



Board of Barbers & Hairdressers Meeting

Alaska Division of Corporations, Business and Professional Licensing
October 10, 2024 at 8:30 AM AKDT to October 10, 2024 at 4:30 PM AKDT

Zoom Details: <https://us02web.zoom.us/j/82906259498?pwd=tblITZd13Bv71z5F4JkSlnT3SDZHFJ.1>

Meeting ID: 829 0625 9498

Passcode: 456941

Call In: 1-253-205-0468

TENTATIVE MEETING AGENDA

Working Groups May Occur

Agenda:

1. 8:30 a.m. **October 10, 2024 Call to Order/Roll Call**
 - A. Meet and Greet New Board Member
2. 8:40 a.m. **Review/Amend Agenda**
3. 8:50 a.m. **Ethics Disclosure**
4. 9:00 a.m. **Public Comment**
5. 9:30 a.m. **Break/Recess**
6. 9:40 a.m. **Division and Financial Update**
 - A. FY24 4th Quarter Budget Report
7. 10:40 a.m. **Investigations**
 - A. Investigative Process Training
 - B. Investigative Memo
 - C. Investigative Probation Report
 - D. Executive Session
8. 12:00 p.m. **Lunch**
9. 1:00 p.m. **Administrative Business**
 - A. Board Required Application Review/Consideration
 - B. Board Member Training
10. 2:00 p.m. **New Business**
 - A. Local Shop Courtesy License (body arts) Discussion
 - B. Apprentice/Student/Trainee Documentation Submission Discussion
11. 2:30 p.m. **Old Business**
 - A. Medical Spa's Multi-Board Workgroup Update/Report
 - B. 12 AAC 09.990 – Appliance Definition

12. 3:30 p.m.

Administrative Business

- A. Review/Edit/Approve Meeting Minutes
 - i. August 8, 2024 Meeting
- B. Schedule Upcoming Meeting Dates – 2025
- C. Correspondence
- D. Application Review

13. 4:30 p.m.

Adjourn

State of Alaska Department of Law

Ethics Information for Members of Boards & Commissions (AS 39.52)

Introduction

This is an introduction to AS 39.52, the Alaska Executive Branch Ethics Act. This guide is not a substitute for reading the law and its regulations. State board and commission members who have further questions should contact their board chair or staff.

The Ethics Act applies to all current and former executive branch public employees and members of statutorily created boards and commissions.

Scope of Ethics Act (AS 39.52.110)

Service on a state board or commission is a public trust. The Ethics Act prohibits substantial and material conflicts of interest. Further, board or commission members, and their immediate family, may not improperly benefit, financially or personally, from their actions as board or commission members. The Act does not, however, discourage independent pursuits, and it recognizes that minor and inconsequential conflicts of interest are unavoidable.

Misuse of Official Position (AS 39.52.120)

Members of boards or commissions may not use their positions for personal gain or to give an unwarranted benefit or treatment to any person. For example, board members may not:

- use their official positions to secure employment or contracts;
 - accept compensation from anyone other than the State for performing official duties;
 - use State time, equipment, property or facilities for their own personal or financial benefit or for partisan political purposes;
 - take or withhold official action on a matter in which they have a personal or financial interest; or
 - coerce subordinates for their personal or financial benefit.
- attempt to influence outcome of an administrative hearing by privately contacting the hearing officer.



Terry knew that a proposal that was before the board would harm Terry's business competitor. Instead of publicly disclosing the matter and requesting recusal, Terry voted on the proposal.



Board member Mick has board staff employee Bob type an article for him that Mick hopes to sell to an Alaskan magazine. Bob types the article on State time.

Improper Gifts (AS 39.52.130)

A board member may not solicit or accept gifts if a person could reasonably infer from the circumstances that the gift is intended to influence the board member's action or judgment. "Gifts" include money, items of value, services, loans, travel, entertainment, hospitality, and employment. All gifts from registered lobbyists are presumed to be improper, unless the giver is immediate family of the person receiving the gift.

A gift worth more than \$150 to a board member or the board member's immediate family must be reported within 30 days if:

- the board member can take official action that can affect the giver, or
- the gift is given to the board member because he or she is on a state board.

The receipt of a gift worth less than \$150 may be prohibited if a person could reasonably infer from the circumstances that the gift is intended to influence the board member's action or judgment. Receipt of such a gift should be disclosed.

Any gift received from another government, regardless of value, must be reported; the board member will be advised as to the disposition of this gift.

A form for reporting gifts is available at www.law.alaska.gov/doclibrary/ethics or from the board or commission staff.

This restriction on gifts does not apply to lawful campaign contributions.



The commission is reviewing Roy's proposal for an expansion of his business. Roy invites all the board members out to dinner at an expensive restaurant. He says it will be okay, since he isn't excluding any of the members.



Jody receives a holiday gift every year from Sam. Jody was recently appointed to a state board, but Sam has no business that is before the board. Jody may accept the gift.

Improper Use or Disclosure of Information (AS 39.52.140)

No former or current member of a board may use or disclose any information acquired from participation on the board if that use or disclosure could result in a financial or personal benefit to the board member (or immediate family), unless that information has already been disseminated to the public. Board members are also prohibited from disclosing confidential information, unless authorized to do so.



Sheila has been on the board for several years. She feels she has learned a great deal of general information about how to have a successful business venture. So she sets up her own business and does well.



Delores has always advised and assisted the other doctors in her clinic on their continuing education requirements. After Delores is appointed to the medical board, she discloses this role to the board and continues to advise the doctors in her clinic.



Jim reviews a confidential investigation report in a licensing matter. He discusses the practitioner's violation with a colleague who is not a board member.

Improper Influence in State Grants, Contracts, Leases or Loans (AS 39.52.150)

A board member, or immediate family, may not apply for, or have an interest in a State grant, contract, lease, or loan, if the board awards or takes action to administer the State grant, contract, lease, or loan.

A board member (or immediate family) may apply for or be a party to a competitively solicited State grant, contract or lease, if the board as a body does not award or administer the grant, contract, or lease and so long as the board member does not take official action regarding the grant, contract, or lease.

A board member (or immediate family) may apply for and receive a State loan that is generally available to the public and has fixed eligibility standards, so long as the board member does not take (or withhold) official action affecting the loan's award or administration.

Board members must report to the board chair any personal or financial interest (or that of immediate family) in a State grant, contract, lease or loan that is awarded or administered by the agency the board member serves. A form for this purpose is available at www.law.alaska.gov/doclibrary/ethics or from the board or commission staff.



John sits on a board that awards state grants. John hasn't seen his daughter for nearly ten years so he figures that it doesn't matter when her grant application comes up before the board.



The board wants to contract out for an analysis of the board's decisions over the last ten years. Board member Kim would like the contract since she has been on the board for ten years and feels she could do a good job.

Improper Representation (AS 39.52.160)

A board or commission member may not represent, advise, or assist a person in matters pending before the board or commission for compensation. A nonsalaried board or commission member may represent, advise, or assist in matters in which the member has an interest that is regulated by the member's own board or commission, if the member acts in accordance with AS 39.52.220 by disclosing the involvement in writing and on the public record, and refraining from all participation and voting on the matter. This section does not allow a board member to engage in any conduct that would violate a different section of the Ethics Act.



Susan sits on the licensing board for her own profession. She will represent herself and her business partner in a licensing matter. She discloses this situation to the board and refrains from participation in the board's discussions and determinations regarding the matter.

Restriction on Employment After Leaving State Service (AS 39.52.180)

For two years after leaving a board, a former board member may not provide advice or work for compensation on any matter in which the former member personally and substantially participated while serving on the board. This prohibition applies to cases, proceedings, applications, contracts, legislative bills, regulations, and similar matters. This section does not prohibit a State agency from contracting directly with a former board member.

With the approval of the Attorney General, the board chair may waive the above prohibition if a determination is made that the public interest is not jeopardized.

Former members of the governing boards of public corporations and former members of boards and commissions that have regulation-adoption authority, except those covered by the centralized licensing provisions of AS 08.01, may not lobby for pay for one year.



The board has arranged for an extensive study of the effects of the Department's programs. Andy, a board member, did most of the liaison work with the contractor selected by the board, including some negotiations about the scope of the study. Andy quits the board and goes to work for the contractor, working on the study of the effects of the Department's programs.



Andy takes the job, but specifies that he will have to work on another project.

Aiding a Violation Prohibited (AS 39.52.190)

Aiding another public officer to violate the Ethics Act is prohibited.

Agency Policies (AS 39.52.920)

Subject to the Attorney General's review, a board may adopt additional written policies further limiting personal or financial interests of board members.

Disclosure Procedures

DECLARATION OF POTENTIAL VIOLATIONS BY MEMBERS OF BOARDS OR COMMISSIONS (AS 39.52.220)

A board member whose interests or activities could result in a violation of the Ethics Act if the member participates in board action must disclose the matter on the public record and in writing to the board chair who determines whether a violation exists. A form for this purpose is available at www.law.alaska.gov/doclibrary/ethics or from the board or commission staff. If another board member objects to the chair's ruling or if the chair discloses a potential conflict, the board members at the meeting (excluding the involved member) vote on the matter. If the chair or the board determines a violation will occur, the member must refrain from deliberating, voting, or participating in the matter. For more information, see Ethics Act Procedures for Boards and Commissions available at the above noted web site.

When determining whether a board member's involvement in a matter may violate the Ethics Act, either the chair or the board or commission itself may request guidance from the Attorney General.

ATTORNEY GENERAL'S ADVICE (AS 39.52.240-250)

A board chair or a board itself may request a written advisory opinion from the Attorney General interpreting the Ethics Act. A former board member may also request a written advice from the Attorney General. These opinions are confidential. Versions of opinions without identifying information may be made available to the public.

REPORTS BY THIRD PARTIES (AS 39.52.230)

A third party may report a suspected violation of the Ethics Act by a board member in writing and under oath to the chair of a board or commission. The chair will give a copy to the board member and to the Attorney General and review the report to determine whether a violation may or does exist. If the chair determines a violation exists, the board member will be asked to refrain from deliberating, voting, or participating in the matter.

Complaints, Hearings, and Enforcement

COMPLAINTS (AS 39.52.310-330)

Any person may file a complaint with the Attorney General about the conduct of a current or former board member. Complaints must be written and signed under oath. The Attorney General may also initiate complaints based on information provided by a board. A copy of the complaint will be sent to the board member who is the subject of the complaint and to the Personnel Board.

All complaints are reviewed by the Attorney General. If the Attorney General determines that the complaint does not warrant investigation, the complainant and the board member will be notified of the dismissal. The Attorney General may refer a complaint to the board member's chair for resolution.

After investigation, the Attorney General may dismiss a complaint for lack of probable cause to believe a violation occurred or recommend corrective action. The complainant and board member will be promptly notified of this decision.

Alternatively, if probable cause exists, the Attorney General may initiate a formal proceeding by serving the board or commission member with an accusation alleging a violation of the Ethics Act. Complaints or accusations may also be resolved by settlement with the subject.

CONFIDENTIALITY (AS 39.52.340)

Complaints and investigations prior to formal proceedings are confidential. If the Attorney General finds evidence of probable criminal activity, the appropriate law enforcement agency shall be notified.

HEARINGS (AS 39.52.350-360)

An accusation by the Attorney General of an alleged violation may result in a hearing. An administrative law judge from the state's Office of Administrative Hearings serves as hearing officer and determines the time, place and other matters. The parties to the proceeding are the Attorney General, acting as prosecutor, and the accused public officer, who may be represented by an attorney. Within 30 days after the hearing, the hearing officer files a report with the Personnel Board and provides a copy to the parties.

PERSONNEL BOARD ACTION (AS 39.52.370)

The Personnel Board reviews the hearing officer's report and is responsible for determining whether a violation occurred and for imposing penalties. An appeal may be filed by the board member in the Superior Court.

PENALTIES (AS 39.52.410-460)

When the Personnel Board determines a board member has violated the Ethics Act, it will order the member to refrain from voting, deliberating, or participating in the matter. The Personnel Board may also order restitution and may recommend that the board member be removed from the board or commission. If a recommendation of removal is made, the appointing authority will immediately remove the member.

If the Personnel Board finds that a former board member violated the Ethics Act, it will issue a public statement about the case and will ask the Attorney General to pursue appropriate additional legal remedies.

State grants, contracts, and leases awarded in violation of the Ethics Act are voidable. Loans given in violation of the Ethics Act may be made immediately payable.

Fees, gifts, or compensation received in violation of the Ethics Act may be recovered by the Attorney General.

The Personnel Board may impose a fine of up to \$5,000 for each violation of the Ethics Act. In addition, a board member may be required to pay up to twice the financial benefit received in violation of the Ethics Act.

Criminal penalties are in addition to the civil penalties listed above.

DEFINITIONS (AS 39.52.960)

Please keep the following definitions in mind:

Benefit - anything that is to a person's advantage regardless financial interest or from which a person hopes to gain in any way.

Board or Commission - a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch, including the Alaska Railroad Corporation.

Designated Ethics Supervisor - the chair or acting chair of the board or commission for all board or commission members and for executive directors; for staff members, the executive director is the designated ethics supervisor.

Financial Interest - any property, ownership, management, professional, or private interest from which a board or commission member or the board or commission member's immediate family receives or expects to receive a financial benefit. Holding a position in a business, such as officer, director, partner, or employee, also creates a financial interest in a business.

Immediate Family - spouse; another person cohabiting with the person in a conjugal relationship that is not a legal marriage; a child, including a stepchild and an adoptive child; a parent, sibling, grandparent, aunt, or uncle of the person; and a parent or sibling of the person's spouse.

Official Action - advice, participation, or assistance, including, for example, a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction, by a public officer.

Personal Interest - the interest or involvement of a board or commission member (or immediate family) in any organization or political party from which a person or organization receives a benefit.

For further information and disclosure forms, visit our Executive Branch Ethics web site or please contact:

State Ethics Attorney
Alaska Department of Law
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501-5903
(907) 269-5100
attorney.general@alaska.gov

Revised 9/2013

Department of Law attorney.general@alaska.gov P.O. Box 110300, Juneau, AK 99811-0300
Phone: 907-465-3600 Fax: 907-465-2075 TTY: 907-258-9161
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State of Alaska Department of Law Ethics Act Procedures for Boards & Commissions

All board and commission members and staff should be familiar with the Executive Branch Ethics Act procedures outlined below.

Who Is My Designated Ethics Supervisor (DES)?

Every board or commission subject to the Ethics Act¹ has several ethics supervisors designated by statute.

- The chair serves as DES for board or commission members.
- The chair serves as DES for the executive director.
- The executive director serves as DES for the staff.
- The governor is the DES for a chair.²

What Do I Have To Disclose?

The Ethics Act requires members of boards and commissions to disclose:

- Any matter that is a potential conflict of interest with actions that the member may take when serving on the board or commission.
- Any circumstance that may result in a violation of the Ethics Act.
- Any personal or financial interest (or that of an immediate family member) in a state grant, contract, lease or loan that is awarded or administered by the member's board or commission.
- The receipt of certain gifts.

The executive director of the board or commission and its staff, as state employees, must also disclose:

- Compensated outside employment or services.
- Volunteer service, if any compensation, including travel and meals, is paid or there is a potential conflict with state duties.
- For more information regarding the types of matters that may result in violations of the Ethics Act, board or commission members should refer to the guide, *"Ethics Information for Members of Boards and Commissions."* The executive director and staff should refer to the guide, *"Ethics Information for Public Employees."* Both guides and disclosure forms may be found on the Department of Law's ethics website.

How Do I Avoid Violations of the Ethics Act?

- Make timely disclosures!
- Follow required procedures!
- Provide all information necessary to a correct evaluation of the matter!³
- When in doubt, disclose and seek advice!
- Follow the advice of your DES!

What Are The Disclosure Procedures for Board and Commission Members?

The procedural requirements for disclosures by members are set out in AS 39.52.220 and 9 AAC 52.120. One goal of these provisions is to help members avoid violations of the Ethics Act. The procedures provide the opportunity for members to seek review of matters in advance of taking action to ensure that actions taken will be consistent with the Act.

Procedure for declaring actual or potential conflicts.

Members must declare potential conflicts and other matters that may violate the Ethics Act **on the public record and in writing to the chair.**

Disclosure on the public record. Members must identify actual and potential conflicts orally at the board or commission's public meeting in advance of participating in deliberations or taking any official action on the matter.

- A member must always declare a conflict and may choose to refrain from voting, deliberations or other participation regarding a matter.⁴
- If a member is uncertain whether participation would result in a violation of the Act, the member should disclose the circumstances and seek a determination from the chair.

Disclosure in writing at a public meeting. In addition to an oral disclosure at a board or commission meeting, members' disclosures must be made in writing.

- If the meeting is recorded, a tape or transcript of the meeting is preserved and there is a method for identifying the declaration in the record, an oral disclosure may serve as the written disclosure.
- Alternatively, the member must note the disclosure on the Notice of Potential Violation disclosure form and the chair must record the determination.

Confidential disclosure in advance of public meeting. Potential conflicts may be partially addressed in advance of a board or commission's public meeting based on the published meeting agenda or other board or commission activity.

- A member identifying a conflict or potential conflict submits a Notice of Potential Violation to the chair, as DES, in advance of the public meeting.
- This written disclosure is considered confidential.
- The chair may seek advice from the Attorney General.
- The chair makes a written determination, also confidential, whether the disclosed matter represents a conflict that will result in a violation of the Ethics Act if the member participates in official action addressing the matter. 5
- If so, the chair directs the member to refrain from participating in the matter that is the subject of the disclosure.
- An oral report of the notice of potential violation and the determination that the member must refrain from participating is put on the record at a public meeting.6

Determinations at the public meeting. When a potential conflict is declared by a member for the public record, the following procedure must be followed:

- The chair states his or her determination regarding whether the member may participate.
- Any member may then object to the chair's determination.
- If an objection is made, the members present, excluding the member who made the disclosure, vote on the matter.
- *Exception:* A chair's determination that is made consistent with advice provided by the Attorney General may not be overruled.
- If the chair, or the members by majority vote, determines that a violation will exist if the disclosing member continues to participate, the member must refrain from voting, deliberating or participating in the matter.7

If the chair identifies a potential conflict, the same procedures are followed. If possible, the chair should forward a confidential written notice of potential violation to the Office of the Governor for a determination in advance of the board or commission meeting. If the declaration is first made at the public meeting during which the matter will be addressed, the members present, except for the chair, vote on the matter. If a majority determines that a violation of the Ethics Act will occur if the chair continues to participate, the chair shall refrain from voting, deliberating or participating in the matter. A written disclosure or copy of the public record regarding the oral disclosure should be forwarded to the Office of the Governor for review by the chair's DES.

Procedures for Other Member Disclosures

A member's interest in a state grant, contract, lease or loan and receipt of gifts are disclosed by filling out the appropriate disclosure form and submitting the form to the chair for approval. The disclosure forms are found on the Department of Law's ethics website.

What Are The Disclosure Procedures for Executive Directors and Staff?

Ethics disclosures of the executive director or staff are made in writing to the appropriate DES (chair for the executive director and the executive director for staff).

- Disclosure forms are found on the ethics website, noted above.

Notices of Potential Violations. Following receipt of a written notice of potential violation, the DES investigates, if necessary, and makes a written determination whether a violation of the Ethics Act could exist or will occur. A DES may seek advice from the Attorney General. If feasible, the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee of the personal or financial interests giving rise to the potential violation.

- These disclosures are not required to be made part of the public record.
- A copy of a determination is provided to the employee.
- Both the notice and determination are confidential.

Other Disclosures. The DES also reviews other ethics disclosures and either approves them or determines what action must be taken to avoid a violation of the Act. In addition to the disclosures of certain gifts and interests in the listed state matters, state employees must disclose all outside employment or services for compensation.

- The DES must provide a copy of an approved disclosure or other determination the employee.

How Are Third Party Reports of Potential Violations or Complaints Handled?

Any person may report a potential violation of the Ethics Act by a board or commission member or its staff to the appropriate DES or file a complaint alleging actual violations with the Attorney General.

- Notices of potential violations and complaints must be submitted in writing and under oath.

- Notices of potential violations are investigated by the appropriate DES who makes a written determination whether a violation may exist.⁸
- Complaints are addressed by the Attorney General under separate procedures outlined in the Ethics Act.
- **These matters are confidential**, unless the subject waives confidentiality or the matter results in a public accusation.

What Are The Procedures for Quarterly Reports?

Designated ethics supervisors must submit copies of notices of potential violations received and the corresponding determinations to the Attorney General for review by the state ethics attorney as part of the quarterly report required by the Ethics Act.

- Reports are due in April, July, October and January for the preceding quarter.
- A sample report may be found on the Department of Law's ethics website.
- An executive director may file a quarterly report on behalf of the chair and combine it with his or her own report.
- If a board or commission does not meet during a quarter and there is no other reportable activity, the DES advises the Department of Law Ethics Attorney by e-mail at ethicsreporting@alaska.gov and no other report is required.

If the state ethics attorney disagrees with a reported determination, the attorney will advise the DES of that finding. If the ethics attorney finds that there was a violation, the member who committed the violation is not liable if he or she fully disclosed all relevant facts reasonably necessary to the ethics supervisor's or commission's determination and acted consistent with the determination.

How Does A DES or Board or Commission Get Ethics Advice?

A DES or board or commission may make a **written request** to the Attorney General for an opinion regarding the application of the Ethics Act. In practice, the Attorney General, through the state ethics attorney, also provides **advice by phone or e-mail** to designated ethics supervisors, especially when time constraints prevent the preparation of timely written opinions.

- A request for advice and the advisory opinion are confidential.
- The ethics attorney endeavors to provide prompt assistance, although that may not always be possible.
- The DES must make his or her determination addressing the potential violation based on the opinion provided.

It is the obligation of each board or commission member, as well as the staff, to ensure that the public's business is conducted in a manner that is consistent with the standards set out in the Ethics Act. We hope this summary assists you in ensuring that your obligations are met.

1 The Act covers a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch of state government.

2 The governor has delegated the DES responsibility to Guy Bell, Administrative Director of the Office of the Governor.

3 You may supplement the disclosure form with other written explanation as necessary. Your signature on a disclosure certifies that, to the best of your knowledge, the statements made are true, correct and complete. False statements are punishable.

4 In most, but not all, situations, refraining from participation ensures that a violation of the Ethics Act does not occur. Abstention does not cure a conflict with respect to a significant direct personal or financial interest in a state grant, contract, lease or loan because the Ethics Act prohibition applies whether or not the public officer actually takes official action.

5 The chair must give a copy of the written determination to the disclosing member. There is a determination form available on the Department of Law's ethics web page. The ethics supervisor may also write a separate memorandum.

6 In this manner, a member's detailed personal and financial information may be protected from public disclosure.

7 When a matter of particular sensitivity is raised and the ramifications of continuing without an advisory opinion from the Attorney General may affect the validity of the board or commission's action, the members should consider tabling the matter so that an opinion may be obtained.

8 The DES provides a copy of the notice to the employee who is the subject of the notice and may seek input from the employee, his or her supervisor and others. The DES may seek advice from the Attorney General. A copy of the DES' written determination is provided to the subject employee and the complaining party. The DES submits a copy of both the notice and the determination to the Attorney General for review as part of the DES' quarterly report. If feasible, the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee of the personal or financial interests giving rise to the potential violation.

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Department of Law attorney.general@alaska.gov P.O. Box 110300, Juneau, AK 99811-0300
 Phone: 907-465-3600 Fax: 907-465-2075 TTY: 907-258-9161
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Ethics Disclosure Form

CONFIDENTIAL
REQUEST FOR ETHICS DETERMINATION

TO: _____, Designated Ethics Supervisor

(Identify Your Department, Agency, Public Corporation, Board, Commission)

I request advice regarding the application of the Executive Branch Ethics Act (AS 39.52.010 - .960) to my situation. The situation involves the following:

I have provided additional information in the attached document(s).

I believe the following provisions of the Ethics Act may apply to my situation:

- AS 39.52.120, Misuse of Official Position
- AS 39.52.130, Improper Gifts
- AS 39.52.140, Improper Use or Disclosure of Information
- AS 39.52.150, Improper Influence in State Grants, Contracts, Leases or Loans
- AS 39.52.160, Improper Representation
- AS 39.52.170, Outside Employment Restricted
- AS 39.52.180, Restrictions on Employment after Leaving State Service
- AS 39.52.190, Aiding a Violation Prohibited

I understand that I should refrain from taking any official action relating to this matter until I receive your advice. If the circumstances I described above may result in a violation of AS 39.52.110 - .190, I intend that this request serve as my disclosure of the matter in accordance with AS 39.52.210 or AS 39.52.220.

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Division, Board, Commission)

(Position Title)

(Location)

Designated Ethics Supervisor: Provide a copy of your written determination to the employee advising whether action is necessary under AS 39.52.210 or AS 39.52.220, and send a copy of the determination and disclosure to the attorney general with your quarterly report.

Ethics Disclosure Form

Receipt of Gift

TO: _____, Designated Ethics Supervisor, _____
(Agency, Public Corporation, Board, Commission or Council)

This disclosure reports receipt of a gift with value in excess of \$150.00 by me or my immediate family member, as required by AS 39.52.130(b) or (f).

- 1. Is the gift connected to my position as a state officer, employee or member of a state board or commission?
 Yes No
- 2. Can I take or withhold official action that may affect the person or entity that gave me the gift?
 Yes No

(If you answer "No" to both questions, you do not need to report this gift. If the answer to either question is "Yes," or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.)

The gift is _____

Identify gift giver by full name, title, and organization or relationship, if any:

Describe event or occasion when gift was received or other circumstance explaining the reason for the gift:

My estimate of its value is \$ _____ The date of receipt was _____

The gift was received by a member of my family. Who? _____

If you checked "Yes" to question 2 above, explain the official action you may take that affects the giver (attach additional page, if necessary):

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Division)

(Position Title)

(Location)

Ethics Supervisor Determination: Approve Disapproved

Designated Ethics Supervisor*

(Date)

**Designated Ethics Supervisor: Provide a copy of the approval or disapproval to the employee. If action is necessary under AS 39.52.210 or AS 39.52.220, attach a determination stating the reasons and send a copy of the determination and disclosure to the attorney general with your quarterly report.*



Investigative Process Overview

PRESENTED BY THE INVESTIGATIONS SECTION

DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

Who Are We?

State of Alaska



Department of Commerce, Community, and Economic Development



Division of Corporations, Business and Professional Licensing



Investigations



What Do We Do?

The mission of the Division of Corporations, Business and Professional Licensing is to ensure that **competent**, **professional** and **regulated** commercial services are available to Alaska consumers.

Three License Types

01

Professional License:

Individual specialty such as a Nurse, Doctor, Dentist, Massage Therapist, etc...

02

Business License:

(AS 43.70.020) If providing any service for the exchange of money, a business license is required in the state of Alaska.

03

Corporate Entity

(Corporation): A group of persons who are deemed in law to be a single legal **entity**. The **corporate entity** is legally distinct from its members; it has legal personality and can hold property, sue and be sued in its own name as if it were a natural person.

Who Needs a Professional License Through the State of Alaska?

- ▶ Acupuncturists
- ▶ Architects, Engineers, and Land Surveyors
- ▶ Athletic Trainers
- ▶ Audiologists & Speech-Language Pathologists
- ▶ Barbers & Hairdressers
- ▶ Behavior Analysts
- ▶ Big Game Commercial Services Board
- ▶ Chiropractic Examiners
- ▶ Collection Agencies
- ▶ Concert Promoters
- ▶ Construction Contractors
- ▶ Dental Examiners
- ▶ Dietitians & Nutritionists
- ▶ Dispensing Opticians
- ▶ Electrical Administrators
- ▶ Euthanize Domestic Animals
- ▶ Geologists
- ▶ Guardians & Conservators
- ▶ Hearing Aid Dealers
- ▶ Home Inspectors
- ▶ Marine Pilots
- ▶ Marital & Family Therapy
- ▶ Massage Therapists
- ▶ Mechanical Administrators
- ▶ Medical Board
- ▶ Midwives
- ▶ Morticians
- ▶ Naturopathy
- ▶ Nursing
- ▶ Nurse Aide Registry
- ▶ Nursing Home Administrators
- ▶ Optometry
- ▶ Pawnbrokers
- ▶ Pharmacy
- ▶ Physical Therapy & Occupational Therapy
- ▶ Prescription Drug Monitoring Program
- ▶ Professional Counselors
- ▶ Psychologist and Psychological Associate
- ▶ Public Accountancy
- ▶ Real Estate Appraisers
- ▶ Real Estate Commission
- ▶ Social Work Examiners
- ▶ Telemedicine Business Registry
- ▶ Underground Storage Tank Worker
- ▶ Veterinary Examiners



What Do We Investigate?

Statutes & Regulations

- ▶ **AS = Alaska Statutes:** Are passed by either the US Congress or State Legislatures: The legislatures create bills that, when passed by a vote, become statutory law.
- ▶ **AAC = Alaska Administrative Code // Regulation:** Regulations, on the other hand, are standards and rules adopted by administrative agencies (Boards) that govern how laws will be enforced.

Difference between Statutes and Regulations:

Although many people use the terms "statute" and "regulation" interchangeably, they aren't the same. Governing bodies, such as the United States Congress or a state legislature, enact statutes. On a local level, the statutes enacted by municipalities are known as ordinances. Regulations put those statutes to work, fleshing out the details.

Different Roles



EXAMPLE:

- ▶ AK Legislature creates Statutes.
- ▶ Boards create Regulations.
- ▶ Investigations investigate ***alleged violations*** of Statutes and/or Regulations.
- ▶ Board Members **verify whether or not a violation occurred** when reviewing a case from investigations.

Investigators gather information. Licensed board members determine if a violation of statute or regulation has occurred.



How Does Someone File a Complaint?

Public Website

<https://www.commerce.alaska.gov/web/cbpl/Investigations.aspx>



THE STATE of ALASKA

Department of Commerce, Community, and Economic Development
Division of Corporations, Business and Professional Licensing

ADM

FOR DIVISION USE ONLY

Investigations Section

550 West 7th Avenue, Suite 1500, Anchorage, AK 99501

Phone: (907) 269-8174 • Fax: (907) 269-8195

Website: CBPLinvestigations.Alaska.Gov

Email: Investigations@Alaska.Gov

Investigations — Request for Contact

The division investigates matters pertaining to business licenses, the sale of tobacco products, and licensed professionals. Not all issues will fall within our jurisdiction. You may have to contact other agencies for assistance. We encourage you to call to ensure that we are able to assist you.

This is only a request for contact. You may submit this form via US Mail, fax, or email, to the contact information listed above. Once the division has reviewed this information you will be contacted and may be asked to fill out a complaint package.

PART I Your Contact Information

| | | | |
|------------------|-------------|--------------|------------------|
| Complete Name: | First Name: | Middle Name: | Last Name: |
| Mailing Address: | Address: | City: | State: Zip Code: |
| Contact Phone: | () - | | |
| Email Address: | | | |

PART II Description of Incident

| | |
|--|--|
| Type of Business or Profession Involved: | |
| Name(s) of Person or Business Involved: | |
| Date(s) Which Incident Occurred: | |
| Brief Description of Incident: | |

Contact Us Directly

Contact Us

State of Alaska/DCCED
Division of Corporations, Business and
Professional Licensing
Investigations Section
550 West 7th Avenue, Suite 1500
Anchorage, AK 99501-3567
Phone: (907) 269-8124
Fax: (907) 269-8195

Email: Investigations@Alaska.gov

Next Step: Is the Complaint Jurisdictional?

- Review informal guidelines established by the Board or Commission, and the statutes and regulations of that specific practice area.
- If the complaint does not appear to allege a violation that is within the Board's jurisdiction, the Division may close the complaint.

Next Step: Is the Complaint Jurisdictional?

Complaints that are typically not jurisdictional are:

- Criminal complaints (Law Enforcement)
- Money or civil matters (Alaska Court System)
- “Bedside Manner”
- Quality of work complaints (Contractors)
- Unfair or deceptive business practices (Alaska Consumer Protection)
- Landlord Tenant Laws

The Complaint is Jurisdictional. What Happens Next?

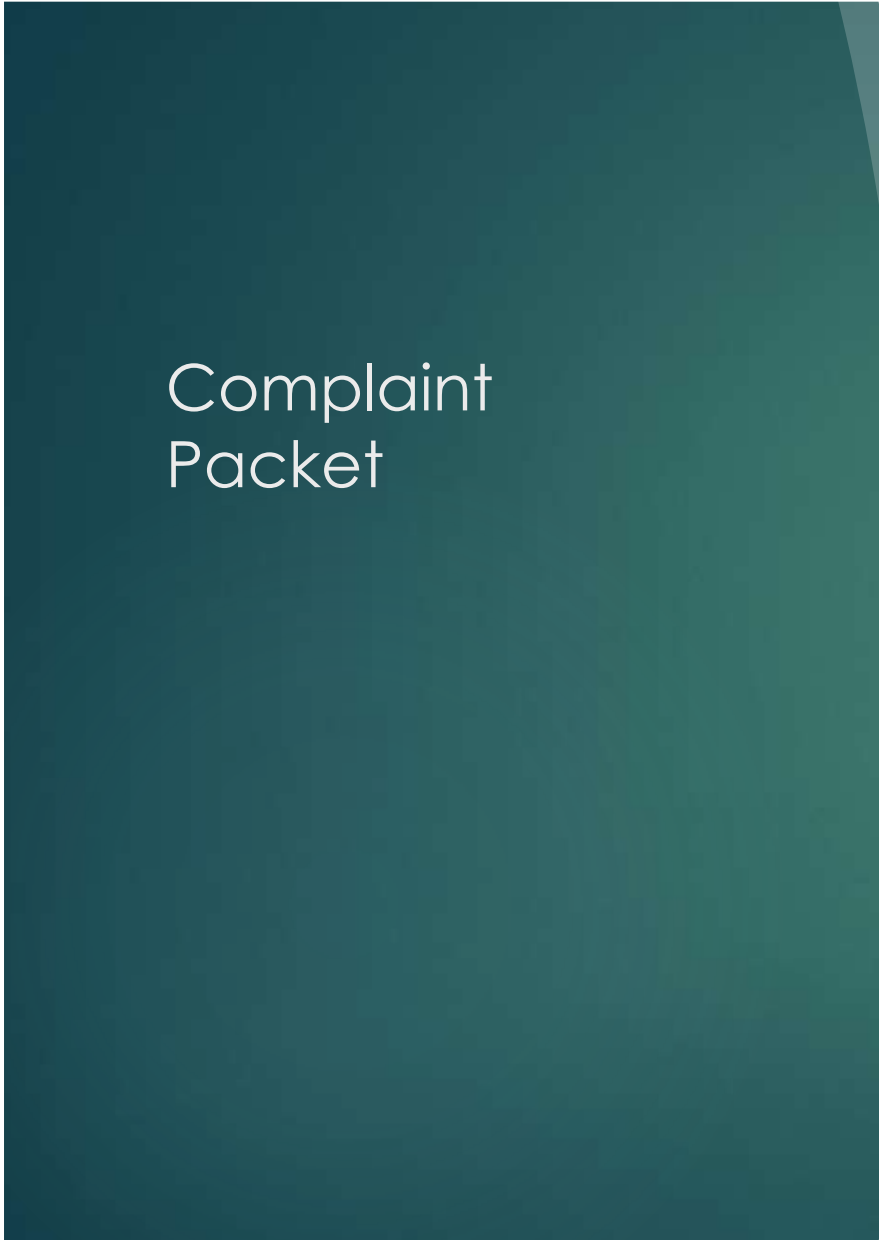
The complainant is asked to complete a complaint packet.

The packet provides the complainant to:

- Provide a summary of the incident
- Include supporting documentation
- Sign a release of information
- Sign an Affidavit

The Division does not generally accept anonymous complaints, except in unusual instances.

We require consumers to be accountable for their allegations; thereby avoiding manipulation of our process by unscrupulous parties seeking to eliminate competition or pursue personal or professional vendettas.



Complaint Packet



STATE OF ALASKA DEPARTMENT OF **COMMERCE** COMMUNITY AND ECONOMIC DEVELOPMENT

Division of Corporations, Business and Professional Licensing – Investigations

550 West 7th Avenue, Suite 1500, Anchorage, AK 99501-3567

Telephone: (907) 269-8437 Fax: (907) 269-8195 Website: www.commerce.state.ak.us/occ

COMPLAINT FILED BY:

COMPLAINT FILED AGAINST:

NAME (Last, First Middle Initial)

NAME and TITLE

ADDRESS

ADDRESS

CITY

STATE

ZIP

CITY

STATE

ZIP

WORK PHONE

HOME PHONE

WORK PHONE

HOME PHONE

SUMMARY OF COMPLAINT

Please describe your complaint in detail. If necessary, please use an additional sheet of paper. Please provide any additional supporting documents.

AFFIDAVIT

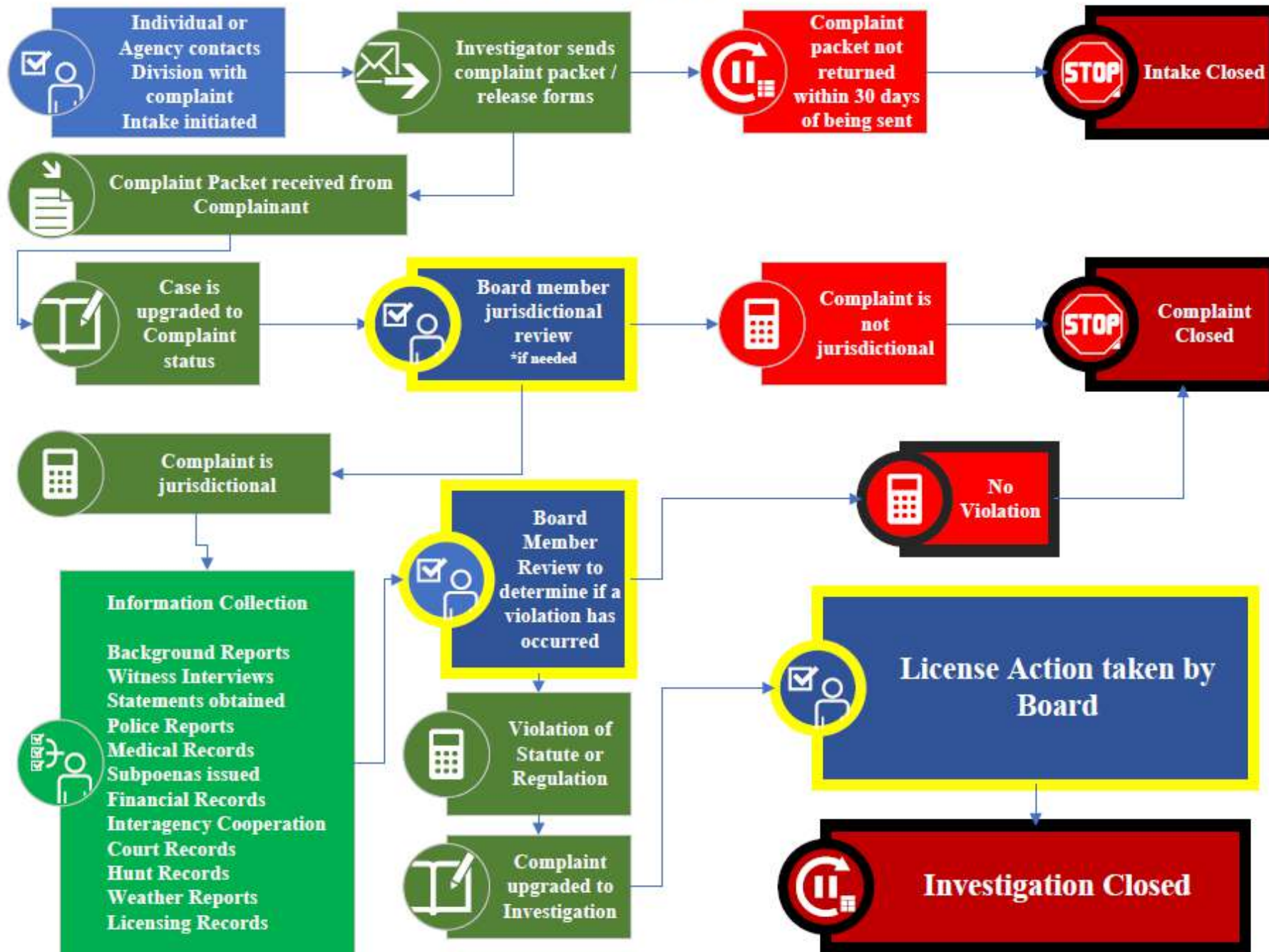
State of _____ City/Borough of _____

I, _____ hereby state under penalty of unsworn falsification: That I am the complainant in the named above and to the best of my knowledge and belief, this statement is true and correct.

Signature of Complainant: _____ Date: _____

AS 11.56.210(a)(2) of the Alaska Statutes makes it a class A misdemeanor of offense for a person to intentionally issue a false written or recorded statement, which is punishable by imprisonment for not more than one (1) year, a \$5,000 fine, or both.

INVESTIGATIVE PROCESS



Three Stages of “Investigation”

INTAKE: **Preliminary information stage**

- Typically generated upon receipt of a Request for Contact form or a Referral Email.

COMPLAINT: **Fact-gathering stage**

- Escalates when a Complaint Packet is received.

INVESTIGATION: **Violation verified stage**

- Following a Board Member review, case escalates when a Board Member confirms a violation is present.

Complaint

Upon the receipt of the Complaint Packet, the case will escalate to "COMPLAINT" stage.

"Notice of Complaint" letter is sent to the Respondent notifying them a complaint has been received against them. This gives the Respondent an opportunity to provide an explanation.

Once enough information has been gathered to either **prove or disprove** an allegation, the case is presented to a Board Member for review.

The Board Member will review the case to determine whether or not a violation is present - and if so, recommends an appropriate disposition to address it.

Investigation

Violation is verified, case escalates to "INVESTIGATION"
"Notice of Investigation" letter is sent to the Respondent explaining WHY his/her actions were violation(s).

2. License Action
(Consent Agreement, Fine, Suspension, etc..)

Board Member's Recommendation:
1. Non-disciplinary Letter of Advisement
(Closes Case)

License Action:
Offered to Respondent

1. If agrees, License Action is presented to Board for adoption: If adopted, closes case.

2. If disagrees & refuses, Division moves forward with the LITIGATION PROCESS & files an Accusation.

Administrative Hearing:
Division prepares the case for Administrative Hearing and the case is presented to an Administrative Law Judge (ALJ).

ALJ Decision is presented to the Board for final consideration.

Investigation



After a licensed Board Member Reviewer determines a violation of statute or regulation is present:

- ▶ Case escalates to “INVESTIGATION”
- ▶ A Notice of Investigation (NOI) is sent to the Respondent, notifying them a violation was verified.
- ▶ RBM recommends the appropriate action (Disciplinary or Non-Disciplinary) to address the violation:

Disciplinary Action:

- ▶ Consent Agreement
 - Probation
 - Civil Fine
 - Continuing Education
- ▶ Imposition of Civil Fine
- ▶ Suspension
- ▶ Revocation
- ▶ Etc..

Non-Disciplinary Action:

Non-Disciplinary Letter of Advisement

Three Investigation Case Types

- ▶ **Application Matters:** Inquires initiated by Licensing to review applications for truthfulness, accuracy and if there is a violation requiring board action.
- ▶ **Consumer Complaints:** Inquiries initiated upon the receipt of a Complaint Packet (or written complaint).
- ▶ **Inspections:** Onsite inspections to ensure operations are in accordance to AS 43.70 & 12 AAC 12



Confidentiality

- Investigations are required by statute to be kept confidential.
- This often prevents the complainant, licensee, and the Board from obtaining progress reports or information that may disclose the current status of an open investigation.
- This also protects the reputation of licensees who may be accused of wrongdoing but the allegations against them are unproven.
- Cases often involve other agencies, businesses, and practices; disclosing information during an on-going case can compromise the investigation, create conflicts for reviewing Board members, or result in unnecessary hardship to the licensee.

Questions / Discussion

INVESTIGATIVE OVERVIEW



EXECUTIVE SESSION MOTION

I, _____, move that the Alaska State Board of Barbers & Hairdressers enter into executive session in accordance with AS 44.62.310(c), and Alaska Constitutional Right to Privacy Provisions, for the purpose of discussing _____; Board staff to remain during the session.



Authority: AS 44.62.310(c), Government meetings public

The following subjects may be considered in executive session:

- 1. matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;**
- 2. subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;**
- 3. matters which by law, municipal charter, or ordinance are required to be confidential;**
- 4. matters involving consideration of government records that by law are not subject to public disclosure.**



MEMORANDUM

DATE: September 25, 2024
 TO: Board of Barbers & Hairdressers
 THRU: Erika Prieksat, Chief Investigator 
 FROM: Chace Evans, Investigator 
 RE: Investigative Report for the October 10, 2024 Meeting

The following information was compiled as an investigative report to the Board for the period of August 06, 2024 thru September 25, 2024; this report includes cases, complaints, and intake matters handled since the last report.

Matters opened by the Paralegals in Anchorage and Juneau, regarding continuing education audits and license action resulting from those matters are covered in this report.

OPEN - 43

| <u>Case Number</u> | <u>Violation Type</u> | <u>Case Status</u> | <u>Status Date</u> |
|---------------------------|---------------------------------|---------------------------|---------------------------|
| 2024-000130 | Unlicensed practice or activity | Intake | 02/07/2024 |
| BARBER | | | |
| 2023-000882 | Unlicensed practice or activity | Complaint | 08/15/2023 |
| 2022-000448 | Unlicensed practice or activity | Investigation | 05/17/2023 |
| BODY PIERCER | | | |
| 2023-000535 | Unlicensed practice or activity | Complaint | 06/29/2023 |
| ESTHETICIAN | | | |
| 2023-000698 | Unlicensed practice or activity | Intake | 06/28/2023 |

| | | | |
|-------------|---------------------------------|----------------------|------------|
| 2024-000760 | Unlicensed practice or activity | Intake | 07/23/2024 |
| 2023-001123 | Unlicensed practice or activity | Complaint | 11/13/2023 |
| 2024-000350 | Unlicensed practice or activity | Complaint | 09/06/2024 |
| 2022-000154 | Unlicensed practice or activity | Investigation | 02/22/2023 |
| 2022-000249 | Unlicensed practice or activity | Closed-Investigation | |

HAIRDRESSER

| | | | |
|-------------|---------------------------------|---------------|------------|
| 2022-000451 | Unlicensed practice or activity | Complaint | 05/27/2022 |
| 2023-000384 | Unlicensed practice or activity | Complaint | 05/08/2023 |
| 2023-000385 | Unlicensed practice or activity | Complaint | 05/08/2023 |
| 2021-000676 | Unlicensed practice or activity | Investigation | 08/31/2022 |
| 2023-000271 | Unlicensed practice or activity | Investigation | 06/29/2023 |

INSTRUCTOR

| | | | |
|-------------|---|---------------|------------|
| 2024-000161 | Violation of Profession Statute or Regulation | Complaint | 02/14/2024 |
| 2021-000531 | Violation of licensing regulation | Investigation | 08/30/2022 |
| 2023-000526 | Unprofessional conduct | Closed-Intake | |

SCHOOL

| | | | |
|-------------|---|----------------------|------------|
| 2024-000470 | Violation of Profession Statute or Regulation | Intake | 05/28/2024 |
| 2024-000614 | Violation of Profession Statute or Regulation | Intake | 06/20/2024 |
| 2024-000175 | Unlicensed practice or activity | Complaint | 02/23/2024 |
| 2021-000860 | Unlicensed practice or activity | Investigation | 04/17/2023 |
| 2021-000883 | Unlicensed practice or activity | Investigation | 04/17/2023 |
| 2023-000219 | Violation of licensing regulation | Investigation | 06/27/2023 |
| 2021-000550 | Violation of licensing regulation | Litigation Initiated | 07/03/2024 |
| 2021-001088 | Violation of licensing regulation | Litigation Initiated | |
| 2022-000149 | Violation of licensing regulation | Litigation Initiated | 07/03/2024 |

SHOP OWNER

| | | | |
|-------------|-----------------------------------|-----------|------------|
| 2024-000751 | Compliance | Intake | 08/22/2024 |
| 2023-000109 | Violation of licensing regulation | Complaint | 02/06/2023 |

| | | | |
|-------------|---------------------------------|---------------------|------------|
| 2023-000383 | Unlicensed practice or activity | Complaint | 05/08/2023 |
| 2023-000442 | Unlicensed practice or activity | Complaint | 05/23/2023 |
| 2023-000455 | Unlicensed practice or activity | Complaint | 05/24/2023 |
| 2024-000468 | Unlicensed practice or activity | Complaint | 05/28/2024 |
| 2024-000478 | Unlicensed practice or activity | Complaint | 09/20/2024 |
| 2024-000554 | Unlicensed practice or activity | Complaint | 06/18/2024 |
| 2022-000808 | Unlicensed practice or activity | Investigation | 05/16/2023 |
| 2023-000475 | Compliance Inspection | Division Inspection | |

TATTOOIST

| | | | |
|-------------|---------------------------------|---------------|------------|
| 2024-000476 | Unlicensed practice or activity | Intake | 05/23/2024 |
| 2024-000697 | Unlicensed practice or activity | Intake | 07/31/2024 |
| 2024-000092 | Unlicensed practice or activity | Complaint | 01/26/2024 |
| 2024-000552 | Unlicensed practice or activity | Complaint | 05/24/2024 |
| 2024-000619 | Probation | Complaint | 07/03/2024 |
| 2022-000291 | Unlicensed practice or activity | Investigation | 03/13/2023 |

Closed - 1

| <u>Case #</u> | <u>Violation Type</u> | <u>Case Status</u> | <u>Closed</u> | <u>Closure</u> |
|----------------------|-----------------------------------|---------------------------|----------------------|-----------------------|
| TATTOOIST | | | | |
| 2022-000736 | Violation of licensing regulation | Closed-Investigation | 08/27/2024 | License Action |

END OF REPORT

Certificate Of Completion

| | |
|--|--------------------------|
| Envelope Id: C4072A88BE8C407C992EFC23CEB3BF81 | Status: Completed |
| Subject: Complete with DocuSign: October 2024 BAH Board Report.pdf | |
| Source Envelope: | |
| Document Pages: 3 | Signatures: 0 |
| Certificate Pages: 4 | Initials: 2 |
| AutoNav: Enabled | Envelope Originator: |
| Envelopeld Stamping: Disabled | Chase Evans |
| Time Zone: (UTC-09:00) Alaska | PO Box 110206 |
| | Juneau, AK 99811 |
| | chace.evans@alaska.gov |
| | IP Address: 136.226.55.0 |

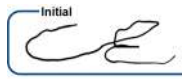
Record Tracking

| | | |
|--------------------------------------|------------------------|--------------------|
| Status: Original | Holder: Chase Evans | Location: DocuSign |
| 9/25/2024 9:05:48 AM | chace.evans@alaska.gov | |
| Security Appliance Status: Connected | Pool: StateLocal | |
| Storage Appliance Status: Connected | Pool: State of Alaska | Location: DocuSign |

Signer Events

Chase Evans
 chace.evans@alaska.gov
 Security Level: Email, Account Authentication (None)

Signature



Signature Adoption: Uploaded Signature Image
 Using IP Address: 206.174.101.45

Timestamp

Sent: 9/25/2024 9:08:39 AM
 Viewed: 9/25/2024 9:08:49 AM
 Signed: 9/25/2024 9:08:55 AM

Electronic Record and Signature Disclosure:

Accepted: 9/4/2024 10:15:52 AM
 ID: 95bc4464-05b0-4a0b-be18-e00c628839f9
 Company Name: State of Alaska

Jennifer Summers
 Jennifer.summers@alaska.gov
 Senior Investigator III
 State of Alaska
 Security Level: Email, Account Authentication (None)



Signature Adoption: Uploaded Signature Image
 Using IP Address: 10.233.83.217

Sent: 9/25/2024 9:08:57 AM
 Viewed: 9/25/2024 9:22:25 AM
 Signed: 9/25/2024 9:22:56 AM

Electronic Record and Signature Disclosure:

Accepted: 3/15/2022 4:38:57 PM
 ID: d53a2622-7df2-439f-8105-e9c1b6cda536
 Company Name: State of Alaska

| In Person Signer Events | Signature | Timestamp |
|------------------------------|-----------|-----------|
| Editor Delivery Events | Status | Timestamp |
| Agent Delivery Events | Status | Timestamp |
| Intermediary Delivery Events | Status | Timestamp |
| Certified Delivery Events | Status | Timestamp |
| Carbon Copy Events | Status | Timestamp |
| Witness Events | Signature | Timestamp |
| Notary Events | Signature | Timestamp |

| Envelope Summary Events | Status | Timestamps |
|--------------------------------|------------------|----------------------|
| Envelope Sent | Hashed/Encrypted | 9/25/2024 9:08:39 AM |
| Certified Delivered | Security Checked | 9/25/2024 9:22:25 AM |
| Signing Complete | Security Checked | 9/25/2024 9:22:56 AM |
| Completed | Security Checked | 9/25/2024 9:22:56 AM |

| Payment Events | Status | Timestamps |
|-----------------------|---------------|-------------------|
|-----------------------|---------------|-------------------|

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

Please read this Electronic Records and Signature Disclosure (ERSD). It concerns your rights regarding electronically undertaking, and the conditions under which you and the State of Alaska agree to electronically undertake, the transaction to which it relates (the “TRANSACTION”).

Consent to Electronically Undertake the TRANSACTION

You can electronically undertake the TRANSACTION only if you confirm that you meet the following requirements by selecting the box next to “I agree to use electronic records and signature” (the “AGREE BOX”):

1. you can fully access and have read this ERSD;
2. you can fully access all of the information in the other TRANSACTION records;
3. you can retain all of the TRANSACTION records in a form that you will be able to fully access for later reference;
4. you consent to undertake the TRANSACTION electronically; and
5. you are authorized to undertake the TRANSACTION. (Please note that falsely undertaking the TRANSACTION may subject you to civil liabilities and penalties and/or to criminal penalties.)

If you cannot or are not willing to confirm each of these five things, do not select the AGREE BOX.

Withdrawing Consent

If you select the AGREE BOX, you can withdraw your consent to electronically undertake the TRANSACTION at any time before you complete the TRANSACTION: simply do not finalize it. The only consequence of withdrawing your consent is that you will not finalize the TRANSACTION.

If you select the AGREE BOX, your consent will apply only to this TRANSACTION. You must separately consent to electronically undertake any other transaction with the State of Alaska.

Paper Option for Undertaking the TRANSACTION

You may undertake the TRANSACTION with the State of Alaska using paper records. (State of Alaska employees who want to undertake the TRANSACTION in paper should contact the agency responsible for the TRANSACTION.) Print the paper records on the website of the State of Alaska agency responsible for the TRANSACTION, or request them from the agency. The State of Alaska homepage is at <http://alaska.gov/>.

Copies of TRANSACTION Records

After completing the TRANSACTION but before closing your web browser, you should download the TRANSACTION records. Or you can download the records within 30 days after

completing the TRANSACTION using the link in the DocuSign email sent to the email address you used to complete the TRANSACTION. The State of Alaska will not provide a paper copy of the TRANSACTION records as part of the TRANSACTION. Under the Alaska Public Records Act (APRA), AS 40.25.100–.295, you can request a copy from the agency responsible for the TRANSACTION, but if too much time has passed, the agency may no longer have the records when you make your request. If required under the APRA, the agency will charge a fee.

Required Hardware and Software

For the minimum system requirements to electronically undertake the TRANSACTION, including accessing and thereby retaining the TRANSACTION records, visit <https://support.docusign.com/guides/signer-guide-signing-system-requirements>. These requirements may change. In addition, you need access to an email account.

How to Contact the State of Alaska

To ask a question on this ERSD or the DocuSign document generated after you complete the TRANSACTION or on using DocuSign to electronically undertake the TRANSACTION, contact the Alaska Department of Administration at either of the following addresses:


State of Alaska
Department of Administration
550 West 7th Avenue
Suite 1970
Anchorage, AK 99501
Reference: DocuSign

doa.commissioner@alaska.gov
Subject: DocuSign

To ask any other question on the TRANSACTION records or to update the information for contacting you electronically, contact the State of Alaska agency responsible for the TRANSACTION using the contact information in the TRANSACTION records or, if those records contain no contact information, using the contact information on the agency's website. Again, the State of Alaska homepage is at <http://alaska.gov/>.



PROBATION REPORT

DATE: September 25, 2024
TO: Board of Barbers and Hairdressers
THRU: Jenni Summers, Senior Investigator 

FROM: Jacob Daviscourt, Investigator 

SUBJECT: Probation Report for the October 10, 2024 Board Meeting

The following is a complete list of individuals on probation for this Board. There are currently **eight (8)** individuals being monitored on probation. **One (1)** was released from probation since the last report. Individuals **non-compliant** or on **“hold”** with their probation are noted next to **“**”**.

| <u>NAME</u> | <u>Case Number</u> | <u>Probation Start</u> | <u>Probation End</u> |
|----------------------|--------------------|------------------------|----------------------|
| **Elijah Young | 2020-001049 | 10/06/2020 | Suspended |
| Karrie Kvasager | 2022-000820 | 03/05/2024 | 03/06/2025 |
| Hayley Moore | 2023-000448 | 05/16/2023 | 05/16/2025 |
| Connie Dougherty | 2023-000449 | 05/16/2023 | 05/16/2025 |
| Francisco Valladolid | 2024-000619 | 08/23/2023 | 08/24/2025 |
| Sara Grocott | 2022-000249 | 10/3/2023 | 10/02/2025 |
| Eden Chase | 2023-000467 | 10/11/2023 | 10/12/2025 |
| Lui Talo | 2022-000736 | 08/09/2024 | 08/10/2026 |

RELEASE FROM PROBATION:

| <u>NAME</u> | <u>Case Number</u> | <u>Probation Start</u> | <u>Probation End</u> |
|-------------|--------------------|------------------------|----------------------|
| Saeed McKoy | 2022-000587 | 6/18/2022 | 09/08/2024 |

END OF REPORT

EXECUTIVE SESSION MOTION

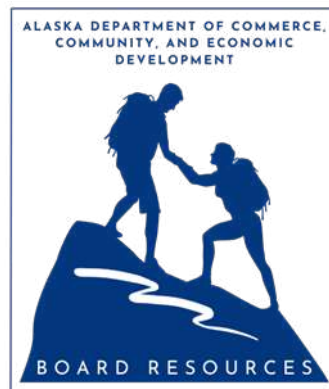
I, _____, move that the Alaska State Board of Barbers & Hairdressers enter into executive session in accordance with AS 44.62.310(c), and Alaska Constitutional Right to Privacy Provisions, for the purpose of discussing _____; Board staff to remain during the session.

Authority: AS 44.62.310(c), Government meetings public

The following subjects may be considered in executive session:

- 1. matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;**
- 2. subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;**
- 3. matters which by law, municipal charter, or ordinance are required to be confidential;**
- 4. matters involving consideration of government records that by law are not subject to public disclosure.**

GUIDE TO EXCELLENCE IN REGULATION
for
**PROFESSIONAL LICENSING
BOARDS & COMMISSIONS**



UPDATED SEPTEMBER 2023

DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

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It is the obligation of each board or commission member, as well as the staff, to ensure that the public's business is conducted in a manner that is consistent with the standards set out in applicable law. Changes to this guide may be made at any time, so ensure you are referencing the most current edition. This guidance may not reflect every situation or circumstance, so please reach out for assistance.

We hope this document assists you in understanding, embracing, and flourishing in the role of regulatory board member.

I. Introduction

Welcome to service as a member of a State of Alaska licensing board or commission. The mission of the Division of Corporations, Business and Professional Licensing (CBPL) is to ensure that competent, professional and regulated commercial services are available to Alaska consumers. This means that members of boards and commissions, as well as division staff, are charged with providing access to services and employment opportunities while maintaining high standards of public protection. It is the Department of Commerce, Community, and Economic Development's goal to support and equip the division and its boards to succeed in this mission.

You are embarking on an important role as a regulator of Alaska professions. There is prestige in being a board or commission member. However, the position of a board or commission member is like a second job, involving many hours of work with little public recognition. It is a labor of love and commitment, and the reward is reflected in an improved quality of life for residents of the State of Alaska.

Board and commission members bring valuable experience and perspective to this responsibility. However, stretching your existing knowledge and skill levels to learn about new ideas and situations is a mandatory step outside of your comfort zone. You are expected to be problem-solvers, to be responsive, to be fair, to work hard, and to be knowledgeable about the activities of your board or commission. You are also expected to know and follow state law and regulation, acting in the best interests of the people of the State of Alaska.

The purpose of this orientation is to provide newly-appointed board and commission members with information that makes the transition from state resident to state board or commission member a rewarding experience. Please ask questions and let me or division staff know when you require assistance. We are partners in accomplishing this mission, and we look forward to working together.



Sara Chambers, Boards and Regulations Advisor
Alaska Department of Commerce Community, and Economic Development

II. Roles and Responsibilities

Serving as a government regulator is unlike any other board position you may have held or heard about. This section describes the authority of regulatory boards and commissions, as well as the purpose and duties of board and commission members. It also discusses the board and commission members' roles in the State of Alaska system and in upholding public interest under the guidelines of state statutes.

Purpose and Authority of Regulatory Boards and Commissions

The chief purpose of boards and commissions is to protect the public's health and safety and assure the competency of those providing the services regulated. This purpose is upheld across various statutes pertaining to professional licensing, as well as in Alaska case law. We refer to this as *servicing in the public interest*.

The authority of state boards and commissions is tied to the powers afforded by the legislature. All professional licensing boards and commissions have authority from the state as found in Title 8 of Alaska Statute. The authority of the different boards and commissions is limited and spelled out in two primary locations: Chapter 1 of Title 8 (referred to as AS 08.01 or Centralized Licensing) and in each chapter within Title 8 that pertains to the profession(s) regulated by a particular board. Boards and commissions are granted certain powers, which may differ according to statute. While statutes authorize certain powers, they also limit the activity of the board to what is allowed by law.

Based on the foundation of these statutes, professional licensing boards and commissions have the authority to perform a few key duties which they all have in common:

- **Adopt regulations to clarify statute and further define the requirements of the licensing program and its licensees.** Regulations have the effect of law; however, they clarify, define, and implement statutes to which they are subordinate. Boards and commissions are required to follow the public process and carefully consider all draft regulations before adoption.
- **Evaluate applications and issue licenses to qualified individuals.**
- **Take action on licenses issued by the board, up to and including revocation.**
- **Interpret scope of practice within the boundaries of state statute.**

Boards can adopt specific procedures in partnership with the division, which may also establish processes as the legal administrator of these programs. Boards and the division, with the assistance of attorneys assigned by the Department of Law, may evaluate all processes, regulations, and statutes to determine whether they best serve the public interest.

Duties of the Boards and Commissions

State statute spells out the duties for which each board and commission is responsible. Below is a list of all licensing programs managed by the division and links to their individual statutory authority (AS 08.01.010)

Board of Public Accountancy ([AS 08.04.010](#));
regulation of acupuncturists under [AS 08.06](#);
State Board of Registration for Architects, Engineers, and Land Surveyors ([AS 08.48.011](#));
Athletic Commission ([AS 05.05](#) and [AS 05.10](#));
regulation of athletic trainers under [AS 08.07](#);
regulation of audiologists and speech-language pathologists under [AS 08.11](#);
Board of Barbers and Hairdressers ([AS 08.13.010](#));

regulation of behavior analysts under [AS 08.15](#);
Big Game Commercial Services Board ([AS 08.54.591](#));
regulation of business licenses under [AS 43.70](#);
Board of Chiropractic Examiners ([AS 08.20.010](#));
regulation of collection agencies under [AS 08.24](#);
regulation of concert promoters under [AS 08.92](#);
regulation of construction contractors and home inspectors under [AS 08.18](#);
Board of Dental Examiners ([AS 08.36.010](#));
regulation of dietitians and nutritionists under [AS 08.38](#);
Board of Certified Direct-Entry Midwives ([AS 08.65.010](#));
regulation of dispensing opticians under [AS 08.71](#);
regulation of electrical and mechanical administrators under [AS 08.40](#);
regulation of agencies that perform euthanasia services under [AS 08.02.050](#);
regulation of professional geologists under [AS 08.02.011](#);
regulation of private professional guardians and private professional conservators ([AS 08.26](#));
regulation of hearing aid dealers under [AS 08.55](#);
Board of Marine Pilots ([AS 08.62.010](#));
Board of Marital and Family Therapy ([AS 08.63.010](#));
Board of Massage Therapists ([AS 08.61.010](#));
State Medical Board ([AS 08.64.010](#));
regulation of morticians under [AS 08.42](#);
regulation of the practice of naturopathy under [AS 08.45](#);
Board of Nursing ([AS 08.68.010](#));
regulation of nursing home administrators under [AS 08.70](#);
Board of Examiners in Optometry ([AS 08.72.010](#));
regulation of pawnbrokers ([AS 08.76.100](#) - 08.76.590);
Board of Pharmacy ([AS 08.80.010](#));
State Physical Therapy and Occupational Therapy Board ([AS 08.84.010](#));
Board of Professional Counselors ([AS 08.29.010](#));
Board of Psychologist and Psychological Associate Examiners ([AS 08.86.010](#));
Real Estate Commission ([AS 08.88.011](#));
Board of Certified Real Estate Appraisers ([AS 08.87.010](#));
Board of Social Work Examiners ([AS 08.95.010](#));
Board of Veterinary Examiners ([AS 08.98.010](#)).

Administrative Duties of Boards

All professional licensing boards and commissions have specific responsibilities to administer their programs in partnership with the division. In addition to the duties required by its chapter, Centralized Statutes apply to each board. Under this set of laws located in [AS 08.01](#), each board must provide for the following activities:

- (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. (AS 08.01.070)

Disciplinary Powers of Boards

Boards have specific disciplinary powers under Centralized Statutes and their own chapters, which are executed in partnership with the division's Investigative Unit. This common authority may be superseded by additional authority found in each program's own chapter of Title 8. For example, AS 08.01.075(a)(8) allows each board the ability to issue a fine up to \$5,000. Some boards, however, have specific authority to issue fines that are well above this amount.

(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. (AS 08.01.075)

In addition to those listed in the statutes, a board or commission may:

- Establish meeting procedures and determine board or commission members' leadership roles.
- Maintain awareness of licensing program revenues and expenditures.
- Hear and evaluate public testimony.

One of the primary responsibilities of a board or commission is adopting and adhering to regulations pertaining to the scope of authority granted to that body in statute. Centralized Regulations in 12 AAC 02 pertain to all professions governed by Title 8, and each board has its own regulatory authority within Title 12 of the Alaska Administrative Code. Boards and Commissions are also bound to laws pertaining to all state entities, including the U.S. and Alaska Constitutions, and the Administrative Procedure Act (AS 44.62).

Responsibilities of Board and Commission Members

Boards and commissions are bodies whose members are appointed by the Governor of Alaska through the Office of Boards and Commissions and approved by the Alaska State Legislature through a confirmation process. Doing Alaska's boards and commissions' business (in effect, the public's business) is a group activity that requires patience, vision, cooperation, and compromise. While you may be a member of your board's profession, you are not serving to promote your profession. Rather, as a member of a regulatory board, you have responsibilities to several groups:

- **To the general public.** Consumers expect that licensees will be qualified to perform properly and safely. They expect oversight to ensure qualifications for licensure and practice meet acceptable standards. They expect licensees to be accountable to the law. The public has a right to know what's going on within the board.
- **To potential licensees.** A person who wishes to earn a living in a regulated profession should be able to demonstrate competency through a reasonable and transparent process. Every applicant should have easy access to information about entering the profession, including testing and transferring a license to between states.
- **To other board members.** Board and commission members should listen to their fellow board members and consider one another's views and contributions. All board members are responsible for developing good policy and procedures and contributing to the effective and efficient operation of the board.
- **To licensees.** A licensed professional has an expectation that regulators will determine matters fairly and impartially and to be responsive to questions and concerns raised by licensees.

The primary objectives of regulatory boards are to ensure professional competency and the health and safety of the public. Boards often have positions dedicated to members from specific backgrounds; this is intended to bring a broad range of perspective to the boards, including the perspective of consumers, people who have no affiliation with the regulated profession, and people who practice within the regulated profession. Together, the members of a regulatory board serve the public's interest.

What Does It Take to Successfully Serve on a Regulatory Board?

1. **A demonstrated interest in public service.** Participating on a regulatory board is about the public, not self-interest or special interests.

2. **Common sense and a willingness to ask questions.** Do the policies, procedures, and decisions of the board seem sensible? Are they regularly reviewed and updated? Do you have the information needed to make sound decisions? Are you clear on your roles and the roles of your partners in regulating the profession? If not, say so and ask for clarification. You are responsible for what goes on with the board. If you are not sure about something and you do not ask, the board may miss an opportunity to avoid or correct a problem.
3. **A commitment to participate.** Consistent attendance at meetings, responsiveness to correspondence, and engagement with voting is essential to keeping informed about what is going on and to providing direction and support. An individual who accepts an appointment to a board and does not take seriously the duty to participate regularly and actively does a disservice to the board and to the public they are supposed to represent.
4. **Healthy assertiveness.** Respect your own rights and needs as well as those of others by maintaining boundaries and seeking information in a healthy, professional manner.
5. **Understanding of the board structure and resources.** Find out how the Department of Commerce, Community, and Economic Development, the Division of Corporations, Business and Professional Licensing, the Department of Law, and the Office of Administrative Hearings operate in relation to your board.

Effective board members have these characteristics in common:

1. Able to work with a group to make decisions
2. Understand and follow democratic processes
3. Willing to devote time and effort to the work of the board
4. Work to find alternative solutions to problems whenever necessary
5. Use good communication skills
6. Recognize that the goal of the board is the service and protection of the public
7. Aware that authority is granted by the law to the board as a whole, not to any member individually, and can only be used in open meeting or executive session by vote of the majority of board members
8. Avoid becoming involved in the daily functions of staff
9. Delay judgement until adequate evidence is in and has been fully discussed
10. Separate personal feelings toward others from the decisionmaking process

When appointed to a regulatory board, the member agrees to follow a high code of conduct that is grounded in state law. This means giving up some freedoms in order to protect other rights and processes.

- All inquiries regarding matters within the board's jurisdiction should be directed to the board office so that they can be brought to the attention of the board at a duly-constituted meeting. Board members may not take action on behalf of the board outside this venue.
- Certain information is protected by law as “confidential and deliberative.” These details of board activity should not be released by a board member unless and until they become part of the public record. Any disclosure of such information should be made only after consultation with legal counsel.
- Board members are prohibited from conducting private meetings pertaining to board business outside of full, publicly noticed board meetings.
- Special care should be taken when considering disciplinary matters, as important privacy rights may be implicated, in addition to the board’s statute, regulations, and policies.
- Board members should remember that the public may see them as representatives of the board

even when they are outside of a board meeting setting. When board members appear at industry or professional gatherings, they should make it clear that they are acting as private citizens and not speaking for the board, unless specifically authorized by the board.

- Board members should follow established policy and protocol within their board structure, including communicating through their chair and board staff.

What is the Purpose of Appointing Public Members to Licensing Boards?

The public members on a licensing board are important to ensure the public good is being served. The public member has a special role to express and be watchful of the public interest—not the interest of the profession or occupation. Nearly every jurisdiction's law mandating public members on boards states that a public member shall have no association or relationship with the profession or with a member of the regulated profession. Public members are not expected to be, indeed are not supposed to be, technically expert or experienced in the licensed occupation.

The importance of public members on regulatory boards was expanded by the United States Supreme Court's 2015 decision in [North Carolina Board of Dental Examiners v. Federal Trade Commission](#). The unique and important role of the public member mitigates the potential anticompetitive effects of a board's actions, which may happen where the board is dominated by "active market participants"—those whom the board itself is regulating.

Well-informed and engaged public members bring several advantages to regulation:

1. Reduce the potential for board decisions which favor the industry over the public
2. Reduce the potential for decisions which illegitimately favor one faction of an industry over another
3. Encourage public participation in government decisionmaking
4. Augment public confidence and trust in government by facilitating communication of consumer issues to the board
5. Expand the range of skills, talent, training, and perspectives available for higher quality and more creative board action
6. Raise the level of board discussion to scrutinize assumptions in any industry
7. Strengthen the board's credibility in its decisionmaking and advocacy

Public members must take care to avoid common pitfalls and may, in fact, have to work harder than the board's industry members to overcome these disadvantages:

1. Public members may be intimidated by industry members' experience in the field.
2. Public members may impede board activity if they do not demonstrate a reasonable working knowledge of technical issues facing the board.

Participate in All Issues

When candidates are appointed to specific boards or commissions, they must become knowledgeable and participate or they are certain to become frustrated and ineffective. Preparation ahead of meetings, completing assigned tasks, and engaging in discussion are crucial to effective leadership. Board and commission members must both respond to issues, as well as initiate topics for board action or evaluation.

Focus on Policy, Not Politics

Policymaking is an important board activity. Policies help guide the board's approach, generally, and can

be very helpful in focusing the board's analysis of complex issues. A board's policies must always serve the board's work for the public; they must not be tied to special or political interests.

Discussion and Debate Leads to Growth

No one expects board and commission members to agree on everything. In fact, when disagreement exists, it means that different viewpoints are being considered before a decision is made. Looking at different perspectives of board members and the public is an important part of the decisionmaking process and ensures that the interests of all concerned are given due diligence. Board members bring varying perspectives and experiences that are extremely valuable to sound decisionmaking. Members who are unwilling to listen to the points of others on the board or who dominate conversations reduce the board's effectiveness, so stretching in an interpersonal capacity is essential.

Address Issues within the Board or Commission's Scope of Authority

Some issues may be important to the state and to board or commission members but may not be within the board or commission's power or authority to manage. An issue, for example, may be important to the industry or association pertaining to a licensed profession but not within a board or commission's statutory authority. Consequently, boards and commissions may adopt resolutions stating the board or commission's opinion and send the resolution to state and federal agencies or it may directly address State or Federal officials on these concerns. Board and commission members should avoid being diverted from their mission by competing interests from industry associations or issues outside the board or commission's scope of authority, as dictated by statute.

The following recommendations are addressed to board and commission members to help you carry forward your mission effectively:

- 1. Read your meeting materials:** Be informed before meetings. Board and commission members usually receive meeting materials via OnBoard (the division's board management software) at least two weeks before the meeting. Read them and be ready to discuss the issues at the meeting. Information provided in the packet can help you better understand the issues and participate in more detailed discussion during the meeting.
- 2. Become familiar with the board or commission's knowledge base and history:** Take time to read any existing documents, such as board meeting minutes or FAQs, pertaining to the issues at hand.
- 3. Know the laws regulating the board or commission:** Know the statutes, regulations, and scope of authority pertaining to the board or commission you have been appointed to, as well as those centralized for all CBPL regulatory bodies and requirements (such as budget, travel, or ethics) pertaining to any state board or commission.
- 4. Take the time to make a difference:** The time you actually spend at meetings is only a small part of the time it takes to be an effective board or commission member. Be prepared to spend a fair amount of time preparing for meetings, staying informed, serving on subcommittees or special projects, and being actively involved as a board or commission member.
- 5. Learn all sides of an issue before forming an opinion:** A board or commission member makes better-informed decisions or opinions when he or she learns all sides of an issue. If a member takes the position that he or she already knows everything about an issue, he or she may miss an opportunity to learn something important to the debate.

6. **Take part in discussion and debate:** As a rule, the quality of the board and commission decisionmaking process is improved when all members contribute to the discussion. Participation does not ensure that the outcome will be exactly what you want, but it will ensure that your opinions have been considered.
7. **Ask questions:** If you have a question about a subject, other members probably do as well. If you don't know something, the best way to learn about it is by asking questions.
8. **Seek solutions:** Be a problem-solver. Contribute to debate in a way that will lead to solutions and not merely add to the difficulty or complexity of a situation. When faced with a challenge, look for ways it can be done.
9. **Don't be shy:** Nobody else is going to speak up for you. Your idea may be the one that will lead to an answer or a solution, so speak up when you have something to say.
10. **Be inquisitive:** Dig into a matter and be assertive to get the information you need. The most productive environment for decisionmaking respects all opinions and everyone's right to express them. Relationships should be polite and professional. Board and commission members are state leaders who can set an example for others to follow.
11. **Share information:** If you know something about a proposal before the board or commission that other members may not be aware of, share it. The decisionmaking process will benefit when board and commission members share important information with the entire group. This encouragement does not extend to disciplinary or other situations that may result in ex parte communication by the board.
12. **Put in extra effort:** Volunteer to serve on committees and working groups and perform special assignments. Some boards are affiliated with national organizations that the state relies on for examination writing and applicant qualification. Getting involved with the national organizations strengthens your knowledge and effectiveness on your board. Your expertise and perspective are important to the success of the board.

Board and Commission Relationships

Members of boards and commissions interact with many different individuals and groups of people. This section addresses the business nature of these relationships.

Relationship with the Chairperson

It is important that all members of the board or commission works together to ensure the competency of licensed professionals and the health and safety of the public. The board chair is elected by the members of the board unless appointed by the governor. The chair has a unique opportunity to ensure the responsibilities of the board are being met by setting appropriate agendas, ensuring meetings operate smoothly and that all resources are present, ensures members are engaged and educated on matters facing the board, and speak on behalf of the board when authorized. The chair leads the board in project a specific image to the public, resolving conflict, managing progress on issues, and fostering healthy relationships among board members, industry, and licensees. The board chair should strive to guide the board to:

- Project a positive image as the state's regulator of a given profession.
- Make best use of the board or commission's time.
- Promote teamwork among its members, the division, and the public.
- Facilitate progress on matters facing the board.

- Involve the whole board or commission in the decisionmaking process.

Clarifying Roles of Boards and Staff

The roles of the board, staff, the Division, and the Department are generally set forth in Alaska Statute under AS 08.01. Each has an important part in the administrative and investigative functions of the state’s regulatory programs. However, as the governance partner, the board is primarily concerned with the “what” and “why” and management is focused on the “how.”

Clarifying these roles:

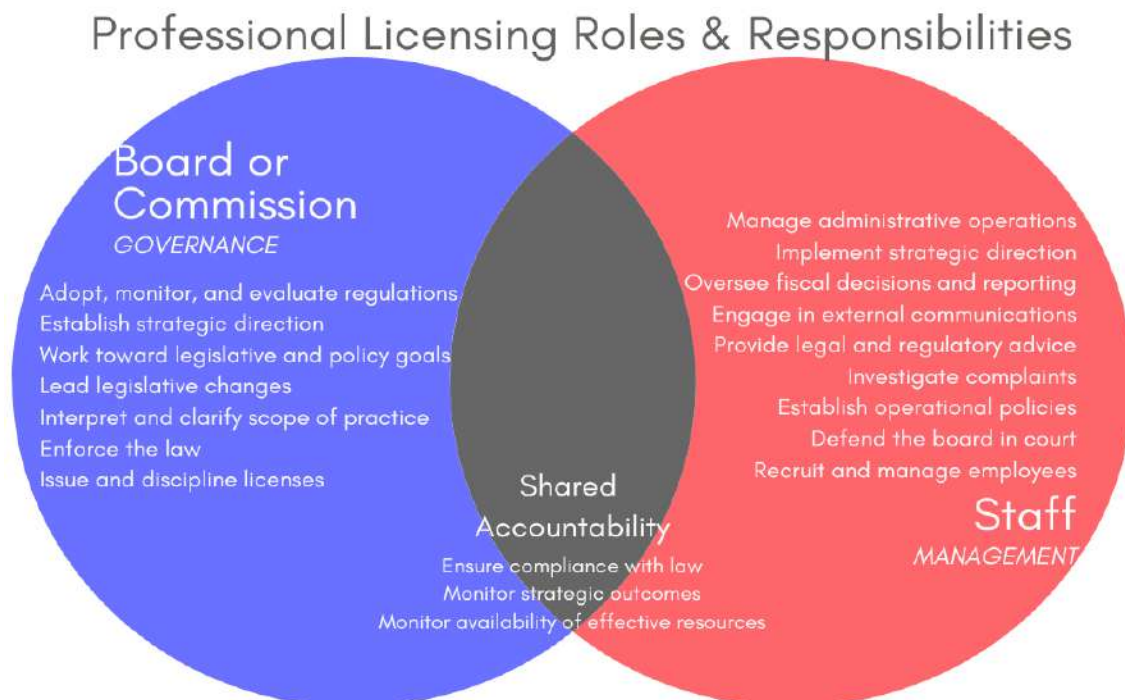
- Ensures accountability
- Facilitates a good working relationship
- Enhances the productivity and effectiveness of both board and staff
- Reduces redundancy and waste of time or resources
- Must be supported by both the board and staff

The Board’s Governance Role

Boards have a governance role in the regulation of licensed professions. To successfully focus on their own role, boards must take care to separate themselves from the day-to-day staff/management responsibilities by asking:

- Is it a matter of policy?
- Does it affect board statutes, regulations, or bylaws (if authorized)?
- Is it statutorily the board’s decision?
- Does it need high-level scrutiny or support?
- Does it pertain to the “what” and “why” of the mission?

If “yes,” then it’s likely a board responsibility.



The Staff's Management Role

A board or commission's staff may include an executive administrator, a licensing examiner, and specialized staff. The staff's role in regulation is to facilitate the mission of the board through strategic use of resources allocated by the board or provided for in legislation or regulation. It is the staff's job to work with the chair to provide the board or commission with the facts and information needed to make a decision. An examiner may advise the board on procedural issues and other topics, serving as a "bridge" to the division. An executive administrator or program coordinator may have a more fluid role and provide input on board policy and regulations as requested by the board.

While staff may offer a recommendation for board action, the board should not expect that person to make decisions that the board or commission is appointed to make. Such expectation for decisionmaking can place a staff member in the awkward position of substituting his or her judgment for the collective judgment of the board or commission. This expectation is unfair to the staff person and can make him or her a scapegoat for mistakes. It may also be a violation of law or the staff's position description or employment bargaining agreement.

Board and commission instructions to staff should go through the chairperson by way of a formal motion. This provides clarity to the division when resources are expended. It helps division management direct staff workloads and provides for more effective management of program funds. Additionally, individual board and commission members should not give instructions to the staff without the knowledge or consent of the chair, because one member's viewpoint or request may not represent the shared viewpoint or position of the full board or commission. All staff work for the division. No professional licensing board employs staff.

The Division of Corporations, Business and Professional Licensing provides many staff members with varying types of expertise to aid the work of the board or commission:

Specialized staff: The Investigators, Regulations Specialist, Paralegal, and Publications Specialist provide resources to boards and commissions as pertains to their fields. These staff members may be requested to present fiscal or enforcement information at board meetings, assist with drafting of regulations, facilitate continuing education audits, or perfect public documents, among other services. These staff members work daily behind the scenes to support this focused administrative work of the boards and the division and report to division executive management.

Licensing Examiner: The Occupational Licensing Examiner is primarily responsible for screening and issuing licenses per board or commission statutes and regulations. In many cases, the examiner helps administer the meeting, take notes, and maintain the day-to-day office activities of the board or commission. The examiner may staff multiple licensing programs and assist various boards and commissions. The examiner is expected to have a thorough understanding of the statutes and regulations that apply to their programs and to seek assistance when problems or questions arise.

Program Coordinator 1 and 2: Examiners are typically supervised by a Program Coordinator 1 and 2 who are responsible for the accuracy and consistency of the examiner's work. The supervisors are responsible for training and monitoring licensing examiners under his or her purview and directs their workflow. The supervisor must have a thorough knowledge of the statutes, regulations, and procedures

of all programs for which he or she is responsible. The Program Coordinator may have primary responsibility for management of all board functions under their purview.

Executive Administrator: The Executive Administrator (also Marine Pilot Coordinator) manages the affairs of one board or commission. The “exec” is appointed by the governor and is expected to engage the board or commission at a more complex level than the examiner. The executive receives additional program- or content-related assignments from the board as permitted by statute or regulation, represents the board or commission at professional meetings, cultivates a body of knowledge about the workings of the profession to better advise the board, and performs other duties as outlined in statutes and regulations.

Administrative Operations Manager: The Administrative Operations Manager of the division oversees all administrative and accounting functions. This position is responsible for providing the quarterly Schedules of Revenues and Expenditures to each board and collaborates with the rest of the division’s executive team to make final budgetary and administrative decisions for the division and its programs. This position is also responsible for the Corporations and Business Licensing section of the division. The Administrative Officer reports to the Division Director.

Deputy Director: This position manages the functions and staff of all licensing sections within professional licensing. The manager is responsible for the “big picture” systems required to plan, organize, direct, and coordinate board and division activities and resources as they pertain to all professional licensing activities. Program Coordinators 2 and Executive Administrators report to the Deputy Director, who reports to the Division Director.

Division Director: The director is the principal executive officer of the entire division, including Professional Licensing, Corporations and Business Licensing, Administration, and Investigations. The director bears substantial responsibility for the determination of policy and for the way in which policies are carried out. The Division Director reports to the department’s Deputy Commissioner.

The department also supports the work of boards and commissions through the **Boards and Regulations Advisor**. This position was created to develop training materials, offer guidance, facilitate regulatory review and decisionmaking, intervene when assistance is needed, and serve as liaison with the governor’s office for all boards, councils, and commissions in the department.

III. Executive Branch Ethics

Service on a state board or commission is a public trust and members are expected to conduct the public's business in a way that preserves the integrity of the governmental process and avoids conflicts of interest. The Ethics Act (AS 39.52) doesn't forbid public officers from having opinions, interests, or professional pursuits outside of their service on boards or commissions, but it does require that members disclose certain matters so a determination can be made about whether they constitute a conflict of interest.

Compliance with the Executive Branch Ethics Act

All board and commission members and staff should be familiar with the procedures outlined below. The Act covers a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch of state government. Additional information is available from the Alaska Department of Law at <http://law.alaska.gov/doclibrary/ethics.html>. Much of the information in this section of the manual is taken directly from this site.

Misuse of Official Position (AS 39.52.120)

Members of boards or commissions may not use their positions for personal gain or to give an unwarranted benefit or treatment to any person. For example, members may not:

- use their official positions to secure employment or contracts;
- accept compensation from anyone other than the State for performing official duties;
- use State time, equipment, property or facilities for their own personal or financial benefit or for partisan political purposes;
- take or withhold official action on a matter in which they or an immediate family member have a personal or financial interest;
- coerce subordinates for his/her personal or financial benefit, or
- attempt to influence the outcome of an administrative hearing by privately contacting the hearing officer.



Alice knew that a proposal that was before the board would harm Alice's business partner. Instead of publicly disclosing the matter and requesting recusal, Alice engaged in discussions about the proposal and voted on the proposal.



Jack serves on a board that regulates parts of the building construction industry. Wearing a nametag that identifies him as a member of the industry board, Jack goes to a contractors' trade show and sets up a booth for his consulting business, called "Building a Future in Alaska."

Improper Gifts (AS 39.52.130)

A board or commission member may not solicit or accept a gift if it could reasonably be inferred that the gift is intended to influence the member's action or judgment. "Gifts" include money, items of value, services, loans, travel, entertainment, hospitality, and employment. The division has interpreted this guidance narrowly to ensure transparency in awareness and reporting.

Travel includes any expense paid directly to the board member in conjunction with a trip connected to the member's position on the board. This type of trip must be approved through the division and all reimbursements made through the CBPL Travel Desk to avoid violating the state's rules regarding travel.

(See section on travel.) All gifts from registered lobbyists are presumed to be improper unless the giver is an immediate family member of the person receiving the gift. This restriction on gifts does not apply to lawful campaign contributions.


A gift worth more than \$150 to a board or commission member or the member's family must be reported within 30 days if:


- the board member can take official action that can affect the giver, or
- the gift is given to the board member because he or she is on a state board or commission.


The receipt of a gift worth less than \$150 may be prohibited if it could reasonably be inferred that the gift is intended to influence the board member's action or judgment. Receipt of such a gift should be disclosed.

Any gift received from another government, regardless of value, must be reported; the board or commission member will be advised as to the disposition of this gift.

A form for reporting gifts is available at law.alaska.gov/doclibrary/ethics.html or from the board or commission staff.


 The commission is reviewing Roy's proposal for an expansion of his business. Roy invites all the board members out to dinner at an expensive restaurant. He says it will be okay since he isn't excluding any of the members.


 Sam buys a holiday gift every year for Jody. Jody was recently appointed to a board, but Sam has no business that is up before the board.

 Margie is a board member and decides to take a last-minute trip to a national conference for state board members in her industry. She is directly reimbursed by the national association for her meals, airfare, and rental car.

Improper Use or Disclosure of Information (AS 39.52.140)

No former or current member of a board or commission may use or disclose any information acquired through official duties if that use or disclosure could result in a financial or personal benefit to the board member (or a family member) unless that information has already been disseminated to the public.

 Sheila has been on the licensing board for several years. She feels she has learned a great deal of general information about how to launch a successful business venture. So, she sets up her own company helping small businesses get started and does well. She is careful not to assist in completing license applications that will be evaluated by the board on which she serves.

 Gordon is a tattoo artist and the reviewing board member for an investigation of serious potential violations of health and safety issues by a licensed shop owner. Before the board votes on the matter, he tells several people who are thinking of getting a tattoo there about the confidential matter and encourages them to come to his shop instead.


Improper Influence in State Grants, Contracts, Leases or Loans (AS 39.52.150)


A board member who can affect the award or administration of a State grant, contract, lease, or loan may not apply for, or have an interest in that State grant, contract, lease, or loan. This prohibition also applies to the board member's immediate family.

A board member (or a family member) may apply for or be a party to a *competitively solicited* State grant, contract or lease, if the board member does not serve in the same administrative unit awarding or administering the grant, contract, or lease *and* so long as the board member does not take official action in the award or administration of the grant, contract, or lease.

A board member (or a family member) may apply for and receive a State loan that is generally available to the public and has fixed eligibility standards, so long as the board member does not take (or withhold) official action affecting the award or administration of the loan.


Board members must report to the board chair any personal or financial interest (or that of a family member) in a State grant, contract, lease or loan that is awarded or administered by the agency the board member serves. A form for this purpose is available at law.alaska.gov/doclibrary/ethics.html or from the board or commission staff.

 John sits on a board that awards state grants. John hasn't seen his daughter for nearly ten years, but he figures that it doesn't matter when her grant application comes up before the board; he votes on the grant to his daughter, without disclosing the relationship to the board. (While voting for the grant looks worse than voting against the grant, the Ethics Act prohibits deliberating or voting on the issue regardless of what position the board member takes.)

 The board wants to contract out for an analysis of the board's decisions over the last ten years. Kim bids on the contract since she has been on the board for ten years and feels she could do a good job.

Improper Representation (AS 39.52.160)

A non-salaried board or commission member may represent, advise, or assist in matters in which the member has an interest that is regulated by the member's own board or commission, if the member acts in accordance with AS 39.52.220 by disclosing the involvement in writing and on the public record, and refrains from all participation and voting on the matter. This section does not allow a board member to engage in any conduct that would violate a different section of the Ethics Act. So, the member must disclose the fact of the member's involvement in the regulated matter and abide by the board or commission's finding as to the existence of a conflict of interest.


 Delores has always coordinated continuing education opportunities for the physicians in her practice. After Delores is appointed to the State Medical Board, she discloses this role to the board and continues to coordinate these classes in her capacity as a private individual, not a board member.


Restriction on Employment after Leaving State Service (AS 39.52.180)


For two years after leaving a board, a former board member may not work on any matter on which the former member had personally and substantially participated while on the board. This prohibition applies to cases, proceedings, applications, contracts, and similar matters.

Former members of the governing boards of public corporations and former members of boards and commissions that have regulation-adoption authority, except those covered by the centralized licensing provisions of AS 08.01, may not lobby for pay for one year.

This section does not prohibit a State agency from contracting directly with a former board member. With the approval of the Attorney General, the board chair may waive this prohibition if a determination is made that the public interest is not jeopardized.

 The board has arranged for an extensive study of the effects of the department's programs. Andy, a board member, did most of the liaison work with the contractor selected by the board, including some negotiations about the scope of the study. Andy quits the board and goes to work for the contractor, working on the study of the effects of the department's programs.

 Andy takes the job, but he specifies that he will have to work on another project.

 Patrice, a licensed health care provider who is about to leave board service after eight years, is asked by a non-profit organization to work as their government relations director, which will require her to register as a lobbyist. She starts work for the organization in this capacity one week after her term on the board ends.

 Patrice accepts a clinical position with the non-profit organization instead.

Aiding a Violation Prohibited (AS 39.52.190)

Aiding another public officer to violate this chapter is prohibited.

Agency Policies (AS 39.52.920)

Subject to the Attorney General's review, a board may adopt additional written policies further limiting personal or financial interests of board members.

Disclosure Procedures (AS 39.52.220-250)

All board and commission members and staff should be familiar with the Executive Branch Ethics Act procedures outlined below.

Who Is My Designated Ethics Supervisor (DES)?

Every board or commission subject to the Ethics Act has several ethics supervisors designated by statute. The Act covers a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch of state government.

- The chair serves as DES for board or commission members.
- The chair serves as DES for the executive director. This does not apply to professional licensing boards and commissions, whose staff are employees for the Department, not the board.
- The Department of Commerce, Community, and Economic Development has assigned a Special Assistant to serve as DES for staff.
- The governor is the DES for a chair. The governor has delegated the DES responsibility to the Director of Administrative Services in the Office of Governor.

What Do I Have to Disclose?

The Ethics Act requires members of boards and commissions to disclose:

- Any matter that is a potential conflict of interest with actions that the member may take when serving on the board or commission.
- Any circumstance that may result in a violation of the Ethics Act.
- Any personal or financial interest (or that of an immediate family member) in a state grant, contract, lease, or loan that is awarded or administered by the member's board or commission.
- The receipt of certain gifts.

The staff of a board or commission, as state employees, must also disclose:

- Compensated outside employment or services.
- Volunteer service, if any compensation, including travel and meals, is paid or there is a potential conflict with state duties.

For more information regarding the types of matters that may result in violations of the Ethics Act, board or commission members should refer to the guide, *"Ethics Information for Members of Boards and Commissions."* Staff should refer to the guide, *Ethics Information for Public Employees."*

Both guides and disclosure forms may be found on the Department of Law's ethics website:

<http://law.alaska.gov/doclibrary/ethics.html>.

How Do I Avoid Violations of the Ethics Act?

- When in doubt, disclose and seek advice from division staff or the department Boards and Regulations Advisor.
- Make timely disclosures.
- Follow required procedures.
- Provide all information necessary to a correct evaluation of the matter. You may supplement the disclosure form with other written explanation as necessary. Your signature on a disclosure certifies that, to the best of your knowledge, the statements made are true, correct and complete. False statements are punishable.
- Follow the advice of your DES.

What Are The Disclosure Procedures for Board and Commission Members?

The procedural requirements for disclosures by members are set out in AS 39.52.220 and 9 AAC 52.120.

One goal of these provisions is to help members avoid violations of the Ethics Act. The procedures provide the opportunity for members to seek review of matters in advance of taking action to ensure that actions taken will be consistent with the Act.

Procedures for Declaring Actual or Potential Conflicts

Members must declare potential conflicts and other matters that may violate the Ethics Act in writing to the chair. Public disclosure may take the place of a written disclosure if the meeting is recorded, a tape or transcript of the meeting is preserved, and there is a method for identifying the declaration in the record.

- Notice of Violation or Request for Determination forms should be filed with the Designated Ethics Supervisor (the board chair) as soon as known.
- If a determination on whether a conflict exists on a matter pending before the board, it is ideal for the conflict to be submitted to the chair with enough time for the determination to be made—usually several weeks.
- If the matter is before the board before a determination has been made, the member must

refrain from voting, deliberations or other participation on it. In most, but not all, situations, refraining from participation ensures that a violation of the Ethics Act does not occur. Abstention does not cure a conflict with respect to a significant direct personal or financial interest in a state grant, contract, lease, or loan because the Ethics Act prohibition applies whether or not the public officer actually takes official action.

- If a member is uncertain whether participation would result in a violation of the Act, the member should disclose the circumstances and seek a determination from the chair before the meeting.

Confidential disclosure in advance of public meeting. Potential conflicts may be partially addressed in advance of a board or commission's public meeting.

- A member identifying a conflict or potential conflict may submit a Notice of Potential Violation to the chair, as DES, in advance of the public meeting.
- This written disclosure is considered confidential. No one may discuss or disclose this information.
- The chair may contact staff to seek advice from the Attorney General. Staff and the AAG will walk the chair through the process.
- The chair makes a written determination, also confidential, whether the disclosed matter represents a conflict that will result in a violation of the Ethics Act if the member participates in official action addressing the matter. The chair must give a copy of the written determination to the disclosing member. There is a determination form available on the Department of Law's ethics web page. The ethics supervisor may also write a separate memorandum.
- If the chair determines that the member would violate the Ethics Act by taking official action, the chair directs the member to refrain from participating in the matter that is the subject of the disclosure.
- A general oral report of the notice of potential violation and the determination that the member must refrain from participating is put on the record at a public meeting. In this manner, a member's detailed personal and financial information may be protected from public disclosure.

Determinations at the public meeting. When a potential conflict is declared by a member for the public record, the following procedure must be followed:

- The member must declare she or he has a potential conflict regarding a matter before the board.
- The chair states his or her determination regarding whether the member may participate. This ruling must be consistent with Attorney General advice and statute/regulation.
- Any member may then object to the chair's determination.
- If an objection is made, the members present, excluding the member who made the disclosure, vote on the matter.
- Exception: A chair's determination that is made consistent with advice provided by the Attorney General may not be overruled.
- If the chair, or the members by majority vote, determines that a violation will exist if the disclosing member continues to participate, the member must refrain from voting, deliberating, or participating in the matter. When a matter of particular sensitivity is raised and the ramifications of continuing without an advisory opinion from the Attorney General may affect the validity of the board or commission's action, the members should consider tabling the matter so that an opinion may be obtained.

If the chair identifies a potential conflict of his or her own, the same procedures are followed. If

possible, the chair should forward a confidential written notice of potential violation through staff to the Office of the Governor for a determination in advance of the board or commission meeting. If the declaration is first made at the public meeting during which the matter will be addressed, the members present, except for the chair, vote on the matter. If a majority determines that a violation of the Ethics Act will occur if the chair continues to participate, the chair shall refrain from voting, deliberating, or participating in the matter. A written disclosure or copy of the public record regarding the oral disclosure should be forwarded by staff to the Office of the Governor for review by the chair's Designated Ethics Supervisor (DES).

Procedures for Other Member Disclosures

A member's interest in a state grant, contract, lease or loan and receipt of gifts are disclosed by filling out the appropriate disclosure form and submitting the form to the DES for approval. The disclosure forms are found on the Department of Law's ethics website: law.alaska.gov/doclibrary/ethics.html.

How Are Third Party Reports of Potential Violations or Complaints Handled?

Any person may report a potential violation of the Ethics Act by a board or commission member or its staff to the appropriate DES or file a complaint alleging actual violations with the Attorney General.

- Notices of potential violations and complaints must be submitted in writing and under oath.
- Notices of potential violations are investigated by the appropriate DES who makes a written determination whether a violation may exist. The DES provides a copy of the notice to the employee or board/commission member who is the subject of the notice and may seek input from the employee or board/commission member, his or her supervisor and others. The DES may seek advice from the Attorney General.
- A copy of the DES' written determination is provided to the subject employee or board/commission member and the complaining party. The DES submits a copy of both the notice and the determination to the Attorney General for review as part of the DES' quarterly report. If feasible, the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee or board/commission member of the personal or financial interests giving rise to the potential violation.
- Complaints are addressed by the Attorney General under separate procedures outlined in the Ethics Act.
- These matters are confidential unless the subject waives confidentiality or the matter results in a public accusation.

What Are the Procedures for Quarterly Reports?

Generally, Designated Ethics Supervisors must submit copies of notices of potential violations received and the corresponding determinations to the Attorney General for review by the state ethics attorney as part of the quarterly report required by the Ethics Act. In this division, staff compile any disclosures received during a meeting or outside of a meeting via the chair, then forward them on a quarterly basis to the Division Director, who send them to the department DES.

If the state ethics attorney disagrees with a reported determination, the attorney will advise the DES of that finding. If the ethics attorney finds that there was a violation, the member who committed the violation is not liable if he or she fully disclosed all relevant facts reasonably necessary to the ethics supervisor's or commission's determination and acted consistent with the determination.

How Does A DES or Board or Commission Get Ethics Advice?

A DES or board or commission may make a written request to the Attorney General for an opinion regarding the application of the Ethics Act. In practice, the Attorney General, through the state ethics attorney, also provides advice by phone or e-mail to designated ethics supervisors, especially when time constraints prevent the preparation of timely written opinions.

- A request for advice and the advisory opinion are confidential.
- The ethics attorney endeavors to provide prompt assistance, although that may not always be possible.
- The DES must make his or her determination addressing the potential violation based on the opinion provided.

Complaints, Hearings, and Enforcement (AS 39.52.310-370, AS 32.52.410-460)

Any person may file a complaint with the Attorney General about the conduct of a current or former board member. Complaints must be written and signed under oath. The Attorney General may also initiate complaints from information provided by a board. A copy of the complaint will be sent to the board member who is the subject of the complaint and to the Personnel Board.

All complaints are reviewed by the Attorney General. If the Attorney General determines that the complaint does not warrant investigation, the complainant and the board member will be notified of the dismissal.

The Attorney General may refer a complaint to the board member's chair for resolution. After investigation, the Attorney General may dismiss a complaint for lack of probable cause to believe a violation occurred. The complainant and board member will be promptly notified of this decision.

Alternatively, if probable cause exists, the Attorney General may initiate a formal proceeding by serving the board or commission member with an accusation alleging a violation of the Ethics Act. An accusation may result in a hearing.

When the Personnel Board determines a board member has violated the Ethics Act, the member must refrain from voting, deliberating, or participating in the matter. The Personnel Board may order restitution and may recommend that the board member be removed from the board or commission. If a recommendation of removal is made, the appointing authority will immediately remove the member. If the Personnel Board finds that a former board member violated the Ethics Act, the Personnel Board will issue a public statement about the case and will ask the Attorney General to pursue appropriate additional legal remedies.

Conflict of Interest and Ex Parte Communication

Conflicts outside of the Executive Branch Ethics Act may arise due to improper communication with a stakeholder. "Improper communication" can be any communication with an interested party where the communication is about something on which the board has authority to act, and which comes outside of a publicly-noticed meeting. A familiar example is the contact that a member of a jury could have with people or even news stories that could bias their opinion unfairly. Sometimes it is impossible for juries in high-profile cases to avoid hearing information that is inadmissible in court, so they are sequestered in hotel rooms with no television or public contact.

Board and commission members are not likely to be treated to such extremes, but they must take care not to discuss matters with others or among each other outside of appropriate meeting channels.

Ex-Parte Contact

The foundation of due process is that each side in a dispute has the opportunity to be heard. If one side has the opportunity to make an argument, the other side must have the opportunity to respond. It is sometimes tempting for an applicant, licensee, or attorney to attempt to circumvent the usual application decisionmaking procedures, to seek information on a pending application, to discuss a pending disciplinary action, or to seek to influence an individual's decision by directly contacting one of the board members. Such communications are called "ex parte" communications.

Ex parte communications are improper. The result of such a communication is that the board member so contacted may be unable to discuss, participate in, or vote on the application or disciplinary action.

The risk to the applicant or licensee who attempts such communication is that a board member who might have been favorably disposed to their license application or disciplinary case may not be able to participate in the decision or vote.

Ex parte communication must be disclosed. Should any individual attempt to contact you to discuss a license application or disciplinary case, please refer them to a staff member (licensing examiner, investigator, or executive administrator) for response.

Should you experience an ex parte communication, alert the chair about the contact in writing before the meeting and on the record at the beginning of the meeting so he or she can determine whether it is appropriate that you be recused from the discussion, deliberation, and vote. As the DES for the board, the chair is required to declare any conflict on the record.

If you are unsure about the nature and extent of the contact, please contact the board's staff for guidance.

Conflict Due to Market Interest

Another interesting conflict of interest issue that is gaining awareness is that of the potential for disproportionate influence of "active market participants" on boards. An active market participant is defined as someone who is currently engaged in the profession that the board regulates—or, licensees.

By nature, all licensed members of a board have an inherent market interest. However, determining whether a conflict exists goes a little deeper. Questions board members may ask to evaluate whether there is a possibility of running afoul of AS 39.52.120 (Misuse of Official Position):

- Does the matter involve an individual or business that is a direct competitor?
- Will ruling on this matter have a meaningful or measurable financial outcome for me, my family, or my business?
- Is there a *perception* that either of these answers are "yes"?
- A licensee wishes to utilize a new, cutting-edge health care technology and is seeking the

board’s “thumbs up” in approving it for practice in Alaska. A member of the board is an investor in this technology and is considering utilizing it in his practice. The board member discloses this financial interest and asks to be recused from deliberation and vote. The chair recuses him, and he does not participate.

Market conflicts can extend to entire boards, as well. A 2015 United States Supreme Court decision ([*North Carolina Board of Dental Examiners v. Federal Trade Commission*](#)) resulted in a ruling that stripped the board of its immunity when addressing what might have seemed like a routine matter: The board violated the Sherman Act when it directed staff to send cease-and-desist letters to unlicensed teeth whiteners. Under North Carolina law, the teeth whitening companies posed a direct financial threat to dentists. By instructing them to close, they deprived the businesses of due process—as well as an income. The board did not work through their attorney or follow the standard investigative process when directing these individuals to close their businesses.

The case is complex, yet under Alaska law, the takeaway for professional licensing boards is straightforward:

- Ensure that the division’s investigative standard operating procedures are followed.
- Adhere to the Administrative Procedure Act when taking action against anyone, licensed or unlicensed.
- Invite the department Boards and Regulations Advisor to assist with decisionmaking processes.
- Ask staff to invite an agency attorney to advise in policymaking that may restrict those outside the profession from engaging in business practices.
- Hold all deliberations in public view and invite the public to actively observe and comment.

Regarding matters involving ethics or potential real or perceived conflicts of interest, always ask for help well ahead of a meeting on the matter. Obtaining proper advice and following it will ensure everyone’s rights are protected and that the most appropriate process is followed.

Board Members and Public Records

As officers of the state, board members are compelled to adhere to state standards of documents and information shared with them. This may mean maintaining strict confidentiality, which could require saving on an unshared computer or storing in a locked cabinet. Confidential documents should always be transmitted via OnBoard, ZendTo, or using email encryption.

All emails, documents, handwritten notes, texts, and other means of communicating state business are discoverable. Many board members set up separate email addresses to ensure their state business is separate from work accounts or their personal lives. If communication on a legal matter were to be subpoenaed, it is possible that deep entanglement could require confiscation of a personal cell phone or computer. Board members are advised to become familiar with the standards and take steps to separate accounts, documents, and other information containing state business.

IV. Frameworks and Principles for Decisionmaking

The [Administrative Procedure Act](#) is the foundation for the board’s overall deliberative authority. Utilizing a consistent and defensible process to make decisions is the board’s best tool in achieving desirable outcomes that have a lasting effect. Adopting a process for decisionmaking will help the board get unstuck when a tough topic arises —and help avoid getting stuck the next time. It will help guide members from bullying by dominant personalities and toward logical, rational considerations. It will establish a transparent deliberative process that the board can use to help explain its position to affected parties. Having a defined process may also help defend the position if challenged in court.

The following general steps will aid in consistent and defensible decisionmaking:

- **Establish the criteria on which a decision will be made.** This is often called a decision framework or a decision tree. Several examples follow in this section.
- **Utilize the framework to systematically apply these questions to the matter at hand.**
- **Deliberate transparently**, creating a record showing the facts that were considered when reaching the decision, the board’s decisions on similar matters, and rationale for the decision, especially if there is a surface appearance of inconsistency.
- **Test the board’s decision** through the regulations process, presenting to industry groups, or other venues for inviting public scrutiny.
- **Publish the record and evaluate on a regular schedule** to ensure the criteria are the same. Changes in laws, practices, industries, and other factors may require reevaluation of the board’s previous decision.

Deciding what issues the board will address

The board may establish a general framework for determining how to spend their time and resources. The board could use this type of high-level framework to objectively and dispassionately determine whether to take on a particular issue, helping focus on the board’s core responsibilities and avoiding distractions outside its mission, scope, or resources.

The following infographic can help guide a board through determining its decisionmaking priorities. Well-meaning boards can easily fall into various traps: Boards should avoid wandering into issues that pull on the heartstrings but are not within the board’s authority to address. Similarly, just because one wheel is exceptionally squeaky does not mean it should receive the board’s grease. Adopting a strategic plan, discussed in the next chapter, can help guide the board in wise use of its time and resources.

PROFESSIONAL LICENSING DECISION-MAKING
FRAMEWORK

PART ONE: SHOULD WE DELIBERATE ON THIS TOPIC?

Public Protection

If we don't address this issue, is the public threatened or harmed?

If yes, begin work on the issue.
If no, determine whether it meets a different criterion or whether the board should address it at a future date.

Ownership

Are we the best group to lead this effort?

Does it make sense for this board to *lead* the effort, or is another group better resourced, more educated, or otherwise better positioned to take the reins? Identify partners next.

Priority

Where does this matter rank among other items we are facing?

Evaluate how the board will work this matter into its busy schedule. Is there a hard deadline to complete the work? Could the board form a committee to focus on this while other members work concurrently on other projects? Are more meetings needed?

Perception

Are there intangible ways we can be impacted by pursuing this issue?

Whether good or bad, perception matters. Enter into the deliberative process anticipating any pitfalls or opportunities. If the board decides not to move forward because of a negative perception, ensure that it is not shirking its statutory responsibility: If #1 is yes, the board may have no choice.

Authority

1 Is the issue within the board's statutory mandate and mission?

If yes, move to the next criterion.
If no, the board should identify a decision-making body better suited to resolve the issue and decline to move forward.

Public Interest

3 Does our decision make a material difference to stakeholders?

Stakeholders may include the general public, licensees, potential patients, related agencies or organizations, etc.
If yes, move to the next criterion.
If no, determine whether to work on it at a future date—or at all.

Partners

5 Will we need to collaborate with other groups?

Weighing another person or group's availability may impact how the board moves forward. Connect with everyone whose input is needed. If public comment is advisable, identify opportunities and methods to obtain that input.

Resources

7 Does our board have access to the resources needed to address this issue?

If yes, move to the next criterion.
If no, determine what resources are needed. Invite division managers to collaborate on how to obtain resources. If resources are not available, the board may need to look to a different organization to assist with the issue.



Decisionmaking principles

Because board membership changes over time, it is important for boards to establish principles or values that they agree to guide their decisionmaking. These common, agreed-upon statements can be used by members to:

- Check their own biases before speaking or voting
- Maintain focus on matters within the board's statutory scope and mission
- Align the process with available resources, such as staff and budget
- Safeguard transparency to stakeholders
- Ensure the outcome is consistent with the board's values

Board decisions are only final when the following criteria are present:

- A quorum of the board has met in a publicly noticed meeting to vote on the issue.
- The motion is clearly worded and understood by the members when deliberating.
- A majority of the members present has voted on the record to adopt the decision.
- Each person's vote is recorded in the minutes.
- The decision is not inconsistent with the law or outside the board's authority to determine.

The board should demand professionalism in its decisionmaking. Avoid basing important outcomes on vague or unwritten motions or straw polls such as "Does everyone agree?" Take a moment to write down and distribute the motion or show it on the screen. Encourage all members to contribute to the discussion and register their vote on the record.

If the facts change, the board can always revisit the topic and register a different vote. However, confusing communications are a liability to the licensees, public, staff, and the board itself. Take the time needed to efficiently but thoroughly deliberate, then stick to the vote of the board if consistent with the law.

PROFESSIONAL LICENSING DECISION-MAKING FRAMEWORK

PART TWO: HOW DO WE DELIBERATE ON THIS TOPIC?

Mission

Keep the primary purpose of the board at top of mind.

The board's top priority is to operate within the public interest. What does that look like in the context of this issue? How will the board balance all relevant interests within its regulatory mission? Ensure the board evaluates and understands the impacts of its decisions on the public.

Fairness

How do we ensure the process and outcomes are fair?

Is the board actively soliciting input from all parties, including licensees, the public, and other key stakeholders? If advisable, are meeting notices being shared in addition to the OPN, newspaper, and web site? How is public comment being solicited? How will the board evaluate input from stakeholders they may not be familiar with?

Risk

What are the risks to adopting this decision?

Ensure your decision falls within the boundaries of state law. Are we following the appropriate investigative or regulatory process? Are we making a decision against attorney or division advice? Do we even have enough information to move forward? Invite your AAG or board advisor if additional help is anticipated.

Perception

Are there intangible ways we can be impacted by pursuing this issue?

Determine how to manage the impacts of decisions that may be necessary but unpopular. Is extra communication warranted? Is a head's up to the governor's office prudent? Ask the division director or board advisor for advice on threading an unpopular needle.

Consistency

Explain departures from previous positions.

If the board is veering from previous decisions on this issue, explain why. What has changed? Did the board receive new data? Did the makeup or leadership of the board shift? Were other laws passed, or has the industry changed in a meaningful way? Disciplinary decisions require an explanation if the board is acting differently than it has in similar situations. With major shifts, stakeholders will appreciate understanding the rationale.

Authority

The issue is within the board's statutory mandate and mission.

In Part One, the board determined this issue is within its purview. Take an inventory of the statutes and regulations that are relevant to the discussion, and have those resources at the ready. If the matter is not within the board's statutory scope, put it away and keep monitoring.

Objectivity

Can the members of the board maintain objectivity in the discussion?

If unsure, you may need to actively perform a conflict check to ensure that the topic is "in bounds" for all members. Is anyone too close to the topic? Even if there is no ethical conflict, is everyone prepared to hold a calm, logical, and reasoned discussion?

Efficiency

Are we seeking the most efficient outcome?

Does the right decision come wrapped in unnecessary regulation, additional cost, or red tape? Ensure that the implementation of the board's decision is streamlined, elegant, easy to understand, and cost-effective. Invite division managers to discuss the impacts on staffing, paperwork, fees, and investigations. Ask licensees if the proposed solution will increase their expenses or efforts.

Partners

Will we need to collaborate with other groups?

If a business, organization, or group of people will experience a big change because of the decision, will partnering with them early on help mitigate the outcome? Weighing another stakeholder's availability to engage may impact how the board moves forward.

Timeline

Stay on top of the schedule.

Are you working toward a fixed deadline like renewal or legislative session? Backwards plan to ensure your meetings, regulations, forms revision, and other steps stay on track. The board's decision may have impacts that require others to take additional steps, so discuss those up front to make sure the expectations of board members and staff are all moving forward in sync.



Is It a Regulation or a Policy?

Frequently, a board may have the need to interpret its statutes or regulations for the public. This is often experienced in the form of a question: “Am I allowed to do X,” “Are licensees allowed to perform Y,” or “Do I need Z to qualify for a license?”

Boards are obliged by state law to interpret their practice acts and other statutes and regulations within their purview. They cannot ignore these questions or fail to clarify information needed by licensees or the public pertaining to licensure of their profession(s). So, they are posed with the job of navigating waters that may be murky at best, and tumultuous at worst. Calling on procedural partners within the division or department, or requesting a legal opinion, is necessary to complement the board’s subject-matter expertise.

In these situations, boards have several options for responding, depending on what their program’s statutes and regulations say. Options for responding may include asking staff to respond with a straightforward email message restating an existing statute or regulation. If the question is asked frequently, the board may decide to publish a position, guideline, or FAQ on its web site. If the answer to the question is unclear, or if it needs to be defensible, the board may wish to adopt a regulation to provide that unequivocal clarity. But, how does the board know which approach is appropriate?

A black-and-white rule that unequivocally dictates a standard or outcome is a de facto regulation. To be applied without deliberation or consideration of mitigating circumstances, it must be adopted as a regulation. Guidance that suggests an interpretation but is not something the board would enforce or defend can be adopted as a policy, position, or FAQ. Any interpretation must be aligned with existing statutes and regulations unless amending those regulations.

If a board finds that its statutes are not clear, it should request a legislative change. Lack of clarity in law is frustrating to board members, licensees, and the public. If acted upon, it may create financial hardship for the licensee and legal troubles for everyone. A board member who interprets law incorrectly could find themselves relieved of their personal immunity and subject to legal penalties. While this is an extreme example, it is important to keep in mind. Board members can protect themselves (and their licensees) by acting as a body and utilizing sound resources in arriving at their decisions.

REGULATIONS **VS** POLICIES



REGULATIONS ARE LAWS

Must be followed, are not optional, and can be enforced.

Can only be amended through the formal adoption process in AS 44.62.

A disciplinary matrix is a regulation if it is an inflexible "if-then" formula requiring consistency in all instances.



POLICIES ARE IDEAS

General and nonbinding guidance; do not have the force of law.

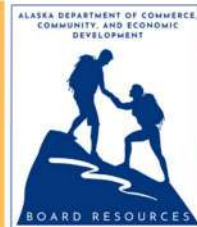
Can be adopted or amended by board vote.

A disciplinary matrix is a policy if it is used as a reference point along with consideration of the facts and relevant statutes and regulations.

REGULATIONS AND POLICIES SHOULD BE CHARACTERIZED BY:

CLARITY: Available and understandable to everyone

CONSISTENCY: With statute, regulations, and board communications about similar facts



Is It Within the Scope of Practice?

Boards are regularly asked by licensees, the public, course providers, and others: “Is this activity within the scope of practice of this license?” It is appropriate for the professional licensing board to make this determination. However, boards cannot effectively answer in a vacuum.

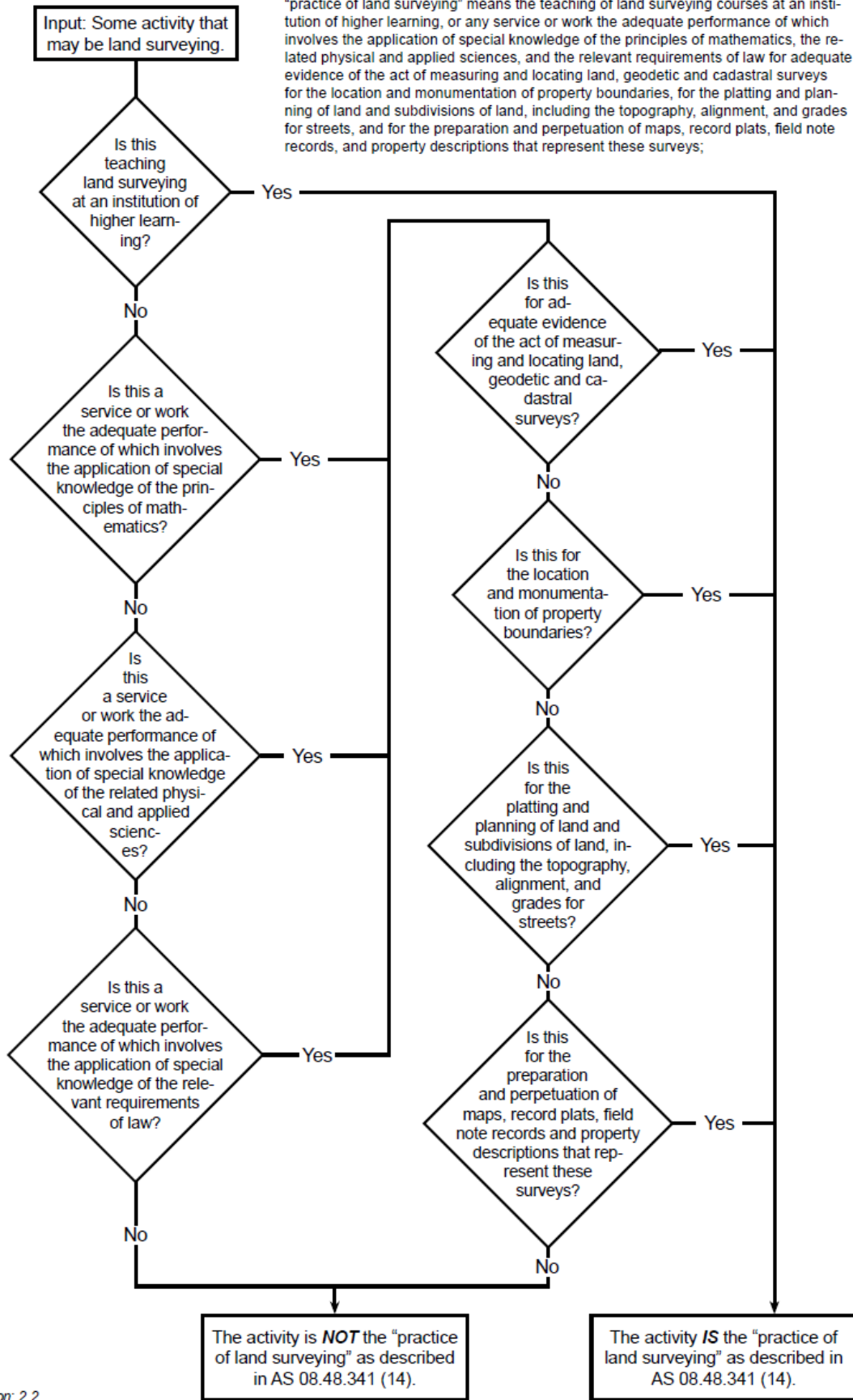
Some elements to consider:

- 1. Does the board have enough information to answer the question?**
 - a. Has the question been provided in writing?
 - b. Is there additional information the board requires before deliberating?
 - c. Has the chair ensured all board members understand the question and the activity in question?
- 2. Does the statutory definition of practice under this license allow the activity?**
 - a. Is that definition clear?
 - b. Do other statutes within the board’s chapter inform the context of the definition of practice? What about provisions within centralizes licensing statutes?
 - c. Do other statutes outside of the board’s chapter inform the practice? (For example, are areas of law within the Department of Health relevant to a health care licensee? For a construction contractor, what about building or electrical codes? For a hairdresser or manicurist, what do laws within the Department of Environmental Conservation say about the activity?)
 - d. How do regulations adopted by the board or other relevant agencies further define this activity?
- 3. Has the board consulted its attorney?**
 - a. Is there Alaska case law relevant to this practice?
 - b. Are there board precedents or decisions that may inform this decision?
 - c. Do federal standards exist that are relevant to this license or this activity?
 - d. Are we reading the existing laws correctly?
 - e. Are we calling out preferences, biases, professional practices, fears, industry guidance, and other elements that may lead the board’s deliberation astray?
 - f. Can our agency attorney help us see something we cannot see...and possibly arrive at a creative solution?
- 4. Have we followed the proper process?**
 - a. Is our deliberation transparent and thorough?
 - b. Have we engaged the appropriate people?
 - c. Does the response require a regulation?
 - d. Can our attorney defend this decision in court, if challenged?

There are several approaches to determining an outcome when posed with this question. The State Board of Registration for Architects, Engineers and Land Surveyors has developed a tool to assist in discerning whether an activity meets the statutory definition of “land surveying”:

"Practice of Land Surveying" as defined in AS 08.48.341 (14)

"practice of land surveying" means the teaching of land surveying courses at an institution of higher learning, or any service or work the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence of the act of measuring and locating land, geodetic and cadastral surveys for the location and monumentation of property boundaries, for the platting and planning of land and subdivisions of land, including the topography, alignment, and grades for streets, and for the preparation and perpetuation of maps, record plats, field note records, and property descriptions that represent these surveys;



Disciplinary decisionmaking

Board disciplinary action on a license, or denial of a license application, requires understanding of several foundational principles. These decisionmaking concepts are discussed here, and additional specific information about the investigative process is included in another chapter. Board members will receive additional training on steps in the enforcement process before engaging as a reviewing board member or being asked to vote on a matter. Boards should always request assistance from its attorney if it is unsure in how to proceed with a decision that affects a person's property right or ability to earn a living

All parties have a right to due process under state law. The board's deliberation and final decision are important parts of a larger enforcement process authorized by [AS 08.01.087](#) and implemented through the division's investigative section. Division investigators are responsible to ensure board members are trained on the board's role in investigations, review, recommendation for resolution, and, ultimately, deliberation and action. This process safeguards both the complainant and respondent from bias, undue or inappropriate influence, or unlawful procedures. It also retains the statutory appeal rights of a respondent.

Precedent informs the board's exercise of discretion but does not tie the board's hands. Under centralized licensing statute AS 08.01.075(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." This means that while the same violation may be present among various cases, the circumstances may be different.

The investigator will present examples of how the board has voted on similar violations; this information may be included in the reviewing board member's work file, part of a disciplinary matrix adopted by the board, or in a memo or verbal presentation to the board in executive session. As statute states, precedent is not binding on the board itself, which may require additional review and consideration of the facts before making a final decision.

Information used in the disciplinary decisionmaking process must be legitimate. Board members may not conduct external investigations, gather data, or listen to input from sources that are not part of the official division investigation. If relevant information is discovered, it should be provided to the investigator and any ex parte discussions disclosed.

This guidance also pertains to information that members may naturally know about a party because of preexisting relationships: If a board member has outside information that may be relevant, it should be disclosed to the investigator, who may need to perform a conflict check or determine if the new data should be shared with the reviewing board member or rest of the board.

V. Strategic Planning General Overview

Why engage in strategic planning?

Compared to private non-profit boards of directors or corporate agencies, the purpose of a regulatory board has a limited focus. Along this narrow lane, the board shoulders considerable responsibility to *regulate a profession in the public interest*. Regulatory boards are free from many of the burdens held by other types of boards. They do not employ staff, and they do not manage a budget, so they do not have the responsibility of directly managing these resources. However, the state legislature has given them considerable power and influence over specific important areas:

1. Establishing and managing the gateway to employment in the profession in Alaska.
2. Influencing the availability of services of this profession in Alaska.
3. Supervising the practice of the profession in Alaska.
4. Setting standards of continued practice of the profession in Alaska.
5. Handling persons who do not practice the profession safely or in the public interest.

Within the lanes set by the state legislature, there is plenty of opportunity for a board to proceed in one of three directions:

1. Hold back progress by blindly maintaining the status quo,
2. Degrade the public's trust through negligence or recklessness, or
3. Improve outcomes through intentional and thoughtful decisionmaking.

A strategic planning process answers the following questions:

| | | |
|---|----------------------------|---|
| MISSION STATEMENT The mission is the purpose of the board. | Who are we? | What does our enabling statute say we do? |
| | Why are we here? | What is our functional purpose? |
| VISION STATEMENT The vision is how the board imagines exemplifying its mission. | Where are we headed? | What does the best version of our licensing program look like? |
| | | What does the best version of our board look like? |
| | | What is the vision of this board's contribution to nursing in this state? |
| ANALYSIS A gathering of existing facts or data to frame the board's current position and prepare it to establish goals. | Where are we now? | What are our activities? |
| | | What are the metrics for those activities? |
| | How can we do better? | What are stakeholders' perceptions about us and why? |
| | | Who are our stakeholders and how do we interact? |
| | | What resources are needed for our activities? |
| | | What are our strengths? |
| | | What are our weaknesses? |
| | | What opportunities do we have? |
| | | What threats do we face? |
| INITIATIVES Initiatives are broad | What are the main outcomes | How do we break out our vision into categories? |

| | | |
|--|--|--|
| categories that exist within the board’s vision. | that accomplish our vision? | |
| GOALS Goals are the measurable outcomes the board plans to accomplish during this time period. | What do we want to accomplish within those categories? | What do outcomes look like? |
| STRATEGIES Broad actions that support reaching the stated goal. | How will we accomplish each goal? | What types of actions should be taken? |
| OBJECTIVES These are the measurable steps required to reach each goal. IMPLEMENTATION DETAILS List any details that help ensure the objectives are met. | How are we using our resources? | What are the steps required to meet our goals? |
| | How are we being accountable to our stated outcomes? | What is the time frame for completion of each step? |
| | | What are the specific resources needed for each step? |
| | Are our actions adhering to the plan? | Who will be involved? |
| KPIs, TRACKING, & EVALUATION These are methods of determining whether outcomes have been met. They should be specific and measurable. | How are we doing? | What Key Performance Indicators are relevant to our outcomes? |
| | | What Key Performance Indicators are within our control? |
| | How will we know when we have reached our destination? | How will we partner with the division to construct and communicate KPIs to the board and the public? |
| | | How will others know how we are doing? |
| | | How often will we schedule evaluations of the entire plan? |
| | | How will we evaluate new activities against the framework of the plan? |
| | | How and when will we adjust elements of the plan? |

Important elements in crafting a valuable strategic plan:

- **Create one forward-focused vision.** Lack of a common vision will lead to fractured decisionmaking and resource allocation. The vision of a regulatory board should be reasonably simple to state since the board’s mandate and authority—ostensibly, its mission—come from the legislature via statute.

- **Ensure all stakeholders participate appropriately.** All board members should schedule time to fully participate in every decisionmaking process, especially stages of strategic planning. Stakeholders involved with the board, including those who are impacted by the board's decisions, should be provided a voice in the process that is commensurate with their role. Surveys, public comment, and focus groups are examples of ways stakeholders can be invited to share their input.

- **Draw attention to cognitive biases and flaws in reasoning, then set up structures to resist these common problems in decisionmaking:**
 - *Recency effect:* Because it's recent, it's valid
 - *Occam's razor bias:* Expressing a preference for the simplest decision over a more appropriate one
 - *Inertia bias:* Tending toward the familiar
 - *Framing effect:* Making a decision based on how the information is presented rather than the information itself
 - *Anchoring bias:* Becoming attached to initial information to the exclusion of additional data or viewpoints
 - *Confirmation bias:* Seeking and using data that confirms your viewpoint
 - *Self-Serving Bias:* This is one's tendency to attribute the positive results of a decision or situation to one's own actions or decision. Likewise, it causes individuals to attribute negative consequences to factors outside of our control.
 - *Availability bias:* Utilizing only immediately available information instead of researching additional data
 - *Stereotyping:* This is the tendency to believe a unique situation is indicative of a greater tendency.
 - *Action-oriented bias:* Making decisions because you feel internal or external pressure to act
 - *Dunning Kruger effect:* When a person's lack of knowledge and skills in a certain area cause them to overestimate their own competence
 - *Sunk cost fallacy:* Tendency to continue down an unproductive path because of the existing resources already allocated to it
 - *Status quo bias:* The tendency for people to like things to stay relatively the same. The preference towards alternatives that maintain or perpetuate the current situation even when better alternatives exist.
 - *Bandwagon effect:* The tendency to do (or believe) things because many other people do (or believe) the same.
 - *Illusion of control fallacy:* The tendency for human beings to believe they can control or at least influence outcomes which they clearly cannot.

- **Establish data-driven metrics to help gauge progress**
 - Develop key performance indicators (KPIs) for the board. Work with the division to learn management's KPIs for administrative operations, license processing, and investigative systems. Determine together how often and in what format these will be communicated to each other and to the public.
 - Good KPIs:
 - Provide objective evidence of progress towards achieving a desired result

- Measure what is intended to be measured to help inform better decision making
 - Offer a comparison that gauges the degree of performance change over time
 - Can track efficiency, effectiveness, quality, timeliness, governance, compliance, behaviors, economics, project performance, personnel performance or resource utilization
 - Are balanced between leading and lagging indicators
 - Consider that not everything that is important can be measured, and just because you can measure it doesn't mean you should. Heavy reliance on measurements can lead to reliance on partial truth and bias in decisionmaking.
- **Evaluate progress based on strategic goals**
 - Establish a process and timeline for all evaluation activities, including how to handle unplanned pivots.
 - Check in regularly as a board, with staff, and management. Plan additional check-ins with key stakeholders, such as industry associations, national organizations that support state licensing boards, and other important partners. Establish standards for how voices will be granted the power to influence board decisions—see [“The Man in the Arena”](#) speech by President Theodore Roosevelt. The squeaky wheel may not be worthy of all the grease.
 - Consult both the measured and anecdotal data, as well as the perception. Close gaps if practical and meaningful to do so.
 - Hold new activities and ideas against the framework of the plan to ensure you are staying on track.
 - Be prepared to pivot as you receive new data and as circumstances change.

Overview of strategic plan evaluation; Balanced Scorecard Institute



VI. Meetings and Motions

Rules of Procedure

Rules of procedure are not statutes or regulations but, rather, are guidelines that the board or commission has agreed to follow. Contained in these rules might be a list identifying the board or commission's standing committees, the parliamentary procedure for running meetings, or perhaps a requirement to end meetings at a certain time. Boards and commissions may also pass regulations that specify how many unexcused absences are allowable before a member is recommended for removal from the board. Additional internal guidance on meeting management is published to aid staff.

Setting the Agenda

The board chair holds the responsibility for setting the agenda for meetings. Consultation with the board liaison (staff member assigned to the board) should occur at least 30 days before the meeting to allow time for the meeting materials to be submitted to staff and uploaded to OnBoard. Staff's goal is to provide board members with a full meeting packet two weeks before the meeting date. This should ensure ample time for members to study, ask questions, and gather any additional information in time for discussion on the record.

It is helpful for staff to send a reminder to board members to suggest agenda items ahead of the agenda-setting meeting with the chair. Any topics suggested at the last meeting or in the interim can be added to the agenda. The member suggesting the topic should be prepared to lead that discussion.

The board or commission must approve an agenda format to be used at all regular meetings. A sample agenda might include the following:

| Agenda Item | May Include | Details |
|--------------------|--|---|
| Call to Order | <ul style="list-style-type: none">• Roll call• Statement of conflicts of interest• Approval of minutes of previous meeting* | <ul style="list-style-type: none">• Required to conduct business• Board may opt to approve minutes in OnBoard or in the consent agenda |
| Public Comment | Opportunity for the public to provide input, opinions, and ideas to the board | <ul style="list-style-type: none">• Recommended at every regular meeting• Board may also opt to accept public comments on specific agenda items• Different than public comment on regulations |
| Consent Agenda | | Used to adopt matters that may not need discussion, such as minutes, next meeting date, or acknowledging general information or reports |
| Division Update | <ul style="list-style-type: none">• Licensing staff update• Update from director or other management staff• Fiscal report from | Division update is mandatory for all regular business meetings; if management determines it is not needed, it can be cancelled |

| | | |
|---------------------------|---|---|
| | <ul style="list-style-type: none"> management • Presentation on division legislation or policy matters • Training from specialized staff | |
| Regulations | <ul style="list-style-type: none"> • Discussion about future projects • Drafting regulations for introduction* • Discussion about proposed regulations with staff or AAG • Oral public hearing on noticed regulations • Adoption of regulations* | <ul style="list-style-type: none"> • Regulations specialist is recommended to be invited to all regulations discussions • Public comment on regulations is only allowed if announced with the regulations public notice |
| Investigative Update | <ul style="list-style-type: none"> • A report of investigative activity since the last meeting • Executive session to address disciplinary matters • Continuing education review with the paralegal | |
| New Business | <ul style="list-style-type: none"> • Discussion of topics not yet presented to the board • May include presentations by individuals or national or state organizations | |
| Old Business | Continuation of previous discussion by the board | |
| Committee Reports | Updates or findings from board committee work | |
| For the Good of the Order | <ul style="list-style-type: none"> • General opportunity to raise comments or questions otherwise not covered • Way for board members to suggest future agenda items | |

Adjournment*

* Typically requires a motion and vote of the board

The order of the agenda may be changed at the meeting. For example, an item toward the end of the agenda may be moved up and dealt with earlier in the meeting; this can be done by a motion to amend the agenda.

The agenda should be amended only when there is a good reason. Try to maintain the posted public comment periods and scheduled appointments; constituents and presenters may have rearranged their schedules to arrive at that time or may not be available other times of the day.

Quorum

A quorum is the minimum number of board or commission members required to conduct business. Unless otherwise established in statute or regulation, a majority of the total membership of the board or

commission constitutes a quorum. If a quorum is not present, the board cannot continue its business and must recess or adjourn the meeting to a later date.

It is important for all members to be present at every meeting. Sensitive, complex, or difficult matters should be scheduled before the board or commission as often as possible when all members are present. If absences must occur, then proper notice must be given in order to determine whether to reschedule the meeting due to lack of quorum. The cost of travel and consideration of public notice have a great impact on the program's licensees, so absences must be taken seriously.

Sometimes, a member must request recusal from deliberation and voting due to a conflict of interest. A member who is recused by the chair from voting is considered present for purposes of a quorum. Formal actions of the board or commission must be taken by a majority of the quorum present. So, a motion will pass if the majority of the quorum votes in the affirmative; the vote must take into account the abstention of the member who has been recused. For example, if the quorum is four, and two members vote to pass a motion, one member votes no, and another abstains, the motion fails. The chair and liaison should plan well ahead of a meeting to help ensure quorum issues are managed well.

Recusal Due to Conflict of Interest

Members may be required to request recusal from deliberation and voting on a matter due to a conflict of interest. Boards must ensure fair and impartial deliberation and decisions, so members may need to request recusal by the chair when it is established that the member has a legitimate conflict of interest. AS 44.62.450(c) provides that "an agency member may not withdraw voluntarily or be disqualified if the disqualification would prevent the existence of a quorum qualified to act in the particular case." Also known as the *rule of necessity*, it means that the board may determine the mandate to perform its official business is greater than the possibility of an existing conflict. This decision takes many factors into account and will usually require assistance from the board advisor or attorney. Plan well ahead of the meeting to navigate this issue, if it is relevant to the business before the board.

A member should only abstain if the chairperson has ruled that he or she has a conflict of interest on the matter being voted on. A board member must explain his or her conflict on the record and receive a ruling on whether a conflict exists. According to the [Alaska Executive Ethics Act for Members of Boards and Commissions](#), this should be done in writing ahead of the meeting so the chair can receive assistance in determining whether a conflict exists. The chairperson's ruling, whichever way it goes, may be overridden by a majority of the board or commission.

A board member who has been the reviewer of an investigative matter ("reviewing board member" or RBM) is often recused from deliberation and voting. If the member has viewed additional "inadmissible" information, has established a bias, or otherwise poses a risk to due process, the member should be recused. If in doubt, ask staff for assistance well ahead of the meeting.

If the chair, with the advice of counsel (board investigator, board advisor, and/or board attorney) determines no such conflict exists, the member should remain in the discussion and vote, if that is what is required to maintain a quorum. This situation should be recorded in case the vote is challenged.

It is a misconception that the chair can only vote in the case of a tie. From www.robertsrules.com:

If the chair is a member of the voting body, he or she has exactly the same rights and privileges as all other members have, including the right to make motions, to speak in debate, and to vote

on all questions. So, in meetings of a small board (where there are not more than about a dozen board members present), and in meetings of a committee, the presiding officer may exercise these rights and privileges as fully as any other member.

When will the chair's vote affect the result? On a vote that is not by ballot, if a majority vote is required and there is a tie, he or she may vote in the affirmative to cause the motion to prevail. If there is one more in the affirmative than in the negative, the chair can create a tie by voting in the negative to cause the motion to fail. Similarly, if a two-thirds vote is required, he or she may vote either to cause, or to block, attainment of the necessary two thirds.

Boards and commissions may adopt regulations regarding removal of members for excessive absences. Board members who find they need to resign may do so in writing to the Office of Boards and Commissions with a copy to the Division. The Governor's Office of Boards and Commissions requests that boards with members who regularly abstain ensure that the practice is codified in that body's policy and that the policy is—as with other board policies—available to the public via the board's web page.

Taking Part in Debate

Debate and discussion are not the same. Discussion is general and does not necessarily lead to closure of an issue. It is the method used for less formal meetings and work sessions. Debate occurs after a motion has been made, and formal board or commission actions are required. Board discussion is not a formal request for action, so members must make a motion to propose an actionable item--particularly one that involves a fiscal matter, policy change, or staff response.

Debate and discussion at board and commission meetings go through the chairperson. If a board or commission member wants to speak, he or she must raise a hand or indicate interest in speaking by getting the chair's attention. Usually saying "Madam Chair" or "Mister Chairman" is sufficient. Wait to be recognized by the chairperson. If there is a motion on the floor, then the member may only speak to that motion. Members should never interrupt one another but should strive to proceed with deference to the chair. When engaging in a back-and-forth, preceding comment with "Through the chair" gives the chairperson the opportunity to recognize the speaker. (When speaking directly to the chair, one would say "To the chair" when recognized.)

Formality may depend on the culture of the board. Comments should be brief and to the point. Avoid pontificating or repeating points in an effort to manipulate the discussion. Members in disagreement should make their views known, then yield to other members or presenters who have been invited to speak.

Public Participation

Members may mingle with the public in other settings, but meetings are the events at which the public's business is conducted and decisions are made, so meetings should be conducted in a calm, orderly environment free from disruptions. After all, good decisions are more likely in a quiet, controlled, uninterrupted setting. When the public informally interacts with the board during a meeting, the business can be disrupted and the outcome of the motion could become unclear. It also provides an uneven playing field for solicitation of input to the board.

Members of the public are not members of the board, so they should refrain from engaging in board business. Members of the public may speak during the common public comment period, or they may

formally request to address the board by requesting to be on the agenda well ahead of time or by signing in to address the board during a publicly noticed oral comment period on proposed regulations. At in-person meetings, members of the public should not sit at the board table unless they are called on, then return to their set in the gallery when finished.

Parliamentary Procedure

One of the greatest procedural tools a board can utilize is one of parliamentary procedure, which sets the protocol for meeting management. The use of parliamentary procedure for meetings fulfills several important purposes. It provides structure for deliberation of issues. It ensures that only one item at a time is before the board or commission for debate. It provides a forum for debate that is fair to everyone and partial to no one. Finally, it permits the will of the majority to prevail while protecting the rights of the minority and permitting all sides of an issue to be heard.

Most boards and commissions use Robert's Rules of Order (www.robertsrules.com), and there are many guides available online or in hard copy to demystify the process. A guide to the parliamentary motions used most frequently is included here.

Parliamentary procedure is not as complex as many fear. Thankfully, Robert's Rules for small boards applies to all CBPL boards and allows a more relaxed approach to business in most circumstances. Formal action should always take place via motion, but small boards can proceed with some business without the formal motion or process that would otherwise be required. The rule of thumb is to use Robert's Rules to help manage the meeting with clarity. If you find you are in a "procedural pretzel," pause and return to the topic after a short break or consult the supervisor or board advisor for help.

Types of Motions

The backbones of parliamentary procedure are in motions and how they are made and disposed of, the various categories of motions, and the relationship between motions. There are four types of motions, but the most common is the main motion, which brings an item of business before the board or commission for its formal deliberation. Only a main motion can bring matters before the board or commission for a vote.

Making a Motion

A main motion is the way an item is placed before the board or commission for consideration and action. For example, a board or commission member, after being recognized by the chair, may say, "I move to approve the minutes from the November 5, 2022, meeting as amended." The chairperson then asks for a second person to support the motion and, when the motion is seconded, asks if there is any debate on the motion. Any subsidiary motions that may be made, such as a motion to amend, table, or send the motion to a committee, must be voted on before the main motion may be voted on.

Every motion consists of eight steps that follow in order:

1. A board member seeks recognition from the chair.
2. The member is recognized by the chair and "has the floor."
3. The member makes a motion.
4. The motion is seconded (if appropriate, see chart).
5. The chair (or staff, if delegated) restates the motion to the body.
6. Board debates the motion.

7. Board votes on the motion either by roll call or unanimous consent.
8. The chair (or staff, if delegated) announces the result of the vote.

Following the outline above is efficient and provides clarity. However, boards will often discuss a matter first, then a member will make a motion. While technically backwards, how to conduct its administrative business is a cultural decision the board must make. As long as the process is transparent and understandable, it is fine to make a motion after the discussion.

Motions should use simple, straightforward language that is easily understood and captured on the record. Board members should keep two guiding thoughts in mind when making a motion:

- Do my fellow members understand what is being proposed so they can vote on it?
- Will the public be able to understand the effect of the motion if it passes?

When it won't complicate an issue, motions should be made in the affirmative. For example, "I move to approve the license application of Jane Doe, #12345" is appropriate, even if the maker of the motion is unsure or even against the motion. Members should avoid making a motion in the negative, such as "I move to deny the license application of Jane Doe, #12345." The debate should begin on the premise that the motion is in the affirmative and not color the outcome by presupposing the board will not support the action—especially regarding license applications or other appeals to the board from licensees. Failing to make the motion in the affirmative does not void the motion.

Members proposing complicated motions, such as amending regulations, should consider submitting a written draft ahead of time or asking the chair for a brief recess to write the motion down. This will help ensure the motion can be clearly stated and restated, if needed. The maker may want to display the motion on screen or email to staff to ensure the record accurately reflects the motion.

When debate winds down, the chair must ensure all members have had the opportunity to fully explore the matter before calling for a vote. There is no such thing as "calling the question," and members should refrain from pressuring other members into voting when they are not ready. Assessing whether the conversation has run its course is the prerogative of the chair. (It is also the chair's prerogative to make a motion, if he or she wishes. While it is not good form to dominate the meeting, there is no rule that precludes the chair of a small board from offering the occasional motion.)

Voting

Once debate on a motion is completed, the board or commission has to vote. Every member present must vote unless the member declares a conflict of interest and the chairperson (or presiding officer) rules that the member has a conflict of interest that prevents him or her from voting. Voting may be given orally or as a show of hands—as long as how each member voted is recorded in the minutes. Under state law, the public has a right to know how each member voted, so the minutes should reflect each person's vote on each motion. Typically, votes on matters of substance (regulations, disposition of cases, applications, etc.) should be conducted as roll-call votes. Procedural matters (adopting minutes, adopting the agenda, adjournment) can be handled through unanimous consent, provided the chair has given an opportunity to object. If there is objection, a roll-call vote must be taken. Members should only abstain from a vote after stating a conflict on the record and having the recusal approved by the chair (or the whole board, if the member abstaining is the chair). Members should avoid abstaining without a stated reason; if there is a legal or ethical issue that should not be stated on the record, the member

should discuss with staff well ahead of the meeting so it can be handled properly ahead of deliberation and voting.

How to Deny a License Application

As mentioned above, Motions should be crafted in the affirmative to avoid presumption of bias or outcome. This should be the default unless doing so would complicate the record—there should be no confusion about the motion and outcome of the vote. In license denials, it is often cleanest and clearest for the maker of the motion to craft the motion based on the Order written by the investigator.

Regarding license action, here's the basic information needed on the record:

- **License number:** It is okay to include the licensee name since this is a final public action, but the number will suffice if it is clear and accurately recorded.
- **Action being taken:** Usually the verb part of the motion, such as “revoke,” “deny,” “suspend,” “accept a consent agreement,” etc.
- **Statutory or regulatory reason for the action:** A citation of the specific statutes) or regulation(s) is adequate.

This should be consistent with the information in the Order. For example:

“I move to deny the certified direct-entry midwife application #ABCDEFGH by Jane Doe pursuant to AS 08.65.110(2), (3), (6); AS 08.65.150; 12 AAC 14.130; and 12 AAC 14.140.”

When you are planning the meeting and know that board action is likely, the chair or other board member may wish to “pre-draft” motions for the board to use as a starting point. These draft motions are not meant to influence an outcome and can/should be worded differently on the fly, depending on the deliberation. The attached board motion worksheet can guide this process.

If reasons for denial are confidential under state law, the board can discuss them in executive session and decline to list them on the record. However, staff will need the information to provide in the statement of issues to the applicant. If possible, consult the AAG and investigator who are assisting with the matter and invite them to participate in executive session.

Unanimous Consent

Unanimous consent occurs when all members vote in favor of a motion. Sometimes unanimous consent simply occurs after a vote, when all members vote the same way. Other times, unanimous consent may be requested as part of a motion. Typically, this request happens when the person making the motion knows the item is not controversial. The person making the motion might say, “Mr. [or Madam] Chair, I move to approve the minutes from the November 5, 2022, meeting and ask for unanimous consent.” The chair then asks if there is any objection. If there is none, the item is adopted by unanimous consent. Discussion may also be permitted but usually only for clarification. If there is objection, then debate occurs and the matter goes to a vote.

Using a Consent Agenda to Improve Meeting Efficiency

At every board meeting, at least a few items come to the agenda that do not need any discussion or debate either because they are routine procedures or are already bound for unanimous consent. A consent agenda allows the board to approve all these items together without discussion or individual

motions. Depending upon the organization, this can free up anywhere from a few minutes to a half hour for more substantial discussion.

What belongs on the consent agenda?

Typical consent agenda items are routine, procedural decisions, and decisions that are likely to be noncontroversial. Examples include:

- Approval of the minutes
- Final approval of proposals or reports that the board has been dealing with for some time and all members are familiar with the implications
- Routine matters such as appointments to committees
- Reports provided for information only
- Correspondence requiring no action
- Future meeting dates

How are consent items handled?

A consent agenda can only work if the reports and other matters for the meeting agenda are known in advance and distributed with agenda package in sufficient time to be read by all members prior to the meeting. A typical procedure is as follows:

1. When preparing the meeting agenda, the chair determines whether an item belongs on the consent agenda.
2. The chair prepares a numbered list of the consent items as part of, or as an attachment to, the meeting agenda.
3. The list and supporting documents are included in the board's agenda package in sufficient time to be read by all members prior to the meeting.
4. At the beginning of the meeting, the chair asks members what items they wish to be removed from the consent agenda and discussed individually.
5. If any member requests that an item be removed from the consent agenda, it must be removed. Members may request that an item be removed for any reason. They may wish, for example, to discuss the item, to query the item, or to register a vote against the item.
6. Once it has been removed, the chair can decide whether to take up the matter immediately or place it on the regular meeting agenda.
7. When there are no more items to be removed, the chair reads out the numbers of the remaining consent items. Then the chair states: "Are there any objections to these items being adopted?" After pausing for any objections, the chair states "As there are no objections, these items are adopted by unanimous consent."
8. When preparing the minutes, include the full text of the resolutions, reports or recommendations that were adopted as part of the consent agenda so the record is clear.

It is important to make sure that all members know what items belong on the agenda and how to move items to and from the consent agenda. For this reason, the chair should ensure that new members become familiar with this process when they join the board.

Role of the Chair in Board and Commission Meetings

Board and commission members, staff, and the public look to the chairperson to provide leadership during the meeting. The chair should understand the issues before the board or commission, know and understand the philosophies of the fellow members of the board or commission, and be able to bring

the board or commission to decisions on difficult or complicated issues. The chairperson should be able to do all of the following effectively:

- **Run a Meeting:** The chair is responsible for running an orderly meeting and conducting public business in a fair and timely manner. Everyone looks to the chairperson for leadership. The chair grants or denies members, staff, and the public the floor to speak.
- **Maintain Order:** The chairperson should not allow cheering, hissing, booing, or other demonstrations from the audience. Nor should he or she permit board or commission members to become rude, confrontational, or argumentative with one another or the audience. Members should not cut off one another or staff when they are speaking, nor monopolize the floor when granted by the chair. The chair should avoid grandstanding by any member, including him or herself.
- **Keep Business Moving:** It is the chairperson's job to keep business moving by bringing matters to a vote once thorough yet efficient debate has occurred. Avoid "rabbit holes" by calendaring side discussions to a future meeting date if they are within the board's purview.
- **Ensure Member Participation:** Board members who are newer, quieter, or not a licensed member of the profession may sometimes sink into the background. The chair should encourage participation by calling on them during debate or asking for their input. The chair may also assign them to perform research instead of leaning on the same vocal volunteer each time. By working on board projects outside of a meeting, these members may learn more and quickly come up to speed on topics important to the board.
- **Manage Public Testimony:** By using a sign-up list, the chairperson will know who wants to speak on items before the board or commission. If a large number of people wish to speak, the chairperson should set a time limit per speaker (usually the amount of time allotted for public comment divided by the number of testifiers). Rambling, irrelevant testimony should be discouraged, as should commentary from the public during board deliberation of an issue.
- **Use Parliamentary Procedure:** The chairperson needs to know enough parliamentary procedure to run the meeting. Someone else may serve as the parliamentarian, but the chairperson must have a working knowledge of parliamentary procedure.
- **Tie Things Together:** The chairperson should have the ability to take into account public testimony, board or commission deliberations, and an understanding of the issues at hand when guiding the board or commission toward a decision.
- **Lead Without Bias.** The chair should avoid setting the agenda or manipulating debate on issues to suit their personal preference. Although the chair has a right to speak on a topic, if the chair feels strongly about an issue and cannot maintain objectivity in managing the discussion, they should ask a different person to chair the meeting during the debate on that topic. The chair should never dominate debates or discussions.
- **Implement Approved Actions:** The chairperson should have the ability to create an action plan and follow through with staff or other entities on the actions decided at the meeting. The chair may need to contact members of the board to ensure they are aware of and working on their assignments to ensure they meet deadlines for upcoming meetings.

- **Uphold the Law:** The chairperson should guide the board to prevent decisions that are contrary to law and should strive to adhere to advice provided by its attorney. The chairperson should minimize the board's exposure to legal risk and seek its attorney's advice through staff as the need becomes apparent, checking the agenda to schedule the attorney's presence or tabling votes until the next meeting if needed. The chairperson may recess the meeting for a few minutes to confer with the board liaison or division management regarding inviting the board advisor or attorney to step in during a board meeting.

Robert's Rules of Order Motions Chart

Part 1: Main Motions. These motions are listed in order of precedence. A motion can be introduced if it is higher on the chart than the pending motion. § indicates the section from Robert's Rules.

| § | PURPOSE: | YOU SAY: | INTERRUPT? | 2ND? | DEBATE? | AMEND? | VOTE? |
|-----|--|--|------------|------|---------|--------|----------|
| §21 | Close meeting | I move to adjourn | No | Yes | No | No | Majority |
| §20 | Take break | I move to recess for ... | No | Yes | No | Yes | Majority |
| §19 | Register complaint | I rise to a question of privilege | Yes | No | No | No | None |
| §18 | Make follow agenda | I call for the orders of the day | Yes | No | No | No | None |
| §17 | Lay aside temporarily | I move to lay the question on the table | No | Yes | No | No | Majority |
| §16 | Close debate and vote | I move the previous question | No | Yes | No | No | 2/3 |
| §15 | Limit or extend debate | I move that debate be limited to ... | No | Yes | No | Yes | 2/3 |
| §14 | Postpone to a certain time | I move to postpone the motion to ... | No | Yes | Yes | Yes | Majority |
| §13 | Refer to committee | I move to refer the motion to ... | No | Yes | Yes | Yes | Majority |
| §12 | Modify wording of motion | I move to amend the motion by ... | No | Yes | Yes | Yes | Majority |
| §11 | Kill main motion | I move that the motion be postponed indefinitely | No | Yes | Yes | No | Majority |
| §10 | Bring business before assembly (a main motion) | I move that [or "to"] ... | No | Yes | Yes | Yes | Majority |

Part 2: Incidental Motions. No order of precedence. These motions arise incidentally and are decided immediately.

| § | PURPOSE: | YOU SAY: | INTERRUPT? | 2ND? | DEBATE? | AMEND? | VOTE? |
|-----|------------------------------|---|------------|------|---------|--------|----------|
| §23 | Enforce rules | Point of Order | Yes | No | No | No | None |
| §24 | Submit matter to assembly | I appeal from the decision of the chair | Yes | Yes | Varies | No | Majority |
| §25 | Suspend rules | I move to suspend the rules | No | Yes | No | No | 2/3 |
| §26 | Avoid main motion altogether | I object to the consideration of the question | Yes | No | No | No | 2/3 |
| §27 | Divide motion | I move to divide the question | No | Yes | No | Yes | Majority |
| §33 | Parliamentary law question | Parliamentary inquiry | Yes | No | No | No | None |
| §33 | Request for information | Point of information | Yes | No | No | No | None |

Part 3: Motions That Bring a Question Again Before the Board. No order of precedence. Introduce only when nothing else is pending.

| § | PURPOSE: | YOU SAY: | INTERRUPT? | 2ND? | DEBATE? | AMEND? | VOTE? |
|-----|------------------------|-----------------------------------|------------|------|---------|--------|--------------------------|
| §34 | Take matter from table | I move to take from the table ... | No | Yes | No | No | Majority |
| §35 | Cancel previous action | I move to rescind ... | No | Yes | Yes | Yes | 2/3 or Majority w/notice |
| §37 | Reconsider motion | I move to reconsider ... | No | Yes | Varies | No | Majority |

VII. Effective Regulations

This section is intended to provide you with the purpose of regulations and a general, high-level overview of the State of Alaska regulations process. The full regulations process is explained in detail in the *Drafting Manual for Administrative Regulations*, which is located online at http://law.alaska.gov/doclibrary/drafting_manual.html. The flow charts and narrative in this guidance will summarize the processes of board and division regulation adoption—keeping in mind the process is ultimately overseen by the Department of Law.

Why Regulations and What Are They?

Under AS 44.62.640, a regulation encompasses every rule, regulation, order, or standard of general application, or any amendment, supplement, or revision of such rule, regulation, order, or standard. These are adopted by a state agency to implement, interpret, or specify the law that the agency enforces or administers, or to govern its procedure. Whether a document, regardless of its name, qualifies as a regulation under this chapter depends in part on whether it affects the public or is used by the agency in its dealings with the public.

However, it does not include forms prescribed by a state agency or instructions related to the use of those forms. Nonetheless, this provision does not limit the requirement for a regulation to be adopted under this chapter if needed to implement the law under which the form is issued.

In simpler terms, a regulation can be defined as a standard of general application or an amendment to such a standard. It is adopted by a state agency to implement, interpret, or specify a law, or to govern the agency's procedure. However, it does not cover matters relating to the agency's internal management. A regulation is considered valid if it affects the public or is used by the agency in its dealings with the public.

How Do Boards Gain Regulation-Making Authority?

Statutes are state laws that authorize and set out the scope of a board or commission's governance authority of a licensing program. Statutes may also authorize and direct the division's management role in administering all licensing programs overseen by the division. A board's power to adopt regulations starts with the Alaska State Legislature. As part of its law-making power, the legislature may delegate, by statute, the authority to create rules and standards to executive branch agencies, boards, and commissions. These rules and standards are regulations, adopted by boards to supplement laws passed by the legislature and enacted into law.

Statutes often make it clear that the legislature expects the entity to adopt regulations by stating the agency "shall" adopt regulations to set program standards. Other times, statutes authorize but do not require regulations, by stating the agency "may" adopt regulations. A regulation has the force and effect of law only if the agency has the statutory authority to act and if it adopts, amends, or repeals the regulation using the proper procedure.

Right-Touch Regulation

Right-touch regulation describes the approach first developed in 2010 by the Professional Standards Authority—the regulator for healthcare providers in the United Kingdom. It is not 'light-touch' regulation. It means looking at the level of risk to the public and identifying the most proportionate means to counter that risk.

Right-touch regulation means understanding the problem before jumping to the solution—while making sure that the level of regulation is proportionate to the level of risk to the public.

There are eight elements that sit at the heart of Right-Touch Regulation:

1. Identify the problem before the solution
2. Quantify and qualify the risks
3. Get as close to the problem as possible
4. Focus on the outcome
5. Use regulation only when necessary
6. Keep it simple
7. Check for unintended consequences
8. Review and respond to change

The department’s Boards and Regulations Advisor has developed a Right-Touch Regulation curriculum and workbook based on the principles devised by the Professional Standards Authority. From time to time, it will be offered as a training opportunity for board members and staff, and it can be utilized as either a formal or informal part of a board’s periodic regulation review process.

Board Regulations Process *simplified*



Overview of the Regulations Process

The regulatory procedures for boards are set out in the Administrative Procedure Act (APA) in AS 44.62.040 - 44.62.290. These procedures are designed to ensure the public is notified and afforded an opportunity to meaningfully comment on an action before it is adopted as a final regulation. These steps are outlined below and codified in the *Drafting Manual for Administrative Regulations* referenced above.

The division employs two Regulations Specialists who are trained to assist in drafting regulations and moving them through the adoption process. The department Boards and Regulations Advisor can assist the board in evaluating the need for regulations, the statutory foundation for the regulations, and options in moving forward with the process. At any point in the process, they may also request agency attorney advice independently or on behalf of the board.

The entire regulations process—from crafting the idea to the ultimate effective date—can take up to a year. This ensures adequate time is allowed for the board to fully explore options and develop the best regulation, for the public to engage through the formal comment process, and for the Department of Law to fully review and assist. Timeframes can fluctuate widely among projects. Delays can occur if the intent and outcomes of the board are not clearly presented, if the Regulations Section of LAW is experiencing a heavy workload, if the project is lengthy or complex, or if there are procedural problems with how the project was handled. Planning well ahead of time is essential to ensuring crucial deadlines are met.

Planning and Preparation

Gathering Ideas

A regulation project begins with an idea for regulatory change. When a board identifies the need to propose a regulation to implement, interpret, or make specific a state statute, the board should begin organizing its collective thoughts on the matter at a publicly noticed meeting. If the subject matter is highly technical or complex, it may be helpful for the board to form a public working group from among its members. That group may engage in fact-finding for the purpose of sharing what it has learned with the entire board at an appropriate meeting. It may be helpful to the board to invite one of the division's two regulations specialists to the working group for assistance with drafting language and to provide guidance to the members regarding the next steps in the process. The regulations specialist will also be the board's liaison with the Department of Law. This may help the board get ahead of any complex or difficult parts of the proposed regulation.

All discussion and decisions relating to the regulations project must be made by the board at publicly noticed meetings. The board is required to vote upon proposed changes to move forward to the next formal stage.

Evaluating Need

As part of the drafting process, the board will identify the specific need or problem that the proposed regulation aims to address and ensure that the regulation aligns with the board's mission and statutory authority. When considering adopting a regulation, including repealing one, the board should take care to discuss the reasons why the change is important. The department has developed a Right-Touch Regulation presentation and curriculum to help boards understand the concept of harm reduction

within the concept of regulatory governance. All regulations should be viewed through this lens. This evaluation process is discussed further in Chapter 4 on Decisionmaking.

Consideration of Timing

After determining that a concept is appropriate for a regulation, the board should consider timing needs and deadlines for completing the project, including statutory or federal deadlines; division's timeline for form development or other administrative impacts; complexity of the project requiring extensive legal review; availability of board to perform their role; public comment or filing windows, among others.

Examining Costs and Impacts on the Public

In addition to timing, a board must consider potential costs of a regulation project. These costs may be to the board or agency, public groups, or individuals such as licensees. Estimating costs in advance will help the agency complete the paperwork that accompanies the public notice. Included in the board's review should be the impact of additional time, paperwork, education, potential for public harm, or other impacts on licensees and the general public.

Soliciting Public Input

When a board identifies the need to propose a regulation to implement, interpret, or make specific a state statute, the board should begin organizing its collective thoughts on the matter at a publicly noticed meeting. If the subject matter is highly technical or complex, it may be helpful for the board to form a public working group from among its members. That group may engage in fact-finding for the purpose of sharing what it has learned with the entire board at an appropriate meeting.

Drafting

The maker of the motion to propose amendment, adoption, or repeal of regulations should provide the board with a written draft of the proposal. It is the board's responsibility to be certain that the record reflects what the board intended. This means that the board should articulate what it is hoping to accomplish with the project, and it should carefully review written drafts to ensure that the language conveys what the board intended. It is the board's job to provide at least the initial draft of language for a proposed regulation or amendment to regulation. Clearly define the requirements, standards, or procedures that the regulation will impose. Use precise and unambiguous language to avoid confusion or misinterpretation in the process of translating the intent of the regulations into concise language that effectively implements, interprets, or makes specific the underlying law.

If it hasn't done so already, the board should ensure that staff has requested assistance from the division's regulations specialist. If needed, licensing staff or the regulations specialist may request Department of Law assign an agency attorney who is familiar with licensing issues to ensure that the proposed regulation complies with all applicable laws, regulations, and constitutional requirements. Legal counsel can also help ensure consistency with existing regulations and provide guidance on the regulatory process. Any legal involvement at this stage is referred to as pre preliminary legal review and does not replace the formal review process discussed below.

The "Regulations Project Opening Questionnaire" (attached) must be completed by the board, not staff, to ensure all potential licensee or industry questions and impacts are anticipated and answered as required by statute. The board can complete these together on the record, or they may find it more

efficient to assign a member to complete these and submit to staff by a deadline to keep the process moving forward.

File Opening and Department of Law Preliminary Review

Once an initial draft has been created and is ready to move forward, the regulations specialist will open a file with the Department of Law's Legislation, Regulations, and Legislative Research Section. This starts the official administrative review. Through the Questionnaire, the board will need to tell the regulations specialist its upcoming meeting dates, when it would like to publish the public notice, the reason for any urgency, and the requested effective date. The regulations specialist must submit all notice documents to the Department of Law at this time, so the board should discuss them before moving forward with a project.

The preliminary review is designed to ensure the regulation is within the scope of regulation-adoption authority, is consistent with statutes, is reasonably necessary to carry out the purpose of the statute, is valid under the state and federal constitutions, and is technically correct. This investment at the beginning of the process will reduce the amount of review that was previously required at the end of the process. The preliminary review is expected to take at least 60 days; boards should plan for a longer window in case the review is delayed by competing priorities or availability of attorneys.

Public Notice and Comment

Immediately following initial approval from the Department of Law, the regulations are ready to be published, which begins the public comment period. A significant step in the APA requires that the public receive notice of a proposed regulation and an opportunity to comment on a proposed regulatory action. This ensures that the public and interested parties—predominantly licensees and prospective licensees—are aware of the proposed changes affecting their programs and provides adequate opportunity to comment on them. By ensuring public notice and ability to comment, the APA's procedures support the public's vital role in the regulations process.

Under the APA, the public must have a minimum of 30 days to comment (either orally, in writing, or both) on proposed regulations. During the comment period, the staff must publish the FAQ worksheet prepared by the board on the website, as well as answers to questions from the public on the proposed regulations received in writing unless the questions are received within 10 days before the close of the comment period; in that case the staff may, but is not required to, answer the questions. If the board intends to hear public oral testimony on the proposal, that date must be included in the public notice. If it is not included in the public notice, a subsequent notice must be completed before the oral testimony can be heard.

Due to Alaska's small population, board members may be easily accessible to their licensees and public stakeholders. Board members must remember that comments on proposed regulations must be received as requested in the notice of proposed regulations.

Written comments that are received by the division regulations specialist during the public comment period as set out in the notice of proposed regulations are provided to the board to deliberate during a public meeting. The board must review and take all comments into consideration before voting to adopt the proposal. Oral comments that are received by the board during the public comment period are included in this review.

Board members may not receive comments directly via email, text, in the clinic, at the lodge, in the hair salon, or in the grocery store. When well-meaning members of the public offer input, thank them for their interest but remind them that they should submit their comment as directed in the public notice.

Adoption

After the public comment period, the board reviews and considers the feedback received. Based on the input, the board may choose to revise the regulation or proceed with the adoption process. If the board chooses to substantially amend its proposal, it must go out for another 30-day public comment period. (The Department of Law can review whether the amendments to the proposed regulations would require a new notice and comment period or if they are minor enough not to need additional public review.)

If there are no changes—or if the changes are minor and do not alter the meaning of the regulations—it may then be adopted by a board vote at a publicly noticed meeting, then forwarded for final review by the Department of Law.

Department of Law Final Review

The Department of Law's role is to ensure that the regulations comply with legal requirements and are within the board's authority. If the regulations attorney does not approve the proposal, it will be returned for collaboration on how to become compliant. Further public notice, edits, or readoption may be required.

Once the regulations have been approved by the regulations attorney, the regulations are transmitted to the Office of the Lieutenant Governor for filing.

Filing by the Office of the Lieutenant Governor

Once signed by the Lieutenant Governor or the Lieutenant Governor's designee, the regulation will become effective in 30 days *unless* another effective date is specified in the adoption order or certification of adoption. The Lieutenant Governor can only return regulations to the agency if they are "inconsistent with the faithful execution of the laws" (AS 44.62.040(c)). Typically, once the regulation has been filed, the effective date is known and can be relied upon. After this 30-day period, the regulation will be published in the Alaska Administrative Code (AAC). The AAC is the official compilation of the state's regulations.

Effective Date

The regulation becomes effective on the date specified in the adoption notice or as required by law. Most regulations become effective 30 days after filing. (If there is any question, the date is specified on the Lieutenant Governor's official filing notice.) It is important to communicate the effective date to affected stakeholders and ensure compliance with the new regulation.

Posting Online Summary

The regulations specialist will file the text or a summary of the regulation on the Alaska Online Public Notice System. It will also be posted on the board's web site, and the board's statutes and regulations packet will be updated with the new language. If regulations dramatically change the landscape of regulation, require compliance in a short window of time, or have been of particular interest to

stakeholders, staff can email announcement to the interested party list and/or voluntary list serv, as applicable.

A typical board or commission regulations process can take up to six months, depending on the effectiveness and efficiency of the board, the workload of the division regulations specialist, the complexity of the project, and how the project fits into the workflow of the agency and regulations attorneys with the Department of Law.

Division Regulations

The division director may also draft and notice regulations through the same process, though the director is not required to hold a public meeting to deliberate or adopt final regulations. The same public notice provisions apply, and the director must consider all written comments received. When setting fees for licensing programs, the director will seek board input on proposed fees as required in AS 08.01.065. The director may adopt regulations that pertain to all licensing programs in general (known as Centralized Regulations) and may adopt regulations that direct the licensing programs in AS 08.01 that do not have a governing board or commission.

Emergency Regulations

If a threat to the public peace, health, safety, or general welfare requires immediate action, an agency may adopt an emergency regulation without first following the normal APA procedures of publishing notice and waiting for public comment. Emergency regulations are held to a minimum, however, because they take effect without the public having the opportunity to comment or receive advance notice of their effect. The agency must therefore look critically at whether (1) the public peace, health, safety, or general welfare is truly at risk, and (2) the use of the emergency regulation procedure is absolutely necessary. The agency must contact the Department of Law early on in this process to ensure that the regulations are within the agency's statutory authority and meet the emergency regulation standard set in AS 44.62.250. Before an agency may adopt an emergency regulation, an emergency finding must be approved by the Department of Law.

An emergency regulation remains in effect for no more than 120 days. If the agency does not make the emergency regulation permanent, the regulation expires and the version of that regulation in effect before the emergency regulation was adopted, if any, is automatically reinstated. Regardless of whether an agency intends to let an emergency regulation expire after the 120-day mark or make the regulation permanent, the agency must follow specific steps outlined in the *Drafting Manual*. If emergency regulations are deemed appropriate by the Department of Law, your regulations specialist, attorney, or department board advisor will walk the board through these extra steps.

Conclusion

The regulations process in the State of Alaska involves careful planning, drafting, public engagement and adoption. Boards and the division work together, with assistance from the Department of Law, to ensure that the regulations align with the statutory authority and serve the public interest. By following the established procedures and incorporating public input, the state can effectively implement and enforce regulations that promote the health, safety, and well-being of its people.

VIII. The Investigative Process

An important and necessary function of the board or commission is to monitor and enforce compliance with the statutes and regulations governing a licensed profession. The process of denying or disciplining a license involves many areas of law, including the U.S. and state constitutions, the Administrative Procedures Act, case law, and both the centralized and specific statutes and regulations of a profession.

Filing a Complaint

A complaint may be reported directly to the division. Sometimes a member of the public, or a licensee, may bring a complaint directly to a board member. When this happens, the board member should direct the complainant to contact the division and forward a summary of the contact to the division. (The email address investigations@alaska.gov is useful to share in this situation.) All written complaints, or reports, alleging a violation of statute or regulations should provide a specific and detailed summary of the complaint. If available, the complaint should include any documentation, and list any potential witnesses. Anonymous complaints are not accepted.

A board or commission has jurisdiction over a complaint if the subject of the complaint falls within the scope of the board or commission's regulatory authority. Upon receipt, the complaint and evidence are reviewed by the investigator assigned to the program to ensure jurisdiction over the person named in the complaint and the alleged violation by that person. The investigator evaluates each complaint, gathers evidence, and interviews witnesses. This review takes into account informal guidelines established by the board or commission and the statutes and regulations of that specific practice area.

If the complaint does not appear to allege a violation that is within the board's jurisdiction, the division may close the complaint. If the complaint does relate to a statute or regulation of the board, an initial letter may be sent to the licensee against whom the complaint is filed. This letter provides notice of the complaint and allegations and may request records, an interview, or other response by the licensee.

Complaints or reports that present an immediate threat to public safety are given priority. The steps taken are determined on a case-by-case basis by the specifics of the allegations. This portion of the investigative process may be quite lengthy and may require additional information or evidence from the complainant, licensee, businesses, other governmental agencies or state boards, witnesses, or related parties.

Conducting an Investigation

Investigators will collect pertinent information or evidence to prove or disprove an alleged violation. If the complaint is supported by evidence, it proceeds to investigation. Once an investigation is opened, the licensee is notified they are under official investigation by the division on behalf of the board or commission. This is an important step: Complaints can be unfounded or determined to be unsupported by evidence, and they are closed before becoming an official investigation, protecting the subject of the complaint from unwarranted repercussions in the community and with the board in their area of practice.

Once the case has been thoroughly investigated and there is a preponderance of evidence to either prove or disprove a violation occurred, the next step is determining an appropriate outcome. Typically, a

licensed board member is solicited to review the case, recommend whether a violation has occurred, and propose a course of action.

Highlights of Serving as a Reviewing Board Member (RBM)

- A member who is licensed in the field of practice will usually have the professional experience, expertise, and judgment necessary to evaluate a complaint. This is one of the main areas of value that a board brings to regulation of the profession. If a member of the board does not have the credentials to effectively evaluate the matter, the investigator may engage an expert witness who does.
- It is critically important that the reviewing board member disclose any potential conflicts before taking the case. The investigator will perform a conflict check before the RBM begins work on a case. If information is revealed along the way that introduces a conflict, the RBM must immediately inform the investigator.
- When accepting a case review, the RBM agrees to prioritize the responsibility so the investigation does not draw out for a long period of time. Investigators typically ask for a case to be reviewed within 30 days. The RBM and investigator should be responsive to each other's questions. The only person the RBM should discuss the case with is the investigator and, possibly, division management, depending on the situation. The RBM should never contact parties to the matter or other board members regarding the case.
- The reviewing board member should ensure all factors are considered in their review and recommendation.
- An RBM may need to request recusal from deliberation and vote on an issue that he or she reviewed. This may not always be necessary or possible. After every case, the RBM should ask the investigator or board liaison for assistance in whether this applies to an individual matter.

In special circumstances, the division may include a panel of two board members or an expert in the field who is carefully screened for objectivity by the Chief Investigator and who agrees to maintain confidentiality. This review may result in a recommendation that more information be obtained, that the case be closed, or that the case continues forward. The board's liaison or review panel does not determine a final outcome; it simply reviews the complaint to determine whether the allegations, supported by uncontested or sufficient evidence, would warrant proceeding with disciplinary action even if contested by the licensee.

Disposition of Cases

The board will meet as a quasi-judicial body in executive session or in a special meeting arranged solely to deliberate on the matter. Facts of the case that influence the board's decision will be provided to the board ahead of time so they can become familiar with the case and prepared to discuss. This is often provided in a memo to the board or contained in the body of the legal document the board is provided for review. The investigator and possibly the board's attorney will join the executive session.

If a case proceeds for board review, the board will be asked to:

- Review the facts presented
- Review the RBM's recommendation
- Evaluate a consent agreement, imposition of civil fine, accusation, or other documents prepared by the investigator based on the RBM's recommendation
- Determine whether they agree a violation did, in fact, take place

- Determine how to proceed with board action, including:
 - Asking more questions and returning to the investigator for additional information if they are not prepared to take action
 - Adopting, amending, or rejecting a consent agreement
 - Taking one of the disciplinary actions authorized in AS 08.01.075 (below) or in their specific statutes:

AS 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.

Most cases are resolved through a consent agreement: An amicable settlement of a case between the two parties short of a public hearing. This type of settlement spells out agreed-upon obligations and responsibilities between the board and the licensee. The consent agreement is written by the division. To be effective, a consent agreement must be adopted by the board. Consent agreements may involve:

- reprimand
- revocation
- assessment of a civil penalty (fine)
- suspension (for a specific period of time)

- probation
- condition to take additional continuing education over and above the annual requirement
- restrictions on practice

If an agreement cannot be reached, or if the agreement is rejected by the board, the case is referred to division counsel—an Assistant Attorney General (AAG)—for review and possible litigation. The next step is to file an accusation charging the violations. If an accusation is filed, the licensee is entitled to a hearing. All involved parties may be requested to appear and testify at the hearing, conducted by the Office of Administrative Hearings (OAH) through an Administrative Law Judge (ALJ). After the hearing, the ALJ issues a proposed decision.

The division’s counsel and the licensee (or the attorney for the licensee) may propose a different outcome in a document called a Proposal for Action. Once it has considered the proposed decision from the ALJ and the proposals for action from the litigants, the board may adopt, amend, or reject the proposed decision from the ALJ and issue its own decision. The board should state its reasons clearly. If the board changes the sanctions proposed by the ALJ, it must explain why. The board may request counsel of its own. Any final decision may be appealed to the superior court.

Investigations Are Confidential

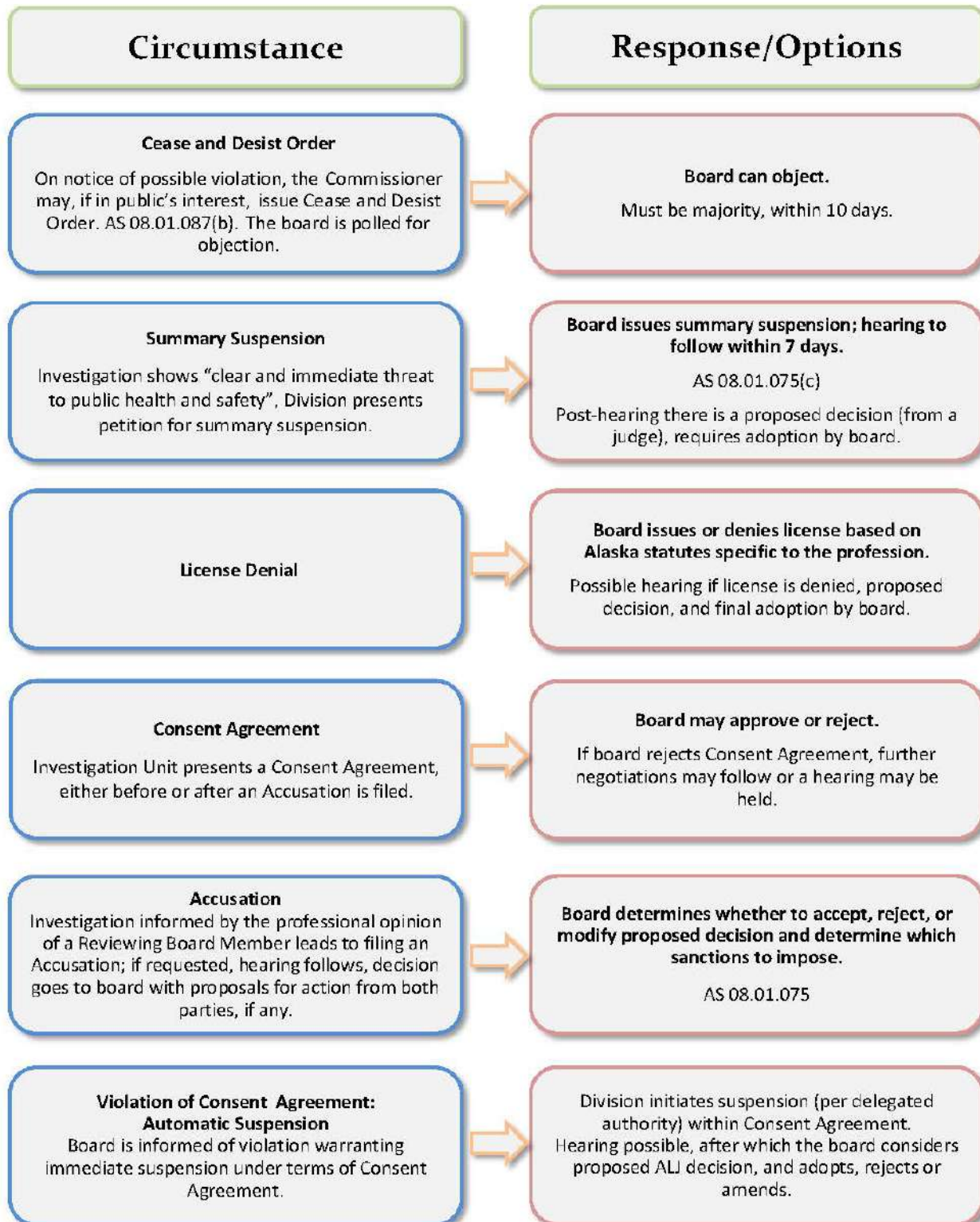
Investigations are required by statute to be kept confidential. The Alaska Public Records Act provides some exceptions that allow certain documents collected during discovery to be produced as public records. This often prevents the complainant, licensee, and the board from obtaining progress reports or information that may disclose the current status of an open investigation. Even the fact that an investigation is underway is protected. Cases often involve other agencies, businesses, and practices; disclosing information during an ongoing case can compromise the investigation, create conflicts for reviewing board members, or result in unnecessary hardship to the licensee.

Once disciplinary action is final, the final decision becomes public, and the final document is posted in the licensee’s [public file](#). It remains there permanently unless the board’s decision is overturned by a court of appeals. Certain licensing programs may require that this discipline is also reported to a national database for that profession.

Using Data Proactively

If a board is able to maintain the protections of confidentiality and due process, it may find that aggregating data or following trends in complaints, investigations, and license discipline can be used to improve the quality of its regulation. This data can identify gaps in licensee or public understanding, confusing regulations, areas where the Alaska laws vary widely from standard practices in other jurisdictions, and even the need for augmenting awareness of ethical standards. The board may wish to review the investigative reports provided at regular meetings and periodically identify discuss complaint trends with its investigator as a quality control measure.

Board/Commission License Action Options



IX. Legislation and Legislative Audit

As a member of a professional licensing board or commission, you have considerable latitude—as well as responsibility—to recommend changes to your licensing program’s enabling statutes. Members of the public, consumers, other professionals, and your industry’s association confidently approach members of the legislature to affect the change they wish to see in your practice. Additionally, recognizing the need for statutory change and not pursuing it could become grounds for a legislative audit finding. Whether taking the initiative or reacting to an active bill, board members need to be prepared to champion their cause.

Initiating Legislation

When a board determines statutory change is needed after utilizing the right-touch regulation and decisionmaking strategies included in this guidance, it has the responsibility to shepherd the process. The division usually does not have the authority to spearhead a statutory change that a board governs unless there is a significant impact on licensing processes, staff, efficiency, or other administrative characteristics. Boards must be prepared to fully engage in the legislative process when it proposes a change in statute.

Establish Clear Intent and Timeline

On the record, craft a statement and supporting points that illustrate the purpose of your proposal. It’s like your bill’s mission statement. Turn this into a letter from the board that includes the point person elected by the board and their contact information. This person should be ready to work with the sponsor, organize support, and call in to hearings. If the board is championing a piece of legislation, a history of the meeting minutes reflecting the issues and board’s perspective should be compiled by this leader and made available to board members and division management, who will be at every hearing. This research and history will be especially helpful to new board members who are appointed.

Begin NOW. Legislation may take multiple years, especially if it is not introduced at the start of a legislative session. If the two-year legislature ends before your bill passes, it dies and you have to start over...sometimes with new elected officials who are unfamiliar with you and your cause. Legislators have more time to work on legislation during the interim—if you wait until January to start shopping a new bill, it is likely too late to expect results that year.

Draft the Language

Legislators will expect you to know what language needs to change to accomplish your goal. They have attorneys who will edit and improve the document based on your stated intent, but they will want to see your thoughtful first draft. Some legislators will require the board to present a solid legal draft, especially if they are carrying a bill by request (as a favor) and not because they personally feel passionately about the cause. You may want to engage an agency attorney to assist with drafting if the legislation is especially complex or nuanced. Start as soon as possible.

In addition to drafting the content of the bill, the board will need to adopt a letter on the record that explains and supports the legislation. This document can live with the bill and be used by the sponsor to help educate their peers and promote passage. It will be published on the legislative web site to educate the public, and the board can share it with potential supporters who may, in turn write their own letters

or testify favorably. Be sure to update the letter if the bill changes; committees or even floor votes can alter the language of a bill without notice.

Seek Supporters...and Know the Opposition

Identify who will be willing to write a letter and/or testify in support of your legislation. Ask them for ideas on who might oppose it. Sometimes, it's clear, and the board will be ready for the fight. Sometimes, you are too close to your own profession and may not see the downsides to your legislation. Does it affect anyone negatively? Does it increase costs or paperwork? Does it limit the practice of the profession to certain individuals? Do those individuals have a reasonable argument? Engaging the industry, such as a state or national professional association, is often helpful—assuming they support the board's proposal.

Seek a Sponsor

It's a great idea to find a representative (House) and a senator (Senate) since a bill has to pass both bodies before it can move to the governor's office for signature. Look for a legislator who may have an affinity for your program (is a professional licensee, is a health care provider), likely supports the goal of your bill (is pro-health care/building industry, has sponsored similar legislation in the past, is outspoken about government efficiency), or who represents your district. The board may wish to talk to a House or Senate committee chair about committee sponsorship of its proposal. The board can also discuss the potential for sponsorship by the governor; however, it must reach out to the division director a year in advance to ensure adequate review.

Communicate With Committees

Be available to testify, even on short notice. The board must identify board members who are authorized to speak on behalf of the bill. Contact legislators and committee members to ensure they understand and support your bill. If they don't support it, find out why and seek to aid their understanding...or be prepared for difficult questions.

Promote Your Bill

Everyone will vote on your bill, whether in a committee, on the floor, or both. Some members may vote in several committees, depending on how many times they hear the bill (usually two committees on each side— Finance and Labor and Commerce or Health and Social Services). So, it's helpful if they understand what the bill does and how it helps Alaskans. Legislators have an entire state to worry about, so they don't know the finer points of your licensing program or industry. You can help them understand the main points without dwelling on the details or overthinking it. Be prepared for all kinds of questions!

[The Open Meetings Act Always Applies](#)

AS 44.62.310(h) provides detailed definitions of "governmental body," "meeting," and "public entity" that, when combined, define what constitutes a public meeting. A meeting of a decision or policy-making body occurs when more than three members or a majority of the members, whichever is less, engage collectively in discussion of a subject that the body is authorized to act and set policy on and is therefore subject to the Open Meetings Act. Under this definition, it doesn't matter where the meeting occurs, if it was prearranged, or who arranged it and could include unplanned casual or social contact in any location, including the office of a legislator.

Members of boards and commissions should take care not to conduct business over email, lest the public be removed from the process. Board members should not email each other about board business; if a special meeting is needed, a member can alert staff and a meeting can be arranged and publicly noticed. Remember, all board member email correspondence is discoverable, and your board business is also the public's business.

Legislative Session

Q: What is fast-paced but moves slowly? Transparent but hard to see? Straightforward but complex?

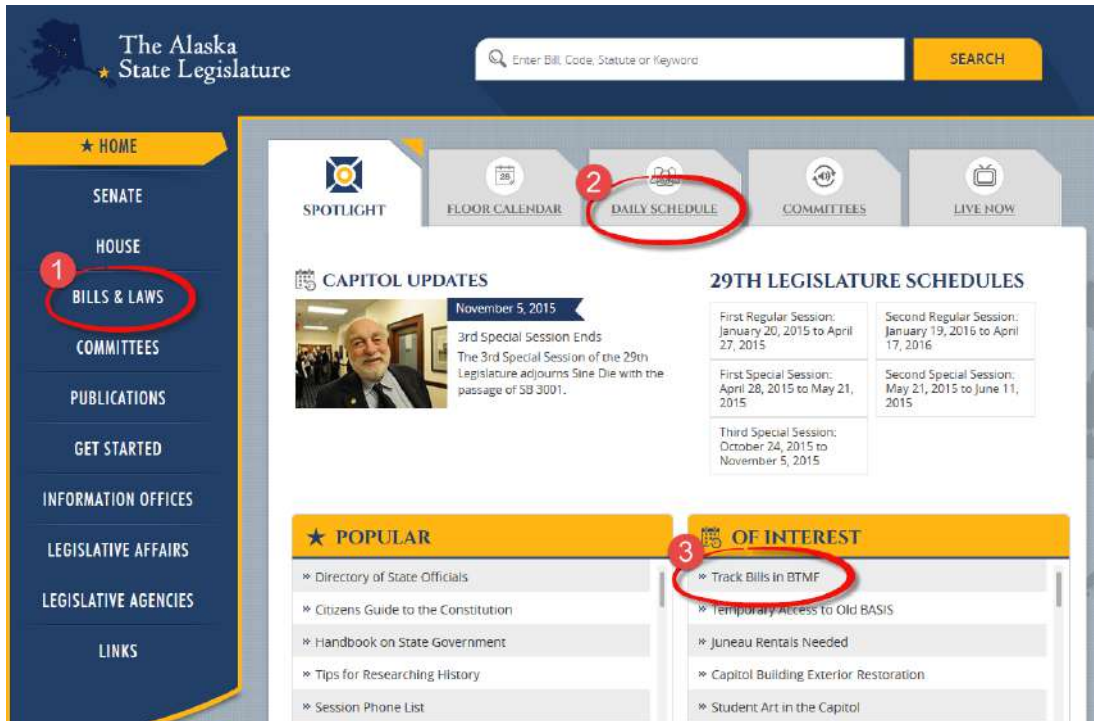
A: Legislative session!

Understanding the ins and outs of the legislature while in session can be difficult until you get into the swing of things. The information below can help.

Be Informed About Legislation: If Not You, Then Who?

Even if your board didn't initiate it, a bill may be introduced that pertains to your licensing program. Be vigilant! You will have to become involved.

- Ahead of the legislative season, select on the record a member who will serve as the point person for legislative activity. In the absence of this person, the division will look to the chair of the board for input and interpretation.
- When a bill is filed that appears to affect your licensing program within AS 08, division management will alert the board liaison. This staff member should ensure that their board members are made aware of legislation that is filed that will affect them. With dozens of bills to track, analyze, and testify on, division management may not be able to keep the board apprised of every late-breaking detail. Division management will periodically send updates to staff regarding legislation or request discussion with the board. Division staff may not know about or forward bills affecting the profession when the legislation does not touch AS 08. Please let staff know if you become aware of those.
- Know where to find your bill using the Alaska State Legislature's web page: akleg.gov. (See graphic below.)
 1. The **BILLS & LAWS** section on the sidebar links to a searchable list of documents. If you know the bill number, you can search using the bar at the top of the screen.
 2. The **DAILY SCHEDULE** shows all committee activity for the day you choose. It is subject to change, but it is a good starting place to see what is happening where.
 3. The **BTMF**—or Bill Tracking Management Facility is your best friend when trying to keep up with a bill. Take the time to set up your profile and register the bill you want to track, then you will receive email updates when its status changes or is scheduled for a hearing.



Guidelines for Board Member Testimony

- Encourage the board to become engaged: Board members should track the bill online, participate in hearings, write a letter, and discuss the legislation in a public meeting. It is a best practice for organizations to speak with “one voice.” Any testimony or correspondence by a board member on behalf of a board must represent deliberation and action taken on the record in a public meeting.
- Board opinions on legislation should be put in writing. If the board has published a resolution or letter regarding the legislation as a result of a vote at a public meeting, staff may provide that document to legislators per department procedures. The board member appointed as lead can also send this document to legislators.
- Individual board members may offer their personal or professional opinions on the legislation by clarifying that while they are appointed to a board, they do not speak on behalf of the board and are offering their testimony/thoughts/opinion as a private individual. This testimony should be harmonious with what the board has voted on; the board should always speak with one voice after a vote.
- Boards must provide a member to testify at every hearing when being considered for reauthorization per AS 08.03. Without member interest and advocacy for the board or commission’s continuation, it is possible that the sponsor could withdraw the bill and the board could sunset.
- The chair or elected board spokesperson should be prepared to answer questions posed by staff or legislators, testify telephonically (or in person, if in Juneau) on bills that require subject matter expertise or upon request, and otherwise be available on short notice to engage in this process.
- Be sure to differentiate the state licensing board from the industry association. Sometimes, they share the same goals. Sometimes, they do not. Legislators must keep track of a lot of names and organizations, so be sure that you are clear that you represent the State of Alaska.

- Nervous? Don't worry! Please email or call division management to discuss tips or even run through some potential questions.

Legislative Testimony Call-In Do's and Don'ts

Do use the streaming video available on the "Live Now" tab on akleg.gov or Gavel Alaska (ktoo.org/gavel) to watch for your bill to come up. The chairman will announce the order of bills at the beginning of the meeting. Callers may be disconnected from the meeting if they call in prior to their bill being taken up.

- If video streaming is not an option for you, please contact the committee aide to make arrangements to call in early.
- Once the bill is before the committee, call the number provided by staff or the committee aide. Give your name, the bill number, and ask to be connected to the _____ Committee.

Do use the Teams link if provided one by the legislative committee aide. Some committees prefer invited testifiers to connect via Teams.

Do remember the legislative call-in system is designed to serve those who do not have any other way to testify or have a legitimate reason for using the system.

Do not call in before the bill you are testifying on comes before the committee.

Do not call in for a hearing if you simply want to listen – utilize the streaming video as noted above.

Do remember the off net call-in lines are for testifiers only. If you wish to listen in, please use the live streaming at <http://akl.tv/>.

Do use the "mute" function of your phone until called on to testify. If this function is not available on your phone, ask the Legislative Information Office (LIO) moderator to mute your call.

Do not use the "hold" function on your phone when connected.

Do try to be in a quiet room without distractions or interruptions. Car noise, open windows, and barking dogs can all be heard by the legislative committee and guests at the hearing. These avoidable disturbances will detract from the credibility of your message. Connect without using a speakerphone for the best audio quality. Please treat the important responsibility of testifying with utmost respect and professionalism.

Do remember that everything transmitted over your phone will be broadcast directly into the meeting room and recorded to become part of the permanent record.

Do remember to be in a location with good reception if using a cell phone. Disruptions coming into the meeting via the phone lines will result in all callers being disconnected from the system. This will require testifiers to call back to be reconnected. Turn off your computer or TV speakers if listening online so you do not create an audio "loop."

Do try to adhere to time limits imposed by the chairman.

Remember: There are a limited number of phone lines coming into the Capitol. These lines are also used by LIO's around the state. When all the phone lines are used up, an LIO may not be able to call in with a room full of people.

Legislative Audit

The [Division of Legislative Audit](#) (DLA) serves as one of the Legislature's most significant checks in the balance of powers with the executive and judicial branches of government. The Division's primary responsibilities are to provide transparency and hold state agencies accountable to state and federal laws. Audits inform the Legislature and the public about government operations.

The DLA is an audit agency, led by the Legislative Auditor, that serves as the State of Alaska's independent auditor. DLA was created pursuant to the Fiscal Procedures Act of 1955. The Division has offices in Juneau and Anchorage staffed by dedicated professionals, most of whom are licensed CPAs. The Legislative Auditor is a public officer authorized by the Alaska Constitution to lead the State's independent audit function. The audit function is conducted in accordance with Title 24 of the Alaska Statutes. All audits conducted by the Division are done in accordance with government auditing standards.

DLA performs external audits; that is, audits are performed by an auditor who is independent of the executive head of the government unit or agency being audited. All audits result in a published report that remains confidential until released to the public by the Legislative Budget and Audit Committee. Four types of audits are conducted: single audits, special audits, sunset audits, and IT audits.

The primary way professional licensing boards interact with the DLA is through the sunset audit process. The 1977 Legislature passed a Sunset Law which requires DLA to conduct performance audits of boards, commissions, and agency programs subject to termination under [AS 44.66](#). The audit report, along with other reports and testimony, is considered when determining if there is a continuing public need for a board, commission, or program.

Professional licensing boards are audited according to the schedule set by the Alaska State Legislature, which is based on the scheduled sunset dates found in [AS 08.03](#). The maximum number of years a board can be authorized before its next audit is eight years.

Approximately one year before the scheduled sunset date of each board, the assigned legislative auditor(s) will hold an opening conference with division management and the board chair, either together or separately. At this meeting, which is usually in the late spring, the auditor will review the process to ensure all parties are informed. The auditor will hold similar meetings once the field work has been completed and when the DLA has prepared a list of recommendations.

The auditor(s) will perform the audit by reviewing documentation of board meetings, licensing files, investigative files, and other records it may believe to be relevant to its review. They will ask questions

and seek additional information from staff or board members, as necessary. Division management and the board chair should work independently with auditors to ensure each has the opportunity to provide the auditor with unvarnished information. A public officer may not interfere with the work of an auditor or seek to influence them in performance of their duties.

A determination by the DLA as to whether a board or commission has demonstrated a public need for its continued existence must take into consideration the following factors ([AS 44.66.050\(c\)](#)):

- (1) the extent to which the board or commission has operated in the public interest;
- (2) the extent to which the operation of the board or commission has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters;
- (3) the extent to which the board or commission has recommended statutory changes that are generally of benefit to the public interest;
- (4) the extent to which the board or commission has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided;
- (5) the extent to which the board or commission has encouraged public participation in the making of its regulations and decisions;
- (6) the efficiency with which public inquiries or complaints regarding the activities of the board or commission filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved;
- (7) the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public;
- (8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board or commission in its own activities and in the area of activity or interest;
- (9) the extent to which statutory, regulatory, budgetary, or other changes are necessary to enable the board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection;
- (10) the extent to which the board or commission has effectively attained its objectives and purposes and the efficiency with which the board or commission has operated; and
- (11) the extent to which the board or commission duplicates the activities of another governmental agency or the private sector.

For professional licensing boards, many of these functions are statutorily carried out by the division. If the final audit report finds a board to be deficient in those areas, it may be attributed to the division. The governor's office may be accountable for concerns about board appointments. The board chair, commissioner, and governor may all be asked to respond to questions and will be compelled to respond

to the audit in writing twice prior to its release—once as a confidential preliminary communication, and finally as a response to the report.

The Legislative Budget and Audit Committee (LB&A), which is a joint committee of both the House and the Senate, provides oversight of the DLA. The audit is confidential until published by LB&A. Once published, usually in the fall, it is made available to the public. A board may review the preliminary audit report in executive session, if it wishes; once published, the board should discuss the report on the record at its next meeting and organize its strategies for testimony ahead of the coming legislative session.

Legislative committees or individual legislators may sponsor bills to reauthorize boards slated for termination. The legislature will require a telephonic presence by a board representative, as well as the division director, at every hearing. The board chair—or a member designated by the board to testify on its behalf—should work with division management to prepare testimony at every hearing in the House and Senate.

During a public hearing, the board and the director shall have the burden of demonstrating a public need for its continued existence or the continuation of the program and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest. Based on the audit recommendations, hearings may run smoothly, or legislators may pursue specific issues raised by public testimony. Legislators often take the opportunity to familiarize themselves with aspects of the professions regulated by the board, so they may ask questions that are not directly covered in the report or address issues they are familiar with through constituents, news media, or other sources.

If a board faces serious recommendations, the legislature may reauthorize them for a very short period (such as two years) to allow time for improvement and another audit to verify the issue has been resolved. If the legislature chooses to sunset a board, there is a one-year wind-down period during which regulations will be adopted to transfer the board's authority to the division. The licensing program will not cease; it will be managed by the division instead of the board, and the division will fall under a separate agency audit process. The board will cease to exist one year following the sunset date in statute. While it is an extreme action, termination of a professional licensing board has not happened in more than a decade. The legislature recognizes the value boards provide the public and usually seeks to aid the executive branch in finding solutions to any problems discovered through the audit process.

X. Overview of State of Alaska Travel Policy and Division Procedures

When a person travels on behalf of the state, on behalf of the board, is traveling because of their position as a board member, or plans to engage in activities as a board member while in travel status, the travel must be managed by the State of Alaska. The purpose of travel policy is to provide parameters for approval of actual and necessary expenses incurred by travelers while traveling on state business, to ensure wise management of state resources, and to minimize risks to the state and its travelers. The travel policy of the State of Alaska is adopted by the Commissioner of the Department of Administration in accordance with [AS 39.20.160](#).

State agencies and travelers are required to comply with these policies whenever traveling on state business.

This guidance will clarify the process of funding, approving, and booking volunteer board member travel on behalf of the State of Alaska. While the Department of Administration sets the state's travel policy, it is the division's responsibility to manage costs and provide approval for state business travel for board members. Travel administration is comprised of a few major stages:

Stage 1: Funding authority and availability: The *authority* to spend must be granted by the legislature in the division's annual budget, which covers expenditure authority for the *entire* division, not specific boards or programs. The director must weigh all necessary and competing expenses across all 45 professional licensing programs, corporations, and business licensing in order to allocate them appropriately. Because the division, not the board, is statutorily responsible for all decisions pertaining to revenues and expenses, additional factors unrelated to your board may mitigate the director's ability to approve requested travel.

In addition to the *authority* to expend funds, *availability* of funds to cover expenses for travel on behalf of any program is dependent on that program's bottom line. If the program does not have sufficient funds to meet its obligations through the next biennium, board members are advised to defer travel requests until the deficit position improves.

Stage 2: Approval: When travel is requested, it goes through an approval process to ensure the request meets state policy and to create documentation for planning and risk management purposes. Approval from the division, department, and sometimes the governor's office is required. It also clarifies for the traveler the types of approved expenses so there is less opportunity for misunderstanding at the time of reimbursement. The approval process also establishes the minimum business itinerary or window of time the traveler is on state business to identify the business portion of travel. Board members may only enter travel status to represent the state after obtaining prior approval for the estimated costs through this standard process.

Information provided in order to approve travel includes the event description and agenda, dates, estimated costs for transportation, hotel, parking, registration fees, and

other allowable expenses. Also requested is the board's rank preference for this travel (as listed in the board's prior year annual report) and potential for third-party reimbursement, as well as whether personal deviation from the minimum business itinerary for the traveler's convenience will occur.

This stage requires the division to work with board members to set forth meeting dates, locations, and individual traveler preferences—such as driving instead of flying or personal deviation from the itinerary by staying an extra day.

Stage 3: Reconciliation: Once travel is completed, receipts are collected, and actual costs are reconciled. State policy requires receipts to be submitted within five days of travel. Any significant overages in approved cost from the original estimate will require *reapproval*—potentially delaying reimbursement. Additional review is also required when the traveler deviates for personal convenience. Travelers are required to approve any estimated reimbursement; please respond to the email requesting approval as soon as it is received so your travel process can be reconciled and completed.

Stage 4: Reimbursement: Final reimbursement of allowable expenses is remitted electronically to the traveler's bank account if you have direct deposit set up with the state; otherwise, it is sent by check and may take several weeks to process. Check your bank statement to confirm receipt of funds that have been direct-deposited.

The approval request and final travel authorization (TA) form are prepared by planners at the division travel desk. The final TA and attached receipts are audited and processed by the Division of Administrative Services. This is the division that provides centralized accounting, human resources, information technology, budget, procurement, and travel services and oversight for all agencies within the Department of Commerce, Community, and Economic Development.

The state travel policy (AAM 60) is available online through the Department of Administration, Division of Finance or through your board staff. Additional information on board-specific procedures is included to help make the process as smooth as possible. At any time, should you have questions or need to book travel, please contact the division Travel Desk.

CONTACT INFORMATION

DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
TRAVEL DESK

P.O. Box 110806, Juneau, Alaska 99811-0806

Phone: 907.269.8160 - Fax: 907.465.2974

08occlctravel@alaska.gov

(For faster response, email instead of call.)

Board Member Travel Procedures

Board members must utilize division staff to book their travel through the state travel contractor's online system. This will allow board members to travel without worrying about booking their own itineraries in accordance with state policy, personally fronting costs associated with airfare on their personal credit cards or wondering whether their costs will be reimbursed. Most itineraries will receive discounted rates because of state-negotiated contracts with Alaska Airlines and other hotel and car rental partners.

Steps in Planning Your Official Travel Itinerary

1. To initiate this process, the board needs to establish that this expenditure is supported by the board. Please ensure your board has done the following at least six weeks before the date of travel:
 - a. Include the meeting, conference, or event in the board's Annual Report. Often, travel requests are to the same (or similar) events each year. Since there is not enough travel expenditure authority provided by the legislature for every board to take all the trips they may want, only the highest-ranked trips are likely to be approved. While the board may not know all the details months ahead of time, they may know the name of the conference sponsor and event, such as "Annual Educational Conference sponsored by the Council on Licensing, Enforcement, and Regulation." That would be important to include in the Annual Report.
 - b. Vote in a meeting to affirm the board's intent to send representatives to the event, and place on the record a ranked list of who those people are. This may include one or more board members and/or staff. A board member who was not endorsed by the board may be approved by the chair. This may displace one of the members who intended to travel. (Usually, this occurs when someone is no longer able to travel and someone is encouraged to attend in their place.)
2. Following the board meeting where the business reason for travel was discussed and travelers were approved, your board staff will complete a Travel Approval Request Form that explains the business reason for travel, requested travelers, and all known travel details. Approval from the division, department, and sometimes the governor's office is required.
3. Each traveler must complete the Travel Reservation Form for Board Members (attached). This helps us know important details like your Mileage Pan number, whether you prefer an aisle or window seat, and what hotel you prefer for your stay. Email this form to the Travel Desk (08occlctravel@alaska.gov).
4. Ensure the forms required by the state or federal government for reimbursement and per diem (attached) have been completed and returned to the proper agency listed on the form. Do not send to your board staff.
 - a. Substitute Form W-9 (TIN Verification)
 - b. Electronic Payment Agreement

The Electronic Payment Agreement is required only if you wish to receive your per diem and reimbursement electronically. Also, be advised the Internal Revenue Service requires the State of Alaska to issue 1099 forms when payments to individuals, partnerships, or limited liability companies for rents, services, prizes, and awards meet or exceed \$600.00 for the year.

5. Your travel planner will discuss any questions or concerns with you, then finalize the form according to the information you have provided in accordance with state policies. The travel approval will be emailed to you once it has final approval. There is no opportunity for personal deviation using this booking method. If you wish to deviate from the minimum business itinerary, staff should include this request in the initial travel approval request. Be sure you discuss with staff at the Travel Desk once you have received approval to travel.
6. The itinerary, including airline, hotel, and rental car confirmation numbers, will be emailed to you when booked. Staff will also provide the hotel with instruction to bill the division's credit card; however, since hotels must ensure they bill the proper party, the traveler must ensure that they were not charged for the room or taxes. Travelers are required to get a copy of the hotel receipt, even if they do not pay for the stay. Travelers may still be requested to provide a credit card for any room incidentals, such as movies, room service, telephone calls, etc., which are not covered by the state.
7. Turn in all receipts to the division within five days of trip completion to begin the reimbursement process. Any expenses not covered up front will be processed directly to the traveler's bank account once the traveler has completed all the forms mentioned in #4, above.
8. Once travel receipts have been reconciled, an estimated reimbursement e-mail will be sent to the traveler asking them to approve the expenses. Travelers must respond in order for the travel process to be completed and the traveler reimbursed.

Booking Travel Through a Third Party

When associations are able to directly arrange travel for the division board members or staff, there are a few simple steps required to accept their offer:

1. Follow steps 1-5 above. Board members cannot make their own travel arrangements without first being approved to travel. Confer with the Travel Desk to ensure accurate coordination among parties.
2. Turn in all receipts to the division within five days of trip completion to begin the reimbursement process. Any expenses not covered up front will be processed directly to the traveler's bank account. Receipts are needed to track the amount of travel that is being covered by a third party for audit and ethics purposes.

Reimbursement of Qualifying Expenses by a Third Party

Occasionally, an association will offer to reimburse the traveler for expenses incurred while on state business. For example, the profession's national organization may pay a \$1000 stipend to cover the cost of travel to the conference. Or, the association will pay all the airfare and hotel expenses for new board members.

This offer may be accepted under a few conditions:

1. Program staff must follow up with the association once the travel has been reconciled to ensure proper reimbursement occurs.
2. Checks may only be written and mailed to the State of Alaska, addressed to the division. Board members may not accept payment or reimbursement for any purpose and must immediately endorse any payment of this kind

over to the division travel desk for receipting. Reimbursement for authorized expenses will be issued by the State of Alaska.

3. The legislature typically authorizes a small amount of authority for the division to receive third-party travel reimbursements; these are credited to the board that incurred the expense. Any reimbursements over the authorized amount will be reported but not available to the boards to expend. This tracking is important as it may demonstrate the boards' ability to collect receipts above the authorized limit and allow the division to advocate for additional budget authority in future years.

If you have questions about a specific scheduled trip or reimbursement, please contact the Travel Desk at 907.465.2550 or 907.269.8160 or by email at 08occlctravel@alaska.gov.

Frequently Asked Questions About Travel

Before Traveling:

Q: I would like the travel planners to book my travel. What do they need to know before they can book?

A: We will need the following information:

- Your name as it is written on a government issued form of identification
- Your birthdate
- Your mileage plan number, if any
- A preferred hotel in the city to which you are traveling
- A valid e-mail address so the travel itinerary can be sent to you
- An agenda for the meeting or conference—even a draft is helpful

Q: When you book my travel, what are the rules?

A: All state travel rules apply, regardless of whether we act as your agent. However, booking your flight, hotel, rental car, or other travel is a commitment through the state travel agency. So, keep in mind that non-business-related changes and no-shows may result in additional fees, and you may be asked to reimburse the state for those types of avoidable fees.

Unless it has been pre-approved, we can only book the minimum business itinerary. This means that only the lowest ticket class fare for the most direct route will be purchased. We cannot book travel for spouses or other guests. We also will generally only use approved State of Alaska vendors, as we will get the best state negotiated deals on hotels, airfare, and rental cars. This means lower travel expenses for your licensing program.

Alaska Statute 39.20.140(b) requires that the state pay no more than "the lowest ticket class fare for the most direct route." (AAM 60.050)

Q: If you book my hotel but the hotel asks to see the credit card, what should I do?

A: You can have the hotel call one of your travel planners to confirm the credit card number with them. Your travel planners are available Monday-Friday 8:00am- 5:00pm at either 907-465-1071 or 907-465-2591. You may be asked

to provide a personal card for incidentals, since the state will not pay for amenities such as room service, tips, mini-bar, etc.

Q: I want to mix my board business trip with pleasure. How can I do this?

Regardless of who books the travel, we need to know if you are deviating from the business itinerary before your trip is submitted for division approval. Please let the Travel Desk or your board staff know if you are deviating as soon as the meeting is being planned. If your original travel plans change, please let your program staff know as soon as possible so they can request reapproval of the trip. If the cost of personal itinerary is greater than the cost of the minimum business itinerary, you need to book the trip yourself and work with the Travel Desk for reimbursement of qualifying business expenses.

Unapproved deviation from the minimum business itinerary may result in additional costs that you were not anticipating, and the state cannot cover that portion of your travel expenses. For example, if the board meeting ends at 2:00 p.m. and you want to stay in Anchorage until the following afternoon, you will be responsible for the hotel, meals, and difference in flight cost. Any rental cars approved for state business use must be turned in at the time of the first flight after the meeting ends. Keeping the car longer may incur personal expenses, and you may not be covered in case of an accident.

If you are planning your own travel, we still need to know the difference in prices between the business itinerary and the deviation that you are taking before you travel. Please provide your board staff with a flight itinerary for both the business itinerary and the deviation. If we do not receive the business itinerary, the travel planner will obtain a quote for the lowest fare currently available. This may result in a lower reimbursement than you were expecting.

Q: What are the rules for renting a car when I travel for the state?

A: When necessary, the rental of a car may be authorized for travelers in travel status according to the minimum business itinerary for the trip. The estimated cost for the rental car must be included in the approval request prior to travel. The cost and intended use of the car must be considered in determining the size and type of car to rent. The State of Alaska supports a mid-size or smaller car rental. Rental of a car larger than mid-size may be allowed when several travelers are traveling together or circumstances require the use of a larger car. Such situations must also be documented on the completed travel authorization. Planning ahead is recommended.

When a rental car is desired, but not required for state business, it is considered personal deviation. A traveler who submits a receipt for a rental car will receive reimbursement for ground transportation for the minimum business itinerary.

Q. I don't want to stay at the hotel that is closest to the meeting location. What are my options?

A. You will be booked at a state-contracted hotel that most closely meets the meeting's minimum business itinerary. There are often several hotels close to the facilities most used for meetings—the Atwood Building in Anchorage and the State Office Building in Juneau.

If you prefer to stay at a hotel outside of walking distance, we will book the hotel mentioned in your written request as long as it has a contract with the state and is under \$300 per night. You will be responsible for any amount over the standard hotel. If it requires one, a rental car or taxi between the hotel and meeting location will be considered

personal deviation, and you will be responsible for any amount over the customary ground transportation. If it is unsafe or impractical to walk due to weather, darkness, or other situations, ground transportation will be reimbursed.

Q. I want to stay an extra day at the meeting location. Can you still book my flight?

A. Yes, and the difference in cost will be deducted from your reimbursement. If the difference is over \$100, then you may opt to purchase your own ticket and receive reimbursement for the flight listed in the minimum business itinerary.

After Traveling:

Q: What documentation do I need to turn in to be reimbursed?

A: Board staff can provide you with a travel reimbursement envelope to help keep your receipts together. Because you are paid a state Meals and Incidental Expenses (M&IE) rate, you do not need to submit meal receipts unless a third-party reimbursement agreement requires it.

Within **FIVE** days of completion of travel, please submit:

- Airport receipt and boarding passes or actual itinerary
- Hotel receipt(s)
- Taxi receipt(s)
- Rental car receipt(s)
- Parking receipt(s)
- If you went to a conference, we will need a final meeting agenda and a registration fee receipt (if you paid for it).

Q: What if I do not have a receipt for my taxi ride?

A: You will be reimbursed up to \$75 for any qualified expense without a receipt. This means if you took a taxi to the airport and back but forgot to get a receipt, you will only get \$75 total for the entire trip. Most taxis cost around \$20-\$30 one way, so it is always a good idea to remember to get the receipt. Please note that taxis for food and entertainment are not reimbursable—only transportation to/from the meeting location or hotel and airport.

Q: The state booked my travel. Do I still need to get a hotel receipt?

A: Yes, we still need to make sure there were only charges that the state allows to be made on the state credit card. If a third party is paying for the hotel, we will still need a receipt to track those expenses for audit and ethics purposes. Please remember that if you had the state book your travel, there should be no taxes on the bill when traveling within Alaska. Check to ensure that room service, mini-bar, fitness, or other hotel charges are not settled to the state credit card. Look over the hotel receipt carefully before checking out and ask for the bill to be split, if necessary.

Q: What is “mileage,” and why do you need my physical address?

A: You are eligible to request reimbursement for the mileage between your house or place of work to the airport and back if you live more than 50 miles from the airport/meeting location. In order to give you the correct mileage, we need the physical address of your house or place of work so that we can have an accurate calculation. Please make sure to include a note with your receipts if you drove to the airport from a different location than you usually do so that we can give you the correct reimbursement for mileage.

Q: I drove to the board meeting. Why am I not getting reimbursed for all the mileage between locations?

A: If the amount of the mileage is greater than what a plane ticket would cost, you will only be reimbursed for the amount of the minimum business itinerary plane ticket. Also, reimbursement is only available to/from your “duty station,” which is the city in which you claim as your primary location. So, if you are driving (or flying) from a different location, you will receive reimbursement for the lesser of the two legs. For example: If you live in Anchorage but are flying to a Fairbanks meeting while on vacation in Seattle, you will only receive reimbursement for the value of the ANC-FAI flight, unless your actual expense is lower.

Q: I live in the city that the board is meeting in. What am I reimbursed?

A: You may request reimbursement for meals for the time when you are at the board meeting, which is typically lunch. You are also reimbursed for parking if applicable, but remember to get a receipt. Please remember to give the travel planner your exact physical address so you are reimbursed accurately.

Q: I took a trip where part of the travel is being booked or reimbursed by a third party. What do I need to turn in?

A: We need to know the amount the third party paid for airfare and hotel and need all the receipts for travel even if some or all expenses are being paid for by a third party. This is required for state auditing purposes. All expenses must be settled between the Travel Desk and the third party after your travel has been finalized. Board members are not allowed to accept payment from third parties. All payments must be made to the State of Alaska, and any checks to board members must be turned in to the office immediately. Please do not submit receipts directly to the third party; division staff will handle this.

Q: How do I know how much per diem I will be reimbursed?

A: Per diem is determined by the minimum business itinerary and how long you are in travel status during mealtime portions of the day (see chart below). If you are traveling in-state, you will be reimbursed using the state authorized per diem (also called M&IE) rate. If you travel out of state, you will receive the federal rate for your destination. The first and last days of travel will be paid a flat 75% of the daily per diem.

Q: I was only able to attend the meeting for a few hours. Will I be reimbursed?

A: To be eligible, you must be in travel status during the meal allowance period for at least three consecutive hours to receive reimbursement for that meal and the daily incidental amount.

Other Questions:

Q: I am a volunteer—not an employee of the State of Alaska. Why do I need to follow your rules?

A: Board and commission members are appointed by and serve at the pleasure of the Governor. When you are performing board business, you represent the State of Alaska. When you travel for the State of Alaska, you are treated like an employee and thus must follow the same rules that an employee must follow.

The travel policies of the State of Alaska are adopted by the Commissioner of the Department of Administration in accordance with AS 39.20.160. State agencies and Travelers are required to comply with these policies whenever traveling on state business and are prohibited from adopting their own policies that differ from statewide policies without the approval of the Commissioner of Administration. (AAM 60.010)

Q: How do I know that the trip I want to take is “state business”?

The term “state business” applies when the purpose of the trip can be reasonably related to the person’s role as a board member. This relationship may not always appear black-and-white, such as traveling to represent the board as a delegate. The division will look for elements such as whether the event that is primarily marketed to or attended by members of state boards; whether the board member would otherwise be attending if not for his or her service on the board; and other reasonable connections between board service and the event.

Q: Travel planners use a lot of terms that I do not know. What do they mean?

A: Here is a list of commonly used terms that are used for travel:

- Travel Planner: Individuals within each department that support travelers by making travel arrangements, explaining policies, ensuring travel is approved prior to purchase, and ensuring reimbursement occurs timely after travel is complete.
- Traveler: A person employed by the state, a board member, or volunteer that travels for state business outside their duty station.
- M&IE: Meals and incidental expense allowance. Incidental expense includes tips and other personal costs of travel. Also known as *per diem*.
- Residence: The location, or within 50 miles thereof, where the traveler maintains their primary dwelling.
- Duty Station: The city, town, or village within 50 miles of where the traveler spends the major portion of their working time.
- Travel Authorization (TA): The form that must be completed to show travel related expenses. This is completed by the travel planner.
- Minimum Business Itinerary: Travel plans that fit with the state-authorized business trip, without any personal travel.

Q: Where can I find more information on travel?

A: We are glad you asked! Please visit <http://doa.alaska.gov/dof/travel/index.html>. Here you can find more FAQs and all of the travel policies you may ever want to know. The best way to contact any of the planners at the division Travel Desk is by e-mailing 08occlctravel@alaska.gov.

XI. Professional Licensing Finances: How Do They Work?

The division, including the business licensing and corporations sections, is authorized revenues and expenditures in the budget adopted annually by the Alaska State Legislature. The division's annual budget is published by the Office of Management and Budget; fiscal year 2023 is shown below as an example in Figure 1 as the *Final FY23 Enacted Operating Budget*. Once the budget is signed into law by the Governor, it goes into effect for the next fiscal year, which begins July 1. Any adjustments to the current year's budget are adopted as incremental or decremental supplements by the legislature during Legislative Session. In the table below the amounts are in thousands, e.g., multiple by 1,000 to get the actual dollar figure.

FIGURE 1: FY23 CBPL OPERATING BUDGET (DOLLARS IN THOUSANDS):

| Component: Corporations, Business and Professional Licensing (2360) | | | |
|--|---|---|---|
| RDU: Corporations, Business and Professional Licensing (117) | | | |
| | FY2022 Management Plan + Supps (19366) | FY2023 OMB Conference Comm Track (19330) | FY2023 HB281 Final Enacted (19383) |
| 1000 Personal Services | 10,458.8 | 10,153.5 | 10,153.5 |
| 2000 Travel | 269.5 | 269.5 | 269.5 |
| 3000 Services | 6,787.5 | 6,720.5 | 6,720.5 |
| 4000 Commodities | 143.9 | 83.9 | 83.9 |
| 5000 Capital Outlay | 7.4 | 7.4 | 7.4 |
| 7000 Grants, Benefits | 0.0 | 0.0 | 0.0 |
| 8000 Miscellaneous | 0.0 | 0.0 | 0.0 |
| Totals | 17,667.1 | 17,234.8 | 17,234.8 |
| Funding Sources: | | | |
| 1004 Gen Fund (UGF) | 1,934.6 | 1,198.3 | 1,198.3 |
| 1005 GF/Prgm (DGF) | 1,614.5 | 1,607.9 | 1,607.9 |
| 1007 I/A Rcpts (Other) | 1,022.8 | 1,035.1 | 1,035.1 |
| 1040 RE Rec Fnd (DGF) | 297.4 | 301.1 | 301.1 |
| 1108 Stat Desig (Other) | 32.6 | 32.6 | 32.6 |
| 1156 Rcpt Svcs (DGF) | 12,765.2 | 13,059.8 | 13,059.8 |
| Funding Totals: | | | |
| Unrestricted General (UGF) | 1,934.6 | 1,198.3 | 1,198.3 |
| Designated General (DGF) | 14,677.1 | 14,968.8 | 14,968.8 |
| Other | 1,055.4 | 1,067.7 | 1,067.7 |
| Federal | 0.0 | 0.0 | 0.0 |
| Positions: | | | |
| Permanent Full Time | 100 | 102 | 102 |
| Permanent Part Time | 0 | 0 | 0 |
| Non Permanent | 0 | 0 | 0 |

The division's operating budget is annually around \$17 million; however, the division receives very little general funds from the legislature. Receiving general funds was a temporary way to offset licensing costs during the pandemic. Instead, the division is granted authority to spend the funds collected through licensing fees. This authority to collect fees is indicated in Figure 1 as 1156 Rcpt Svcs (Receipt Supported Services, e.g., licensing fees). The total expenditure authority includes all aspects of administration of all professional and business licensing programs, board activity, corporation registration, and investigation expenses.

Licensing program revenues and expenditures are tracked in the accounting system for each license type. However, the total spending authority is shared among all division activities. Each licensing program does not have its own budget, rather the division uses cost accounting to manage expenditures and fee setting authority to increase and decrease fees as needed while staying within the division's total authority.

Spending authority gives the green light to expend revenues collected through licensing fees up to the stated limit in each functional area (numbers on the left are the account code series):

| | |
|--------------------------------|--|
| 1000 Personal Services: | Payroll and benefits for division staff (licensing, investigations, administration) |
| 2000 Travel: | All travel expenses for board members, staff, and investigators |
| 3000 Services/Contractual: | Agreements with other agencies to perform services outside the division’s expertise, including LAW, OAH, fingerprinting by DPS, inspections by DEC and DOLWD, etc. Contracts with vendors to provide services outside the state’s purview, such as printer maintenance, professional testing, program-specific consulting, board memberships, advertising meetings, postage and mailing |
| 4000 Commodities/Supplies: | Consumable supplies, such as paper, pens, envelopes, and staples |
| 5000 Equipment/Capital Outlay: | Major durable purchases, including computers, desks, and office equipment |

These functional areas shown in the division budget are the same as board members receive in the Quarterly Schedules of Revenues and Expenditures for their licensing programs and in the division’s Annual Report to the Legislature, the summary of which is included in this report. (The entire report, including individual licensing program detail, is published quarterly on the [Division Reports](#) web page.) This consistency allows board members to compare how their expenditures fit within the division’s overall spending authority—including all expenses for professional licensing functions and investigations for 45 programs, corporations and business licensing, and administrative support for each of these sections of the division.

Professional Licensing Fee-Setting Process

The division is tasked in statute (AS 08.01.050) with proper administration of licensing fees, revenues, and expenditures. The state’s professional licensing activities are funded wholly by “receipt supported services.” This means that by statute, all costs must be covered by licensing fees.

State law delegates the responsibility for fee-setting to the division, which in turn shall consider the board's recommendations when proposing changes to that program’s fees. It requires the division to “annually review each fee level to determine whether the regulatory costs of each occupation are approximately equal to fee

collections.” The annual review informs fee-setting for the biennial licensing period—a cycle that, by design, collects a program’s significant source of revenue only once every two years.

Because AS 08.01.065 requires the division to assess fees that approximate the cost of that particular licensing program, boards should not maintain too large a roll-forward surplus or carry too extreme a deficit. If a licensing program collects a higher fee amount than needed, those funds carry forward within the program from one fiscal year to the next. The surplus may provide a future benefit to the licensees by allowing fees to be maintained or lowered and for use to offset ongoing program-specific expenses. Conversely, if the amount collected is not adequate to cover expenses, that deficit carries forward as a liability for the program the next fiscal year. This often results in fee increases for the next renewal or—if the deficit is significant—the deficit can be amortized through incremental increases over multiple licensing periods.

When licensing fees are set by the division in regulation, the most important criterion is the cost of running the licensing program. Alaska’s “economy of scale” means that providing the same customer-facing services, legal processes, and staffing levels costs more than other jurisdictions. Alaska may have ¼ the number of licensees to cover the same foundational services, so the cost per licensee will necessarily be higher in this state. The board can offer the division insight into market forces that inform fee-setting, which the director can consider in the regulation process.

Board and Commission Review of Fiscal Documentation

Your board’s staff liaison will include any updated recent documentation of the board’s most current finances in your meeting materials. In your board meeting packet, you will receive:

- Quarterly Schedule of Revenue & Expenditure (i.e. the board’s quarterly report)
- Breakout of direct program expenditures

The fourth quarter report will contain all year-end revenue and expense information, including the final annual indirect allocation, as well as additional fiscal back-up documentation.

Board meetings may happen more frequently than new reports are published, which may result in a meeting without updated financial information. Please keep that in mind as meetings are scheduled.

Report publication schedule:

- 1st Quarter (July-September) = Reports ready the 15th of November
- 2nd Quarter (October-December) = Reports ready at the end of January
- 3rd Quarter (January-March) = Reports ready at the end of April
- 4th Quarter (April-June) = Reports ready mid-October

Due to the statewide year-end financial close-out process, the raw data to produce final end-of-year reports becomes available September 1. Reporting for the various agencies within the department then requires additional time, so a little “radio silence” between May and October is necessary. Once these data are final, though, final reports will be issued, followed shortly by each program’s first-quarter report.

When final year-end reporting is complete, each board member will receive a copy via email from their staff liaison, and these documents will also be included in board packets for the first regular meeting following this report. The division requests a little more time at the subsequent board meeting to walk the year-end documents, including how indirect expenses are calculated.

Direct Expenses

Direct expenses are incurred specifically on behalf of the licensing program in implementation of the administrative and investigative responsibilities enumerated in statute to the division and/or a board appointed by the Governor. These expenses are broken out by non-investigative and investigative expenses.

Personal services charges (account code 1000) include the salaries and benefits of division staff working directly on behalf of a program—typically a licensing examiner, a supervisor, and an investigator. Some programs may also directly utilize the services of an office assistant, project assistant, regulations specialist, paralegal, or executive administrator. Many licensing programs share staff, so only the time actually worked on their activities is charged to that program’s code. This is usually accounted in 15-minute increments on an employee’s time sheet.

Travel expenses (2000) for board members, licensing staff, and investigators working in support of a specific licensing program are charged to that program. Travel through the state system requires adherence to the state travel policy, which is outlined in a separate chapter. Travel arranged directly through associations after obtaining pre-approval from the CBPL director will not reflect in a program’s 2000 line of expenses. However, travel reimbursed to the state will show up as “allowable third-party reimbursements” on your program’s quarterly report.

Contractual expenses (3000) include services provided by agencies outside the division. These costs predominantly represent advice provided by an attorney with the Department of Law in conjunction with board meetings, regulations, enforcement, or appeals of board decisions through the Office of Administrative Hearings or appellate courts. They may also include expenses for licensing examinations, facilities usage, expert witnesses, credit card fees, FedEx, and other similar contracts required to support the mission of the program.

Supplies (4000) and equipment (5000) used for a program are usually fairly minimal and may include computer technology, office supplies, and other tangible resources requested by a specific employee to meet the needs of their program(s). Equipment and supply requests are reviewed by a supervisor and purchased by the department through processes required by the state’s procurement code.

Indirect Expenses

Indirect expenses are services and expenses that are not directly attributable to a singular program or profession. Within the Division of Corporations, Business & Professional Licensing (CBPL), costs meeting this criterion are charged to one administrative code, then allocated among the two revenue-generating units of the division: (1) Corporations and Business Licensing and (2) Professional Licensing.

CBPL's indirect costs include:

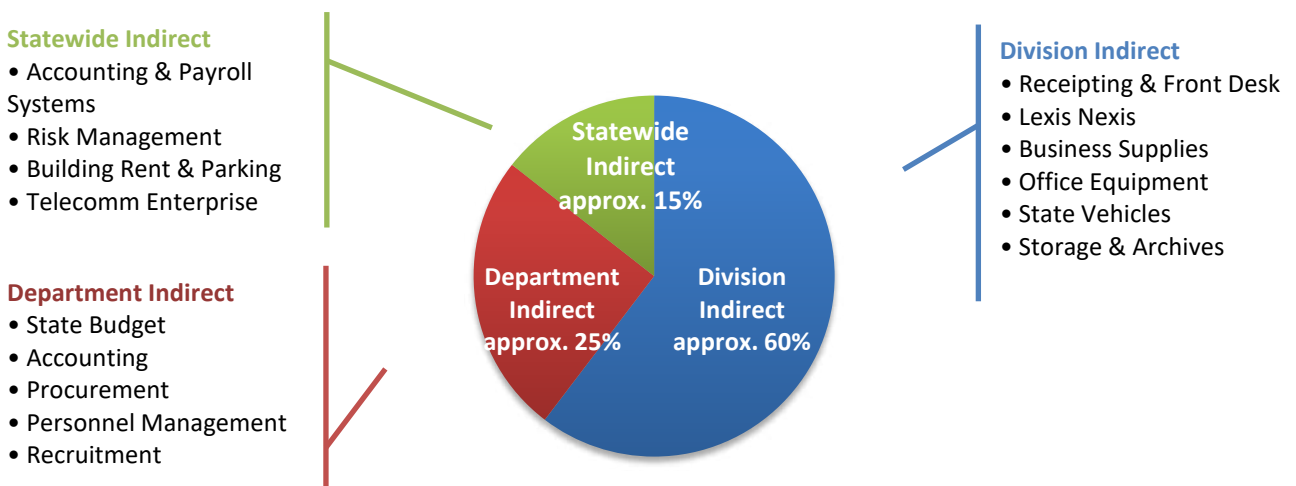
- Personnel costs for CBPL division management, front desk staff, and certain employees performing services for multiple programs that would be excessively burdensome to track by program.
- Travel for management that is not directly chargeable to a singular program.
- Various services and commodities used by all programs, such as software and database subscriptions, offsite records storage, purchase/lease and maintenance of printers and copiers, and other shared supplies and equipment.

It is more cost-effective for the division to share certain central resources with other agencies in the department and across the state. Department cost allocations, to which every department agency contributes, include services of the Commissioner's Office and the Division of Administrative Services (DAS). Costs are distributed equitably in accordance with a plan approved by the Office of Management and Budget and reviewed annually by the division and department fiscal teams.

Included in this indirect allocation are:

- Department-wide functional support areas, including fiscal oversight and accounting, network services and support, software programming and support, human resources, and procurement
- Statewide core costs for services that every state agency receives, including payroll, human resources, risk management, accounting systems, mail services, state-owned building rental, parking garages, Microsoft licenses, enterprise computer services, computer anti-virus protection, telecom support services, and virtual private networks, ADA management and compliance, among others in Figure 2:

FIGURE 2: BREAKDOWN OF INDIRECT ALLOCATION TO CBPL:



Indirect Expense Allocation Methodology

The division has adopted several reporting mechanisms that ensure board members, licensees, and the public receive transparent fiscal details. One area clarified through this process was to codify a reasonable, defensible, justifiable method of allocating indirect expenses to the division from the state and department levels—and then within the division across the work units and various licensing programs. This deep and regular analysis of indirect costs results in implementation of three indirect allocation methodologies:

- 1) Allocating costs, both statewide and departmental, to agencies based on PCN, or position, count. Wherever possible, the division should be consistent with the statewide and department allocation methodology. This methodology is based on percentage of time coded to each program; these percentages are driven by payroll reports for each position.

Examples of CBPL indirect expenses now allocated by PCN count are indicated by account code; a full explanation of each line of account code can be found on the Department of Administration's website. A high-level report is provided in board reports.

- 2) Allocation of personal services costs for administrative and accounting activity during high-volume renewal cycles. An annual review of transactions by fiscal revenue provides an accurate allocation of administrative and fiscal staff time based on the number of transactions processed for each program in the department's receipting system.

- 3) Allocation of costs based on percentage of licensees for the licensing program/board. Many expenses are scalable according to the size of the licensing program. Where applicable, a program with more than 5,000 licensees will be charged more than a program with 500 licensees for the service.

These allocation methodologies and the resulting indirect costs are provided in writing to each board in the fall after the annual fiscal year is closed out. A verbal report by division management is offered to each board as part of the next meeting's division update. Board members are encouraged to read the reports, attend the meetings where explanations are provided, and ask questions at any time.

XII. Evaluating Your Board...and Yourself

Feedback is the gift of awareness. Without awareness, boards have no real knowledge of their strengths and weaknesses, successes and failures, realities and perceptions, or positive and negative impacts.

How easily could your board fall into one of these situations without realizing it:

- The chair adjourns, praising the members for an extremely efficient meeting. The next week, the chair discovers that a hasty deliberation and quick vote just to get to lunch on time resulted in the board's passage of a decision that violates state law. All activity on the issue has to stop until the attorney can meet with the board the following month, secure their withdrawal of the vote, and ensure that any replacement action is legal.
- Members who are licensees of the profession they govern are deliberating on scope of practice issue by using jargon and terminology specific to specialized practice. Instead of explaining and providing supplementary material to the public member, they railroad him into voting for something he hasn't had the opportunity to learn about.
- A board member takes great pride in her success as a professional—however, she shuts people down midsentence, solicits feedback from friends in the public gallery during the business session, and pressures the chair to change the agenda midday because she wants to get to a certain topic she cares about. Her personality is so offensive that several members are considering resigning from the board.
- During a long, drawn-out discussion, two board members turn on their cell phones and disengage from the discussion. Once the chair requests their input, they jump in with active support for the same controversial viewpoint. A member of the public notices this and files a complaint with the Ombudsman that they were texting about the vote, thus violating the Open Meeting Act. The controversial vote wins, the board is sued, and the members' cell phones are subpoenaed and confiscated.

Tough situations can and will arise during service on a regulatory board or commission. These types of surprises, however, can be avoided if members invest in regular, *active* evaluation of board practices and of their own contributions to the process.

Simply filling out the evaluation form is not enough to qualify as active evaluation. Analysis of the responses and communication with members about their needs and contributions deepens the experience of individual members, sowing the ground for a more fertile harvest of ideas, insights, and outcomes.

Following are two evaluation forms that boards and commissions are encouraged to use after each meeting or at least quarterly to ensure awareness becomes the cultural norm. The OnBoard meeting platform also offers a meeting evaluation function. This is an easy entry into the exercise of creating a meaningful feedback loop.

Chambers' Hierarchy of Effective Regulators

FLOURISHING

Leading initiatives to reform public law, contributing to national or statewide licensure movements, questioning foundational assumptions about regulation

ENGAGING

Initiating reviews of existing statutes and regulations, researching best practices of licensure in other states, pursuing workgroups with sister agencies on topics of public interest

PARTICIPATING

Speaking up during discussions, reading the minutes before approving them, asking questions about license applications

MAINTAINING

Holding required meetings, approving minutes, voting on license applications

UNDERMINING

Missing meetings, on cell phone during the meeting, falling asleep, leaving or unresponsive during the meeting, arguing with other members, dismissing others' input, being unprepared, holding on to biases, voting with special interests in mind, treating others with disrespect.

MEETING EVALUATION

Board/Commission: _____ Date: _____ Member Name _____

| Goal | Agree | Needs Improvement | Suggestions for Improvement |
|--|-------|-------------------|-----------------------------|
| 1. The agenda was clear, supported by the necessary documents, and circulated prior to the meeting. | | | |
| 2. All board members were prepared to discuss materials sent in advance. | | | |
| 3. Documents were clear and contained needed information. | | | |
| 4. A variety of opinions was expressed and issues were managed in a respectful manner. | | | |
| 5. The chair guided the meeting effectively and members participated respectfully and responsibly. | | | |
| 6. Next steps were identified and responsibility assigned. | | | |
| 7. All board members were present. | | | |
| 8. The meeting began and ended on time. | | | |
| 9. Meeting accommodations were satisfactory. | | | |
| 10. Presentations/interaction with public and guests was appropriate, productive, and efficient. | | | |
| 11. The board had enough information to make good decisions on issues. | | | |
| 12. The objectives of the meeting were met or appropriately tabled until a subsequent scheduled meeting. | | | |

Other Comments (What went well, what needs to be done better next time):

Board/Commission Member Self-Evaluation

Indicate the degree to which you think you meet each of the following expectations. Follow by completing the Personal Action Plan, then sign and date.

| E: Excellent S: Satisfactory NI: Need Improvement I: Inadequate UR: Unable to Rate (indicate why) | | | | | |
|--|---|---|----|---|----------|
| | E | S | NI | U | UR: Why? |
| KNOWLEDGE | | | | | |
| I know and understand the board’s mandate, mission, and vision. | | | | | |
| I know and understand the statutory requirements related to the board. | | | | | |
| I know and understand the regulatory framework of the board. | | | | | |
| I am conversant and knowledgeable of the issues before the board and facing its stakeholders. | | | | | |
| I understand the distinction between the board’s governance and division’s management roles. | | | | | |
| I understand and utilize the board’s processes for decisionmaking. | | | | | |
| I understand and adhere to the board’s processes for communication with each other, with the division, and with stakeholders. | | | | | |
| PREPARATION AND PARTICIPATION | | | | | |
| I review all board meeting material sent before the meeting, and I am able to demonstrate a reasonably comprehensive knowledge of the material during the meeting. | | | | | |
| I attend and fully participate in all meetings. | | | | | |
| I contribute fully to board discussions and debates and participate in its decisions by voting unless formally recused by the chair. | | | | | |
| I facilitate consensus building and commitment towards the board’s mission and its implementation. | | | | | |
| CONDUCT | | | | | |
| I abide by the board/state codes of ethical conduct and support my fellow board members in meeting this standard. | | | | | |

| | | | | | |
|--|--|--|--|--|--|
| | | | | | |
| I treat all members of the board, staff, and guests with respect. | | | | | |
| I raise issues in a respectful manner that encourages open discussion. | | | | | |
| I understand and respect the power, authority, and influence associated with my role as a board member and do not misuse this trust for personal gain. | | | | | |
| I avoid situations that may pose or be perceived as having a possible conflict of interest. | | | | | |
| I disclose all potential conflicts of interest, whether financial or relating to ex parte communication, in writing to the chair and on the record at the beginning of a public meeting. | | | | | |
| DECISIONMAKING | | | | | |
| I always act objectively and in the best interests of the public. | | | | | |
| I engage in decisionmaking that is within the purview of the board. | | | | | |
| I consult statutes and regulations to ensure I am following the law. | | | | | |
| I am fair, impartial, and unbiased in my decision making. | | | | | |
| I am flexible in my thinking; I listen to the perspective of my fellow members prior to determining my final vote on any matter. | | | | | |
| I consider the perspectives, input, and suggestions received on proposed regulations during the written or oral public comment period before voting. | | | | | |
| I base my decisions on all the facts at hand and strive to be consistent when facts are similar. When inconsistent with past decisions, I state my reasons on the record. | | | | | |
| I redirect matters to board staff as appropriate. | | | | | |
| ACCOUNTABILITY | | | | | |
| I ensure that I understand the fiscal structure of the licensing program and its current financial position. | | | | | |
| I publicly support the decisions of the board and provide rationale when asked. | | | | | |
| I maintain confidentiality with all information coming into my possession. | | | | | |
| My fellow board members would agree with my responses on this self- | | | | | |

| | | | | | |
|--|--|--|--|--|--|
| assessment. | | | | | |
| EVALUATION | | | | | |
| I participate in the ongoing monitoring and evaluation of the board's goals and priorities and my performance in furthering them. | | | | | |
| ADDING VALUE | | | | | |
| I anticipate future needs and issues facing the organization and proactively contribute this to the environmental scan. | | | | | |
| I demonstrate my independent judgment through my willingness to respectfully voice my concerns, take an independent stand, or espouse an unpopular or controversial idea when in the public's best interest. | | | | | |
| PERSONAL ACTION PLAN | | | | | |
| What did I learn from this self-evaluation? | | | | | |
| Did I improve in my previously identified areas for development? How do I know this? | | | | | |
| What areas would I identify for self-improvement at this time? | | | | | |
| What actions will I take to continually improve in this area(s)? | | | | | |
| Are there any possible barriers to implementing my strategies? | | | | | |
| Are resources required to meet my improvement of these goals? What are they? | | | | | |
| I will hold myself accountable by: | | | | | |
| Additional thoughts and comments: | | | | | |

Optional: Please submit this self-evaluation to board staff at the end of the meeting. Your board chair or staff will review each confidentially to deliver additional support, training, or resources. The evaluation will be returned to you so you can monitor your own accountability to the plan you've created. Sign below to indicate your dedication to continued excellence and improvement as a valued member of this board or commission.

Name Signature

Board or Commission Date

XIII. Updates to This Guide

The Department of Commerce, Community, and Economic Development strives to be an efficient and effective partner in meeting the boards' obligation to ensure that competent, professional, and regulated commercial services are available to Alaska consumers.

From time to time, this manual may be updated as regulations or policies change or as new tools become available to assist boards and commissions in fulfilling their important role in this partnership.

First Issued: July 2012

Updated: January 2015, August 2016, December 2016, September 2023

The manual was last reviewed in full by Assistant Attorneys General with the Department of Law in August 2016.

Should you have question about the contents of this manual or suggestions for future training materials, please contact the Department Boards and Regulations Advisor at 907-465-2144.

Additional credit for certain contents:

- Alaska Department of Law
- The Council on Licensure, Enforcement, and Regulation (CLEAR) and its member agencies
- The staff of the Division of Corporations, Business and Professional Licensing
- Alaska Department of Administration; Division of Finance
- Nathan Garber & Associates
- Balanced Scorecard Institute
- Professional Standards Authority

XIV. Comments and Suggestions

At any time, please complete this form and return to the Department Boards and Regulations Advisor:

MAIL: P.O. Box 110800, Juneau, AK 99811-0800
 EMAIL: sara.chambers@alaska.gov
 PHONE: 907-465-2144

1) This guide helped increase my knowledge of:

| | Agree | Somewhat Agree | Somewhat Disagree | Disagree |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| Purpose and Role of a Board/Commission Member | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Decisionmaking | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Right-Touch Regulation | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Executive Branch Ethics | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Conflicts of Interest | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Open Meetings Act | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Public Notice | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Executive Session | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ex Parte Contact | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Travel | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Finances | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Strategic Planning | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Investigations | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Adopting Regulations | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Meeting Procedures | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Making Motions | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Quorum and Voting | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Board/Staff Relationship | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Evaluation | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Other: | | | | |

2) I would like future manual revisions to include more information about:

3) Other comments/suggestions:

Appendices

Motion Worksheet

Executive Session Motion Template

Regulation Project Opening Questionnaire

Electronic Payment Agreement

Substitute Form W-9

Board Member Travel Approval Request Form

EXECUTIVE SESSION MOTION TEMPLATE

Authority

Only topics authorized in the list below can be discussed in executive session.

AS 44.62.310. Government meetings public.

(c) The following subject may be considered in an executive session:

- (1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
- (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (3) matters which by law, municipal charter, or ordinance are required to be confidential;
- (4) matters involving consideration of government records that by law are not subject to public disclosure.

Motion Wording

*Use this script to craft the motion to enter executive session by selecting one item from the statutory citation list and then adding all the people who the board would like to include. When meeting with an Administrative Law Judge, only the board can be present. The board member making this motion will read the parts in **bold** on the record.*

“In accordance with the provisions of Alaska Statute 44.62.310 (c), I move to go into executive session for the purpose of discussing

Select one item from this list:

- matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity.**
- subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion.**
- matters which by law, municipal charter, or ordinance are required to be confidential.**
- matters involving consideration of government records that by law are not subject to public disclosure.**

If applicable, select who should be included in the executive session with the board and include them in the motion:

- Board staff**
- The board’s attorney**
- The applicant**
- _____

to remain during session.”

Board or Commission Regulation Project Opening Questionnaire

Board: _____

General subject matter/topic: _____

Regulation(s) to be amended: 12 AAC _____

Companion regulations (fees, related regulations proposed by other boards, etc. if applicable): _____

Instructions:

- (1) The purpose of this worksheet is to provide the agency's regulation specialist with a detailed an overview of the proposed regulation change(s), including specific information as required by statute or the Department of Law.
- (2) Details should be kept brief, succinct, and comprehensive. If a section of the form is not relevant to the project, please mark it as "N/A." Do not leave any sections blank.
- (3) The board section of this worksheet must be completed by the board during a meeting or delegated to a board member, then submitted to agency staff.
- (4) The regulation specialist may reach out to staff or board members at any stage during the project for additional information needed to compile the FAQ. The FAQ will be posted in the Online Public Notice System and on the board website during the public comment period.
- (5) A draft of the proposed changes and excerpt of board minutes reflecting their discussion and vote must be attached to the completed worksheet and submitted to the Regulations Specialist within 10 days of the meeting.
- (6) If the proposed regulation changes comprise more than one subject matter, the board must complete a separate worksheet for each subject. For example, if the intent is to (a) update continuing education requirements for license renewals, (b) repeal redundant provisions, and (c) introduce new regulations following statutory changes, the board would submit a total of three worksheets, one for each the subjects (a), (b), and (c).

TO BE COMPLETED BY THE BOARD OR A DESIGNATED BOARD MEMBER:

| |
|--|
| <p>1. Has the board passed the following motions on the record:</p> <ul style="list-style-type: none"><input type="checkbox"/> Approve draft language to initiate a regulations project<input type="checkbox"/> Approve for public comment, unless substantive changes are made by regulations specialist or Department of Law<input type="checkbox"/> Approve an oral hearing on the proposed regulations (if applicable) <p>Date of the meeting:</p> |
| <p>2. What will the regulation do?</p> |
| <p>3. What is the public need or reason for this regulation?</p> |
| <p>4. What is the known or estimated annual cost of the new regulation to a private person, another agency, or a municipality?*</p> |
| <p>5. How will this have a <u>positive</u> or <u>negative</u> impact on public or private people, businesses, or organizations?</p> |

| | |
|--|---|
| <p>6. If any <u>negative</u> consequences, please address the reasons why the public need for this change outweighs the negative impact.</p> | |
| <p>List any additional questions or comments that may arise from licensees, stakeholders, or the public during the comment period: What concerns or issues might they raise about the proposal? Will the new regulations affect licensees or the public in dramatic ways? Are there unintended consequences to the proposal? Include the board's response to the questions. This information will be included on the FAQs.</p> | |
| <p>8. In addition to the 30-day minimum written notice, does the board request a public hearing? If yes, when and where.</p> | |
| <p>9. Does the change add a new license type?</p> <p>If yes:</p> <p> Does it affect current licensees?</p> <p> Do current licensees/non-licensees already perform the service for which the new license type is required?</p> <p> Is a date included in the regulation to allow for a transition period?</p> | <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> |
| <p>10. Does it affect continuing education/competency requirements?</p> <p>If yes:</p> <p> Does it add additional requirements or hours?</p> <p> Does it clarify existing regulations?</p> <p> Is there an effective date in the future to give licensees time to comply?</p> | <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> |
| <p>11. Does it require a fee change or a new fee in centralized regulations?</p> <p>If yes, please explain:</p> | <p>Yes No</p> |
| <p>12. Does it make changes to the qualifications or requirements of licensees?</p> <p>If yes:</p> <p> All licensees</p> <p> Only initial licensees</p> <p> Certain licensees (List types)</p> | <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> |
| <p>13. Is the new regulation required by a certain date?</p> <p>If yes:</p> <p> What is the date the regulation should be effective?</p> <p> Explain the reason (statute change, renewal qualifications, etc.):</p> <p> Is a date included in the regulation to allow for a transition period?</p> | <p>Yes No</p> <p>Yes No</p> |
| <p>14. In addition to interested parties, who should receive public notice?</p> <p>All licensees</p> <p>Certain license types (list them): _____</p> <p>Other stakeholders: _____</p> | |

15. What is the date of the next meeting when the board plans to address regulations?

TO BE COMPLETED BY LICENSING STAFF:

| | |
|---|--------|
| 16. Will implementation include changes to official public forms or internal checklists? If so, please provide a list of form numbers to the publications specialist to initiate the forms revision process. | Yes No |
| 17. If a public hearing was requested by motion, please include complete teleconference details: | |
| 18. Have you attached an excerpt of the meeting minutes that reflects: <ul style="list-style-type: none">• Board discussion about the proposal• Draft language of the proposal• Motion reflecting intent to propose the draft language, including approval for public notice if no significant changes are made by the regulations specialist or drafting attorney | Yes No |

Staff submitting this worksheet: _____ Date submitted to Regulations Specialist: _____

* Cost information is described simply as an estimate of annual costs within the board's ability to determine due to its familiarity with the regulated community. *Example:* A board is proposing to require three CE credits to their continuing competency standards for biennial license renewal. The proposal requires licensees to take additional courses, so it may cost:

- A private person: \$50-\$200 per applicant/licensee biannually
- Another state agency: None known
- A municipality: None known

STATE OF ALASKA

ELECTRONIC PAYMENT AGREEMENT

Mail completed form to:
 DEPT OF ADMINISTRATION / DIV OF FINANCE
 PO BOX 110204 / JUNEAU AK 99811-0204
 or FAX to: (907) 465-2169
 Questions? Call (907) 465-5622

** Indicates required field.*

FOR VENDORS DOING BUSINESS WITH THE STATE OF ALASKA

PAYEE INFORMATION

| | | | | | |
|---|-------------------|---------------------------|---|--|--|
| STATE OF ALASKA VENDOR NUMBER | | TAXPAYER ID - SSN / EIN * | | <i>ID number assigned to the legal name below and used for tax reporting</i> | |
| LEGAL NAME * <i>(Name that Tax ID above is assigned to and is used for tax reporting)</i> | | | | | |
| BUSINESS NAME <i>(DBA - Doing Business As Name. If different from legal name shown above)</i> | | | | | |
| IS MAILING ADDRESS NEW? * <input type="radio"/> YES / <input type="radio"/> NO | MAILING ADDRESS * | CITY | STATE | ZIP CODE + 4 | |
| CONTACT NAME | DAYTIME PHONE * | CONTACT EMAIL ADDRESS | EMAIL ADDRESS <i>for copies of remit advice</i> | | |

BANKING INFORMATION

The State of Alaska sends a pre-note zero dollar test transaction to verify the accuracy of the banking information below. Payments will not be sent electronically until the pre-note process is complete, generally five business days. The State of Alaska will contact you if the pre-note fails.

ARE YOU ADDING, CHANGING *(must provide PRIOR acct info)* OR CANCELLING THIS AGREEMENT? *

Please attach a voided check or other bank verification of account number as applicable

| CURRENT ACCOUNT INFORMATION * | | PRIOR ACCOUNT INFORMATION <i>(for Changes only)</i> | |
|--|---|--|---------------------|
| FINANCIAL INSTITUTION NAME | ACCOUNT TYPE | <i>For verification purposes you must provide your prior account information if you are requesting a change.</i> | |
| ACCOUNT NAME <i>(Business / Legal Name on Account)</i> | <input type="radio"/> Checking <input type="radio"/> Savings | ABA/ROUTING TRANSIT NUM | FULL ACCOUNT NUMBER |
| ABA/ROUTING TRANSIT NUMBER | FULL ACCOUNT NUMBER | | |

IS THIS ACCOUNT PRIMARILY A PERSONAL OR BUSINESS ACCOUNT? * PERSONAL - OR - BUSINESS

FOR BUSINESS ACCOUNTS. Choose ONE of the business account addenda information format options below.

Payments deposited separately with one addendum (remittance) record for each payment. Payments combined into one deposit with multiple addenda (remittance) records for each payment in the deposit.

NACHA Operating Rules requires your banking institution to provide you with addenda (remittance) information that the State includes on each payment. Any banking charge to receive this information is the responsibility of the account holder.

AGREEMENT AND AUTHORIZATION

I hereby authorize the State of Alaska to satisfy payment obligations due me by making deposits to the account indicated above. I understand that receipt of the electronic fund transfer(s) will fulfill the State's payment obligation and the State will be credited for the full amount on the date the fund transfer is completed. I understand the State will make a reasonable effort to notify me within 24 hours if a reversing entry is made against this account. This authority is to remain in full force through the duration of this agreement. I understand that thirty (30) days written notice is required if I change financial institutions, account numbers or type of account.

In addition, as required by the Federal Office of Foreign Asset Control in support of U.S.C. Title 50, War and National Defense, I attest that the full amount of my direct deposit is not being forwarded to a bank in another country and that if at any point I establish a standing order with my receiving bank to forward the full direct deposit to a bank in another country, I will inform the State of Alaska immediately.

I certify all information regarding this authorization is true and correct. Any intent to falsify information is punishable under AS 11.56.210 as a class A misdemeanor.

If the State discovers that the full amount of a direct deposit has been forwarded to another country or if information on the form has been falsified, this agreement shall be terminated. All correspondence with the State concerning this agreement or any changes to account information should be sent to the address at the top of this form. All terms remain in effect until this agreement is terminated by either party.

| | |
|----------------|--------|
| PRINTED NAME * | TITLE |
| SIGNATURE * | DATE * |



State of Alaska
 Department of Administration
Substitute Form W-9

Questions? Email DOA.DOF.Vendor.HelpDesk@alaska.gov

RETURN COMPLETED FORM TO:

Department of Administration
 Division of Finance
 P.O. Box 110204
 Juneau, AK 99811-0204
 Or FAX to: (907) 465-2169

DO NOT send to IRS

Taxpayer Identification Number (TIN) Verification

The Internal Revenue Service requires the State of Alaska to issue 1099 forms when payments to individuals, partnerships or limited liability companies for rents, services, prizes, and awards meet or exceed \$600.00 for the year. An IRS Form 1099 is not required when payments are specifically for merchandise or made to some types of corporations.

Print or Type

Please see attachment or reverse for complete instructions

| | |
|---|--|
| Legal Name (as shown on your income tax return) | State of Alaska Vendor Number (if known) |
| Business Name , if different from above (use if doing business as (DBA) or enter business name of Sole Proprietorship) | Entity Designation (check only one type) <input type="radio"/> Individual / Sole Proprietor <input type="radio"/> Partnership <input type="radio"/> General Corporation <input type="radio"/> Medical Corporation <input type="radio"/> Legal Corporation <input type="radio"/> Limited Liability Company – Individual <input type="radio"/> Limited Liability Company – Partnership <input type="radio"/> Limited Liability Company – Corporation <input type="radio"/> Government Entity <input type="radio"/> Estate / Trust <input type="radio"/> Organization Exempt from Tax - Nonprofit (under Section 501 (a)(b)(c)(d)) |
| Primary Address (for 1099 form) PO Box or Number and Street, City, State, Zip + 4 | |
| Remit Address (where payment should be mailed, if different from Primary Address) PO Box or Number and Street, City, State, Zip + 4 | |
| Exemption (See Instructions) | |
| <input type="text"/> Exempt payee code (if any) <input type="text"/> Exemption from FATCA Reporting Code (if any) | |

Taxpayer Identification Number (TIN) Provide Only One (If sole proprietorship provide EIN, if applicable)

| | |
|---|--|
| Social Security Number (SSN) | Employer Identification Number (EIN) |
| If Change of Ownership or Entity Designation | Date of Change: |
| Previous Owner / Business Name | Previous Taxpayer Identification Number (TIN) |

Certification

The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number, **AND**
2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, **AND**
3. I am a U.S. person (including a U.S. resident alien), **AND**
4. The FATCA code(s) entered on this form (if any) indicating I am exempt from FATCA reporting is correct.

| | | |
|---------------------|----------------------|-------------------------|
| Printed Name | Printed Title | Telephone Number |
| Signature | Date | Email Address |

Instructions for Completing Taxpayer Identification Number (TIN) Verification (Substitute W-9) -- Page 1

Legal Name

As registered with the Internal Revenue Service (IRS)

- Individuals: Enter First Name MI Last Name
- Sole Proprietorships: Enter First Name MI Last Name
- LLC Single Owner: Enter owner's First Name MI Last Name
- All Others: Enter Legal Name of Business

Business Name

- Individuals: Leave blank
- Sole Proprietorships: Enter Business Name
- LLC Single Owner: Enter LLC Business Name
- All Others: Complete only if doing business as a DBA

Primary Address

Address where 1099 tax form should be mailed.

Remit Address

Address where payment should be mailed. Complete only if different from primary address.

State of Alaska Vendor Number

Your vendor number is an eight character alphanumeric code assigned to your company in the State of Alaska's accounting system. You may contact us at the email address listed on the form if you do not know your vendor number.

Entity Designation

Check *ONE* box which describes the type of business entity.

Taxpayer Identification Number

LIST ONLY ONE: Social Security Number OR Employer Identification Number. See **"What Name and Number to Give the Requester" at right.**

If you do not have a TIN, apply for one immediately. Individuals use federal form SS-05 which can be obtained from the Social Security Administration. Businesses and all other entities use federal form SS-04 which can be obtained from the Internal Revenue Service.

Change of Ownership or Entity Designation

This information is requested to allow taxable income to be reported correctly for both the new and old entities.

Certification

You must cross out item 2 if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to furnish your correct TIN to persons who must file information

returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, or contributions you made to an IRA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not furnish a TIN to a payer. Certain penalties may also apply.

What Name and Number to Give the Requester

| For this type of account: | Give name and SSN of: |
|--|---|
| Individual | The individual |
| Two or more individuals (joint account) | The actual owner of the account or, if combined funds, the first individual on the account ¹ |
| Custodian account of a minor (Uniform Gift to Minors Act) | The minor ² |
| The usual revocable savings trust (grantor is also trustee) | The grantor-trustee ¹ |
| So-called trust account that is not a legal or valid trust under state law | The actual owner ¹ |
| Sole proprietorship or Single-Owner LLC | The owner ¹ |
| For this type of account: | Give name and EIN of: |
| Sole Proprietorship or Single-Owner LLC | The owner ³ |
| A valid trust, estate, or pension trust | Legal entity ⁴ |
| Corporation or LLC electing corporate status on Form 8832 | The corporation |
| Association, club, religious, charitable, educational, or other tax-exempt organization | The organization |
| Partnership or multi-member LLC | The partnership |
| A broker or registered nominee | The broker or nominee |
| Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district or prison) that receives agricultural program payments | The public entity |

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ **You must show your individual name**, but you may also enter your business or "DBA" name. You may use either your SSN or EIN (if you have one).

⁴ List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Instructions for Completing Taxpayer Identification Number (TIN) Verification (Substitute W-9) -- Page 2

Exemptions

If you are exempt from backup withholding and/or Foreign Account Tax Compliance Act (FATCA) reporting, enter in the Exemptions box any code(s) that may apply to you. See **Exempt payee code** and **Exemption from FATCA reporting code** below.

Exempt payee code

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends. Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following codes identify payees that are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
2. The United States or any of its agencies or instrumentalities
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities
5. A corporation
6. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States
7. A futures commission merchant registered with the Commodity Futures Trading Commission
8. A real estate investment trust
9. An entity registered at all times during the tax year under the Investment Company Act of 1940
10. A common trust fund operated by a bank under section 584(a)
11. A financial institution
12. A middleman known in the investment community as a nominee or custodian
13. A trust exempt from tax under section 664 or described in section 4947

Exemption from FATCA reporting code

The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements.

- A. An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B. The United States or any of its agencies or instrumentalities
- C. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
- D. A corporation the stock of which is regularly traded on one or more established securities markets, as described in Reg. section 1.1472-1(c)(1)(i)
- E. A corporation that is a member of the same expanded affiliated group as a corporation described in Reg. section 1.1472-1(c)(1)(i)
- F. A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state
- G. A real estate investment trust
- H. A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
- I. A common trust fund as defined in section 584(a)
- J. A bank as defined in section 581
- K. A broker
- L. A trust exempt from tax under section 664 or described in section 4947(a)(1)
- M. A tax exempt trust under a section 403(b) plan or section 457(g) plan



BOARD MEMBER TRAVEL APPROVAL REQUEST FORM

Effective September 1, 2014

This form is to be completed by each board member when requesting the CBPL Travel Desk book their travel. Submit 6-8 weeks before anticipated travel and include all relevant information.

Traveler's Name (as appears on your ID): _____

Board: _____

Physical Address: _____

Daytime Phone Number: _____ **Email:** _____

Dates in Travel Status: _____ **Destination:** _____

Airline seating preference: _____

Alaska Airlines Mileage Plan Number: _____

Hotel Preference/Member Number: _____

Birth Date (for TSA): _____

Preferred time of flight to destination:

You may attach a screen shot of your preferred route from AlaskaAir.com or regional carriers.

Other information regarding your travel request:

Defensible Decisionmaking 101

October 2024

Where to find resources:

Publicly available resources:

<https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardMemberResources.aspx>

- Professional Licensing *Guide to Excellence in Regulation*
- *Guide to Excellence* training videos
- Right-Touch Regulation information
- Code of Conduct
- Annual Reports
- Quarterly Schedules of Revenues and Expenditures (fiscal reports)
- Council on Licensure, Enforcement, and Regulation (CLEAR) Member Resources
- Forms related to travel

1. **Roles & Responsibilities** (Section 2 in the *Guide*)

- Board member: Be a decisionmaker.
- Staff: Be a guide/shepherd.
- Reasonable boundaries:
 - Is it illegal?
 - State or federal law: Do we have statutory authority to make this decision?
 - Regulations: Does this require a new regulation?
 - Open meetings: Is the decision being made appropriately?
 - Is it unethical?
 - Executive Branch Ethics Act
 - Appearance of impropriety
 - Unfair or biased treatment of others
 - Does it sidestep required state/division processes?
 - Investigations
 - Travel
 - Communications protocols
 - Does it overstep into division responsibilities?
 - Finances
 - Staff assignments
 - Available resources
 - Does it create weaknesses or liabilities for the board/state?
 - Poor decisionmaking, see below
 - No solid basis for outcome
 - Cannot defend in court
 - Cannot defend to stakeholders

2. **Decisionmaking process** (Section 4 in the *Guide*)

Good decisionmaking:

- Preparation: Think through, ensuring board and staff understand
- Information: Gather appropriate information, staff prepare board packet
- Consideration: Ensure the board considers all angles; staff ensure the “stage is set” for the discussion
- Deliberation: Ensure the discussion is thorough
- Transparency: Ensure proper processes are followed: Public notice, oral hearing, etc.

- Documentation: Capture all major discussion points, motions, votes, and due-outs; publish timely on web page and follow up timely with stakeholders



Board deliberation:

- Everyone **prepare**:
 - Board chair and liaison both think with a 360-degree mindset: Anticipate the needs of the public, licensees, staff/board members, etc. when preparing for the meeting
 - Agenda to include all necessary topics, people; adequate time
 - Follow-up with members who have due-outs
 - Packet to include all pertinent information; published two weeks ahead of time (aim for two weekends)
 - Board members must read the materials before the meeting and come with questions, proposals, etc.
 - Encourage members to come prepared with motions or chair prepare motions ahead of the meeting to include in the board packet; staff may consider assisting with preparation of complex yet apparent motions, such as action on continuing education cases
- Chair or lead member **explain**:
 - Ensure the board is clear on what they are being asked to do.
 - Help them gain awareness of context/relevant information/history on topics and issues.
 - What are important resources or data necessary to make an informed and defensible decision?
 - If another board member or staff member is more appropriate to provide this information, be sure they understand this is the expectation so they can plan ahead and are not surprised at the meeting.
- Everyone **engage**:

- Refer to the decisionmaking framework in the *Guide to Excellence* to assist with deliberation
- Be aware of required processes
 - Does this require a statutory change vs. regulation?
 - Does this require adoption of a regulation instead of issuing an opinion?
 - Does this require a motion and roll call vote
 - Has the board appropriately anticipated and handled conflicts of interest?
 - Is it appropriate to decide in OnBoard vs. a public meeting?
- Assist with setting and maintaining boundaries
 - Does this creep outside the board's mandate? How do we determine that?
 - Is this a staff vs. board responsibility?
 - Is the board over-directing or over-delegating to staff?
 - Are members under-engaged?
 - Does the board have too many projects in process so meaningful work is not being completed?
 - Does not board not meet frequently enough to complete their stated goals?
 - Does the board have too many meetings, keeping staff from completing their other duties? Is that model sustainable for staff and/or the board?
- Invite assistance where needed: Regulations specialist, investigator, supervisor, board advisor, etc.
- Take a break if needed to look up an answer or ask for help
- Document
 - Record the meeting
 - Take action minutes during the meeting, capturing motions and individual votes
 - Post draft minutes of the meeting online within 10 days to ensure public awareness of the board's actions
 - Ensure board votes on final minutes and made available online within a reasonable amount of time.

3. Supporting decisionmaking through good meeting management

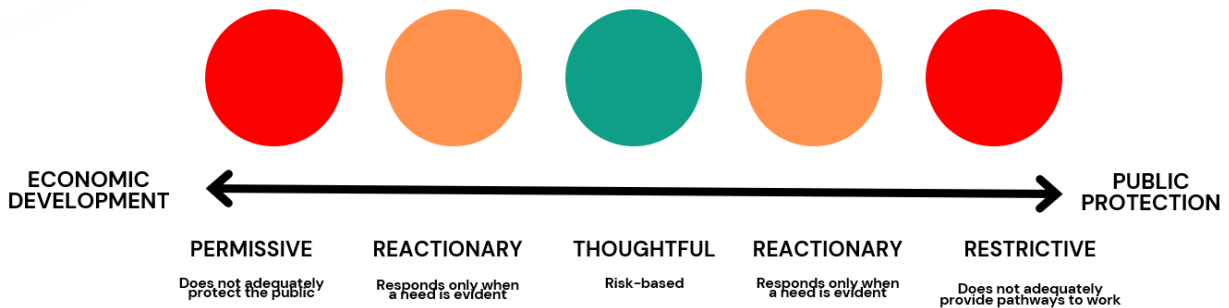
- Most of meeting management comes down to one of the following categories:
 1. *Addressing the business of the day*: Keeping it moving forward
 2. *Using a defensible process in managing the business*: Keeping it moving forward well
 3. *Establishing a record of the business*: Demonstrating what you moved forward and how you did it
- Keeping the business of the board moving forward
 - Ensure the agenda is clear
 - What are we discussing?
 - What is the desired outcome?
 - Encourage members to prepare appropriately (study, research, analyze, bring documents to the meeting, etc.)
 - The chair should lead the board toward the outcome: This does not mean pushing the board toward a *specific* decision...just leading them toward *making* a decision, tabling for cause, sending back to committee, etc.
 - Identify where in the agenda votes may be needed and consider prepopulating with motions
 - Establish metrics to measure the effectiveness of the agenda item:
 - Does it need a champion?
 - Does it need a deadline?

- Do the next steps need clarity?
- Key legal process questions to protect:
 - Are we recording the meeting?
 - Do we have a quorum?
 - Have all potential conflicts been declared and ruled upon appropriately? (See below)
 - Have we made proper motions?
 - On voting items
 - On entering executive session
 - Reasons for license denial or discipline
 - Are they clear?
 - Do all members and staff understand them?
 - Have we taken a proper vote?
 - No votes in executive session
 - Roll call on anything enforceable or policy-related
 - Everyone says “Aye” or “Nay”
 - Outcome of the vote announced
 - Have we protected confidential information?
 - Have we ensured public information is transparent?
 - Have we followed the required steps in addressing regulations?
 - I:\OCCLIC\PROFESSIONAL LICENSING\REGULATIONS SPECIALIST\STAFF RESOURCES
 - Have we adhered to appropriate investigative processes?
 - Have we adhered to state procurement, fiscal, and travel processes?
 - Have we clearly documented the board’s deliberation and actions?
- Key concepts regarding conflicts of interest
 - Chair as Designated Ethics Supervisor for the board makes the final decision regarding whether a conflict exists
 - May seek legal advice on the issue; must withhold action until determined
 - Determination must be in keeping with legal advice
 - Determination may be overruled by a vote of the board
 - How to avoid conflicts of interest
 - Not voting on matters of personal or financial interest or where they have ex parte information
 - Not deliberating or voting on matters where they were the Reviewing Board Member
 - Declaring any gifts or potential affiliations or memberships that may create conflicts
 - Exhibiting awareness of and following the Executive Branch Ethics Act (this list is not exhaustive, see AS 39.52)
 - A state official may not:
 - use their official positions to secure employment or contracts;
 - accept compensation from anyone other than the State for performing official duties;
 - use State time, equipment, property or facilities for their own personal or financial benefit or for partisan political purposes;
 - take or withhold official action on a matter in which they or an immediate family member have a personal or financial interest;
 - coerce subordinates for his/her personal or financial benefit, or attempt to influence the outcome of an administrative hearing by privately contacting the hearing officer.

- May not accept improper gifts
 - A gift worth more than \$150 to a board or commission member or the member's family must be reported within 30 days if:
 - the board member can take official action that can affect the giver, or
 - the gift is given to the board member because he or she is on a state board or commission.
 - The receipt of a gift worth less than \$150 may be prohibited if it could reasonably be inferred that the gift is intended to influence the board member's action or judgment. Receipt of such a gift should be disclosed.
 - Any gift received from another government or lobbyist, regardless of value, must be reported; the board or commission member will be advised as to the disposition of this gift.
- May not use or disclose information improperly

No former or current member of a board or commission may use or disclose any information acquired through official duties if that use or disclosure could result in a financial or personal benefit to the board member (or a family member) unless that information has already been disseminated to the public.
- May not improperly represent in a matter of self-interest

A non-salaried board or commission member may represent, advise, or assist in matters in which the member has an interest that is regulated by the member's own board or commission, if the member acts in accordance with AS 39.52.220 by disclosing the involvement in writing and on the public record, and refrains from all participation and voting on the matter. This section does not allow a board member to engage in any conduct that would violate a different section of the Ethics Act. So, the member must disclose the fact of the member's involvement in the regulated matter and abide by the board or commission's finding as to the existence of a conflict of interest.



4. **Strategic thinking**

- Helps the board move up the hierarchy of effective regulators (Section 12, p. 87)
- Helps the board take control and own their role and responsibility
- Relieves the board liaison from serving as a de facto chair
- Helps the board engage in active 360-degree thinking
- Helps each other understand the why, not just the “yes” or “no”
- Reduces “checklist mentality” and making knee-jerk decisions
- Supports right-touch regulation and defensible decisionmaking
- Keeps the board forward-thinking, anticipating change at all levels

Helps the board understand their foundational basis for decisionmaking

- “Is it statute or regulation or opinion?” (p. 31-34)
- Can they deny a license/take a disciplinary action (p.35, 58-62)/ask for that information on the application?

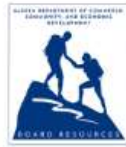
Helps the board understand their options for seeking change:

- Statute change (Section 9, p.63) requires the board to seek and advocate for legislation
- Regulation change (Section 7, p. 51) requires assistance from a Regulations Specialist and a prescribed legal process
- All changes they want to enforce must be public and transparent.

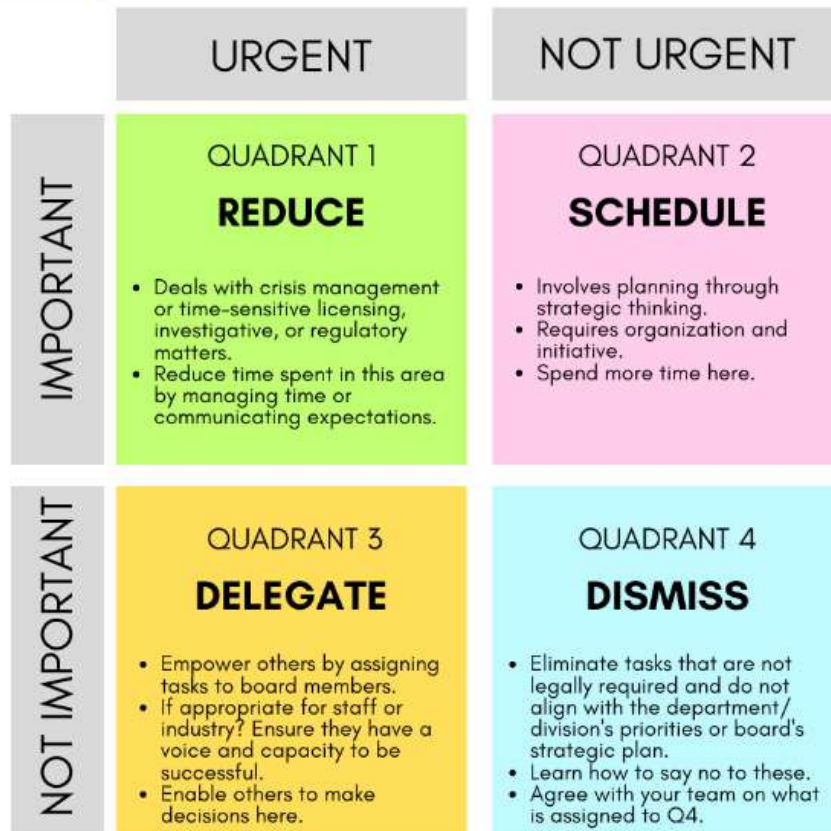
5. **Boards gone wild**

- Refer back to “reasonable boundaries” above
- Member engagement – after on-boarding, this is usually the chair’s responsibility to manage interpersonally
 - Set expectations from Day One. Do not accept unprofessional behavior. Act with integrity: Do what you say you are going to do. Be professionally flexible and understanding without being taken advantage of. Ask the hard questions while maintaining everyone’s dignity. Document.
 - Unengaged members:
 - Play to member strengths and avoid weaknesses
 - Chair should establish expectations of professionalism and preparedness, and staff should model them
 - Care for learning curve of public members
 - Regularly communicate to ensure expectations are known and understood
 - Unprofessional behavior:
 - *Looks like:* Interrupting speakers, assuming the floor when it has not been granted by the chair, holding side conversations, leaving the meeting or taking a call while the meeting is in session, etc.
 - *Might be due to:* Lack of understanding of expectations, low level of personal professionalism, rude personality or generally casual nature, previously allowed to behave this way in other settings
 - Dysfunctional behavior:
 - *Looks like:* Bullying the board by demanding a course of action, calling for a re-vote because they do not like the outcome, speaking against the board’s decision outside the meeting, working outside acceptable board processes on issues, eye-rolling, deep sighs, sarcastic remarks about other members or the chair’s management of a topic
 - *Might be due to:* Sense of privilege or superiority, lack of respect for the members or chair, unhappiness with the board’s direction on a specific issue—especially if the member is in the minority on that topic
- Prioritize: If everything is a priority, nothing is.
 - Establish a mini-strategic plan.
 - Track board activities and write down key elements: Assignments to responsible parties, deadlines, and priorities. Include these in every board packet. Encourage adequate time to go over all existing and new activities, reorganizing if priorities have shifted.
 - Build these steps into every agenda.
 - Shift priorities if situations change. (Move something lower on the list if something else becomes more urgent.)

- Staff should maintain boundaries. “[Good fences make good neighbors.](#)”
 - What should actually be done by a board member, such as research, making phone calls, taking committee minutes, etc.
 - Ensure the board is aware of the “invisible” things that need to continue outside of board business, such as customer service and processing license applications.
 - Board members should not be assigning staff jobs. Encourage a meeting with the chair and supervisor, if needed.



TASK PRIORITIZATION MATRIX FOR BOARD MEMBERS



- Encourage one or more evaluation processes (Section 12, p. 86)
 - Group “straw poll” at the end of the meeting
 - Encourage feedback from key stakeholders or enlist an observer—such as a more experienced LE3-A or Exec—to attend the meeting and take notes, pointing out what went well and what needs improvement
 - Submit written meeting evaluation (p. 88)
 - Private self-evaluation (p. 89)

6. Q&A

Esthetics Procedures List – October 2024

This document reflects recommendations by the Esthetics Council and does not reflect any deliberation or decisionmaking by an Alaska professional licensing work group or board. This document is a working draft and does not define current Alaska requirements.

This chart may be used in whole or in part to assist the Alaska Medical Spa Services Work Group and related Alaska professional licensing boards understand the procedures in question, as well as assist in clarifying current and future scope of practice of:

- **Currently licensed estheticians** under the Board of Barbers and Hairdressers
- Future **advanced esthetician** licensees (requires statute change)
- Persons performing these procedures under **medical supervision**: In the context of this document, “medical supervision” means on-site supervision by a physician, physician assistant, or APRN operating within the supervisor’s scope of practice and all statutes and regulations pertaining to the supervisor’s license. May be currently allowable or require statute or regulation change to clarify necessary training and education.

Green: List of procedures and modalities used in esthetics practices

Purple: Examples of brand names, web site links, and other terms and descriptions to help identify and define what is meant by the procedure. This list is not exhaustive.

Orange: Description of FDA classification and federal regulatory oversight.

Blue: Esthetics Council recommendation whether to allow these procedures under an existing Alaska esthetician license (350 hours of training and independent practice) or whether additional training and education (i.e. statute or regulation change) or medical supervision is needed.

* NOTE: The Esthetics Council recommends the current esthetician license requirements be increased to 600 hours to ensure training on a wide range of basic modalities for which they are licensed.

| Procedure | Examples of Common Brand Names, links to web sites <i>This is a very limited list that can be expanded. Most modalities are tied to a product line as well.</i> | Description of Procedure | FDA Designation (Class 1 or 2: Should not fall within Class III, 3A, 3B, or IV Radiation Emitting Devices designation) | FDA Regulation Device required to be registered under 201(h) of the FD&C Act? Product regulated as a cosmetic by FDA? | Safe to allow under existing esthetician license? • 350 hours training • Curriculum in 12 AAC 09.163 • NIC esthetician test | If not generally safe under existing esthetician requirements, what is minimum recommended amount and type of training? Should this require supervision by a medical director? |
|-----------|--|--------------------------|--|---|--|--|
|-----------|--|--------------------------|--|---|--|--|

| | | | | | | |
|--|--|---|--|-----|-----|-----|
| 1. Ultrasonic devices Epidermis Impact-Superficial | www.universalcompanies.com www.biotherapeutic.com | Ultrasonic spatula emits high-frequency sound waves, typically at a rate of 20,000 to 30,000 vibrations per second (Hz). Intended outcome: cleansing and exfoliation. | Class I | Yes | Yes | N/A |
| 2. Oxygen Concentrator devices Epidermis Impact-Superficial | | Deliver atmospheric concentrated oxygen to the skin to boost circulation, promote healing, and enhance the glow. Intended outcome: Brighter, revitalized skin with improved oxygenation. | Class I Does not include hyperbaric chamber | | Yes | N/A |
| 3. Electrotherapy devices (galvanic current, High Frequency) Epidermis Impact-Superficial | www.universalcompanies.com www.silhouettone.com www.equipro.com www.massagewarehouse.com | Low-voltage direct current or alternating current (High Frequency) to enhance product penetration, stimulate skin, disinfect, and improve tone. Intended outcome: Improved skin hydration, enhanced product absorption. | Class 1 | Yes | Yes | N/A |
| 4. Mechanical brush devices Epidermis Impact-Superficial | www.universalcompanies.com www.massagewarehouse.com www.zemits.com | Rotary or oscillating brushes for deep cleansing and exfoliation. Intended outcome: Deeply cleansed skin, reduced clogged pores. | Class I- generally unregistered | | Yes | N/A |
| 5. Vacuum spray devices | www.universalcompanies.com www.massagewarehouse.com www.zemits.com | Uses suction to clean pores and remove impurities, often | Class I- generally unregistered | | Yes | N/A |

| | | | | | | |
|--|--|--|---|-----|-----|-----|
| Epidermis Impact-Superficial | | combined with a spray mist to hydrate. Intended outcome: Cleansed, refreshed skin. | | | | |
| 6. Steamers Epidermis Impact-Superficial | Varies www.universalcompanies.com www.massagewarehouse.com www.zemits.com | Generates steam to open pores and hydrate the skin. Intended outcome: Loosening of debris in pores, enhanced product absorption. | Class 1- generally unregistered | | Yes | N/A |
| 7. LED (light emitting diode) devices. Epidermis Impact-Superficial/Light | www.lightstim.com www.omnilux.com www.celluma.com | Emits specific wavelengths of light to target acne, reduce inflammation, and stimulate collagen. Intended outcome: Acne reduction, anti-aging, and skin rejuvenation. | Class 2 | Yes | Yes | N/A |
| 8. Microcurrent devices Epidermis Impact-Superficial | www.biotherapeutic.com www.neurotris.com www.silhouettone.com | Low-level electrical currents stimulate facial skin, improve circulation and firmness. No direct muscle stimulation (visible contractions) Intended outcome: Lifted, more toned facial appearance. | Class 1 or Class 2 based on intended use-direct muscle stimulation Class 2. | Yes | Yes | N/A |
| 9. Microdermabrasion devices, including hydradermabrasion devices. Epidermis Impact-Superficial | www.diamondglow.com www.hydracial.com www.silhouettone.com www.equipro.com | Mechanically exfoliates the skin using crystals or diamond tips, often with suction. Intended outcome: Smoother skin texture, improved clarity, and reduced fine lines. | Class 1 | Yes | Yes | N/A |

| | | | | | | |
|---|--|---|---|-----|--|--------------------------|
| 10. Skin analysis equipment Epidermis Impact-None | Wood's lamp Magnifying Lamp | Uses UV light to examine skin conditions like pigmentation, hydration, and bacteria. Mag Lamp uses different levels of magnification with a light source. Intended outcome: Accurate skin assessment for customized treatments. | Class 1 | | Yes | N/A |
| 11. Thalassotherapy Epidermis Impact-Superficial | www.thalgo.com www.elemis.com www.massagewarehouse.com www.universalcompanies.com | Uses seawater and marine products for detoxification and rejuvenation in body treatments or facials. Intended outcome: Hydration, skin nourishment, and relaxation. | No Classification MOCRA registration | | Yes | N/A |
| 12. Thermotherapy (application of heat), manually applied or with the use of devices. Epidermis Impact-Superficial | | Heat application to improve blood circulation and relax muscles. Intended outcome: Improved skin tone, relaxation, enhanced healing. | Class 1 | Yes | Yes | N/A |
| 13. Vitamin-based acids Epidermis Impact-Superficial at lower concentrations | Same as above | Vitamins like vitamin C and retinoic acid are applied for antioxidant benefits and skin rejuvenation. Intended outcome: Brightened skin tone, reduced wrinkles, and sun damage. | MOCRA Registration Required | | Yes for light/superficial peels but should require manufacturer training | N/A |
| 14. Superficial and light chemical exfoliation including | Varies-common vendors. www.circadia.com www.dermastart.com www.linderhealth.com | Chemical agents applied to exfoliate the outer skin layers. | MOCRA registration | | Yes for light/superficial peels but | Recommend performance of |

| | | | | | | |
|--|--|--|--|------------|---|--|
| <p>but not limited to; alpha hydroxy acids, beta hydroxy acids, modified Jessner solutions, and trichloroacetic acid less than 20%</p> <p>Epidermis Impact-Superficial at lower concentrations</p> | <p>https://www.dannemking.com www.osmosis.com www.skincarescript.com www.haleandhush.com www.pcaskin.com</p> | <p>Chemical peels available to estheticians are light & superficial light depth. Intended outcome: Smoother, more radiant skin, treatment of acne or hyperpigmentation</p> | <p>required for products</p> | | <p>should require manufacturer training</p> | <p>Modified Jessners and TCA only by an Advanced/Master Esthetician (900-1200hr)</p> |
| <p>15. Low-Level Ultrasound devices (Sonophoresis)</p> <p>Epidermis Impact-Superficial</p> | <p>www.environ.com www.zemits.com www.massagewarehouse.com</p> | <p>Uses low-intensity ultrasonic waves typically below 3 MHz, which target more superficial layers of the skin. Intended outcome: Skin texture improvement, product penetration, and superficial treatments like cellulite appearance reduction.</p> | <p>Class I or II based on intended use</p> | <p>Yes</p> | <p>No</p> | <p>Recommend performance only by an Advanced/Master Esthetician (900-1200hr)</p> |
| <p>16. HIFU (High Intensity Focused Ultrasound)</p> <p>Epidermis Impact-Superficial-Medium Dermis Impact Deep</p> | | <p>Utilizes high-intensity ultrasound waves, delivering focused energy to precise depths. Intended outcome: skin tightening, non-surgical facelifts. 1.5 mm: This shallow depth targets 3.0 mm: This depth targets the deeper dermal layer. 4.5 mm: This depth reaches the SMAS layer (Superficial Muscular Aponeurotic System)</p> | <p>Class II</p> | <p>Yes</p> | <p>No</p> | <p>Recommend performance only by an Advanced/Master Esthetician (900-1200hr)</p> |

| | | | | | | |
|--|---|---|---|------------|---|--|
| <p>17. Low-Level Radio Frequency devices</p> <p>Epidermis Impact-Superficial</p> | <p>www.nuface.com www.zemits.com</p> | <p>Operates at lower power and frequency compared to traditional RF devices. The energy delivered is less intense, so it targets the upper skin layers. Intended outcome: Used for superficial skin treatments like mild skin tightening, improving circulation, and stimulating collagen production without deep tissue penetration.</p> | <p>Class II (includes OTC)</p> | <p>Yes</p> | <p>No</p> | <p>Recommend performance only by an Advanced/Master Esthetician (900-1200hr)</p> |
| <p>18. Radio Frequency devices</p> <p>Epidermis Impact-Medium Dermis Impact-Deep</p> | <p>www.candelamedical.com www.morpheous8.com</p> | <p>Operates at higher power and frequency, delivering more energy to the skin. RF devices typically heat tissues more deeply, stimulating collagen in the deeper dermis and subcutaneous layers. Intended Outcome: Designed for deeper skin tightening, lifting, and more intensive collagen remodeling.</p> | <p>Class 2 or Class 3 based on intended use</p> | <p>Yes</p> | <p>No</p> | <p>Recommend performance at Class 2 only by an Advanced/Master Esthetician (900-1200hr)</p> <p>Performance at Class 3 only by a trained physician, physician assistant, or APRN.</p> |
| <p>19. Cryotherapy (application of cold), manually applied or with the use of devices.</p> <p>Epidermis Impact-Superficial</p> | <p>Same as above www.artemis.com www.zemits.com www.universalcompanies.com www.thalgo.com</p> <p>Superficial body treatments included.</p> | <p>Does not employ nitrogen spray; is not cryolipolysis or cryosurgery. Cold application to reduce redness, improve circulation, and tighten skin.</p> | <p>Class 1 MOCRA registration for products</p> | <p>Yes</p> | <p>Yes, but only manual application or cold tools</p> | <p>Recommend performance using a device only by an Advanced/Master Esthetician (900-1200hr)</p> |

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| <u>Not Lipolysis</u> (Coolsculpting) | | Intended outcome: Reduced redness, firmer skin. | | | | |
| 20. Hydrotherapy Epidermis Impact- Superficial | www.thalgo.com www.massagewarehouse.com | Water-based treatments for relaxation, detoxification, and skin hydration including Vichy shower, Scotch hose & hydrotub. Intended outcome: Relaxation, improved circulation, and hydrated skin. | Class 1 (hydrotherapy tubs, showers) No classification for products. | Yes | Yes, not including Vichy shower or scotch hose. | Recommend performance of Vichy shower and Scotch hose only by an Advanced/Master Esthetician (900- 1200hr) |
| 21. Cellulite appearance and contouring treatments Epidermis Impact- Superficial Dermis Impact- SMAS or Deeper depending on device | Same as above www.artemis.com www.zemits.com Body treatments including wraps. | Non-invasive treatments targeting cellulite with mechanical stimulation, manual body treatments or energy-based devices. Intended outcome: Smoother skin texture, reduced appearance of cellulite. | Class 1 or Class 2 depending on modality used. MOCRA registration for body treatment products. | Yes | Yes, only superficial | Recommend performance affecting below the epidermis only by an Advanced/Master Esthetician (900- 1200hr) |
| 22. Dermaplaning devices Epidermis Impact- Superficial | www.dermaplane.pro | Manual or mechanical exfoliation that removes the top layer of dead skin and fine hair. Intended outcome: Smooth skin texture and enhanced product absorption. | Class 1 | Yes | No | Recommend performance only by an Advanced/Master Esthetician (900- 1200hr) |
| 23. Mechanical body stimulation Epidermis Impact- Superficial/Medium | G8, Endermologie www.universalcompanies.com www.massagewarehouse.com | Devices that use rolling, kneading, or suction to stimulate circulation and reduce cellulite. Intended outcome: Smoother skin | Class 1 | Yes | No | Recommend performance only by an Advanced/Master Esthetician (900- 1200hr) |

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| | | appearance, reduced cellulite. | | | | |
| 24. Collagen induction device (microneedling) *Includes microchanneling or nanostamp not OTC devices Epidermis Impact at or below 1mm- Superficial Dermis Impact- 1.5mm-2.5mm | www.dermapen.com https://360aestheticdevices.com www.candelamedical.com | Uses tiny needles to create micro-injuries, stimulating collagen production. Ranges .25-2.0 mm. Intended outcome: Improved skin texture, reduced wrinkles, acne scars. | Class 2 | Yes | No | Recommend performance of up to .1mm only by an Advanced/Master Esthetician (900-1200hr) Deeper penetration should require medical supervision |

Resources:

- https://www.commerce.alaska.gov/web/Portals/5/pub/MED_Guide_Dermatologicalpdf
- https://www.commerce.alaska.gov/web/Portals/5/pub/MED_Guide_Lasers_Laser_Surgerypdf
- https://www.commerce.alaska.gov/web/Portals/5/pub/MED_Guide_Delegating_to_Unlicensed_Assistantspdf
- <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofNursing/AdvisoryOpinions.aspx>
- <https://www.commerce.alaska.gov/web/Portals/5/pub/MedicalStatutespdf>
- <https://www.commerce.alaska.gov/web/Portals/5/pub/NursingStatutespdf>
- https://www.commerce.alaska.gov/web/Portals/5/pub/BAH_Stats_Regspdf

Draft language suggested for Board of Barbers and Hairdressers regulation definition of “appliances” available for use as a licensed esthetician without medical supervision with only 350 hours of training as described above:

The use of esthetic devices, or combinations of devices that stimulate natural physiological processes intended to improve skin appearance and health, devices should meet the following criteria: Do not directly ablate or destroy live tissue, or involve incision into skin beyond the epidermis. Devices must operate within manufacturer guidelines, and FDA registration if required by 21 U.S. Code § 321 of the Federal Food, Drug, and Cosmetic (FD&C) Act. These devices should not fall within Class III, 3A, 3B, or IV Radiation Emitting Devices designation.

FDA Classification

FDA Device Classification Database: <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfRL/rl.cfm>

Devices used in cosmetic and therapeutic treatments must undergo appropriate FDA review based on their **classification** under the FD&C Act. Devices are classified into three categories based on their risk level:

- **Class I Devices** (Low-Risk): These devices are considered to have the lowest risk to users. Examples include simple cosmetic tools like mechanical exfoliation brushes or handheld LED devices. **Class I devices are generally exempt from premarket notification (510(k))**, although manufacturers are still required to register their facility and list their devices with the FDA.
- **Class II Devices** (Moderate-Risk): Devices that pose moderate risk and require special controls to ensure safety and effectiveness. Examples include; radiofrequency (RF) devices for skin rejuvenation, ultrasonic disinfectant devices, certain paraffin dips, microneedling, and LED devices. **Class II devices must undergo the 510(k) premarket clearance process**, where manufacturers must demonstrate that the device is substantially equivalent to a legally marketed device.
- **Class III Devices** (High-Risk): These devices present the highest risk to patients and typically require **premarket approval (PMA)** from the FDA. Devices in this category are often those intended for critical functions, such as lasers for surgical use or invasive treatments. High-Intensity Focused Ultrasound (HIFU) for deep skin tightening may fall under this classification.

Labeling

- The FDA distinguishes between **Over the Counter (OTC)** and **Prescriptive (Prescription)** devices based on their intended use, safety, and the necessity of professional supervision. This designation pertains to **LABELING** requirements only. **The FDA does not designate who is qualified to use such devices, this is a STATE regulatory issue.**

Key Points about Cosmetic Devices:

- **Cosmetic Claims:** Devices used for purely cosmetic purposes can **make cosmetic claims**, but they cannot make **medical claims** (such as treating wrinkles, acne, or skin diseases) without being regulated as medical devices. Examples of cosmetic claims would be "improves skin appearance" or "hydrates the skin" without implying treatment of any medical condition.
- **No "Cosmetic Device" Category:** The FDA does not have a special category for "cosmetic devices." If a device interacts with the skin and claims to change its structure, function, or treat a condition (such as wrinkles or acne), it is classified as a **medical device**, even if the primary purpose seems cosmetic.
- **Pre-Amendment Devices:** example: Galvanic Current Devices & Tesla High Frequency (Electrotherapy Category)
 - Devices that were legally marketed in the U.S. before **May 28, 1976**, are known as **pre-amendment devices**.
 - These devices were **grandfathered** under the Medical Device Amendments of 1976, meaning that they could continue to be marketed without going through the new premarket approval process that was introduced after the amendments.
 - Pre-amendment devices still need to comply with certain FDA requirements, including **registration** with the FDA and compliance with applicable regulations such as **labeling** and **Good Manufacturing Practices (GMPs)**.

MOCRA (Modernization of Cosmetics Regulation Act)

MoCRA Registration info: <https://www.fda.gov/cosmetics/registration-listing-cosmetic-product-facilities-and-products>

While **MOCRA** directly pertains to **cosmetic products** (like creams, lotions, and makeup), it does not apply to **devices**. However, it is essential for device manufacturers who also create cosmetic products to understand the new requirements under MOCRA:

- **Mandatory Facility Registration:** Cosmetic product manufacturers must now register their facilities with the FDA. Device manufacturers should ensure that any cosmetic products used with their devices (e.g., serums for micro-needling or topical treatments for ultrasonic devices) comply with this requirement.
- **Adverse Event Reporting:** MOCRA requires reporting of serious adverse events related to cosmetic products, which extends to cosmetic treatments used in conjunction with FDA-registered devices.
- **Good Manufacturing Practices (GMPs):** While devices are already subject to GMPs, MOCRA introduces specific GMP requirements for cosmetic products, which may influence manufacturers of dual-use products. GMP cosmetic manufacturing guidelines are scheduled for 2025.
- **Product Registration:** Brands and manufacturers that sell directly to the public must register their products with the FDA, this includes labeling requirements that include “professional use” designation on products. Fragrance allergens are included, and guidance is further scheduled in the FDA rulemaking process through 2025.

Interdisciplinary Matrix of Medical Spa Services Under Alaska Law

DRAFT— Medical Spa Services Work Group Member Input – October 2024

This document is a draft based on individual work group member input. It has NOT been reviewed by the Department of Law or reviewed or endorsed by any board. It should not be read as a definitive description of allowable practices under any license type or situation.

Purple notes indicate comments made by a representative of a different board.

| | Medical Board Physician Osteopath Podiatrist Physician Assistant | Board of Nursing APRN RN LPN CNA | Board of Dental Examiners Dentist Dental Hygienist | Board of Pharmacy Pharmacist Pharmacy Technician | Board of Chiropractic Examiners Chiropractor | Board of Barbers & Hairdressers Esthetician Hairdresser Tattooist Permanent Cosmetic Colorist |
|--|--|--|---|---|--|--|
| IV Hydration: Voluntary intravenous administration of liquids containing one or more prescription or nonprescription substances intended to improve hydration and/or nutrition outside of an acute clinical setting | | | | | | |
| 1. Can I evaluate a patient? | All licensees may | APRN may per AS 08.68.850(1) and (9) | Dentist may, only if within the practice of dentistry under AS 08.36.360. | No | Yes | No |
| 2. Can I diagnose a patient? | All licensees may | APRN may per AS 08.68.850(1) and (9) | Dentist may, only if within the practice of dentistry under AS 08.36.360. | No | Yes | No |
| 3. Can I order a prescription? | All licensees may | APRN may per AS 08.68.850(1) and (9) | Dentist may, only if within the practice of dentistry under AS 08.36.360. | Could order under a collaborative agreement | No | No |
| 4. Can I compound substances for IV administration? | Yes; immediate use requirements under USP <797> must be met. Example ORs and Ambulatory Surgery Centers. | Yes; immediate use requirements under USP <797> must be met. Example ORs and Ambulatory Surgery Centers. | Yes, if within the practice of dentistry under AS 08.36.360 | Yes | No | No |
| 5. Can I administer an IV? | All licensees may | APRN may per AS 08.68.850(1) and (9) | Dentist may, only if within the practice | No | Yes AS 08.20.100 AS 08.20.900(1) | No |

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| | | RN's & LPN's may if have the training and they follow provider orders. | of dentistry under AS 08.36.360. | | AS 01.10.040 | |
| 6. Can I monitor a patient during and after administration? | All licensees may | Monitoring vital signs and bodily functions may be delegated under 12 AAC 44.955 | Dentist may, only if within the practice of dentistry under AS 08.36.360. | No | Yes | No, unless delegated as unlicensed personnel by a primary care provider authorized to delegate. |
| 7. Can I supervise personnel who administer? If so, who and what? | Licensees must supervise personnel if they delegate duties to an "agent" who is unlicensed or not able to independently perform the duties under the scope of their own license. | APRN can | The Dental board moved away from "supervising advanced practice nurses about 8-9 years ago and moved to collaborative agreements. Duties within the scope of an LPN may be delegated to practical nurse per AS 08.68.265 | No | Uncertain | No |
| 8. Can I delegate to personnel? If so, who and what? | Licensees may not delegate the initiation, administration, and monitoring of intravenous therapy. 12 AAC 40.920 (f)(6) except to registered and practical nurses under AS 08.68.265. | A nurse may not delegate patient evaluation, diagnosis, prescription, and IV administration to a non-nurse per 12 AAC 44.970(1) and (6) | Dentists may delegate to practical nurses under AS 08.68.265. Dentists may delegate dental related tasks, however a dentist may not delegate to a dental assistant a dental | No | Only within scope of practice. Not typically. | No |

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| | | | operation or service that requires the professional skill of a licensed dentist AS 08.36.346. | | | |
| 9. Am I liable if something goes wrong? | Yes. All Licensees may be liable if something goes wrong. | See 12 AAC 44.770. | Yes | Yes, if practicing outside of the scope of practice | Yes | Possibly, but should also be covered under primary care provider's malpractice insurance |
| | Medical Board Physician Osteopath Podiatrist Physician Assistant | Board of Nursing APRN RN LPN CNA | Board of Dental Examiners Dentist Dental Hygienist | Board of Pharmacy Pharmacist Pharmacy Technician | Board of Chiropractic Examiners Chiropractor | Board of Barbers & Hairdressers Esthetician Hairdresser Tattooist Permanent Cosmetic Colorist |
| Advanced Esthetics: Medical devices and procedures intended to treat skin texture, pigmentation, and other cosmetic complaints, such as microneedling, microchanneling, nanoneedling, skin stamping, and dermaroller services, or similar services that puncture the skin; ablative treatments; radiofrequency devices; chemical peels below the dermal layer; autotransplantation of biological materials, etc.) | | | | | | |
| 10. Can I evaluate a patient? | Yes | APRN may per AS 08.68.850(1) and (9) | No | No | Yes | No |
| 11. Can I diagnose a patient? | Yes | APRN may per AS 08.68.850(1) and (9) | No | No | Yes | No |
| 12. Can I order a prescription? | Yes | APRN may per AS 08.68.850(1) and (9) | No | No | No | No |
| 13. Can I administer laser treatments? | Yes, this falls under general definition of the practice of medicine under AS 08.64.380 (6) (no specialized training requirements are specified in | 12 AAC 44.430- APRN Scope of Practice IF they have the specialized training | No | No | Yes--not typically done w/ respect to esthetics AS 08.20.100 AS 08.20.900(1) AS 08.20.900(12) | Not within scope of license and cannot be delegated by physicians or APRNs. (MED position) |

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| | regulation or statute) | | | | | |
| 14. Can I administer chemical treatments or lasers that penetrate below the dermal layer? | Yes, this falls under general definition of the practice of medicine (no specialized training requirements are specified in regulation or statute) | 12 AAC 44.430- APRN Scope of Practice IF they have the specialized training | No | No | | Not within scope of license and cannot be delegated by physicians or APRNs. (MED position) |
| 15. Can I administer treatments using an invasive device such as a needle or radiofrequency device? | Yes, this falls under general definition of the practice of medicine (no specialized training requirements are specified in regulation or statute) | 12 AAC 44.430- APRN Scope of Practice IF they have the specialized training | No | No | | Not within scope of license and cannot be delegated by physicians or APRNs. (MED position) |
| 16. Can I monitor a patient during and after administration? | Yes | Monitoring vital signs and bodily functions may be delegated under 12 AAC 44.955 | No | No | | Monitoring vital signs and bodily functions may be delegated under 12 AAC 44.955 |
| 17. Can I supervise personnel? If so, who and what? | Licensees must supervise personnel if they delegate duties to an "agent" who is unlicensed or not able to independently perform the duties under the | APRN can supervise RN, LPN, CNA See advisory opinion | No | No | | No |

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| | scope of their own license. Licensees may delegate routine medical duties within the scope of their practice in accordance with 12 AAC.40.920 | | | | | |
| 18. Can I delegate to personnel? If so, who and what? | <p>A physician may not delegate activities that are the practice of medicine and may delegate only within the scope of the Alaska license of the person to whom delegation is given. A physician may delegate routine, nonmedical duties to unlicensed personnel. (MED position statement)</p> <p>12 AAC 40.920 specifies what may or may not be delegated. A licensee may delegate "routine medical duties" to an "agent" of</p> | A nurse may not delegate patient evaluation, diagnosis, prescription, and IV administration to a non-nurse per 12 AAC 44.970(1) and (6) | No | No | | No |

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| | the licensee under certain conditions outlined under 12 AAC 40.920 (e), which includes duties that 1) occur frequently in the daily care of a patient or group of patients; 2) do not require the person to exercise professional medical knowledge or judgement; 3) do not require complex medical skills; 4) have a standard procedure and predictable results, and 5) present minimal potential risk to the patient | | | | | |
| 19. Am I liable if something goes wrong? | Yes | Yes. See 12 AAC 44.770. | N/A | N/A | | Possibly, but should also be covered under primary care provider's malpractice insurance |
| | Medical Board Physician Osteopath Podiatrist | Board of Nursing APRN RN LPN | Board of Dental Examiners Dentist Dental Hygienist | Board of Pharmacy Pharmacist | Board of Chiropractic Examiners Chiropractor | Board of Barbers & Hairdressers Esthetician Hairdresser |

| | Physician Assistant | CNA | | Pharmacy Technician | | Tattooist Permanent Cosmetic Colorist |
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| Cosmetic injectables: Prescription drugs intended to treat wrinkles, lines, and other cosmetic complaints, such as botulinum toxin (Botox) and other neuro-modulators, hyaluronic acid gel (Juvederm), calcium hydroxylapatite (Radiesse), polylactic acid (Sculptra) | | | | | | |
| 20. Can I evaluate a patient? | Yes | APRN may per AS 08.68.850(1) and (9) | Botox Only: Dentist may, only if within the practice of dentistry under AS 08.36.360. Hygienists cannot. This is not limited to botox only, general provisions indication this would be limited to oral cavity, maxilla, mandible, or adjacent tissues. | No | Yes | No |
| 21. Can I diagnose a patient? | Yes | APRN may per AS 08.68.850(1) and (9) | Botox Only: Dentist may, only if within the practice of dentistry under AS 08.36.360. Hygienists cannot. This is not limited to botox only, general provisions indication this would be limited to oral cavity, maxilla, mandible, or adjacent tissues. | No | Yes | No |
| 22. Can I order a prescription? | Yes | APRN may per AS 08.68.850(1) and (9) | Botox Only: Dentist may, only if within the practice of dentistry under AS 08.36.360. Hygienists cannot. This is not limited | Yes, under collaborative practice agreement. 12 AAC 52.240. | No | No |

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| | | | to botox only, general provisions indication this would be limited to oral cavity, maxilla, mandible, or adjacent tissues. | | | |
| 23. Can I administer injections? | Yes | Yes, if trained. APRN, RN, LPN (RN & LPN-need an order) | Botox Only: Dentist may, only if within the practice of dentistry under AS 08.36.360. Dentist can delegate monitoring after the fact to a dental hygienist under Sec. 08.32.110 This is not limited to botox only, general provisions indication this would be limited to oral cavity, maxilla, mandible, or adjacent tissues. | Yes, under collaborative practice agreement. 12 AAC 52.240. | Non-Prescription Substances, w/ appropriate training AS 08.20.100(b)(1) AS 08.20.900(1) 12 AAC 16.990(b)(1) | No |
| 24. Can I monitor a patient during and after administration? | Yes | Monitoring vital signs and bodily functions may be delegated under 12 AAC 44.955 | Botox Only: Dentist may, only if within the practice of dentistry under AS 08.36.360 This is not limited to botox only, general provisions indication this would be limited to oral cavity, maxilla, mandible, or adjacent tissues. | No | Must be for procedure within scope--no prescriptive authority | Monitoring vital signs and bodily functions may be delegated under 12 AAC 44.955 |

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| <p>25. Can I supervise personnel? If so, who and what?</p> | <p>Licensees must supervise personnel if they delegate duties to an “agent” who is unlicensed or not able to independently perform the duties under the scope of their own license.</p> | <p>APRN can supervise RN and LPN. See advisory opinion</p> | <p>Botox Only: Dentist may, only if within the practice of dentistry under AS 08.36.360 This is not limited to botox only, general provisions indication this would be limited to oral cavity, maxilla, mandible, or adjacent tissues.</p> | <p>No</p> | <p>No--Must be within scope of practice</p> | <p>No</p> |
| <p>26. Can I delegate to personnel? If so, who and what?</p> | <p>Prescriptive authority is not a duty that can be delegated. See #18 above, for list of routine duties that may be delegated under 12 AAC 40.920 (e) A licensee may delegate to an “agent” of the licensee, the administration of an injectable medication if it is a single intramuscular, intradermal, or subcutaneous injection, not otherwise</p> | <p>This task does not appear in the regulations to be delegated. Only listed in the advisory opinion on botox that APRN/MD/PA may delegate to appropriately trained RN/LPN under certain circumstances and delegating supervisor must be on site. This should probably be placed in regulation with initial visit having supervisor present and subsequent visits for the same procedures being able to be carried out with supervisor being able to be contacted via</p> | <p>Botox Only: Dentist may, only if within the practice of dentistry under AS 08.36.360 No other clarification about who can be delegated to was provided by staff. Delegations in regulation is limited to RDH and Dental assistant. Dentists may delegate dental related tasks, however a dentist may not delegate to a dental assistant a dental operation or</p> | <p>No</p> | <p>No</p> | <p>No</p> |

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| | prohibited under 12 AAC 40.967 (33); in accordance with 12 AAC 40.920 (f) (14) (A)(B)(C) | phone/electronically for low risk procedures. | service that requires the professional skill of a licensed dentist 08.36.346 | | | |
| 27. Am I liable if something goes wrong? | Yes. All licensees may be liable if something goes wrong. | See 12 AAC 44.770. | Yes | Yes, if working under collaborative practice agreement. | Yes--must remain within scope of practice | Possibly, but should also be covered under primary care provider's malpractice insurance |
| | Medical Board Physician Osteopath Podiatrist Physician Assistant | Board of Nursing APRN RN LPN CNA | Board of Dental Examiners Dentist Dental Hygienist | Board of Pharmacy Pharmacist Pharmacy Technician | Board of Chiropractic Examiners Chiropractor | Board of Barbers & Hairdressers Esthetician Hairdresser Tattooist Permanent Cosmetic Colorist |
| Nonsurgical fat reduction: Techniques to remove fat by revision, destruction, incision or other structural alteration of human tissue such as cryolipolysis (CoolSculpting), injection lipolysis (Kybella), radiofrequency lipolysis (Vanquish) and laser lipolysis (SculpSure) | | | | | | |
| 28. Can I evaluate a patient? | Yes | Uncertain Not in regulation, but should be in scope of adult/lifespan APRN with appropriate training | N/A for dentists or hygienists. | No | Yes May not perform procedures as covered in AS 08.20.900(3),(6) OR 12AAC16.990(b)(2) | No |
| 29. Can I diagnose a patient? | Yes | Uncertain Not in regulation, but should be in scope of adult/lifespan APRN with appropriate training | N/A for dentists or hygienists. | No | Yes May not perform procedures as covered in AS 08.20.900(3),(6) OR 12AAC16.990(b)(2) | No |

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| 30. Can I order a prescription? | Yes | Uncertain Not in regulation, but should be in scope of adult/lifespan APRN with appropriate training | N/A for dentists or hygienists. | No | No | No |
| 31. Can I administer injections? | Yes | Uncertain Not in regulation, but should be in scope of adult/lifespan APRN with appropriate training | N/A for dentists or hygienists. | No | No | No |
| 32. Can I dispense prescription medications? | Yes | Uncertain Not in regulation, but should be in scope of adult/lifespan APRN with appropriate training | N/A for dentists or hygienists. | Yes | No | No |
| 33. Can I monitor a patient during and after administration? | Yes | Uncertain Not in regulation, but should be in scope of adult/lifespan APRN with appropriate training | N/A for dentists or hygienists. | No | | Monitoring vital signs and bodily functions may be delegated under 12 AAC 44.955 |
| 34. Can I supervise personnel? If so, who and what? | See #17 | Uncertain Not in regulation, but should be in scope of adult/lifespan APRN with appropriate training RN able to perform supervised procedures based on competency and proper training. | N/A for dentists or hygienists. | No | | No |
| 35. Can I delegate to personnel? If so, who and what? | See #18 | Uncertain Not in regulation, but should be in scope of adult/lifespan APRN | N/A for dentists or hygienists. | No | | No |

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| | | with appropriate training APRN delegate to properly trained RN | | | | |
| 36. Am I liable if something goes wrong? | Yes. All licenses may be liable if something goes wrong. | See 12 AAC 44.770. | N/A for dentists or hygienists. | Yes, only regarding dispensing. | | Possibly, but should also be covered under primary care provider's malpractice insurance |
| | Medical Board Physician Osteopath Podiatrist Physician Assistant | Board of Nursing APRN RN LPN CNA | Board of Dental Examiners Dentist Dental Hygienist | Board of Pharmacy Pharmacist Pharmacy Technician | Board of Chiropractic Examiners Chiropractor | Board of Barbers & Hairdressers Esthetician Hairdresser Tattooist Permanent Cosmetic Colorist |
| Lifestyle Drugs: Prescription drugs like semaglutides (Ozempic) or sildenafil (Viagra), including in a telemedicine setting | | | | | | |
| 37. Can I evaluate a patient? | Yes | APRN may per AS 08.68.850(1) and (9) | Dentist may, only if within the practice of dentistry under AS 08.36.360. It is unlikely that these drugs have a use within the practice of dentistry. | No | Yes AS 08.20.100(b)(1) AS 08.20.900(3),(6) 12AAC16.990(b)(1) | No |
| 38. Can I diagnose a patient? | Yes | APRN may per AS 08.68.850(1) and (9) | Dentist may, only if within the practice of dentistry under AS 08.36.360. It is unlikely that these drugs have a use within the practice of dentistry. | No | Yes | No |
| 39. Can I order a prescription? | Yes | APRN may per AS 08.68.850(1) and (9) | Dentist may, only if within the practice of dentistry under AS 08.36.360. It is unlikely that these | Yes, under collaborative practice agreement. 12 AAC 52.240. | See above statutes | No |

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| | | | drugs have a use within the practice of dentistry. | | | |
| 40. Can I administer injections? | Yes | APRN may per AS 08.68.850(1) and (9) | Dentist may, only if within the practice of dentistry under AS 08.36.360. It is unlikely that these drugs have a use within the practice of dentistry. | Yes, under collaborative practice agreement. 12 AAC 52.240. | | No |
| 41. Can I dispense prescription medications? | Yes | No | Dentist may, only if within the practice of dentistry under AS 08.36.360. It is unlikely that these drugs have a use within the practice of dentistry. | Yes | No | No |
| 42. Can I monitor a patient during and after administration? | Yes | Yes | Dentist may, only if within the practice of dentistry under AS 08.36.360. It is unlikely that these drugs have a use within the practice of dentistry. | No | Only within scope | Monitoring vital signs and bodily functions may be delegated under 12 AAC 44.955 |
| 43. Can I supervise personnel? If so, who and what? | No | APRN can supervise RN and LPN. | No | No | | No |
| 44. Can I delegate to personnel? If so, who and what? | No | APRN can delegate to CMA 12 AAC 44.950 if in a private or public ambulatory setting | No | No | | No |
| 45. Am I liable if something goes wrong? | Yes. All Licensees may be liable if something goes wrong. | Ordering provider and administrator of medication should be responsible. See 12 AAC 44.770. | Yes | Yes, only regarding dispensing. | | Possibly, but should also be covered under primary care provider's |

| | | | | | | malpractice insurance |
|---|---|---|---|---|--|--|
| | Medical Board Physician Osteopath Podiatrist Physician Assistant | Board of Nursing APRN RN LPN CNA | Board of Dental Examiners Dentist Dental Hygienist | Board of Pharmacy Pharmacist Pharmacy Technician | Board of Chiropractic Examiners Chiropractor | Board of Barbers & Hairdressers Esthetician Hairdresser Tattooist Permanent Cosmetic Colorist |
| Hyperbaric Therapy: Breathing pure oxygen in a pressurized environment | | | | | | |
| 46. Can I evaluate a patient? | Yes | APRN with appropriate education and training | Hyperbaric treatment is an acceptable treatment for osteonecrosis. I complication, usually associated with bone fracture in a patient who has taken IV Bisphosonates. So yes, a dentist may evaluate a patient for hyperbaric oxygen treatment as long as it is in accordance with AS 08.36.360 | No | Yes | No |
| 47. Can I diagnose a patient? | Yes | APRN with appropriate education and training | As long as it is in accordance with AS 08.36.360 | No | Yes | No |
| 48. Can I order hyperbaric therapy? | Yes | APRN with appropriate education and training | As long as it is in accordance with AS 08.36.360 | No | Yes | No |
| 49. Can I administer hyperbaric therapy? | Yes | APRN with appropriate education and training | As long as it is in accordance with AS 08.36.360 I don't believe a dentist would | No | Yes | No |

| | | | | | | |
|--|--|--|---|----|---|--|
| | | | maintain a hyperbaric chamber in their dental office in the office chance there is a rare complication associated with oral bone fracture. | | | |
| 50. Can I monitor a patient during and after administration? | Yes | APRN with appropriate education and training RN with training could monitor under supervision | As long as it is in accordance with AS 08.36.360 | No | Yes | Monitoring vital signs and bodily functions may be delegated under 12 AAC 44.955 |
| 51. Can I supervise personnel? If so, who and what? | Yes. Licensees may supervise / delegate licensed and unlicensed personnel to perform routine medical duties within the scope of their practice in accordance with 12 AAC 40.920. | APRN can supervise | N/A for dentists or hygienists. | No | Only within scope of practice | No |
| 52. Can I delegate to personnel? If so, who and what? | A licensee may delegate "routine medical duties to an "agent" of the licensee in accordance with 12 AAC 40.920. See #18, above. | Yes 12 AAC 44.950 | Dentist may, only if within the practice of dentistry under AS 08.36.360 Delegations in regulation is limited to RDH and Dental assistant. Dentists may delegate dental | No | Only appropriately trained and within scope | No |

| | | | | | | |
|--|---|---|---|---|--|--|
| | | | related tasks, however a dentist may not delegate to a dental assistant a dental operation or service that requires the professional skill of a licensed dentist 08.36.346 | | | |
| 53. Am I liable if something goes wrong? | Yes. All licensees may be liable if something goes wrong. | Yes | N/A for dentists or hygienists. | N/A | Yes | Possibly, but should also be covered under primary care provider's malpractice insurance |
| | Medical Board Physician Osteopath Podiatrist Physician Assistant | Board of Nursing APRN RN LPN CNA | Board of Dental Examiners Dentist Dental Hygienist | Board of Pharmacy Pharmacist Pharmacy Technician | Board of Chiropractic Examiners Chiropractor | Board of Barbers & Hairdressers Esthetician Hairdresser Tattooist Permanent Cosmetic Colorist |
| Locations: Clinics, retail locations, and mobile locations | | | | | | |
| 54. Can I own a clinic that offers medical procedures like any listed above? | Yes | APRN can if within their population foci or if employs appropriately trained people | Under Sec. 08.36.365 A dentist licensed in this state may practice under the name of "dental center" or other descriptive term that does not deceive the public about the nature of the services provided; and under Sec. 08.36.367 For the | Yes | Yes--A chiropractic clinic may only be owned by a chiropractic physician and perform services with the scope of chiropractic practice; A specialty clinic may be owned by anyone, but the services provided must be within | Medical clinics are not regulated by the board of Barbers and Hairdressers. Medical service may be offered at a shop licensed under AS 08.13.120; however, the shop license is irrelevant: Requires licensed |

| | | | | | | |
|---|-------------------------------------|--|---|-----------|--|---|
| | | | <p>purpose of owning or operating a dental practice, office, or clinic, an entity described in (a) of this section shall (1) name a licensed dentist as its dental director, who shall be subject to the provisions of AS 08.36.315 and 08.36.317 in the capacity of dental director; the dental director, or an actively licensed dentist designated by the director, shall have responsibility for the entity's practice of dentistry.</p> <p>As a passive investor, yes but not as a practicing licensed dental practitioner as that would be deceiving to the public. See 08.36.365</p> | | the scope of practice of whomever is performing or supervising the specific service. | primary care provider to be present and all relevant laws under health care professions to be followed. |
| 55. Can I supervise at a clinic that offers medical procedures like any listed above? | Yes | Supervision is according to nursing statutes and regulations | Dentist may, only if within the practice of dentistry under AS 08.36.360. | No | Within scope | No |
| 56. Must the clinic be stationery/have a fixed address? | No statutes/regulation address this | Not addressed in regulation | Not specified in dental statutes or regulations. The | Uncertain | No | Not according to BAH regulation: |

| | | | | | | |
|--|---|---|--|------------------------------|----|---|
| | under the Medical Board. | | majority of board members agree that mobile practices are legal. However one member states that he believes it is required that any change in location must be submitted to the board within 30 days. He will follow up further and report to the board at the next meeting. I am unable to find any language or precedent precluding this. In the past the dental board has given licenses to boat slip location knowing the intention was to provide dentistry to Alaska islands from the location of a mobile boat. | | | |
| 57. Must the clinic itself hold an Alaska license? If so, by who and what? | No statutes/ regulation address this under the Medical Board. | Maybe a business license currently- no facility regulations | Not specified in dental statutes or regulations. Practices themselves are not regulated. Although this is commonly done in other states. | Depends on therapy provided. | No | 12 AAC 09.110 (Shop owner license) and 12 AAC 09.111 (Mobile shops) |
| 58. Must a medical professional be onsite | Yes. If medical services are | Yes | A dentist must be present for services | Uncertain | If | Medical clinics are not regulated by |

| | | | | | | |
|--|---|--------------------|--|--|---|---|
| while these procedures are offered? | being offered, the patient must be assessed to determine the patient's medical condition before services are administered. | | that require either direct or indirect supervision; services that require general supervision may be performed by hygienists without a dentist present. | | required/performed under specific license/scope of practice | the board of Barbers and Hairdressers. Medical service may be offered at a shop licensed under AS 08.13.120; however, the shop license is irrelevant: Requires licensed primary care provider to be present and all relevant laws under health care professions to be followed. |
| 59. Must a medical professional be onsite while these procedures are administered? | Yes. However, the level of professional that must be onsite when the procedures are delivered depends on the procedure and license type of that individual. | Yes | A dentist must be present for services that require either direct or indirect supervision; services that require general supervision may be performed by hygienists without a dentist present. | Uncertain | As required by license/scope under which procedure is performed | Yes |
| 60. Am I liable if something goes wrong? | Yes | See 12 AAC 44.770. | Yes. | Yes, as an owner or if practicing outside of the scope of practice | Yes--according to license/scope | Yes, as business owner |

Links and Resources:

USP <797> Sterile Compounding: <https://www.usp.org/compounding/general-chapter-797>

MoCRA Registration info: <https://www.fda.gov/cosmetics/registration-listing-cosmetic-product-facilities-and-products>

FDA Device Classification Database: <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfRL/rl.cfm>

State Medical Board Opinions:

https://www.commerce.alaska.gov/web/Portals/5/pub/MED_Guide_Dermatological.pdf

https://www.commerce.alaska.gov/web/Portals/5/pub/MED_Guide_Lasers_Laser_Surgery.pdf

https://www.commerce.alaska.gov/web/Portals/5/pub/MED_Guide_Delegating_to_Unlicensed_Assistants.pdf

Board of Nursing Opinions:

<https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofNursing/AdvisoryOpinions.aspx>

Alaska Professional Licensing Board Statutes and Regulations

<https://www.commerce.alaska.gov/web/Portals/5/pub/MedicalStatutes.pdf>

<https://www.commerce.alaska.gov/web/Portals/5/pub/NursingStatutes.pdf>

https://www.commerce.alaska.gov/web/Portals/5/pub/BAH_Stats_Regs.pdf

<https://www.commerce.alaska.gov/web/Portals/5/pub/PharmacyStatutes.pdf>

<https://www.commerce.alaska.gov/web/Portals/5/pub/DentalStatutes.pdf>

<https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofChiropracticExaminers.aspx>

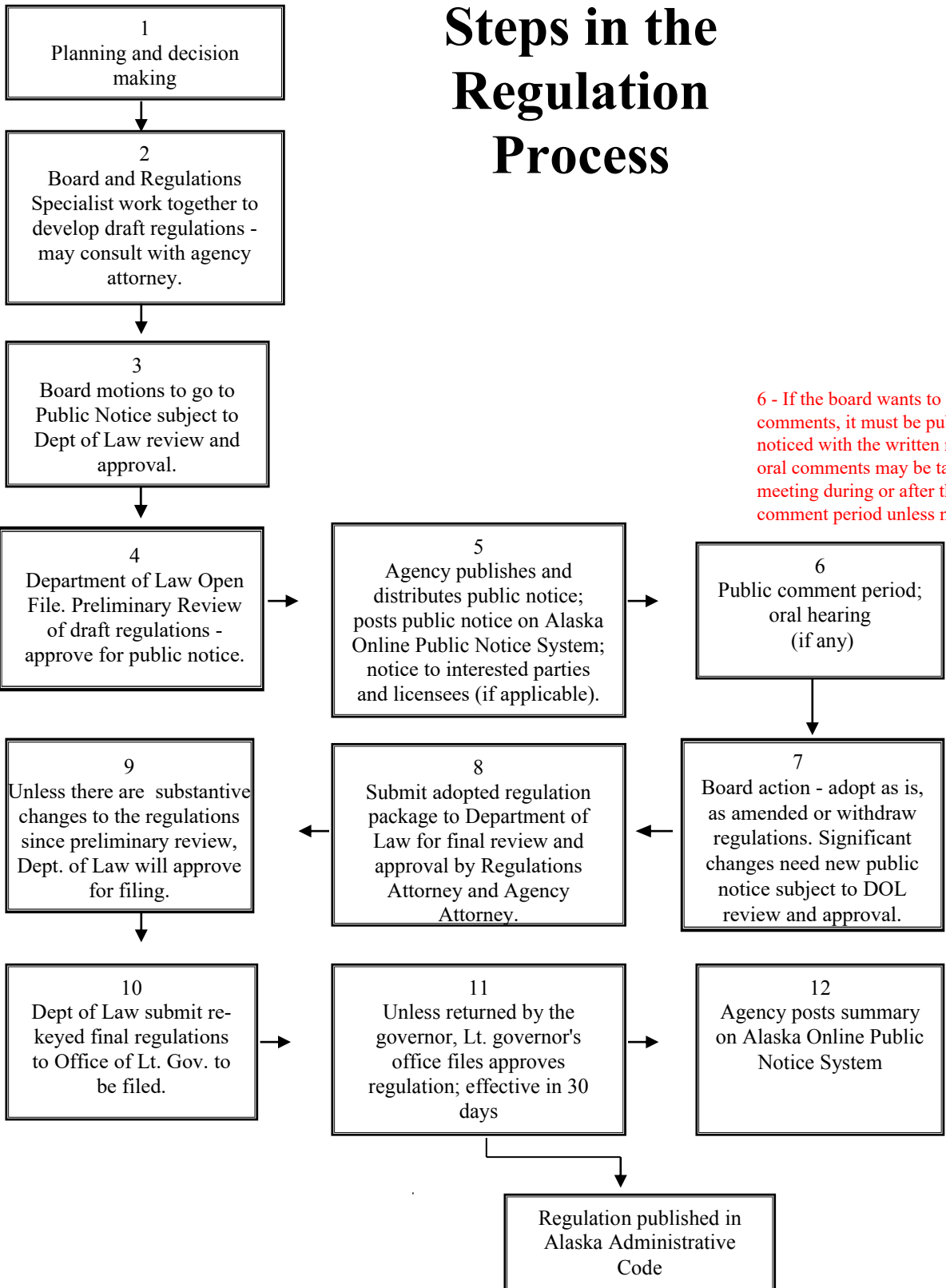
Additional Narrative:

Erickson (Nursing): I believe our current regulations project will allow APRNs to supervise unlicensed personnel including medical assistants and estheticians, current regulations only allow for supervision of nursing related fields, but we know there's overlap.

The way I see many of these new procedures is that with the appropriate population foci, and proper education and training all of these are in the scope of the appropriate APRN. It's impossible to list all the new products and procedures that will come in the future so making regulation with that in mind is important.

REGULATION ADOPTION PROCESS

Steps in the Regulation Process



2 - Consultation with the agency attorney would occur if the board would like assistance with a difficult or controversial subject, otherwise it's not usually necessary.

4- It is at this point that the attorney may contact the Reg Spec for more information, clarification, or changes that would need to be made.

6 - If the board wants to take oral comments, it must be public noticed with the written notice. No oral comments may be taken at a meeting during or after the public comment period unless noticed.



Draft language suggested for Board of Barbers and Hairdressers regulation definition of “appliances”:

The use of esthetic devices, or combinations of devices that stimulate natural physiological processes intended to improve skin appearance and health, devices should meet the following criteria: Do not directly ablate or destroy live tissue, or involve incision into skin beyond the epidermis. Devices must operate within manufacturer guidelines, and FDA registration if required by 21 U.S. Code § 321 of the Federal Food, Drug, and Cosmetic (FD&C) Act. These devices should not fall within Class III, IIIA, IIIB, or IV Radiation Emitting Devices designation.

Statutory authority:

AS 08.13.030. Powers and duties of the board. (a) The board shall exercise general control over the vocations of barbering, hairdressing, hair braiding, manicuring, esthetics, body piercing, tattooing, and permanent cosmetic coloring.

AS 08.13.220. Definitions. In this chapter,

(5) "esthetics" means the use of the hands, appliances, cosmetic preparations, antiseptics, or lotions in massaging, cleansing, stimulating, or similar work on the scalp, face or neck, including skin care, make-up, and temporary removal of superfluous hair, for cosmetic purposes for a fee;

External references:

[FDA Classification of laser products and instruments](#)

[Esthetics Procedures List for Medical Spa Services Work Group](#)

Chapter 09. Board of Barbers and Hairdressers.

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted. Complete new sections are not in boldface or underlined.)

12 AAC 09.990(b) is amended to read:

(b) For the purposes of AS 08.13.220(5),

(1) “appliances” means the use of esthetic devices, or combinations of devices that stimulate natural physiological processes intended to improve skin appearance and health; devices should meet the following criteria:

(A) Do not directly ablate or destroy live tissue or involve incision into skin beyond the epidermis.;

(B) Devices must operate within manufacturer guidelines, and FDA registration if required by 21 U.S. Code § 321 of the Federal Food, Drug, and Cosmetic (FD&C) Act; and

(C) These devices should not fall within Class III, IIIA, IIIB, or IV of Radiation Emitting Devices designations.

(2) “for a fee” does not include remuneration received by a person employed or working under contract to provide make up services for a television, film, or stage production. (Eff. 11/2/81, Register 80; am 10/21/82, Register 84; am 2/28/88, Register 105; am 7/23/2000, Register 155; am 11/27/2002, Register 164; am 12/6/2002, Register 164; am 7/12/2007, Register 183; am 4/21/2010, Register 194; am 6/8/2016, Register 218; am 6/21/2018, Register 226; am 3/30/2019, Register 229; am 12/6/2020, Register 236; am ____/____/_____, Register _____)

Authority: AS 08.13.030 AS 08.13.220

Register _____, _____ 2025 PROFESSIONAL REGULATIONS

Editor's Note: The FDA device designation list can be found at the U.S. Food and Drug Administration's website:

<https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfpd/classification.cfm>

(Eff. 11/2/81, Register 80; am 10/21/82, Register 84; am 2/28/88, Register 105; am 7/23/2000, Register 155; am 11/27/2002, Register 164; am 12/6/2002, Register 164; am 7/12/2007, Register 183; am 4/21/2010, Register 194; am 6/8/2016, Register 218; am 6/21/2018, Register 226; am 3/30/2019, Register 229; am 12/6/2020, Register 236; am ____/____/_____, Register _____)

Authority: AS 08.13.030 AS 08.13.220



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

CONDENSED MINUTES OF THE MEETING HELD August 8, 2024

By the authority of AS. 08.01.070(2) and AS08.86.030 and in compliance with the provisions of AS 44.64, Article 6, a scheduled board meeting was held via teleconference/Zoom, August 8, 2024.

These are DRAFT minutes prepared by the staff of the Division of Corporation, Business and Professional Licensing. These minutes have not been reviewed or approved by the board.

August 8, 2024:

Attendance

Members Present: Chair Tenaya Miramontes, Wendy Palin, Kevin McKinley, Willie Mae Canady, Jessica Pestrikoff

Staff Present: Sara Chambers, Boards and Regulations Advisor, Cynthia Spencer & Wanda Whitcomb, Licensing Examiners, Renee Carabajal, Program Coordinator, Investigators Chace Evans and Jacob Daviscourt, Stefanie Davis, Regulation Specialists, Melissa Dumas, Administrative Operations Manager

Public Present via Zoom:

There were 15 members of the public attending via Zoom.

1. Call to Order/Roll Call

The board was called to order at 8:32 a.m.

The board greeted new board members Kevin McKinley, Mae Candy, and Jessica Pestrikoff.

Kevin McKinley, Mae Canady, and Jessica Pestrikoff introduced themselves to the board.

Board members greeted Mr. McKinley, Ms. Canady, and Ms. Pestrikoff.

2. Review Agenda

Renee Carabajal, Program Coordinator greeted the board and reviewed the completed licensing examination reclassification and informed the board Cynthia Spencer is now their point of contact for all board matters.

The board thanked Mrs. Carabajal for the information and continued to review the agenda.

Cynthia Spencer requested the board consider moving Item 11, section C, Officer Elections, to occur before the lunch break on the chance Tenaya Miramontes doesn't make it back on time. The board briefly discussed and agreed to move this item to occur before lunch.

Motion: 1st Willie Mae Canady Ledford – 2nd Kevin McKinley

Approve agenda as amended.

Approved by majority.

3. Ethics Disclosure

The board reviewed the provided Ethics packet.

Board members present stated they had no conflicts to disclose.

4. Regulation Project Review and Adoption 12 AAC 09.002. 09.106, 09.990

Regulation specialist Stephani Davis greeted the board and reviewed the regulation projects. Ms. Davis informed the board that the noticed public comment period ended July 1, 2024.

The board reviewed the submitted written comments and noted that the only regulation noted in the public comments was the proposed “appliance” definition being proposed for 12 AAC 09.990.

Mr. McKinley asked if the board could adopt proposed regulations except for 12 AAC 09.990. Ms. Davis stated the board could adopt the entirety of the proposed changes or approve individual proposed regulation changes reflected in the packet.

Mr. McKinley stated he has issues with the proposed changes 12 AAC 09.002, courtesy license; Mr. McKinley stated the intent of this license was to allow Alaska shops to bring in out of state artists to cover/substitute local artist who were not available to work; changes to the courtesy license requirements have made it very difficult for local shops to bring up substitute artists.

Ms. Spencer and Ms. Davis reviewed this change and informed the board this is a clean-up in response to the November 2023 90-day deadline requirement change in 12 AAC 09.004(b). Ms. Spencer stated an agenda item would be added for the October 10, 2024 meeting to discuss courtesy licenses for local shops.

Action Item: Add to October 10, 2024 agenda - local shop courtesy license discussion.

The board briefly reviewed the proposed changes to 12 AAC 09.106 and stated they had no problems with the clean-up changes.

The board briefly reviewed the proposed definition of “appliances”, 12 AAC 09.990 and discussed submitted public comments. Wendy Palin reviewed modulates and the December 14, 2024 town hall meeting conversation with the board. Sara Chambers informed the board that the Medical Spa Services Work group would be holding their first meeting on Tuesday, August 12, 2024, from Noon to 1PM; meeting information has been public noticed and available on the Medical Spa Services Work Group web page.

The board continued to review this regulation and public comment; the board agreed that more work was needed on this definition, and they would like to have oral comments as well as written on this matter.

Motion: 1st Wendy Palin – 2nd Kevin McKinley

Remove 12 AAC 09.990 from this project and move forward with adopting remaining regulations.

Approved by majority.

The board briefly discussed and requested this definition be readdressed during the October 10, 2024 meeting and with information from the Medical Spa Work Group.

Motion: 1st Kevin McKinley – 2nd Wendy Palin

Adopt the proposed regulations for file number 2024200136 as proposed and publicly noticed with the removal of any changes to 12 AAC 09.990(b).

Approved by majority.

5. Public Comment

Chair Tenaya Miramontes reminded attendees no comments would be accepted regarding the proposed regulation projects.

Rachel Lauesen, Attorney, Lauesen law Team, representing Skinlife Medspa.

- Board using psychological warfare with mixed messages and confusion regarding esthetics services
- Gave background of current esthetician service issues and November 2022 Attorney General memo was not immediately shared with the public.
- Position statements and guidance are not regulations.
- Meeting minutes are not complete as they do not provide all information
- Meeting packets posted to website are incomplete – not legal to add documents with out reposting as you are misrepresenting.

- As attorney who went to best law schools; cannot keep up with what is happening with the board so licensees and public cannot keep up either
- Board does not allow public comment
- October town hall meeting cancelled due to lack of quorum
- Meetings cancelled due to lack of quorum and are cancelled at last minute
- These professionals are some of the hardest working people with least amount of fringe benefits for regulated professionals.
- Board needs to work better on regulation changes
- Board needs to move legislation changes
- Board harming estheticians and abandoning them.
- Unaware of Medical Spa Work Group, not reflected online in Alaska Public notice system
- Board or Division issues, haven't been able to figure out who is responsible. Division is not industry expert.
- Board is violating opens meeting act, conducting business in the dark.

Chair Miramontes thanked Ms. Lauesen.

Teesha Northcott, Esthetician, owner of Skinlife Medspa.

- Thanked board and Sara Chamers for their time and efforts for the industry.
- This meeting very informative compared to other board meetings.
- Member of national Aesthetic collation; members are online for this meeting.
- Licensed since 1998; believe in Alaska and industry; come from plastic surgy background in medical field.
- Would like to see licensees that go out of state for higher education come back into Alaska to provide patients with the right and adequate care they deserve.
- Education is important for licensees as industry changes and grows.
- Public safety concerns must be addressed
- Alaska esthetician license is a joke in the industry due to educational requirements and allowable services.
- Goal is to have a higher level of esthetics for patients and patient care.
- Skinlife Medspa employs two MDs, nurse practitioner and physician assistant; all employees hold bachelor's degree or higher.
- Due to boards non transparency, hired a lawyer
- Board needs to create better regulations
- Board is nonresponsive
- Board member Wendy Palin is an industry expert and practices in the medical field; very glad she is board member on Medical Spa Workgroup board
- Create esthetician board
- Insurance billing problems due to uncertainty what services esthetician's vs medical esthetician can provide.

Chair Miramontes stated that she is excited about the new Medical Spa Work Group and stated it has been very difficult to pull a meeting together due to the different involved boards and board members schedules.

Chair Miramontes thanked Ms. Northcott and Ms. Lausen for coming forward with their comments.

Recess The Board recessed at 10:27 a.m. for a short break; reconvened at 10:37 a.m. Majority of the board confirmed by roll call.

7. Division Update

Melissa Dumas, Administrative Operations Manager, introduced herself to the board.

A. FY24 3rd Quarter Budget Report

Ms. Dumas reviewed the FY24 3rd quarter report with the board.

Mr. McKinley asked with the increase in the number of licensees, why has investigative costs dropped; is the division no longer investigating matters for this program.

Ms. Dumas stated that she did not have this information.

The board thanked Ms. Dumas for her time.

B. Technology Protocols to Protect State Information

Ms. Chambers reviewed the Wednesday, May 1, 2024 technology memo with the board.

Ms. Chambers stated if board members had any questions about software or hardware to please contact her directly or reach out to staff.

The board thanked Ms. Chambers.

The board was ahead of schedule so moved onto Item 11, section C.

11. Administrative Business

C. Officer Elections

Ms. Spencer thanked the board and reviewed officer elections; typically done once a year or once every two years. Ms. Spencer stated that unless otherwise requested by the board, this would be on the agenda for mid-2025.

Ms. Chambers informed the board having a chair and vice chair is optimal in case the chair is unavailable the vice chair could step in and run a meeting, etc.

Ms. Canady nominated Kevin McKinley for chair.

Ms. Palin nominated Tenaya Miramontes for chair and Kevin McKinley for vice chair.

The board briefly discussed nominations.

Per a roll call vote, Kevin McKinley was appointed board chair.

Per a roll call vote, Tenaya Miramontes was appointed vice-chair.

Ms. Chambers stated Ms. Miramontes would remain the chairperson for this meeting and Mr. McKinley would begin as chairperson at the October 10, 2024 meeting.

8. Investigative Report

Investigator Chace Evans introduced himself to the board.

Chair Miramontes requested Investigator Evans to review the investigative process. Investigator Evans gave a brief review of the process and Renee Carabajal informed the board that a full investigative process training was scheduled for the October 10, 2024 meeting.

Investigator Evans reviewed the Investigative Report and reported 41 open matters and 12 closed matters during December 22, 2023 – August 5, 2024.

Mr. McKinley asked Investigator Evans, based on the FY24 3rd quarter budget report, why has there been a significant drop in investigations. Investigator Evans stated he did not have an answer and stated Investigator Jennifer Summers would be the person to ask.

Investigator Jacob Davis court introduced himself to the board.

Investigator Davis court reviewed the Probation Report and reported there are currently eight licensees on probation, and none had been released from probation. The board had no questions.

Motion to enter executive session: 1st Kevin McKinley – 2nd Mae Canady.

Alaska state Board of barbers and hairdressers enter executive session in accordance with AS 44.62.610(c) and Alaska constitutional right to privacy provisions, for the purpose of discussing subjects that tend to prejudice the reputation and character of any person, provided the person may request the public discussion matters which by law municipal charter or ordinance are required to be confidential. Board staff to remain during the session.

Approved by majority.

Board entered executive session at 11:34 a.m. and returned from executive session at 12:16 p.m.

Kevin McKinley was recused from the executive session to review Case 2022-000736 at 11:38 a.m.

Action Item: Add to October 10, 2024 agenda – Apprentice/Student/Trainee documentation submission discussion.

Motion: 1st Tenaya Miramontes – 2nd Mae Canady

Adopt Consent Agreement for Case 2022-000736, Lui Talo, as presented.

Kevin McKinley was recused from voting on this matter.

Approved by majority.

Action Item: LE Spencer will load the adopted consent agreement to DocuSign shortly.

The board thanked Investigators Evans and Davis court for their time and assistance.

Recess The Board recessed at 12:19 p.m. for a lunch break; reconvened at 1:02 p.m. Majority of the board confirmed by roll call. Chair Miramontes was not online – will re-join meeting shortly.

5. New Business

A. Medical Spa's Multi-Board Workgroup

Ms. Chambers greeted the board and informed them that the first meeting of the Medical Spa Services Work Group had been scheduled to occur Monday, August 12, 2024 from Noon – 1:00 p.m. Ms. Chambers stated it had been difficult to schedule due to the different boards involved. Ms. Chambers stated that this group consists of the Chiropractic Board, Dental Board, Medical Board, Pharmacy Board and this board. Ms. Chambers stated Wendy Palin is representing this board.

Ms. Chambers provided an overview of the purpose, scope, and process laid forth for the Work Group:

- Identify “lifestyle enhancement” services that have a medical nexus and are currently performed or likely to be performed outside of a medical clinic or without appropriate supervision.
- Identify existing statutes and regulations that govern current requirements for training, licensure, and supervision of these procedures.
- Clarify how licensing boards could—jointly or in part—explain existing statutes and regulations that would help the public and licensees understand how these procedures should be safely administered according to the current laws of the state.
- Suggest changes in statute that would allow defensible and transparent pathways forward for appropriately trained and supervised individuals to provide these services without imposing undue economic or regulatory barriers.
- Carry forward work group updates and work products to the member boards for their subsequent review and action.

The board and Ms. Chambers briefly discussed the workgroup.

Ms. Canady stated that she is glad this board is involved with the group

Mr. McKinley asked that more thought be given “appliances”, as when you search for esthetic appliances numerous results are provided and many are not class I or II devices.

Ms. Palin agreed with Mr. Mckinley.

Ms. Chambers asked the board to consider making Ms. Palin the official board liaison with this group.

Motion: 1st Mae Canady – 2nd Jessica Pestrikoff

Nominate Wendy Palin to be the participating board member/liaison for the Medical Spa Services Work Group

Tenaya Miramontes was not online for voting.

Approved by majority.

Ms. Chambers thanked the board for their participation and involvement in this matter.

The board thanked Ms. Chambers for all her hard work.

11. Administrative Business

A. Review/Edit/Approve Meeting Minutes

Ms. Spencer informed the board that if minutes were approved, prior to web posting she would format the minutes by removing highlighted sections, page layout, and spelling check.

i. November 8, 2023 Legislative Work Session

The board reviewed drafted November 8, 2023, meeting minutes.

Motion: 1st Mae Canady – 2nd Wendy Palin

Accept the November 8, 2023, meeting minutes as presented.

Approved by majority.

ii. December 13, 2023 Town Hall Meeting – Hairstyling/Hair Braiding

The board reviewed drafted December 13, 2023, town hall meeting minutes.

Motion: 1st Mae Canady – 2nd Wendy Palin

Accept the December 13, 2023, meeting minutes as presented.

Approved by majority.

iii. December 14, 2023 Town Hall Meeting - Esthetics

The board reviewed drafted December 14, 2023, town hall meeting minutes.

Motion: 1st Wendy Palin – 2nd Mae Canady

Accept the December 14, 2023, meeting minutes as presented.

Approved by majority.

iv. March 4, 2024 Meeting

The board reviewed drafted March 4, 2024, meeting minutes.

Motion: 1st Mae Canady – 2nd Wendy Palin

Accept the March 4, 2024, meeting minutes as presented.

Approved by majority.

B. FY24 Annual Report

i. Draft FY24 Annual Report

Ms. Spencer informed the board that Chair Miramontes had drafted board required sections for this annual report. The board reviewed the drafted FY24 annual report and requested a spelling correction in the “Needs” section, third (3rd) tick, “medial” should be “medical”.

Mr. McKinley and Ms. Canady informed the board that this annual report format was so much nicer than what they had to complete during their previous terms.

Motion: 1st Mae Canady – 2nd Wendy Palin

Accept the drafted FY24 Annual Report as presented.

Approved by majority.

The board thanked Chair Miramontes for writing and submitting all required board sections.

C. Correspondence

i. Hairdresser Curriculum Change Request – Heather Wagoner

The board reviewed Ms. Wagoner’s correspondence and agreed the current curriculum requirements provide training which should result in the apprentice or student being able to successfully manipulate hair.

The board also stated the curriculum requirements of 12 AAC 09.160 are minimum requirements; if a school or instructor feel additional training is needed for an apprentice or student, the school or instructor can provide that additional training.

ii. Sue and Franz Shroy

The board reviewed the letter from Mr. and Mrs. Shroy. The board thanked the Shroy’s for their letter and many excellent points made and stated several topics within the letter had been discussed earlier in the meeting.

iii. NIC Notice Reminder – Dangers in the Beauty Profession

Ms. Spencer informed the board that NIC send out these types of notices when issues arise in the industry with services or products.

The board reviewed the notice. Ms. Spencer asked the board if they would like to begin posting these notices to their website. The board agreed it would be beneficial to post the NIC notices.

Action Item: LE Spencer will begin the process to post NIC notices to the web.

iv. Beatriz Font, Luxury Brand Partners - RE: Silver Nitrate formulas Permissions by State of Alaska.

Ms. Spencer informed the board that staff had responded to Ms. Font’s question regarding the dying/tinting of eyebrows; licensed hairdressers and estheticians may provide those services; however, staff was not able to address the product question.

The board reviewed Ms. Font’s email and stated regulating products and ingredients was outside their prevue and requested staff recommend and provide Ms. Font contact information for the Department of Environmental Conservation, Division of Heath, Food Safety and Sanitation program.

Recess The Board recessed at 2:20 p.m. for a short break; reconvened at 2:27 p.m. Majority of the board confirmed by roll call. Chair Miramontes was not online – will re-join meeting shortly.

Chair Miramontes rejoined the board at 2:30 p.m.

D. Application Review

Ms. Spencer informed the board that they did not have an application to review, however, the board has a request to accept training to consider.

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

Alaska state Board of barbers and hairdressers enter executive session in accordance with AS 44.62.610(c) and Alaska constitutional right to privacy provisions, for the purpose of discussing subjects that tend to prejudice the reputation and character of any person, provided the person may request the public discussion matters which by law municipal charter or ordinance are required to be confidential. Board staff to remain during the session.

Approved by majority.

Board entered executive session at 2:30 p.m. and returned from executive session at 3:21 p.m.

Ms. Palin asked to be recused from voting on this matter due to a potential conflict of interest. The board agreed Ms. Palin would be recused from voting on this matter.

Motion: 1st Mae Canady – 2nd Tenaya Miramontes

Accept hours of training earned outside of valid student permit No. 177746.

Roll Call Vote

| NAME | YES | NO | Recuse |
|---------------------------|------------|-----------|---------------|
| Tenaya Miramontes | | X | |
| Wendy Palin | | | X |
| Kevin McKinley | | X | |
| Jessica Pestrikoff | | X | |
| W. Mae Canady | | X | |

THE MOTION FAILED BY A MAJORITY VOTE.

Mr. McKinley thanked the board for all their hard work and a special thanks to Chair Miramontes for completing the FY24 annual report.

13. Adjourn

The chair declared the board off the record at 3:27 p.m.

Respectfully submitted:

Cynthia Spencer, Licensing Examiner III

Approved:

Kevin McKinley, Chairperson
Board of Barbers and Hairdressers

Date: _____

State of Alaska

2024 STATE CALENDAR

State Holidays

| Date | Holiday |
|------------|--------------------|
| 01/01/2024 | New Year's Day |
| 01/15/2024 | MLK Jr.'s Birthday |
| 02/19/2024 | Presidents' Day |
| 03/25/2024 | Seward's Day |
| 05/27/2024 | Memorial Day |
| 07/04/2024 | Independence Day |
| 09/02/2024 | Labor Day |
| 10/18/2024 | Alaska Day |
| 11/11/2024 | Veterans' Day |
| 11/28/2024 | Thanksgiving Day |
| 12/25/2024 | Christmas Day |

Please refer to appropriate collective bargaining unit agreement for more information regarding holidays.



JANUARY

| S | M | T | W | T | F | S |
|----|----|----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | 6 |
| 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 28 | 29 | 30 | 31 | | | |

JULY

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FEBRUARY

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AUGUST

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| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |

MARCH

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| 24 | 25 | 26 | 27 | 28 | 29 | 30 |
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SEPTEMBER

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| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 | | | | | |

APRIL

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OCTOBER

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MAY

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NOVEMBER

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JUNE

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DECEMBER

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| 15 | 16 | 17 | 18 | 19 | 20 | 21 |
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| 29 | 30 | 31 | | | | |

2025 STATE CALENDAR

JANUARY

| S | M | T | W | T | F | S |
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| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 | 31 | |

FEBRUARY

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| 23 | 24 | 25 | 26 | 27 | 28 | |

MARCH

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| 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| 30 | 31 | | | | | |

APRIL

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| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | | | |

MAY

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| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
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JUNE

| S | M | T | W | T | F | S |
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JULY

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AUGUST

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SEPTEMBER

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OCTOBER

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| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
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NOVEMBER

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DECEMBER

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| 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 28 | 29 | 30 | 31 | | | |

 Holiday  Payday

State Holidays

| Date | Holiday |
|----------|--------------------|
| 01/01/25 | New Year's Day |
| 01/20/25 | MLK Jr.'s Birthday |
| 02/17/25 | Presidents' Day |
| 03/31/25 | Seward's Day |
| 05/26/25 | Memorial Day |
| 07/04/25 | Independence Day |

State Holidays

| Date | Holiday |
|----------|----------------------------------|
| 09/01/25 | Labor Day |
| 10/18/25 | Alaska Day (observed 10/17/2025) |
| 11/11/25 | Veterans' Day |
| 11/27/25 | Thanksgiving Day |
| 12/25/25 | Christmas Day |

Please refer to appropriate collective bargaining unit agreement for more information regarding holidays.