

- (1) the extent to which the board or commission has operated in the public interest;
- (2) the extent to which the operation of the board or commission has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters;
- (3) the extent to which the board or commission has recommended statutory changes that are generally of benefit to the public interest;
- (4) the extent to which the board or commission has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided;
- (5) the extent to which the board or commission has encouraged public participation in the making of its regulations and decisions;
- (6) the efficiency with which public inquiries or complaints regarding the activities of the board or commission filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved;
- (7) the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public;

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- (8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board or commission to its own activities and the area of activity or interest;
 - (9) the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection;
 - (10) the extent to which the board or commission has effectively attained its objectives and purposes and the efficiency with which the board or commission has operated; and
 - (11) the extent to which the board or commission duplicates the activities of another governmental agency or the private sector.

Agency Response from the Office of the Governor

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Governor Bill Walker
STATE OF ALASKA

August 17, 2017

Kris Curtis
Legislative Auditor
P.O. Box 113300
Juneau, AK 99811-3300

RECEIVED
AUG 21 2017
LEGISLATIVE AUDIT

Dear Kris Curtis:

Thank you for the opportunity to respond to the Legislative Budget and Audit Committee regarding the preliminary audit reports for the Board of Marital and Family Therapy under the Department of Commerce, Community and Economic Development.

In speaking with the Division Operations Manager for the Division of Corporations, Business and Professional Licensing, Sara Chambers, she agrees that this board is meeting the needs that were the reason for the statute that created the board. They continue to regulate licensing standards, examine applicants, and, when necessary, provide disciplinary sanction of marital and family therapists.

There were no recommendations for our office in your report. We agree that the board is functioning in the best interest of the public and that the board's termination date should be extended until June 30, 2026.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shirley Marquardt".

Shirley Marquardt
Director
Boards and Commissions

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Agency Response from the Department of Commerce, Community, and Economic Development



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Commerce, Community,
and Economic Development**

OFFICE OF THE COMMISSIONER

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August 14, 2017

RECEIVED

AUG 15 2017

LEGISLATIVE AUDIT

Kris Curtis, CPA, CISA
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811

RE: Confidential Preliminary Audit Report, Department of Commerce, Community, and Economic Development, Board of Marital and Family Therapy, May 9, 2017

Dear Ms. Curtis:

Thank you for the opportunity to comment on Confidential Preliminary Report regarding the State Board of Marital and Family Therapy. I am pleased to know that you are recommending a full extension of this board to June 30, 2026, and have no recommendations for this audit period.

Again, thank you for the opportunity for the DCCED to provide input on this matter. Should you have any questions about the contents of this letter, please do not hesitate to contact me at 907-465-2500.

Sincerely,

A handwritten signature in blue ink, appearing to read "CHLADICK".

er/ Chris Hladick
Commissioner

cc: Janey Hovenden, Director, Division of Corporations, Business and Professional Licensing

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Agency Response from the Board of Marital and Family Therapy

Leon T. Webber, D.Mn, LMFT
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August 14, 2017

Kris Curtis, CPA, CISA
Legislative Auditor
Alaska State Legislature
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RECEIVED
AUG 14 2017
LEGISLATIVE AUDIT

Dear Ms. Curtis:

Thank you for forwarding a copy of the **confidential** audit report on:

Department of Commerce, Community, and Economic Development, Board of Marital and Family Therapy, May 9, 2017

The Legislative Audit Report concludes our board is serving the public interest and recommends the legislature extend the board's termination date to June 30, 2026. We appreciate the recommendation.

The thoroughness and fairness of this audit is another example of the state's interest and support of our Board for carrying out its responsibilities to the public while regulating our profession.

The report noted the continuing challenge of and need to regulate the ever-advancing use of teletherapy/telesupervision technology. These technologies allow varied applications to our licensees' practices, both within the state and across states jurisdictions.

Our board is committed to this challenge and will accomplish proposing necessary regulations during the next legislative session with the help of our Licensing Examiner(s), the American Marital and Family Therapy Regulatory Board and the Alaska Department of Law.

As Chair, I am also committed to encouraging the AkMFT Board to change our current regulations and accept applicants' supervision hours that were accumulated out of state if they were provided by a qualified supervisor and began after receiving a post graduate degree.

Again, thank you for taking time to review the work of our Board and share with us your recommendation that the legislature extend the board's termination date to June 30, 2026.

With appreciation and Best Regards,

A handwritten signature in black ink, appearing to read 'Leon Webber', written in a cursive style.

Leon Webber, Chair
Alaska Board Marital Family Therapy