Kevin Meyer Lieutenant Governor State Capitol Juneau, Alaska 99811 907.465.3520 WWW.LTGOV.ALASKA.GOV



530 West 7th Ave, Suite 1700 Anchorage, Alaska 99501 907.269.7460 LT.GOVERNOR@ALASKA.GOV

OFFICE OF THE LIEUTENANT GOVERNOR ALASKA

MEMORANDUM

TO: Amy Demboski

Department of Commerce, Community, and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor

465.4081

DATE: November 6, 2020

RE: Filed Permanent Regulations: Board of Barbers and Hairdressers

Board of Barbers and Hairdressers Regulation re: Removal of Board Administered

Practical Exams and Other Regulations (12 AAC 09)

Attorney General File: 2020200485

Regulation Filed: 11/6/2020

Effective Date: 12/6/2020

Print: 236, January 2021

cc with enclosures: Harry Hale, Department of Law

Judy Herndon, LexisNexis

Sher Zinn, Regulations Specialist

ORDER CERTIFYING THE CHANGES TO REGULATIONS OF THE BOARD OF BARBERS AND HAIRDRESSERS

The attached eighteen pages of regulations, dealing with practical examinations, application requirements, and a proficiency examination, are hereby certified to be a correct copy of the regulation changes that the Board of Barbers and Hairdressers adopted at its October 5-6, 2020 videoconference meeting, under the authority of AS 08.01.062; AS 08.13.030; AS 08.13.040; AS 08.13.070; AS 08.13.080; AS 08.13.082; AS 08.13.090; AS 08.13.100; AS 08.13.110; AS 08.13.120; AS 08.13.140; AS 08.13.180; and AS 08.13.220, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

On the record, in considering public comments, the Board of Barbers and Hairdressers paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: $\frac{10/7/2020}{\text{Anchorage, Alaska}}$

Jennifer Lombardo, Chair Board of Barbarand Holdwasers

DocuSigned by:

April Simpson for	FILING CE								
I, Kevin Meyer, Lieutenant November 6	Governor	for	the	State	of	Alaska,	certify	that	01
to the provisions of AS 44.62.040	- 44.62.120	-1	.111.,	i incu u	ic at	lached reg	ulations	accord	ung

Kevin Meyer, Lieutenant Governor

Effective: December 6, 2020.
Register: 236, January 2021.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on December 11th, 2018.

OF THE STATE OF ALASK

KEVIN MEYER LIEUTENANT GOVERNOR

Chapter 09. Board of Barbers and Hairdressers.

12 AAC 09.002(b)(4) is amended to read:

(4) pays the written [AND PRACTICAL] examination <u>fee</u> [FEES] established in 12 AAC 02.140;

12 AAC 02.002(b)(5) is amended to read:

(5) passes the written examination described in 12 AAC 09.056; and

12 AAC 09.002(b)(6) is repealed:

(6) repealed 12 /6 /2070;

12 AAC 09.002(c) is amended to read:

- (c) The following checklist is established by the board for review of an application for a hairdresser license by examination. A hairdresser license will be issued to an applicant who
- (1) submits the documents and fees required by (b)(1), (b)(4), (b)(4), [(b)(1) (b)(4)] and (b)(7) of this section;
 - (2) submits original or certified true copies of

(A) student monthly records verifying that the applicant has successfully completed 1,650 hours of training for a hairdresser license in a school approved by the board;

(B) student monthly records verifying that the applicant has successfully completed 2,000 hours of training for a hairdresser license in an apprenticeship program approved by the board;

(C) a certification from another state's licensing agency, bearing the seal of that state, that the applicant has successfully completed in a school approved by that state's licensing agency, 1,650 hours of training for a hairdresser license that includes included the number of practical operations set out in 12 AAC 09.160; or

(D) a certification from another state's licensing agency, bearing the seal of that state, that the applicant has successfully completed in an apprenticeship program approved by that state's licensing agency, 2,000 hours of training for a hairdresser license that included the number of practical operations set out in 12 AAC 09.1603 [PASSES THE WRITTEN EXAMINATION DESCRIBED IN 12 AAC 09.060]; and

(3) passes <u>the written [ALL SUBJECTS OF THE PRACTICAL]</u> examination described in 12 AAC 09.060.

12 AAC 09.002(d)(2)(D) is amended to read:

(D) a certification from another state's licensing agency, bearing the seal of that state, that the applicant has successfully completed 350 hours of training, including the minimum number of practical operations set out in 12 AAC 09.163, in an apprenticeship program approved by that state's licensing agency; **and**

12 AAC 09.002(d)(3) is amended to read:

(3) passes the written examination described in 12 AAC 09.065; [AND]

12 AAC 09.002(d)(4) is repealed:

(4) repealed 12 / 6 / 2020.

12 AAC 09.002(e)(2)(B) is amended to read:

(B) qualified for licensure by passing a written [AND PRACTICAL] examination;

12 AAC 09.002(f)(2)(B) is amended to read:

(B) qualified for licensure as an esthetician by passing a written [AND PRACTICAL] examination;

12 AAC 09.002(i)(3)(B) is amended to read:

(B) one year of practice as a licensed barber, hairdresser, esthetician, or manicurist in this state or another jurisdiction followed by 600 hours of student instructor training in a school approved by the board or another licensing jurisdiction; and

12 AAC 09.02.002(i)(4) is amended to read:

(4) passes the written examination described in 12 AAC 09.070; [AND]

12 AAC 09.002(i)(5) is repealed:

(5) repealed 12/6 / 2010.

12 AAC 09.002(j)(3)(B) is amended to read:

(B) qualified for licensure as an instructor by passing a written [AND PRACTICAL] examination.

The introductory language of

12 AAC 09.002(o)(3) is amended to read:

(3) submits [CERTIFIED TRUE] copies of current cards issued by the American Red Cross, the American Heart Association, or a similar organization approved by the board, showing that the applicant successfully completed training courses in

• • •

The introductory language of

12 AAC 09.002(p)(3) is amended to read:

(3) [CERTIFIED TRUE] copies of current cards issued by the American Red Cross, the American Heart Association, or a similar organization approved by the board, showing that the applicant successfully completed training courses in

• • •

The introductory language of

12 AAC 09.002(q)(3) is amended to read:

(3) submits [CERTIFIED TRUE] copies of current cards issued by the American Red Cross, the American Heart Association, or a similar organization approved by the board, showing that the applicant successfully completed training courses in

...

the introductory language of

12 AAC 09.002(r)(3) is amended to read:

(3) submits [CERTIFIED TRUE] copies of current cards issued by the American Red Cross, the American Heart Association, or a similar organization approved by the board, showing that the applicant successfully completed training courses in

• • •

The Introductory language of

12 AAC 09.002(s)(5) is amended to read:

(5) [CERTIFIED TRUE] copies of current cards issued by the American Red Cross, the American Heart Association, or a similar organization approved by the board, showing that the applicant successfully completed training courses in

• • •

The introductory language of

12 AAC 09.002(u)(4) is amended to read:

(4) [CERTIFIED TRUE] copies of current cards issued by the American Red Cross, the American Heart Association, or a similar organization approved by the board, showing that the applicant successfully completed training courses in

• • •

(Eff. 5/10/96, Register 138; am 3/19/99, Register 149; am 7/23/2000, Register 155; am 7/13/2002, Register 163; am 11/27/2002, Register 164; am 12/6/2002, Register 164; am 1/14/2004, Register 169; am 10/14/2006, Register 180; am 12/24/2006, Register 180; am

Register 236, July 2021 PROFESSIONAL REGULATIONS

4/21/2010, Register 194; am 6/8/2016, Register 218; am 6/21/2018, Register 226; am 3/30/2019,

Register 229; am 12 / 6 / 1000, Register 236)

Authority: AS 08.01.062 AS 08.13.080 AS 08.13.100

AS 08.13.030 AS 08.13.082 AS 08.13.120

AS 08.13.070 AS 08.13.090 AS 08.13.180

12 AAC 09.005(e) is amended to read:

(e) An [EXCEPT AS PROVIDED IN 12 AAC 09.075(g), AN] application is considered abandoned if the applicant has not taken an examination within one year after the date of initial application. (Eff. 11/2/81, Register 80; am 4/18/82, Register 82; am 8/12/87, Register 103; am 9/30/87, Register 103; am 5/20/88, Register 106; am 10/16/88, Register 108; am 11/28/88, Register 108; am 5/10/96, Register 138; am 7/23/2000, Register 155; am 11/27/2002, Register 164; am 12/28/2008, Register 188; am 6/8/2016, Register 218; am 6/21/2018, Register 226; am 3/30/2019, Register 229; am 12/6 /2020, Register 2340)

Authority: AS 08.13.030 AS 08.13.040 AS 08.13.080

12 AAC 09.020(b) is amended to read:

(b) Except for the purpose of receiving an identification number as described in (a) of this section, an applicant may not reveal the applicant's identity to an examiner [UNTIL GRADING HAS BEEN COMPLETED BY THE EXAMINERS].

12 AAC 09.020(c) is amended to read:

(c) An applicant may not make a reference orally or in writing to an examiner about any school or instructor of barbering, non-chemical barbering, hairdressing, manicuring, esthetics, body piercing, tattooing, or permanent cosmetic coloring, or present licenses held [UNTIL GRADING HAS BEEN COMPLETED BY THE EXAMINERS].

12 AAC 09.020(d) is repealed:

(d) Repealed 17 /6 /2010. (Eff. 11/2/81, Register 80; am 5/10/96, Register 138; am 7/23/2000, Register 155; am 11/27/2002, Register 164; am 3/30/2019, Register 229; am 12 /6 /2010. (Register 236)

Authority: AS 08.13.030 AS 08.13.090

12 AAC 09.025(a) is amended to read:

(a) No applicant may leave the [PRACTICAL EXAMINATION SITE OR THE] written examination site while the examination is being conducted without permission of an examiner. (Eff. 8/12/87, Register 103; am 12 / 6 / 2020, Register 236)

Authority: AS 08.13.080 AS 08.13.090

12 AAC 09.030 is repealed:

12 AAC 09.030. Station assigned and equipment. Repealed. (Eff. 11/2/81, Register 80; repealed 12 / 6 /2020, Register 236)

Register 236, January 2021 PROFESSIONAL REGULATIONS 12 AAC 09.035 is repealed:

12 AAC 09.035. Models. Repealed. (Eff. 11/2/81, Register 80; am 2/28/88, Register 105; am 3/19/99, Register 149; am 7/23/2000, Register 155; repealed 12 / 6 / 1000, Register 236)

12 AAC 09.038 is repealed:

and

12 AAC 09.038. Computation of grades. Repealed. (Eff. 4/18/82, Register 82; repealed 12 / 6 / 1070, Register 236)

12 AAC 09 is amended by adding a new section in Article 3 to read:

12 AAC 09.050. Proficiency examination. (a) A student in hairdressing, barbering, non-chemical barbering, or esthetics must pass a practical proficiency examination in the subjects described in (b) of this section, after the student completes a course of study in a school or in an apprenticeship program.

- (b) A student or apprentice must show proficiency in the following subject areas:
 - (1) for hairdressing or barbering, all subjects required under 12 AAC 09.160(a);
 - (2) for non-chemical barbering, all subjects required under 12 AAC 09.161(a);
 - (3) for esthetics, all subjects required under 12 AAC 09.163(a).
- (c) Verification of passing the proficiency examination in the required subjects must be documented on the completion of training form described in 12 AAC 09.130(f) for a student in a school, or 12 AAC 09.190(k) for an apprentice in an apprenticeship program. (Eff. 12/4/2020, Register 236)

Authority: AS 08.13.030 AS 08.13.090

12 AAC 09.056 is repealed and readopted to read:

12 AAC 09.056. Content and grading criteria for barber and non-chemical barber examinations. (a) The examination for a barber license consists of the written examination entitled the *National Barber-Stylist Test*, sponsored by the National Interstate Council of State Boards of Cosmetology.

- (b) The examination for a non-chemical barber license consists of the written examination entitled the *Barber-No Chemical Test*, sponsored by the National Interstate Council of State Boards of Cosmetology.
 - (c) A passing grade on the written examination is 75 percent or above.
- (d) Foreign language interpreters are not allowed in the examination room. (Eff. 5/20/88, Register 106; am 10/16/88, Register 108; am 5/10/96, Register 138; am 3/19/99, Register 149; am 3/30/2019, Register 229; am 10/16/89, Register 236)

Authority: AS 08.13.030 AS 08.13.090

12 AAC 09.060 is repealed and readopted to read:

12 AAC 09.060. Content and grading criteria for hairdresser examination. (a) The examination for a hairdresser license consists of the written examination entitled the *National Hair Design Test*, sponsored by the National Interstate Council of State Boards of Cosmetology.

- (b) A passing grade on the written examination is 75 percent or above.
- (c) Foreign language interpreters are not allowed in the examination room. (Eff. 11/2/81, Register 80; am 4/18/82, Register 82; am 10/21/82, Register 84; am 8/12/87, Register 103; am

Register 236, Jahren 2021 PROFESSIONAL REGULATIONS

5/20/88, Register 106; am 10/16/88, Register 108; am 5/10/96, Register 138; am 6/8/2016,

Register 218; am 12 / 6 / 2020, Register 236)

Authority: AS 08.13.030 AS 08.13.090

12 AAC 09.065 is repealed and readopted to read:

- 12 AAC 09.065. Content and grading criteria for esthetician examination. (a) The examination for an esthetician consists of the written examination entitled the *National Esthetician Test*, sponsored by the National Interstate Council of State Boards of Cosmetology.
 - (b) A passing grade on the written examination is 75 percent or above.
- (c) Foreign language interpreters are not allowed in the examination room. (Eff. 11/2/81, Register 80; am 4/18/82, Register 82; am 8/12/87, Register 103; am 2/28/88, Register 105; am 3/19/99, Register 149; am 7/23/2000, Register 155; am 17/6 /2020, Register 236)

 Authority: AS 08.13.030 AS 08.13.090

12 AAC 09.070 is repealed and readopted to read:

- 12 AAC 09.070. Content and grading criteria for instructor examination. (a) The instructor examination consists of the written examination entitled the *National Teachers Test*, sponsored by the National Interstate Council of State Boards of Cosmetology.
 - (b) A passing grade on the written examination is 75 percent or above.
- (c) Foreign language interpreters are not allowed in the examination room. (Eff. 11/2/81, Register 80; am 4/18/82, Register 82; am 9/26/84, Register 91; am 5/20/88, Register 106; am 10/16/88, Register 108; am 5/10/96, Register 138; am 7/23/2000, Register 155; am 7/13/2002, Register 163; am 12 /6 /2020, Register 236)

Authority:

AS 08.13.030

AS 08.13.090

12 AAC 09.075 is repealed and readopted to read:

12 AAC 09.075. Reexamination. (a) An applicant who fails the examination may be reexamined at a future examination.

- (b) To be scheduled for reexamination, an applicant shall comply with 12 AAC 09.005(d) and (c) of this section, if applicable.
- (c) At least 30 days before the next scheduled examination date, an applicant who fails the written examination three times or more shall provide documentation to the board of successful completion of remedial training before the applicant will be scheduled for reexamination. An applicant applying under this subsection to retake the written examination shall provide documentation to the board of successful completion of at least 50 hours of theoretical training. The applicant shall complete the remedial training in a school approved by the board or an apprenticeship program approved by the board and shall hold a valid student permit during the training as required in AS 08.13.180.
- (d) If the applicant does not retake the examination at least one time each year during the three years after the date the examination was first administered, the applicant's application will be considered abandoned and the applicant is required to reapply for the applicable examination under this chapter.
- (e) In this section, "applicant" means an individual who has applied to take the examination for
- (1) licensure as a barber, non-chemical barber, hairdresser, esthetician, or instructor; or

(2) endorsement as an advanced manicurist. (Eff. 11/2/81, Register 80; am 10/21/82, Register 84; am 5/10/96, Register 138; am 7/23/2000, Register 155; am 12/28/2008, Register 188; am 4/21/2010, Register 194; am 12 / 6 / 2020, Register 236)

Authority: AS 08.13.030 AS 08.13.040 AS 08.13.090

12 AAC 09.095(a)(4) is amended to read:

(4) documents verifying that a state in which the applicant was licensed as a barber or hairdresser required the applicant to pass a [PRACTICAL AND] written examination to qualify for licensure.

12 AAC 09.095(b)(4) is amended to read:

(4) documents verifying that a state in which the applicant was licensed as a nonchemical barber required the applicant to pass a [PRACTICAL AND] written examination to qualify for licensure.

(Eff. 11/2/81, Register 80; am 10/21/82, Register 84; am 2/28/88, Register 105; am 5/20/88, Register 106; am 5/10/96, Register 138; am 3/19/99, Register 149; am 3/30/2019, Register 229; am 12/6/2020, Register 236)

Authority: AS 08.13.030 AS 08.13.082 AS 08.13.100

12 AAC 09.105(4) is amended to read:

(4) documents verifying that a state in which the applicant was licensed as an esthetician required the applicant to pass a [PRACTICAL AND] written examination to qualify

for licensure. (Eff. 11/2/81, Register 80; am 2/28/88, Register 105; am 5/20/88, Register 106; am

5/10/96, Register 138; am 7/23/2000, Register 155; am 12 / 6 /2020, Register 236)

Authority: AS 08.13.030 AS 08.13.100

12 AAC 09.106(d)(4) is amended to read:

(4) documents verifying that a state in which the applicant was licensed as an instructor required the applicant to pass a [PRACTICAL AND] written examination to qualify for licensure.

(Eff. 5/20/88, Register 106; am 5/10/96, Register 138; am 7/23/2000, Register 155; am 7/13/2002, Register 163; am 1/17/2008, Register 185; am 9/24/2014, Register 211; am 6/8/2016, Register 218; am 6/21/2018, Register 226; am 12/6/2020, Register 236)

Authority: AS 08.13.030 AS 08.13.080 AS 08.13.100 AS 08.13.070

12 AAC 09.130(f) is amended to read:

(f) Not later than five working days after completion by a student of a course of study, the school owner shall submit to the board an affidavit showing the total number of operations,

[AND] the total number of hours of training and theoretical instruction completed by the student,

[AND] the date of completion of the course, and verification the student passed the

proficiency examination as required by 12 AAC 09.050. This affidavit will serve as certification by the school that the student meets eligibility requirements necessary for examination for licensure.

(Eff. 11/2/81, Register 80; am 8/12/87, Register 103; am 5/20/88, Register 106; am 10/1/93, Register 127; am 3/19/99, Register 149; am 9/15/2002, Register 163; am 10/14/2006, Register 180; am 8/10/2012, Register 203; am 4/5/2018, Register 226; am 12/6/2020, Register 236)

Authority: AS 08.13.030 AS 08.13.110 AS 08.13.180

12 AAC 09.160 is amended by adding a new subsection to read:

provided

(g) A student must pass a proficiency examination by the school in each subject area described in (a) of this section as required by 12 AAC 09.050, after the student completes the course of study. (Eff. 11/2/81, Register 80; am 10/21/82, Register 84; am 2/28/88, Register 105; am 5/20/88, Register 106; am 7/23/2000, Register 155; am 4/21/2010, Register 194; am 8/10/2012, Register 203; am 6/8/2016, Register 218; am 4/5/2018, Register 226; am 6/21/2018, Register 226; am 3/30/2019, Register 229; am 12/6/2020, Register 236)

Authority: AS 08.13.030 **AS 08.13.090** AS 08.13.110

12 AAC 09.161 is amended by adding a new subsection to read:

provided

(d) A student must pass a proficiency examination by the school in each subject area described in (a) of this section as required by 12 AAC 09.050, after the student completes the course of study. (Eff. 3/30/2019, Register 229; am 12/6/2020, Register 236)

Authority: AS 08.13.030 **AS 08.13.090** AS 08.13.110

12 AAC 09.163 is amended by adding a new subsection to read:

emided

(c) A student must pass a proficiency examination by the school in each subject area

Register 236, January 2021 PROFESSIONAL REGULATIONS described in (a) of this section as required by 12 AAC 09.050, after the student completes the course of study. (Eff. 2/28/88, Register 105; am 7/23/2000, Register 155; am 4/5/2018, Register 226; am 12 / 6 / 2020, Register 236)

Authority: [AS 08.13.020] **AS 08.13.090** AS 08.13.110 **AS 08.13.030**

The section heading of 12 AAC 09.170 is amended to read:

12 AAC 09.170. Theory syllabus [AND CRITERIA FOR GRADING OF EXAMINATIONS].

12 AAC 09.170(b) is repealed:

(b) Repealed 12 / 6 /2020. (Eff. 11/2/81, Register 80; am 4/18/82, Register 82; am 7/23/2000, Register 155; am 10 / 6 / 2020, Register 236)

Authority: AS 08.13.030 AS 08.13.110

12 AAC 09.173 is amended to read:

12 AAC 09.173. Out-of-state training in body piercing, tattooing, and permanent cosmetic coloring. (a) Training [THE BOARD WILL APPROVE TRAINING] in body piercing received outside of this state under AS 08.13.082(d)(1)(B) will be approved by [IF] the board if [DETERMINES THAT] the training meets the [IS EQUIVALENT TO THE TRAINING] requirements of 12 AAC 09.167(a) – (c) and provided by a person knowledgeable in the applicable techniques.

(b) **Training** [THE BOARD WILL APPROVE TRAINING] in tattooing received

Register 236 January 2021 PROFESSIONAL REGULATIONS outside of this state under AS 08.13.082(d)(1)(B) will be approved by [IF] the board if [DETERMINES THAT] the training meets the requirements of [IS EQUIVALENT TO THAT DESCRIBED IN] 12 AAC 09.169(a) – (c) and provided by a person knowledgeable in the applicable techniques.

(c) Training [THE BOARD WILL APPROVE TRAINING] in permanent cosmetic coloring received outside of this state under AS 08.13.082(d)(1)(B) will be approved by [IF] the board if [DETERMINES THAT] the training meets the requirements of [IS EQUIVALENT TO THAT DESCRIBED IN] 12 AAC 09.168(a) – (c) and provided by a person knowledgeable in the applicable techniques. (Eff. 5/26/2004, Register 170; am 4/5/2018, Register 226; am 3/30/2019, Register 229; am 12 /6 / 2020, Register 236)

Authority: AS 08.13.030 AS 08.13.080 AS 08.13.082

12 AAC 09.190(a)(1)(B)(ii) is amended to read:

(ii) instruction of the minimum hours of theoretical and practical training, specified in 12 AAC 09.160 if the apprenticeship training is for barbering or hairdressing, 12 AAC 09.161 if the apprenticeship training is for non-chemical barbering, or 12 AAC 09.163 if the apprenticeship training is for esthetics, and the proficiency examination described in 12 AAC 09.050;

12 AAC 09.190(k) is amended to read:

(k) Not later than five working days after completion by an apprentice of a course of training, the instructor in a shop shall submit to the board an affidavit showing the total number of operations, [AND] the total number of hours of training and theoretical instruction completed

by the apprentice, [AND] the date of completion of the training, and verification of passing the proficiency examination as required by 12 AAC 09.050. This affidavit will serve as certification by the instructor that the apprentice meets eligibility requirements necessary for examination for licensure.

(Eff. 10/21/82, Register 84; am 8/12/87, Register 103; am 2/28/88, Register 105; am 5/20/88, Register 106; am 10/1/93, Register 127; am 4/23/98, Register 146; am 7/23/2000, Register 155; am 7/13/2002, Register 163; am 11/16/2004, Register 172; am 10/14/2006, Register 180; am 12/24/2006, Register 180; am 8/10/2012, Register 203; am 6/8/2016, Register 218; am 4/5/2018, Register 226; am 6/21/2018, Register 226; am 3/30/2019, Register 229; am 12 /6 /2020, Register 236)

Authority: AS 08.13.030 AS 08.13.082

12 AAC 09.900 is repealed:

12 AAC 09.900. Examiners. Repealed. (Eff. 11/2/81, Register 80; am 5/20/88, Register 106; am 7/23/2000, Register 155; repealed 12/6 /200, Register 236)

12 AAC 09.930(b)(3) is amended to read:

(3) successfully passes the written [AND PRACTICAL EXAMINATIONS] **examination** for the license sought.

(Eff. 2/28/88, Register 105; em am 5/20/88 – 9/16/88, Register 106; am 5/10/96, Register 138; am 7/23/2000, Register 155; am 11/27/2002, Register 164; am 3/30/2019, Register 229; am 12 /6 /2020, Register 236)

Authority: AS 08.13.030 AS 08.13.140

12 AAC 09.990(a) is amended by adding a new paragraph to read:

(11) "passing a proficiency examination" means demonstrating to the satisfaction of the examiner that the student or apprentice has achieved a high degree of competency in the subject matter and is able to perform the appropriate practical operations without intervention by the examiner.

(Eff. 11/2/81, Register 80; am 10/21/82, Register 84; am 2/28/88, Register 105; am 7/23/2000, Register 155; am 11/27/2002, Register 164; am 12/6/2002, Register 164; am 7/12/2007, Register 183; am 4/21/2010, Register 194; am 6/8/2016, Register 218; am 6/21/2018, Register 226; am 3/30/2019, Register 229; am 12/6/2020, Register 2360)

Authority: AS 08.13.030 AS 08.13.220

MEMORANDUM

State of Alaska

Department of Law

To: The Honorable Kevin Meyer Lieutenant Governor

Date: November 5, 2020

File No.: 2020200485

Tel. No.: 465-3600

From: Susan R. Pollard SRP

Chief Assistant Attorney General and Regulations Attorney
Legislation and Regulations Section

Re: Board of Barbers and Hairdressers

Regulation re: 12 AAC 09: Removal of Board Administered
Practical Exams and Other

Regulations

The Department of Law has reviewed the attached regulations of the Board of Barbers and Hairdressers against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Board of Barbers and Hairdressers after the close of the public comment period. The regulations concern practical examinations, application requirements, and a proficiency examination.

The August 19, 2020, public notice and the October 7, 2020, certification of adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SRP:sjw

cc w/enc:

Jennifer Lombardo, Chair

Board of Barbers and Hairdressers (via e-mail through Sher Zinn)

Amy Demboski, Assistant Commissioner and Regulations Contact Department of Commerce, Community, and Economic Development

Sher Zinn, Regulations Specialist Division of Corporations, Business, and Professional Licensing Department of Commerce, Community, and Economic Development

Harriet Dinegar-Milks, Senior Assistant Attorney General Commercial, Fair Business, and Child Support Section

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE BOARD OF BARBERS AND HAIRDRESSERS

BRIEF DESCRIPTION: The Board of Barbers and Hairdressers proposes to update regulations regarding practical examinations, application requirements, and adding a "proficiency examination" to the training requirements for barbers, non-chemical barbers, hairdressers, and estheticians.

The Board of Barbers and Hairdressers (Board) proposes to adopt regulation changes in Title 12, Chapter 09 of the Alaska Administrative Code including the following:

- 12 AAC 09.002. Review of license applications, is proposed to be amended by adding the training required for the hairdresser license application requirements, removal of the practical examination from the license requirements, and changing the requirements for the copies of the CPR and blood borne pathogen cards for body piercing, tattooing, and permanent cosmetic coloring license applications.
- 2. 12 AAC 09.005 12 AAC 09.038. These sections are being proposed as conforming amendments for the removal of the practical examination requirements.
- 3. **12 AAC 09.050. Proficiency examination,** is a proposed new section to add a "proficiency examination" for completion of the barber, non-chemical barber, hairdresser, and esthetics training requirements.
- 4. 12 AAC 09.056 12 AAC 09.075. These sections are being proposed as conforming amendments for removal of the practical examination requirements, making language consistent with other sections, and clarifying foreign language interpreters are not allowed in the examination room.
- 5. 12 AAC 09.095 12 AAC 09.106. These sections are being proposed as conforming amendments for removal of the practical examination requirements.
- 6. **12 AAC 09.130. School records**, is proposed to add verification of passing a proficiency examination to the final completion paperwork of a student completing a course of study in a school.
- 7. 12 AAC 09.160. Barber and hairdresser school curriculum, is proposed to add a new subsection for the requirement of passing a proficiency examination.
- 8. **12 AAC 09.161. Non-chemical barbering school curriculum,** is proposed to add a new subsection for the requirement of passing a proficiency examination.
- 9. **12 AAC 09.163. Esthetics school curriculum,** is proposed to add a new subsection for the requirement of passing a proficiency examination.
- 10. **12 AAC 09.170. Theory syllabus and criteria for grading of examinations,** subsection (b) is proposed to be repealed as a conforming amendment for removal of the practical examination, and to amend the section heading.
- 11. 12 AAC 09.173. Out-of-state training in body piercing, tattooing, and permanent cosmetic coloring, is proposed to be changed by amending board approval of the out-of-state training requirements.
- 12. 12 AAC 09.190. Apprentices of barbering, non-chemical barbering, hairdressing, and esthetics, is proposed to add the requirement of a proficiency examination to the apprentice curriculum and to the final completion paperwork.
- 13. 12 AAC 09.900. Examiners, is proposed as a conforming amendment to repeal the requirements

for the examiner of a practical examination.

- 14. 12 AAC 09.930. Reinstatement of a lapsed license, is proposed to be amended by removing the practical examination requirement for reinstatement of a lapsed license.
- 15. **12 AAC 09.990. Definitions**, is proposed to be amended by adding a definition for "passing a proficiency examination".

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Sher Zinn, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806. Additionally, the Board will accept comments by facsimile at (907) 465-2974 and by electronic mail at RegulationsAndPublicComment@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system at http://notice.alaska.gov/199190, and using the comment link. The written comments must be received not later than 4:30 p.m., September 29, 2020. Comments received after this deadline will not be considered by the Board.

Oral comments relevant to the proposed regulations may also be submitted at an oral hearing to be held October 5, 2020, by video and teleconference. You may register in advance for the video conference via Zoom at https://zoom.us/j/95993343676, or by telephone at 253-215-8782, use the meeting ID 959 9334 3676 for both video and teleconference. The hearing will be held from 9:15 a.m. to 12:00 p.m. and might be extended to accommodate those present before 9:15 a.m. who did not have an opportunity to comment. Callers should be on the line before the hearing begins at 9:15 a.m. if they would like to provide oral testimony. Due to the COVID-19 outbreak, no in-person testimony or written comments will be taken at the hearing.

You may submit written questions relevant to the proposed action to Sher Zinn, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806 or by e-mail at RegulationsAndPublicComment@alaska.gov. The questions must be received at least 10 days before the end of the public comment period. The Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and on the Board's website at https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofBarbersHairdressers.aspx The Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Sher Zinn at (907) 465-1049 or RegulationsAndPublicComment@alaska.gov, no later than September 22, 2020, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Sher Zinn at (907) 465-1049 or <u>RegulationsAndPublicComment@alaska.gov</u>, or go to https://www.commerce.alaska.gov/web/portals/5/pub/BAH-0820.pdf.

After the public comment period ends, the Board will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. You should comment during the time allowed if your interests could be affected. Written comments and questions received are public records and are subject to public inspection.

Statutory Authority: AS 08.01.062; AS 08.13.030; AS 08.13.040; AS 08.13.070; AS 08.13.080; AS 08.13.082; AS 08.13.090; AS 08.13.100; AS 08.13.110; AS 08.13.120; AS 08.13.140; AS 08.13.180; AS 08.13.220

Statutes Being Implemented, Interpreted, or Made Specific: AS 08.01.062; AS 08.13.030; AS 08.13.040; AS 08.13.070; AS 08.13.080; AS 08.13.082; AS 08.13.090; AS 08.13.100; AS 08.13.110; AS

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 8/18/2020

Sher Zinn, Regulations Specialist
Division of Corporations, Business and

Professional Licensing

For each occupation regulated under the Division of Corporations, Business and Professional Licensing, the Division keeps a list of individuals or organizations who are interested in the regulations of that occupation. The Division automatically sends a Notice of Proposed Regulations to the parties on the appropriate list each time there is a proposed change in an occupation's regulations in Title 12 of the Alaska Administrative Code. If you would like your address added to or removed from such a list, send your request to the Division at the address above, giving your name, either your e-mail address or mailing address (as you prefer for receiving notices), and the occupational area in which you are interested.

ADDITIONAL REGULATION NOTICE INFORMATION (AS 44.62.190(d))

- 1. Adopting agency: Board of Barbers and Hairdressers Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
- 2. General subject of regulation: License application, examination, and training requirements.
- 3. Citation of regulation: 12 AAC 09.002 12 AAC 09.990.
- 4. Department of Law file number: 2020200485
- 5. Reason for the proposed action: Update and clarification of current regulations.
- **6. Appropriation/Allocation:** Corporations, Business and Professional Licensing #2360.
- 7. Estimated annual cost to comply with the proposed action to:

A private person: None known. Another state agency: None known.

A municipality: None known.

- 8. Cost of implementation to the state agency and available funding (in thousands of dollars): No costs are expected in FY 2021 or in subsequent years.
- 9. The name of the contact person for the regulation:

Cynthia Spencer, Records and Licensing Supervisor

Board of Barbers and Hairdressers

Division of Corporations, Business and Professional Licensing

Telephone: (907) 465-2547

E-mail: cynthia.spencer@alaska.gov

10. The origin of the proposed action: Board of Barbers and Hairdressers.

11. Date: 8/18/2020 Prepared by: Oher 3/11

Sher Zinn Regulations Specialist (907) 465-1049

AFFIDAVIT OF NOTICE OF PROPOSED ADOPTION OF REGULATIONS AND FURNISHING OF ADDITIONAL INFORMATION

I, Sher Zinn, Regulations Specialist, of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 12 AAC 09, dealing with practical examinations, application requirements, and a proficiency examination, has been given by being:

- 1. published in a newspaper or trade publication;
- 2. furnished to every person who has filed a request for notice of proposed action with the state agency;
- 3. furnished to appropriate state officials;
- 4. furnished to interested persons;
- 5. furnished to the Department of Law, along with a copy of the proposed regulation;
- 6. furnished electronically to incumbent State of Alaska legislators;
- 7. posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Sher Zinn, Regulations Specialist, of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being sworn, state the following:

In compliance with AS 44.62.215, the Department of Commerce, Community, and Economic Development has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Board of Barbers and Hairdressers regulations on dealing with practical examinations, application requirements, and a proficiency examination.

Date: 10/7/2020

Sher Zinn, Regulations Specialist

Subscribed and sworn to before me at Juneau , Alaska

Notary Public in and for the State of Alaska

AFFIDAVIT OF ORAL HEARING

I, Wanda Whitcomb, Licensing Examiner for the Board of Barbers and Hairdressers, being sworn, state the following:

On October 5, 2020, at 9:15 a.m., in room B, 333 Willoughby Ave., 9th Floor, Juneau, Alaska, I presided over a public hearing held under AS 44.62.210 for the purpose of taking testimony in connection with the adoption of changes to 12 AAC 09.002 – 12 AAC 09.990, dealing with practical examinations, application requirements, and a proficiency examination.

Date: 10/8/2020

Wanda Whitcomb, Licensing Examiner

Subscribed and sworn to before me at

7070

Juneau, Alaska

on

(date)

NOTARY PUBLIC *

Notary Public in and for the State of Alaska

Excerpt from the October 5-6, 2020, Board of Barbers and Hairdressers videoconference meeting.

Item 12. Adopt Regulations

12 AAC 09.002, 09.005, 09.020, 09.025, 09.030, 09.035, 09.038, 09.056, 09.060, 09.065, 09.070, 09.075, 09.095, 09.105, 09.106, 09.170, 09.900, 09.930, 09.050, 09.130, 09.160, 09.161, 09.163, 09.190, 09.990

The board having considered the written comment given and that no oral comments were given, has decided to adopt the regulations.

On a motion duly made by Michelle McMullen, seconded by Terriann Shell, and approved by roll call vote, it was

RESOLVED to adopt the public noticed regulations with amendments to 12 AAC 09.050 taking into consideration submitted written and oral comments and costs to the public and licensees.

Roll Call Vote

NAME	YES	NO	ABSTAIN	Not in attendance
Terriann Shell	X			
Shawn Idom	X			
Jennifer Lombardo	X			
Michelle McMullin	X			
Blake Thomas	X			
Cheryl Brantley				X

THE MOTION PASSED BY A VOTE OF THE MEMBERS PRESENT.

AFFIDAVIT OF BOARD OF BARBERS AND HAIRDRESSERS ACTION

I, Wanda Whitcomb, Licensing Examiner, for the Board of Barbers and Hairdressers, being duly sworn, state the following:

The attached motion dealing with practical examinations, application requirements, and a proficiency examination, was passed by the Board of Barbers and Hairdressers during its October 5-6, 2020 videoconference meeting.

Date: 10/8/2020 Juneau, Alaska

Wanda Whitcomb, Licensing Examiner

Subscribed and sworn to before me at _______ Juneau , Alaska

Notary Public in and for the State of Alaska



ANCHORAGE DAILY NEWS AFFIDAVIT OF PUBLICATION

Account #: 268972 ST OF AK/DEC/OCCU Attention To: ATTN TO: JUN MAIQUIS PO BOX 110806, JUNEAU, AK 99811

Order #: W0017381

RECEIVED Juneau

AUG 2 4 2020

CBPL

STATE OF ALASKA THIRD JUDICIAL DISTRICT

Lisi Misa being first duly sworn on oath deposes and says that she is a representative of the Anchorage Daily News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

08/19/2020

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed

Subscribed and sworn to before me this 19th day of August 2020.

Notary Public in and for The State of Alaska. Third Division Anchorage, Alaska

MY COMMISSION EXPIRES

NOTARY PUBLIC
JADA L. NOWLING
STATE OF ALASKA
OMMISSION EXPIRES July 14, 202

NOTICE OF PROPOSED CHANDES IN THE REGULATIONS OF THE BOARD OF BARRERS AND HARDRESSERS ROOM Of Indians and Hardressers (Board Proposes

Cost: \$846.64

 12 AAC 09.002 Review of Ricense applications, is proposed to be automated by adding the stating recovered for the habitenser fermion application retainermons, removal of the practical example of the property of the property of the property of the example of the property of the pro

2 13 AAC 09:005 - 12 AAC 09:018. These sections are being propused as conforming amendments for the removal of the practical examination requirements.

 12 AAC 09.050 Proficiency examination, is a proposed new section to add a "proficiency examination" for comprision of the burber, non-chemical barber, hardwisser, and extrects training requirements.

4. 12 AAC 09.055 - 12 AAC 09.075. These sactions are being proposed as Conference amendments for removal of the practical exentination requirements, moting fastguage consistent with other sections, and coulding faring language interpreters are not element in the examination focus.

17 AAC 07:075 - 12AAC 07:106. These sections are being proposed as conforming amendments for removal of the practic examination requirements.

A. 17 AAC 07.130. School records, is prepared to add unlikelik of passing a prolicincy examination to the final completing properties of a bilderic completing a course of south a school properties of a bilderic completing a course of south as a shool of the country of the

12 AAC 09,161. Non-chemical barbering school curriculum proposed to add a new redescrion for the requirement of

7. 17 AAC 07.163, Esthetics achool curriculum, is proposed and a new subsection for the requirement of passing a proficience

10. 12 AAC 09.170. Theory sytiatus and criteria for gradin of examinations, subsection (in its proposed to be repealed as conforming amendment for remount of the practical examination and to surriend the text (on heading.)

 11. 12 AAC 09:173. Out-of-state training in body plencin tatloding, and permanent countetic coloring. Is proposed to be changed by amending board approval of the out-of-state training requirements.

 12 AAC 09.390. Apprentices of lactioning, non-chemibarbering, halithressing, and esthetics, is proposed to a the requirement of a proficiency examination in the appears.

13 12 AAC 09.900. Examiners, is proposed as a conformir amendment to repeal the requirements for the examiner of

A 12 AAC 07.930. Heinstatement of a lapsed license, is proposed to be amended by removing the practical examination

15. 12 AAC 09,990. Definitions, is proposed to be amended by

You have comment on the proposed regulated changes with the proposed state of complying the proposed complex and representation of comparation of comp

Dat commercia entware to the proposed apparations may be video and infectionements. We may register to advance for a video and infectionements. We may register to advance for the video and infectionements with a promise and integer/aroom suphysing about the video confirmed with about the first produced and the produced and the behalf one in the behalf will be a behalf one in the behalf of the video of the produced and the produced and the produced and the video of the

You may authorit, whitein quantistics relevant to the proposed as for the Personal Conference of Computations Speciality, (Indicated to Computations And Conference of Computations And Personal Conference of the public community personal conference of the public comm

If you are a person with a disability who exects a spectaccommodation in order to purify partie in this process, phease consec Sher Zhin at (1907) 465-1939 or largelations and public commences sisted a gordina factor than September 22, 2020, in ensure that are

A copy of the proposed regulation changes is auchable on the Alukka Chilate Public Notice bystem and by contacting Shez You at 1997) 465-1049 or RegulationsAndifutificCommencitialaka gay or an interest of the Children of the Children of the RAM GROD of the Children of the Children of the RAM GROD of the Children of the Children of the Public Children of the Children of Childr

Acce us power comments person one, in a point we entire assoted perposed regulation changes of other perchiptors desiling with the same subject, without hardner notice, or decide to take in action. The larguage of the final regulations may be different loss that of the proposed regulations, you should comment during the form allowed Toylor Interests could be affected within a comment, and questions received are public recents and are subject to quality impactions.

STATUTORY AUCTHORITY: AS OB.01 (%); AS OB.13 (30); AS OB.13 (30); AS OB.13 (70); AS OB.12 (80); AS OB.13 (80); AS OB.13 (90); OB.13 (90); AS OB.13 (10); AS OB.13 (70); AS OB.13 (40); AS OB.13 (80); AS OB.13 (70); AS OB.13 (10); AS OB.13 (70); AS OB.13 (40); AS OB.13 (80);

Statutes Beling Implemented, Interpreted, or Made Specific AS 08 01 067; AS 08 12 030; AS 08 13 040; AS 08 13 070; AI 08 13 080; AS 08 12 082; AS 08 12 090; AS 08 12 100; AS 08 12 10

Fiscal information: The proposed implication changes are a

DATE: 8/18/2020 At the Zine, Regulations specialist Division of Computations Busi

Division of Corporations, Business on Professional Licensing

For each ecopartion regulated unite the children of Costonalisms and Protestivent Incompting, the Children every a size or individual and Protestivent Incompting, the Children every a size of the secondary and the costonalism of the Children and Childr

Published August 17, 2021