

Statutes and Regulations **Business Licensing**

January 2019



DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT

***DIVISION OF CORPORATIONS, BUSINESS
AND PROFESSIONAL LICENSING***

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CHAPTER 70.
ALASKA BUSINESS LICENSE ACT.

Section

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Sec. 43.70.020. Application for license. (a) For the privilege of engaging in a business in the state, a person shall first apply, on forms prescribed by the commissioner, and obtain a license, and pay the license fee provided for in AS 43.70.030. A license issued to a firm for a particular line of business covers all its operations in the state regardless of the number of its establishments. A license issued under this subsection must include

- (1) the name and address of the licensee;
- (2) the primary and secondary line of business to be conducted;
- (3) the dates for which the license is issued; and
- (4) the business name to be used by the licensee.

(b) *[Repealed, § 10 ch 45 SLA 1988.]*

(c) *[Repealed, § 10 ch 45 SLA 1988.]*

(d) A person engaging in a business subject to licensing provisions of a regulatory nature (for example, the requirement of posting a bond before beginning business as a collection agency) must, in addition to filing the regular application required by this section, comply with those regulatory provisions before being entitled to a license under this chapter. The department may establish that a license that is issued under this section expires at the same time as a license, certificate, permit, registration, or similar document issued under AS 08.

(e) If a person knowingly engages in a business in the state without having a current license issued under (a) of this section, the department may impose a civil fine of up to \$300. In this subsection, "knowingly" has the meaning given in AS 11.81.900.

(f) A person may apply for a business license under (a) of this section covering multiple lines of business. The department shall prepare an application form that allows an applicant to list multiple lines of business.

Sec. 43.70.030. Levy and computation of license fee. (a) The fee for each business license is \$50 a year, except that the fee is \$25 if the business is a sole proprietorship and the sole proprietor is

- (1) 65 years of age or older when the sole proprietor applies for the license or will reach 65 years of age at any time during the year for which the license is issued; or
- (2) a disabled veteran.

(b) *[Repealed, § 1 ch 98 SLA 1984.]*

(c) The license for the privilege of taking orders through use of catalogs and by mail order offices in the state is the same as set out in this chapter for business generally.

(d) *[Repealed, § 72 ch 14 SLA 1987.]*

(e) A license holder may request a new business license without payment of an additional license fee

- (1) at any time during the period for which the license is valid to correct an error made by the department; or
- (2) within 30 days after the issuance of the license to make a change to the license.

(f) The expiration date of a license issued under (e) of this section is the same as the expiration date of the original license.

Sec. 43.70.075. License endorsement. (a) Unless a person has a business license endorsement issued under this section for each location or outlet in a location where the person offers tobacco products, electronic smoking products, or products containing nicotine for sale, a person may not sell or allow a vending machine to sell in its location or outlet cigarettes, cigars, tobacco, products containing tobacco, electronic smoking products, or products containing nicotine as a retailer at that location or outlet. Each endorsement required under this section is in addition to any other license or endorsement required by law. A person may not apply for an endorsement under this section for a location or outlet if an endorsement issued for the same location or outlet is currently suspended or revoked. An endorsement issued for a location or outlet to a person in violation of this subsection is void.

(b) The department, upon payment of a fee of \$100, shall issue a business license endorsement to a person who applies for a business license under this chapter, and may renew the endorsement issued under this subsection for a fee of \$100. The endorsement expires at the same time as the license to which it attaches. Upon issuance of an endorsement, the department shall also issue to the person receiving the endorsement notice of the penalties that may be imposed under this section.

(c) The department may refuse to issue an endorsement under this section if there is reasonable cause to believe that the information submitted in the application is false or misleading and is not made in good faith.

(d) If a person who holds an endorsement issued under this section, or an agent or an employee of a person who holds an endorsement issued under this section acting within the scope of the agency or employment, has been convicted of violating AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109, the department shall impose a civil penalty as set out in this subsection. However, following a hearing under (m) of this section, and based on evidence admitted at that hearing concerning questions specified in (m)(4) and (6) of this section, the department may reduce by not more than 10 days a suspension under (1) of this subsection, or by not more than 20 days a suspension under (2) of this subsection, or increase by not more than 10 days a suspension under (1) of this subsection, or by not more than 20 days a suspension under (2) of this subsection. If a hearing is not requested, or if a hearing is requested and the department determines that the evidence admitted does not support increasing or decreasing the suspension, the department shall suspend the endorsement for a period of

(1) 20 days and impose a civil penalty of \$500 if the person has not been previously convicted of violating AS 11.76.100, 11.76.106, 11.76.107, 11.76.109 and is not otherwise subject to the sanctions described in (2) - (4) of this subsection;

(2) 45 days and impose a civil penalty of \$2000 if, within the 24 months before the date of the department's notice under (m) of this section, the person, or an agent or employee of the person while acting within the scope of the agency or employment of the person, was convicted once of violating AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109;

(3) 90 days and impose a civil penalty of \$4,000 if, within the 24 months before the date of the department's notice under (m) of this section, the person, or an agent or employee of the person while acting within the scope of the agency or employment of the person, was convicted twice of violating AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109, or a provision of this section or a regulation implementing this section adopted under AS 43.70.090; or

(4) one year and impose a civil penalty of \$10,000 if, within the 24 months before the date of the department's notice under (m) of this section, the person, or an agent or employee of the person while acting within the scope of the agency or employment of the person, was convicted three or more times of violating AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109.

(e) If a person who receives an endorsement under this section has multiple retail locations or outlets in a location, a suspension or revocation imposed under this section applies only to the retail outlet in the location in which the violation occurs.

(f) A person who holds a license endorsement issued under this section shall post on the licensed premises a warning sign as described in this subsection. A warning sign required by this subsection must be at least 8.5 inches by 11 inches and must read: "The sale of electronic smoking products or products containing nicotine without a prescription or tobacco products to persons under age 19 is illegal." A person holding an endorsement issued under this section shall display the warning sign in a manner conspicuous to a person purchasing or consuming tobacco products, electronic smoking products, or products containing nicotine on the licensed premises. The department shall make available the warning signs required under this section to a person who holds an endorsement issued under this section or a person who requests the sign with the intention of displaying it.

(g) A person who is required to hold a business license endorsement under this section, or who is required to be licensed or agrees to be licensed under AS 43.50.010, or an agent or employee of the person, may not

(1) sell cigarettes to another person unless the cigarettes are sold in groups of at least 20 and the cigarettes are in the manufacturer's original cigarette pack or contained in a cigarette carton or box; or

(2) sell or possess cigarettes if the cigarette package

(A) differs in any respect from the requirements of 15 U.S.C. 1331 - 1341 (Cigarette Labeling and Advertising Act) for the placement of warnings or of any other information upon a package of cigarettes that is sold within the United States;

(B) is labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S.," or with similar wording indicating that the manufacturer did not intend that the product be sold in the United States; this subparagraph does not apply to cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise under 19 U.S.C. 1555(b); however, this subparagraph does apply to duty-free cigarettes that are brought back into the state for resale in the state;

(C) has been altered by adding, masking, or deleting wording described in (B) of this paragraph.

(h) A violation of (g) of this section is an unfair or deceptive act or practice under AS 45.50.471 .

(i) The commissioner or the commissioner of revenue may seize cigarettes, electronic smoking products, or products containing nicotine that do not comply with this section. After notice and an opportunity for a hearing, the commissioner or the commissioner of revenue shall destroy cigarettes, electronic smoking products, or products containing nicotine seized under this subsection.

(j) A person who violates (g) of this section is guilty of a class B misdemeanor.

(k) If a person, or an agent or employee of the person while acting within the scope of the agency or employment of the person, violates a provision of (a) or (g) of this section, the department may suspend the person's business license endorsement or right to obtain a business license endorsement for a period of not more than

(1) 45 days; or

(2) 90 days if, within the 24 months before the date of the department's notice under (m) of this section, the person, or an agent or employee of the person while acting within the scope of the agency or employment of the person, violates a provision of (a) or (g) of this section.

(l) Notwithstanding (a) of this section, a person owning vending machines that offer tobacco products, electronic smoking products, or products containing nicotine for sale need obtain only one business license endorsement under this section even if the person has vending machines in more than one outlet or location in the state. The person who owns a vending machine that offers tobacco products, electronic smoking products, or products containing nicotine for sale and the person who owns the premises where the vending machine is located are both required to obtain a business license endorsement issued under this section. If the endorsement of the person owning the vending machine is suspended or revoked, the person may not sell cigarettes, cigars, products containing tobacco, electronic smoking products, or products containing nicotine during the period of suspension or revocation through the use of vending machines at the location or outlet where the violation occurred. During the period of suspension or revocation, the person owning that vending machine may not use that machine to sell tobacco products, electronic smoking products, or products containing nicotine at another location or outlet.

(m) The department may initiate suspension of a business license endorsement or the right to obtain a business license endorsement under this section by sending the person subject to the suspension a notice by certified mail, return receipt requested, or by delivering the notice to the person. The notice must contain information that informs the person of the grounds for suspension, the length of any suspension sought, and the person's right to administrative review. A suspension begins 30 days after receipt of notice described in this subsection unless the person delivers a timely written request for a hearing to the department in the manner provided by regulations of the department. If a hearing is requested under this subsection, an administrative law judge of the office of administrative hearings (AS 44.64.010) shall determine the issues by using the preponderance of the evidence test and shall, to the extent they do not conflict with regulations adopted under AS 44.64.060, conduct the hearing in the manner provided by regulations of the department. A hearing under this subsection is limited to the following questions:

(1) was the person holding the business license endorsement, or an agent or employee of the person while acting within the scope of the agency or employment of the person, convicted by plea or judicial finding of violating AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109;

(2) if the department does not allege a conviction of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109, did the person, or an agent or employee of the person while acting within the scope of the agency or employment of the person, violate a provision of (a) or (g) of this section;

(3) within the 24 months before the date of the department's notice under this subsection, was the person, or an agent or employee of the person while acting within the scope of the agency or employment of the person, convicted of violating AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 or adjudicated for violating a provision of (a) or (g) of this section;

(4) did the person holding the business license endorsement establish that the person holding the business license endorsement had adopted and enforced an education, a compliance, and a disciplinary program for agents and employees of the person as provided in (t) of this section;

(5) did the person holding the business license endorsement overcome the rebuttable presumption established in (w) of this section;

(6) within five years before the date of the violation that is the subject of the hearing, did the department establish that the person holding the business license endorsement

(A) previously violated (a) or (g) of this section;

(B) previously violated AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 at a location or outlet in a location for which the person holds a business license endorsement, or had an agent or employee previously violate AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109; this subparagraph does not apply to a prior conviction that served to enhance a suspension period under (d)(2) - (4) of this section; or

(C) engaged at a location owned by the person in other conduct that was or is likely to result in the sale of tobacco, electronic smoking products, or products containing nicotine to a person under 19 years of age in violation of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109.

(n) The commissioner may

(1) adopt the proposed decision of a hearing officer under this section;

(2) remand the matter for further proceedings; or

(3) reject the proposed decision, review the record, and issue a decision based on the record.

(o) After notice and a hearing, the department may revoke a business license endorsement or increase a period of suspension if the department finds that, during a period of suspension, a person continues the conduct for which the endorsement or the right to obtain an endorsement was suspended. A person whose endorsement or right to obtain an endorsement is revoked or suspended under this subsection may not apply for or obtain an endorsement under this chapter. A period of revocation or suspension imposed under this subsection may not exceed two years.

(p) If a person who holds an endorsement issued under this section violates (f) of this section, the department may impose a civil penalty not to exceed \$250 for each day of the violation, but the department may not suspend or revoke a business license endorsement. The total civil penalty imposed under this subsection for each violation may not exceed \$5,000.

(q) The department may adopt regulations to establish an administrative hearing process for actions taken by the department under this section. AS 44.62 (Administrative Procedure Act) does not apply to a hearing under this section.

(r) For purposes of this section, the sale of a product containing tobacco, an electronic smoking product, or a product containing nicotine by an agent or employee of a person who holds or is required to hold a business license endorsement under this section at the location or outlet in a location for which the endorsement was or was required to be issued is rebuttably presumed to have been a sale within the person's scope of agency or employment.

(s) If a person violates (a) of this section, the department may impose a civil penalty not to exceed \$250 for each day of the violation. The total civil penalty imposed under this subsection for each violation may not exceed \$5,000. The civil penalty described in this subsection may be imposed in addition to a suspension of a business license endorsement or the right to obtain a business license endorsement ordered by the department under (k) or (o) of this section.

(t) Based on evidence provided at the hearing under (m)(4) - (6) of this section, the department may reduce the license suspension period under (d) of this section if the person holding the business license endorsement establishes that, before the date of the violation, the person had

(1) adopted and enforced a written policy against selling cigarettes, cigars, tobacco, products containing tobacco, electronic smoking products, or products containing nicotine to a person under 19 years of age in violation of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109;

(2) informed the person's agents and employees of the applicable laws and their requirements and conducted training on complying with the laws and requirements;

(3) required each agent and employee of the person to sign a form stating that the agent and employee has been informed of and understands the written policy and the requirements of AS 11.76.100, 11.76.106, 11.76.107, and 11.76.109;

(4) determined that the agents and employees of the person had sufficient experience and ability to comply with the written policy and requirements of AS 11.76.100, 11.76.106, 11.76.107, and 11.76.109;

(5) required the agents and employees of the person to verify the age of purchasers of cigarettes, cigars, tobacco, other products containing tobacco, electronic smoking products, or products containing nicotine by means of a valid government issued photographic identification;

(6) established and enforced disciplinary sanctions for noncompliance with the written policy or the requirements of AS 11.76.100, 11.76.106, 11.76.107, and 11.76.109; and

(7) monitored the compliance of the agents and employees of the person with the written policy and the requirements of AS 11.76.100, 11.76.106, 11.76.107, and 11.76.109.

(u) A reduction in the period of suspension under this section may not be granted more than once in a 12-month period for a location or outlet in a location for which the person holds a business license.

(v) Notwithstanding (d) of this section, in place of a hearing under (m) of this section, the department and the person holding the business license endorsement may enter into a memorandum of agreement regarding the imposition of a suspension and civil penalties based on a violation of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109. The memorandum of agreement must contain a provision that the person holding the business license endorsement admits or does not contest that a violation of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 occurred and accepts the imposition of suspension and civil penalty under this section. Based on the memorandum of agreement, the department may reduce the period of suspension. For violations involving AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109, the department may not reduce the period of suspension by more than 10 days under (d)(1) of this section or by more than 20 days under (d)(2) of this section. The department may not agree to a reduction in the period of suspension more than once in a 12-month time period for a location or outlet in a location for which the person holds a business license endorsement.

(w) For purposes of (m)(5) of this section, a conviction for a violation of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 by the agent or employee of the person who holds the business license endorsement is rebuttably presumed to constitute proof of the fact that the agent or employee negligently sold a cigarette, a cigar, or tobacco, a product containing tobacco, an electronic smoking product, or a product containing nicotine to a person under 19 years of age. The person who holds the business license endorsement may overcome the presumption by establishing by clear and convincing evidence that the agent or employee did not negligently sell a cigarette, a cigar, or tobacco, a product containing tobacco, an electronic smoking product, or a product containing nicotine to a person under 19 years of age in violation of AS 11.76.100, 11.76.106, 11.76.107, or 11.76.109 as alleged in the citation issued to the agent or employee. The presentation of evidence authorized by this subsection does not constitute a collateral attack on the conviction described in this subsection.

(x) Notwithstanding (d), (t), or (v) of this section, a period of suspension may not be reduced for a violation of AS 11.76.100(a)(4) or 11.76.109(a)(4).

Sec. 43.70.080. Disposal of money. All money collected by the department under this chapter shall be deposited in the general fund.

Sec. 43.70.090. Regulations. The department may adopt regulations necessary to implement this chapter.

Sec. 43.70.105. Exemptions. (a) This chapter does not apply to

- (1) a fisheries business;
 - (2) the sale of liquor under a license issued under AS 04.11;
 - (3) an insurance business;
 - (4) a mining business;
 - (5) supplying services as an employee;
 - (6) furnishing goods or services by a person who does not represent to be regularly engaged in furnishing goods or services;
 - (7) the activities of an investment club; in this paragraph,
 - (A) “investment club” means a group of individuals, incorporated or otherwise organized, that engages primarily in investing in securities, that does not sell investment services to another person, that does not advertise, the primary purpose of which is educational;
 - (B) “security” has the meaning given in AS 45.55.990.
- (b) Notwithstanding an exemption provided by (a) of this section, a person who sells cigarettes, cigars, tobacco, products containing tobacco, electronic smoking products, or products containing nicotine as a retailer must have a business license under AS 43.70.020 and a business license endorsement required under AS 43.70.075.

Sec. 43.70.110. Definitions. In this chapter, unless the context otherwise requires,

- (1) “business” means a for profit or nonprofit entity engaging or offering to engage in a trade, a service, a profession, or an activity with the goal of receiving a financial benefit in exchange for the provision of services, or goods or other property;
- (2) “commissioner” means the commissioner of commerce, community, and economic development;
- (3) “department” means the Department of Commerce, Community, and Economic Development;
- (4) “line of business” means the particular trade, service, profession, or activity engaged in by a for-profit or nonprofit entity with the goal of receiving a financial benefit;
- (5) “person” includes an individual, firm, partnership, joint adventure, association, corporation, estate trust, business trust, receiver, or any group or combination acting as a unit;
- (6) “electronic smoking product” has the meaning given in AS 11.81.900(b);
- (7) “product containing nicotine” does not include a cigarette, a cigar, tobacco, or a product containing tobacco.

Sec. 43.70.120. Short title. This chapter may be cited as the Alaska Business License Act.

TRANSITION: BUSINESS LICENSE ENDORSEMENTS FOR LOCATIONS AND OUTLETS. Notwithstanding AS 43.70.075(a), as amended by sec. 4 of this Act, a person who, on the effective date of sec. 4 of this Act, holds a business license endorsement under AS 43.70.075(a) as that subsection existed on the day before the effective date of sec. 4 of this Act, does not have to obtain an additional business license endorsement for every location or outlet in a location where the person offers tobacco products for sale until the current endorsement expires. Upon expiration of the business license endorsement held on the effective date of sec. 4 of this Act, the person shall obtain a business license endorsement for every location or outlet in a location where the person offers tobacco products for sale, as required by AS 43.70.075(a), as amended by sec. 4 of this Act.

CRIMINAL PENALTIES

Sec. 43.05.290. Criminal penalties.

(h) A person engaging in or attempting to engage in a business, trade, profession, or occupation for which a license is required under this title, who willfully fails to obtain the license, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$2,000, or by imprisonment for not more than six months, or by both. This subsection does not apply to a violation of AS 43.70.020.

(i) In this section “person” includes, but is not limited to, an officer or employee of a corporation or a member or employee of a partnership, who, as officer, employee, or member, is under a duty to perform the act in respect to which the violation occurs. (§ 5 ch 113 SLA 1980; am § 114 ch 6 SLA 1984)

**CHAPTER 12.
BUSINESS LICENSING.**

Article

- 1. Application Requirements and Licensing (12 AAC 12.010 – 12 AAC 12.050)**
- 2. Business License Endorsement for Sale of Tobacco Products: Administrative Hearing and Review Procedures (12 AAC 12.800 – 12 AAC 12.855)**
- 3. General Provisions (12 AAC 12.990)**

**ARTICLE 1.
APPLICATION REQUIREMENTS AND LICENSING.**

Section

- 10. Business license fees**
- 20. Business license**
- 30. Application for business license**
- 40. Term of business license; license renewal**
- 50. Changes in business license**

12 AAC 12.010. BUSINESS LICENSE FEES. (a) The fee for a business license, for all or part of the initial

(1) annual license period, is \$50 if a person seeks an annual license, except that the fee is \$25 if the person seeks an annual license for which the fee is reduced under AS 43.70.030(a)(1) or (2); or

(2) biennial license period, is \$100 if a person seeks a biennial license, except that the fee is \$50 if the person seeks a biennial license for which the fee is reduced under AS 43.70.030(a)(1) or (2).

(b) The business license renewal fee is \$50 if a person seeks to renew for the next annual license period, or \$100 if a person seeks to renew for the next biennial license period, except that the business license renewal fee is \$25 if the person seeks to renew, for the next annual license period, a license for which the fee is reduced under AS 43.70.030(a)(1) or (2), or \$50 if the person seeks to renew, for the next biennial license period, a license for which the fee is reduced under AS 43.70.030(a)(1) or (2). Notwithstanding 12 AAC 02.020 and 12 AAC 02.030, the department will not prorate the first license renewal fee for a business license following initial licensure.

(c) The fee for written confirmation of a current business license or a business license that is renewable under 12 AAC 02.040(c) is \$1 for each name for which confirmation is requested. The department will waive the fee under this subsection for a request for a written confirmation of three or fewer business licenses, per day, per requester.

(d) The fee under AS 43.70.075 for a business license endorsement or for the renewal of an endorsement is \$100 for each location or outlet in a location where the person offers tobacco products, electronic smoking products, or products containing nicotine for sale, regardless of whether the business license to which each endorsement is attached is annual or biennial.

(e) A business license that has been issued under this section is non-refundable in accordance with 12 AAC 02.015.

Authority:	AS 08.01.010	AS 43.70.020	AS 43.70.075
	AS 08.01.065	AS 43.70.030	AS 43.70.090
	AS 08.01.100		

12 AAC 12.020. BUSINESS LICENSE. (a) A business license is required for each business name under which the applicant seeks to engage in business in the state.

(b) An independent contractor must have a business license separate from the person to whom the contractor provides goods or services.

(c) A business that receives revenue for the performance of contracts with the State, its political subdivisions, or the federal government is not exempt from the business licensing requirements of AS 43.70 and this chapter.

(d) Upon proper application, as described in 12 AAC 12.030, the department will issue a business license to a business that is exempt from business licensing requirements under AS 43.70.105.

(e) Repealed 1/1/2019.

(f) Repealed 1/1/2019.

(g) In advertising and operating, a business license holder must use the business name that appears on the business license.

(h) Repealed 3/26/2015.

(i) The business license or a photocopy of the business license must be displayed in a conspicuous location at each business establishment.

Authority:	AS 08.55.010	AS 43.70.090	AS 43.70.110
	AS 43.70.020	AS 43.70.105	

12 AAC 12.030. APPLICATION FOR BUSINESS LICENSE. An applicant for a business license shall submit the business license fee specified in 12 AAC 12.010 and a completed application on a form provided by the department. To be complete a business license application must include

- (1) the business name;
- (2) each primary and each secondary line of business to be conducted; any line of business subject to licensing provisions of a regulatory nature under AS 43.70.020(d) shall be listed as a primary or secondary line of business under AS 43.70.020(a)(2);
- (3) the names of the persons engaging in the business;
- (4) the mailing address and physical address of the principal place of business;
- (5) information regarding other licenses or permits, if applicable;
- (6) a statement as to whether the business will sell tobacco products, electronic smoking products, or products containing nicotine as a retailer and the physical address of each outlet or location where tobacco products, electronic smoking products, or products containing nicotine will be sold;
- (7) the name of the natural person completing the application on behalf of the business and that person's title or position in the business;
- (8) specification whether the applicant seeks an annual initial license, a biennial initial license, renewal for an annual license period, or renewal for a biennial license period;
- (9) the applicant's date of birth, if the applicant is a sole proprietor who seeks a business license or renewal for which the fee is reduced under AS 43.70.030(a)(1), or a copy of documentation from the United States Department of Veterans Affairs that the applicant is a veteran with a service-connected disability, if the applicant is a sole proprietor who seeks a business license or renewal for which the fee is reduced under AS 43.70.030(a)(2).

Authority:	AS 08.01.050	AS 43.70.020	AS 43.70.075
	AS 08.01.060	AS 43.70.030	AS 43.70.090
	AS 08.01.080		

12 AAC 12.040. TERM OF BUSINESS LICENSE; LICENSE RENEWAL. (a) A person may seek an annual or a biennial business license. A new business license will be assigned a renewal year by the department at the time the initial license is issued. Except as provided in (b) of this section, the initial

- (1) annual license period includes the remainder of the calendar year in which the business license is issued; or
 - (2) biennial license period includes the remainder of the calendar year in which the business license is issued and all of the following calendar year.
- (b) If the department issues an initial business license on or after October 1, the
- (1) annual license period includes the remainder of the calendar year in which the business license is issued and all of the following calendar year; or
 - (2) biennial license period includes the remainder of the calendar year in which the business license is issued and all of the following two calendar years.
- (c) The department will renew a business license that has been lapsed for two years or less if the applicant for renewal of the business license pays the business license renewal fee specified in 12 AAC 12.010(b) in a manner specified by the department on the renewal application.
- (d) The department will not renew a business license that has been lapsed for more than two years. The previous holder of a business license that has been lapsed for more than two years may apply for a new business license under this chapter.

Authority:	AS 08.01.050	AS 08.01.100	AS 43.70.090
	AS 08.01.080		

12 AAC 12.050. CHANGES IN BUSINESS LICENSE. (a) A new business license under 12 AAC 12.030 is required if

- (1) the name of the business changes, unless the change is limited to the addition or removal of a
 - (A) professional title of a business owner used in the name of the business; or
 - (B) word describing the legal form of organization of the business and the ownership of the business has not changed; or
 - (2) the ownership of the business changes.
- (b) If the business license holder submits the fee specified in 12 AAC 02.105(3) along with the updated information on a form provided by the department, the department will update a business license to show a change in
- (1) the business license holder's legal name; or
 - (2) the business name as described in (a)(1)(A) or (B) of this section.
- (c) A business license is not transferable or assignable.
- (d) A business license holder may request a new business license under AS 43.70.030(e)(2) within 30 days after issuance of the initial business license if when preparing the license application the holder
- (1) in error placed information in the wrong place on the application; or

- (2) made an error in entering information; in this subparagraph, "error"
(A) means a typographical or similar non-substantive mistake;
(B) includes a spelling error or an error in identifying a primary or secondary line of business.
- (e) At any time during the life of a business license, the department will update the mailing or physical address at no charge upon the license holder's request.

Authority: AS 08.01.080 AS 43.70.030 AS 43.70.090
AS 43.70.020

ARTICLE 2.
**BUSINESS LICENSE ENDORSEMENT FOR SALE OF TOBACCO PRODUCTS, ELECTRONIC
SMOKING PRODUCTS, AND PRODUCTS CONTAINING NICOTINE:
ADMINISTRATIVE HEARING AND REVIEW PROCEDURES**

Section

- 800. Applicability**
- 805. Request for hearing**
- 810. Notice of appearance by attorney for aggrieved person**
- 815. Time and place of hearing**
- 820. Discovery**
- 825. Continuances**
- 830. Motions**
- 835. Hearing**
- 840. Evidence**
- 845. Final decision and reconsideration**
- 850. Contacts with the commissioner or hearing officer**
- 855. Time periods and methods for filing**

12 AAC 12.800. APPLICABILITY. The provisions of 12 AAC 12.800 - 12 AAC 12.855 apply to an administrative hearing regarding a department action under AS 43.70.075, including a notice of suspension and a refusal by the department to issue a business license endorsement.

Authority: AS 43.70.075 AS 43.70.090

12 AAC 12.805. REQUEST FOR HEARING. (a) To obtain administrative review of a department action under AS 43.70.075, an aggrieved person must file with the department, in accordance with this section and 12 AAC 12.855, a request for an administrative hearing. The request must be filed within 20 days after the notice of department action is issued.

- (b) A request for an administrative hearing must
- (1) be in writing;
 - (2) be signed by the aggrieved person or the aggrieved person's attorney;
 - (3) be correctly addressed;
 - (4) set out the jurisdictional heading and case caption; the case caption must state the aggrieved person's own name; in addition, if the aggrieved person does business under another name, the case caption must state that name under a "d/b/a" designation;
 - (5) set out the case reference number used by the department;
 - (6) set out, underneath the case reference number and centered, the title of the request;
 - (7) specify the basis upon which the department action is being challenged;
 - (8) specify the relief sought;
 - (9) set out, at the end of the request, the
 - (A) signature of the aggrieved person or the aggrieved person's attorney; and
 - (B) date that the request was signed;
 - (10) include the aggrieved person's mailing address and daytime telephone number; the aggrieved person may include an electronic mail address and a telephone number for facsimile transmissions; and
 - (11) include a request for any special procedures to be used at the hearing, including the use of a translator.
- (c) The aggrieved person is responsible for notifying the department in writing of any change in the aggrieved person's mailing address, daytime telephone number, electronic mail address, or telephone number for facsimile transmissions. For purposes of any requirement in 12 AAC 12.800 - 12 AAC 12.855 to provide the aggrieved person with a copy of filed or decisional documents, and for purposes of any other attempt to contact the aggrieved person, the department and the hearing officer may consider current any information that the aggrieved person most recently provided with respect to the aggrieved person's mailing address, daytime telephone number, electronic mail address, or telephone number for facsimile transmissions.

Authority: AS 43.70.075 AS 43.70.090

12 AAC 12.810. NOTICE OF APPEARANCE BY ATTORNEY FOR AGGRIEVED PERSON. An attorney representing an aggrieved person must file with the hearing officer a notice of appearance that provides the attorney's mailing address, the attorney's telephone number, and any telephone number for the attorney to receive facsimile transmissions.

Authority: AS 43.70.075 AS 43.70.090

12 AAC 12.815. TIME AND PLACE OF HEARING. (a) Unless the aggrieved person and the department stipulate, with the hearing officer's approval, to the time and place of the hearing and to pre-hearing deadlines, the hearing officer shall conduct a telephonic pre-hearing conference to

(1) schedule the time and place of the hearing; and

(2) determine pre-hearing deadlines for the close of discovery, the exchange of witness and exhibit lists, the filing of motions, and the filing of optional hearing memoranda.

(b) The hearing shall be held in Anchorage, Fairbanks, or Juneau, whichever location is closest to the aggrieved person, unless the aggrieved person and the department stipulate, with the hearing officer's approval, to a different location for the hearing.

Authority: AS 43.70.075 AS 43.70.090

12 AAC 12.820. DISCOVERY. The aggrieved person and the department may obtain discovery of unprivileged documentary evidence relevant to the issues identified in AS 43.70.075(m)(1), (2), and (3). Discovery requests and responses are not required to be filed with the hearing officer. Upon a motion with good cause shown, the hearing officer may compel discovery or issue protective orders concerning discovery.

Authority: AS 43.70.075 AS 43.70.090

12 AAC 12.825. CONTINUANCES. To seek a continuance in an administrative hearing, the aggrieved person or the department must file a motion that sets out the grounds for the request. The administrative hearing may only be continued for good cause shown.

Authority: AS 43.70.075 AS 43.70.090

12 AAC 12.830. MOTIONS. (a) To make a motion or submit a memorandum, the aggrieved person or the department must file the motion or memorandum in writing with the hearing officer and provide a copy to the opposing party. The filing of a motion or memorandum with the hearing officer is subject to the requirements of 12 AAC 12.855, as applicable. The filing must include signed proof that a copy was provided to the opposing party, identifying the motion or memorandum provided, and setting out the date and the method by which the copy was provided. A copy to the opposing party may be provided by personal delivery, first class mail, or facsimile transmission. A copy provided by electronic mail shall not be considered to have been provided in accordance with this subsection.

(b) A written motion is subject to opposition and reply memoranda,

(1) except as otherwise set out in 12 AAC 12.800 - 12 AAC 12.855;

(2) unless the aggrieved person and the department, with the hearing officer's approval, stipulate otherwise; or

(3) unless the commissioner or hearing officer order otherwise.

(c) Unless the commissioner or hearing officer orders a different schedule for the filing of memoranda, and except as provided in (d) of this section,

(1) an opposition memorandum may be filed with the hearing officer no later than 10 days after the date the motion was provided to the opposing party; and

(2) a reply memorandum may be filed with the hearing officer no later than three business days after the date the opposition memorandum was provided to the opposing party.

(d) If a motion or memorandum is provided to the opposing party by first class mail, three days shall be added to the time for filing an opposition or reply memorandum.

Authority: AS 43.70.075 AS 43.70.090

12 AAC 12.835. HEARING. (a) For purposes of the preponderance of the evidence test required under AS 43.70.075(m), the department bears the burden of proof.

(b) Unless the aggrieved person and the department agree otherwise, the department will present its case first. The aggrieved person and the department each may make an opening statement and a closing argument. A closing argument may be oral or written, and with the hearing officer's approval, may be filed or take place after the final day of testimony. Each witness shall testify under oath and with an opportunity for cross-examination. An aggrieved person who is not represented by counsel may testify in a narrative form, under oath and subject to cross-

examination. Upon request by the aggrieved person or the department, and with the hearing officer's approval, a witness, the aggrieved person, or the department may testify or otherwise participate in the hearing process telephonically. Any long distance charge for telephonic testimony or participation must be incurred by the party who made the request.

(c) A hearing held under this section shall be recorded and may be transcribed at the request and expense of the party requesting the transcript.

(d) After the record for the hearing is closed, the hearing officer shall issue a written proposed decision with findings of fact and conclusions of law.

Authority: AS 43.70.075 AS 43.70.090

12 AAC 12.840. EVIDENCE. (a) Oral evidence may be taken only on oath or affirmation.

(b) The aggrieved person and the department may each

(1) call and examine witnesses;

(2) introduce exhibits, with the department using numbers and the aggrieved person using letters to identify exhibits;

(3) cross-examine opposing witnesses on matters relevant to the issues, even if an issue was not covered in the direct examination;

(4) impeach a witness regardless of which party first called the witness to testify;

(5) rebut any adverse evidence; and

(6) introduce evidence to rebut or support the presumption set out in AS 43.70.075(r).

(c) If the aggrieved person does not choose to testify on direct examination, the aggrieved person may be called and examined as if under cross-examination.

(d) The administrative hearing need not be conducted according to technical rules relating to evidence and witnesses. Relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule that makes improper the admission of the evidence over objection in a civil action. Hearsay evidence may be used to supplement or explain direct evidence but is not sufficient by itself to support a finding unless it would be admissible over objection in a civil action. The rules of privilege are effective to the same extent that they are recognized in a civil action. Irrelevant and unduly repetitious evidence shall be excluded.

Authority: AS 43.70.075 AS 43.70.090

12 AAC 12.845. FINAL DECISION AND RECONSIDERATION. (a) For purposes of appeal to the superior court, the commissioner's decision under AS 43.70.075(n) is a final administrative order and decision on the last day when reconsideration of that decision can be ordered. The decision becomes effective 30 days after it is issued under 12 AAC 12.855(c), unless

(1) a different effective date is stated in the decision; or

(2) the aggrieved person and the department, with the approval of the commissioner, agree to a different effective date; the commissioner may delegate to the hearing officer a decision to approve a different effective date.

(b) Within no more than 20 days after the commissioner's decision is issued under 12 AAC 12.855(c), the aggrieved person or the department may file, in accordance with 12 AAC 12.830 and 12 AAC 12.855, a motion for reconsideration of the decision. The motion must set out the grounds upon which the aggrieved person or the department believes the decision to be erroneous, unlawful, or defective.

(c) Within 30 days after the commissioner's decision is issued under 12 AAC 12.855(c), the commissioner may order reconsideration on the commissioner's own motion or upon the filing of a motion in accordance with (b) of this section. Upon reconsideration, the commissioner may affirm the decision, issue a new or modified decision, or remand the matter to the hearing officer for additional proceedings. If the commissioner does not act on a motion for reconsideration within the 30-day period, the motion for reconsideration is denied.

(d) The commissioner may grant, upon a motion by the aggrieved person or the department, a stay for a particular purpose at any time before the decision becomes effective or before any appeal is filed with the superior court. A motion for a stay must set out the reasons that a stay is sought. The commissioner will grant a stay only for good cause shown.

(e) Any filing after issuance of the hearing officer's proposed decision shall be made with the hearing officer. The hearing officer shall forward those filings to the commissioner.

Authority: AS 43.70.075 AS 43.70.090

12 AAC 12.850. CONTACTS WITH COMMISSIONER AND HEARING OFFICER. An aggrieved person, the department, or a person acting on behalf of the aggrieved person or department may contact the commissioner or hearing officer concerning a matter that is the subject of a pending or in-progress administrative hearing only through the procedures set out in 12 AAC 12.800 - 12 AAC 12.855. The commissioner will not, and hearing officer may not, make a communication without both parties present concerning a matter that is the subject of a pending or in-progress administrative hearing to which the aggrieved person and the department are a party.

Authority: AS 43.70.075 AS 43.70.090

12 AAC 12.855. TIME PERIODS AND METHODS FOR FILING. (a) If a document must be filed on or before a specified date under a provision of 12 AAC 12.800 - 12 AAC 12.855, the document may be filed by personal delivery, certified mail, or facsimile transmission. If the document is filed by

(1) mail, the date of filing is the date when the department receives the document; or
(2) personal delivery or facsimile transmission, the document will not be considered timely filed unless the department receives the document before the time the department closes for regular business on the specified date.

(b) If a date on or before which a document must be filed under 12 AAC 12.800 - 12 AAC 12.855 is a Saturday, Sunday, or state holiday, the document must be filed on or before the next regular business day.

(c) For purposes of calculating a time period under AS 43.70.075 and 12 AAC 12.800 - 12 AAC 12.855, the date when a notice of a department action is issued to an aggrieved person is the date that the department personally delivers the notice, sends it by certified mail, or transmits it by facsimile transmission, whichever occurs first. An aggrieved person represented by an attorney will be presumed to have been issued the decision if the decision is issued to the attorney by one of the means in this subsection.

(d) A document may not be filed by electronic mail or by any other electronic means except facsimile transmission.

Authority: AS 43.70.075 AS 43.70.090

ARTICLE 3. GENERAL PROVISIONS.

Section

990. Definitions

12 AAC 12.990. DEFINITIONS. In this chapter, unless the context requires otherwise,

- (1) "aggrieved person" means a person against whom the department takes action under AS 43.70.075;
- (2) "business day" means a day other than Saturday, Sunday, or a state holiday;
- (3) "commissioner" means the commissioner of commerce, community, and economic development;
- (4) "department" means the Department of Commerce, Community, and Economic Development;
- (5) "independent contractor" means a person who provides goods or services for compensation but does not have the status of an employee while providing those goods or services;
- (6) "line of business" has the meaning given in AS 43.70.110;
- (7) "motion" means any written request of the commissioner or hearing officer seeking a ruling on an issue in a case;
- (8) "telephonically" means by telephone or video teleconferencing, as available;
- (9) "cigarette" has the meaning given in AS 43.50.170;
- (10) "endorsement" means authorization on the business license issued in accordance with AS 43.70.020 and 43.70.075, to sell tobacco products, electronic smoking products, or products containing nicotine;
- (11) "tobacco product" has the meaning given in AS 43.50.390.

Authority: AS 08.01.080 AS 43.70.090 AS 43.70.110
AS 43.70.075 AS 43.70.105

**CHAPTER 01.
CENTRALIZED LICENSING.**

Section

- 10. Applicability of chapter**
- 20. Board organization**
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- 30. Quorum**
- 35. Appointments and terms**
- 40. Transportation and per diem**
- 50. Administrative duties of department**
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- 63. Military courtesy licenses**
- 64. Military education, training, and service credit; temporary license**
- 65. Establishment of fees**
- 70. Administrative duties of boards**
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- 77. Conviction as grounds for disciplinary action**
- 80. Department regulations**
- 87. Investigative and enforcement powers of department**
- 89. Copies of records for child support purposes**
- 90. Applicability of the Administrative Procedure Act**
- 100. License renewal, lapse, and reinstatement**
- 102. Citation for unlicensed practice or activity**
- 103. Procedure and form of citation**
- 104. Failure to obey citation**
- 105. Penalty for improper payment**
- 110. Definitions**

Sec. 08.01.010. Applicability of chapter. This chapter applies to the

- (1) Board of Public Accountancy (AS 08.04.010);
- (2) regulation of acupuncturists under AS 08.06;
- (3) State Board of Registration for Architects, Engineers, and Land Surveyors (AS 08.48.011);
- (4) Athletic Commission (AS 05.05 and AS 05.10);
- (5) regulation of athletic trainers under AS 08.07;
- (6) regulation of audiologists and speech-language pathologists under AS 08.11;
- (7) Board of Barbers and Hairdressers (AS 08.13.010);
- (8) regulation of behavior analysts under AS 08.15;
- (9) Big Game Commercial Services Board (AS 08.54.591);
- (10) regulation of business licenses under AS 43.70;
- (11) Board of Chiropractic Examiners (AS 08.20.010);
- (12) regulation of collection agencies under AS 08.24;
- (13) regulation of concert promoters under AS 08.92;
- (14) regulation of construction contractors and home inspectors under AS 08.18;
- (15) Board of Dental Examiners (AS 08.36.010);
- (16) regulation of dietitians and nutritionists under AS 08.38;
- (17) Board of Certified Direct-Entry Midwives (AS 08.65.010);
- (18) regulation of dispensing opticians under AS 08.71;
- (19) regulation of electrical and mechanical administrators under AS 08.40;
- (20) regulation of agencies that perform euthanasia services under AS 08.02.050;
- (21) regulation of professional geologists under AS 08.02.011;
- (22) regulation of private professional guardians and private professional conservators (AS 08.26);
- (23) regulation of hearing aid dealers under AS 08.55;
- (24) Board of Marine Pilots (AS 08.62.010);
- (25) Board of Marital and Family Therapy (AS 08.63.010);
- (26) Board of Massage Therapists (AS 08.61.010);
- (27) State Medical Board (AS 08.64.010);
- (28) regulation of morticians under AS 08.42;
- (29) regulation of the practice of naturopathy under AS 08.45;
- (30) Board of Nursing (AS 08.68.010);
- (31) regulation of nursing home administrators under AS 08.70;
- (32) Board of Examiners in Optometry (AS 08.72.010);
- (33) regulation of pawnbrokers (AS 08.76.100 – 08.76.590);

- (34) Board of Pharmacy (AS 08.80.010);
- (35) State Physical Therapy and Occupational Therapy Board (AS 08.84.010);
- (36) Board of Professional Counselors (AS 08.29.010);
- (37) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010);
- (38) Real Estate Commission (AS 08.88.011);
- (39) Board of Certified Real Estate Appraisers (AS 08.87.010);
- (40) Board of Social Work Examiners (AS 08.95.010);
- (41) Board of Veterinary Examiners (AS 08.98.010).

Sec. 08.01.020. Board organization. Board members are appointed by the governor and serve at the pleasure of the governor. Unless otherwise provided, the governor may designate the chair of a board, and all other officers shall be elected by the board members. Unless otherwise provided, officers of a board are the chair and the secretary. A board may provide by regulation that three or more unexcused absences from meetings are cause for removal.

Sec. 08.01.025. Public members. A public member of a board may not

- (1) be engaged in the occupation that the board regulates;
- (2) be associated by legal contract with a member of the occupation that the board regulates except as a consumer of the services provided by a practitioner of the occupation; or
- (3) have a direct financial interest in the occupation that the board regulates.

Sec. 08.01.030. Quorum. A majority of the membership of a board constitutes a quorum unless otherwise provided.

Sec. 08.01.035. Appointments and terms. Members of boards subject to this chapter are appointed for staggered terms of four years. Except as provided in AS 39.05.080(4), a member of a board serves until a successor is appointed. Except as provided in AS 39.05.080(4), an appointment to fill a vacancy on a board is for the remainder of the unexpired term. A member who has served all or part of two successive terms on a board may not be reappointed to that board unless four years have elapsed since the person has last served on the board.

Sec. 08.01.040. Transportation and per diem. A board member is entitled to transportation expenses and per diem as set out in AS 39.20.180.

Sec. 08.01.050. Administrative duties of department. (a) The department shall perform the following administrative and budgetary services when appropriate:

- (1) collect and record fees;
- (2) maintain records and files;
- (3) issue and receive application forms;
- (4) notify applicants of acceptance or rejection as determined by the board or, for occupations or activities listed in AS 08.01.010 that are regulated directly by the department, as determined by the department under applicable law;
- (5) designate dates examinations are to be held and notify applicants;
- (6) publish notice of examinations and proceedings;
- (7) arrange space for holding examinations and proceedings;
- (8) notify applicants of results of examinations;
- (9) issue licenses or temporary licenses as authorized by the board or, for occupations or activities listed in AS 08.01.010 that are regulated directly by the department, as authorized by the department under applicable law;
- (10) issue duplicate licenses upon submission of a written request by the licensee attesting to loss of or the failure to receive the original and payment by the licensee of a fee established by regulation adopted by the department;
- (11) notify licensees of renewal dates at least 30 days before the expiration date of their licenses;
- (12) compile and maintain a current register of licensees;
- (13) answer routine inquiries;
- (14) maintain files relating to individual licensees;
- (15) arrange for printing and advertising;
- (16) purchase supplies;
- (17) employ additional help when needed;
- (18) perform other services that may be requested by the board;
- (19) provide inspection, enforcement, and investigative services to the boards and for the occupations listed in AS 08.01.010 regarding all licenses issued by or through the department;
- (20) retain and safeguard the official seal of a board and prepare, sign, and affix a board seal, as appropriate, for licenses approved by a board;
- (21) issue business licenses under AS 43.70.

(b) The form and content of a license, authorized by a board listed in AS 08.01.010, including any document evidencing renewal of a license, shall be determined by the department after consultation with and consideration of the views of the board concerned.

(c) *[Repealed, Sec. 49 ch 94 SLA 1987.]*

(d) At the request of one of the following boards, the department may contract with public agencies and private professional organizations to provide assistance and treatment to persons licensed by the board who abuse alcohol, other drugs, or other substances:

- (1) Board of Social Work Examiners;
- (2) Board of Dental Examiners;
- (3) Board of Marital and Family Therapy;
- (4) State Medical Board;
- (5) Board of Nursing;
- (6) Board of Examiners in Optometry;
- (7) Board of Pharmacy;
- (8) State Physical Therapy and Occupational Therapy Board;
- (9) Board of Professional Counselors;
- (10) Board of Psychologist and Psychological Associate Examiners; and
- (11) Board of Veterinary Examiners.

Sec. 08.01.060. Application for license. (a) All applications for examination or licensing to engage in the business or profession covered by this chapter shall be made in writing to the department.

(b) If the applicant is a natural person, the application must require that the applicant submit the applicant's social security number to the department. Notwithstanding any other provision of this title, a license to engage in a profession may not be issued by the department to a natural person unless the social security number has been provided to the department.

Sec. 08.01.062. Courtesy licenses. (a) A board established under this title and the Department of Commerce, Community, and Economic Development, with respect to an occupation that it regulates under this title, may by regulation establish criteria for issuing a temporary courtesy license to nonresidents who enter the state so that, on a temporary basis, they may practice the occupation regulated by the board or the department.

(b) The regulations adopted under (a) of this section may include limitations relating to the

- (1) duration of the license's validity;
- (2) scope of practice allowed under the license; and
- (3) other matters considered important by the board or the department.

Sec. 08.01.063. Military courtesy licenses. (a) Except as provided in (d) of this section, and notwithstanding another provision of law, the department or appropriate board may issue a temporary courtesy license to the spouse of an active duty member of the armed forces of the United States if the spouse applies to the department or appropriate board in the manner prescribed by the department or appropriate board. An application must include evidence satisfactory to the department or appropriate board that the applicant

(1) is married to and living with a member of the armed forces of the United States who is on active duty and assigned to a duty station in this state under official active duty military orders;

(2) holds a current license or certificate in another state, district, or territory of the United States with requirements that the department or appropriate board determines are equivalent to those established under this title for that occupation;

(3) if required by the department or appropriate board for obtaining a license in the applicant's profession, has been fingerprinted and has provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400;

(4) has not committed an act in any jurisdiction that would have constituted grounds for the refusal, suspension, or revocation of a license or certificate to practice that occupation under this title at the time the act was committed;

(5) has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing or credentialing entity in another jurisdiction; and

(6) pays any fees required under this title.

(b) The department or appropriate board shall expedite the procedure for issuance of a license under (a) of this section.

(c) A temporary courtesy license issued under this section is valid for 180 days and may be extended at the discretion of the department or appropriate board for one additional 180-day period, on application of the holder of the temporary courtesy license.

(d) This section does not apply to the practice of law or the regulation of attorneys under AS 08.08.

Sec. 08.01.064. Military education, training, and service credit; temporary license. (a) Notwithstanding another provision of law, the department or applicable board shall accept military education, training, and service for some or all of the qualifications otherwise required of an applicant for a license or certificate issued under this chapter if

(1) the department or applicable board determines that the military education, training, and service is substantially equivalent to some or all of the qualifications otherwise required of an applicant for a license or certificate issued under this chapter; and

(2) the applicant provides satisfactory evidence of successful completion of the education, training, or service as a member of the armed forces of the United States, the United States Reserves, the National Guard of any state, the Military Reserves of any state, or the Naval Militia of any state.

(b) If the department issues temporary licenses or certificates as authorized by the department or applicable board under AS 08.01.050(a)(9), the department or applicable board shall issue a temporary license or certificate to a person who

(1) applies to the department or applicable board in a manner prescribed by the department or board;

(2) meets the requirements in AS 08.01.063(a)(3) - (6); and

(3) while in the armed forces of the United States or any state, as described in (a) of this section,

(A) held a current license or certificate in another state, district, or territory of the United States, practiced in the area of the license or certificate, and maintained the license or certificate in active status before and at the time of application for a license or certificate under this subsection; or

(B) was awarded a degree, diploma, or certificate by a branch of the armed forces of the United States or any state, as described in (a) of this section, that met standards for an equivalent license or a certificate of technical training.

(c) The department or applicable board shall expedite the procedure for issuance of a license or certificate under (b) of this section for an applicant who is on active duty.

(d) A license or certificate issued under (b) of this section is valid for 180 days and may be extended at the discretion of the department or applicable board for one additional 180-day period if the holder of the license or certificate applies for an extension on a form approved by the department or applicable board.

(e) The department or applicable board may adopt regulations necessary to implement this section.

Sec. 08.01.065. Establishment of fees. (a) Except for business licenses, the department shall adopt regulations that establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by this chapter.

(b) *[Repealed, Sec. 4 ch 34 SLA 1992.]*

(c) Except as provided in (f) – (i) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation. The department shall annually review each fee level to determine whether the regulatory costs of each occupation are approximately equal to fee collections related to that occupation. If the review indicates that an occupation's fee collections and regulatory costs are not approximately equal, the department shall calculate fee adjustments and adopt regulations under (a) of this section to implement the adjustments. In January of each year, the department shall report on all fee levels and revisions for the previous year under this subsection to the office of management and budget. If a board regulates an occupation covered by this chapter, the department shall consider the board's recommendations concerning the occupation's fee levels and regulatory costs before revising fee schedules to comply with this subsection. In this subsection, "regulatory costs" means costs of the department that are attributable to regulation of an occupation plus

(1) all expenses of the board that regulates the occupation if the board regulates only one occupation;

(2) the expenses of a board that are attributable to the occupation if the board regulates more than one occupation.

(d) The license fee for a business license is set by AS 43.70.030(a). The department shall adopt regulations that establish the manner of payment of the license fee.

(e) *[Repealed, Sec. 28 ch 90 SLA 1991.]*

(f) Notwithstanding (c) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected by the State Board of Registration for Architects, Engineers, and Land Surveyors approximately equals the total regulatory costs of the department and the board for all occupations regulated by the board. The department shall set the fee levels for the issuance and renewal of a certificate of registration issued under AS 08.48.211 so that the fee levels are the same for all occupations regulated by the board.

(g) Notwithstanding (c) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected by the department for all occupations regulated under AS 08.11 approximately equals the total regulatory costs of the department for all occupations regulated by the department under AS 08.11. The department shall set the fee levels for the issuance and renewal of licenses issued under AS 08.11 so that the fee levels are the same for all occupations regulated by the department under AS 08.11.

(h) Notwithstanding (c) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected by the Board of Barbers and Hairdressers approximately equals the total regulatory costs of the department, the board, and the Department of Environmental Conservation for all occupations regulated by the board. For purposes of this subsection, the regulatory costs of the Department of Environmental

Conservation for the occupations regulated by the board include the cost of inspections under AS 08.13.210(b), the cost of developing and adopting regulations under AS 44.46.020 for barbershop, hairdressing, manicuring, esthetics, body piercing, ear piercing, and tattooing and permanent cosmetic coloring establishments, and the cost to the Department of Environmental Conservation of enforcing those regulations except for the enforcement costs relating to ear piercing establishments. The department shall set the fee levels for the issuance and renewal of a practitioner's license issued under AS 08.13.100 so that the license and license renewal fees are the same for all occupations regulated by the Board of Barbers and Hairdressers.

(i) Notwithstanding (c) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected by the Department of Commerce, Community, and Economic Development for specialty contractors, home inspectors, and associate home inspectors approximately equals the total regulatory costs of the department for those three registration categories. The department shall set the fee levels for the issuance and renewal of a certificate of registration issued under AS 08.18 so that the fee levels are the same for all three of these registration categories and so that the fee level for a home inspector with a joint registration is not different from the fee level for a home inspector who does not have a joint registration. In this subsection, "joint registration" has the meaning given in AS 08.18.171.

Sec. 08.01.070. Administrative duties of boards. Each board shall perform the following duties in addition to those provided in its respective law:

- (1) take minutes and records of all proceedings;
- (2) hold a minimum of one meeting each year;
- (3) hold at least one examination each year;
- (4) request, through the department, investigation of violations of its laws and regulations;
- (5) prepare and grade board examinations;
- (6) set minimum qualifications for applicants for examination and license and may establish a waiver of continuing education requirements for renewal of a license for the period in which a licensee is engaged in active duty military service as described under AS 08.01.100(f);
- (7) forward a draft of the minutes of proceedings to the department within 20 days after the proceedings;
- (8) forward results of board examinations to the department within 20 days after the examination is given;
- (9) notify the department of meeting dates and agenda items at least 15 days before meetings and other proceedings are held;
- (10) submit before the end of the fiscal year an annual performance report to the department stating the board's accomplishments, activities, and needs.

Sec. 08.01.075. Disciplinary powers of boards. (a) A board may take the following disciplinary actions, singly or in combination:

- (1) permanently revoke a license;
 - (2) suspend a license for a specified period;
 - (3) censure or reprimand a licensee;
 - (4) impose limitations or conditions on the professional practice of a licensee;
 - (5) require a licensee to submit to peer review;
 - (6) impose requirements for remedial professional education to correct deficiencies in the education, training, and skill of the licensee;
 - (7) impose probation requiring a licensee to report regularly to the board on matters related to the grounds for probation;
 - (8) impose a civil fine not to exceed \$5,000.
- (b) A board may withdraw probationary status if the deficiencies that required the sanction are remedied.
- (c) A board may summarily suspend a licensee from the practice of the profession before a final hearing is held or during an appeal if the board finds that the licensee poses a clear and immediate danger to the public health and safety. A person is entitled to a hearing conducted by the office of administrative hearings (AS 44.64.010) to appeal the summary suspension within seven days after the order of suspension is issued. A person may appeal an adverse decision of the board on an appeal of a summary suspension to a court of competent jurisdiction.
- (d) A board may reinstate a suspended or revoked license if, after a hearing, the board finds that the applicant is able to practice the profession with skill and safety.
- (e) A board may accept the voluntary surrender of a license. A license may not be returned unless the board determines that the licensee is competent to resume practice and the licensee pays the appropriate renewal fee.
- (f) A board shall seek consistency in the application of disciplinary sanctions. A board shall explain a significant departure from prior decisions involving similar facts in the order imposing the sanction.

Sec. 08.01.077. Conviction as grounds for disciplinary action. Notwithstanding any other provision of this title, the conviction under AS 47.24.010 of a person licensed, certified, or regulated by the department or a board under this title may be considered by the department or board as grounds for disciplinary proceedings or sanctions.

Sec. 08.01.080. Department regulations. The department shall adopt regulations to carry out the purposes of this chapter including but not limited to describing

- (1) how an examination is to be conducted;
- (2) what is contained in application forms;
- (3) how a person applies for an examination or license.

Sec. 08.01.087. Investigative and enforcement powers of department. (a) The department may, upon its own motion, conduct investigations to

(1) determine whether a person has violated a provision of this chapter or a regulation adopted under it, or a provision of AS 43.70, or a provision of this title or regulation adopted under this title dealing with an occupation or board listed in AS 08.01.010; or

(2) secure information useful in the administration of this chapter.

(b) If it appears to the commissioner that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it, or a provision of AS 43.70, or a provision of this title or regulation adopted under this title dealing with an occupation or board listed in AS 08.01.010, the commissioner may, if the commissioner considers it in the public interest, and after notification of a proposed order or action by telephone, telegraph, or facsimile to all board members, if a board regulates the act or practice involved, unless a majority of the members of the board object within 10 days,

(1) issue an order directing the person to stop the act or practice; however, reasonable notice of and an opportunity for a hearing must first be given to the person, except that the commissioner may issue a temporary order before a hearing is held; a temporary order remains in effect until a final order affirming, modifying, or reversing the temporary order is issued or until 15 days after the person receives the notice and has not requested a hearing by that time; a temporary order becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receiving the notice; the office of administrative hearings (AS 44.64.010) shall conduct the hearing and shall issue a proposed decision within 10 days after the hearing; the commissioner shall issue a final order within five days after the proposed decision is issued;

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter, a regulation adopted under it, an order issued under it, or with a provision of this title or regulation adopted under this title dealing with business licenses or an occupation or board listed in AS 08.01.010;

(3) examine or have examined the books and records of a person whose business activities require a business license or licensure by a board listed in AS 08.01.010, or whose occupation is listed in AS 08.01.010; the commissioner may require the person to pay the reasonable costs of the examination; and

(4) issue subpoenas for the attendance of witnesses, and the production of books, records, and other documents.

(c) Under procedures and standards of operation established by the department by regulation, and with the agreement of the appropriate agency, the department may designate appropriate state or municipal agencies to investigate reports of abuse, neglect, or misappropriation of property by certified nurse aides.

Sec. 08.01.089. Copies of records for child support purposes. If a copy of a public record concerning an individual who owes or is owed child support that is prepared or maintained by the department is requested by the child support services agency created in AS 25.27.010 or a child support enforcement agency of another state, the department shall provide the requesting agency with a certified copy of the public record, including the individual's social security number. If these records are prepared or maintained by the department in an electronic data base, the records may be supplied by providing the requesting agency with a copy of the electronic record and a statement certifying its contents. A requesting agency receiving information under this section may use it only for child support purposes authorized under law.

Sec. 08.01.090. Applicability of the Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) applies to regulations adopted and proceedings held under this chapter, except those under AS 08.01.087(b) and actions taken under AS 08.68.333(c).

Sec. 08.01.100. License renewal, lapse, and reinstatement. (a) Licenses shall be renewed biennially on the dates set by the department with the approval of the respective board.

(b) A license subject to renewal shall be renewed on or before the date set by the department. If the license is not renewed by the date set by the department, the license lapses. In addition to renewal fees required for reinstatement of the lapsed license, the department may impose a delayed renewal penalty, established by regulation, that shall be paid before a license that has been lapsed for more than 60 days may be renewed. The department may adopt a delayed renewal penalty only with the concurrence of the appropriate board.

(c) Except as provided in (f) of this section, when continuing education or other requirements are made a condition of license renewal, the requirements shall be satisfied before a license is renewed.

(d) Except as otherwise provided, a license may not be renewed if it has been lapsed for five years or more.

(e) Notwithstanding any other provision of this title, a renewal of a license may not be issued by the department to a natural person unless the licensee's social security number has been provided to the department.

(f) The department may establish and implement a waiver of continuing education requirements for renewal of a license regulated by the department and a board may establish and implement a waiver of continuing education

requirements for renewal of a license regulated by the board for the period in which a licensee is engaged in active duty military service in the armed forces of the United States.

(g) A member of the armed forces of the United States on active duty in a combat zone, danger pay post, or qualified hazardous duty area, who is a licensee under this title in good standing at the time of the licensee's active duty order is exempt from any fees or other requirements to maintain that license or good standing while the licensee is in that zone, at that post, or in that area. This exemption is valid for 180 days after returning to the licensee's permanent duty station, if the licensee does not engage in licensed practice for profit in the private sector. The licensee shall pay fees and meet all other requirements for the license period beginning after the exemption ends. In this subsection,

- (1) "combat zone" has the meaning given in 26 U.S.C. 112(c)(2) (Internal Revenue Code);
- (2) "danger pay post" means a post so designated by the United States Secretary of State in the Department of State Standardized Regulations for purposes of danger pay under 5 U.S.C. 5928;
- (3) "qualified hazardous duty area" means an area that, during the applicant's deployment, is treated as if it were a combat zone for purposes of a federal tax exemption under 26 U.S.C. 112 (Internal Revenue Code).

Sec. 08.01.102. Citation for unlicensed practice or activity. The department may issue a citation for a violation of a license requirement under this chapter, except a requirement to have a license under AS 43.70, if there is probable cause to believe a person has practiced a profession or engaged in business for which a license is required without holding the license. Each day a violation continues after a citation for the violation has been issued constitutes a separate violation. A citation issued under this section must comply with the standards adopted under AS 12.25.175 - 12.25.230.

Sec. 08.01.103. Procedure and form of citation. (a) A person receiving the citation issued under AS 08.01.102 is not required to sign a notice to appear in court.

(b) The time specified in the notice to appear on a citation issued under AS 08.01.102 shall be at least five working days after the issuance of the citation.

(c) The department is responsible for the issuance of books containing appropriate citations and shall maintain a record of each book issued and each citation contained in it. The department shall require and retain a receipt for every book issued to an employee of the department.

(d) On or before the 10th working day after the issuance of a citation, the department shall deposit the original or a copy of the citation with a court having jurisdiction over the alleged offense. Upon its deposit with the court, the citation may be disposed of only by trial in the court or other official action taken by the magistrate, judge, or prosecutor. The department may not dispose of a citation, copies of it, or the record of its issuance except as required under this subsection and (e) of this section.

(e) The department shall require the return of a copy of every citation issued by the department and all copies of a citation that has been spoiled or upon which an entry has been made and not issued to an alleged violator. The department shall also maintain, in connection with each citation, a record of the disposition of the charge by the court where the original or copy of the citation was deposited.

(f) A citation issued under AS 08.01.102 is considered to be a lawful complaint for the purpose of prosecution.

Sec. 08.01.104. Failure to obey citation. Unless the citation has been voided or otherwise dismissed by the magistrate, judge, or prosecutor, a person who without lawful justification or excuse fails to appear in court to answer a citation issued under AS 08.01.102, regardless of the disposition of the charge for which the citation was issued, is guilty of a class B misdemeanor.

Sec. 08.01.105. Penalty for improper payment. An applicant shall pay a penalty of \$10 each time a negotiable instrument is presented to the department in payment of an amount due and payment is subsequently refused by the named payor.

Sec. 08.01.110. Definitions. In this chapter,

- (1) "board" includes the boards and commissions listed in AS 08.01.010;
- (2) "commissioner" means the commissioner of commerce, community, and economic development;
- (3) "department" means the Department of Commerce, Community, and Economic Development;
- (4) "license" means a business license or a license, certificate, permit, or registration or similar evidence of authority issued for an occupation by the department or by one of the boards listed in AS 08.01.010;
- (5) "licensee" means a person who holds a license;
- (6) "occupation" means a trade or profession listed in AS 08.01.010.

CHAPTER 02.
MISCELLANEOUS PROVISIONS.

Section

- 10. Professional designation requirements**
- 11. Professional geologist**
- 20. Limitation of liability**
- 40. Access to certain mental health information and records by the state**
- 50. Permits for use of drugs to euthanize domestic animals**
- 90. Definition**

Sec. 08.02.010. Professional designation requirements. (a) An acupuncturist licensed under AS 08.06, an audiologist or speech-language pathologist licensed under AS 08.11, a behavior analyst licensed under AS 08.15, a person licensed in the state as a chiropractor under AS 08.20, a professional counselor licensed under AS 08.29, a dentist under AS 08.36, a dietitian or nutritionist licensed under AS 08.38, a marital and family therapist licensed under AS 08.63, a medical practitioner or osteopath under AS 08.64, a direct-entry midwife certified under AS 08.65, a registered nurse under AS 08.68, an optometrist under AS 08.72, a licensed pharmacist under AS 08.80, a physical therapist or occupational therapist licensed under AS 08.84, a psychologist under AS 08.86, or a clinical social worker licensed under AS 08.95, shall use as professional identification appropriate letters or a title after that person's name that represents the person's specific field of practice. The letters or title shall appear on all signs, stationery, or other advertising in which the person offers or displays personal professional services to the public. In addition, a person engaged in the practice of medicine or osteopathy as defined in AS 08.64.380, or a person engaged in any manner in the healing arts who diagnoses, treats, tests, or counsels other persons in relation to human health or disease and uses the letters "M.D." or the title "doctor" or "physician" or another title that tends to show that the person is willing or qualified to diagnose, treat, test, or counsel another person, shall clarify the letters or title by adding the appropriate specialist designation, if any, such as "dermatologist," "radiologist," "audiologist," "naturopath," or the like.

(b) A person subject to (a) of this section who fails to comply with the requirements of (a) of this section shall be given notice of noncompliance by that person's appropriate licensing board or, if the person is not regulated by a board, by the department. If, after a reasonable time, with opportunity for a hearing, the person's noncompliance continues, the board or department, as appropriate, may suspend or revoke the person's license or registration, or administer other disciplinary action which in its determination is appropriate.

Sec. 08.02.011. Professional geologist. The commissioner of commerce, community, and economic development shall certify an applicant as a professional geologist if the applicant is certified as a professional geologist by the American Institute of Professional Geologists.

Sec. 08.02.020. Limitation of liability. An action may not be brought against a person for damages resulting from

- (1) the person's good faith performance of a duty, function, or activity required as a
 - (A) member of, or witness before, a licensing board or peer review committee established to review a licensing matter;
 - (B) member of a committee appointed under AS 08.64.336(c);
 - (C) contractor or agent of a contractor under AS 08.01.050(d) or AS 08.64.101(5);
- (2) a recommendation or action in accordance with the prescribed duties of a licensing board, peer review committee established to review a licensing matter, committee appointed under AS 08.64.336(c), or contractor or agent of a contractor under AS 08.01.050(d) or AS 08.64.101(5) when the person acts in the reasonable belief that the action or recommendation is warranted by facts known to the person, board, peer review committee, committee appointed under AS 08.64.336(c), or contractor or agent of the contractor under AS 08.01.050(d) or AS 08.64.101(5) after reasonable efforts to ascertain the facts upon which the action or recommendation is made; or
- (3) a report made in good faith to a public agency by the person, or participation by the person in an investigation by a public agency or a judicial or administrative proceeding relating to the report, if the report relates to the abuse of alcohol, other drugs, or other substances by a person licensed by a board listed in AS 08.01.050(d).

Sec. 08.02.040. Access to certain mental health information and records by the state. (a) Notwithstanding AS 08.29.200, AS 08.63.200, AS 08.86.200, AS 08.95.900, another provision of this title, or a regulation adopted under this title, a licensee or an entity employing or contracting with a licensee may disclose confidential patient mental health information, communications, and records to the Department of Health and Social Services when disclosure is authorized under AS 47.30.540, 47.30.590, 47.30.845, or AS 47.31.032. Information, communications, and records received by the Department of Health and Social Services under this section are confidential medical records of patients and are not open to public inspection and copying under AS 40.25.110 - 40.25.120.

(b) In this section, "licensee" has the meaning given in AS 08.01.110.

Sec. 08.02.050. Permits for use of drugs to euthanize domestic animals. (a) A qualified agency may apply to the department and obtain a permit that authorizes the purchase, possession, and use by the agency of sodium pentobarbital, sodium pentobarbital with lidocaine, and other drugs authorized in regulations adopted by the department for the purpose of euthanizing injured, sick, or abandoned domestic animals in the lawful possession of the agency. To qualify to obtain the permit, the agency shall certify that it will

(1) comply with applicable federal laws related to the use of the drugs; and

(2) not permit an employee to administer the drugs unless the employee has successfully completed a euthanasia technician certification course approved by the National Animal Control Association, the American Humane Association, or the Humane Society of the United States.

(b) The department may revoke or suspend a permit or take another disciplinary action under AS 08.01.075 if it determines that the agency or an employee of the agency

(1) improperly used sodium pentobarbital, sodium pentobarbital with lidocaine, or another drug authorized for use under this section;

(2) failed to follow federal or state laws regarding proper storage and handling of the drugs;

(3) allowed an employee to administer the drugs before the employee successfully completed the certification course described in (a)(2) of this section; or

(4) violated this title or a regulation adopted under this title.

(c) In this section, "agency" means an animal control agency of a municipality or recognized governmental entity or an entity that has contracted with a municipality or recognized governmental entity to perform animal control or animal euthanasia services.

(d) The department may adopt regulations to implement this section.

Sec. 08.02.090. Definition. In this chapter, "department" means the Department of Commerce, Community, and Economic Development.

CHAPTER 03.
TERMINATION, CONTINUATION AND REESTABLISHMENT
OF REGULATORY BOARDS.

Section

10. Termination dates for regulatory boards

20. Procedures governing termination, transition, and continuation

Sec. 08.03.010. Termination dates for regulatory boards.

(a) *[Repealed, Sec. 4 ch 14 SLA 1987.]*

(b) *[Repealed, Sec. 4 ch 14 SLA 1987.]*

(c) The following boards have the termination date provided by this subsection:

- (1) Board of Public Accountancy (AS 08.04.010) – June 30, 2021;
 - (2) Board of Governors of the Alaska Bar Association (AS 08.08.040) – June 30, 2021;
 - (3) State Board of Registration for Architects, Engineers, and Land Surveyors (AS 08.48.011) – June 30, 2017;
 - (4) Board of Barbers and Hairdressers (AS 08.13.010) – June 30, 2019;
 - (5) Board of Chiropractic Examiners (AS 08.20.010) – June 30, 2022;
 - (6) Board of Professional Counselors (AS 08.29.010) – June 30, 2018;
 - (7) Board of Dental Examiners (AS 08.36.010) – June 30, 2019;
 - (8) Board of Certified Direct-Entry Midwives (AS 08.65.010) – June 30, 2017;
 - (9) Big Game Commercial Services Board (AS 08.54.591) – June 30, 2016;
 - (10) Board of Marine Pilots (AS 08.62.010) – June 30, 2019;
 - (11) Board of Marital and Family Therapy (AS 08.63.010) – June 30, 2018;
 - (12) Board of Massage Therapists (AS 08.61.010) – June 30, 2018;
 - (13) State Medical Board (AS 08.64.010) – June 30, 2020;
 - (14) Board of Nursing (AS 08.68.010) – June 30, 2019;
 - (15) Board of Examiners in Optometry (AS 08.72.010) – June 30, 2022;
 - (16) Board of Pharmacy (AS 08.80.010) – June 30, 2018;
 - (17) State Physical Therapy and Occupational Therapy Board (AS 08.84.010) – June 30, 2022;
 - (18) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010) – June 30, 2018;
 - (19) Real Estate Commission (AS 08.88.011) – June 30, 2016;
 - (20) Board of Certified Real Estate Appraisers (AS 08.87.010) – June 30, 2018;
 - (21) Board of Social Work Examiners (AS 08.95.010) – June 30, 2018;
 - (22) Board of Veterinary Examiners (AS 08.98.010) – June 30, 2017.
- (d) *[Repealed, Sec. 3 ch 74 SLA 1979.]*
- (e) *[Repealed, Sec. 3 ch 74 SLA 1979.]*

Sec. 08.03.020. Procedures governing termination, transition, and continuation. (a) Upon termination, each board listed in AS 08.03.010 shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities, and the statutory authority of the board is transferred to the department.

(b) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(c) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed eight years unless the board is continued or reestablished for a longer period under AS 08.03.010.

(d) The department shall carry out the functions of a board that has ceased all activities under (a) of this section. Litigation, hearings, investigations, and other proceedings pending at the time the board ceased activities continue in effect and may be continued or completed by the department. Licenses, certificates, orders, and regulations issued or adopted by the board and in effect at the time the board ceased activities remain in effect for the term issued or until revoked, amended, vacated, or repealed by the department.

CHAPTER 02.
GENERAL OCCUPATIONAL LICENSING FUNCTIONS.

Article

- 1. Collection of Fees**
(12 AAC 02.010 — 12 AAC 02.030)
- 2. Occupational Licensing Fees**
(12 AAC 02.100 — 12 AAC 02.396)
- 3. Examination Review Procedures**
(12 AAC 02.400)
- 4. Real Estate Errors and Omissions Insurance**
(12 AAC 02.510 — 12 AAC 02.590)
- 5. General Provisions**
(12 AAC 02.900 — 12 AAC 02.990)

ARTICLE 1.
COLLECTION OF FEES.

Section

- 10. Licensing and renewal fees**
- 15. Refund of license fees**
- 20. Prorating renewal fees**
- 30. Prorating initial renewal fees**

12 AAC 02.010. LICENSING AND RENEWAL FEES. (a) The department will collect fees for licensing and for license renewal for the boards and professions listed in AS 08.01.010.

(b) The department will not issue a license or renew a license unless the applicable fees established in AS 08 or in this chapter have been collected.

(c) Except as otherwise provided in this title, an application for initial licensure or renewal of license will be considered filed as of the filing date of the document, as determined by 12 AAC 02.920.

(d) *Repealed 5/4/90.*

(e) An application fee is not refundable.

Authority: AS 08.01.050 AS 08.01.065 AS 08.01.100
AS 08.01.060 AS 08.01.080

12 AAC 02.015. REFUND OF LICENSE FEES. (a) Except as provided in (b) of this section, after a license is initially issued or renewed, the department will not refund the initial license fee or the license renewal fee.

(b) On request, the department will issue a prorated refund of a license fee paid for a licensing period in which the individual licensee dies. The department will issue the refund to the estate of the licensee. The department will not issue a refund when the estate of the licensee remains a partner in a partnership that received a license under AS 08.

(c) To request a refund under this section, the estate of the licensee shall submit to the department

(1) a written request for a refund within 12 months of the licensee's death or before the end of the licensing period in which the licensee died, whichever time period is greater; and

(2) verification of the licensee's death; the department will accept a letter from a coroner or mortuary, a death certificate, or a copy of a newspaper article as verification.

(d) The department will calculate the amount of the prorated refund described in (b) of this section based on the number of complete months remaining in the licensing period on the date of the licensee's death.

Authority: AS 08.01.050 AS 08.01.065 AS 08.01.080

12 AAC 02.020. PRORATING RENEWAL FEES. The department will prorate the first license renewal fees following initial licensure, in accordance with 12 AAC 02.030. All renewal fees, including penalty and delinquent fees must be paid by the licensee applying for renewal of a license, except as provided in 12 AAC 02.030(a)(1) and (b)(1).

Authority: AS 08.01.050 AS 08.01.080 AS 08.01.100

12 AAC 02.030. PRORATING INITIAL RENEWAL FEES. (a) When the department issues an initial biennial license

- (1) on or within the 90 days before the date by which it must be renewed, the applicant shall pay the entire license fee but is not required to pay the prescribed renewal fee until the second renewal date;
 - (2) more than 90 days but 12 months or less before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay one-half of the prescribed renewal fee at the time of the first renewal date; or
 - (3) more than 12 months before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay the entire prescribed renewal fee at the time of the first renewal date.
- (b) When the department issues an initial annual license
 - (1) on or within the 90 days before the date by which it must be renewed, the applicant shall pay the entire license fee but is not required to pay the prescribed renewal fee until the second renewal date;
 - (2) more than 90 days but six months or less before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay one-half of the prescribed renewal fee at the time of the first renewal date; or
 - (3) more than six months before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay the entire prescribed renewal fee at the time of the first renewal date.
 - (c) *Repealed 12/28/97.*
 - (d) *Repealed 9/29/2005.*
 - (e) The department will not prorate fees for applications, examinations, reexaminations, credential review or investigation, temporary or emergency permits, locum tenens permits, certificates, or other such fees established in AS 08 or in this chapter.

Authority: AS 08.01.065 AS 08.01.080 AS 08.01.100

**ARTICLE 2.
OCCUPATIONAL LICENSING FEES.**

Section

- 100. Fees established by department**
- 102. Fees for a temporary license issued under AS 14.43.148 or AS 25.27.244; waivers; refunds**
- 105. Administrative fees**

12 AAC 02.100. FEES ESTABLISHED BY DEPARTMENT. The fees established in this chapter have been adopted by the department after considering any recommendations of the applicable board or commission listed in AS 08.01.010.

Authority: AS 08.01.065

12 AAC 02.102. FEES FOR A TEMPORARY LICENSE ISSUED UNDER AS 14.43.148 OR AS 25.27.244; WAIVERS; REFUNDS. (a) When the division issues a temporary license under AS 14.43.148 or AS 25.27.244, the division will collect the annual or biennial license fee for the trade or profession for which the temporary license is issued, subject to the refund and waiver provisions set out in this section. The temporary license fee is the amount paid to the division under this section from the annual or biennial license fee that is not refunded or waived under this section.

- (b) When an individual who holds a temporary license issued under AS 14.43.148 is
 - (1) issued a notice of release by the Alaska Commission on Postsecondary Education and takes the action necessary, on or before the expiration date of the temporary license, to convert the temporary license to an annual or biennial license under AS 05.10, AS 08, or AS 46.03.375, the division will waive one-half of the annual or biennial license fee for the trade or profession for which the individual is receiving an annual or biennial license;
 - (2) not issued a notice of release by the Alaska Commission on Postsecondary Education on or before the expiration date of the temporary license, the department will
 - (A) refund one-half of the annual or biennial license fee paid under (a) of this section; and
 - (B) not refund a bond, cash deposit, negotiable instrument, or other mechanism to provide proof of financial responsibility that was deposited for claims under AS 05.10.090, AS 08, or this chapter, except as required by law.
- (c) When an individual who holds a temporary license issued under AS 25.27.244 is
 - (1) issued a release by the child support services agency and takes the action necessary, on or before the expiration date of the temporary license, to convert the temporary license to an annual or biennial license under AS 05.10, AS 08, or AS 46.03.375, the division will waive one-half of the annual or biennial license fee for the trade or profession for which the individual is receiving an annual or biennial license;
 - (2) not issued a notice of release by the child support services agency on or before the expiration date of the temporary license, the department will
 - (A) refund one-half of the annual or biennial license fee paid under (a) of this section; and

(B) not refund a bond, cash deposit, negotiable instrument, or other mechanism to provide proof of financial responsibility that was deposited for claims under AS 05.10.090, AS 08, or this chapter, except as required by law.

(d) In this section, "annual or biennial license fee" means the initial license fee or the license renewal fee established in

(1) AS 05.10.120 or this chapter for a licensing category included under the trades and professions listed in AS 08.01.010; and

(2) 18 AAC 78.495 for certification as an underground storage tank worker.

Authority: AS 08.01.050 AS 14.43.148 AS 25.27.244
AS 08.01.065

12 AAC 02.105. ADMINISTRATIVE FEES. Except as otherwise provided in this chapter for a particular board or occupation, the following fees apply to all boards and professions listed in AS 08.01.010:

- (1) duplicate license fee, \$5;
- (2) fee for verification or certification of an Alaska license, registration, or examination, \$20;
- (3) name change, except for construction contractors, \$5;
- (4) photocopy fee, \$.25 per page, which may be waived by the department if the total fee is less than \$5;
- (5) facsimile fee, \$1 per page, which may be waived by the department if the total fee is less than \$5;
- (6) returned check fee, \$20;
- (7) *repealed 12/28/97*;
- (8) exam postponement fee, \$25;
- (9) wall certificate fee, \$20;
- (10) fee for proctoring an examination for another state's applicant, \$50;
- (11) fee for specialized report of licensing data that the department has agreed to provide, \$100 plus the cost of supplies;
- (12) express delivery handling fee, \$20;
- (13) fee for providing the most recently printed roster of all licensees in a licensing program, other than business licensing, with
 - (A) 2,000 or less licensees, \$5;
 - (B) more than 2,000 licensees, \$15;
 - (C) *repealed 3/25/04*;
- (14) fee for a courtesy license issued under 12 AAC 02.955, \$100;
- (15) courtesy license application fee, \$50;
- (16) examination review fee, \$50.

Authority: AS 08.01.062 AS 08.01.065 AS 08.01.100

ARTICLE 3. EXAMINATION REVIEW PROCEDURES.

Section

400. Examination review

12 AAC 02.400. EXAMINATION REVIEW. (a) The division will follow the examination review procedures established in this section unless the public or private organization that prepares and owns the examination has procedures for examination review that conflict with the procedures in this section. When there is a conflict, the division will follow the procedures of the public or private organization that prepares and owns the examination.

(b) An applicant who wishes to review a failed examination shall submit a written request, and the applicable examination review fee specified in this chapter, to the division within 30 days after the notice of examination results was mailed to the applicant.

(c) All examination reviews will be conducted in the presence of division staff or the division's designee at the time and location determined by the division. An examination review will not be conducted within 30 days of the next examination the applicant is scheduled to take.

(d) Only an applicant who has failed an examination may participate in the examination review and the applicant may review only his or her own examination.

(e) An applicant may use the same reference materials during an examination review that were allowed during the examination itself, but applicants may not use other materials or take notes or make copies of any kind. All materials brought to an examination review are subject to inspection by the division staff.

(f) An applicant may challenge questions on the examination by submitting the challenge in writing during the time allowed to conduct the examination review under (h) of this section. The written challenge to an examination question must include

- (1) the applicant's name;

- (2) the date of the examination;
- (3) the title of the examination;
- (4) the number of the question being challenged; and
- (5) a detailed explanation of the reason for the challenge.

(g) A challenge to an examination question will be reviewed by the division, licensing board, or the public or private organization administering the examination. If the division, licensing board, or public or private organization administering the examination sustains a challenge to an examination question, the department will give credit to the applicant for that question.

(h) To conduct the examination review, the division will allow the applicant challenging a question under (f) of this section one half of the length of time that was allowed for the taking of the examination being reviewed.

(i) Unless otherwise provided by an organization that provides or administers an examination for the division or the release is prohibited by law or contract, the division will provide an applicant who requests an examination review with the questions answered incorrectly on the failed examination and the answer that the applicant selected only. If the examination contains multiple choice questions, the applicant may be provided with all of the answer selections to each failed question without identification of the correct answers.

Authority: AS 08.01.050 AS 08.01.080

ARTICLE 4. REAL ESTATE ERRORS AND OMISSIONS INSURANCE.

Section

- 510. Minimum standards**
- 520. Exceptions to coverage**
- 530. Standards for equivalent coverage**
- 540. Notification required for cancellation**
- 550. Maximum amount of premium**
- 560. Method of adjustment**
- 590. Definitions**

12 AAC 02.510. MINIMUM STANDARDS. (a) The master errors and omissions insurance policy must provide to each individual licensee, at a minimum, the following terms of coverage:

(1) not less than \$100,000 limit of liability for each licensee per covered wrongful act or per covered claim depending on the policy form used by the insurer; claims expenses including the cost for investigation or defense must be in addition to the limit of liability; if the limit of liability is on a

(A) covered wrongful act basis, two or more claims arising out of a single wrongful act or a series of related wrongful acts may be considered one claim;

(B) covered claim basis, two or more related wrongful acts may be considered one claim;

(2) an annual aggregate limit of liability of not less than \$200,000 per licensee;

(3) a deductible amount for each covered wrongful act of not more than \$2,000 for every \$200,000 annual aggregate limit of liability; an additional deductible for investigation and defense costs may be considered if necessary to meet the maximum premium amount under 12 AAC 02.550, but it is not required;

(4) an extended reporting period of 90 days and an option to purchase an additional three years extended reporting period for a premium not to exceed 150 percent of the premium charged for the last year of the terminating coverage;

(5) the ability of a licensee, upon payment of an additional premium, to obtain higher limits of coverage or to purchase additional coverages from the group insurer as may be available from the insurer;

(6) the coverage provided under the master errors and omissions insurance policy must be individual and specific to the licensee and must cover the licensee regardless of changes in real estate broker employing the licensee; and

(7) prior acts coverage must be offered to a licensee who has maintained the same or similar coverage, continually in-force until the date and the time that coverage begins under the master errors and omissions insurance policy coverage.

(b) The master errors and omissions insurance policy must contain a provision requiring the consent of the insured to settle a claim except that the insured may not unreasonably withhold consent.

(c) The insurer that is selected to provide the master errors and omissions insurance policy shall

(1) maintain an A.M. Best rating of "B+" or better and financial size category of class VI or higher;

(2) maintain a certificate of authority issued under AS 21.09 by the director of insurance to transact insurance business in this state and be in compliance with AS 21;

(3) provide the master errors and omissions insurance policy after notification by the Real Estate Commission that it is the successful bidder of a competitive bidding process under AS 36.30;

(4) enter into contract to provide the master errors and omissions insurance policy in conformity with AS 08.88.172, 12 AAC 02.510 – 12 AAC 02.590, and AS 21; and

(5) collect premiums, maintain records, and report to the Real Estate Commission the names of those insured and claims experience, date of claim, amount paid, nature of claim, and claims information on an annual or a bi-annual basis or on request by the Real Estate Commission.

Authority: AS 08.88.172

12 AAC 02.520. EXCEPTIONS TO COVERAGE. Except as provided in this section, the master errors and omissions insurance policy may not exclude coverage for claims brought against the insured licensee arising out of a wrongful act by the licensee when performing a professional service for which a real estate license is required. The policy may limit or exclude coverage for claims brought against a licensee that arise as follows:

- (1) out of claims or lawsuits made or brought by any insured person against any other insured person within the same firm or from compensation disputes between licensees;
- (2) out of loss assumed under a contract or an agreement, except for liability the insured would have had in the absence of the agreements;
- (3) from a criminal, dishonest, fraudulent, or intentional act or omission; this exclusion does not apply to an insured person who did not personally participate in committing the act or omission and who, upon having knowledge of the act or omission, reported it to the Real Estate Commission, or appropriate law enforcement authorities;
- (4) from unlawful discrimination committed by or for the insured person;
- (5) from fines or penalties imposed by a tribunal or other governmental agency;
- (6) from bodily injury, personal injury, advertising injury, or property damage;
- (7) from related business activities for which a license is not required under AS 08.88;
- (8) from the presence of or the actual, alleged, or threatened discharge, dispersal, release, or escape of hazardous materials, nuclear materials, or pollutants;
- (9) from prior wrongful acts unless specific prior wrongful acts coverage is provided;
- (10) from any violation of 15 U.S.C. 77a – 77aa (Securities Act of 1933) or 15 U.S.C. 78a – 78mm (Securities Exchange Act of 1934) or any state blue sky or securities law or similar state or federal statutes; or
- (11) other standard exclusions that are typical in a professional liability insurance policy and that have been approved by the director of insurance under AS 21.42.

Authority: AS 08.88.172

12 AAC 02.530. STANDARDS FOR EQUIVALENT COVERAGE. An insurer issuing equivalent coverage under AS 08.88.172(c)(2) shall hold a certificate of authority issued under AS 21.09. All activities contemplated under AS 08.88.172 must be covered. The insurance must meet the minimum coverage standards of 12 AAC 02.510, except that

- (1) a policy with a higher deductible amount or self-insured retention will qualify as equivalent coverage for purposes of AS 08.88.172(c)(2) if the insured licensee provides the Alaska Real Estate Commission with an affidavit certifying that the insured licensee has the financial resources to pay the higher deductible amount or self-insured retention; and
- (2) a broker employing other real estate licensees may comply with the requirements of 12 AAC 02.510(a)(1) and (2) by obtaining insurance with coverage of a minimum of \$200,000 per wrongful act and \$1,000,000 aggregate, if all licensees associated with the broker are covered.

Authority: AS 08.88.172

12 AAC 02.540. NOTIFICATION REQUIRED FOR CANCELLATION. If equivalent insurance coverage obtained by a licensee under AS 08.88.172(c)(2) is to lapse or not be renewed, the insurer shall notify the Real Estate Commission of the intent to lapse or not to renew a minimum of 30 days before the expiration date of the term. It is the responsibility of the employing broker or licensee, as applicable, to instruct the insurer to provide the notice required by this section to the Real Estate Commission.

Authority: AS 08.88.172

12 AAC 02.550. MAXIMUM AMOUNT OF PREMIUM. The maximum amount of premium to be charged a licensee annually under the master errors and omissions insurance policy is \$300.

Authority: AS 08.88.172

12 AAC 02.560. METHOD OF ADJUSTMENT. Every five years after the initial procurement of the master errors and omissions insurance policy, the department may adjust the amount of coverage under 12 AAC 02.510(a) and the maximum amount of the premium under 12 AAC 02.550 to reflect the change in the consumer price index for all urban consumers in the Anchorage metropolitan area using the standards set out in this section. The department will not make an adjustment if the department finds the adjustment will significantly reduce the number

of insurers willing to bid on a contract to offer the master errors and omissions insurance policy. An adjustment in the limits of liability under 12 AAC 02.510(a) must be an increment of no less than \$25,000. An adjustment in the amount of the premium must be in an increment of no less than \$25. The department will give notice of the adjustments under this section by posting the amounts on its Internet Website. An adjustment under this section does not take effect until the renewal or the issuance of a new master errors and omissions insurance policy.

Authority: AS 08.88.172

12 AAC 02.590. DEFINITIONS. In this chapter, unless the context requires otherwise,

(1) "aggregate limit" means the maximum liability of an insurer regardless of the number of claims during the policy term;

(2) "director of insurance" means the person appointed under AS 21.06.010 to head the division of insurance of this state;

(3) "equivalent coverage" means errors and omissions insurance coverage obtained independently of the master errors and omissions insurance policy available from the Real Estate Commission and that complies with the requirements, terms, and conditions as set out in 12 AAC 02.510 – 12 AAC 02.590;

(4) "errors and omissions insurance" means professional liability insurance that provides coverage to holders of active real estate brokers, associate brokers, and salesperson licenses in this state for wrongful acts made during the course of real estate transactions, subject to the coverages, limitations, and exclusions of one or more specific insurance policies in place;

(5) "extended reporting period" means a designated period of time after an errors and omissions insurance policy has expired during which a claim may be made and coverage triggered as if the claim has been made during the policy period;

(6) "master errors and omissions insurance policy" means the policy obtained by the Real Estate Commission under AS 08.88.172 that meets the requirements of 12 AAC 02.510 – 12 AAC 02.590.

(7) "prior acts coverage" means the insurance policy provides coverage for claims that are made during a current policy period, but one or more acts causing the claim or injuries for which the claim is made occurred before the inception of the current policy period;

(8) "wrongful act" means a negligent act, error, or omission.

Authority: AS 08.88.081 AS 08.88.172

ARTICLE 5. TELEMEDICINE BUSINESS REGISTRY.

Section

600. Application for placement on the telemedicine business registry; changes of information

12 AAC 02.600. APPLICATION FOR PLACEMENT ON THE TELEMEDICINE BUSINESS REGISTRY; CHANGES OF INFORMATION. (a) To be registered on the telemedicine business registry established and maintained under AS 44.33.381, and before providing telemedicine services to a recipient located in this state, a business performing telemedicine services must submit to the department

(1) a complete registration on a form provided by the department; the registration must include the business's name, address, and contact information;

(2) a copy of the business's valid business license issued under AS 43.70 and 12 AAC 12; and

(3) the applicable fee established in 12 AAC 02.106.

(b) A business performing telemedicine services must register with the name it is using to perform telemedicine services in this state. A business operating under multiple names to perform telemedicine services shall file a separate registration for each name.

(c) If the name, address, or contact information of a business on the telemedicine business registry changes, the business performing telemedicine services must submit to the department, not later than 30 days after the change or termination,

(1) a complete report, on a form provided by the department, of each change; and

(2) the applicable fee established in 12 AAC 02.106.

(d) A business that fails to comply timely with (c) of this section may not perform telemedicine services in this state and must submit a new application under (a) of this section before resuming the provision of telemedicine services to a recipient located in this state.

(e) If a business terminates the performance of telemedicine services in this state, the business shall notify the department, requesting that the department remove the business from the telemedicine business registry. If a business gives notification under this subsection, the business must submit a new application under (a) of this section before resuming the provision of telemedicine services to a recipient located in this state.

(f) In this section, "telemedicine services" has the meaning given in AS 44.33.381.

Authority: AS 44.33.020 AS 44.33.381

**ARTICLE 6.
GENERAL PROVISIONS.**

Section

- 900. Name and address changes**
- 910. Abandoned applications**
- 920. Filing date**
- 930. Date of lapsed license**
- 935. Effective date of license**
- 940. Effective date of renewed licenses**
- 950. (Repealed)**
- 955. Courtesy license**
- 960. Audit of compliance with continuing competency requirements**
- 965. Failure to meet continuing education requirements for renewal and reinstatement of license**
- 990. Definitions**

12 AAC 02.900. NAME AND ADDRESS CHANGES. (a) A person licensed, registered, or certified by a board or commission listed in AS 08.01.010, or in an occupation listed in AS 08.01.010, shall maintain a current, valid, mailing address on file with the division at all times. The latest mailing address on file with the division is the address that will be used for official communications, notifications, and service of legal process.

(b) A licensee must notify the division in writing, of a change of the licensee's address.

(c) If a licensee has a change of name, the licensee shall submit to the division within 30 days of the change of name

(1) notification of the change of the licensee's name, on a form provided by the division that has been completed by the licensee and notarized;

(2) a copy of the marriage certificate, court document, or other legal document verifying the change of name; and

(3) the fee established in 12 AAC 02.105 for a name change.

(d) The division will issue a new license showing the change of name if a licensee meets the requirements in (c) of this section.

Authority: AS 08.01.050 AS 08.01.080 AS 08.01.087

12 AAC 02.910. ABANDONED APPLICATIONS. (a) Except if procedures are otherwise expressly provided in this title for a particular board or occupation, an application is considered abandoned when

(1) 12 months have elapsed since correspondence was last received from or on behalf of the applicant; or

(2) the applicant has failed to appear for two successive examinations.

(b) An abandoned application is denied without prejudice and the application fee forfeited.

(c) At the time an application is considered abandoned, the division will send notification of abandonment to the last known address of the applicant. An applicant may request a refund of all unused examination and licensing fees credited to the application by submitting a written request for refund within 30 days from the date notification of abandonment was mailed by the division. If no request for refund is received, all fees are forfeited.

Authority: AS 08.01.050 AS 08.01.080

12 AAC 02.920. FILING DATE. (a) Except as otherwise provided in this title, a document submitted to the division will be considered filed as of the postmark date of the document. If the document is submitted by a method that does not provide a postmark date, the document will be considered filed as of the date stamped on the document,

(1) except as provided in (2) of this subsection, when it is received in the division office in Juneau;

(2) for a document related to licensing for nursing under 12 AAC 44 or real estate licensing under 12 AAC 64, when it is received in the division office in Anchorage.

(b) If a filing deadline established in AS 08 or this title falls on a Saturday, Sunday, or state holiday, the deadline will be extended to the next regular state business day.

(c) For the purposes of this section, "postmark date" means the date of a document with prepaid postage and correctly addressed to the division by the United States Postal Service or other established domestic courier service.

Authority: AS 08.01.050 AS 08.01.080

Editor's note: For the purposes of 12 AAC 02.920(a), the division of corporations, business and professional licensing office in the Department of Commerce, Community, and Economic Development, in Juneau is located at the State Office Building, 9th Floor, 333 Willoughby Avenue, Juneau, Alaska 99801 and the division office in Anchorage is located at the Atwood Building, 550 W. 7th Avenue, Suite 1500, Anchorage, Alaska 99501.

12 AAC 02.930. DATE OF LICENSE LAPSE. For the purposes of AS 08.01.100, if a person licensed by the department or by one of the boards or commissions under AS 08.01.010 was issued a temporary license under AS 14.43.148 or AS 25.27.244 and the temporary license was not converted to an annual or biennial license under AS 05.10, or AS 08, or AS 46.03.375, the lapsed period begins from the date that the temporary license expired.

Authority: AS 08.01.050 AS 08.01.080 AS 08.01.100

12 AAC 02.935. EFFECTIVE DATE OF LICENSE. (a) When the Alaska Commission on Postsecondary Education issues a notice of release, on or before the expiration date of the temporary license issued by the division under AS 14.43.148, the division will issue the initial license or renewal under AS 08 or AS 46.03.375. The effective date of the license is the date that the license is issued under AS 08 or AS 46.03.375, except as provided in 12 AAC 02.940(b).

(b) When the child support services agency issues a release, on or before the expiration date of the temporary license issued by the division under AS 25.27.244, the division will issue the initial license or renewal under AS 08 or AS 46.03.375. The effective date of the license is the date that the license is issued under AS 08 or AS 46.03.375, except as provided in 12 AAC 02.940(b).

Authority: AS 08.01.050 AS 08.01.080 AS 08.01.100

12 AAC 02.940. EFFECTIVE DATE OF RENEWED LICENSES. (a) Except as provided in (b) of this section, the effective date of a renewed license will be the date a complete renewal application is filed with the division as determined by 12 AAC 02.920. A complete application includes

- (1) a completed renewal form;
- (2) any applicable renewal fees required by this chapter; and
- (3) documentation of fulfillment of all applicable prerequisites to license renewal, such as continuing competency, recent experience, insurance coverage, or other requirements.

(b) The division will, in its discretion, show a retroactive effective date on a licensee's renewed license if the licensee

- (1) holds a license that has been lapsed less than 60 days;
- (2) requests in writing that the division issue a renewed license showing an effective date that is earlier than the date the renewed license was issued;
- (3) documents that the licensee was in substantial compliance with the renewal requirements in (a) of this section as of the requested effective date; and
- (4) establishes to the satisfaction of the division that the licensee made a good faith effort to strictly comply with the renewal requirements.

(c) The division will not issue a renewed license with an effective date that is earlier than the postmark date of the licensee's first written attempt to renew the licensee's license. "Written attempt to renew" means an effort by the licensee to submit the proper documentation to comply with the license renewal requirements. A request for a renewal application form alone does not constitute a "written attempt to renew."

Authority: AS 08.01.050 AS 08.01.100

12 AAC 02.950. APPLICATION DEADLINE FOR EXAMINATION FOR AN OPTOMETRY LICENSE.
Repealed 12/16/2001.

12 AAC 02.955. COURTESY LICENSE. (a) If an applicant meets the requirements of this section, the department will issue a courtesy license authorizing the holder to practice one of the following professions for the limited purpose recognized by the division:

- (1) acupuncturist under AS 08.06;
- (2) audiologist under AS 08.11;
- (3) electrical administrator or mechanical administrator under AS 08.40;
- (4) funeral director or embalmer under AS 08.42;
- (5) naturopath under AS 08.45.

(b) A courtesy license issued under (a) of this section authorizes the holder to practice the profession or occupation for which the license is issued for a limited purpose recognized by the division under (f) of this section. A courtesy license does not authorize the holder to practice the profession outside the scope of the limited purpose for which the courtesy license is issued.

(c) An applicant for a courtesy license issued under (a) of this section shall submit to the department

- (1) a completed application on a form provided by the department;
- (2) the fee established in 12 AAC 02.105 for a courtesy license;
- (3) a sworn statement, signed by the applicant before a notary, that the applicant is not a resident of this state;

(4) verification of a current license in another licensing jurisdiction to practice the profession for which a courtesy license is requested; the license in that jurisdiction must be active, in good standing, and cover the scope of practice required for the limited purpose of the courtesy license;

(5) a description of the limited purpose of the courtesy license and the applicant's intended scope of practice under the courtesy license; and

(6) a sworn statement, signed by the applicant before a notary, that the applicant has not previously been denied a license or had a license revoked in this or another state or other licensing jurisdiction for the profession that the courtesy license is sought.

(d) A courtesy license issued under (a) of this section is valid for no more than 90 consecutive days. The department will not issue more than two courtesy licenses for the profession to an individual within a consecutive eighteen-month period.

(e) The holder of a courtesy license issued under (a) of this section is obligated to uphold the standards of practice identified in AS 08 and in this title for the relevant profession and is subject to the relevant disciplinary provisions in AS 08 and this title.

(f) The department will recognize the following limited purposes for a courtesy license issued under (a) of this section:

(1) provision of professional services in an emergency situation specifically recognized by the department; the department will, in its discretion, restrict the license to cover only the professional services required to respond to the emergency situation, if the department finds that the courtesy license is only needed for this purpose;

(2) instruction or provision of professional services at a clinic or seminar focused on a subject in which the applicant for a courtesy license is a specialist.

Authority: AS 08.01.050 AS 08.01.080 AS 08.02.030

12 AAC 02.960. AUDIT OF COMPLIANCE WITH CONTINUING COMPETENCY REQUIREMENTS.

(a) Except as provided in (b) - (j) of this section, the department will audit compliance of licenses with continuing competency requirements in accordance with this section if

- (1) the licensee is required to meet continuing competency requirements under AS 08 or this title;
- (2) *repealed 9/29/2005*;
- (3) *repealed 9/29/2005*.

(b) A licensee subject to audit under (a) of this section and applying for license renewal shall

- (1) complete and sign a statement of compliance with continuing competency requirements; and
- (2) submit the statement to the department with the application for license renewal.

(c) Except as provided in (d) of this section, the department will select licensees for audit under (a) of this section as follows:

(1) ten percent of the total number of licensees in that profession if the total number of licensees is less than 3,000; or

(2) five percent of the total number of licensees in that profession if the total number of licensees is 3,000 or more.

(d) The department will require that a different percent of licensees be selected for audit, if the board that regulates the profession, or the department for a profession not regulated by a board or commission, finds that a different percent to be audited is necessary to protect public health and safety.

(e) A licensee selected for audit under (c) or (d) of this section will be notified by the department. Within 30 days of notification, the licensee shall submit to the department, documentation to verify completion of the continuing competency activities claimed on the statement submitted with the application for license renewal. The documentation must include a valid copy of a certificate or similar verification of satisfactory completion of the continuing competency activities claimed that provides

- (1) the name of the licensee;
- (2) the amount of continuing competency credit awarded;
- (3) a description of the continuing competency activity;
- (4) the dates of actual participation or successful completion; and
- (5) the name, mailing address and signature of the instructor, sponsor, or other verifier.

(f) A licensee subject to audit under (a) of this section is responsible for maintaining adequate and detailed records of all continuing competency activities completed and shall make the records available to the department on request. A licensee shall maintain the records until the later of

(1) four years from the date of completion of the continuing competency activity; or

(2) if the licensee was selected for audit, the date that the department notifies the licensee that the audit is completed.

(g) The department will extend the period for providing documentation of completion of continuing competency activities if the department finds that the licensee has good cause for the need for additional time to submit the documentation required in (e) of this section.

(h) The department will notify the respective board of a licensee's failure to comply with the department's request for records under (e) of this section.

(i) For professions licensed by the department, the department will consider the licensee's failure to comply with the department's request for records under (e) of this section as grounds for imposition of disciplinary sanctions to the extent allowed under AS 08 and this title.

(j) In this section, "successful completion" means the date that credit for the continuing competency activity is awarded by the instructor, sponsor, or other verifier for completion of the activity.

Authority: AS 08.01.050 AS 08.01.087 AS 08.01.100
AS 08.01.080

12 AAC 02.965. FAILURE TO MEET CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL AND REINSTATEMENT OF LICENSE. (a) Except as otherwise provided in AS 08 or this title, a license issued under AS 08 will not be renewed or reinstated if the applicant for renewal or reinstatement has not earned the required number of continuing education credits. The applicant may earn the required number of credits after the expiration date of the license. Continuing education credits earned to reinstate or renew an expired license may not be used to satisfy the continuing education requirements for a future renewal or reinstatement. Credits submitted to satisfy the continuing education requirements under this section must be approved under AS 08 and this title by the department or the applicable board.

(b) For the purposes of this section, "continuing education credits" includes continuing competency, contact hours, continuing education units (CEU's), and credit hours.

Authority: AS 08.01.050 AS 08.01.080 AS 08.01.100

12 AAC 02.990. DEFINITIONS. As used in this chapter

- (1) "department" means the Department of Commerce, Community, and Economic Development;
- (2) "division" means the division assigned occupational licensing functions in the Department of Commerce, Community, and Economic Development;
- (3) "license" means a license, certificate, permit, registration, or similar evidence of authority issued by the division or by one of the boards listed in AS 08.01.010;
- (4) "licensee" means a person who holds a license issued by the division or by one of the boards listed in AS 08.01.010.

Authority: AS 08.01.050 AS 08.01.080 AS 08.01.100