

Report Highlights

Why DLA Performed This Audit

The purpose of this audit was to determine if there is a need for the board's continued existence and whether its termination date should be extended. The board is set to sunset June 30, 2019, and will have one year from that date to conclude its administrative operations.

What DLA Recommends

The current sunset audit makes no new recommendations.

A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Barbers and Hairdressers (board)

April 18, 2018

Audit Control Number 08-20110-18

REPORT CONCLUSIONS

The audit concluded that the board operated in the public's interest by effectively licensing the various occupations under the board's purview. The board monitored licensees and worked to ensure only qualified individuals practice in Alaska.

In accordance with AS 08.03.010(c)(4), the board is scheduled to terminate on June 30, 2019. We recommend that the legislature extend the board's termination to June 30, 2027.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE



Division of Legislative Audit

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August 14, 2018

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Barbers and Hairdressers (board) and the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT
BOARD OF BARBERS AND HAIRDRESSERS
SUNSET REVIEW

April 18, 2018

Audit Control Number
08-20110-18

The audit was conducted as required by AS 44.66.050(a). Per AS 08.03.010(c)(4), the board is scheduled to terminate on June 30, 2019. We recommend that the legislature extend the board's termination date to June 30, 2027.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

A handwritten signature in blue ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA
Legislative Auditor

ABBREVIATIONS

ACN	Audit Control Number
AS	Alaska Statute
board	Board of Barbers and Hairdressers
CISA	Certified Information Systems Auditor
council	National Interstate Council of State Boards of Cosmetology
CPA	Certified Public Accountant
DCBPL	Division of Corporations, Business and Professional Licensing
DCCED	Department of Commerce, Community, and Economic Development
DEC	Department of Environmental Conservation
DLA	Division of Legislative Audit
FY	Fiscal Year

CONTENTS

Report Sections	Organization and Function	1
	Report Conclusions	3
	Findings and Recommendations	11
	Objectives, Scope, and Methodology	13
Agency Responses	Department of Commerce, Community, and Economic Development	21
	Board of Barbers and Hairdressers	23
Appendix	Appendix Summary	17
	Appendix A: Analysis of Public Need Criteria	19
Exhibits	Exhibit 1: Board of Barbers and Hairdressers as of April 2018	1
	Exhibit 2: Board of Barbers and Hairdressers Licensing and Permitting Activity FY 15 through January 31, 2018	6
	Exhibit 3: Board of Barbers and Hairdressers Schedule of Revenues and Expenditures FY 14 through March 31, 2018	7
	Exhibit 4: Board of Barbers and Hairdressers License Fees FY 14 through FY 18	8

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ORGANIZATION AND FUNCTION

Board of Barbers and Hairdressers (board)

The board was established for the purpose of controlling and regulating barbers and hairdressers licensed to practice in Alaska. The board also regulates the following occupations: tattooists, body piercers, permanent cosmetic colorists, estheticians, and manicurists. The board is comprised of seven members: one licensed barber, two licensed hairdressers (one of whom is also a licensed esthetician), one licensed to practice body piercing or tattooing and permanent cosmetic coloring, one licensed manicurist, one person licensed to practice any occupation regulated by the board, and one public member.

Exhibit 1

Board of Barbers and Hairdressers as of April 2018

Jennifer Lombardo, Chair
Industry Licensee

Kevin McKinley
*Tattooist/Body Piercer/
Permanent Cosmetic Colorist*

Michelle Black
Hairdresser

Willie Canady
Hairdresser/Esthetician

Michelle McMullin
Manicurist

Vershawn Idom
Barber

Terriann Shell
Public Member

Source: Office of the Governor, Boards and Commissions website.

Per AS 08.13.030, the board shall:

- Examine applicants and approve the issuance of licenses and permits to practice;
- Authorize the issuance of licenses for schools of barbering, hairdressing, manicuring, and esthetics; and
- Develop written instructions and notices that tattooing, permanent cosmetic coloring, and body piercing shop owners and practitioners are required to give or display.

Additionally, the board may:

- Suspend or revoke a license or permit;

- Conduct hearings and request the Department of Commerce, Community, and Economic Development or the Department of Environmental Conservation investigate the practices of a person, shop, or school involved in the practice or teaching of barbering, hairdressing, manicuring, esthetics, body piercing, or tattooing and permanent cosmetic coloring; and
- Adopt regulations, or do any act necessary to carry out the board's statutes.

DCCED's Division of Corporations, Business and Professional Licensing (DCBPL)

DCBPL provides administrative and investigative assistance to the board. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving application forms, publishing notices for meetings, and assisting with board regulations.

Alaska Statute 08.01.087 gives DCBPL authority to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person is engaged or about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine or have examined the books and records of a person whose business activities require a business license or licensure by a board listed in AS 08.01.010, or whose occupation is listed in AS 08.01.010.
4. Issue subpoenas for the attendance of witnesses and records.

Alaska Statute 08.01.065 requires the department adopt regulations that establish the amount and manner of payment of application, examination, and license fees.

REPORT CONCLUSIONS

In developing our conclusion regarding whether the Board of Barbers and Hairdressers' (board) termination date should be extended, its operations were evaluated using the 11 factors set out in AS 44.66.050(c), which are included as Appendix A of this report. Under the State's "sunset" law, these factors are to be considered in assessing whether an entity has demonstrated a public policy need for continuing operations.

The audit concluded that the board operated in the public's interest by effectively licensing the various occupations under the board's purview. The board monitored licensees and worked to ensure only qualified individuals practice in Alaska.

In accordance with AS 08.03.010(c)(4), the board is scheduled to terminate on June 30, 2019. We recommend that the legislature extend the board's termination to June 30, 2027.

Detailed report conclusions are as follows.

The board operated in the public interest and does not duplicate the efforts of other entities.

Board meetings held from July 2014 through March 2018 were conducted in an effective manner. All 17 meetings held during this period allowed time for public comment and were public noticed timely. The board experienced vacancies; however, quorum was consistently met. In October 2016, a change to the board composition became effective, which increased the board membership from six to seven members. Specifically, one of the two barber member seats was changed to a manicurist seat and a new "industry" seat was added, which is open to any board licensee.

A review of board investigative activity found 265 cases were open or opened between July 2014 and January 2018, and 26 remained open as of January 2018. During this time, 59 cases were open for over 180 days. Of the 59 cases, 20 were administratively closed without resolution due to a lack of resources and challenges to completing the investigation. For example, several cases were associated with unlicensed activity and the respondent could

not be located. Auditors reviewed six of the remaining 39 cases and found one case was inactive for a period of 132 days due, in part, to competing priorities of the assigned investigator.

The National Interstate Council of State Boards of Cosmetology (council) performs activities that involve board licensees; however, the audit found the council does not duplicate the board's efforts. The board utilizes the council's standardized written examinations for licensure of barbers, hairdressers, estheticians, instructors, and manicurists with advanced endorsement. Additionally, the council provides the board with best practice standards for occupations under the board's purview. These efforts help the board effectively license and regulate the occupations.

The audit found the board actively issued and amended regulations to serve the public's interest. Specifically, the board added training requirements for tattooists, permanent cosmetic colorists, and body piercers by requiring trainers to be physically present, and that a trainee has no more than three instructors at a time. Clarifying language was added to instructor license regulations ensuring instructors have appropriate experience to train an apprentice or student. Also, shop owner regulations added a provision to allow a Department of Commerce, Community, and Economic Development (DCCED) representative to inspect shops, in addition to board members, which expands the board's ability to inspect a shop at any time during working hours.

The board unsuccessfully attempted to increase training requirements for manicurists seeking licensure.

With board support, statutes were amended in FY 16 to require manicurists complete 250 hours of school-provided instruction. This was a significant change as previous statutes required only 12 hours of training, and the training was not required to be conducted by a school. According to the board chair, 250 hours of instruction is the lower mid-level requirement of the profession's national average. The additional hours provided training on such areas as: safety and sanitary procedures, learning the structure of the nail and identifying skin disorders, and understanding

products used on the nails and safe application of those products. The increase in training was intended to better protect the public. The statutory amendments also required the board to administer the manicurist exam, rather than an instructor-developed exam, thereby standardizing the state exam.

In June FY 16, regulations to implement the new statutory changes became effective. Although public comment was received and considered by the board when developing regulations, additional comments were received from licensees after the statutes and regulations took effect. The comments generally focused on complaints over the high cost of training and limited availability of schools. The new laws required all licensees to obtain the training prior to the next license renewal date. Based on complaints from licensees, a new bill, effective June 2017, rescinded the new laws for manicurists training and passing a state exam. According to the board chair, the board is planning to address future training changes through a town hall meeting with stakeholders by the end of FY 18.

The board licensed individuals according to statutes and regulations.

The audit found the board operated in the public's interest by effectively licensing the occupations under its purview. A random sample of 40 licenses issued during the audit period was tested, and all were found to be approved in compliance with State laws. Additionally, a sample of three tattoo and body piercing shops licensed during the audit period was reviewed to determine whether an inspection certification was received from the Department of Environmental Conservation (DEC), and all were found to have been inspected in compliance with State laws.

As shown in Exhibit 2, from FY 15 through FY 17, the board issued 2,577 new licenses.¹ As of January 31, 2018, there was a total of 5,534 active licensees, representing a four percent increase when compared to the 2010 sunset audit.²

¹Temporary Licenses and permit totals are not included within the number of new issues or total active licenses.

²Excluding student and student instructor licenses, the number of total licenses reported in the 2010 sunset audit (ACN 08-20068-10) was 5,340.

Exhibit 2

**Board of Barbers and Hairdressers
Licensing and Permitting Activity
FY 15 through January 31, 2018**

	New Issued (Exclusive of Renewals)			Total Licenses as of January 31, 2018
	FY 15	FY 16	FY 17	
Barber	5	13	18	180
Body Piercing	4	3	1	21
Esthetician	72	66	77	618
Hairdresser	145	133	108	2,331
Instructor	13	6	7	188
Manicurist	225	235	55	727
Tattooing and Permanent Cosmetic Coloring	25	23	21	157
School Owner	1	2	2	16
Shop Owner	105	103	89	725
Student and Student Instructors	355	317	348	571
Totals	950	901	726	5,534

Source: Compiled from DCBPL licensing database.

**DCBPL management,
in consultation with
the board, increased
fees to cover the costs of
regulating the professions.**

The board receives its revenue from permitting, licensing, and renewal fees. Renewals are conducted on a biennial basis, creating a two-year cycle in board revenues. Division of Corporations, Business, and Professional Licensing (DCBPL) management, in consultation with the board, increased fees in June 2016 to more closely align revenues with annual costs of the board. As shown in Exhibit 3, at end of March 2018, the board had a surplus of \$840,611. According to DCBPL management, fees will be reassessed in FY 19. Exhibit 4 presents a schedule of fees from FY 14 through FY 18.

Exhibit 3

Board of Barbers and Hairdressers
Schedule of Revenues and Expenditures
FY 14 through March 31, 2018
(Unaudited)

	FY 14	FY 15	FY 16	FY 17	July 1, 2017- March 31, 2018
Revenues					
Licensing Fees	\$903,618	\$225,990	\$1,058,351	\$302,163	\$1,119,093
Total Revenues	903,618	225,990	1,058,351	302,163	1,119,093
Direct Expenditures:					
Personal Services	219,116	151,444	283,369	268,727	212,024
Travel	6,649	14,560	9,766	7,021	3,975
Contractual	52,875	53,764	63,413	57,144	33,397
Supplies	104	355	584	225	225
Total Direct Expenditures	278,744	220,123	357,132	333,117	249,621
Indirect Expenditures	317,040	184,661	325,574	308,740	231,555*
Total Expenditures	595,784	404,784	682,706	641,857	481,176
Annual Surplus (Deficit)	307,834	(178,794)	375,645	(339,694)	637,917
Beginning Cumulative Surplus (Deficit)	37,703	345,537	166,743	542,388	202,694
Ending Cumulative Surplus (Deficit)	\$ 345,537	\$ 166,743	\$ 542,388	\$ 202,694	\$ 840,611

Source: DCCED management.

*FY 18 indirect expenditures were estimated based on prior year actuals.

Exhibit 4

Board of Barbers and Hairdressers License Fees		FY 14 through FY 18				
		FY 14	FY 15	FY 16	FY 17	FY 18
Nonrefundable application fees:						
Courtesy license		\$80	\$80	\$80	\$80	\$80
Initial License		80	80	150	150	150
Temporary and courtesy license fees:						
Temporary permit		80	80	100	100	100
Temporary license		80	80	100	100	100
Temporary shop license		80	80	100	100	100
Courtesy license for practitioners of body piercing or for practitioners of tattooing and permanent cosmetic coloring		80	80	80	80	80
Student permit, student instructor permit, or apprenticeship fees:						
One year		25	25	100	100	100
Two years		50	50	125	125	125
Exam fees:						
Barber, hairdresser, esthetician, advanced manicurist, or instructor written exam		35	35	60	60	60
Barber, hairdresser, esthetician, or instructor practical exam		60	60	60	60	60
Practitioners of body piercing or tattooing and permanent cosmetic coloring written exam		60	60	60	60	60
License fees for all or part of the initial biennial license period:						
Barber or hairdresser		140	140	180	180	180
Esthetician		140	140	180	180	180
Instructor		220	220	260	260	260
Shop owner		220	220	260	260	260
School and school owner combined		620	620	660	660	660
Manicurist		140	140	180	180	180
Advanced manicurist endorsement		60	60	60	-	-
Practitioner of tattooing and permanent cosmetic coloring		140	140	180	180	180
Practitioner of body piercing		140	140	180	180	180
Biennial license renewal fees:						
Barber or hairdresser		140	140	180	180	180
Esthetician		140	140	180	180	180
Instructor		220	220	260	260	260
Shop Owner		220	220	260	260	260
School and school owner combined		620	620	660	660	660
Manicurist		140	140	180	180	180
Advanced manicurist endorsement		60	60	60	-	-
Practitioner of tattooing and permanent cosmetic coloring		140	140	180	180	180
Practitioner of body piercing		140	140	180	180	180

Source: DCBPL Regulations.

Inspections of barbers, hairdressers, estheticians, and manicurist shops and schools are no longer performed by DEC.

In FY 16, DEC stopped performing inspections of barbers, hairdressers, estheticians, and manicurist shops and schools. According to AS 08.13.210(a), DEC shall supervise the health and sanitary conditions of all licensed shops and schools of the board. DEC management sent a termination of regulatory oversight letter³ to DCBPL and the board which explained the rationale for discontinuing inspections for barbers, hairdressers, estheticians, and manicurist shops and schools. The letter stated:

In FY 2016, the Food Safety and Sanitation program responded to a significant General Fund cut in excess of \$800,000. Eight [positions] were eliminated. The program adjusted to these cuts by ceasing review, inspection and enforcement services for all low-risk facilities, including barber, hairdresser, manicurist, or esthetician shops and schools. The ... program has also cut services for public accommodations and low-risk food establishments.

As an interim measure to ensure new shops and schools complied with the safety and sanitation requirements, the board developed a notarized self-certification form for owners seeking licensure that certified the shop or school was in compliance with state laws. In April 2018, Senate Bill 4 passed, which clarifies that inspections of affected shops and schools may also be performed by DCCED staff, on behalf of the board. At the time of this audit, DCBPL management was unsure how the division would proceed with inspections.

³ Letter dated August 27, 2015.

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FINDINGS AND RECOMMENDATIONS

The prior 2010 sunset audit made two recommendations:

- The current public member should surrender her hairdresser license or be removed from the public member board position.
- Division of Corporations, Business and Professional Licensing chief investigator should take steps to ensure complaints and cases are investigated timely.

The prior audit recommendation regarding a licensed board member filling the public seat is considered resolved. The prior public member resigned and was replaced by a member that met statutory requirements.

The prior audit recommendation to improve investigative timeliness has been materially addressed. The current audit found one of six cases tested that were open for more than 180 days had an unjustified period of inactivity of 132 days. This demonstrates significant improvement when compared to the prior sunset audit, where six of 20 cases were found to be inactive for over a year.

The current sunset audit makes no new recommendations.

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Board of Barbers and Hairdressers (board) to determine if there is a demonstrated public need for its continued existence.

As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the board should be reestablished. Currently, under AS 08.03.010(c)(4), the board will terminate on June 30, 2019, and have one year from that date to conclude its administrative operations.

Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest.
3. To determine the status of recommendations made in the prior sunset audit.

Scope

The assessment of operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the board. We reviewed the board's activities from July 1, 2014, through January 31, 2018. Financial information is presented, unaudited, from July 1, 2013, through March 31, 2018.

Methodology

During the course of our audit we reviewed and evaluated the following:

- The prior sunset audit report (ACN 08-20068-10) to identify issues affecting the board and to identify prior sunset audit recommendations.

- Applicable statutes and regulations to identify board functions and responsibilities, determine whether statutory or regulatory changes enhanced or impeded board activities, and help ascertain if the board operated in the public interest.
- The State's online public notice system to verify the board meetings were adequately public noticed.
- Board meeting minutes and annual reports to gain an understanding of board proceedings and activities, the nature and extent of public input, whether a quorum was maintained, and whether board vacancies impeded operations.
- Expenditures, revenues, and fee levels for the board to determine whether fee levels covered the costs of operations.
- Investigation data of the board for cases open six months or longer from July 1, 2014, through January 31, 2018. A random sample of six of 39 cases (15 percent) open over 180 days was reviewed for unjustified periods of inactivity. The results were projected to the population.
- Various State and news related websites to identify complaints against the board or other board related concerns. Four complaints received by the Office of the Ombudsman were reviewed to identify the nature of the complaints and to examine the efficiency with which the complaint was processed and resolved.
- The National Interstate Council of State Boards of Cosmetology website to gain an understanding of the various examination requirements as adopted through regulatory reference by the board.
- Internal controls over the licensing database and investigative case management system were assessed to determine if controls were properly designed and implemented.

To identify and evaluate board activities, we conducted interviews with Department of Environmental Conservation (DEC) staff, Division of Corporations, Business and Professional Licensing staff, and board members. Specific issues of inquiry included board operations, regulations, duplication of effort, fee levels, complaints against the board, licensure requirements for the professions under the purview of the board, and DEC inspections performed on behalf of the board.

A random sample of 40 licenses, 25 new and 15 renewal applications, was selected from 5,570 licensees that were active as of January 31, 2018. Additionally, three specific licenses requiring DEC inspections were haphazardly selected. Applications were assessed for statutory and regulatory compliance. The sample size was based on moderate control and inherent risk and moderate/high audit risk. Test results were projected to the population.

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APPENDIX SUMMARY

Appendix A provides the sunset criteria used in developing our conclusion regarding whether the Board of Barbers and Hairdressers termination date should be extended.

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APPENDIX A

Analysis of Public Need Criteria AS 44.66.050(c)

A determination as to whether a board or commission has demonstrated a public need for its continued existence must take into consideration the following factors:

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 to its own activities and 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.

Agency Response from the Department of Commerce, Community, and Economic Development



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development
OFFICE OF THE COMMISSIONER

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RECEIVED

October 30, 2018

OCT 30 2018

LEGISLATIVE AUDIT

Kris Curtis, CPA, CISA
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811

RE: Confidential Preliminary Audit Report, Department of Commerce, Community, and Economic Development, Board of Barbers and Hairdressers Sunset Review, April 18, 2018

Dear Ms. Curtis:

Thank you for the opportunity to comment on Confidential Preliminary Report regarding the Board of Barbers and Hairdressers. I am pleased to know that you are recommending a full extension of this board to June 30, 2027, and have no recommendations for this audit period.

Sincerely,

A handwritten signature in blue ink that reads "Mike Navarre".

Mike Navarre
Commissioner

cc: Janey McCullough, Director, Division of Corporations, Business and Professional Licensing
Angela Ramponi, Legislative Liaison, DCCED

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Agency Response from the Board of Barbers and Hairdressers

October 25th, 2018

Kris Curtis, CPA, CISA
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811-3300

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OCT 29 2018
LEGISLATIVE AUDIT

Dear Ms. Curtis,

Thank you for the preliminary audit report and this opportunity to respond to it.

Report Conclusions

The board of barbers and hairdressers operated in the public interest during the period between July 2014 and March 2018. In addition to allowing time for public comment at the majority of meetings, the board began holding town hall meetings and two were held in Anchorage in 2018. The board plans to continue hosting town hall meetings in Anchorage and expanding to Juneau and Fairbank in 2019.

The state investigators have been diligent in pursuing open cases and working with board members to address cases in a timely manner. In addition to reaching out to the community the board continues to work with The National Interstate Council of State Boards of Cosmetology to provide a national level of quality and testing. The board does not duplicate the efforts of other entities. New statutes and regulations were adopted to increase training requirements to better serve the community. New regulations in tattooing, permanent cosmetic coloring, and piercing should help increase education of health and safety practices.

Unintentional consequences of the new manicuring regulations called for the rollback to pre 2016 training requirements. The board is planning to rework a new program for manicuring that will bring our curriculum up to a national standard. This will improve the quality of the training program thus bringing more awareness to the health and safety to our communities while allowing practitioners who are currently licensed to more fairly transition to the new requirements.

October 25th, 2018

This board has a large number of licensees which we continue to license according to state statutes and regulations. Public comment is made available during board meetings and the board is holding annual town hall meetings, so every voice can be heard.

Fees were increased in June 2016 and the board continues to operate in the black.

Legislation was passed in April that allows DCCED to take over DEC inspections of barbers, hairdressers, estheticians, manicurists, shops, and schools. The DEC has not conducted inspections of these professions since 1995. DEC will continue to inspect tattooists, piercers, permanent cosmetic colorists, and shops. The board is working closely with multiply agencies to work out the details and get the new processes started.

Findings and Recommendations

There are no current recommendations as well as no new recommendations.

Based on the report conclusions and findings and recommendations, I also encourage the legislature to extend the board's termination to June 30th, 2027.

Please contact with me any questions, comments, or concerns.

Thank you,



Jennifer Lombardo
10/25/18

Board of Barbers and Hairdressers; Industry Licensee
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