



Board of Barbers and Hairdressers

Alaska Division of Corporations, Business and Professional Licensing

November 8, 2023, at 9:00 AM AKST via Zoom

Members Present: Connie Dougherty, Khitsana Sypakanphay, Wendy Palin, Michelle McMullin

Members Absent: Glenda Ledford, Tenaya Miramontes, Brea Hardy

Staff Present: Renee Carabajal, Program Coordinator; Sylvan Robb, Director; Cynthia Spencer and Wanda Whitcomb, Occupational Licensing Examiners

Call to Order

The meeting was called to order at 9:00 AM by Chair McMullin. A quorum was established.

Chair McMullin noted that there was no new information on esthetician scope of practice, so the corresponding regulatory language item under New Business should be tabled. Ms. Carabajal said the board could continue to discuss legislative changes.

Motion by Chair McMullin to amend the agenda as noted to approve the agenda. Seconded by Ms. Sypakanphay. **Passed by unanimous consent.**

Chair McMullin asked if any members had ethics disclosures. No members responded.

Public Comment

Dr. Gloria Bamberg-Merritt provided comments regarding punitive regulations and potential grandfathering estheticians into future regulations. She expressed concern about what "full authority" means and wants to communicate more clearly. She is concerned that the board is giving their power away to someone. She feels confused by the board's changes and thinks it may be connected to fees.

Rachel Lausen expressed frustration that the board's town hall was cancelled due to lack of quorum and public comment appeared to be restricted at this meeting. She felt it was unprofessional that the board did not attend the meeting they called when public attendees had taken off work to attend.

Ms. Carabajal said that additional time would be provided once everyone had a chance to speak. She also said that the public comment on the derma lights regulations project had closed and comments would not be appropriate at this time.

Ms. Lausen said that she wanted existing estheticians to be grandfathered into any future advanced esthetics program. She was concerned that there was limited availability of advanced esthetics educational pathways. She wanted to see an instructor license, continuing education requirements, and an apprentice pathway. She suggested the legislature create a separate board for advanced esthetics because there are medical and nursing stakeholders, as well, who are needed to understand the technical changes. This board's inaction on this issue over the last 20 years is evidence that they are overburdened. The board needs to be accountable and transparent, as well as enforcing its statutes and regulations. The board needs a dedicated esthetics seat. She recommended Oregon and Idaho as examples of useful examples for advanced esthetics. She raised concerns that the board has discussed changes to the manicuring scope of practice that would eliminate existing 12-hour manicurists' ability to apply artificial nails. Only 10% of current 12-hour manicurists hold an advanced endorsement. Ms. Lausen's client has been applying artificial nails for more than 10 years. Only two schools offer a pathway for advanced endorsement:

One is owned by a company that is under indictment for fraud and the other is over \$5,000 and takes six months. She encouraged the board to create an apprenticeship program, if changes are made. She had concerns about the curricula being instructed in languages that current 12-hour manicurists could understand. Changes would create a hardship to licensees. She was especially concerned that the board's support for advanced manicuring created a direct financial benefit for board member Glenda Ledford, who owned the only operating school in the state, and no conflict of interest had been declared.

Mae Canaday doesn't want to see changes to hair braiding regulations. She mentioned that she was on the board when the hair braiding license was created. She was glad to see a lot of industry members offering public comments at meetings. She encouraged changes to the tattooing apprenticeship. She wanted to ask the board to hold an in-person town hall so members could respond.

Kristin (sp) Blakely works at a salon and said she was seeing individuals performing styling, chemicals, and other services under the hair braiding license. She thinks licensing standards should be increased so all practitioners are qualified to perform the services they are engaged in. She hoped that she could attend more future meetings.

Jaqueline Polis said it has been far too long since the board has changed any of the needed regulations and statutes. Too much is changing all at once. The board is struggling to even handle the basics like attending their own meetings. More attention and feedback is needed from industry members. She is concerned about the board's stated goal #7. She is concerned about the lack of expertise and experience on the board to oversee the practice of advanced esthetics. She hopes the board can see the reason for industry's frustration and take a different approach. She has lost faith in the board but is trying to stay positive. She hopes the board will act in the best interest of practitioners and receive more information from licensees. She asked what the next step was for legislation since the plan and specifics are unclear. The ideas may be amazing but need to be ironed out. She also hoped that the town halls could be held in person.

Chair McMullin said everything is under discussion and the board is seeking additional input from licensees and other licensing boards.

Another attendee also stated that she hoped town halls could be held in person.

Another attendee said she was concerned about what was under consideration for an advanced esthetician license.

Chair McMullin said that the boards needed to discuss overlap between the relevant boards. She said that going past the dermal layer may constitute the practice of medicine but this needs to be clarified. The board is awaiting information from the Department of Law.

Ms. Hardy said she supported an in-person meeting.

Ms. Bamberg-Merritt said that she was looking for a list of Class I and II medical devices and hoped the board would post it on the web site. Director Robb said the list was in the June 2023 meeting minutes.

Chair McMullin said the statutes did not take into consideration many of the technologies that have been developed since they were adopted. They need to be updated to move Alaska forward. If the statutes are outdated and restrictive, they should be updated to ensure scopes of practice are modern.

Ms. Lausen said in 2005 the board voted to allow cold lasers, and that is allowed by the State Medical Board. She thought that electrolysis is not regulated by any board because estheticians perform temporary—not permanent—hair removal. If this board isn't regulating an advanced, perhaps people should surrender their esthetician license and work under a physician. Not doing anything is detrimental to the public. The board has noted needs over the last decade and are not doing anything about it.

Motion by Ms. Sypakanphay to enter into executive session in accordance with AS 44.62.310(c) and Alaska Constitutional Right to Privacy provisions for the purpose of discussing matters which by law, municipal charter, or ordinance are required to be confidential. Board staff are requested to join. Seconded by Brea Hardy. Hearing no objections, the board entered executive session.

The board entered executive session and returned on the record at 11:10 a.m. A quorum was present.

Director Robb suggested the board consider their timing since the legislature is about to enter their last year of Session. She walked through the elements of seeking a bill sponsor and advised whether it was likely a bill could be passed in the second half of Session. The chair said that her service on the board ends in March and recommended the board form a committee to work on this project. Director Robb said that full board support and evidence of a thorough public process would help the board gain traction to find a sponsor. The chair said the needs have been known for several years without strong public participation. She said the board should start with the definition of esthetics.

Ms. Palin mentioned that using FDA classification might help clarify which devices could be used by estheticians who are not working under supervision of a medical provider versus those who are. The chair said that estheticians are not required to be licensed if working under medical supervision. Ms. Sypakanphay suggested that estheticians working under a physician or APRN could be inspected. The chair said that only tattoo and PCC licensees must have pre-inspections; municipalities may require building inspections, but they do not relate to licensing safety and sanitation. She said the board in the past was working toward moving those requirements from DEC to DCCED under the board's purview. She mentioned that the board didn't have jurisdiction over practitioners working under Medical Board or Board of Nursing statutes and regulations, and she hoped to collaborate with those boards to provide greater clarity to licensees.

Ms. Palin said she had been in contact with members of boards in Virginia and Washington and said that licensed estheticians working under medical supervision submit documentation that there is a supervising physician or APRN when working with devices that penetrate the dermal layer, such as microneedling and fractional lasers that operate up to .04 millimeters below the surface of the skin, penetrating the dermal layer. The manufacturers of those devices often require continuing education to ensure users know how to safely operate the machine. The chair said that she thought that would require working under medical supervision now and opined that the 600-hour test everyone takes to become licensed might be enough to qualify under a new advanced license.

Director Robb again suggested that the board look at whether the board wanted to seek legislation for introduction in January—if so, they need to roll up their sleeves. If not, there is more opportunity for discussion and public input. The chair informally asked the board for input on how they wanted to proceed. Ms. Sypakanphay suggested the board work on their long list of topics instead of pushing through to add more. Ms. Dougherty and Ms. Palin agreed that more work and public input was needed. Chair McMullin suggested the topic be tabled to the January meeting.

Director Robb suggested the board could establish a subcommittee to work on legislation so it could undergo a collaborative process and be ready for introduction in early 2025, especially since the public is frustrated with the slowness of the current process.

Ms. Carabajal suggested the board instead form a workgroup of one or two board members with expertise on the topic and include members of the public. Ms. Palin, Ms. Miramontes, Ms. Dougherty, and Ms. Sypakanphay volunteered to be on the work group. Ms. Carabajal reminded the board that they could not have more than three members on the work group because it would then constitute a board meeting. Ms. Carabajal described how a work group would operate, including the need to follow the Open Meetings Act. She said the work group could host a town hall meeting. Ms. Dougherty requested an outline or checklist to help the board track all of the projects and where they are in their respective processes. Chair McMullin said that could absolutely be completed.

Director Robb suggested the board split into workgroups on different topics to help share the workload. Ms. Carabajal said that the public's involvement in those work groups would increase their ability to share in drafting proposed language that directly affects their professions. Ultimately, the board would have to adopt the work group products in order to champion them as regulation or statute changes.

Chair McMullin suggested an esthetics workgroup be developed, as well as a possible work group for statutory changes. She appointed herself, Ms. Palin, and Ms. Sypakanphay to the esthetics work group and suggested the others might be formed later in the meeting.

Legislative Changes: Hair Braiding and Hair Styling

The board discussed potential hair braiding and styling changes. Chair McMillin said those who are working out of scope need to be handled by the investigative discussion. Ms. Spencer reminded the board would work to make requirements in regulations, not in statute. Ms. Miramontes said she wrote her legislative proposal regarding styling to do that. Chair McMullin suggested that training and education align with the scope of work. She raised concerns about combining the hair braiding and styling licenses because it might unintentionally increase the training requirements for braiders who are currently operating within their scope. She also wondered whether the training and education was available in Alaska and suggested the apprenticeship pathway as the best method to train licensed stylists.

Ms. Miramontes said her first draft created two licenses and then revised it after receiving feedback that an additional license might not be advisable—adding bureaucracy and limiting possibilities. Ms. Dougherty said she would be concerned that adding requirements to the hair braiding license might disenfranchise existing hair braiders. Ms. Spencer suggested the board look at a chemical/non-chemical hairdresser license split like it currently offers for barbers. However, the non-chemical hairdresser option she researched in other states required about 1,000 hours of training/education. Chair McMullin thought that high number of hours might be prohibitive. Ms. Whitcomb expressed concern that having two licenses might be misleading to hair braiders who could think they are authorized to perform more services. Chair McMullin said that they had already heard in public comment that is already happening. Ms. Miramontes thanked everyone, and she looked forward to further conversation in a work group. Chair McMullin appointed herself, Ms. Miramontes, and Ms. Dougherty to this work group, to which they agreed.

Chair McMullin encouraged board members to use caution when entering salons, so it wasn't perceived as surveillance. Licensees are welcome to approach members with comments and questions.

The board recessed at 12:06 p.m. and went back on the record at 1:04 p.m.

To formalize the work groups previously discussed:

Chair McMullin moved to create a work group to address changes to esthetics scope of practice that includes herself, Ms. Sypakanphay, and Ms. Palin. Seconded by Ms. Sypakanphay. Passed unanimously by roll call vote.

Ms. Miramontes moved to create a work group to address potential legislation relating to hair styling. Seconded by Ms. Dougherty. **Passed unanimously by roll call vote.**

Although it was not included in the motion, the prior informal discussion placed Chair McMullin, Ms. Miramontes, and Ms. Dougherty in the hair styling work group. The chair suggested the board set dates for town hall-style meetings of these work groups soon.

Current Legislative Project

Chair McMullin reviewed the board's existing legislative priorities as stated in their published annual report:

- Sec. 08.13.220: Remove "microneedling" from the definition of tattooing.
- Sec 08.13.080 and Sec 08.13.160: Add section to allow barbers and non-chemical barbers to practice and teach hair braiding. This was inadvertently omitted from statute when the hair braiding bill passed several years ago. The board does not intend to "chase down" barbers who are instructing in hair braiding.
- Sec 08.13.082: Allow for apprenticeship hours and other specifications of apprenticeships to be in regulations rather than statute so they can be regulated more responsive to industry. Include apprenticeship for advanced manicuring.
- Sec. 08.13.120: Update this section, cleaning up language that is confusing, outdated, and contradictory for temporary licenses, temporary shop licenses, and the allowance of conventions.
- Sec. 08.13.130: Adding "current State of Alaska" to the display of license or permits. Recommend the Legislature pass legislation to raise the hour requirement for manicurists from 12-hours to 250-hours of training, plus passage of a written examination, to be eligible for licensure with allowance for grandfathering.
- Sec 08.13.160(g): Adding "A person licensed by under this chapter to practice barbering or non-chemical barbering is considered to be licensed to practice hair braiding under the same license."

The chair encouraged members to remain engaged in addressing these priorities, including coming to meetings, so they can make progress. She indicated that microneedling was missed by the board during the legislative process.

She asked whether the board wanted to support moving licensing standards into regulation as part of the legislative process. Ms. Sypakanphay and Ms. Dougherty both thought it was a good idea to pursue this legislation. The chair said legislation can take several years to pass. Director Robb said that the process doesn't have to take that long, especially if the board has engaged the public and presents a well-thought-out argument. The chair is looking forward to further defining scope of practice to protect both the public and the licensee. She suggested looking at options to "grandfather" in existing licensees who are successfully practicing scopes of practice that might be restricted in future legislation. Ms. Carabajal and Director Robb suggested how they have seen this expressed in legislation.

Director Robb suggested the board create an additional work group to address other legislative issues that are not included in the narrow scope of the existing two. She said the chair did not have to be a member of each work group. Chair McMullin said she just wants to make sure the board is moving forward, especially since she is nearing the end of her term.

She hoped the board could receive right-touch regulation training since most members were not aware of the concept and it is important information for state boards. Members responded that adding another work group might be a big commitment for the board, so she hoped there would be a lot of public input, even on topics that are general to the board, that could be passed along to the whole board for consideration.

The chair reminded the board that the items on this list had been provided to a legislator; however, they did not yet have a confirmed sponsor. She hoped Ms. Miramontes might volunteer to serve as the board's legislative liaison. Director Robb reminded the board that they should vote on a representative at a public meeting. She also said that it might take up to 25 hours of board member time to meet with the sponsor, members of the first committee of referral, and attend committee hearings. This work did not need to fall on one person but could be split among various members. Chair McMullin hoped multiple members would help. Ms. Carabajal suggested that multiple members might be helpful since hearings are often called at short notice and committees need representatives of the requesting organizations to attend to answer questions and speak to the request.

Scheduling Work Group Meetings

The board discussed the need for a large, publicly accessible location after work hours. They wished to meet in a location with Zoom access, as well. Ms. Carabajal suggested meeting at a conference room in the Atwood building in Anchorage the second week in December. They decided the work groups could meet on separate evenings during December 12-14 at 5:00 p.m. Ms. Carabajal said she would start reserving rooms within that window.

Chair McMullin suggested the board work through information and allow the public to offer comments and ask questions. She requested board members arrive early. Ms. Carabajal asked board members to ensure official correspondence was not going into their spam filters. She said that staff were not receiving prompt responses to their emails, so please look out for them, including emails from her since she is taking over the board duties as the program supervisor. Chair McMullin reminded board members that they need to show up for their assigned work group sessions and encouraged public attendance. She asked the public to please focus on the goals of each specific work group.

Chair McMullin reminded the board that they had already committed to meeting January 25. Ms. Carabajal said she would look into whether the board could hold that meeting in person. It depended in part on the ability of program staff to travel to Anchorage from Juneau.

Hearing no further business to come before the board, the chair adjourned at 2:01 p.m.

Approved on the record during August 8, 2024 Board Meeting.