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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Victoria Caltagirone
Department of Commerce, Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: July 26, 2023

RE: Filed Permanent Regulations: Board of Nursing

Board of Nursing regulations re: Licensure & Certification Requirements, Renewals, and Substance Abuse Alternative Probation Program (12 AAC 44)

| | |
|------------------------|-------------------|
| Attorney General File: | 2022200602 |
| Regulation Filed: | 7/26/2023 |
| Effective Date: | 8/25/2023 |
| Print: | 247, October 2023 |

cc with enclosures: Colleen Bailey, Department of Law
Judy Herndon, LexisNexis
Alison Osborne, Regulations Specialist
Stefanie Davis, Regulations Specialist



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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July 25, 2023

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: *12 AAC 44: Board of Nursing - Licensure & Certification Requirements, Renewals, and Substance Abuse Alternative Probation Program.*
Our file: 2022200602

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Board of Nursing against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Board of Nursing after the close of the public comment period.

The regulations amend 12 AAC 44 to update requirements related to license and certification procedures, license reinstatement, and license renewal. Additionally, the regulations amend 12 AAC 44.740 to add two new subsections setting out an alternative probation program for a licensee to meet the terms of board-imposed probation for habitual drug and alcohol use; opportunity to participate is offered at the discretion of the board and kept confidential except as required by law.

Both the December 20, 2022 public notice and the February 2, 2023 certification of changes to the regulations state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.060. The corrections are incorporated into the attached copy of the regulations. Although the order certifying changes refers to nine pages of regulations, after edits the regulations are now six pages.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: Rebecca C. Polizzotto
Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

Digitally signed by
Rebecca C. Polizzotto
Date: 2023.07.25
11:51:19 -08'00'

RCP/bws

CC w/enclosure: Alison Osborne
Department of Commerce, Community and Economic Development

Harriet D. Milks, Assistant Attorney General
Department of Law

Brad Sharp, Assistant Attorney General
Department of Law

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE BOARD OF NURSING

The attached ^{SIX} ~~nine~~ pages of regulations, dealing with licensure and certification requirements, ~~reinstatement~~, renewals, alternative to discipline program for substance use disorders, and nurse aide competency evaluation, are certified to be a correct copy of the regulation changes that the Board of Nursing adopted at its February 1-2, 2023 meeting, under the authority of AS 08.01.100, AS 08.68.100, AS 08.68.170, AS 08.68.190, AS 08.68.200, AS 08.68.251, AS 08.68.270, AS 08.68.275, AS 08.68.276, AS 08.68.331, AS 08.68.334, AS 08.68.850, and AS 17.30.200, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

On the record, in considering public comments, the Board of Nursing paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 2/2/2023

Tessa Walker
Linderman

Digitally signed by Tessa Walker
Linderman
Date: 2023.02.02 14:57:02 -09'00'

Tessa Walker Linderman, Executive Administrator
Alaska Board of Nursing

April Simpson for

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on July 26, 2023 at 2:29 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.

for 
Nancy Dahlstrom, Lieutenant Governor

Effective: August 25, 2023

Register: 247, October 2023

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

Chapter 44. Board of Nursing.

12 AAC 44.290(a)(1)(B) is amended to read:

(B) **an attestation that the applicant graduated from or is eligible to graduate from a** [THE NAME, LOCATION, AND DATES OF ATTENDANCE OF THE] nursing education program **approved by the board** [ATTENDED BY THE APPLICANT];

12 AAC 44.290(a)(3)(A) is amended to read:

(A) graduated from a school of nursing in the United States or Canada, a complete certified transcript of the applicant's nursing education, **submitted** [MAILED] directly to the board from the school of nursing;

12 AAC 44.290(a)(5) is amended to read:

(5) provide **a** [THE] nursing program verification form; **the nursing program verification form must be** [,] completed by an official of the school of nursing attended [,] and **submitted** [MAILED] directly to the department from the school of nursing; and

(Eff. 10/14/72, Register 43; am 4/27/83, Register 86; am 8/2/86, Register 99; am 7/28/95, Register 135; am 4/27/97, Register 142; am 9/25/98, Register 147; am 6/16/2002, Register 162; am 10/9/2002, Register 164; am 11/23/2003, Register 168; am 10/15/2004, Register 172; am 5/18/2006, Register 178; am 3/4/2007, Register 181; am 5/7/2010, Register 194; am 10/3/2011, Register 200; am 8/10/2016, Register 219; am 5/16/2018, Register 226; am 4/14/2021, Register 238; am 6/12/2022, Register 242; am 8/19/2022, Register 243; am 8 / 25 / 2023, Register 247)

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Authority: AS 08.68.100 AS 08.68.190 **AS 08.68.280**
AS 08.68.170 AS 08.68.270

12 AAC 44.305(a)(1)(B) is amended to read:

(B) the name **and** [,] location [, AND DATES OF ATTENDANCE] of the
nursing education program attended by the applicant;

(Eff. 4/27/83, Register 86; am 8/2/86, Register 99; am 4/29/91, Register 118; am 4/27/97,
Register 142; am 9/25/98, Register 147; am 11/2/2001, Register 160; am 6/16/2002, Register
162; am 3/4/2007, Register 181; am 12/27/2012, Register 204; am 3/19/2014, Register 209; am
8/10/2016, Register 219; am 5/16/2018, Register 226; am 4/14/2021, Register 238; am
4/21/2022, Register 242; am 6/12/2022, Register 242; am 8/19/2022, Register 243; am

8 / 25 / 2023, Register 247)

Authority: AS 08.68.100 AS 08.68.200 AS 08.68.270
AS 08.68.170

12 AAC 44.317(a)(1)(B) is amended to read:

(B) the applicant's **international** nursing license history;

(Eff. 11/2/2001, Register 160; am 10/15/2004, Register 172; am 3/4/2007, Register 181; am
3/28/2008, Register 185; am 11/19/2008, Register 188; am 12/23/2009, Register 192; am
10/3/2011, Register 200; am 12/27/2012, Register 204; am 8/10/2016, Register 219; am

5/16/2018, Register 226; am 8 / 25 / 2023, Register 247)

Authority: AS 08.01.100 AS 08.68.251 AS 08.68.276
AS 08.68.100

12 AAC 44.400(a)(1)(A)(iv) is amended to read:

(iv) for a certified nurse practitioner, a certified nurse midwife, or a certified clinical nurse specialist, if completed on or after January 1, 1998, has distinct **graduate level** course offerings [OF THREE GRADUATE CREDITS OR MORE] in advanced pathophysiology, advanced pharmacotherapeutics, and advanced physical assessment, as evidenced by an official transcript or other official documentation received directly from a graduate program accredited by a nursing accrediting body that is recognized by the United States Secretary of Education or that is recognized by the Council for Higher Education Accreditation or its successor organization; and

12 AAC 44.400(a)(1)(A)(v) is amended to read:

(v) for a certified registered nurse anesthetist, if completed on or after January 1, 2016, has distinct **graduate level** course offerings in advanced pathophysiology, advanced pharmacotherapeutics, and advanced physical assessment, as evidenced by an official transcript or other official documentation received directly from a graduate program accredited by a nursing accrediting body that is recognized by the United States Secretary of Education or that is recognized by the Council for Higher Education Accreditation or its successor organization;

12 AAC 44.400(a)(6)(A) is repealed:

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(A) repealed 8 / 25 / 2023 ;

12 AAC 44.400(a)(6)(B) is repealed:

(B) repealed 8 / 25 / 2023 ;

(Eff. 1/13/80, Register 73; am 5/16/81, Register 78; am 12/1/84, Register 91; am 11/7/87, Register 104; am 4/27/97, Register 142; am 11/2/2001, Register 160; am 11/16/2002, Register 164; am 3/28/2008, Register 185; am 11/19/2008, Register 188; am 4/16/2010, Register 194; am 10/3/2011, Register 200; am 12/27/2012, Register 204; am 3/19/2014, Register 209; am 8/10/2016, Register 219; am 5/16/2018, Register 226; am 10/20/2018, Register 228; am 4/14/2021, Register 238; am 1/19/2022, Register 241; am 6/12/2022, Register 242; am 8 / 25 / 2023 , Register 247)

Authority: AS 08.68.100 AS 08.68.850

The introductory language of 12 AAC 44.470(5) is amended to read:

(5) if the applicant holds a valid federal Drug Enforcement Administration registration number and controlled substance prescriptive authority, an attestation [VERIFICATION] that the applicant has

...

(Eff. 1/13/80, Register 73; am 12/1/84, Register 91; am 11/7/87, Register 104; am 6/22/96, Register 138; am 11/2/2001, Register 160; am 12/23/2009, Register 192; am 4/16/2010, Register 194; am 10/3/2011, Register 200; am 8/10/2016, Register 219; am 5/16/2018, Register 226; am 8/8/2018, Register 227; am 8 / 25 / 2023 , Register 247)

Authority: AS 08.68.100 AS 08.68.276 AS 17.30.200

12 AAC 44.740 is amended by adding new subsections to read:

(c) The board may offer a licensee subject to this section the opportunity to participate in an alternative probation program. Whether a licensee may participate in an alternative probation program is at the discretion of the board. A licensee participating in an alternative probation program shall meet the terms of probation required by the board under the alternative probation program. The board will keep a licensee's participation in an alternative probation program confidential, except as required by law.

(d) Nothing in this section shall limit the authority of the board to impose a summary suspension or other discipline if it determines that a licensee poses a risk to public health or safety. (Eff. 8/6/87, Register 103; am 8 / 25 / 2023, Register 247)

Authority: AS 08.01.075 AS 08.68.270 AS 08.68.275
AS 08.68.100

12 AAC 44.805(3) is amended to read:

(3) successful completion of a [NATIONAL] competency evaluation; and
(Eff. 2/14/99, Register 149; am 3/28/2008, Register 185; am 12/27/2012, Register 204; am 3/19/2014, Register 209; am 5/16/2018, Register 226; am 4/14/2021, Register 238; am 1/19/2022, Register 241; am 6/12/2022, Register 242; am 8 / 25 / 2023, Register 247)

Authority: AS 08.68.100 AS 08.68.331

12 AAC 44.850(b) is amended to read:

(b) [THE BOARD APPROVES THE NATIONAL NURSE AIDE ASSESSMENT

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PROGRAM, DEVELOPED BY AND ADMINISTERED UNDER THE SUPERVISION OF THE NATIONAL COUNCIL OF STATE BOARDS OF NURSING, INC., AS THE COMPETENCY EVALUATION REQUIRED UNDER (a) OF THIS SECTION. THE] A competency evaluation must be administered and evaluated by a registered nurse approved by the board who has at least one year's experience in providing care for the elderly or the chronically ill of any age.

(Eff. 2/14/99, Register 149; am 5/29/99, Register 150; am 10/3/2011, Register 200; am 2/26/2021, Register 238; am 7/18/2021, Register 239; am 9 / 25 / 2023, Register 247)

Authority: AS 08.68.100 AS 08.68.331