

**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
BOARD OF BARBERS AND HAIRDRESSERS**

MINUTES OF MEETING

April 3, 2006

By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Barbers and Hairdressers was held April 3, 2006 with sites in Juneau and Anchorage, Alaska.

Agenda Item 1 Call to Order/Roll Call

The meeting was called to order at 9:00 a.m.

Members present constituting a quorum of the board were:

Debra Long, Hairdresser, Chair
Charlette Lushin, Barber
Alice Massie, Hairdresser/Esthetician
Larry Allen Ungerecht, Tattooist

Member(s) not present:

Cody Downs, Public Member

Staff present:

Judy Weske, Licensing Supervisor
Phil Petrie, Investigator

Agenda Item 2 Review/Approve Agenda

On a motion by Lushin, seconded by Massie, and carried unanimously it was

RESOLVED to approve the agenda.

Agenda Item 3 Review/Approve September 19, 2005 Meeting Minutes

Charlette requested corrections to Agenda Item 11 to clarify that the discussion at the September meeting was about shaving against the grain and the different types of strokes used in shaving.

Debra Long referenced the discussion that took place in September with Pat Shier, Acting Deputy Director, Employment Security Division, Department of Labor and Workforce Development, regarding the issue of chair rentals and shop owners. Debra wanted the board to review this section in preparation for the discussion that was going to take place later in the meeting.

On a motion by Massie, seconded by Lushin, and carried unanimously it was

RESOLVED to approve the September 19, 2006 minutes as amended.

The board then reviewed the minutes from the teleconference meeting of February 13, 2006.

On a motion by Lushin, seconded by Massie, and carried unanimously it was

RESOLVED to approve the February 13, 2006 minutes.

Agenda Item 4 Investigative Report

Phil Petrie presented the investigative report. There are 52 open cases and 13 closed cases. Phil advised that he was retiring from state service on May 31, 2006 and was going to make every effort to move some of the open cases to closed cases before he left. The board thanked Phil for his years of service with the board.

On a motion by Ungerecht, seconded by Massie, and carried unanimously it was

RESOLVED to approve the Investigative Report.

Due to being ahead of schedule, the board decided to review the application of Matthew Wasdyke, for Tattooing and Permanent Cosmetic Coloring by Examination. This application was not scheduled on the agenda, but was faxed to the members for review during the meeting.

On a motion by Ungerecht, seconded by Lushin, and carried unanimously it was

RESOLVED to approve licensing for Matthew Wasdyke pending receipt of a blood borne pathogen card.

Agenda Item 7 Regulations

The board reviewed the proposed changes to regulations: 12 AAC 09.002(d)(2)(B), 12 AAC 09.002(d)(2)(D), 12 AAC 09.110(j), 12 AAC 09.130, 12 AAC 09.180, and 12 AAC 09.190(b).

The board discussed 12 AAC 09.110 and decided to replace the word "person" with the words "licensed practitioner".

On a motion by Ungerecht, seconded by Lushin, and carried unanimously it was

RESOLVED to amend 12 AAC 09.110(j) to read "A shop owner or manager of a shop shall designate a licensed practitioner to conduct the business of the shop when the shop owner or manager of the shop is absent from the shop."

On a motion by Massie, seconded by Ungerecht, and carried unanimously it was

RESOLVED to adopt 12 AAC 09.002(d)(2)(B), 12 AAC 09.002(d)(2)(D), 12 AAC 09.130(I), 12 AAC 09.180(f) and 12 AAC 09.190(b) as noticed.

The board stated on the record there is no cost to the public by enactment of these regulations.

Once these changes are effective, the division will notify shop owners in a separate letter regarding the requirement in 12 AAC 09.110.

**Agenda Item 5 MOA Case #04-0249-BAH
MOA Case #04-0260-BAH**

The board reviewed the two Memorandums of Agreement MOA 04-0249 BAH and 12 AAC 04-0260 BAH. The board discussed the MOAs.

On a motion by Ungerecht, seconded by Lushin, and carried unanimously it was

RESOLVED to accept the Memorandum of Agreement as presented in Case # 04-0249 BAH, in the matter of Katherine J. Harlow.

On a motion by Ungerecht, seconded by Lushin, and carried unanimously it was

RESOLVED to accept the Memorandum of Agreement as presented in Case # 04-0260 BAH, in the matter of Jennifer Maness.

Agenda Item 9 Letter to Director Regarding Schools Giving the Practical Exam

Alice Massie advised the board she contacted the State of Washington regarding how they handle the practical examination. After researching this issue, she read into the record, a letter she drafted to Director Urion regarding the board's desire that the responsibility for conducting the practical examination remain with the board and not be turned over to the schools. The board members agreed with the letter Alice drafted.

On a motion by Ungerecht, seconded by Long, and carried unanimously it was

RESOLVED to approve the letter written by Alice Massie and to forward that letter to Director Urion.

On a motion by Long, seconded by Lushin, and carried unanimously it was

RESOLVED take a five minute break.

Off the record at 10:00 a.m.; on the record at 10:05 a.m.

Agenda Item 6 Public Comment

No public present at 10:00 a.m.

Agenda Item 7 Regulation for Discussion

Division staff advised that current regulations allow for individuals applying by waiver of examination and who have less than 1650 hours of training to show proof of full time work experience in lieu of having a total of 1650 hours of training. Specifically, applicants who have a minimum of 1500 hours of training must show proof of one year of full-time work experience averaging no less than 32 hours per week and applicants with a minimum of 1000 hours of training must show proof of two years of full-time work experience averaging no less than 32 hours per week.

Judy Weske asked for clarification regarding whether the board agreed with the 32 hours per week requirement. The board briefly discussed the issue and then decided to table discussion to later in the meeting or at their September 2006 meeting.

The board noted that Mr. Graeme Pincott, licensed hairdresser and shop owner had arrived at the board meeting. Mr. Pincott referenced the September 2005 meeting regarding chair rentals. Debra Long advised Mr. Pincott that he was welcome to attend the agenda item scheduled for 1:00 with Pat Shier but that due to the limited agenda time with Pat Shier, the board couldn't guarantee Mr. Pincott that he would be able to address the board at that time, but he was welcome to address the board now.

Division staff clarified that the Board of Barbers and Hairdressers does not issue chair or booth rental licenses; however, individuals may obtain a business license indicating that they rent a chair/booth. In the past, when staff issued a hairdresser/barber, etc. practitioner license, staff may have noted on the practitioner license that the individual was renting a chair/booth at a particular salon. However, staff no longer reflect that information on the individual practitioner license.

Further discussion took place between Mr. Pincott, the board and Phil Petrie. Mr. Pincott left the meeting and will return at 1:00 for discussion with the Department of Labor.

The board returned to the earlier discussion regarding work experience for out-of-state applicants. The board decided to leave the 32 hour requirement as is.

The board reviewed 12 AAC 09.002 regarding the requirement that out-of-state applicants by examination meet the same number of "practical operations" as required for someone trained in Alaska. The problem division staff encounter with this regulation is that some states do not track "practical operations" in the same manner as Alaska. Some states track "practical hours" and it is very difficult to determine whether out-of-state applicant have the exact same number of practical operations as required by Alaska law. These applicants have meet the minimum hours of training required, but they may be short one or two operations or the state from where they are coming tracks practical hours and not operations.

The board agreed to amend 12 AAC 09.002(b)(2)(B) to eliminate reference to the "minimum number of practical operations set out in 12 AAC 09.160" with the understanding that those applicants must meet the minimum hours of training required in Alaska.

On a motion by Lushin, seconded by Ungerecht, and carried unanimously it was

RESOLVED to have division staff to draft language to amend 12 AAC 09.002(b)(2)(B) to reflect in those instances where out-of-state schools use hours and not practical operations the board will allow those students to take the written and practical examination if they have the minimum hours of training required.

Judy Weske advised the board that if this regulation change is agreeable with the Department of Law, then the action they took earlier in the meeting regarding 12 AAC 09.002(d)(2)(B) and 12 AAC 09.002(d)(2)(D) may be moot.

The board also reviewed 12 AAC 09.930, Reinstatement of a Lapsed License. This regulation requires individuals whose license has lapsed more than three years to retake the practical and written examination (along with paying back fees). On behalf of Director Urion, Judy Weske asked the board to consider either eliminating the requirement that applicants retest or to amend the regulation to only require the written examination for applicants whose license has been lapsed more than three years. The board believes the current regulation is appropriate and they have no desire to change it.

Agenda Item 8 **Discussion on Manicuring**

In lieu of this agenda item, Charlette Lushin asked if the board could discuss the UAF Pilot Program before the scheduled agenda time. The board agreed to discuss Agenda Item 8 later.

Charlette expressed her concerns with the proposed UAF pilot program. One of her concerns with the way it is currently proposed is that students will not be able to relate theory to practical operations. She would like to see the University handle the whole program and not have it fragmented.

The board further discussed the pros and cons of this proposal. Phil gave the board his opinion on this issue based on his discussion with the barber/hairdresser community.

Judy Weske referred the board to AS 08.13.110 which gives the board the authority to regulate schools. The board can provide for alternative methods of training through regulation.

Debra Long brought up the manicuring requirements and requested clarification on the manicuring requirements. Specifically, what is the difference between the 12-hour and 250-hour course. Judy Weske clarified there is no difference in the scope of practice for an individual who holds a manicuring license or an individual who holds a manicuring license with the 250-hour advanced manicuring endorsement.

It is the board's opinion that a 12-hour course is not sufficient for training in this field. Judy Weske advised the board that a legislative change would be needed to require additional hours.

Agenda Item 10 Barber "reverse stroke"

Charlette discussed the practical examination procedures for barbers regarding shaving with the grain, against the grain, and across the grain.

Agenda Item 11 Conflicts with Practical Scoring

The board confirmed the type of information they place in the comments section and what they write when they know the candidate.

On a motion by Ungerecht, seconded by Long, and carried unanimously it was

RESOLVED to recess for lunch.

Off the record at 11:55 a.m.; back on the record at 1:00 p.m.

Agenda Item 13 Department of Labor, Chair Rental/Shop Owner Arrangements

Robert Gregg with the Department of Labor and Workforce Development (DOL) addressed the board. He advised that DOL is close to a final draft of a letter to send to hair salons. The letter basically states that the DOL believes that if someone is renting a chair in a salon and they don't have their own shop owner license, that person is dependent upon the license of the shop owner and therefore, in DOL's view they would be employees of the shop and not independent contractors.

Phil Petrie asked what the effect of the letter will be on the shop owners. Robert Gregg said it will only affect those shops where individuals rent chairs.

Employment security law defines "independent contractors" and many times, the arrangement between shop owners and chair rentals is not independent. Even if a chair renter obtains a shop owner licensee, they may still not meet the "ABC" test of DOL for determining independent status.

The chair allowed Graeme Pincott, member of public, to address the board regarding this issue; Kevin McKinley, with Body Piercing Unlimited addressed Robert Gregg with his questions.

Due to agenda time, Robert Gregg offered his phone number and email address to Mr. McKinley so that they could further discuss this matter.

Phile Petrie noted for the record that both Chief Investigator Rick Younkins and Sr. Investigator Brian Howes were present during the discussion of Agenda Item 13.

Agenda Item 14 UAF Cosmetology Pilot Program

Judy Weske advised the board that Gayle Horetski, Assistant Attorney General with the Department of Law was present in Juneau for any help the board may need with this agenda item. Also present in Anchorage was Rick Caulfield, Director of the Tanana Valley Campus with UAF.

Mr. Caulfield gave background information about Tanana Valley Campus. TVC makes up 40 percent of the entire student body at the University of Alaska-Fairbanks. Their overall mission is community driven education and a major part of what they do is workforce development and academic preparation and life-long learning. Community education is the core of what TVC is about.

TVC was approached by members of industry and community members in the greater Fairbanks area about the idea of starting a cosmetology program that would be consistent with state statutes and regulations. There is currently no cosmetology school in the Fairbanks area. In response to what TVC heard in the community, they began to explore how they might be able to do this. Mr. Caulfield confirmed that he is aware of the difference between a licensed school and an apprenticeship program. TVC is proposing is an arrangement where TVC would offer the theoretical component of the lecture (they have five sites) and they would hire a program coordinator from the industry who would be the lead person in implementing the program as a whole and the instructors would be licensed instructors with the state. In addition to that, they would have the practical side handled in an arrangement with shop owners in the Fairbanks area to serve as an "extended site" of TVC. TVC would have a Memorandum of Agreement with shop owners in which students from this program could complete their practical training in that physical shop setting with a licensed instructor, but as part of the TVC program.

TVC believes the need is there. They had a meeting with about 25 members of the community in the Fall of 2005 and there appears to be strong support for this program. This program will also be an advantage to the student because of the range of services the University offers.

TVC proposes this to be a pilot program for a two year period and then have an independent assessment of the program. They expect around 15 students in this initial program.

Gayle Horetski, Assistant Attorney General, addressed the board and advised that the statutes and regulations do not prevent the type of training proposed by TVC. The current regulations do not fit with what has been proposed by TVC because the existing regulations were drafted with an entirely different model of training in mind.

However, if the board is interested in approving this type of program, the board can make regulatory accommodations. For instance, it could be as simple as adopting a regulation that states that none of the regulations in Article 5 apply to programs sponsored by state universities, or, alternatively, there could be a separate section or sections of regulations in which the skeleton of the program is established and the board addresses oversight of the program. If that were the case, the new section (or sections) could begin something like "Notwithstanding 12 AAC 09.125, etc.," and then go on to address standards for this type of program.

The program proposed by TVC does not fit within the existing regulatory framework, but if the board approves of this proposal, the changes to make it happen are not that hard.

After further discussion, the board decided to establish new regulations to allow for the community program.

On a motion by Massie, seconded by Lushin, and carried unanimously it was

RESOLVED to direct staff to draft a new section that deals with the training model as presented by TVC.

Agenda Item 15 **Massage Therapy**

Charlette Lushin wondered if massage therapy should come under the authority of the board.

The board's concern is that occasionally massage therapists cross over into esthetician type work and perform facials. Judy Weske confirmed that licensing is not required for massage therapists other than a state business license. When staff receive calls from massage therapists, we consistently advise massage therapists that they cannot perform facials, or any type of work that falls within the definition of esthetics. Massage therapists can massage the face and neck, but they cannot cross over into facials, etc.

Agenda Item 16 **Discussion on Glymed Plus / Estheticians vs. Medical Physicians**

Phil Petrie refreshed the board's memory on Glymed Plus and reminded them of the photos he showed them of a young girl whose face was burned and went to the hospital in Juneau. Phil couldn't find a statute or regulation that would allow him to investigate. The parties in this matter had gone to other

state agencies for help, but they'd all turned them down. Some state agency had called Phil and asked if there was any way he could investigate. The board's question at that time was "didn't the Department of Environmental Conservation or the Municipality of Anchorage have regulations that specify the chemicals or percentage of chemicals that can be used", and the answer is "no", they don't.

The choice you have is to decide whether you can establish standards for estheticians and the types of chemicals to be used by estheticians.

Charlette Lushin wondered how estheticians are able to purchase such chemicals. Charlette would like to research what chemicals are harmful and what chemicals estheticians should not use.

On a motion by Lushin, seconded by Ungerecht, and carried unanimously it was

RESOLVED that Debra Long will research the product line and consider amending the letter from Director Urion dated March 1, 2005 regarding "Licensing requirements for skin care procedures".

Agenda Item 17 Administrative Business

Debra Long will prepare the narrative for the annual report. The board reviewed their goals and objectives for 2006. Of the FY 2006 goals and objectives, it was noted that goal number 5 had been met through AS 08.13.195. Also, part of goal number 9 had been met regarding ratio of apprentices to instructors. The board then set goals and objectives for fiscal year 2007.

Fiscal Year 2007 Goals and Objectives:

1. Conduct two one-day face-to-face meetings and two or three teleconferences as needed.
2. Have an operating budget so that we can accomplish our goals.
3. Representation on the National level.
4. Pass/fail statistics to the schools for the written examination.
5. Continue to be attentive to the schools' and apprentices' responsibilities to the students, i.e., applications filed in a timely manner and record keeping.
6. Take steps to educate the legislature on the concerns of our professions i.e., sanitation and public safety and any statute change necessary to separate the profession and to separate tattooing and permanent cosmetic coloring licenses.

7. Work on regulations for the Tanana Valley Campus proposal.
8. Work with the Governor's office to fill board seats in a timely manner.
9. To continue to monitor other states regarding braiding and weaving.

The board reviewed the Legislative Recommendations for FY 2006 and determined that those recommendations should be the same as for FY 2007 except that under recommendation number 1, amend it to clarify that shop inspections should be done in person for a new shop.

1. Recommend Legislature reestablish physical shop inspections for initial shop owner licensure through the Department of Environmental Conservation (DEC) to bring shops into compliance with regulations.
2. Recommend Legislature pass legislation to change the title of Board of Barbers and Hairdressers to include Manicurist and Body Artists.
3. Recommend Legislature change AS 08.13.010(a) to read ". . . 7 members appointed by the governor." in the following make-up:
 - (1) one person licensed as a barber
 - (2) one person licensed as a tattooing and permanent cosmetic colorist
 - (3) one person licensed as a hairdresser
 - (4) one person licensed as an esthetician
 - (5) one person licensed as a body piercer
 - (6) one person licensed as a manicurist
 - (7) one public member

On a motion by Ungerecht, seconded by Lushin, and carried unanimously it was

RESOLVED to approve fiscal year 2007 goals and objectives and legislative recommendations.

The board decided that there was no need for out-of-state travel this year to attend a national conference.

The board reviewed the written examination statistics provided by the testing agency for the calendar year 2005.

Agenda Item 18 Office Business

The board confirmed they will meet September 18-19, 2006 in Anchorage with the understanding that the agenda items will dictate whether one day or two days is needed.

The board took a break from 3:10 p.m. to 3:15 p.m.

Unfinished business from earlier in the meeting was discussed regarding barber practical examination instructions. This topic was raised at the September 19, 2005 meeting. Charlette feels the wet shave is optional if the

candidate feels they didn't get it all the first time. Charlette would like the wording "the candidate then shaves the model's face again" deleted.

On a motion by Lushin, seconded by Long and carried unanimously it was

RESOLVED to change page 5 of the Board of Barbers and Hairdressers Practical Examination Scoring Guidelines, "Water Shave Second Time Over:" to delete "The candidate then shaves the model's face again backward against the grain".

Judy Weske explained the housekeeping change to 12 AAC 09.002(f)(3).

On a motion by Ungerecht, seconded by Massie, and carried unanimously it was

RESOLVED to approve 12 AAC 09.002(f)(3), 12 AAC 09.185 and 12 AAC 09.190 for public notice.

Phil polled the board for the issuance of a cease and desist order in case number 040305-001 regarding a massage therapist performing facials without an esthetician license. The board unanimously agreed with the issuance of the cease and desist. No motion needed for this action per Phil.

Agenda Item 19 **Ethics Video**

This agenda item was tabled until the September meeting.

Agenda Item 20 **Adjourn**

Before adjourning, the board presented Phil with a cake and plaque in thanks for his hard work on behalf of the Board of Barbers and Hairdressers. Phil thanked the board and reconfirmed how much he had enjoy working for them these past several years. Debra Long read into the record a citation of appreciation for Phil as:

Phil Petrie has been the investigator for the Board of Barbers and Hairdressers for the State of Alaska since April 1998 through May 2006. His credentials and resume are too lengthy to recite. He's been tough and he's also been a marshmallow. We love you and will miss you.

**On a motion by Massie, seconded by Ungerecht, and carried
unanimously it was**

RESOLVED to adjourn the meeting at 3:40 p.m.

Respectfully Submitted,

Judy Weske, Licensing Supervisor

Approved:

Debra Long, Chairperson

Date: _____