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VOLUME

, SUNSET REVIEWS

(1) may not contract for hunts;

(2) shall be under the supervision of a registered or master guide who has contracted with the client for whom the class-A assistant guide is conducting the hunt;

(3) may take charge of a camp and conduct hunts from it without the registered or master guide necessarily being present in the area if the registered or master guide is physically present in the state and is actively supervising in guiding activities. (§ 1 ch 17 SLA 1973)

Sec. 08.54.140. Qualifications for assistant guide license. A person is entitled to be licensed as an assistant guide if he

(1) is 19 years of age or more;

(2) is a resident of the state;

(3) is favorably recommended to the board, in writing, by a registered guide;

(4) meets additional qualifications which the board may require;

(5) is in sound physical condition. (§ 1 ch 17 SLA 1973)

Sec. 08.54.142. Qualification for transporter license. (a) No person may engage in the activity of transporting unless he is licensed as a transporter under this chapter. A person may be licensed as a transporter if he

(1) is a resident of the state;

(2) is familiar with the terrain and transportation problems in the district or districts for which the license is requested;

(3) obtains a business license to do business as a transporter under AS 43.70.030.

(b) No person may engage in the activity of transporting by air without an air commerce certificate as required by AS 02.05.040. (§ 2 ch 106 SLA 1976)

Sec. 08.54.144. Restriction to transportation. (a) A licensed transporter may transport persons whose primary purpose is the taking of big game or the associated removing of big game meat and parts of big game, with the intent of receiving monetary or material remuneration for the transportation.

(b) Air carriers who transport person between airports, landing strips or other landing areas officially listed in the United States government Flight Information Publication, Alaska Supplement, as revised, or the United States government Sectional Aeronautical Charts, as revised, are exempted from the license requirements for transporters under this chapter but shall comply with the reporting provisions as prescribed in AS 02.05.170(f).

(c) Master guides, registered guides, class-A assistant guides or assistant guides are exempted from the license requirements for transporter under this chapter but shall comply with the reporting provisions as prescribed in AS 02.05.170(f). (§ 2 ch 106 SLA 1976)

Sec. 08.54.146. Transporter report. A transporter shall maintain a record of (1) the names and addresses of all persons he transports; (2) the type of game transported; (3) an estimate of the quantity of meat transported; (4) the date of transporting; and (5) if known, the locality where the game was taken. The report shall be submitted to the Department of Fish and Game within 90 days after transporting the game. After receiving a report required under this section, the Department of Fish and Game shall send a copy of it to the Department of Public Safety. (§ 2 ch 106 SLA 1976; am § 4 ch 133 SLA 1976)

Sec. 08.54.150. Responsibility of registered or master guide for violations. A registered or master guide contracting for a hunt is equally responsible under § 200 of this chapter for a violation of a federal or state sport fish, game or guide statute or regulation committed by a class-A assistant guide or assistant guide while in the course of his employment. (§ 1 ch 17 SLA 1973)

Sec. 08.54.170. License fees. (a) License fees for engaging in the profession of guiding are:

(1) master guide license, annual.....	\$75
(2) registered guide license, annual.....	75
(3) class-A assistant guide, annual.....	15
(4) assistant guide license, annual.....	10

(b) The license fee for a master guide, registered guide, class-A assistant guide or assistant guide license is in addition to the fee required for a hunting or fishing license.

(c) The license fee for a transporter is \$10. (§ 1 ch 17 SLA 1973; am § 3 ch 106 SLA 1976)

Sec. 08.54.180. Examination fee. An applicant for a guide examination shall pay a fee of \$25. (§ 1 ch 17 SLA 1973)

Sec. 08.54.185. Additional fees. In addition to the license and examination fees provided for under this chapter, master guides and registered guides are subject to fees imposed under AS 16.05.340(e). (§ 4 ch 268 SLA 1976)

Sec. 08.54.190. Expiration and renewal. (a) A master guide, registered guide, class-A assistant guide, assistant guide or transporter license expires on December 31, following issuance.

(b) No license may be issued to a class-A assistant guide or assistant guide who has failed to renew his license for two consecutive years unless he again meets the qualifications for initial issuance of the license.

(c) A master or registered guide who fails to renew a license is not required to requalify under § 190(2) or § 110(8) of this chapter, respectively. (§ 1 ch 17 SLA 1973; am § 12 ch 127 SLA 1974; am § 4 ch 106 SLA 1976)

Sec. 08.54.200. Grounds for disciplining a licensee. (a) The board shall hold a hearing to determine if disciplinary action is necessary if

(1) complaints concerning the licensee have been filed with the board from three or more clients of separate parties; or

(2) a licensee has been charged with a violation of federal or state sport fish, game or guide statutes or regulations; or

(3) a licensee has been convicted of a violation of federal or state sport fish, game or guide statute or regulation.

(b) After a hearing, the board may revoke, suspend, or deny renewal of a license if the board finds that the licensee

(1) engaged in unethical activity, unsafe activity, or activity which adversely affects the natural resources of the state when such activity is unrelated to the legal and legitimate purposes of the contract hunt; or

(2) violated a provision of a federal or state sport fish, game or guide statute or regulation.

(c) After a hearing, the board shall revoke a license if the board finds that the licensee

(1) does not meet the qualifications specified by statute or regulation for the class of license held;

(2) is incompetent as a master guide, registered guide, class-A assistant guide, or assistant guide;

(3) has been convicted of two violations of federal or state sport fish, game or guide statutes or regulations.

(d) No person who is disciplined under this section may engage in any guiding or transporting activity during the period of license revocation or disciplinary action. No person licensed under this chapter may hire or work for a guide whose license is suspended or revoked under this section.

(e) If the board revokes a license it shall notify the Department of Revenue, and the person whose license has been revoked shall return the license to the Department of Commerce and Economic Development. (§ 1 ch 17 SLA 1973; am § ch 43 SLA 1975; am § 5 ch 106 SLA 1976; am § 47 ch 218 SLA 1976)

Sec. 08.54.210. Unlawful acts. (a) It is unlawful for

(1) a master guide, registered guide, class-A assistant guide, assistant guide or transporter to fail to timely report to the Department of Public Safety, division of fish and wildlife protection, and in no event later than 30 days, violations by a client of a state fish, game or guiding statute or regulation;

(2) a master guide, registered guide, class-A assistant guide, assistant guide or transporter to aid the commission of a violation of this chapter or of AS 16.05 or a regulation promulgated under either chapter, or permit the commission of a violation in his sight without attempting to prevent it, short of using force, and without reporting it;

(3) a person to guide or transport as defined in this chapter without being licensed under this chapter and without having the license in his actual possession; however, for purposes of transporting by air, in the case of a corporation, company, partnership or other business entity, the license may remain at the principal place of business of the business entity;

(4) a person to advertise as or represent himself to be a licensed master guide, registered guide, class-A assistant guide, assistant guide or transporter without being currently licensed, or to falsely advertise services;

(5) a person to guide as defined in this chapter without having a current valid hunting and fishing license in his possession.

(6) a master or registered guide to employ or have under his supervision more than three assistant guides at the same time.

(7) a person to guide as defined in this chapter without paying a fee as prescribed in AS 16.05.340(e).

(b) A person who violates (a)(1)-(6) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both, and may have his license revoked for a period up to five years. However, a person who engages in guiding or transporting activity during the period his license is suspended or revoked under this chapter is guilty of a felony punishable, upon conviction, by a fine of not more than \$5,000 and by imprisonment for not less than one year nor more than three years. In addition to punishment for a felony, all guns, fishing tackle, boats, aircraft, automobiles or other vehicles, camping gear and other equipment and paraphernalia used in, or in aid of, guiding or transporting activity engaged in during the period of suspension or revocation shall be confiscated by persons authorized to enforce this chapter. A person who violates (a)(7) of this section, upon conviction, is subject to the same license revocation provision as for a violation of (a)(1)-(6) of this section and, in addition, is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both. (§ 1 ch 17 SLA 1973; am §§ 3, 4 ch 43 SLA 1975; am § 6 ch 106 SLA 1976; am § 3 ch 133 SLA 1976; am §§ 5, 6 ch 268 SLA 1976)

Sec. 08.54.220. Injunction against unlawful action. When in the judgment of the board a person or corporation or other entity has engaged in an act in violation of § 130 and §§ 200-210 of this chapter or the regulations promulgated under them, the board may apply to the appropriate court for an order enjoining the act. Upon a showing by the board that the person is engaging in the act, the court shall grant injunctive relief or other appropriate order without bond. (§ 1 ch 17 SLA 1973; am § 5 ch 43 SLA 1975)

Article 3. General Provisions.

Section 240. Definitions

Sec. 08.54.240. Definitions. In this chapter

- (1) "board" means the Guide Licensing and Control Board;
- (2) "guide", "guides" or "guiding" means assisting another person to take game with the intent of receiving monetary or material remuneration for the services, by accompanying and directing that person personally or through a licensed assistant guide for the duration of a hunt, and not solely for the purpose of providing transportation services;
- (3) "resident" means a person who maintains a place of residence within the state; has not claimed residency in another state for

the immediately preceding 12 months; shows by all attending circumstances that his intent is to make this state his permanent residence;

(4) "unethical activity" means

(A) deception in any degree involving prospective or actual clients either before, during, or following contract hunts;

(B) misrepresentation either through private communication or public advertising of the nature, type, duration, cost, or other conditions of contract hunts.

(C) making a guaranty that a species or certain number of species of game will be taken on a contract hunt.

(5) "transporting" or the "activity of transporting" means conveying a person by any lawful means to an area for remuneration or material benefit in excess of normal operating costs, when the primary purpose of the person being conveyed is the taking of big game and the associated removing of big game meat and parts of big game after big game has been taken; big game as used in this paragraph means game which, if taken by a nonresident, would require a big game tag. (§ 1 ch 17 SLA 1973; am §§ 7, 8 ch 106 SLA 1976; am § 2 ch 133 SLA 1976)

CHAPTER 38.
GUIDE LICENSINGARTICLE 2.
GUIDE REGISTER

Article

1. Examinations (12 AAC 38.010)
2. Guide Register (12 AAC 38.020)
3. General Provisions
(12 AAC 38.030-12 AAC 38.190)

ARTICLE 1.
EXAMINATIONS

Section

10. Examinations

12 AAC 38.010. EXAMINATIONS. (a) The application for a guide examination must be made at least five months before the examination date on a form provided by the board. The application for examination shall include a listing of all hunters the applicant has guided or assisted in guiding during his apprenticeship and a letter of recommendation from any registered or master guide for whom he has worked.

(b) Guide examinations will be administered by the board or its authorized representatives at times and places as announced by the board.

(c) The registered guide examination will be composed of written and oral portions designed to reveal the actual qualifications of the candidate to practice guiding in the district or districts of his choice. However, a prospective guide unable to competently understand the written portion of the examination may be granted a guide license based on the outcome of the oral examination augmented by his experience. A score lower than 80 percent on either the written or oral portion of the test shall indicate inadequate qualifications. A person failing to achieve 80 percent or more on either the written or oral portion of the examination may not be reexamined for six months.

(d) A person contesting the results of any portion of the registered guide examination shall direct his appeal and the grounds therefor in writing to the chairman of the Guide Licensing and Control Board, Department of Commerce, Division of Occupational Licensing, Pouch D, Juneau, Alaska 99811, at least 30 days before the board meeting following the examination. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

Section

20. Guide register

12 AAC 38.020. GUIDE REGISTER. (a) On December 31 of the register year, the names of all persons holding a master guide or registered guide license shall be entered by the board, on a register maintained by the board and shall be published for distribution to the public.

(b) All guides shall advise the board of their current address and all changes of address. (Eff. 6/28/74, Reg. 50; am 2/25/77, Reg. 61)

Authority: AS 08.54.040(a)(4) and (5)
AS 08.54.050

ARTICLE 3.
GENERAL PROVISIONS

Section

30. Licenses
40. Restriction to districts
50. (Repealed)
51. Guiding area permits
52. Guide prohibited from using a guiding area not assigned to him or her
53. Application and qualification for guiding area permit
54. Reassignment of guiding area permit
55. Death or mental incapacity of guiding area permit holder
56. Changes to guiding area permit
57. Minimum use of guiding area
58. Grounds for revocation or suspension of a guiding area permit
60. Statement of financial remuneration
70. Responsibility of guide to his client
80. Survival gear
90. Presence of guide required
100. Taking of game by guides
110. Transporting meat
120. Cooperation with officials
130. (Repealed)
140. Requirements for a registered guide license
150. Requirements for a master guide
160. Improper certification
170. Improper reporting
180. Guiding ethics
190. Definitions

12 AAC 38.030. LICENSES. (a) A person must purchase his registered guide license within one year of passing the guiding examination or his eligibility lapses.

(b) An application for a guide license shall be made to the Division of Occupational Licensing, Department of Commerce, Pouch D, Juneau, Alaska 99811. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

12 AAC 38.040. RESTRICTION TO DISTRICTS. (a) A guide may conduct guiding activities only in districts for which he is certified.

(b) Twenty-six guide districts are established and defined as being identical to those areas described as game management units by the Board of Fish and Game in 5 AAC 90.010, as of January 1, 1974, with the addition of two subdistricts

(1) 18A - Nunivak Island and all waters within one mile of that island;

(2) repealed 6/6/79;

(3) 27 - Marine Mammals, including all the area between the western boundaries of districts 17, 18, 22, 23 and 26, except that area included in 18A, north of latitude 50 degrees north and east of the Convention Line of 1867 between the United States and the Union of Soviet Socialist Republics and south of latitude 75 degrees north.

(c) A guide licensed under AS 08.54 as of the effective date of this section is restricted to certification to guide in those districts for which he is certified on that date.

(d) After the effective date of this section, all guides applying for new certification are limited to a total of three districts including those districts for which they were certified as of that date.

(e) A master guide or registered guide may serve as a class A assistant guide in districts for which he is not certified.

(f) Notwithstanding any provision of this section, a guide may petition the board for a

transfer of certification to another district if he demonstrates to the satisfaction of the board

(1) that he will incur substantial hardship if a transfer is not permitted as evidenced by

(A) substantial land withdrawals from hunting within his district;

(B) significant reclassifications of land within his district;

(C) depletion of game as evidenced by actions of the Department of Fish and Game; or

(D) other demonstrations of hardship; and

(2) that he is qualified to guide in the district to which he wishes to be transferred. (Eff. 6/28/74, Reg. 50; am 2/25/77, Reg. 61; am 6/6/79, Reg. 70)

Authority: AS 08.54.040(a)(3) and (6)
AS 08.54.050

12 AAC 38.050. REGISTRATION OF MAIN CAMP. Repealed 5/12/78.

12 AAC 38.051. GUIDING AREA PERMITS. (a) Guiding area permits will be issued by the board to guides qualifying under secs. 53 and 54 of this chapter for exclusive or joint use of a specified area in order to limit the number of guides allowed to guide for big game animals in that area.

(b) The board will determine the size, boundaries and number of guiding areas assigned to a master or registered guide and is not limited by number or boundaries of guide districts which may be included.

(c) Each guiding area will be assigned a unique identification code. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)
AS 08.54.050

12 AAC 38.052. GUIDE PROHIBITED FROM USING A GUIDING AREA NOT ASSIGNED TO HIM OR HER. No guide may contract guided big game hunts in an exclusive guiding area not assigned to him or her unless written permission to do so is obtained from the guide

to whom the guiding area is assigned. If more than one guide holds a permit for joint use of the guiding area, written permission must be obtained from each holder of a permit. The written permission must include the effective and expiration dates of use and the identity and number of the big game species to be hunted,

and must be dated and signed by all of the persons holding a permit for the guiding area. This written permission must be on the person of the guide conducting the hunt or in the base camp from which the hunt is conducted. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)
AS 08.54.050

12 AAC 38.053. APPLICATION AND QUALIFICATION FOR GUIDING AREA PERMIT. (a) An applicant for initial issuance of a guiding area permit must, at the time of application and at the time the application is reviewed by the board, be a registered or master guide in good standing and must be certified in the district or districts in which the applied-for guiding area is located.

(b) In order to be considered, an applicant must submit to the board, on or before the published deadline, an application which describes the proposed geographic boundaries of the guiding area being applied for and a 1:250,000 scale map showing the proposed boundaries.

(c) Each application must include satisfactory documentation of the applicant's past use, occupancy, or financial investment in the guiding area applied for. The application may include other relevant information if it is substantiated by satisfactory documentation.

(d) The board will, in its discretion, issue a permanent guiding area permit to a qualified applicant who can substantiate his or her use, occupancy, or financial investment in the guiding area for at least three of the five years immediately preceding the published deadline for filing the application for that particular unit. The board will, in its discretion, issue a temporary guiding area permit to a qualified applicant who can substantiate his or her use, occupancy or financial investment in the guiding area for at least two of the five years immediately preceding the published deadline for filing the application for that particular unit.

(e) The holder of a temporary guiding area permit may apply for a permanent permit after one additional year of use, in the temporary guiding area. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)
AS 08.54.050

12 AAC 38.054. REASSIGNMENT OF GUIDING AREA PERMIT. (a) Guiding area permits are not transferable by the permit holder. The board will, in its discretion, reassign a guiding area permit

(1) upon the death of the permit holder or upon a judicial determination that the permit holder is mentally incompetent;

(2) upon revocation or suspension of a guiding area permit;

(3) if the permit holder voluntarily relinquishes the guiding area permit; and

(4) upon application for reassignment.

(b) Under (a)(4) of this section, a permit holder may apply to the board for reassignment of his or her guiding area permit to a designated master or registered guide; the application must be made jointly by the permit holder and the designated master or registered guide. Approval of the reassignment will be given only upon a finding by the board, after notice and opportunity for a hearing, that the designated registered or master guide is qualified to guide in the area, is certified in the district or districts in which the applied-for guiding area is located, and that the reassignment is consistent with the public interest. The board will consider the designated master or registered guide's past use, occupancy, or financial investment in the guiding area and other relevant and reliable information in determining whether the designated master or registered guide is qualified.

(c) Except as otherwise provided in this chapter, an applicant for a guiding area permit which is to be reassigned must meet the requirements of sec. 53(a) of this chapter and make application in the manner prescribed for initial issuance of a guiding area permit.

(d) If an applicant cannot establish past use of the guiding area to be transferred or is not certified in the district or districts in which the guiding area is located, the board will consider experience and current use in another area of similar terrain if the applicant can establish to the satisfaction of the board that he or she is competent because of other relevant factors to conduct guiding activities in the guiding area.

(e) The board will consider the recommendations of the prior holder of the guiding area permit to be reassigned and will, in areas of joint use, consider the recommendations of the other holders of permits for the guiding area. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)
AS 08.54.050

12 AAC 38.055. DEATH OR MENTAL INCAPACITY OF GUIDING AREA PERMIT HOLDER. (a) Upon the death of a holder of a guiding area permit, the board will, in its discretion, grant a waiver, for a time specified by the board, of the requirements of sec. 57 of this chapter if application is made by the estate within 90 days after death. Failure to make application within 90 days is considered a voluntary relinquishment of the permit. At any time during the period of the waiver, an heir may apply to the board for a reassignment of the permit to a person designated by the heir.

(b) Upon a judicial determination that a guiding area permit holder is mentally incompetent, the board will, in its discretion, grant a waiver, for a time specified by the board, of the requirements of sec. 57 of this chapter if application is made by the permit holder's guardian within 90 days after a judicial determination of the permit holder's mental incompetency. Failure to make application within 90 days is considered a voluntary relinquishment of the permit. At any time during the period of the waiver the guardian may apply to the board for a reassignment of the permit to a person designated by the guardian. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)
AS 08.54.050

12 AAC 38.056. CHANGES TO GUIDING AREA PERMIT. Petitions for changes to the size or boundary of a guiding area, for reassignment of a guiding area permit, or for any other changes affecting the guiding area, will be accepted for all guide districts and will be reviewed at a regularly scheduled meeting of the board. Each petitioner will be advised of the date and place of the meeting when his or her petition is scheduled for review. A petition will not be reviewed by the board if the petitioner or a person authorized in writing by the petitioner as his or her designee fails to appear at the time

of the scheduled review. If the petition concerns a joint use guiding area permit, each holder of a permit for that guiding area will be furnished a copy of the petition and advised of the date and place when the petition is scheduled to be reviewed and may appear before the board and present testimony relevant to the petition. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)
AS 08.54.050

12 AAC 38.057. MINIMUM USE OF GUIDING AREA. Each holder of a guiding area permit must conduct at least two contracted hunts within two consecutive calendar years in the guiding area as evidenced by statements of financial remuneration filed in accordance with sec. 60 of this chapter. Failure to do so for any two consecutive calendar years may result in revocation of the guiding area permit unless the permit holder can demonstrate to the satisfaction of the board that circumstances beyond his control precluded conducting the required hunts. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)
AS 08.54.050

12 AAC 38.058. GROUNDS FOR REVOCATION OR SUSPENSION OF A GUIDING AREA PERMIT. The board will, in its discretion, revoke or suspend a guiding area permit or permits if the permit holder

(1) violates a federal or state sport fish, game or guiding statute or regulation, which violation occurred while guiding;

(2) has his guide license revoked or suspended or is denied renewal of a license for violation of a federal or state sport fish or game or guiding statute or regulation other than for nonpayment of current license fees;

(3) is found by the board to have misused a guiding area. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)
AS 08.54.050

12 AAC 38.060. STATEMENT OF FINANCIAL REMUNERATION. (a) Before hunting with his or her client, a guide shall complete or have completed a statement of financial remuneration in triplicate on a form provided by the board for this purpose and shall state

(1) that he received financial or material remuneration for his services;

(2) the dates of the contract hunt;

(3) the species to be hunted for;

(4) the legal signature of the guide and his client;

(5) the typed or printed name and address of the guide and his client;

(6) the guiding area permit unique identifying code assigned under sec. 51(c) of this chapter.

(b) The original of the statement required in (a) of this section shall be sent to the Department of Public Safety, Division of Fish and Wildlife Protection, Records Section, P.O. Box 6188 Annex, Anchorage, Alaska 99502, within 21 days after completion of the hunt.

(c) The guide is responsible for furnishing one copy of the statement to his client.

(d) One copy of the statement shall be filed in camp for the duration of the hunt and thereafter at the guide's regular place of business for four years, and shall be produced for inspection upon request by an agent of the Department of Public Safety. (Eff. 6/28/74, Reg. 50; am 5/12/78, Reg. 66)

Authority: AS 08.54.050

12 AAC 38.070. RESPONSIBILITY OF GUIDE TO HIS CLIENT. (a) It is the responsibility of a guide to ascertain that a client has a proper license and appropriate tags and harvest reports, in his possession, for the big game species being hunted before hunting. The guide is responsible for attaching appropriate tags to any game taken by his client and is responsible for having all game sealed or marked as required by Alaska Department of Fish and Game regulations.

(b) A guide shall take every reasonable measure to assure the safety and comfort of his clients. He is responsible for having available the following:

(1) adequate first aid supplies;

(2) sufficient food to provide for emergencies that might render the party immobile;

(3) shelter which is normally considered satisfactory and comfortable under field conditions;

(4) transportation or communications or arrangements to obtain them without hardship or unreasonable delay. (Eff. 6/28/74, Reg. 50)
Authority: AS 08.54.050

12 AAC 38.080. SURVIVAL GEAR. A guide is responsible for assuring that each aircraft operated by him, and used in any phase of a hunt conducted by him, carries survival gear as required by AS 02.35.110. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

12 AAC 38.090. PRESENCE OF GUIDE REQUIRED. A master, registered or class A assistant guide must be in the field and participating in the conduct of the guided hunt whenever assistant guides are guiding. (Eff. 6/28/74, Reg. 50; am 11/2/75, Reg. 56)

Authority: AS 08.54.050

12 AAC 38.100. TAKING OF GAME BY GUIDES. (a) No guide may take big game animals or marine mammals while acting as a guide, except in cases of actual emergency when a bear or other animal is attacking or when a bear or other animal is about to escape after being wounded. It is then the duty of the guide to take such actions as he considers necessary.

(b) It is unlawful for a master guide, registered guide, class A assistant guide or assistant guide guiding a hunter for walrus to take or assist in taking any walrus other than the animal taken by the client he is guiding; however, one crewman other than the guide may take one single cow walrus and its calf if this taking does not exceed the bag limit as prescribed by regulations of the Board of Game. (Eff. 6/28/74, Reg. 50; am 6/12/77, Reg. 62)

Authority: AS 08.54.050

12 AAC 38.110. TRANSPORTING MEAT. A guide is responsible for transporting the meat of big game animals, except bear, wolves, and wolverine, taken by his client from the site of the kill to its destination or to a common carrier

for shipping to its destination for the purpose of human consumption. If the meat is delivered to a person other than the person who took the animal, a signed and dated statement or receipt stating the kind and quantity of meat received in approximate pounds or named portions of the carcass must be obtained from the recipient and presented upon request to any officer authorized to enforce this chapter. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

12 AAC 38.120. COOPERATION WITH OFFICIALS. Failure on the part of a guide to assist the Departments of Fish and Game and Public Safety in determining the truth of any statements reported in accordance with secs. 30 - 180 of this chapter is considered a violation of ethical conduct. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

12 AAC 38.130. REQUIREMENT FOR AN ASSISTANT GUIDE LICENSE. Repealed 5/12/79.

12 AAC 38.140. REQUIREMENTS FOR A REGISTERED GUIDE LICENSE. In addition to the requirements of AS 08.54.110, to be qualified for a registered guide license, a person must

(1) demonstrate to the board that he has spent 90 days in the field acting as an assistant guide as certified by the master or registered guides who employed him;

(2) not have violated a federal or state sport fish, game or guide statute or regulation or engaged in unethical activity, unsafe activity or activity which adversely affects the natural resources of the state for the preceding five years. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050
AS 08.54.110(12)

12 AAC 38.150. REQUIREMENTS FOR A MASTER GUIDE. In addition to the requirements of AS 08.54.100, to be qualified for a master guide license a person must have acted as a registered guide for 12 consecutive years. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050
AS 08.54.100(5)

12 AAC 38.160. IMPROPER CERTIFICATION. No master or registered guide may improperly certify that a person has met the qualifications for a guide license. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

12 AAC 38.170. IMPROPER REPORTING. No guide may knowingly falsify any information required to be set out on any form required by the Alaska Department of Fish and Game or the Guide Licensing and Control Board. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

12 AAC 38.180. GUIDING ETHICS. Unethical activity includes, but is not limited to

(1) not fully cooperating with state and federal wildlife officials or not abiding by and advising clients and personnel of all applicable conservation and game laws and regulations or condoning their violation;

(2) misrepresenting or not clearly defining rates, accommodations and services to prospective clients prior to booking and acceptance of deposit, or otherwise misleading prospective clients through false or fictitious advertising;

(3) being unwilling or incapable of making financial restitution to a client for any breach of contract by the guide or his employees, owing to no fault of the client;

(4) not advising clients of game population to the best of the guide's ability based on past performances in hunting areas and advising him of his chances of encountering the species he desires in the time allotted;

(5) making "guarantees" as to the success of a hunt or the number of pieces of game to be collected;

(6) not maintaining and providing stock,

mechanical equipment, gear, food supplies and facilities to a quality and condition to provide services equal to or better than described in the guide's advertising, correspondence, verbal declaration or contractual agreements;

(7) not maintaining a neat, orderly and sanitary camp at all times, or not providing reasonably well-prepared, palatable and balanced camp meals for clients and personnel in keeping with the conditions of the hunt;

(8) contracting for more hunts or for more hunters at any one time than the guide or his employees can adequately facilitate rendering services for;

(9) hiring guides that are improperly licensed, or ill trained in the arts of woodsman'ship, judging trophies, cooking, first aid, photography, firearms, trophy preparation and caring for clients;

(10) failing, while guiding a client, to take all precautions if an animal is wounded;

(11) failing to use every means at his disposal to bag any wounded animal while it is in danger of escaping, or if in a serious emergency, human life or well-being is endangered;

(12) filling a client's game tag or bag limit;

(13) failing, barring unforeseen conditions, to properly prepare, according to generally accepted procedures, all antlers, horn, hides and capes to be delivered to the taxidermist or to the client at the conclusion of a hunt in a satisfactory and unspoiled condition;

(14) failing to endeavor to salvage all meats of trophies taken by his client, in accordance with existing state law;

(15) promoting hunting or the taking of trophies by means other than fair chase: specifically, the pursuit of a trophy in an illegal or unsportsmanlike manner, by herding, driving or chasing of animals with the use of any mechanically powered equipment;

(16) failing to practice sound wildlife conservation or failing to create an awareness of conservation needs and practices during his associations with the public. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.040(6)
AS 08.54.050

12 AAC 38.190. DEFINITIONS. Unless otherwise indicated, in this chapter

(1) "competence" means a professional standard of conduct which satisfactorily implements, under field conditions, the knowledge and qualifications of a guide;

(2) "transport" means shipping, carrying, importing, exporting, or receiving or delivering for shipment, carriage or export;

(3) "board" means the Alaska Guide Licensing and Control Board. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

Original sponsor: Bradley

Offered: 2/16/79
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2

CS FOR SENATE BILL NO. 101

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the disciplining of a licensed
7 guide."

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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* Section 1. AS 08.54.200(c)(3) is repealed.

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STATE OF ALASKA
COLLECTION AGENCY BOARD
June, 1979

Findings

Statutes regulating the Collection Agency Board and profession vest licensing and enforcement powers within the Department of Commerce and Economic Development. These functions continued throughout a six-year period during which no Board meetings were held. Due to potential monetary loss by businesses and the public as a result of unscrupulous collection operations, control of agencies and agency operators is determined to be a valid governmental concern. However, control could be maintained without a State board as demonstrated by continued operation during the six-year dormant period. We believe that the Collection Agency Board should be allowed to terminate on June 30, 1980.

I. General Information

A. Regulated Parties

1. Collection Agencies
2. Collection Agency Operators

B. Definitions

"(3) 'collection agency business' means the business of engaging directly or indirectly and having as a primary or secondary object, business or pursuit the solicitation of claims for collection or repossession of collateral security or the collection of claims owed or due or asserted to be owed or due to another or the repossession of collateral security;

(A) a house, agency, firm, person, corporation or voluntary association using a name other than its own in collecting its own claims with the intention of conveying, or which tends to convey, the impression that a third party has been employed, is conducting a collection agency business within the meaning of this chapter;

(B) a person who sells, attempts to sell, gives away or attempts to give away to another person, other than a licensee under this chapter a system of collection letters, demand forms or other printed matter where the name of a person other than a creditor appears in a manner to indicate that a request or demand is being made by another person, other than the creditor, for the payment of a sum due, or asserted to be due, or who solicits or accepts accounts for collection on a contingent or percentage basis or by a fee or outright purchase

for collection purposes, is considered to be in the collection agency business within the meaning of this chapter;

- (4) 'collection agency' means a person licensed and authorized to engage in the collection agency business;
- (5) 'operator' means a person having managerial control of a collection agency." (AS 08.24.380)

C. Nature and Composition of Board

1. Board members and terms:

Three-year term (no restrictions regarding consecutive terms or number of terms).

James Engwall (Chairman)	Ends March 1, 1981
Allan Shepard	Ends March 1, 1980
Donald Leach	Ends March 1, 1981
Judy Warwick	Ends March 1, 1979
Director, Division of Occupational Licensing	

2. Representation:

Profession = 2
Public = 2
Administrative Agency = 1

3. Qualifications:

"...The board shall consist of two persons engaged in the collection agency business within the state and licensed

under this chapter. The third member shall be designated by the commissioner of commerce economic development from his staff. Two members shall be public members in accordance with AS 08.01.025." (AS 08.24.011)

D. Licensing Data

Current licenses (effective May, 1979)

Agencies = 23

Operators = 25

There are currently no out-of-State licenses.

E. Fees

Resident

1. operator biennial fee	\$100.00
2. operator application fee	40.00
3. agency biennial fee	200.00
4. agency application fee	100.00
5. delinquency charge	50.00

Nonresident

1. operator license	\$100.00
2. operator biennial fee	200.00
3. agency license	200.00
4. agency biennial fee	400.00

\$5,000 Agency bond required for all collection agencies.

F. Board Revenues and Expenditures

	FY ' 76	FY ' 77	FY ' 78	FY ' 79
Receipts	\$4,164.00	\$8,364.00	\$6,950.00	\$3,697.55
- refunds	-	300.00	-	-
Total	\$4,164.00	\$8,064.00	\$6,950.00	\$3,697.55
Expenditures				
Transportation	-	38.83	1,830.87	2,018.48
Per Diem	-	212.50	1,621.60	1,493.55
Phone	-	20.10	49.40	950.69
Printing, Adver. & Postage	-	140.16	624.35	204.79
Fees & Services	-	-	-	-
Rents, Lease:	-	-	-	-
Other	-	-	-	3.25
Total	-	811.59	4,126.22	\$4,670.76
Surplus	\$4,164.00	\$7,252.41	\$2,823.78	-
Deficit	-	-	-	\$ 973.21

(EXCLUDES DIVISION OF OCCUPATIONAL LICENSING ADMINISTRATIVE OVERHEAD)

G. Complaints

As of June 1, 1979, nine complaints remain open in agency files. These complaints are from various sources and range in nature from embezzlement to harrassment of the public by collection entities. Sixty-four cases are pending Board approval for closure due to age and lack of jurisdiction.

H. Professional Qualifications

No technical education or experience requirements.

II. Analysis

- A. To what extent has the Collection Agency Board operated in the public interest?

The only specific statutory authority allowed this Board is to adopt rules and regulations and investigate applicants. The Board is involved in licensure of applicants as a matter of policy although the Commissioner or his designee has responsibility for passing on applicant qualifications. Departmental authority includes enforcement, approval and issuance of licenses, power to seek injunctions, publication of the law and current directories, modification or waiver of operator license requirements, investigation of applicants, adoption of rules and regulations, auditing of agency transactions, and suspension of licenses for nonrenewal or noncompliance with required procedures. The Department may also suspend, revoke or refuse renewal under certain conditions.

No examination is given to applicants for operator or agency licensure. Approval is based on statutory qualifications as well as additional Board and/or department required information. Individual licensee files maintained by the agency are inadequate in documentation of qualifications. Only one of seven files for which licenses were issued in 1970 contained information relevant to the applicant's moral character. Two out of eighteen files reviewed for which licensure was granted after 1970 lacked this information. In the group of seven issued in 1970, one had not completed high school or its equivalent, two contained no fingerprint information, one indicated a possible law violation with no follow-

through or resolution, and one had no application on file at all. One of the remaining eighteen contained no application or fingerprint information and six were licensed contingent on a favorable report from the F.B.I. No verification of education such as transcripts or certified diploma copies has ever been required. The applicant must submit, however, in addition to statutory requirements, a personal resume, a personal credit report, and three past employment verification forms.

Regulations are currently being promulgated which will outline application procedures, qualifying requirements, specific procedures for handling funds collected, and ethical rules of professional conduct. No regulations are in effect as of this writing.

Applicants for operator licensure are required by statute to have been a State resident continuously for at least one year prior to the date of application. For a total of \$300 a nonresident may be licensed (residents pay \$140). The residency requirement under AS 08.24.110(1) should be reviewed for validity. The Board has recommended deletion of this statute. Applications also request information regarding individual social security numbers, marital status, a picture, and a credit report. Board regulations as presently drafted also contain information requirements of this nature. Residency information appears on reporting forms for new agency employees regardless of their position or length of employment.

Collection agencies are required by AS 08.24.220 to submit a semiannual statement of employees on June 1 and December 1 of every year and by AS 08.24.210 to submit an annual statement of collection no later than January 31 of each year for the preceding year. AS 08.24.240 makes it incumbent upon the Department to ensure compliance and suspend licenses for substantial noncompliance. As of May 17, 1979, only three of the total twenty-three licensed agencies had submitted the required reports

for December, 1978 and January, 1979. Letters were sent to licensees requesting submission of this information. Noncompliance has been a problem in the past and obviously continues to be a problem to which employee turnover and/or shortage within the administrative agency has contributed.

Public Law 95-109 (Fair Debt Collection Practices Act) was approved in 1977 to take effect in the first half of 1978. The United States Congress found "abundant evidence of the use of abusive, deceptive and unfair debt collection practices" which "contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy." Congress' stated purpose in regulation is "to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collector abuses." The Act outlines ethical conduct and prohibitions against unfair practices. It also assigns enforcement responsibility to the Federal Trade Commission. Due to the fact that there is no FTC office in Alaska, one may assume that this agency's enforcement activities here are negligible. Pending Board regulations are expected to rely heavily on the provisions of PL 95-109.

This profession has no endorsement, continuing competency or temporary permit procedures; however, these are not determined to be necessary to protect the public interest nor are they particularly necessary as prerequisites to licensure.

B. To what extent has the operation of the Collection Agency Board been impeded or enhanced by existing statutes, procedures and practices which it has adopted, or any other matter, including budgetary, resource and personnel matters?

The first Board meeting was held in September of 1970 with three members present. The Board subsequently met in October of 1971, again with three members present. This was the last meeting until March of 1977 at which four members were present and one absent. There is no documentation which would explain the reason for this six-year hiatus in Board operations. Only relatively recently has the Board been in a position to formulate procedures and policies and to promulgate substantive regulations.

The Collection Agency Board has experienced some difficulty with respect to personnel and budgetary restrictions. Support staff is provided by the Division of Occupational Licensing and is presently adequate to serve Board needs; however, past employee turnover has impeded continuity and follow-up on Board requests. Fees and revenues for all boards and commissions under the jurisdiction of the Division of Occupational Licensing are collected through the Division and are deposited into a general fund. Monies deposited and withdrawn are identified by codes so that direct board revenues and expenses may be determined.

The Board has encountered the same difficulties as have all other boards and commissions with respect to investigative services provided by the administrative agency. During FY '78 two investigator positions were vacant; as a result, one position was abolished by the Legislature. At the present time, two investigators are located in Anchorage with a Chief Investigator located in Juneau. An additional investigator position was approved in the FY '80 budget but will probably not be filled immediately due to vacancy factors incorporated into the personal service category of the budget. Procedural constraints of the administrative adjudication article of the Administrative Procedure Act (AS 44.62.330-.630), while necessary, restrict timely disposition of litigation. Prioritization based on time, staffing and nature of alleged offense

results in pursuit of only the most flagrant and potentially injurious licensing complaints. The administrative agency will continue to address the need for initial assessment and follow through on complaints with emphasis on magnitude of offense as it relates to public safety.

Regulations are still being promulgated by the Board prior to final approval and adoption. None are in effect at this time.

Several statutory provisions for the Collection Agency Board are in need of review and possible revision.

§ 100(b) refers to an annual operator's license and a biennial fee. § 110(1) requires that an applicant for an operator's license "have been a resident of this state continuously for at least one year before the time of application..." Residency requirements should be deleted from the statutes. § 370 regarding nonresidents should be reviewed also. The term "moral turpitude" is not defined, nor is "good cause" for waiver or modification of license qualifications. The Board or the Department should clearly delineate what constitutes a "complete investigation" of applicants.

§ 130(a)(5) refers to "additional information" which may be required by the Board or Department from applicants for licensure as an agency. It should be noted that no such "additional information" is provided for in operator license requirements yet the Board has proposed by regulations to require previous names, social security number, birthplace, outline of personal business experience, a personal financial statement, a credit report, past employment information, and a complete personal history.

§ 180, a grandfather clause, is recommended to be repealed.

§ 220(b) refers to reporting of any pseudonyms or false names used in collection efforts. Apparently the use of aliases is widespread and common within this profession. § 807(10) of PL 95-109 (Fair Debt Collection Practices Act) cites as a violation the "use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer." Also cited as a violation (§ 807(11)) is "the failure to disclose clearly in all communications made to collect a debt or to obtain information about a consumer, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose."

§ 304(b)(4) refers to "further information" which should be defined.

Consideration may also be given to increasing the amount of the bond required for collection agencies (\$5,000) to \$10,000 and to requiring submission of only surety bonds or cash.

C. To what extent has the Collection Agency Board recommended statutory changes which are generally of benefit to the public interest?

Two public members were added to the Board by statute in 1976. No other substantive changes have been made since the Board was created in 1968.

Since 1970 the Board has recommended changes to: (1) Sec. 140(b) which would require reports and payments to customers every month; (2) Sec. 110(1) which would remove the residency requirement for an operator's license; and (3) deletion of Sec. 340(c) which requires that the employee report information be notarized.

D. To what extent has the Collection Agency Board encouraged interested persons to participate in and report to it concerning the making and effect of its regulations and decisions, or to report to it concerning the effectiveness, economy, and availability of service which it has provided?

Participation concerning Board affairs and services has come from the profession. Very little "public" interest has been shown in the form of attendance at meetings, hearings, or as written input. Most concern is expressed by individuals with particular problems directly approaching Board members.

Notices of pending meetings and new or amended regulations are published in major newspapers in the State but elicit minimal response. Positive overt steps could be taken by the Board to heighten public awareness of its existence and functions, such as public service radio announcements and utilization of other media. Wider dissemination of general information may help to mitigate public disinterest.

Public interests are furthered by the presence of two public members on the Board. "In recent years a number of states have added one or more public members (citizens with no particular interest in the occupation or profession governed by the board) to licensing boards in an effort to ensure that the interests of the public would be represented in decision-making."¹ The State of California, which provides for a one-third public membership on health care boards and a public majority on others, has indicated that its experience with public members has been highly rewarding.

E. How efficiently are public inquiries or complaints regarding the activities of the Collection Agency Board processed and resolved?

¹Shimberg, B. and Roederer, D., Occupational Licensing: Questions a Legislator Should Ask, The Council of State Governments, Lexington, Kentucky, March, 1978, p. 20.

As of June 1, 1979, there were nine open investigations on file with the administrative agency. Complaints have been received from the Board, the profession, and from the public. They range in nature from harrassment of the public to embezzlement. In September of 1978, 64 complaint cases were purged from agency files and are pending closure before the Board due to age or lack of jurisdiction.

Until recently, the Board had been unaware of the number and nature of the complaints on file. The administrative agency is addressing complaints and investigation procedures and the need for timely disposition of issues.

There have been no complaints against the Collection Agency Board as a body.

F. To what extent does the Collection Agency Board present qualified applicants to serve the public?

No technical education or experience is required for licensure in this profession. As long as an operator applicant is at least 19 years of age and has a high school education or its equivalent, (s)he may potentially be licensed. Collection agency applicants must be at least 19 years of age and submit required information and fees. No examination is administered.

G. To what extent have State personnel practices, including affirmative action requirements, been complied with by the Collection Agency Board in its own activities, and in its area of activity or interest?

Board staff consists of the support services of a licensing examiner employed by the Division of Occupational Licensing (also responsible for services to another large commission) who is hired through the State Personnel System and is subject to affirmative action requirements.

Licenses in this profession are issued on the basis of specific statutory criteria. Affirmative action requirements are not applicable to licensure qualifications.

H. To what extent are statutory, regulatory, budgetary, or other changes necessary to enable the Collection Agency Board to better serve the interests of the public?

Application forms and procedures should be reviewed and improved. Pending regulations will accomplish much toward this objective. Residency requirements should be deleted from Board statutes. The Board and/or the Division should ensure that licensees comply with reporting requirements in a timely manner. A \$10,000 surety bond, or cash, should be required of all collection agencies.

The administrative agency is formulating investigation procedures for all boards to whom support services are provided. The licensing examiner assigned to the Collection Agency Board also is responsible to the Real Estate Commission; services to the Commission constitute a considerable amount of time and work thereby limiting the services that should be provided to both entities. If the Board is continued, one-fourth of an examiner position is recommended as minimally adequate for administrative support.

Other recommended statutory changes have been cited previously in this report.

Chapter 24. Collection Agencies.

Article

1. Collection Agency Board (§§ 08.24.011-08.24.031)
2. Powers and Duties of Department of Commerce (§§ 08.24.041-08.24.071)
3. Licensing (§§ 08.24.090-08.24.380)

Article 1. Collection Agency Board.

Section

- 011. Collection Agency Board
- 016. [Repealed]
- 021. Appointment and term of office
- 031. Regulations

Sec. 08.24.011. Collection Agency Board. There is created a Collection Agency Board consisting of five members, four of whom shall be appointed by the governor. The board shall consist of two persons engaged in the collection agency business within the state and licensed under this chapter. The third member shall be designated by the commissioner of commerce and economic development from his staff. Two members shall be public members in accordance with AS 08.01.025. (§ 1 ch 101 SLA 1968; am § 42 ch 218 SLA 1976; am § 7 ch 258 SLA 1976)

Sec. 08.24.016. Transportation and per diem. Repealed by § 1 ch 165 SLA 1970.

Sec. 08.24.021. Appointment and term of office. The board members shall be appointed initially for terms of two and three years respectively. Thereafter, appointments to the board shall be made upon the expiration of the initial appointment and the term of office for each member so appointed shall be three years. The members shall serve at the pleasure of the governor. Vacancies caused by death, resignation or removal from office shall be filled by appointment by the governor. (§ 1 ch 101 SLA 1968)

Sec. 08.24.031. Regulations. The board may adopt rules and regulations necessary to effectuate the purposes of this chapter. (§ 1 ch 101 SLA 1968)

Article 2. Powers and Duties of the Department of Commerce

Section

- 041. Duty to enforce chapter
- 045. Duty to pass upon qualification
- 051. Power to seek injunctions
- 061. Publications of applicable law
- 071. Directory of licensed agencies

Sec. 08.24.041. Duty to enforce chapter. The department shall enforce all laws, rules and regulations relating to collection agencies. (§ 1 ch 101 SLA 1968)

Sec. 08.24.045. Duty to pass upon qualifications. The commissioner of the department or his designee within the department shall pass upon the qualifications of applicants for collection agency licenses and operators licenses. (§ 1 ch 101 SLA 1968)

Sec. 08.24.051. Power to seek injunctions. The department may apply to the superior court for an injunction to temporarily restrain a violation of this chapter or a rule or regulation issued under it, conduct investigations of alleged violations of this chapter, and regulations enacted under this chapter, and perform other action necessary to accomplish the purposes of this chapter. (§ 1 ch 101 SLA 1968)

Sec. 08.24.061. Publication of applicable law. The department shall reproduce the laws relating to licensing of collection agencies and operators, the rules and regulations adopted by the department or the board and other pertinent matter, publish the material in pamphlet form, and make the pamphlets available to the public without expense. (§ 1 ch 101 SLA 1968)

Sec. 08.24.071. Directory of licensed agencies. The department shall publish on or about August 1 of each year a directory containing a list of licensed collection agencies which specifies as to each agency its owners and officers and the names of its licensee operator or operators, together with other matters pertinent to the general purposes of this chapter. The department shall mail one copy of the directory to each licensed collection agency, to the clerk of each superior court in the state, and upon request, to other persons. (§ 1 ch 101 SLA 1968)

Article 3. Licensing

Section

- 90. License required
- 100. Licensed operator required, exceptions and fee
- 110. Qualification for operator's license
- 120. Application for operator's license
- 130. Application for agency license
- 140. Fee, bond and other material
- 150. Bond
- 160. Form of bond
- 170. Return of fees and bond
- 180. Persons presently engaged in collection business
- 190. License as personal privilege
- 200. Expiration and renewal
- 210. Annual statement of collection
- 220. Semiannual statement of employees

230. False declarations in statement
240. Failure to file statement
250. Information confidential
260. Investigations
270. Administrative Procedure Act
280. Records and funds
290. Suspension, revocation or refusal to renew or grant a license or certificate
300. Court action by agency
310. Additional business names
320. Documents which imitate judicial process
330. Duty to maintain a public office
340. Statement of persons employed by agency
350. Notice of withdrawal of employees
360. Fines and penalties
370. Nonresidents
380. Definitions

Sec. 08.24.090. License required. (a) No person other than a collection agency licensed and authorized under this chapter may for compensation

- (1) conduct a collection agency business in this state;
- (2) collect claims for others in this state;
- (3) solicit the right to collect or receive payment of a claim for another;
- (4) advertise or solicit either in print, by letter, in person or otherwise, the right to collect or receive payment of a claim for another;
- (5) seek to make collection or obtain payment of a claim on behalf of another.

(b) This chapter does not apply to the following when engaged in the regular course of their respective businesses:

- (1) attorneys at law;
- (2) persons regularly employed on a regular wage or salary in the capacity of credit men or a similar capacity, except as an independent contractor;
- (3) banks, including trust departments of banks, fiduciaries and financing and lending institutions;

- (4) common carriers;
- (5) title insurers and abstract companies while doing an escrow business;
- (6) licensed real estate brokers;
- (7) employees of licensees under this chapter;
- (8) substation payment offices employed by or serving as independent contractors for public utilities.

(c) A violation of this section is a misdemeanor punishable by imprisonment in a jail for not to exceed one year, or by a fine of not more than \$1,000 or by both. (§ 1 ch 101 SLA 1968)

Sec. 08.24.100. Licensed operator required, exceptions and fee.

(a) Notwithstanding any other provision of this chapter, no licensee may engage in the collection agency business unless and until the collection agency, and each branch office of the agency is under the management and control of a licensed operator for each office. The department or the board may waive this requirement for a period not to exceed 90 days upon the death or disability of an operator, or for other good cause.

(b) The annual operator's license shall be renewable on or before July 1 of each second year beginning on July 1, 1968, and the biennial fee is \$100. (§ 1 ch 101 SLA 1968)

Sec. 08.24.110. Qualification for operator's license. (a) To qualify for an operator's license, the applicant shall:

- (1) have been a resident of this state continuously for at least one year before the time of application;
- (2) be a high school graduate, or have the equivalent education of a high school graduate;
- (3) be of good moral character;
- (4) not have been convicted of violating this chapter, nor have any unsettled complaints under this chapter against him;
- (5) not have been convicted of a felony or a crime of larceny or embezzlement or a crime involving moral turpitude;
- (6) be 19 years of age or older at the time of application;
- (7) not be a disbarred attorney or have filed bankruptcy;

(8) pay the biennial license fee which is fixed at \$100.

(b) The commissioner may waive or modify the requirements specified in (a)(2), (4), (5) and (7) of this section for good cause shown. (§ 1 ch 101 SLA 1968)

Sec. 08.24.120. Application for operator's license. (a) An application for an operator's license shall be made on forms furnished by the department and shall contain the information required in § 110 of this chapter and, in addition, the following:

- (1) a complete set of fingerprints;
- (2) a 2"x3" photograph showing a front view of head and shoulders;
- (3) if an original application, an application fee of \$40;
- (4) the biennial license fee required by § 100 of this chapter.

(b) The department and the board are authorized to make a complete investigation of applicants including inquiry of police agencies as to the applicant's record of arrest or conviction of crime. (§ 1 ch 101 SLA 1968)

Sec. 08.24.130. Application for agency license. (a) An application for a collection agency license, or for a renewal of a license shall be made upon forms furnished by the department and shall contain the following information:

- (1) the full name and proposed business name of the applicant;
- (2) the address of the applicant's principal place of business and branch offices;
- (3) the names and addresses of the applicant and those associated with him; if the applicant is a corporation or association, the application shall contain the names of the officers of the corporation or association;
- (4) the names and residential addresses of the applicant's operators;
- (5) additional information which the department or the board, by rule or regulation, requires.

(b) Every natural person applying for a collection agency license must be 19 years of age or older at the time of making application. (§ 1 ch 101 SLA 1968)

Sec. 08.24.140. Fee, bond and other material. (a) The application shall be accompanied by:

- (1) if an original application, an application fee of \$100;
- (2) the biennial license fee for a collection agency which is fixed at \$200 for the principal place of business and \$200 for each branch office;
- (3) a bond running to the state with a surety or sureties to the satisfaction of the department, and conditioned that the licensee shall, within 30 days after the close of each calendar or fiscal month, report and pay to his customers the net proceeds due and payable of all collections made during the calendar or fiscal month which exceeds \$20.

(b) All money collected by an agency belonging to a client shall be deposited in a trust account and cleared at the end of each month. The department may audit any agency transaction. (§ 1 ch 101 SLA 1968)

Sec. 08.24.150. Bond. (a) The bond provided for in §140 of this chapter shall be in the sum of \$5,000, executed by the applicant, as principal, and by a corporation which is licensed or authorized to transact business of fidelity and surety insurance within the state as surety. The department may at any time request verification of a bonding agent's authority by the main office of any company acting as surety.

(b) A licensee may, at any time, file with the department a new bond. A licensee may in lieu of a bond make a \$5,000 cash deposit with the department, the deposit to be held by the department under the same terms and conditions as if bond in that amount were posted.

(c) A surety may file with the department notice of his withdrawal on the bond of a licensee. Upon filing a new bond, or upon the revocation of the collection agency license, or upon expiration of 60 days after the filing of notice of withdrawal as surety by the surety, the liability of the former surety for all future acts of the licensee shall terminate.

(d) The department shall immediately cancel the bond given by a surety company upon being advised its license to transact business of fidelity and surety insurance has been revoked by the state.

(e) Upon the filing with the department of notice by a surety of his withdrawal as the surety on the bond of a licensee, or upon the cancellation by the department of the bond of a surety company as provided in this section, the department shall immediately give notice to the licensee of the withdrawal or cancellation, which notice shall be by registered or certified mail with request for a return receipt and addressed to the licensee at his main office, as shown by the records of the department. At the expiration of 30 days from the date of mailing

the notice, the license of the licensee shall be terminated, unless the licensee has filed a new bond with a surety satisfactory to the department. All bonds given under this chapter shall be filed and held in the office of the department.

(f) The bond required by this section shall remain in effect until cancelled by action of the surety, the principal or the department. No action may be initiated upon the bond after two years from its cancellation. (§ 1 ch 101 SLA 1968)

Sec. 08.24.160. Form of bond. The bond required by §§ 140 and 150 of this chapter shall be in the form substantially as follows:

BOND

Know all Men by These Presents that we,, as principal, and.....as surety, are held and firmly bound to the State of Alaska, in the penal sum of \$....., lawful money of the United States, for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally.

The condition of this obligation is such that whereas, the bonded principal, named above, has applied to the Department of Commerce and Economic Development of the State of Alaska for a collection agency license under the provisions of AS 08.24 and is required by the provisions of that law to furnish a bond conditioned as herein set out.

Now, therefore, if....., within 30 days after the close of each fiscal or calendar month, reports and pays to customers the net proceeds due and payable of all collections made during that calendar or fiscal month which exceed \$20, and strictly, honestly and faithfully complies with the provisions of AS 08.24 and all amendments to it and regulations adopted under it, then this obligation is void, otherwise to remain in full force and effect.

This bond becomes effective on the.....day of, 19.... The surety may be relieved of future liability under it by giving 60 days' written notice to the principal and to the Department of Commerce and Economic Development of the State of Alaska.

This bond is one continuing obligation and the liability of the surety for the aggregate of all claims which may arise under it may in no event exceed the amount of the penalty set out in it.

IN WITNESS WHEREOF we have hereunto set our hands and seals at....., Alaska, this.....day of, 19....

(SEAL).....Principal

(SEAL).....Surety

(§ 1 ch 101 SLA 1968; am § 43 ch 218 SLA 1976)

Sec. 08.24.170. Return of fees and bond. If the department does not issue the license applied for, the license fee and bond shall be returned. The application fee may not be returned. (§ 1 ch 101 SLA 1968)

Sec. 08.24.180. Persons presently engaged in collection business. (a) A person who is actively engaged in a collection agency business on May 1, 1968 and who wishes to continue to engage in this business shall apply for a license within 60 days after May 1, 1968.

(b) A person who applies or receives a license under (a) of this section is subject to all of the provisions of this chapter, except that in his application for a license he is not required to comply with §120(a)(3) and (4) of this chapter. (§ 1 ch 101 SLA 1968)

Sec. 08.24.190. License as personal privilege. (a) Except as provided in (b) of this section, a license granted under this chapter is a personal privilege and is not assignable.

(b) Upon the death of a collection agency licensee, the department has the right to transfer the license of the decedent to the executor or administrator of his estate for the period of the unexpired term of the license and the court having jurisdiction of the probate of the estate of the decedent may authorize the executor or administrator to continue the collection agency business of the decedent and upon other terms and conditions as the court may prescribe.

(c) The death of the operator of a corporate licensee shall in no way interfere with the continuation of the licensed business if another licensed operator is placed in management control of the corporate licensee. (§ 1 ch 101 SLA 1968)

Sec. 08.24.200. Expiration and renewal. (a) All licenses required by this chapter shall expire on June 30, 1970, and June 30 of each second year thereafter and shall be renewed as of July 1 following upon payment of required biennial fees.

(b) If a licensee under this chapter is delinquent for a period of 15 days in applying for the renewal of a license, the department shall suspend the license and notify the licensee by certified mail or by personal service. The notice shall state that the license will be revoked if application for renewal is not made within 15 days from the date on which the notice was mailed or personally served. When a licensee has been delinquent in renewing his license or certificate, the department shall charge an additional fee of \$50 for the renewal of the license. (§ 1 ch 101 SLA 1968)

Sec. 08.24.210. Annual statement of collection. Each collection agency licensee shall, not later than January 31 of each calendar year, file with the department a verified annual statement for the preceding

calendar year, showing the respective amounts of all customers' money collected by the licensee during the preceding calendar year, which has not previously been remitted to the customers entitled to it or properly accounted for, and showing also the amounts of money which the licensee has on deposit in a bank or in the licensee's possession for the purpose of liquidating any and all amounts due to customers. The statement shall contain the name and address of the bank. The annual statement shall be made substantially in the following form:

ANNUAL STATEMENT TO DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

Pursuant to AS 08.24.210 the undersigned,....., licensed under AS 08.24 to conduct a collection agency business, hereby declares that the amount of money collected during the preceding calendar year by the undersigned, as a licensee under AS 08.24, which has not been remitted to a customer or properly accounted for is \$.....; and that the amount on deposit with all banks for the purpose of liquidating all amounts to customers is \$.....

The attached schedule contains a true statement of the name and address of each customer of the undersigned to whom there was due or owing at the end of the preceding calendar year on account of collections made during the preceding calendar year the aggregate sum of \$20 or more.

IN WITNESS WHEREOF, the undersigned has executed this statement on this..... day of....., 19.....

(Name of licensee).....
(Signature).....
(Capacity).....

VERIFICATION

STATE OF ALASKA)
THIRD DISTRICT) ss

I, the undersigned, being first sworn, do on oath depose and say: That I executed the within annual statement as the licensee named in it or on behalf of the licensee named in it, as the operator, director, or officer of the licensee named in it, as indicated in it; that I have read the statement and know its contents; and that the statement is true.

.....

Subscribed and sworn to before me this day of, 19.....

Notary Public in and for Alaska
My commission expires:

(§ 1 ch 101 SLA 1968; am § 44 ch 218 SLA 1976)

Sec. 08.24.220. Semiannual statement of employees. (a) Every collection agency licensee shall file with the department on June 1 and December 1 of every year a list of the names and residence addresses of each person employed by the licensee in the six-month period ending 10 days before the due date of the report.

(b) If any of these employees have used pseudonyms or false names in their collection business efforts for the reporting period, those pseudonyms or false names must be set out following the true name of the employee using the name. (§ 1 ch 101 SLA 1968)

Sec. 08.24.230. False declarations in statement. The willful making of a false declaration in the annual statement or biennial statement of employees constitutes sufficient grounds for revocation of the license of the licensee. (§ 1 ch 101 SLA 1968)

Sec. 08.24.240. Failure to file statement. If the annual statement of collection or semiannual statement of employees is not filed as required under §§ 210 and 220 of this chapter, the failure to file constitutes grounds for the immediate suspension of the collection agency license of the licensee failing to file the statement, and the department shall notify the licensee by registered or certified mail that the license of the licensee will be suspended upon the expiration of 15 days after the date on which the notice was mailed unless the licensee complies with the provisions of §§ 210 or 220 of this chapter. However, for good cause shown and upon satisfactory proof furnished by the licensee that the failure to file the statement was due to a condition not within the control, or was due to excusable neglect, of the licensee, the department may permit the filing of the statement after the time limited and excuse the failure to file the statement within the time limited. If the statement required by §§ 210 or 220 of this chapter is not filed as required in this section the department shall revoke the license. (§ 1 ch 101 SLA 1968)

Sec. 02.24.250. Information confidential. Except as otherwise provided in this chapter, information in whatever form required to be filed by the terms of §§ 210 and 220 of this chapter shall be confidential and may not become a public record, but it may be introduced in evidence in a suit, action or proceeding in a court or in a proceeding involving the granting or revocation of the license of a licensee. (§ 1 ch 101 SLA 1968)

Sec. 08.24.260. Investigations. The department may upon its own motion, and shall, upon the sworn complaint in writing of a customer of a collection agency, investigate the actions of a licensee claimed to have violated this chapter and for that purpose shall have free access to the offices and place of business and, if the complaint involves customer accounts, to all pertinent books, accounts, records, papers, files, safes and vaults of the licensee or certificate holder. If the complaint involves the owing of money, or any other thing of value, by a

licensee to the complainant, when the licensee raises the issue of an offset or counterclaim, the division may require the complainant to submit all records and data in his possession pertaining to the offset or counterclaim. (§ 1 ch 101 SLA 1968)

Sec. 08.24.270. Administrative Procedure Act. The department and the board shall comply with the Administrative Procedure Act [AS 44.62] both as to enactment of regulations and adjudication. (§ 1 ch 101 SLA 1968)

Sec. 08.24.280. Records and funds. (a) A collection agency shall keep a record of all sums collected by it, and of all disbursements made by it, and shall maintain and keep all the records and all customers' funds in a trust account with a recognized financial institution in this state. Collection agencies shall maintain accounting records of collections for and payments to customers for a period of six years from the date of the last entry. Collection agencies shall keep other records for a period of two years from the date of the last entry.

(b) Every collection agency shall maintain a permanent numerical receipt record which shall indicate as to each payment made by a debtor the following information:

- (1) the name of the debtor making payment;
- (2) the amount paid;
- (3) the name of the creditor to whom funds are being applied;
- (4) the date and form of payment;
- (5) the balance remaining due on account.

(c) An agency using a computer system giving read-out debtor payment information will not have to maintain a numerical receipt record; however, if requested, a receipt will be furnished to debtor.

(d) The receipt shall be made immediately upon the receipt of funds by the collection agency in payment of a debt; the original copy to be made immediately available to the debtor who has made payment, upon request; and a copy to be made immediately available to the creditor for whom payment was received, upon request; and a copy to be maintained in the permanent receipt record.

(e) A collection agency shall maintain daily cash ledger sheets showing all funds received from debtors and all funds received as fees for services, such as credit reports and the like.

(f) No collection agency, or an employee of a collection agency, may intentionally make a false entry in the collection agency record or

intentionally mutilate, destroy or otherwise dispose of a record within the time limits provided in this section. The records shall at all reasonable times be open for inspection by the department, the board or their authorized agent.

(g) A collection agency shall maintain a separate trust account exclusively for customers' funds and shall keep the funds in the trust account until disbursed to the customer. (§ 1 ch 101 SLA 1968)

Sec. 08.24.290. Suspension, revocation or refusal to renew or grant a license or certificate. The department may suspend, revoke or refuse to renew or grant a license issued or applied for under this chapter if the licensee or applicant or a partner, associate, or major stockholder of a collection agency has since the date of the application been disbarred from the practice of law or been convicted of fraud, embezzlement, obtaining money under false pretenses, a crime involving moral turpitude, extortion, conspiracy to defraud, violation of a provision of this chapter or violating a rule or regulation promulgated under authority of this chapter. (§ 1 ch 101 SLA 1968)

Sec. 08.24.300. Court action by agency. No collection agency is entitled to maintain a suit or action involving the collection of money on behalf of its customers in a court of this state without alleging and proving that it is licensed and has procured a bond, as provided in this chapter. A copy of the collection agency license, certified by the department to be a true and correct copy is prima facie evidence of the licensing and bonding of the collection agency for the term expressed in the copy of the license. (§ 1 ch 101 SLA 1968)

Sec. 08.24.310. Additional business names. A collection agency using a business name other than the one appearing on the application for its license shall secure a separate license and bond as provided in this chapter for each business name used. (§ 1 ch 101 SLA 1968)

Sec. 08.24.320. Documents which imitate judicial process. Forms of demand or notice or other documents drawn to resemble court process may not be used by collection agencies in the collection of bills, accounts or other indebtedness. (§ 1 ch 101 SLA 1968)

Sec. 08.24.330. Duty to maintain a public office. Each collection agency shall maintain its principal office and any branch office at a street address which is stated in its original application for license or another address which the agency may designate to the department; the office shall be maintained in such a manner as to be open for contact by the public or debtors during normal working hours. (§ 1 ch 101 SLA 1968)

Sec. 08.24.340. Statement of persons employed by agency.
(a) Within 15 days after licensure under this chapter, a collection agency shall submit to the department a list of all person employed by

the agency. Thereafter, upon hiring a new employee, the collection agency shall, within 15 days after the hiring, submit to the department the name of the newly hired employee and the further information required by (b) of this section.

(b) There shall be submitted with the name of the employee employed by the collection agency the following information:

- (1) the employee's residence address;
- (2) the employees's length of residence in the state;
- (3) a statement of his previous employment in the last year;
- (4) further information which the board or department may require.

(c) The statement shall be verified by the employee before a notary public or other person authorized to administer oaths.

(d) The owner or licensed operator of the collection agency shall also state upon the form submitted the date upon which the new employee was hired and that he is an employee of the collection agency at the time the form is executed. (§ 1 ch 101 SLA 1968)

Sec. 08.24.350. Notice of withdrawal of employees. When an employee withdraws from employment or his employment with a collection agency is terminated for any reason, the agency shall, within 15 days of withdrawal or termination of employment, notify the department in writing of the employee's withdrawal from employment. (§ 1 ch 101 SLA 1968)

Sec. 08.24.360. Fines and penalties. A collection agency or an operator who fails on written demand to render a true and complete account to the person to whom an indebtedness was taken for collection or who fails to turn over to that person the proceeds of the collection within 30 days after written demand, or who fails to comply with any of the provisions of this section is punishable by a fine of not more than \$500, or by imprisonment for not more than three months, or by both. (§ 1 ch 101 SLA 1968)

Sec. 08.24.370. Nonresidents. A nonresident may apply for and receive a collection agency license or an operator license or both on the same basis as a resident. The application fee for a nonresident operator license is \$100 and the biennial license fee is \$200. The application fee for a nonresident agency license is \$200, and the biennial license fee is \$400 for the principal place of business and \$400 for each branch office. (§ 1 ch 101 SLA 1968)

Sec. 08.24.380. Definitions. In this chapter

(1) "board" means the Collection Agency Board;

(2) "department" means the Department of Commerce and Economic Development;

(3) "collection agency business" means the business of engaging directly or indirectly and having as a primary or secondary object, business or pursuit the solicitation of claims for collection or repossession of collateral security or the collection of claims owed or due or asserted to be owed or due to another or the repossession of collateral security;

(A) a house, agency, firm, person, corporation or voluntary association using a name other than its own in collecting its own claims with the intention of conveying, or which tends to convey, the impression that a third party has been employed, is conducting a collection agency business within the meaning of this chapter;

(B) a person who sells, attempts to sell, gives away or attempts to give away to another person, other than a licensee under this chapter a system of collection letters, demand forms or other printed matter where the name of a person other than a creditor appears in a manner to indicate that a request or demand is being made by another person, other than the creditor, for the payment of a sum due, or asserted to be due, or who solicits or accepts accounts for collection on a contingent or percentage basis or by a fee or outright purchase for collection purposes, is considered to be in the collection agency business within the meaning of this chapter;

(4) "operator" means a person having managerial control of a collection agency. (§ 1 ch 101 SLA 1968; am § 45 ch 218 SLA 1976)

D

STATE OF ALASKA
BOARD OF HAIRDRESSING AND BEAUTY CULTURE EXAMINERS
June, 1979

Findings

This Board was created in 1957 and, until the past year, has met annually to conduct its affairs. Members of this profession are regulated by AS 08.28; control over health and sanitation is with the Department of Health and Social Services (AS 18.05.040). Alternatives to the present operation of the Board and to regulation of this profession are discussed in this review.

I. General Information

A. Regulated Parties

1. Schools
2. School owners
3. Instructors
4. Operators
5. Shop owners
6. Shop managers
7. Demonstrators
8. Consultants
9. Apprentices
10. Manicurists

B. Definitions

"(10)" 'practice of hairdressing and beauty culture' is engaging, for compensation or other reward, in any of the following practices: (A) arranging, dressing, curling, waving, cleansing, singeing, bleaching, coloring, or similar work on a wig or hair piece of artificial or human hair, or upon the hair of a living person by any means; (B) trimming hair, as a part of hairdressing; (C) utilizing cosmetic preparations, antiseptics, tonics, lotions, or creams, with the hands or with a mechanical or electrical apparatus, in massaging, cleansing, stimulating, manipulating, exercising, or beautifying the scalp, face, neck, arms, hands, bust, or upper part of the body of a person, for the purpose of beautification;" (08.28.320)

C. Nature and Composition of Board

1. Board members and terms:

Three-year term (no restrictions regarding consecutive terms or number of terms).

Hester Pumphrey,	Ends June 15, 1978
Ione Lambert, Chairman	Ends June 15, 1979
Maria Dunham	Ends June 15, 1980
Dennis Milhouse	Ends June 15, 1981

2. Representation:

Profession	=	5	(by statute)
Public	=	0	

3. Qualifications:

Board members must be adults, United States citizens and Alaska residents. Four members must have at least five years' experience as an operator, manager-operator, or owner-operator, and one member must have at least three years' experience as the owner, manager, or instructor of a licensed beauty school. All members must remain active and shall take an oath of office. (AS 08.28.030)

D. Licensing Data

Current Licenses (through May, 1979)

in-State	=	1,466
out-of-State	=	<u>328</u>
TOTAL	=	1,794

E. Fees

1. schools		
registration and initial license fee		\$500.00
biennial renewal		200.00
2. school owner		
registration and initial license fee		40.00
biennial renewal		30.00
3. instructor-operator:		
registration and initial license fee		40.00
biennial renewal		30.00
4. owner-operator:		
registration and initial license fee		25.00
biennial renewal		20.00
5. owner only, beauty shop:		
registration and initial license fee		25.00
biennial renewal		20.00

6.	manager-operator:		
	registration and initial license fee		25.00
	biennial renewal		20.00
7.	demonstrator or consultant:		
	registration and initial license fee		40.00
	biennial renewal		30.00
8.	operator:		
	registration and initial license fee		15.00
	biennial renewal		10.00
9.	apprentice or student:		
	registration and initial license fee		5.00
	annual renewal		3.00
10.	manicurist:		
	registration and initial license fee		15.00
	biennial renewal		10.00
11.	examination fee		15.00
12.	investigation fee		25.00

F. Board Revenues and Expenditures

	FY '76	FY '77	FY '78	FY '79
Receipts	\$23,245.00	\$22,248.00	\$22,237.00	\$27,568.00
- refunds	<u>170.00</u>	<u>285.00</u>	<u>416.00</u>	<u>598.00</u>
Total	\$23,075.00	\$21,963.00	\$21,821.00	\$26,970.00
Expenditures				
Transportation	1,063.01	1,752.03	1,086.96	1,892.83
Per Diem	2,678.75	2,700.00	2,133.41	2,211.25
Phone	83.85	61.73	127.75	605.95
Printing, Adver. & Postage	902.44	818.79	405.70	288.52
Fees & Services	368.50	486.50	347.50	483.00
Rents, Leases & Other	<u> </u>	<u>125.00</u>	<u>411.00</u>	<u>507.88</u>
Total	<u>\$ 5,096.55</u>	<u>\$ 5,944.05</u>	<u>\$ 4,512.32</u>	<u>\$ 5,989.43</u>
Surplus	\$17,978.45	\$16,018.95	\$17,308.68	\$20,980.57
Deficit	-	-	-	-

(EXCLUDES DIVISION OF OCCUPATIONAL LICENSING ADMINISTRATIVE OVERHEAD)

G. Complaints

As of June 1, 1979, five complaints remain open in agency files and six are pending closure on Board approval. Sixty-seven were purged in 1978 and are pending closure due to lack of jurisdiction or age of the complaint. One of the open cases has been on-going since

1972 with continual infractions and complaints from a number of sources. Another case alleges physical injury to a member of the public (received a year after the alleged incident).

H. Professional Qualifications

All states require vocational training as a prerequisite to licensure.

II. Analysis

- A. To what extent has the Board of Hairdressing and Beauty Culture Examiners operated in the public interest?

Statutory powers and duties of the Board include examining applicants and issuing licenses. The written portion of the examination is a national test, composed and graded by a national organization (the Psychological Corporation). The Board is considering inclusion of a jurisprudence portion into this examination. A six-to-seven hour practical examination is also administered to newly graduated students. Monitoring and grading is done by the Board. Applicants must achieve a score of 75% in all portions of the examination and must retest in only the area(s) failed. The examination process is designed to demonstrate competency in a profession and helps to ensure that individuals are qualified to practice.

The Board also has responsibility for regulating and licensing schools of hairdressing and beauty culture. Four such schools exist in the State, one in Fairbanks, and three in Anchorage. The Board reviews and approves school layout, its curriculum, student-teacher ratios, necessary equipment, and other matters pertaining to training of students. Inspections of schools are conducted by the Board and by the State Department of Health and Social Services. 7 AAC 22.390 outlines the criteria by which the Department of Health and Social Services deter-

mines the sanitary status of establishments. The Board routinely inspects schools in Anchorage during the period in which it holds a scheduled meeting. It has not conducted inspections in Fairbanks; however, a board member was assigned this responsibility at the May, 1979, Board meeting. It should be noted also that the Board has consistently found infractions in one particular school which has been the subject of numerous complaints from a variety of sources since 1972. Although the school has been admonished regarding its practices, no definitive action has been taken. The Board has the authority to suspend or revoke a license for good cause.

The Board may promulgate rules and regulations necessary to carry out the purposes of AS 08.28. It is now in the process of revising and updating current regulations and adding provisions concerning application procedures, qualifications, requirements for schools, and examination and grading procedures. Members of the profession have exhibited interest in the regulation making activity.

Most licenses are issued without examination to applicants who are already licensed in another jurisdiction. This practice facilitates entry into the profession as does that of issuing temporary licenses pending examination. A review of applicant files indicates that out-of-state applicants are usually licensed about 4-5 weeks from the date of application. The Board has been relying on its examiner from the Division of Occupational Licensing to verify qualifications and issue licenses. The Board has formally authorized this procedure at its May, 1979, meeting and will review and ratify licensures during a subsequent regularly scheduled meeting.

Applicants for licensure must be at least 17 years of age, of good moral character, have completed two years of high school or its equivalent, and have the required training or work experience. These items are addressed on application forms but are not verified. No school transcripts are required; although applicants are required to list three

character references, in no case has this information been checked or used for any purpose. Also included on the application are questions regarding such matters as length of residency in Alaska and future job prospects. The Board should review its applications and procedures for licensing.

Schools are required to submit quarterly reports to the Board on student or apprentice achievement and to notify the Board of enrollments and terminations. These records are maintained by the administrative agency as are all Board and licentiate files. The agency is in the process of implementing improved file and data maintenance procedures for all boards.

Barbers are excluded from the provisions of AS 08.28.

The Board has been discussing the advantages and disadvantages of continuing education requirements but has not yet formulated a position other than to agree that members of the profession should take every opportunity to upgrade their skills.

While it was stated as past policy that apprenticeships would not be allowed in towns where schools are located, the Board reversed this position at its May, 1979, meeting. It also rescinded a previous action which required the Division to release student examination scores to schools.

The Board and regulation of the beauty culture profession could be allowed to terminate on June 30, 1980, as provided by law, probably without significant adverse impact on the consuming public. Another alternative would be termination of the Board and assumption of the licensure functions by the administrative agency. Or practitioners could simply be registered by the administrative agency.

The Board could also be reestablished for another four years or less. If it is reestablished and/or regulation of this profession continues, consideration should be given to the suggestions for efficient operation noted in this review.

- B. To what extent has the operation of the Board of Hairdressing and Beauty Culture Examiners been impeded or enhanced by existing statutes, procedures and practices which it has adopted, or any other matter, including budgetary, resource and personnel matters?

Practices and policies which utilize standard examinations, standard endorsement procedures and the issuance of temporary permits are felt to facilitate entry of qualified applicants into the profession and to promote availability of services. Student and apprenticeship programs also function to provide career opportunities and services in the State.

The Board of Hairdressing and Beauty Culture Examiners has experienced some difficulty with respect to personnel and budgetary restrictions. Support staff is provided by the Division of Occupational Licensing and is presently adequate to serve Board needs; however, past employee turnover has impeded continuity and follow-up on Board requests. Fees and revenues for all boards and commissions under the jurisdiction of the Division of Occupational Licensing are collected through the Division and are deposited into a general fund. Monies deposited and withdrawn are identified by codes so that direct board revenues and expenses may be determined.

The Board has encountered the same difficulties as have all other boards and commissions with respect to investigative services provided by the administrative agency. During FY '78 two investigator positions were

vacant; as a result, one position was abolished by the Legislature. At the present time, two investigators are located in Anchorage with a Chief Investigator located in Juneau. An additional investigator position was approved in the FY '80 budget but will probably not be filled immediately due to vacancy factors incorporated into the personal service category of the budget. Procedural constraints of the administrative adjudication article of the Administrative Procedure Act (AS 44.62.330-.630), while necessary, restrict timely disposition of litigation. Prioritization based on time, staffing and nature of alleged offense results in pursuit of only the most flagrant and potentially injurious licensing complaints. The administrative agency will continue to address the need for initial assessment and follow through on complaints with emphasis on magnitude of offense as it relates to public safety.

Regulations concerning applications for licensure and examination procedures are being promulgated. A review of Board statutes indicates that changes should be considered either by the Board or by the Legislature.

The term "good moral character" should be either defined or deleted from the statutes.

AS 08.28.030 requires that all Board members also be members of the profession. Public members should be allowed on this Board, although an increase in total membership is not advocated. Members have not taken an oath of office as required.

In reference to § 090, the Board has not promulgated regulations specifically for apprentices, however, this is not mandatory. Formal procedures have been established.

The Board has requested draft legislation which would repeal § 150, admission of shop owner without examination. This statute allows a shop

owner to practice hairdressing or beauty culture without a license as long as he employs a licensed manager-operator. §§ 240, 250 and 260, all grandfather clauses, are recommended to be repealed.

- C. To what extent has the Board of Hairdressing and Beauty Culture Examiners recommended statutory changes which are generally of benefit to the public interest?

1976 amendments added to the powers and duties of the Board and included general items of a "housekeeping" nature.

Board minutes from 1976 reflect the Board's recommendation for legislation for shampooists, facialists and manicurists. There is no record of any recommendations by the Board for statutory changes that would be of specific benefit to the public.

- D. To what extent has the Board of Hairdressing and Beauty Culture Examiners encouraged interested persons to participate in and report to it concerning the making and effect of its regulations and decisions, or to report to it concerning the effectiveness, economy, and availability of service which it has provided?

The bulk of participation at Board meetings and hearings has come from the profession. Substantial professional interest is generated by promulgation of regulations, by enforcement activities, and by quality of training facilities. Very little general "public" concern with Board functions has been demonstrated. Notices of pending meetings and new or

amended regulations are published in major newspapers in the State. Positive steps could be taken by the Board and the Division to heighten public awareness, such as public service radio announcements or utilization of other media.

Public interests would be furthered by the presence of public members on the Board. "In recent years a number of states have added one or more public members (citizens with no particular interest in the occupation or profession governed by the board) to licensing boards in an effort to ensure that the interests of the public would be represented in decision-making."¹ The State of California, which provides for a one-third public membership on health care boards and a public majority on others, has indicated that its experience with public members has been highly rewarding.

E. How efficiently are public inquiries or complaints regarding the activities of the Board of Hairdressing and Beauty Culture Examiners processed and resolved?

Five open complaints regarding this profession were on file with the administrative agency as of June, 1979. One of these alleged physical injury to a consumer; however, it is worth noting that the complaint was referred by another division and had been received by them a year after the alleged incident occurred. Six additional cases are pending Board approval for closure and sixty-seven were purged in 1978 due to age and/or lack of jurisdiction (also pending closure). The administrative agency has been addressing the need for investigative procedures and for timely disposition of complaints.

¹Shimberg, B. and Roederer, D., Occupational Licensing: Questions a Legislator Should Ask, The Council of State Governments, Lexington, Kentucky, March, 1978, p. 20.

One complaint against the Board is on file but Board records indicate this issue has been resolved.

- F. To what extent does the Board of Hairdressing and Beauty Culture Examiners present qualified applicants to serve the public?

Individuals wishing to practice must submit fees and application to the administrative agency with relevant information regarding qualifications. 12 AAC 24.020 provides that examinations for licensure be given on a quarterly basis. Applicants who are statutorily qualified and who demonstrate the required level of knowledge and proficiency are issued a license.

Current Board practices which allow for licensure by endorsement and the issuance of temporary work permits are conducive to entry into the profession by qualified persons.

- G. To what extent have State personnel practices, including affirmative action requirements, been complied with by the Board of Hairdressing and Beauty Culture Examiners in its own activities, and in its area of activity or interest?

Board staff consists of the support services of a licensing examiner employed by the Division of Occupational Licensing (also responsible to four other regulated professions), who is hired through the State Personnel System and is subject to affirmative action requirements.

Licenses in this profession are issued on the basis of specific statutory criteria. Affirmative action requirements are not applicable to licensure qualifications.

H. To what extent are statutory, budgetary, or other changes necessary to enable the Board of Hairdressing and Beauty Culture Examiners to better serve the interests of the public?

Conclusions Proposed by O.L.

Public members should be included on the Board. Statutory amendments should be introduced which would repeal §§ 150, 240, 250 and 260.

*Through attrition
add 1 public
member.*

The Board should explore methods of informing the general public of its existence and functions. It also should assume a more active roll in regulation and inspection of schools. The administrative agency will continue to address the need for assessment and follow through on complaints as well as record keeping procedures.

The Board should review and revise its application forms and procedures.

Board and administrative expenses outweigh revenues collected through regulation of this profession. Fees collected are not adequate to cover transportation and per diem for meetings and examinations, and Division of Occupational Licensing administrative overhead such as staff salaries, examination expenses, and investigative services.

Chapter 28. Cosmetologists and Hairdressers.

Article

1. Board of Hairdressing and Beauty Culture Examiners (§§ 08.28.010-08.28.090)
2. Licenses (§§ 08.28.100-08.28.260)
3. Miscellaneous Provisions (§§ 08.28.270-08.28.290)
4. General Provisions (§§ 08.28.300-08.28.320)

Article 1. Board of Hairdressing and Beauty Culture Examiners.

10. Creation and membership of Board of Hairdressing and Beauty Culture Examiners
20. Term of office and removal
30. Qualifications of board members
40. Powers and duties of the board
50. Meetings of the board
- 60 -70. [Repealed]
80. Standards for regulations
90. Special regulations

Sec. 08.28.010. Creation and membership of Board of Hairdressing and Beauty Culture Examiners. There is created a Board of Hairdressing and Beauty Culture Examiners, referred to in this chapter as the board. The board consists of five members appointed by the governor. (§ 3(1) ch 52 SLA 1957)

Sec. 08.28.020. Term of office and removal. Members serve a term of three years and at the pleasure of the governor. (§ 3(1) ch 52 SLA 1957)

Sec. 08.28.030. Qualifications of board members. (a) To qualify for membership on the board, a member must be an adult, a citizen of the United States, and a resident of the state.

(b) The governor shall appoint persons so that four members have at least five years' experience as an operator, manager-operator, or owner-operator, and one member has at least three years' experience as the owner, manager, or instructor of a beauty school licensed under this chapter. To remain on the board, a member must remain active in an activity that would qualify him for appointment under this subsection.

(c) Each member shall take the oath provided by law for public officers. (§ 3(1) ch 52 SLA 1957; am § 1 ch 101 SLA 1963)

Sec. 08.28.040. Powers and duties of the board. The board shall exercise general control over the vocations of hairdressing and beauty culture within the state. The board

duties

- (1) shall examine applicants and issue licenses;
- (2) shall issue licenses for schools of hairdressing or beauty culture;
- (3) may suspend or revoke a license;
- (4) may promulgate rules and regulations relating to hairdressing or beauty culture, and hairdressing or beauty culture schools, necessary to effectuate the purposes of this chapter;
- (5) except as provided in § 280 of this chapter, may inspect schools and shops in order to enforce the provisions of this chapter;
- (6) may, on its own motion, and shall, upon receipt of a written complaint, investigate the practices of a person, shop, or school licensed under this chapter. (§ 3(2) ch 52 SLA 1957; am § 1 ch 104 SLA 1976)

Sec. 08.28.050. Meetings of the board. The board shall meet at least once each year for the conduct of its business. The annual meeting shall be held at the place designated by the majority of the board members.

The board shall, at its annual meeting, elect a president, vice-president and secretary-treasurer from its members. Board members serve without pay. However, each member is entitled to transportation and per diem allowances authorized by law. (§ 3(3) ch 52 SLA 1957)

Sec. 08.28.060. Duties of secretary-treasurer. Repealed by § 3 ch 59 SLA 1966.

Sec. 08.28.070. Salary of secretary-treasurer. Repealed by § 3 ch 59 SLA 1966.

Sec. 08.28.080. Standards for regulations. The board shall adhere as closely as possible to the rules, regulations, and standards prescribed and recommended by the "Allied Cosmetology Council of State Board, Schools, and Shops." (§ 13 ch 52 SLA 1957)

Sec. 08.28.090. Special regulations. The board may prescribe special rules and regulations for apprentices whose job training is supervised by the Department of Education under a vocational rehabilitation program. However, these apprentices, to become licensed, shall pass the standard licensing examination given by the board. (§ 14 ch 52 SLA 1957)

Article 2. Licenses

Section

- 100. License required
- 110. Qualifications of applicants
- 120. Examination and other requirements
- 130. Temporary license
- 140. Out-of-state licenses
- 150. Admission of shop owner without examination
- 160. [Repealed]
- 170. Fees
- 180. School license
- 190. Display of license
- 200 - 210. [Repealed]
- 220. Lapsed license
- 230. Grounds for revocation or suspension of license
- 240. Application of license provisions to existing operators
- 250. Application of license provisions to beauty schools
- 260. Credit to students for prior study

Sec. 08.28.100. License required. No person may engage in the practice of hairdressing or beauty culture or organize, open, or conduct a school of hairdressing and beauty culture without a license. (§ 2 ch 52 SLA 1957)

Sec. 08.28.110. Qualifications of applicants. An applicant for a license as an operator, manager-operator, demonstrator or consultant, owner-operator, or instructor-operator shall

- (1) be at least 17 years of age;
- (2) be of good moral character;
- (3) have completed two years of high school or its equivalent;
- (4) have training at least 2,000 hours, extending over a school term of not less than 50 weeks in a school of hairdressing or beauty culture approved by the board, or service as an apprentice under a licensed operator in a shop approved by the board or completed training and working experience as a hairdresser in another state or country which the board finds to meet the minimum requirements of this state. (§ 4(1) ch 52 SLA 1957; am § 2 ch 112 SLA 1959; am § 2 ch 104 SLA 1976)

Sec. 08.28.120. Examination and other requirements. An applicant shall pass an examination given by the board. The examination shall cover subjects designated by the board. The board shall fix the time and place for examination and shall give at least one examination each year. The board may delegate the power of examination to a committee of the board or a board member. The board may prescribe additional requirements for a license. (§ 4(2) ch 52 SLA 1957)

Sec. 08.28.130. Temporary license. The board may issue a temporary license or working permit to a graduate of an approved school of hairdressing or beauty culture or to an apprentice who has received on-the-job training which complies with the rules and regulations of the board. A temporary license or working permit is valid until the results of the examination given to the student or apprentice are announced. (§ 4(3) ch 52 SLA 1957)

Sec. 08.28.140. Out-of-state licenses. A person holding a current valid license from a board of cosmetology and hairdressing in another state or country is entitled to a license under this chapter without examination if he applies, accompanying his application with

(1) proof of a foreign license;

(2) proof that he has completed at least 2,000 hours of training in a hairdressing and beauty culture school or service as an apprentice under a licensed hairdresser in a shop approved by the board or completed training and working experience as a hairdresser which the board finds to meet the minimum requirements of the state;

(3) payment of an investigation fee. (§ 4(4) ch 52 SLA 1957; am § 3 ch 112 SLA 1959; am § 2 ch 101 SLA 1963; am § 1 ch 2 SLA 1965; am § 1 ch 46 SLA 1968; am § 3 ch 104 SLA 1976)

Sec. 08.28.150. Admission of shop owner without examination. A shop owner may be licensed without examination but, unless licensed as an operator, he shall not engage in the practice of hairdressing or beauty culture without employing a licensed manager-operator. (§ 4(4) ch 52 SLA 1957; am § 3 ch 112 SLA 1959)

Sec. 08.28.160. Examination fee. Repealed by § 3 ch 46 SLA 1968.

Sec. 08.28.170. Fees. The following fees shall be imposed under this chapter when applicable

(1) schools:

registration and initial license fee.....	\$500
biennial renewal.....	200

(2) school owner:

registration and initial license fee.....	40
biennial renewal.....	30

(3) instructor-operator:		
	registration and initial license fee.....	40
	biennial renewal.....	30
(4) owner-operator:		
	registration and initial license fee.....	25
	biennial renewal.....	20
(5) owner only, beauty shop:		
	registration and initial license fee.....	25
	biennial renewal.....	20
(6) manager-operator:		
	registration and initial license fee.....	25
	biennial renewal.....	20
(7) demonstrator or consultant:		
	registration and initial license fee.....	40
	biennial renewal.....	30
(8) operator:		
	registration and initial license fee.....	15
	biennial renewal.....	10
(9) apprentice or student:		
	registration and one-year permit fee.....	5
	annual renewal.....	3
(10) manicurist:		
	registration and initial license fee.....	15
	biennial renewal.....	10
(11) examination fee.....		15
(12) investigation fee.....		25

(§ 4(5) ch 52 SLA 1957; am § 4 ch 112 SLA 1959; am § 2 ch 46 SLA 1968; am §§ 4, 5 ch 104 SLA 1976)

Sec. 08.28.180. School license. The board shall prescribe rules and regulations for the licensing of schools of hairdressing and beauty culture. The rules and regulations shall include the financial respon-

sibility of the owner, details of the curriculum, minimum hours of instruction, and physical condition of the school premises and facilities. (§ 5 ch 52 SLA 1957)

Sec. 08.28.190. Display of license. Every licensee shall display his license in a conspicuous place in his place of business or in his working booth. Each shop owner or manager is responsible for the display of licenses held by employees in their shops. (§ 6(1) ch 52 SLA 1957)

Sec. 08.28.200. License year. Repealed by § 3 ch 59 SLA 1966.

Sec. 08.28.210. Duplicate licenses. Repealed by § 3 ch 46 SLA 1968; § 7 ch 94 SLA 1968.

Sec. 08.28.220. Lapsed license. A lapsed license may be reinstated, if the license has not been lapsed for a period of more than five years, and all renewal and delinquent fees for the period during which the license has been lapsed are paid. (§ 6(4) ch 52 SLA 1957)

Sec. 08.28.230. Grounds for revocation or suspension of license. The board may suspend or revoke a license for failure to comply with this chapter, or a rule, regulation, or order of the board. (§ 8 ch 52 SLA 1957)

Sec. 08.28.240. Application of license provisions to existing operators. A person holding a valid license as an operator issued before March 16, 1957, is not required to obtain a new license, but shall nevertheless comply with all other provisions of this chapter. (§ 12 ch 52 SLA 1957)

Sec. 08.28.250. Application of license provisions to beauty schools. Hairdressing and beauty culture schools shall comply with the licensing provisions of this chapter and with rules and regulations issued under it. Upon application and payment of the fee by a beauty school which has been in operation and teaching a course of not less than 2,000 hours for one year before January 1, 1957, the board shall issue a license for its operation. (§ 12 ch 52 SLA 1957)

Sec. 08.28.260. Credit to students for prior study. A student of a hairdressing and beauty culture school shall receive credit for hours of instruction completed before March 16, 1957, if the school substantially met the minimum standards for curricula, the qualification of instructors, and other rules and regulations established by the board under this chapter. If the school met the prescribed minimum standards for a period of six months or more preceding March 16, 1957, all students who have satisfactorily completed the course of instruction shall receive credit for the entire period of instruction. (§ 12 ch 52 SLA 1957)

Article 3. Miscellaneous Provisions.

Section

- 270. Record of achievement
- 275. Advertising
- 280. Control of health and sanitary conditions
- 290. Applicability of Administrative Procedure Act

Sec. 08.28.270. Record of achievement. Each licensee who supervises a student or apprentice shall submit quarterly to the board a record of achievement of the student or apprentice. (§ 3 ch 52 SLA 1957)

Sec. 08.28.275. Advertising. No person, shop, or school engaged in the practice of hairdressing or beauty culture may knowingly use false or deceptive statements in advertising its services. A hairdressing or beauty culture school representing itself to be approved or accredited shall indicate the organization or agency issuing the approval or accreditation. (§ 6 ch 104 SLA 1976)

Sec. 08.28.280. Control of health and sanitary conditions. Control over health and sanitary conditions in shops and schools licensed under this chapter is in the Department of Health and Welfare. (§ 7 ch 52 SLA 1957)

Sec. 08.28.290. Applicability of Administrative Procedure Act. Procedures and rules and regulations adopted under this chapter shall comply with the Administrative Procedure Act (AS 44.62). (§ 10 ch 52 SLA 1957; am § 5 ch 112 SLA 1959)

Article 4. General Provisions.

Section

- 300. Barbers excluded
- 310. Penalties
- 320. Definitions

Sec. 08.28.300. Barbers excluded. This chapter does not apply to barbers exclusively engaged in the occupation of barbering. (§ 11 ch 52 SLA 1957)

Sec. 08.28.310. Penalties. A person who engages in the practice of hairdressing or beauty culture without obtaining a license, or any person who organizes, opens or conducts a school of hairdressing or beauty culture, without obtaining a license, is guilty of a misdemeanor and upon conviction is punishable by imprisonment for a period of not more than 90 days, or by a fine of not more than \$300, or by both. (§ 9 ch 52 SLA 1957)

Sec. 08.28.320. Definitions. As used in this chapter, unless the context otherwise requires,

(1) "apprentice" is a person at least 17 years of age who has completed two years of high school or equivalent education, who receives on-the-job training on licensed premises and who does not receive a wage or commission, and for whose work no charge is made until the apprentice has received at least 350 hours of training;

(2) "demonstrator" or "consultant" is a person who practices hairdressing and beauty culture upon a person acting as a subject or model when the demonstration is performed before students, operators, manager-operators, instructors or individuals, shop owners, school owners, or any other public gathering;

(3) "instructor-operator" is a person who gives instruction in the practice of hairdressing or beauty culture in a school, who has passed the qualifications of an owner-operator or manager-operator, and who has passed an examination and holds an instructor-operator license;

(4) "manager-operator" is a person of legal age who operates or manages a hairdressing or beauty culture shop or school;

(5) "manicurist" is a person who practices beauty culture by treating the hands and nails;

(6) "operator" is a person who engages in any practice defined in (10) of this section;

(7) "owner" is a person owning a hairdressing or beauty culture shop;

(8) "owner-operator" is a person who owns a hairdressing or beauty culture shop or school who is qualified under this chapter to practice the art of hairdressing and beauty culture or who is a licensed cosmetologist;

(9) "person" includes a corporation, copartnership, or unincorporated association;

(10) "practice of hairdressing and beauty culture" is engaging for compensation or other reward, in any of the following practices:

(A) arranging, dressing, curling, waving, cleansing, singeing, bleaching, coloring, or similar work on a wig or hair piece of artificial or human hair, or upon the hair of a living person by any means;

(B) trimming hair, as a part of hairdressing;

(C) utilizing cosmetic preparations, antiseptics, tonics, lotions, or creams, with the hands or with a mechanical or electrical apparatus, in massaging, cleansing, stimulating, manipulating,

exercising, or beautifying the scalp, face, neck, arms, hands, bust, or upper part of the body of a person, for the purpose of beautification;

(11) "school of hairdressing" or "school of beauty culture" is a place where a person operates and maintains a class to teach hairdressing or beauty culture;

(12) "shop" is a building or structure, or part of a building or structure, other than a school, where the practice of hairdressing or beauty culture is conducted;

(13) "student" is a person at least 16 years of age who has completed two years of high school or equivalent education, attends a licensed beauty school and does not receive a wage or commission, and for whose work no charge is made until the student has received at least 350 hours of training;

(14) "board" means the Board of Hairdressing and Beauty Culture Examiners;

(15) "department" means the Department of Commerce and Economic Development. (§ 1 ch 52 SLA 1957; am § 1 ch 112 SLA 1959; am § 1 ch 17 SLA 1966; am §§ 60, 61 ch 127 SLA 1974; am §§ 7, 8 ch 104 SLA 1976)

CHAPTER 24. BOARD OF
HAIRDRESSING AND
BEAUTY CULTURE EXAMINERS

Section

- 10. Submission of application
- 20. Time of examination
- 30. Additional requirements for licenses
- 40. Requirements for licenses without examination
- 50. Apprenticeships
- 60. Duties of instructor-operator and student instructor
- 70. Location of shops in private residence
- 80. Prohibition against employment of unlicensed operators
- 90. Notification to board of sale, lease or transfer
- 100. Approval of school of hairdressing and beauty culture
- 110. Plan and equipment requirements of schools
- 120. Sanitary rules and regulations
- 130. Curriculum requirements of school of hairdressing and beauty culture
- 140. Inspection of school

12 AAC 24.010. SUBMISSION OF APPLICATION. (a) All applications shall be made under oath and all documentary evidence in support of the application, such as diplomas and foreign license, shall be verified or certified.

(b) The required fee must be submitted with the application.

(c) Applicants shall apply in writing to the secretary of the Board of Hairdressing and Beauty Culture Examiners.

(d) The board reserves the right to require additional proof of qualifications. (In effect before 7/28/59; am 2/64, Reg. 14; am 5/27/66, Reg. 21)

Authority: AS 08.28.120

12 AAC 24.020. TIME OF EXAMINATION. (a) Examination of applicants for licenses shall be given quarterly.

(b) The board shall give public notice of the date, place and time at least 30 days prior to examination.

(c) Additional examinations may be held at the discretion of the board if there are five or more applicants. (In effect before 7/28/59; am 2/64, Reg. 14; am 5/27/66, Reg. 21)

Authority: AS 08.28.120

12 AAC 24.030. ADDITIONAL REQUIREMENTS FOR LICENSES. (a) No person may be licensed as a manager-operator unless

(1) he is a licensed cosmetologist; and

(2) he has had one year practical experience as a licensed cosmetologist immediately prior to application.

(b) No person may be licensed as an instructor-operator unless

(1) he has an Alaska cosmetology license;

(2) he has had one year's practical experience; and

(3) he has engaged in the active practice of hairdressing and beauty culture for at least five years, or has completed 600 hours of student instructor training.

(c) Except that a person may be licensed as an instructor-operator by reciprocity if he holds a current instructor-operator license from a state whose requirements were substantially equal to those provided in AS 08.28.140 at the time the license was issued. (In effect before 7/28/59; am 2/64, Reg. 41; am 5/27/66, Reg. 21)

Authority: AS 08.28.040

AS 08.28.110

AS 08.28.180

AS 08.28.120

12 AAC 24.040. REQUIREMENTS FOR LICENSES WITHOUT EXAMINATION. (a) An applicant who has a current license from a board of cosmetology in another state with less than 2,000 hours of training in an approved school of beauty culture shall be allowed credit for practical shop experience. He may be licensed without examination as follows:

(1) the training and experience must have been immediately prior to date of application and

(A) he has 1,500 hours of training and one year's experience in a licensed beauty shop; or

(B) he has 1,000 hours of training and two years' experience in a licensed beauty shop.

(b) Proof of practical experience must accompany the application for license or be furnished at the request of the board.

(c) Special consideration may be given to an applicant who can furnish proof of training in an advanced beauty culture school. (In effect before 7/28/59; am 2/64, Reg. 14; am 5/27/66, Reg. 21)

Authority: AS 08.28.130
AS 08.28.140

12 AAC 24.050. APPRENTICESHIPS. Any hairdressing or beauty culture shop may train an apprentice in the art of hairdressing or beauty culture subject to the following conditions:

(1) All apprentices shall register with the secretary of the board;

(2) A shop may have one apprentice for each five operators or fraction thereof except that an apprentice who is training under the state office of Vocational Rehabilitation may train in any shop without regard to the quota imposed by this section;

(3) Apprentices shall be instructed in both theory and practical work. Theory shall be taught from a textbook or textbooks approved by the board;

(4) An apprentice shall complete 2,000 hours of instruction over a period not exceeding two years with not more than eight hours' instruction to be given in any single day;

(5) Upon completion of the prescribed course, the apprentice shall be eligible to take an examination given by the board. If the apprentice fails to pass the examination, he shall be eligible to take another examination;

(6) An apprentice shall complete his apprenticeship in the shop in which he was registered, except that the board may authorize an apprentice's transfer to another shop where good cause is shown;

(7) When an apprentice has interrupted his apprenticeship for a continuous period of one year, no credit will be allowed for apprenticeship instruction received prior to the interruption. (In effect before 7/28/59; am 5/27/66, Reg. 21)

Authority: AS 08.28.090
AS 08.28.120

12 AAC 24.060. DUTIES OF INSTRUCTOR-OPERATOR AND STUDENT INSTRUCTOR. (a) No instructor-operator may (in connection with his duties as an instructor at a licensed school) practice hairdressing and beauty culture upon members of the public, except when the work pertains directly to the instruction of students.

(b) A student-instructor in cosmetology shall be registered with the board upon enrollment in a registered school.

(c) A student-instructor shall not be permitted to instruct without a licensed instructor on the premises. (In effect before 7/28/59; am 5/27/66, Reg. 21)

Authority: AS 08.28.180

12 AAC 24.070. LOCATION OF SHOPS IN PRIVATE RESIDENCE. (a) No shop may be opened and maintained in a private residence unless the shop is located in a separate room apart from the living quarters.

(b) The shop shall be properly equipped and shall be subject to inspection by the board and by the Alaska Department of Health and Welfare. (In effect before 7/28/59; am 5/27/66, Reg. 21)

Authority: AS 08.28.180

12 AAC 24.080. PROHIBITION AGAINST EMPLOYMENT OF UNLICENSED OPERATORS. No manager or any other person in a position of authority shall employ an unlicensed operator. (In effect before 7/28/59; am 5/27/66, Reg. 21)

Authority: AS 08.28.100

12 AAC 24.090. NOTIFICATION TO BOARD OF SALE, LEASE OR TRANSFER. In the case of a sale, lease or transfer of any school or shop, the seller, lessor or transferor shall notify the board of the transaction within 30 days of the sale, lease or transfer. The notice shall contain the name and address of the buyer, lessee or transferee. (In effect before 7/28/59; am 5/27/66, Reg. 21)

Authority: AS 08.28.180

12 AAC 24.100. APPROVAL OF SCHOOL OF HAIRDRESSING AND BEAUTY CULTURE. No school of hairdressing or beauty culture may be approved by the board unless the school employs at least two licensed instructors, and upon approval, the school must keep on duty at least one full-time, licensed instructor for each 10 students during school hours. After enrollment of the first 20 students, the school shall employ one additional instructor for every 25 students. In addition to the foregoing requirements, such school shall teach the following minimum required operations for each student during the 2,000 hours training:

- (1) shampoos - 100
- (2) color rinses - 50
- (3) neck trims w/clippers - 50
- (4) haircuts - 200
- (5) manicures - 50
- (6) tweezer arches - 10
- (7) wax arches - 10
- (8) fingerwaves (flat) - 100
- (9) iron work - 150
- (10) scalp treatments - 25
- (11) facials (to be completed with make-up) - 25
- (12) cold waves - 60
- (13) heat permanents (blocking and wrapping) - 10

(14) henna packs - 5

(15) bleaches - 25

(16) hair tints - 25

(17) hairstyles - 300 (In effect before 7/28/59; am 5/27/66, Reg. 21)

Authority: AS 08.28.180

12 AAC 24.110. PLAN AND EQUIPMENT REQUIREMENTS OF SCHOOLS. (a) The plans for a proposed school shall be submitted to the board for approval. A representative of the board shall review the plans and inspect the premises for the purpose of determining:

(1) suitability of location

(2) suitability of school rooms including plumbing, ventilation, lighting and adequacy of floor space (basement rooms below ground level will not be approved);

(3) adequacy of layout;

(4) adequacy of equipment; and

(5) adequacy of provisions for licensed instructors.

(b) After all equipment has been installed the premises must be inspected by a representative of the board and thereafter approved by the board before a license will be issued.

(c) The minimum requirements for a school of beauty culture enrolling 25 students or less shall consist of the following items of equipment:

(1) 10 wefts;

(2) one vibrator;

(3) six curling heaters;

(4) eight block heads;

(5) one linen cabinet;

(6) four shampoo basins and trays

(7) 10 mirrors and 10 chairs;

- (8) one blackboard, 4' x 4' or equivalent;
- (9) eight sanitary receptacles;
- (10) eight dryers;
- (11) four facial chairs;
- (12) four dry sterilizers (lamps or equivalent);
- (13) one therapeutic lamp installed in such manner as to permit free use of operator's hands;
- (14) one permanent wave machine, croquinole (two complete sets of 32 each of rods, clips and felts), cold wave (four sets each consisting of 32 rods);
- (15) one tablet armchair or usable table for each student in theory class;
- (16) one beauty culture textbook for each student (book of questions and answers are not considered textbooks);
- (17) three types of iron (paper curl, marcel and straghtening comb).

(d) In addition to the items of equipment listed in (c) the school shall have such supplies as wave sets, shampoo creams, hair tint, cloth towels, manicuring tables with proper lighting, chairs for at least five students, available books on anatomy, physiology and hygiene, charts 24" x 24" or equivalent, on skin, bones, muscles, nerves, and circulatory systems, and other necessary items for instruction that the board may require.

(e) The proper placement of this equipment shall require at least 1,000 square feet of floor space, excluding office, cloakroom and reception room space. In the event that the student enrollment of any school increases, additional space and equipment may be required by the board. The number of students taught in a school of beauty culture at any one time shall be limited to one for every 15 square feet of space contained in the school subject to the following limitations: space occupied by offices and lavatories shall not be used in computing maximum number of students taught.

(f) The following equipment shall be issued to each student:

- (1) one shampoo cape;
- (2) two brushes;
- (3) one pair scissors;
- (4) one pair thinning shears;
- (5) one razor;
- (6) six combs (four fingerwaves, one rattail, and one haircutting);
- (7) one electric clipper (optional);
- (8) complete tools for manicuring; cuticle oil, cuticle remover, polish, emery boards, nipper scissors, pusher and brush; and
- (9) a carrying case of sufficient size to accomodate the materials used by the student. (In effect before 7/28/59; am 5/27/66, Reg. 21)

Authority: AS 08.28.180

AS 08.28.250

12 AAC 24.120. SANITARY RULES AND REGULATIONS. The rules and regulations of the Alaska Divison of Public Health, as set forth in Title 7, Alaska Administrative Code, Sections 1250 and 1257, are hereby adopted by reference and incorporated herein as a part of these rules and regulations. All licensees shall comply with such regulations. (In effect before 7/28/59; am 5/27/66, Reg. 21)

Authority: AS 08.28.280

12 AAC 24.130. CURRICULUM REQUIREMENTS OF SCHOOL OF HAIRDRESSING AND BEAUTY CULTURE.

(a) The school shall submit its proposed curriculum to the board, with the application for license. The curriculum must be approved by the board before the school is licensed. The curriculum shall provide for the use of a standard textbook approved by the board. The curriculum must include instructions on the statutes and regulations governing hairdressing and beauty culture in the State of Alaska.

(b) The curriculum shall provide for a course of at least 2,000 hours of instruction, with no more

than eight hours of instructions in any single day. The school shall, upon completion of the course by a student, issue a diploma and an academic achievement record. A copy of the academic record shall be transmitted to the board.

(c) All students shall register with the secretary of the board. It shall be the duty of the owner of each school to transmit in writing the name, age, address and the date of commencement of instructions of each student enrolled within 30 days after the student's enrollment. It shall also be the duty of the owner of each school to advise the secretary of the board, in writing, of the date of termination of instructions within 30 days after termination.

(d) There shall be a minimum requirement of 250 hours of theory study during the 2,000 hours.

(e) There shall be a minimum requirement of 350 hours of practice training.

(f) Schools must keep daily records of student attendance of all courses, and these records shall be open for inspection by any member of the Board of Hairdressing and Beauty Culture Examiners.

(g) Practice training shall consist of classwork and individual training in all subjects of each practice. All practice training shall be limited to actual practice by the student either on transformation or other devices, or on other students, for the purpose of acquiring the fundamentals and technique of such subjects.

(h) A school may make a reasonable charge for these services to persons other than student, but all services shall be of a clinical nature and under direct supervision of an instructor.

(i) School authorities shall give a student who leaves the school in good standing an "affidavit" indicating the number of hours of each type of instructions received. A student who wishes to transfer to another school must present the affidavit to the school authorities before credit may be given for past instructions.

(j) A student transferring from a school in another state may transfer his credits upon

presentation of a certified affidavit of records from the state cosmetology board of the other state, or upon other proof acceptable by the board.

(k) Where a student has interrupted his schooling for a continuous period of three years, no credit will be allowed for instructions received prior to the interruption. (In effect before 7/28/59; am 5/27/66, Reg. 21)

Authority: AS 08.28.180

12 AAC 24.140. INSPECTION OF SCHOOLS. Licensees shall permit any member of the board to inspect at any time during working hours. (In effect before 7/28/59; am 5/27/66, Reg. 21)

Authority: AS 08.28.180

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E

STATE OF ALASKA
Board of Barber Examiners
July, 1979

Findings

The Board of Barber Examiners was created in 1957. Members of this profession, and the Board, are regulated under AS 08.12; control over health and sanitation of facilities is with the Department of Health and Social Services (AS 08.12.030(2) and AS 18.05.040(9)).

Alternatives to the present operation of the Board and to State regulation of the barbering profession are discussed in this review; however, we believe that the review indicates termination of the Board and licensing.

I. General Information

A. Regulated Parties

1. Barbers

B. Definitions

"Barbering includes the following practices when performed for hire or reward:

- (1) shaving or trimming the beard or cutting the hair;
- (2) giving facial and scalp massages or treatments with oils, creams, lotions or other preparations either by hand or mechanical appliances;
- (3) singeing, shampooing, dressing or dyeing the hair or applying hair tonics." (AS 08.12.280)

C. Nature and Composition of Board

1. Board members and terms:

(No specified length of term and no restrictions regarding consecutive terms or numbers of terms.)

Don A. Noll
Manual Norat
James Russi
Elmo Kienbaum
Maurice Smith

2. Representation:

Profession = 5 (by statute)

Public = 0

3. Qualifications:

Four members shall be from separate major senatorial districts and the fifth from the district having the largest number of practicing licensed barbers. Each member shall be a practicing barber who has engaged in barbering the State for at least five years prior to his appointment.

D. Licensing Data

Currently licensed:

in-State	=	204	
out-of-State	=	<u>40</u>	
Total		244	(July, 1979)

E. Fees

1. barber license exam	\$25.00
2. teacher license exam	75.00
3. annual relicensure	10.00
4. annual teaching relicensure	50.00
5. annual school/college fee	150.00
6. temporary permit	25.00

F. Board Revenues and Expenditure

	FY '76	FY '77	FY '78	FY '79
Receipts	\$4,087.00	\$5,005.54	\$4,410.18	\$4,369.00
-Refunds	-	35.00	10.00	95.00
Total	4,087.00	4,970.54	4,400.18	\$4,274.00
Expenditures				
Per Diem	1,152.50	1,714.50	1,297.75	1,227.50
Transportation	586.93	583.61	723.22	1,647.25
Phone	20.75	74.20	84.30	473.41
Printing, Adver. & Postage	558.61	425.96	228.49	272.78
Fees & Services	170.40	115.00	300.00	35.00
Rents, Leases & Other	-	-	300.00	725.65
Total	<u>\$2,489.19</u>	<u>\$2,913.27</u>	<u>\$2,933.76</u>	<u>\$4,381.59</u>
Surplus	\$1,597.81	\$2,057.27	\$1,466.42	-
Deficit	-	-	-	\$ 107.59

(EXCLUDES DIVISION OF OCCUPATIONAL LICENSING ADMINISTRATIVE OVERHEAD)