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of **ALASKA**
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Notice of Proposed Changes to the Regulations of the Board of Barbers and Hairdressers

Proposed Regulations - FAQ

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1. Why are the changes to the regulations being proposed?

The board has discussed for more than a year the value of passing a practical examination administered by the board and determined that a person who has completed the required training and has passed a “proficiency examination” administered by the school or instructor, should be able to enter the workforce and make a living without having to pass the state practical examination. The practical exam is for minimum competency only, it’s not expected that a person just entering their field will be perfect at it. It would take many months or even years of working in their field of practice to become experts at it. Further, the instructor of the student/apprentice should be able to determine if that person has the skills necessary to enter the business by administering the proposed “proficiency examination”.

A “proficiency examination” is proposed to be added to the regulations to ensure a student in a school or an apprentice in an apprenticeship program has basic skills to enter the workforce. The proficiency examination is proposed to be conducted by an instructor at the school where the student receives their training, or by an instructor in an apprenticeship program that has been approved by the board. The proficiency examination would be performed after the student/apprentice has completed their training. All subjects in the curriculum will be required to be tested and the student must pass to the satisfaction of the examiner each subject before the completion paperwork may be submitted to the board. This will allow the instructor additional opportunity to further instruct the student/apprentice, if necessary, if any part of the examination is failed. However, the student/apprentice must be tested again to ensure passage of the previous failed subject before completion paperwork is submitted. This would ensure the student/apprentice has the necessary skills and is ready to enter the workforce.

In addition, the regulations will remove the requirement of the notarized CPR and blood borne pathogen cards for new applicants for the body piercing, tattooing, and permanent cosmetic licenses. This will allow for faster processing of applications for those license types.

There are several reasons for the Board to make these changes, including but not limited to:

- being in line with Governor Dunleavy's licensing and regulatory reform to reduce barriers to entering the workforce, by amending unnecessary regulatory burdens
- reduction in total costs to an applicant
- removes barriers to licensing
- does not impact health and safety as the written exam is for that purpose in accordance with AS 08.13.090(b)
- allows the instructor or school to train on current/modern practices instead of training to pass the state practical examination
- the practical exam is outdated and does not test on current barber, hairdresser, and esthetician practices
- the exam is subjective and often generates complaints from applicants
- removes costs for training and hiring contracted proctors, any savings in the program are passed onto the licensees
- allows more time for the licensing examiners to process applications
- in 2001 the legislature asked the board to consider having schools administer the practical examination to reduce barriers

2. What are the changes to the regulations being proposed?

The changes for each section are outlined below.

12 AAC 09.002. Review of license applications.

This section involves the application requirements for licensure for all practices regulated by the Board. The updates to this section include:

1. Removal of the requirement to pass a practical examination for hairdressers, barbers, non-chemical barbers, estheticians, and instructors.
2. Adding the training requirements for hairdressers under subsection (c). This subsection should have been updated last year when the non-chemical barber license requirements were added to subsection (b), and the hairdresser requirements removed. This was an oversight and is now being updated to include the requirements in the correct subsection. Note this is *not* a change in the training requirements.
3. Copies of CPR and blood borne pathogen cards for body piercing, tattooing, and permanent cosmetic coloring applications will no longer be required to be notarized as a "certified true copy".

12 AAC 09.005(e). Application for examination.

This is a conforming amendment and is proposed to remove a citation that is being repealed due to the removal of the practical examination.

12 AAC 09.020. Identification of applicant.

The changes in this section are conforming amendments for removal of the practical exams. Changes only include references to requirements for practical examinations, no other changes are being proposed.

12 AAC 09.025. Conduct for examination

The only change in this section is a conforming amendment which removes a reference to the practical examination site.

12 AAC 09.030, 12 AAC 09.035, 12 AAC 09.038.

These sections are proposed to be repealed because they refer to the practical examination. These are conforming amendments for removal of the practical examination.

12 AAC 09.050. Proficiency examination.

This is a proposed new section that will require a proficiency examination at the end of training for students and apprentices of hairdressing, barbering, non-chemical barbering, and esthetics. A student or apprentice must pass a proficiency examination in each of the subject areas the student/apprenticeship is required to learn in each of the listed curriculums. The examiner at the school, or the instructor of an apprentice must test the student/apprentice and determine if the student/apprentice is proficient in each of the areas before the final completion paperwork is submitted to the Board. The examiner may not intervene, instruct, or help in anyway during the testing to assist in passing the examination. A definition is proposed to be added for “passing a proficiency examination” in 12 AAC 09.990.

12 AAC 09.056, 12 AAC 09.060, 12 AAC 09.065, 12 AAC 09.070. Content and grading criteria for barbers, non-chemical barbers, hairdressers, estheticians, and instructor examinations.

The proposed changes in these sections are conforming amendments for removing the practical examination requirement. Changes also include updating language to clarify that no foreign language interpreters are allowed in the examination room. Having no foreign language interpreters in the examination room is not a new requirement, the change is to make the language consistent with each of the sections.

12 AAC 09.075. Reexamination.

This section is proposed to be amended to remove the wording regarding the practical examination. It also adds non-chemical barber to the definition of “applicant” in subsection (e).

12 AAC 09.095, 12 AAC 09.105, 12 AAC 09.106. License by waiver of examination requirements.

These sections are being proposed to be amended for an applicant who is applying by waiver of examination, by removing the requirement of verification of passing a practical examination from a state in which the applicant is licensed. The applicant would still be required to pass a written examination in the other state.

12 AAC 09.130(f). School records.

This subsection is proposed to be amended to add verification of passing the proficiency examination to the final completion paperwork the school is required to submit to the Board. The final completion paperwork must be on file with the Board before the applicant is authorized to take the written examination.

12 AAC 09.160. Barber and hairdresser school curriculum.

This section is proposed to be amended by adding a new section to the school curriculum that requires the student to pass a proficiency examination in each of the subjects listed in the curriculum, after the student has completed the training.

12 AAC 09.161. Non-chemical barbering school curriculum.

This section is proposed to be amended by adding a new section to the school curriculum that requires the student to pass a proficiency examination in each of the subjects listed in the curriculum, after the student has completed the training.

12 AAC 09.163. Esthetics school curriculum.

This section is proposed to be amended by adding a new section to the school curriculum that requires the student to pass a proficiency examination in each of the subjects listed in the curriculum, after the student has completed the training.

12 AAC 09.170. Theory syllabus and criteria for grading of examinations.

This section is proposed to be amended by repealing subsection (b) that refers to the practical examination. It is also proposed to change the section heading due to the repeal.

12 AAC 09.173. Out-of-state training in body piercing, tattooing, and permanent cosmetic coloring.

This section is proposed to be amended by updating the language for Board approval of the out-of-state training for body piercing, tattooing, and permanent cosmetic coloring. The changes will allow the training to be approved if the training meets the requirements of each of the sections described in the regulations. This is not a significant change, it will allow the licensing examiner to process the out-of-state training form without individual Board approval.

12 AAC 09.190. Apprentices of barbering, non-chemical barbering, hairdressing, and esthetics.

This section is proposed to be amended by adding the proficiency examination to the apprentice curriculum form submitted by the instructor for approval of the apprenticeship. The instructor is verifying that the apprentice must pass a proficiency examination in each subject area after completion of the training.

12 AAC 09.900. Examiners.

This section is proposed to be repealed because it involves the requirements of an examiner for the practical examination. This is a conforming amendment because the Board is proposing to repeal the practical examination, therefore, this section will no longer be needed.

12 AAC 09.930. Reinstatement of a lapsed license.

This section is being proposed to be amended as a conforming amendment for removal of the practical examination. The change will remove the practical examination requirement for a licensee who wants to reinstate a license that has lapsed three years or more.

12 AAC 09.990. Definitions.

This section is proposed to be amended by adding a definition for “passing a proficiency examination”. As required by the proposed new section, 12 AAC 09.050, an applicant for license by examination must have passed a proficiency examination administered by the school or instructor, after they have completed their training before they can apply for a license.

3. Doesn't the practical examination test the student on safety and sanitation during a procedure?

Alaska Statute 08.13.090 requires the written examination to “cover subjects designated by the board and must test the applicant’s knowledge of sanitary practices, safety of all procedures, and use of instruments, equipment, and chemicals permitted within the field of practice for which the applicant is seeking a license”. Since the written exam requires this, there is no need for the practical examination to require it also. In addition, most applicants who fail the practical examination do not fail any part that would include safety and sanitary practices, but typically fail the haircutting and styling parts of the examination.

Practical examinations are specifically to see if the applicant can perform the procedure to determine if the procedure was performed in a manner that a paying client would find acceptable. The examination is to test minimum proficiency in a subject area. Example, if a student/apprentice cannot cut hair acceptable to the examiner, the examiner would fail that student and require them to have further instruction and perform more practical procedures in order to become more proficient in that area.

3. What is the demonstrated need of the changes to the regulations?

There have always been issues with the practical examination, some of which are outlined below. After many years of discussion, the Board feels it is time to amend the regulations to remove the practical examination. At first their decision did not include adding a proficiency examination, but after discussion at several board meetings, the Board determined that an examination administered by the instructor of the student/apprentice would be a good replacement. The instructor is the one who should be ensuring the student has the skills required to enter the profession and make a living,

that is the job of the instructor. If the instructor is not teaching well, then the student may fail in the profession.

The Board at one time researched having the National Institute of Cosmetology (NIC) administer the exam, however they found that to be very costly for the applicant, possibly costing hundreds of dollars for an applicant to take the practical exam.

Other reasons for the changes-

- the exam is very subjective with three examiners, often the range of scores can be 10 to 20 points different for each of the subjects being scored, and although the scores are averaged, the variances in the scores could cause an applicant to fail
- although training by a board member is required prior to a licensee becoming an exam proctor, it has been the practice over the years that each examiner has their own idea of what minimum competency is, and is not consistent with all examiners
- it has become difficult to find proctors in each location where the exam is given
- the cost can be prohibitive for an applicant who must travel from an outlying community to Anchorage, Juneau, or Fairbanks to take the exam
- removes barriers to making a living as a barber, hairdresser, esthetician, or instructor
- the Board has received many complaints over the years about proctors, this will alleviate that issue

Additional reasons may be found under #1 and #4 of this FAQ.

4. What are the positive and negative consequences of the new regulations?

Positive consequence of the amended regulations:

1. Changes will allow for more people to enter the workforce in a more timely manner by reducing the amount of time to become licensed by not having to wait the typical time to pass the state examination. This allows the student to be able to make a living sooner.
2. The student will be able to retake the examination without having to wait the 30 days required for the state examination, entering the workforce sooner.
3. An instructor will be able to spend additional time teaching the student if the proficiency examination shows the student has not shown competency in the subject matter being tested, prior to the course completion paperwork being submitted to the Board.
4. The total cost to obtain a license would be reduced by the \$60 practical examination fee.

There are no negative consequences to these changes.

5. What if I don't pass the proficiency examination?

An applicant must have passed the proficiency examination in all subjects listed in the curriculum before the applicant is approved to take the written examination. Passing the proficiency examination is required to be documented on the final completion paperwork submitted by the school or the instructor to division staff. The instructor must continue training the student/apprentice until the student/apprentice passes the examination.

7. How does the examiner or instructor determine the student/apprentice has passed a subject of the proficiency examination?

It is up to the instructor or examiner who is performing the examination to determine if the student/apprentice can perform the particular function to the satisfaction of the examiner, in that the student/apprentice has shown they have enough competency to perform the service in the general workforce. If the student cannot show minimum competency, the instructor should continue practical instruction as needed to get the student/apprentice to the point of being able to perform the service without intervention or further instruction.

6. When will the new regulations be effective?

After the public comment deadline, comments received are compiled and given to the Board for consideration. The Board may adopt the regulation as written/publicly noticed, may amend and adopt them, or choose to take no action, or may withdraw the proposed regulations in part or in its whole. After Board action, the adopted regulations go to Department of Law (DOL) for final review/approval. DOL either approves or disapproves regulations. Once approved by DOL, it goes to the Lt. Governor for filing. The regulations take effect on the 30th day after they have been filed by the Lt. Governor.

Do you have a question that is not answered here? Please email RegulationsAndPublicComment@alaska.gov so it can be added.