



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

CONDENSED MINUTES OF THE MEETING HELD February 5, 2025

By the authority of AS. 08.01.070(2) and AS08.86.030 and in compliance with the provisions of AS 44.64, Article 6, a scheduled board meeting was held via teleconference/Zoom, February 5, 2025.

February 5, 2025:

Attendance

Members Present: Chair Kevin McKinley, Willie Mae Canady, Jessica Pestrikoff, Wendy Palin, Shannon Thompson

Member(s) Excused: Vice-Chair, Tenaya Miramontes

Staff Present: Cynthia Spencer, Licensing Examiner, Lacey Derr, Program Coordinator, Renee Carabajal, Marine Pilot Coordinator (MPC)/Former Program Coordinator, Chief Investigator Jennifer Summers, Investigator Chace Evans, Melissa Dumas, Administrative Operations Manager, Alison Osborne, Regulation Specialist.

Special Attendee: Susanne Schmaling, LME, CLT, Medical Spa Services Work Group

Public Present via Zoom: Rachel Lauesen, Jacqueline Polis, Teesha Northcott, Samantha Barnes, Sarah Lawrie, Tyler Eggen

1. Call to Order/Roll Call

The board was called to order at 9:03 a.m. Chair Kevin McKinley informed the board Shannon Thompson would be joining the board shortly.

Chair McKinley announced that the regulation project 12 AAC 09.990, defining esthetics devices had been submitted back to the board with questions from Department of Law and edits suggested by Sara Chambers, Boards and Regulations Advisor; due to this, the board would not be accepting any public testimony on the regulation during this meeting.

Chair McKinley asked if there were any new board members. LE Spencer stated that Ms. Thompson was the most recently added board member and that a new appointment had been made, however, the new member would not begin service until March 1, 2025.

Ms. Palin informed the board that she had not applied for reappointment and would be going back to school for her master's degree in naturopathic medicine.

Chair McKinley stated that is exciting and how much he appreciated Ms. Palin's work with the board and being involved with starting the Medical Spa Services Work Group.

Board members thanked Ms. Palin and congratulated her on working towards her master's degree.

2. Review Agenda

Chair Kevin McKinley asked if there were any amendments to the agenda; hearing none the agenda was approved.

3. Ethics Disclosure

The board reviewed the provided Ethics packet.

Board members present stated, by roll call, they had no conflicts to disclose.

The board was ahead of schedule and decided to move onto Item 13 E, Application Review.

13. Administrative Business, Cont.

E. Application Review - Academy of Esthetics - School Application

LE Cynthia Spencer informed the board that school owner, Samantha Barnes, was online if the board had any application questions. The board decided to move into executive session to discuss the application.

Motion to enter executive session: 1st Mae Canady – 2nd Wendy Palin.

Alaska State Board of Barbers and Hairdressers enter executive session in accordance with AS 44.62.610(c) and Alaska constitutional right to privacy provisions, for the purpose of discussing matters involving consideration of government records that by law are not subject to public disclosure. Board staff to remain during the session.

Approved by majority.

*Board entered executive session at 9:10 a.m. and returned from executive session at 9:27 a.m.
Quorum of board confirmed by roll call.*

During executive session, Shannon Thompson joined the meeting at 9:27 a.m. Ms. Thompson did not join the executive session.

LE Spencer stated that as Shannon Thompson was not involved with this application review in executive session, during the roll call vote process, Ms. Thompson should abstain from voting. Board members and Ms. Thompson agreed.

Motion: 1st Mae Canady – 2nd Wendy Palin

Approve school licensure for Academy of Esthetics pending proof of capes and sanex strips in the school in accordance with Regulation 12 AAC 09.162(b)(3); proof in the format of a purchase receipt and photo of the equipment being stocked at the school, can be emailed directly to boardofbarbershairdressers@alaska.gov.

Chair McKinley asked if board members had any questions or would like to discuss the motion; hearing none, Chair McKinley requested a roll call vote

Motion Approved by majority.

Chair McKinley thanked the board and stated issues such as this, estheticians not using capes and sanex strips as a standard for services, yet the requirement remains in regulation, are caused by the board not updating statutes and regulations. Chair McKinley stated the board would address issues such as this as they begin an overhaul of current regulations.

4. Division and Financial Update

Melissa Dumas, Administrative Operations Manager, joined the board and introduced herself.

A. FY24 4th Quarter and FY25 1st & 2nd Quarter Reports

Ms. Dumas reviewed the FY24 4th Quarter and FY25 2nd quarter reports with the board and provided a review of the fee setting process. Ms. Dumas asked the board if there were any questions.

Chair McKinley asked about licensee numbers going from 8,000 to 7,000 and why this might be occurring.

LE Spencer stated that 2019 was a renewal cycle and many licensees do not renew licenses until close to the next biennial renewal date which may cause the number of active licensees to drop; LE Spencer informed the board that this is common.

Ms. Dumas agreed with LE Spencer and informed the board that the discrepancy between the two-year renewal was getting smaller.

Chair McKinley asked is the board is average with their expenses.

Ms. Dumas stated that the board's expenses were consistent and reviewed the breakdown in comparison with other programs withing the Division.

Ms. Dumas asked the board if they had any other questions; hearing none, Ms. Dumas moved to the next item.

B. Fee Analysis

Ms. Dumas informed the board that at this time the climate for fees changes is not favorable; fee changes at this time are not encouraged by the Governor's Office.

Ms. Dumas informed the board that they should not be worried about having a large fiscal surplus; it may grow a bit before going back down.

Chair McKinley requested confirmation from Ms. Dumas that at this time there would be no fees changes up or down. Ms. Dumas confirmed that no fees changes were being made at this time and went on to inform the board she had concerns if fees were reduced now in four years the board might require a fee increase.

Chair McKinley asked if board members had any other questions; hearing none, Chair McKinley and the board thanked Ms. Dumas for her time and assistance.

The board remained ahead of schedule and decided to move onto Item 13 E, Application Review.

13. Administrative Business, Cont.

C. Review/Edit/Approve Meeting Minutes

i. October 10, 2024, Meeting

Chair McKinley asked if board members had reviewed the meeting minutes and if they had any edits or would like a few minutes to read through them. Hearing no requests, Chair McKinley asked for a motion to approve the minutes.

Motion: 1st Mae Canady – 2nd Jessica Pestrikoff

Approve October 10, 2024, meeting minutes as presented.

Approved by majority roll call vote.

D. Correspondence

i. Sarah Lawrie – Letter Tattoo Training

LE Spencer stated the letter was requesting approval of online tattooing training courses to meet the training requirements of regulation 12 AAC 09.169 and subsequent application for licensure by examination.

Chair McKinley informed the board that the course in question, is 100% online training.

Ms. Canady stated she had read the documents, and she understood it's difficult to find training options in rural Alaska, however the board must follow their statutes and regulations.

Shannon Thompson stated she had looked into the program, general consensus is the course is not taken seriously as a single course of education; as a supplemental course would be acceptable, but not as a single course of study as it could not provide needed personal, one-on one experience.

Wendy Palin stated this really was within the Chair's scope and stated most tattoo artists must go through monitored hands-on training requirement to assist in training for laying ink, physical tattooing on a person to ensure the trainee is appropriately performing services. Ms. Palin continued, the online course seems vague and random with no specific guidelines to be monitored for.

Chair McKinley agreed with board member statements.

Chair McKinley stated he understands more people are looking into obtaining training only through online courses; however, he feels there are some things that just cannot be taught

through an online setting only. Chair McKinley asked what percentage of online training is allowed in the curriculum.

LE Spencer informed the board that regulation 12 AAC 09.169(g) reflects up to 25% of the required 270 hours of theory may be done online.

Ms. Pestrikoff stated that if the board waived their statutory or regulatory authority for one person, they must do it for all. Ms. Pestrikoff also stated that she would be hesitant to get a tattoo from someone that did not have hands on practical training.

Ms. Palin agreed with Ms. Pestrikoff.

Chair McKinley asked staff to let Ms. Lawrie know she could do part of her training in an approved apprenticeship program and 25% of required theory training could be done online, however all curriculum requirements must be met. Chair McKinley stated LE Spencer was correct, to waive current requirements would require a statute and regulation change.

Ms. Canady stated that she agreed with Chair McKinley and reiterated she understood the difficulties of finding training options in rural areas.

Ms. Palin expressed concerns with not having the hands-on practical training through an online only course.

Ms. Thompson asked to confirm that only 25% of the total theory hours required may be completed in an online setting. The Board confirmed this was correct.

LE Spencer confirmed that with the board; this request has been denied, however upon successful enrollment, 25% of the required theory hours may be done online. The board concurred.

Ms. Thompson asked if the board also approves online course providers for body arts. LE Spencer stated that most curriculums have generic verbiage which state "A student or apprentice who is enrolled in a school or apprenticeship program may complete up to 25 percent of the required theory instruction hours in (b) of this section through a distance education course online provided by Milady, PivotPoint, or a similar organization approved by the board. Verification of successful completion of this training must be mailed directly to the department from the school or instructor.", LE Spencer stated that the Milady and Pivot Point books do have comprehensive safety/sanitation sections.

LE Spencer informed the board that to have a course approved by the board would require the submission of course details, curriculum, student participation tracking, and whatever else the board may request; once a course provider provided this information it would then be presented to the board for consideration. LE Spencer stated this process would be similar to an online bloodborne pathogen course requesting board approval. Ms. Spencer stated adding a new board approved online training course shouldn't require a regulation change.

ii. Institute for Justice report on manicuring and barbering regulations, Clean Cut

LE Spencer reviewed this correspondence with the board and informed them that this had been recommended by Sara Chambers as it may be a good tool when the board considers regulation and legislative projects.

iii. NIC 69th Annual Conference: A Huge Success

iv. NIC 2025 Communication

LE Spencer reviewed correspondence items from the National Interstate Council of State Boards of Cosmetology (NIC) with the board.

LE Spencer informed the board this item was a follow up to the 69th Annual Conference.

The Board and LE Spencer briefly discussed NIC and the NIC Annual and Regional meetings, educational and informational sessions that occur during NIC meetings, and the new National database which allows staff to officially verify licenses within participating member state boards.

LE Spencer informed the board that NIC has legislation resources for boards.

The board briefly discussed the NIC meeting and possible future attendance for board members and staff.

Ms. Canady asked if a board member could attend an NIC meeting and pay their own way. LE Spencer informed the board that as this is a membership-based organization, board and division approval would be needed to attend.

Renee Carbajal, MPC stated she understood Ms. Canady's question; however the issue is NIC is a membership led organization, this board also has membership; to attend an NIC meeting approval by the board and division would be required even if the attending board member paid their own way. MPC Carabajal continued this type of approval is required as the board member would be representing this board; attending an NIC meeting under this may cause avoidable problems.

The board thanked MPC Carabajal and agreed attending NIC meetings would be revisited.

LE Spencer asked Ms. Palin to turn off her camera as it seemed she was distracted by a telephone call. Ms. Palin apologies and stated she was out of state and a matter had occurred at her shop she was trying to correct.

Chair McKinley stated the board had completed review of all correspondence items and suggested members take a quick break before Item 6.

Recess The Board recessed at 10:19 a.m. for a short break; reconvened at 10:30 a.m. Majority of the board confirmed by roll call.

6. Public Comment

LE Spencer asked attendees if they would like to address the board; Sarah Lawrie, Rachel Lauesen, Jacqueline Polis, and Teesha Northcott asked to address the board.

Chair McKinley stated individuals would have five (5) minutes to speak, this would allow the board time for any Q and A that may arise during comments.

Sarah Lawrie

Ms. Lawrie thanked the board for their time and stated she had submitted a letter; Ms. Lawrie stated she may possibly make a more compelling case for her request for tattooing training exemption in person.

Ms. Lawrie gave the board a brief background of herself, family, education, and work in Sitka. Ms. Lawrie again requested the board allow her to obtain tattooing training through the online course, Artist Accelerator Program, hosted by Tattooing 101 apprenticeship.

Chair McKinley asked, as a previous Sitka shop owner, whether there were any tattooing shops in Sitka where she could obtain the required training. Ms. Lawrie stated that to her knowledge, there were no tattooing shops in Sitka. Chair McKinley stated he thought there were at least two (2) tattooing shops in Sitka at this time.

LE Spencer confirmed that at this time, there are at least two (2) licensed shops in Sitka providing tattooing services.

Chair McKinley asked board members if they had any questions for Ms. Lawrie; hearing none the board moved onto the next speaker.

Rachel Lauesen, Attorney, Lauesen law Team, representing Skinlife Medspa, and service consumer.

- As attorney and member of the public, fundamental in democracy that people have notice of meetings and opportunities to be heard.
- Board lacking in proper meeting noticing and allowing public comment.
- Numerous complaints with agendas and meeting packets posted to website, specifically not being specific with spelling out regulation information – 12 AAC 09.990 and agenda and board packet not posted at same time.
- Chair McKinley made notice at start of meeting that there would be no public comment on proposed regulation and this item was moved to 2:40pm; no motion to approve this meeting agenda and LE Spencer specifically stated “, Okay, I'm going to note no changes to the agenda” when in fact there were.
- Why public records are not accurately reflecting what is going on here; it's important for transparency, credibility, and accountability that the public records reflect board actions.
- Why is board not focused on straightening out statutes and regulations towards modernization of industry.
- Complaints on costs of courses offered by new school Academy of Esthetics when estheticians are not allowed to provide eyelash services, yet schools offer lash courses. Application of false eyelashes falls under hairdresser license per statute 08.13.160(f). Estheticians should be allowed to provide this service, but board statutes do not allow and are allowing estheticians to provide this service openly for decades.
- Estheticians have put hundreds of thousands of dollars into their business with equipment and now the board is prohibiting the use of some equipment; services providers are worried about losing their livelihoods.

Chair McKinley informed Ms. Lauesen her time was up. Ms. Lauesen snapped she was almost done. Chair McKinley stated he would allow Ms. Lauesen to wrap up.

- LE Spencer rude to publicly admonish and ridicule board member Wendy Palin in front of attendees. LE Spencer is unprofessional, rude, and this action does not build confidence with meeting attendees.

Chair McKinley thanked Ms. Lauesen for her testimony.

Jacqueline Polis, Esthetician

- Involved with this discussion regarding esthetics from the beginning.
- Everyone should be collaborating on this matter and come to a positive resolution
- Frustration with how long this process is taking
- Concerned with proposed regulation having FDA verbiage; feels this may limit potential opportunities in the field of esthetics.
- Appreciate Susanne Schmaling attending and providing information with modalities.
- Concerned with potential new structure for advanced esthetic license
- Agree with Rachel Lauesen's statement, estheticians are concerned about harmful impacts to their business.

Chair McKinley informed Ms. Polis her time was up, and she would need to wrap up.

- Feel personal business is threatened and possibly that license will be taken away.
- Process is taking too much time; should be able to present changes and have them put into place. Understand this is not a simple process.

Chair McKinley stated that this is a lengthy process, discussion is needed, and the regulation change project does take quite a bit of time; the board or regulatory specialists, including Dept. of Law may have questions, etc., and it does take some time to get answers.

Chair McKinley stated he appreciates Ms. Polis attending meetings, keeping current with board activities, and providing testimony

Chair McKinley stated the board has had difficulty moving forward in the past; however, moving forward this board is taking a new direction, making improvements and movement on matters such as this one.

Teesha Northcott, Esthetician with Skinlife Med Spa

Ms. Northcott introduced herself and acknowledged the board for being present and listening.

- Understand board is working though the system to implement changes
- Very frustrated and disappointed all board members not attending, Wendy Palin is the highest advanced medical esthetician and she's not even online.

Chair McKinley interjected to inform attendees that Ms. Palin is indeed online and participating in this meeting. Ms. Polis stated that Ms. Palin is not online, for the board to point out where she is in the meeting and that she has not attended other meetings.

- What is the pathway for practitioners of advanced aesthetics to be able to continue the work that we have safely been performing under our esthetician's license for over 20 years.
- Previously had the consent of the Medical Board to perform this work under the delegation and supervision of physicians, under guidance of the Medical Board.
- Had at the very least implied consent from this Board to perform the modalities by our open and obvious practice of these modalities, and this board.
- Told by this Board, June of 2023, that if the board was going to petition the legislation to create an advanced aesthetic license, currently licensed esthetician would be allowed to continue the work through "grandfathering" that we've been performing over 20 years. Estheticians feel comforted and assured by these promises, so they stopped attending meetings.
- Board meetings have decreased in many ways, one being attendance and interaction.
- No advances with advanced esthetician license; would like reassurance that this is still on the table.
- Will the board allow "grandfathering" for an advanced license for licensees that have additional training hours

Chair McKinley thanked Ms. Northcott for her testimony and stated they would need to stop the public comment section as the board must move on to the investigative portion of their agenda.

Chair McKinley stated that the board is working on this matter as quickly as possible and would remain transparent in this process.

Program Coordinator Lacey Derr informed the board and attendees that Board Member Palin is present and has been present in this meeting since it began at 9:00 a.m.

7. Investigations

Senior Investigator Jennifer Summers and Investigator Chace Evans greeted the board.

A. Fine Schedule Amendment – Training Documentation Submission Issues

The board reviewed the fine schedule/disciplinary matrix with investigative staff.

Senior Inv Summers informed the board that this matrix is included in investigative matter review packets provided to reviewing board members; if the board is noticing changes to the current matrix, those changes had to have been made by the board.

Chair McKinley asked if the board does make changes, should the Inv unit be involved in that discussion. Senior Inv Summers stated the Inv unit would be more than happy to provide any information necessary and could provide samples of matrixes from other boards, common violations that the Inv unit sees, and what case precedent has been recommended by the board. Chair McKinley thanked Senior Inv Summers and ask to confirm, any changes to the board's matrix would be done by the board and not the Inv unit. Senior Inv Summers agreed that any changes to the matrix must be done by the board.

Chair McKinley asked staff about the training documentation submission issues. LE Spencer stated that this was tied into the matrix the reviewing board member (RBM) uses and should be following. Chair McKinley stated that any board member who reviews a case should be following the matrix.

The board briefly discussed the questionnaire included with case investigative packets. Chief Inv Summers informed the board that the form had been updated to remove confusing and conflicting information; however, some case packets may contain the outdated version of this form, however, for the most part, all were using the updated version of the questionnaire.

Chair McKinley thanked Senior Inv Summers and informed her that Inv Evans was doing a great job and that he wanted to make sure Inv Evans was recognized for his hard work and making himself available for numerous phone calls from himself and other board members.

Senior Inv Summers thanked the Chair and stated board members could also reach out directly to her with any questions or concerns.

Chair McKinley asked if it was still possible for a RBM to come into the office to physically review cases. Senior Inv Summers stated that this was still available, the RBM would just need to coordinate with Inv Evans.

Ms. Canady stated that this conversation has been very helpful, and she is also thankful for Inv Evan's time and assistance with cases she has been the RBM for.

B. Communication Issues to staff submitted investigative matters

Chair McKinley stated this matter had been discussed during the October 2024 meeting and if the Inv unit was notifying staff with case opened/closed information.

Senior Inv Summers stated that this process may have fallen behind, however, this matter has been addressed, and staff would receive case open/close communications for staff submitted matters moving forward.

Chair McKinley thanked Senior Inv Summers and requested the board get to keep Inv Evans and reiterated how helpful Inv Evans is.

Chair McKinley asked MPC Carabajal and LE Spencer if they had any questions. MPC Carabajal and LE Spencer stated they did not have any questions.

C. Investigative Memo

Inv Evans reviewed the Investigative Report with the board. Inv Evans reported for the period September 25, 2024 – January 31, 2025, there are 41 open cases and 12 closed cases.

Inv Evans asked if there were any questions about the report.

Chair McKinley asked if Inv Evans felt he was getting caught up with the backlog of cases. Inv Evans stated he was getting caught up with older cases; however, with some of the older cases, he is having difficulties contacting parties involved in matters.

D. Investigative Probation Report

Senior Inv Summers informed the board that the unit had just lost the probation monitor, and she would be covering this section.

Senior Inv Summers reviewed the Probation Report with the board. Senior Inv Summers reported for the period October 10, 2024 – January 31, 2025, there are currently eight (8) licensees on probation and no licensees released from probation.

Senior Inv Summers informed the board that there is one probationer who is not currently in compliance and has had their licenses suspended.

Senior Inv Summers stated that during her review of the report, it had been noted that this probationer had found a way to circumvent the system by applying for and being issued two other licenses. Senior Inv Summers informed the board this workaround was available as the board does not ask Professional Fitness Questions (PFQ) on their applications, specifically, questions addressing current/previous licenses/permits that may have been suspended, revoked, denied or have had any license action against. Senior Inv Summers continued, not having at least this PFQ on applications, would allow this to continue.

Chair McKinley thanked Senior Inv Summers for pointing this matter out.

LE Spencer stated that this board does not have the authority to ask PFQ questions, to do this would need a statutory and regulatory change.

Senior Inv Summers stated she wasn't certain if that was why the board has no PFQ's on applications. LE Spencer stated this used to be discussed by the board, however, no statutory suggestions had been presented; the board had concerns that this type of PFQ may be a barrier to licensure for the students in correctional facility schools and others.

Senior Inv Summers and the board briefly discussed PFQ questions, how these types of applications are processed, and licensure or permit issuance delays due to the review process. Senior Inv Summers stated some boards have the authority to delegate issuance of licenses to staff.

MPC Carabajal informed the board and Inv staff that this board does not have authority to delegate licensing to staff and to add PFQ's to their applications. MPC Carabajal stated the ability to delegate issuance of licenses to staff is being addressed through upper management and once a solution and plan is available, upper management will address this matter with the board.

Chair McKinley thanked MPC Carabajal for this information.

Ms. Palin asked if there was a database staff could use to verify license action or criminal history; other states have this type of database.

Senior Inv Summers stated there is a database, however, it is only available for investigative staff.

Chair McKinley asked to clarify Ms. Palin's question; if the public wanted information on a practitioner, they could look up that person to see if there's been any cations against the practitioner.

Ms. Palin stated that was correct; like an API (??), when someone goes through an application process their information is queried and lets the applicant know where their license stands and lets the person who is processing the application know if there have been suspensions, etc., on a license.

MPC Carabajal informed the board that this can be found through the division's license search that

is available to the public; anyone can look up any license within the State of Alaska to find out if there has been any disciplinary information based on the person's name. MPC Carabajal stated that when staff processes applications, a record is created using the social security number, this personal identifier links up to any license an individual has applied for and issued. MPC Carabajal clarified, even with this identifier, this board has no authority to deny a license based on previous or current disciplinary actions and no language prohibiting, for example, a hairdresser with a suspended license to apply for and be issued a new hairdresser license.

The board briefly discussed obtaining a new license, even one of the same type, if the original license was suspended, disciplined, or revoked.

Senior Inv Summers stated that this was not going to be a quick fix as regulations would need to be amended.

Chair McKinley stated this goes back to an earlier discussion that the board really needs to work on statute and regulation projects clean up.

Chair McKinley asked if the board had any further questions and were ready to move into executive session.

LE Spencer informed the board that the Inv unit had no cases to present so there was no need to move into executive session.

Chair McKinley thanked Senior Inv Summers and Inv Evans for taking rapid fire questions and providing much needed information to the board. The board thanked Senior Inv Summers and Inv Evans.

The board remained ahead of schedule and decided to move onto Item 13 A, Courtesy License – Staff Assistance Request

13. Administrative Business, Cont.

A. Courtesy License – 12 AAC 09.002(s)(3)(B), 12 AAC 09.004(b)(3) - (Staff Assistance Request)

LE Spencer stated she had spoken with Chair McKinley about this matter and thanked him for his assistance. Le Spencer reviewed regulation 12 AAC 09.002 and 12 AAC 09.004(b)(3) with the board; explaining staff confusion with the option to submit at least one copy per month of a client release form for at least 12 of the 24 consecutive months immediately preceding the date of application. LE Spencer stated the date immediately preceding the date of the application was considered to be the date the application was submitted or received in the office; staff have been requiring one client release form from that date back 12 months and was having comprehension issues with the 24 month/ two (2) year allowance.

Chair McKinley thanked LE Spencer for this question and informed the board he had been involved with the courtesy licenses at inception; the 24 months was provided as many artists only work convention circuits, work part time or seasonally, the board felt allowing the 24-month opportunity for client release forms still provided required work experience but took into consideration applicants not working "full time". Chair McKinley clarified that 12 client release forms for one month or multiple client release forms that reflect the same month are not acceptable, one (1) client release form per a month is acceptable.

LE Spencer thanked Chair McKinley for this clarification.

The board remained ahead of schedule and decided to move onto Item 11.

11. Old Business

Chair McKinley confirmed with staff that Sara Chambers, Boards and Regulations Advisor would not be able to join the board for this section due to other board meeting commitments.

A. Medical Spa's Multi-Board Workgroup Update/Report (McKinley, Thompson)

Chair McKinley stated he would begin this report, and Ms. Thompson would add information he may miss.

Chair McKinley informed the board that this workgroup is moving forward with matters identifying devices and services that are acceptable for current licensees, additional education, and adequate supervision, having the assistance of Susanne Schmaling has been invaluable, not only for the work group but this board as well.

Chair McKinley stated that one matter at this meeting is the proposed regulation project, the Department of Law had submitted very technical questions that board members didn't have the knowledge to answer, Sara Chambers with Ms. Schmaling had been able to answer these questions and provide suggestions for the proposed regulation project which the board will be reviewing later today.

Chair McKinley continued the Work Group has assisted the board to reach this phase where they're starting to get traction with regulations. Chair McKinley stated the Work Group is not just for this board, the group is working with several other medical boards, so all the attention of the group is not just focused on this board which may slow some processes however, the division of time must be equitable for all involved programs.

Chair McKinley stated that what this board is trying to ensure that any regulatory changes for esthetics are in line with other programs statutes and regulations and verify what this board can and cannot do; this may slow the process however ensures all parties are on the same page and no laws are being violated.

Chair McKinley and Ms. Thompson informed the board that the next Work Group meeting has been scheduled for February 19 and that due to scheduling conflicts at the least, Ms. Thompson would be in attendance. Chair McKinley stated that one of the reasons there would be no public comment on the proposed regulation project was due to questions the Dept of Law has posed and possibly working with Work Group to respond to those questions; due to this, the project had not been public noticed. Chair McKinley assured attendees that this project was moving forward, not as fast as some would like, however, this is part of the regulatory process.

Ms. Canady asked if Chair McKinley or Ms. Thompson could provide an update on the last Work Group meeting.

Chair McKinley stated that the last meeting that was scheduled for December 5, 2024, was cancelled due to not having a quorum, however, despite Ms. Thompson attending, was a bad weather day in Anchorage which caused several other Work Group members to miss the meeting. Chair McKinley reviewed worksheets and other information that was provided to the Board during its October 4, 2024, meeting.

Chair McKinley urged board members and members of the public to attend Work Group meetings. LE Spencer provided the Medical Spa Work Group's web page information and documentation from the October 4, 2024, board meeting.

Ms. Thompson stated that the goal is to keep people working, not to shut people out, but to ensure that there will be proper education available for safely operating and administering services with devices and modalities.

Chair McKinley agreed with Ms. Thompson and also stated that the Work Group is also discussing medical directors, what a medical director may be, what their oversight may be, if medical director is the appropriate title, possible legislation changes for this, and what that means service providers.

Chair McKinley informed the board that this is taking a lot of work and praised Ms. Palin for her time, efforts, and work with the Work Group.

Ms. Palin thanked Chair McKinley and thanked board members for jumping in when she was not able to. Ms. Palin stated that she had read the questions from Dept. of Law concerning the regulation project and that it was very difficult to find clear cut answers and asked when the next Work Group meeting was scheduled for.

Ms. Thompson informed the board that the next Work Group meeting was scheduled for February 19, from 4:00 p.m. – 6:00 p.m. Chair McKinley urged Ms. Palin and Ms. Canady to attend.

Chair McKinley asked Ms. Thompson if he missed anything or if she had anything to add. Ms. Thompson stated that the only additional point she'd like to make is the excitement of doing this good work is prevalent with the Work Group members.

Chair McKinley thanked LE Spencer for sharing her screen with the Work Group's webpage so everyone could see what the group has been working on, meeting dates, and more. The Work Group's meetings are open to the public and are public noticed, people may find meeting dates, agendas and more on the Work Group website.

The board reviewed the Medical Spa Work Group's website. LE Spencer stated that board members and the public could email Ms. Chambers with questions or concerns regarding the Work Group.

Recess The Board recessed at 11:55 a.m. for a lunch break; reconvened at 1:02 p.m. Majority of the board confirmed by roll call.

9. Administrative Business

A. FY25 Annual Report

LE Spencer reviewed the FY24 and FY25 Annual Report with the board. LE Spencer informed the board that the FY25 Annual Report has a June 30, 2025, submission deadline.

Chair McKinley stated he would get started on the board required submissions.

Ms. Palin asked if board members could email suggestions to Chair McKinley. Chair McKinley stated he would appreciate board members emailing him suggestions, etc.

LE Spencer informed the board that they typically reviewed and approved their report during May meetings. LE Spencer stated if a draft report was received prior to the May 2025 meeting she would load it to OnBoard for review and possible voting for approval.

The board briefly discussed regulation change suggestions for the report.

10. New Business

LE Spencer informed the Board that Ms. Chambers was tied up in another board meeting and would be unable to join the board.

A. Local Shop Courtesy License (body arts) Discussion – 12 AAC 09.004

Chair McKinley stated he had been thinking about a commend MPC Carabajal had made about this license type being abused or tied into the license that conventions are using, and asked MPC Carabajal if she could participate in this conversation.

Chair McKinley stated that he would like to tie this suggested new "guest artist" license linked to a licensed brick and mortar Alaska shop; understand conventions are required to obtain a shop owner license as well. Chair McKinley stated that the shop licenses issued to conventions aren't the same as brick-and-mortar shop licenses in Alaska. Chair McKinley suggested defining physical/brick and mortar shop licenses.

MPC Carabajal reviewed shop owner licenses currently in statute/regulation.

LE Spencer stated that conventions and other special events are issued temporary shop owner licenses which are only valid for 30 days and a specific location.

Chair McKinley stated that the intent for this proposed license would be to tie it directly tied to a brick-and-mortar shop. Chair McKinley asked if there was a way to do this with the existing regulations.

MPC Carabjal informed the board she thought a statute change would be needed as this would create two different types of courtesy licenses unless the intent would be to completely do away with special events/conventions. MPC Carabjal stated that the current courtesy license is the only avenue for out of state artists to attend events and/or work at shops.

Chair McKinley suggested a checkbox on the current application which would ask for a physical location for a shop. MPC Carabjal stated that she wasn't sure if current statutes and regulations are clear enough for this type of question.

Action Item: *Verify with regulation specialist if current statutes/regulations could support "physical location" for courtesy license.*

Chair McKinley stated this license type was created before large events were coming to Alaska and was originally intended for local shops to bring artists into shops to teach techniques they specialize in and to allow shops to bring in artists as substitutes for local artists when ill or on vacation.

MPC Carabjal stated she understood Chair McKinley however, the original intent for the courtesy license wasn't clearly defined in statute or regulation; with board member turnover and changes to the regulation, the original intent was lost. MPC Carabjal clarified that any changes to the current regulation were from the board and not the Division as the board is the only one authority to make changes or to request changes to their regulations.

LE Spencer clarified that since she began with the board the only changes to this regulation was the addition of the hairdresser courtesy license and the application submission deadline requirements. LE Spencer continued the existing courtesy license allowed for event artists and artists who want to work in shops.

The board briefly discussed the application submission deadline and agreed the current 90-day deadline is fine for events. Chair McKinley asked if it would be possible to add a 30-day deadline for artists who want to work in brick-and-mortar shops.

MPC Carabjal informed the board that this would require at minimum, a regulation change as the regulation currently reads "...License authorizes practice for a guest practitioner in a shop license by the board."; MPC Carabjal continued, as a shop owner and temporary shop owner licenses are both considered shops, the board would need to clearly define the difference between the two courtesy licenses; courtesy license as a guest in a shop for a special event or a courtesy license as a guest in a shop for an immediate and emergent purpose.

Chair McKinley thanked MPC Carabjal and agreed with her statement of defining the two courtesy license types.

MPC Carabjal cautioned the board that they would also need to define "immediate emergent" and decide what the board would require to determine this from an applicant to waive the 90-day requirement. MPC Carabjal also cautioned the board to ensure that they don't create a loophole for event artists to circumvent deadlines.

The board briefly discussed possible loopholes and possible requirements.

LE Spencer stated that she thought the cleanest way to avoid this would be to create a second courtesy license type and not tack this onto the existing courtesy license.

Chair McKinley stated he agreed with LE Spencer and asked how the new license type would be specific for a brick-and-mortar shop.

LE Spencer informed the board that a courtesy license is tied to specific location(s) and Alaska licensed sponsor. LE Spencer stated, for example, Ink Masters, has three locations which results in three sponsorship forms for each temporary shop license, this information is added to the public note printed on the courtesy license. LE Spencer suggested the board could specifically state the

new courtesy license must be for a fully licensed shop, not a temporary shop or mobile shop; the application would ask for the name, license number, and physical location of the shop. LE Spencer stated this information would allow a courtesy license to be issued to a specific shop/physical location.

Chair McKinley thanked LE Spencer and stated that he would consider this information to use as a starting point and would reach out if he had additional questions.

MPC Carbajal stated that due to this board already having a statute addressing the courtesy license, that adding a second courtesy license might just require a regulation amendment under 12 AAC.09.004; however, this would need to be verified with the regulation specialists and department of law

Action Item: *Verify with regulation specialist and Dept of Law; possible to add new courtesy license type to existing regulation 12 AAC 09.004.*

Chair McKinley asked with all the events now occurring in Alaska, an artist could only be issued two courtesy licenses in a calendar year. LE Spencer stated that is correct, two 30-day courtesy licenses could be issued to an individual during a calendar year.

Action Item: *Add this topic - local shop courtesy license to next meeting agenda.*

B. Apprenticeship/Student/Trainee Documentation Submission Discussion

LE Spencer gave a brief background on this matter and reported this is an investigative matter as well; since the October 2024, meeting at least six (6) more instructors across the training programs had been submitted to the investigative unit for training documentation matters. LE Spencer continued, as there have been no cases presented to the board/license action, staff continues to enroll apprentices, students, and trainees to instructors/schools with continued training documentation submission issues. LE Spencer encouraged the board when considering updating their fine schedule/matrix to consider possible changes addressing this matter.

MPC Carabajal clarified that the submitted cases are still going through the investigative process so at this time, no wrongdoings were confirmed so the division has no choice but to continue issuing apprentice, student, and trainee permits.

Chair McKinley suggested the board consider a three-strike system; after three times of training documentation violations, a person could not train anyone else for six months. LE Spencer agreed with Chair McKinley.

Chair McKinley asked if this would require a regulation change. LE Spencer stated she didn't believe a regulation change would be necessary, just an update to the fine schedule/matrix would be needed.

Chair McKinley asked LE Spencer to bring up the current matrix and also asked if the board has the authority to revoke a license.

LE Spencer stated that through the investigative process, the board could revoke a license.

Ms. Canady asked if there has been no license action and this is a rampant issue, the board can't take any action unless someone is reported to investigations, or can the board take action if the matter hasn't reached investigations and the person providing training continues to have training documentation submission issues.

LE Spencer stated this is not proactive but a reactive matter, staff does not have time to track each individual apprentice, student, and trainee file to verify what has been and hasn't been submitted; issues with training documentation submissions are only noticed when a training document or application for licensure is received and the apprentice, student, and trainee file is then reviewed. LE Spencer continued when a training document matter is noted during this process, then a

submission to the investigative unit is done; this begins the investigative process, which may take some time before a case, if any is presented to the board for consideration.

Ms. Canady thanked LE Spencer and asked if the board could still move forward with updating their matrix. LE Spencer informed the board that they could update their matrix at any time they deemed it necessary.

The Board briefly discussed 1st, 2nd, and 3rd violation options.

Ms. Canady stated that at some point, the board needed to stop allowing repeat violators to continue training apprentices, students, or trainees. Ms. Canady suggested a year-long period of no new apprentices or students as a third violation option.

MPC Carabajal informed the board no regulation change would be necessary; the board would just need to update their matrix with information that investigators could determine if there's authority or not. MPC Carabajal cautioned the board that language must be very clear.

LE Spencer informed the board that this is an ongoing issue across all training programs and included schools. LE Spencer informed the board that schools with reporting problems were also tied into the Alaska Commission on Postsecondary Education (ACPE) school requirements as well; one requirement for a school to remain in good standing with ACPE is the submission of student enrollment applications and training documentation.

Chair McKinley stated he liked the non-disciplinary advisement letter (NDAL); however, he felt this was too broad and should possibly include tighter/firmer wording. Chair McKinley gave the board an example, case where several training document submission issues were submitted to the investigative unit, however, due to the process, additional investigative unit submissions were made on the same matter, so at the conclusion of the investigative process, the multiple violations were lumped into a first violation. Chair McKinley stated that this was not something he agreed with, however, the board must follow their matrix.

LE Spencer stated that this board is moving forward however, over the last four years, RVB's hadn't thought this type of issues needed any disciplinary action despite numerous submissions to the investigative unit. LE Spencer encouraged board members to read their statutes/regulations and matrix when reviewing cases.

Chair McKinley concurred with LE Spencer's statement and encouraged all board members to use the matrix with reviewing cases. Chair McKinley stated that sometime the NDAL worked but in most cases it did not.

Ms. Canady stated that this is an issue that really bothers her; a person is paying for an education but not getting their hours, this is unacceptable, and the board must address this matter.

Chair McKinley agreed with Ms. Canady and stated with his trainees and staff that have trainees, he recommends the trainees keep detailed records and copies of all of their paperwork just in case.

LE Spencer reminded the board that all regulations addressing apprentice, student, and trainee training documentation submissions reflect this documentation must be submitted by the person providing the training. LE Spencer informed the board that staff are following regulatory requirements and are not accepting any training documentation submitted by an apprentice, student, or trainee; if the board wants staff to accept training documentation from the person receiving the training a regulation change would be needed.

LE Spencer also informed the board that there are many new instructors and licensees authorized to provide training that have no idea what their responsibilities are, how to complete paperwork, time clock requirements, etc.

Chair McKinley agreed with LE Spencer and stated he has quite a few people call his shop to ask for help filling out paperwork. Chair McKinley stated that he thought most needed help with the quarterly report forms, and he would continue to assist people who reach out.

LE Spencer thanked Chair McKinley for providing paperwork assistance and stated that this is a growing issue with instructors for other training programs as well which leads her to think there is an instructor training component issue.

The board briefly discussed who can complete and submit training documentation and asked LE Spencer if the person receiving training can complete training documentation and who could mail/submit the paperwork.

LE Spencer stated that the person obtaining the training could complete training documents as there is no way to verify who completed the forms, however the documents must be mailed/submitted by the person providing training.

Ms. Canady asked if there was a way staff could track when a quarterly report was due and reach out to the school or person providing training to remind them the report must be submitted. Ms. Canady stated that the person providing training agreed to take on this responsibility and should be held accountable.

LE Spencer stated even with two staff members, staff did not have the time to track each individual apprentice, student, or trainee file and contact the people providing training to remind them each time a training document is due. LE Spencer stated she had no suggestions on how to fix the issue.

Chair McKinley informed the board that they were back to one staff person, LE Spencer, for the entire program.

Chair McKinley briefly discussed having paperwork tutorial videos or something similar posted to the web which may assist with paperwork completion.

LE Spencer stated that she was unsure if this was doable and would check, if possible, this could be added to the FAQ page. LE Spencer informed the board that the quarterly reports, completion, and termination forms across all training programs are very similar so only minor changes would be needed for each or one for all.

Action Item: *Verify if board can create and post how to complete paperwork video/tutorial and post to web – FAQ?*

The board briefly reviewed the current fine schedule/matrix and regulations 12 AAC 09.130, 09.185, and 09.190, and a possible three or four strike option with a 6-month suspension for body arts and 12-month suspension for all other aspects for taking on new apprentices, students, and trainees.

Ms. Canady stated she agreed with the 6-month and 12-month suspension for taking on new people to train.

The board briefly discussed the amount of time a person would be unable to enroll new people to train.

Susanne Schmaling, LME, CLT, Medical Spa Services Work Group, joined the board.

The Board greeted Ms. Schmaling and thanked her for rearranging her schedule to meet with them for Item 12. The board agreed to pause discussing training document submission issues and move onto Item 12.

Chair McKinley asked LE Spencer to reach out to Regulation Specialist Alison Osborne to see if she could join early for Item 12. While waiting, Chair McKinley asked Ms. Schmaling for a broad overview of the Medical Spa Work Groups meetings and progress.

Ms. Schmaling greeted and thanked the board. Ms. Schmaling stated at this point the Work Group is going through modality by modality, looking at where it fits, whether it's within a basic esthetic, and if additional training that may be needed. Ms. Schmaling stated she thinks Sara Chambers is working through a lot of these deep details to coordinate with, the Medical Board and all other participating boards. Ms. Schmaling informed the board all documents are public and should be available on the Work Groups website. She continued, all modalities work she's been involved with has been submitted and is now in the question/answer phase with Ms. Chambers.

Ms. Schmaling informed the board that some questions had been raised on the legal side; a lot to deal with the Food and Drug Administration (FDA) equipment registration requirements.

Ms. Schmaling informed the board that during the February 19, 2025, meeting, the Work Group will be going deeper on modalities, and she thinks esthetics are the primary target of that meeting; also, to be disused is intravenous (IV) infusions. Ms. Schmaling stated from her understanding, she believes this Work Group discussion is almost done but she's not sure what the time period for any needed statutory or regulatory changes; however, the Work Group is laying the foundation for statute and regulatory changes which will assist boards considering a second-tier license.

Chair McKinley asked how many other states are going through similar processes.

Ms. Schmaling stated many boards are also going through similar processes and that she had just done a presentation for a new Executive Directors group that included 10 or 11 states, including California. Ms. Schmaling stated executive directors across the national with cosmetology boards are looking at the same issues and so are medical boards. Ms. Schmaling stated in many states their Medical Boards stepped in and picked up many services; due to many boards going through their legislative sunset processes, statutory and regulatory changes, some of which are for public protection, are having to be paused. Ms. Schmaling stated that what this board is going through is not unique and with the assistance of the Work Group, fair and equitable decision-making is occurring.

Chair McKinley asked Ms. Schmaling, in reviewing the Work Groups matrix of medical spa services, if a person held an esthetician, advanced esthetician, or master esthetician license, what procedures would they be able to perform, devices they could use or would need to get.

Ms. Schmaling reviewed the matrix with the board and stated all would depend on the base regulation and how it would be interpreted. She continued, there are few things nationally that are considered, hour required to basic licensure with a 600-hour standard and within that training, look at the curriculum, what does it include, if a state would recognize this as basic training or continuing education (CE). Ms. Schmaling stated that what the board would accept in a curriculum is called legally defensible curriculum material; from there, states need to recognize trending services, such as microneedling, and within a published and legally defensible 1,200-hour program are these topics taught and if not, what other accredited program could an esthetician complete post licensure to be able to safely provide this type of service. Ms. Schmaling stated this would lay the foundation for good legislation if needed. Ms. Schmaling cautioned the board that having statutes and regulations working together is very, if you don't have good legislation, that means you don't have a scope of practice that you can work under; the bottom line is, is independent practice of the esthetician and their practice versus medical supervision. Ms. Schmaling stated the goal is to determine what services an esthetician can provide on their own and what services/devices would require a medical director. Ms. Schmaling continued, determining what services do require a medical director is why it is so important to work with medical boards, this is also why she suggested in the proposed regulation project of 12 AAC 09.990, to list out class 3 radiological services as these types of devices are high powered that can harm, ablate tissue and cause scarring.

Ms. Schmaling stated she understands that this can be confusing, however with boards working together towards and end goal is doable.

Chair McKinley thanked Ms. Schmaling and stated he felt the end goal is to ensure that licensee have an avenue to practice.

Ms. Schmaling agreed that licensees should have independent practice with clear information on when a medical director is required. Ms. Schmaling stated what would be good and is up to the board and Alaska estheticians, is to have separation from the basic esthetician license and an advanced level licensure as this may broaden the scope of practice and clearly provide what services could be provided independently.

The board briefly discussed an advanced esthetician license with Ms. Schmaling.

Chair McKinley asked Ms. Schmaling what she would say to the estheticians out there, some of whom are really worried about losing their livelihoods, as he's sure Ms. Schmaling may have seen this concern in other states.

Ms. Schmaling stated she wished she had reassurances; however, licensees should be a little scared and they all

should be or get involved with their board and not be apathetic towards changes, attend meetings, speak during public comment, and comment on regulatory changes. Ms. Schmaling also stated that licensees also need to understand there are also threats outside of the industry pushing to have esthetics reclassified to fall under medical procedures and therefore medical boards. Ms. Schmaling cautioned that these organizations are well funded and organized and urged individuals to join the Aesthetics Council and to continue working together with their board. Ms. Schmaling stated that working with Alaska, she has been pleasantly surprised at the work that is being done and accomplished and fees that they have a very good chance of protecting licensees.

Chair McKinley thanked Ms. Schmaling for all her time and assistance and asked if any other board members had questions.

Ms. Palin stated she didn't have any questions but wanted to express her thanks for Ms. Schmaling's involvement, diligence, and assistance with this process. Ms. Schmaling thanked Ms. Palin.

Ms. Thompson stated that she was excited to hear information provided by Ms. Schmaling and stated she was glad to be involved with the Work Group as she was learning so much. Ms. Schmaling thanked Ms. Thompson and stated Ms. Thompson has been a great addition to the Work Group.

Ms. Canady thanked Ms. Schmaling for all the information and stated she felt the wheels were moving in the right direction but felt a lot of licensee nervousness about this was related to some not having enough training for certain modalities or machines and feeling like their livelihoods were being threatened. Ms. Canady went on to state that she hoped licensees would be more comfortable after obtaining this information and Work Group information.

Ms. Schmaling stated Ms. Canady made a very good point, if licensees are doing modalities now and have been for a while, the board can't require additional training that doesn't exist; there is manufacture training which may or may not be as in-depth as the board felt may be needed. Ms. Schmaling continued that during the early 1990's, some of her device training was done on the job; with fair grandfathering clauses and possible CE requirements, this would assist the board in moving forward with legislation and the creation of a master esthetician license.

Ms. Canady stated this made sense and with proper grandfathering and educational requirement language, it seems doable to create a new license type.

Ms. Schmaling agreed education is key, there are many educational options, some of which is not good, however there are plenty of good accessible training including some national certifications that provide excellent education. Ms. Schmaling continued she understood that some education may be prohibitive due to travel costs and urged the board to ensure that educational requirements address this and possibly allow online courses. Ms. Schmaling informed the board she had seen success with grandfathering requiring licensees to obtain certifications in other states. Ms. Schmaling informed the board that when Washington state moved forward with a master esthetician license the transition went smoothly and fairly; she suggested the board review Washington state's process as a model and the board should also be sure to focus on client safety.

Ms. Palin stated the board had spoken about educational aspects, and in Alaska, we're not fit or capable at this time to offer the advanced techniques and modalities; will the Work Group going to try to incorporate online for the ongoing education, so that everybody is trained consistently on the same level with the same information

Ms. Schmaling agreed, education is a big topic, the Work Group has not discussed this yet; as she is not certain if education is within the purview of the Work Group and is uncertain if this would be a Dept. of Education discussion or if once a defensible curriculum is created, the Work Group and/or this board would set educational requirements. Ms. Schmaling stated that education could be offered through an Alaska licensed school, if they were willing to add this to their catalogs; the board should also consider accepting out of state training, and online training, and what practical/hand-on training components would be needed and accepted.

Ms. Palin thanked Ms. Schmaling.

Chair McKinley asked Jessica Pestrikoff if she had any questions. Chair McKinley also announced that Ms. Pestrikoff had been assigned to be the board's strategic planner and would be in charge of keeping the board on task and moving forward with projects, etc.

Ms. Pestrikoff stated she had no questions; all of this was very good information.

Chair McKinley asked LE Spencer if she'd been able to reach Ms. Osborne. LE Spencer stated that she had not heard back, and MPC Carabajal had also reached out. LE Spencer assured Chair McKinley she would let him know as soon as Ms. Osborne responded.

Recess The Board recessed at 2:17 p.m. for a short break; reconvened at 2:24 p.m. Majority of the board confirmed by roll call.

10. New Business Cont.

B. Apprentice/Student/Trainee Documentation Submission Discussion, Cont.

The board briefly discussed a three-strike option with suspensions of obtaining any new apprentice, student, or trainee for 6 and 12 months.

Ms. Canady stated she liked a three-strike option as at three strikes, the instructor would have been given opportunities to submit training documents. Ms. Canady also agreed with a 6-month suspension of enrolling new body art trainees.

The board briefly discussed the length of curriculums and permits. LE Spencer informed the board that body art trainees and estheticians were a yearlong permit/curriculum, and all other aspects were a two-year permit/curriculum.

Chair McKinley suggested a first offence is an NDL, second offence would result in fines up to \$1,000, and the third offence would result in loss of training privileges for a year and a \$2,000 fine.

Ms. Canady stated she felt a \$1,000 fine was sufficient as the person would also lose the ability to enroll a new apprentice, student, or trainee for a year.

MPC Carabajal informed the board she had heard back from Ms. Osborne; Ms. Osborne is currently attending another board meeting and will join this board as soon as possible.

The board briefly discussed fine amounts and the possibility of raising fines by \$250 - \$500. Chair McKinley stated that this is all discussion looking for options and solutions; the board wouldn't make any changes to the matrix today.

Ms. Thompson stated she agreed with raising fine amounts and a three-strike system. Ms. Thomson also stated she liked the suggested 6-month suspension for body arts and 12-month suspension for other training programs.

Chair McKinley asked if the person that gets fined could appeal to the board. LE Spencer stated that as this would be an official license action, the person would be given hearing/appeal rights. LE Spencer also stated that it was not common to have an appeal requested by their licensees.

Chair McKinley clarified that he was asking if the person would have a consent agreement that included not being allowed to provide training for x amount of time. LE Spencer concurred, not having been allowed to enroll a person for training for x amount of time would be included in a consent agreement.

Ms. Canady stated she liked this idea, and if the board follows through with 1st, 2nd, and 3rd offences, the person providing training would have been given multiple opportunities to request a hearing or come to the board.

MPC Carabajal informed the board that fines would be part of the disciplinary action and consent agreement (CA); the board would have to approve the CA when presented by investigators after the RBM had provided their opinion on the case. MPC Carabajal continued, by the time a case is presented to the board for consideration the licensee would have had multiple opportunities to argue the situation, would be aware that continued issues would result in continued discipline, and would be able to discuss their situation with the board at the time the consent agreement is presented for consideration. MPC Carabajal reminded the board that they are not required to approve a CA as presented, the board could request changes, etc.

The board briefly discussed paperwork deadlines and if any grace was given for missing deadlines by a day or week.

LE Spencer reminded the board as staff is not proactive, they would not know what if any training documentation was missing until something was submitted for the person obtaining training. LE Spencer continued that when processing documents, typically missing a deadline by a few days or a week was accepted but when deadlines are missed by a month or more, that the matter is usually raised to the investigative unit. LE Spencer stated the board could add language to the fine schedule/matrix to clearly state or define missing a deadline by a day, week, or whatever the board thought was a fair grace period.

Chair McKinley suggested a 30-day grace period. Board members agreed with allowing for a 30-day grace period.

Chair McKinley asked LE Spencer if she was noting paperwork violations on a large scale with more than 30 – 90 days or even up to a year late filing document. LE Spencer stated this is indeed a problem, unfortunately not an uncommon one with multiple instructors/trainers continually not submitting training documents. LE Spencer briefly reviewed two recent instances where a reenrollment with no training documentation for over a year was causing the person to have to restart training and another where an application for a license was received, however, no training documentation had been submitted since the person began training over a year ago. LE Spencer continued; staff have exhausted every avenue to obtain this training documentation to no avail.

LE Spencer announced Alison Osborne, Regulation Specialist, had joined the meeting.

The board briefly discussed options and agreed to wait until the next meeting so they could review examples, additional information from the Inv Unit, and review their proposed changes with the Inv Unit.

Action Item: Add fine schedule amendment discussion to the next meeting agenda and request additional information and examples from Senior Inv Summers.

12. Regulation 12 AAC 09.990 Review – Dept. of Law Edits and Questions

The board greeted Alison Osborne, Regulation Specialist. Ms. Osborne greeted the board and introduced herself.

Ms. Osborne reviewed correspondence and questions from the Dept. of Law (DOL); also, responses from Sara Chambers and Ms. Schmaling with the board.

Ms. Osborne informed the board that an issue noted by DOL, with the proposed language, were the FDA classifications; FDA classification information was not easy to access, locate, and define on the FDA website. Ms. Osborne stated a link to this information on the FDA website had been provided by Ms. Schmaling or Ms. Chambers, which provided a breakdown of how the FDA defines certain devices; the information was extensive and very difficult for herself, DOL, and possibly others, looking for specific legal definitions, to interpret and understand.

Ms. Osborne stated the proposed regulation language reflected it was a designation under a definition; this means individuals need to be able to easily access the definitions through board and FDA resources.

Ms. Osborne reviewed suggestions from Ms. Chambers which would adopt by reference a definition she had identified which is easier to access:

(1) "appliances" in the field of esthetics means only those devices used to stimulate natural physiological processes intended to improve the health and appearance of a person's skin; a device
(A) must operate within the manufacturer's guidelines;
(B) may not directly ablate or destroy live tissue; and
(C) may not involve an incision into skin beyond the epidermis; may not be defined as a Class III or Class IV laser device in accordance with 21 C.F.R. 1040.10

Ms. Osborne informed the board another problem encountered with the original language was withing the proposed definitions whether the device had a registration requirement under the FDA; they were unable to find anything easily identifiable under FDA regulations which provided device registration.

Ms. Osborne stated that the attempt to simplify and clarify in the original language made it a bit confusing as the information is not easily accessible.

Ms. Osborne and Ms. Schmaling continued to review email correspondence between Ms. Chambers and Ms. Schmaling with the board. Both Ms. Osborne and Ms. Schmaling agreed that references in regulations should be easily accessible and understandable to licensees and the general public.

Ms. Schmaling and the board briefly discussed device classifications and possible harmful side effects.

Ms. Osborne stated that the proposed changes from DOL, Ms. Chambers and Ms. Schmaling, addressed DOL questions and made information easily accessible.

Ms. Osborne and Ms. Schmaling briefly discussed the proposed changes, classifications, and enforceability with the board.

Chair McKinley asked Ms. Schmaling if she thought the proposed changes were acceptable. Ms. Schmaling stated she felt the changes simplified the regulation, would provide easily accessible information, and would be enforceable.

The board and Ms. Schmaling briefly discussed legislation changes for a second-tier esthetics license.

Ms. Osborne briefly reviewed the legislative process with the board and recommended if the board moves forward with legislation for a new license type, they also draft regulations as they move through the process; this would enable a quicker turnaround for the accompanying regulations to move through their processes.

The board, Ms. Osborne, and Ms. Schmaling continued to briefly discuss a second-tier esthetician license.

Ms. Osborne reviewed the process of their proposed regulation and requested the board be sure to include, if they chose, oral testimony information when they make their motion. Ms. Osborne informed the board that the public comment deadline 30-days after public noticing.

LE Spencer stated the board had requested oral and written testimony during the October 10, 2024, meeting. LE Spencer informed the board that as this is a very contentious subject and the board had briefly discussed having a special meeting for oral testimony, they will need to schedule that before this meeting adjourned.

LE Spencer stated that current statute, 08.13.220(16), tie microblading and microneedling directly to the tattooing license; would this new regulation allow esthetician to use these types of devices and provide these services.

The board, Ms. Osborne, and Ms. Schmaling briefly discussed and agreed that the regulation would allow estheticians to provide and use devices for microblading and microneedling. LE Spencer thanked the board for clarifying; this information will allow her to accurately respond to these questions.

The board and Ms. Osborne briefly discussed public comment time for this project.

Ms. Palin stated that she felt the Work Group should receive this public notice as well as interested parties. Ms. Osborne recommended when the board makes it motion, to include sending the notice to the Work Group.

The board briefly discussed public noticing options. LE Spencer drafted a motion for this project and the board reviewed.

Motion: 1st Mae Canady – 2nd Wendy Palin

Approve proposed regulation 12 AAC 09.990(b) defining “appliances” as provided in statute 08.13.220(5) with changes made by the Dept of Law and Sara Chambers Boards and regulations advisor, allowing for oral testimony, to be published for public comment

Chair McKinley asked the board if they would like additional discussion.

Ms. Palin stated she is thrilled the board has reached this point; this has been a long time coming and provides answers to this specific matter. Ms. Palin thanked Ms. Osborne and Ms. Schmaling for all their time and assistance.

Ms. Canady stated she is excited the board has reached this point and is very happy the board is moving forward.

Ms. Thompson stated she is also pleased with where this project is heading and agreed with Ms. Palin’s comments.

Ms. Pestrikoff stated that it is nice to see some forward movement.

Chair McKinley thanked board members for their comments and stated that he also likes the direction this is going and is pleased the board is making headway. Chair McKinley thanked Ms. Chambers, Ms. Osborne, and Ms. Schmaling for all their hard work and time. Chair McKinley asked Ms. Schmaling if the board could reach out if they had questions with public comments that were in the technical vein.

Ms. Schmaling thanked Chair McKinley and stated if the board had technical questions, they needed assistance with to please reach out.

Chair McKinley asked if the board would like any further discussion; hearing none, Chair McKinley asked for a roll call vote.

Roll Call Vote

NAME	YES	NO	Recuse
Jessica Pestrikoff	X		
Wendy Palin	X		
Shannon Thompson	X		
W. Mae Canady	X		
Kevin McKinley	X		

THE MOTION PASSED BY A MAJORITY VOTE.

Ms. Osborne thanked the board and stated she would review the FAQ and if needed work with LE Spencer to update any information; and complete the public notice process. Ms. Osborne stated that the public notice would be published February 11, 2025, and the public comment period would end March 20, 2025.

Ms. Osborne and the board briefly discussed oral testimony, and the upcoming February 19, 2025, Work Group meeting. Ms. Osborne reminded the board that board members could not discuss this project during the public comment period with anyone, including themselves and the Work Group; board members attending the Work Group would need to leave the meeting if the project was discussed.

The board briefly discussed scheduling a meeting for oral testimony. MPC Carabajal informed the board that to accept both written and oral testimony, they must meet March 20, 2025.

The board briefly discussed participation in the February 19, 2025, Work Group meeting and expressed concerns that the Work Group might lose quorum if they discussed this project. MPC Carabajal stated she

would contact Ms. Chambers with this information and provide that board members were advised not to attend the Work Group meeting.

The board continued to discuss participation in the February 19, 2025, Work Group meeting.

LE Spencer informed the board that board members could absolutely attend the Work Group meeting, however, if this project was brought up and/or discussed, board members must recuse themselves from the conversation.

The board continued to discuss setting a time for March 20, 2025, and asked LE Spencer if they could set a start time for this meeting later in the week. LE Spencer reminded the board that previous attempts at scheduling meetings outside of a board meeting failed. LE Spencer stated that if the board misses the public comment deadline, the project would be back at square one and would require restarting the public notice and comment period, which will lead to additional delays in completing the project.

Ms. Osborne stated during the March 20, 2025, meeting the board would also review written testimony.

Ms. Palin stated she was concerned that as she had not reupped with the board and was unsure what her last day with the board is; would they have a quorum to move forward with finalizing the project; she offered to attend as a board member if needed.

MPC Carabajal stated Ms. Palin's last day with the board is March 1, 2025, however, she is more than welcome to attend the meeting and provide testimony as a member of the public.

LE Spencer informed the board that a new board member to fill Ms. Palin's seat had been selected and would begin serving on the board March 1, 2025.

The board briefly discussed setting a start time of 9:00 a.m. or 10:00 a.m. LE Spencer asked MPC Carabajal for suggestions on the time this meeting should run for as it had been a very long time since the board accepted oral testimony. MPC Carabajal suggested that Ms. Osborne answer this questions. Ms. Osborne stated that generally, oral testimony usually runs 1 hour to 1.5 hours, depending on the topic; as this is such a controversial topic, the board consider a longer time for oral testimony.

MPC Carabajal agreed with Ms. Osborne's statement and recommended no less than 1.5 hours for oral testimony, allow for enough time to review written testimony, and time for board discussion/consideration if they felt any changes were needed to the language based on testimony.

The board agreed to set a meeting for written and oral testimony on March 20, 2025, from 9:00 a.m. – Noon.

Chair McKinley polled the board, hearing no disagreements, he requested a roll call vote.

Board members present agreed, by roll call, to schedule a meeting for oral and written testimony, Thursday, March 20, 2025, from 9:00 a.m. – Noon.

Ms. Osborne thanked the board and stated that if they have any questions, to contact her.

The board thanked Ms. Osborne for her time and assistance.

Ms. Schmaling thanked the board for including her in this discussion and asked if there was anything else she could assist with today.

The board thanked Ms. Schmaling for her dedication to the industry, her time and great assistance.

13. Administrative Business

B. Schedule Strategic Planning Meeting

Chair McKinley briefly reviewed strategic planning with the board and informed members that Ms. Pestrikoff had been assigned to be the board's lead on this project.

Chair McKinley stated he felt this was incredibly important and would assist the board keeping on track and task.

Ms. Pestrikoff stated that Ms. Chambers was going to provide the board with an overview of strategic planning; however, with Ms. Chambers not being able to attend, she stated this process would assist in tracking board tasks and projects and also assist the board to stay on track.

Chair McKinley thanked Ms. Pestrikoff and informed the board that the division does review meeting minutes so for example, he had made a comment that he wants the board to review current statutes/regulations, mark up any corrections, edits., etc. Chair McKinley continues, the division may ask about this project mentioned at xyz meeting and why the board has made no movement; having strategic planning will assist the board to continue moving forward and staying on task with projects.

Chair McKinley informed the board that they would all be assigned statutes and regulations pertaining to their license types and would be expected to provide edits, etc., which would be compiled into a large regulation clean-up project and possible legislative change proposals.

The board briefly discussed scheduling a strategic planning meeting. The board agreed to schedule this meeting on Thursday, April 17, 2025, from 10:00 a.m. – Noon. Chair McKinley requested a roll call vote.

Board members present agreed, by roll call, to schedule a strategic planning meeting on Thursday, April 17, 2025, from 10:00 a.m. – Noon.

Chair McKinley thanked everyone for attending, completing tasks, and addressing new issues. Chair McKinley asked if board members would like any final comments before ending the meeting.

Ms. Thompson stated that her questions had been answered and there is quite a bit of information to consider, and she is really looking forward to the next meeting.

Ms. Canady stated that she felt the board accomplished a lot in this meeting and ended on a good note.

Ms. Palin stated she felt this was an exceptional meeting and board members are wonderful.

Chair McKinley thanked Ms. Palin and asked even though this was her last board meeting would she still attend Work Group Meetings. Ms. Palin stated that she would be attending the February 19, 2025, Work Group meeting.

Chair McKinley thanked Ms. Palin for all her hard work and stated being on the board is not an easy job and he greatly appreciated her dedication, time, and hard work.

The board and staff thanked Ms. Palin for her service. Ms. Palin thanked the board and wished them all good luck.

14. Adjourn

The chair declared the board off the record at 4:04 p.m.

Respectfully submitted:

Cynthia Spencer

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Cynthia Spencer, Licensing Examiner III

Approved by:

Kevin McKinley

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Kevin McKinley, Chairperson
Board of Barbers and Hairdressers

Date: 5/16/2025