

Byron Mallott
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520 465.5400 Fax
WWW.LTGOV.ALASKA.GOV




530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Jun Maiquis
Department of Commerce, Community & Economic Development

FROM: Scott Meriwether, Office of the Lieutenant Governor 
465.4081

DATE: June 20, 2017

RE: Filed Permanent Regulations: State Medical Board

State Medical Board update to regulations re: abortions (12 AAC 40.060 - 12 AAC 40.140)

Attorney General File:	JU2017200090
Regulation Filed:	6/19/2017
Effective Date:	7/19/2017
Print:	223, October 2017

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE STATE MEDICAL BOARD

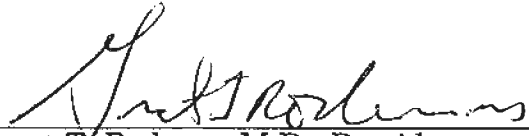
The attached four pages of regulations, dealing with abortion, are hereby certified to be a correct copy of the regulation changes that the State Medical Board adopted at its May 4-5, 2017 meeting, under the authority of AS 08.64.100 and AS 08.64.105 and after compliance with the Administrative Procedure 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 State Medical Board 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.

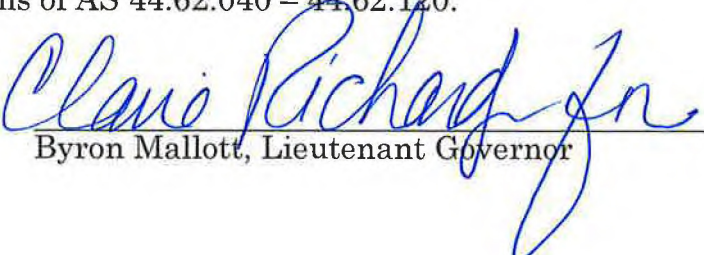
DATE: May 5, 2017
Anchorage, Alaska



Grant T. Roderer, M.D., President
State Medical Board

 FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that
on ¹ June 19, 2017 at 3:56p.m., I filed the attached
regulations according to the provisions of AS 44.62.040 – 44.62.120.



Byron Mallott, Lieutenant Governor

Effective: July 19, 2017.

Register: 223, October 2017

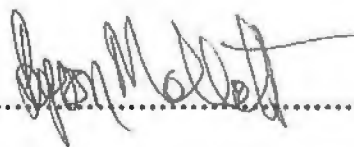
FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

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

Claire Richardson, Special Assistant

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on January 7th 2015.




.....

**BYRON MALLOTT
LIEUTENANT GOVERNOR**

Chapter 40. State Medical Board.

12 AAC 40.060 is amended to read:

12 AAC 40.060. Termination of pregnancy. Termination of pregnancy must be requested by the pregnant woman [, UNLESS SHE HAS BEEN ADJUDGED MENTALLY INCOMPETENT OR IS UNMARRIED AND UNDER 18 YEARS OF AGE, IN WHICH CASE THE REQUEST MUST BE MADE BY HER PARENT OR GUARDIAN]. (Eff. 12/20/70,

Register 36; am 8/29/73, Register 47; am 7/19/2017, Register 223)

Authority: AS 08.64.100 [AS 11.15.060(a)] AS 08.64.105 →

12 AAC 40.070 is amended to read:

12 AAC 40.070. Informed consent. A [UNLESS OTHERWISE PROVIDED IN 12 AAC 40.060, A] written informed consent that complies with AS 18.16.060 shall be obtained from the patient [OR FROM ANY OTHER PERSON WHOSE CONSENT IS REQUIRED BEFORE TERMINATION OF A PREGNANCY]. Such written informed consent shall be on the patient's chart. The patient [AND OTHER PERSONS WHOSE CONSENT IS REQUIRED] shall be advised of the medical implications and the possible emotional and physical sequelae of the procedure. (Eff. 12/20/70, Register 36; am 8/29/73, Register 47; am 7/19/2017, Register

223)

Authority: AS 08.64.100 AS 08.64.105 →

12 AAC 40.080 is amended to read:

12 AAC 40.080. Medical procedures. The patient shall be examined by a physician

(abole/
underline))

→ this state

licensed in Alaska, and a written record of the patient's physical and emotional health shall be prepared before performing an abortion [PROCEDURE AS SET OUT IN 12 AAC 40.110]. (Eff.

12/20/70, Register 36; am 8/29/73, Register 47; am 7/19/2017, Register 223)

AS 08.64.100
Authority: AS 08.64.105 →

12 AAC 40.100 is repealed:

12 AAC 40.100. Consultation requirements. Repealed 7/19/2017. (Eff. 12/20/70,

Register 36; am 8/29/73, Register 47; repealed 7/19/2017, Register 223)

repealed and readopted

12 AAC 40.110 is ~~amended~~ to read:

"backface/underlining not needed"

12 AAC 40.110. Abortion procedures. The procedures described in the Clinical

Management Guidelines for Obstetrician-Gynecologists: Second-Trimester Abortion Practice

Bulletin Number 135, ^{and} dated June 2013, ^{are} reaffirmed 2015^s of the American College of

Obstetricians and Gynecologists ~~is~~ adopted by reference as the standard of practice when

providing an abortion after the first trimester ~~DURING THE SECOND OR THIRD~~

~~TRIMESTER OF A PREGNANCY, ACCEPTABLE PROCEDURES INCLUDE DILATATION~~

~~AND CURETTAGE, SUCTION ASPIRATION OF THE UTERUS, INJECTION OF~~

~~PHARMACOLOGICAL AGENTS, HYSTERECTOMY AND HYSTEROTOMY. THE~~

~~EXACT PROCEDURE TO BE USED WILL DEPEND UPON THE PATIENT'S TOTAL~~

~~HEALTH, AGE, ASSOCIATED DISEASE AND PATHOLOGY, AND ANOMALIES SUCH~~

~~AS SKELETAL DEFECTS AND OTHER MEDICAL INDICATIONS~~, (Eff. 12/20/70, Register

36; am 8/29/73, Register 47; am 7/19/2017, Register 223)

AS 08.64.100
Authority: AS 08.64.105 →

Editor's note: A copy of the American College of Obstetricians and Gynecologists

(ACOG) Clinical Management Guidelines for Obstetrician-Gynecologists: Second-Trimester

Abortion Practice Bulletin Number 135, dated June 2013, ^{and} reaffirmed 2015, adopted by reference

in 12 AAC 40.110, may be obtained from the American College of Obstetricians and

Gynecologists, 409 12th Street SW, PO Box 96920, Washington, DC 20090-6920 or website at

<http://www.acog.org/Resources-And-Publications/Practice-Bulletins-List>.

12 AAC 40.120(b) is ~~amended~~ ^{repealed and readopted} to read:

(b) From and after the point in time when a fetus becomes viable, as determined by

such medical examinations and tests ^{those} which ^{that} in the physician's professional judgment are

necessary, an abortion may only be performed at a hospital with a Neonatal Intensive Care

Unit (NICU) ^(lowercase) DURING THE SECOND OR THIRD TRIMESTER OF A PREGNANCY,

BLOOD, BLOOD DERIVATIVES, BLOOD SUBSTITUTES OR PLASMA EXPANDERS

SHALL BE IMMEDIATELY AVAILABLE WHEN AN ABORTION IS PERFORMED, AND

AN OPERATING ROOM APPROPRIATELY STAFFED AND EQUIPPED FOR MAJOR

SURGERY IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER AS 18.20.060

SHALL BE IMMEDIATELY AVAILABLE.] (Eff. 12/20/70, Register 36; am 8/29/73, Register

47; am 7/19/2017, Register 223)

Authority: AS 08.64.100
AS 08.64.105

12 AAC 40.130 is amended to read:

12 AAC 40.130. Records. In accord with 12 AAC 40.940, during [DURING] the second or third trimester of a pregnancy, the attending physician shall record a medical history,

findings of the physical examination, operative report of the abortion procedure and pathology report as part of the clinical record to be maintained by the hospital or facility. The physician and hospital or facility shall treat the patient's identity and medical record as confidential information.

(Eff. 12/20/70, Register 36; am 8/29/73, Register 47; am 7/19/2017, Register 223)

AS 08.64.100
Authority: AS 08.64.105 →

12 AAC 40.140 is amended to read:

that *in bold/underline*
12 AAC 40.140. Limitation. A fetus which *in bold/underline* has not developed beyond 150 days after the first day of the last menstrual period may be considered non-viable [FOR PURPOSES OF AS *in bold/underline* 11.15.060(a)]. In the performance of an abortion after that date, the physician shall be guided by a reasonable judgment as to whether the fetus is viable in fact. (Eff. 12/20/70, Register 36; am

8/29/73, Register 47; am 7/19/2017, Register 223)

AS 08.64.100
Authority: AS 08.64.105 → [AS 11.15.060(a)] →

MEMORANDUM


State of Alaska
Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: June 13, 2017

File No.: JU2017200090

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: State Medical Board update to
regulations re: abortions (12 AAC
40.060 - 12 AAC 40.140)

We have reviewed the attached regulations from the State Medical Board against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a general delegation dated December 5, 2014 from the Regulations Attorney. The regulations update requirements regarding abortions, particularly to reflect the Alaska Supreme Court decision in *State v. Planned Parenthood*, 171 P.3d 577 (Alaska 2007).

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The February 19, 2017 public notice, the March 30, 2017 supplemental public notice, and the May 5, 2017 certification of adoption order all state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Hon. Byron Mallott, Lieutenant Governor
Our file: JU2017200090

June 13, 2017
Page 2

We have made some technical corrections to the regulations in accordance with AS 44.62.125, as shown on the attached copy.

SCW

cc w/enc: (via email)

Grant T. Roderer, M.D., President
State Medical Board
(via e-mail through Jun Maiquis)

Micaela Fowler, Regulations Contact
Department of Commerce, Community, and Economic Development

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

Sara Chambers, Operations Manager
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, and Economic Development

Jun Maiquis, Regulations Specialist
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, and Economic Development

Debora Stovern, Executive Administrator
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, and Economic Development

Megyn A. Greider, Assistant Attorney General
Commercial and Fair Business Section

Susan R. Pollard, Chief Assistant Attorney General and Regulations Attorney
Legislation and Regulations Section

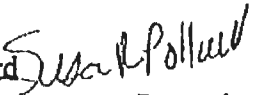
MEMORANDUM

State of Alaska
Department of Law

To: The Honorable Byron Mallott
Lieutenant Governor

Date: December 5, 2014

Tel. No.: 465-3600

From: Susan R. Pollard 
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Re: Delegation of Authority for
Regulations Matters

In my absence, when I am traveling or otherwise out of the office, Senior Assistant Attorney General and Assistant Regulations Attorney Steven C. Weaver is designated as Acting Regulations Attorney. Under this delegation, Steve Weaver has my full authority under AS 44.62 to conduct the legal review of regulations or take necessary actions as Acting Regulations Attorney.

This delegation is effective immediately and is in effect until revoked by me.

If you have any questions, please let me know.

SRP/pav

cc: Scott Meriwether, AAC Coordinator
Office of the Lt. Governor

Jim Cantor, Deputy Attorney General
Civil Division

Nancy Gordon, Statewide Office Chief
Civil Division

Steven C. Weaver, Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Cori Mills, Assistant Attorney General
Legislation and Regulations Section

Linda Miller, Legal Editor
Legislation and Regulations Section

Lisa Rickey, Legal Editor
Legislation and Regulations Section

NOTICE OF PROPOSED CHANGES RELATING TO ABORTION IN THE REGULATIONS OF THE STATE MEDICAL BOARD

BRIEF DESCRIPTION: The State Medical Board proposes to update regulations regarding abortion.

The State Medical Board (Board) proposes to adopt regulation changes in Title 12, Chapter 40 of the Alaska Administrative Code, dealing with abortion, including the following:

1. **12 AAC 40.060. Termination of pregnancy**, is proposed to be amended to conform to current law.
2. **12 AAC 40.070. Informed consent**, is proposed to be amended to clarify the informed consent requirements to conform to current law.
3. **12 AAC 40.080. Medical procedures**, is proposed to be changed to amend the provisions relating to examination and record keeping before performing an abortion.
4. **12 AAC 40.100. Consultation requirements**, is proposed to be repealed.
5. **12 AAC 40.110. Abortion procedures**, is proposed to be amended to adopt by reference a national practice standard for abortion after the first trimester.
6. **12 AAC 40.120. Standards for hospitals and facilities**, is proposed to be amended to update requirements for hospitals and facilities to reflect current medical practice and technology.
7. **12 AAC 40.130. Records**, is proposed to be amended to cite the Board's existing standards of practice for record keeping.
8. **12 AAC 40.140. Limitation**, is proposed to be changed to remove a citation to a renumbered statute.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Jun Maiquis, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806. Additionally, the Board will accept comments by facsimile at (907) 465-2974 and by electronic mail at RegulationsAndPublicComment@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system at <http://notice.alaska.gov/184700>, and using the comment link. **The comments must be received not later than 5:00 p.m. on March 24, 2017.** Comments received after this deadline will not be considered by the Board.

You may submit written questions relevant to the proposed action to Jun Maiquis, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806 or by e-mail at jun.maiquis@alaska.gov. **The questions must be received at least 10 days before the end of the public comment period.** The Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and on the Board's website at <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/StateMedicalBoard.aspx>. The Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Jun Maiquis at (907) 465-2537 or jun.maiquis@alaska.gov not later than March 17, 2017 to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Jun Maiquis at (907) 465-2537 or jun.maiquis@alaska.gov, or go to <https://www.commerce.alaska.gov/web/portals/5/pub/MED-0217-Project1.pdf>.

A copy of the material proposed for adoption by reference may be viewed at the Board's office at the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, Atwood Building, 550 West 7th Avenue, Suite 1500, Anchorage, AK.

After the public comment period ends, the Board will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. **You should comment during the time allowed if your interests could be affected.** Written comments and questions received are public records and are subject to public inspection.

Statutory Authority: AS 08.64.100; AS 08.64.105

Statutes Being Implemented, Interpreted, or Made Specific: AS 08.64.105

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 2/17/17




Jun Maiquis, Regulations Specialist
Division of Corporations, Business and
Professional Licensing

For each occupation regulated under the Division of Corporations, Business and Professional Licensing, the Division keeps a list of individuals or organizations who are interested in the regulations of that occupation. The Division automatically sends a Notice of Proposed Regulations to the parties on the appropriate list each time there is a proposed change in an occupation's regulations in Title 12 of the Alaska Administrative Code. If you would like your address added to or removed from such a list, send your request to the Division at the address above, giving your name, either your e-mail address or mailing address (as you prefer for receiving notices), and the occupational area in which you are interested.

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. **Adopting agency:** State Medical Board – Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
2. **General subject of regulation:** Abortion.
3. **Citation of regulation:** 12 AAC 40.060, 12 AAC 40.070, 12 AAC 40.080, 12 AAC 40.100, 12 AAC 40.110, 12 AAC 40.120, 12 AAC 40.130, and 12 AAC 40.140.
4. **Department of Law file number:** To be assigned.
5. **Reason for the proposed action:** Update and clarify regulations; compliance with state statute.
6. **Appropriation/Allocation:** Corporations, Business and Professional Licensing – #2360.
7. **Estimated annual cost to comply with the proposed action to:**
A private person: None known.
Another state agency: None known.
A municipality: None known.
8. **Cost of implementation to the state agency and available funding (in thousands of dollars):**
No costs are expected in FY 2017 or in subsequent years.
9. **The name of the contact person for the regulation:**
Debora Stovern, Executive Administrator
Alaska State Medical Board
Division of Corporations, Business and Professional Licensing
Telephone: (907) 269-8163
E-mail: debora.stovern@alaska.gov
10. **The origin of the proposed action:** State Medical Board.
11. **Date:** 2/17/17

Prepared by:


Jun Maiquis
Regulations Specialist

SUPPLEMENTAL NOTICE OF PROPOSED CHANGES RELATING TO ABORTION IN THE REGULATIONS OF THE STATE MEDICAL BOARD

BRIEF DESCRIPTION: The State Medical Board proposes to update regulations regarding abortion.

The State Medical Board (Board) proposes to adopt regulation changes in Title 12, Chapter 40 of the Alaska Administrative Code, dealing with abortion, including the following:

1. **12 AAC 40.060. Termination of pregnancy**, is proposed to be amended to conform to current law.
2. **12 AAC 40.070. Informed consent**, is proposed to be amended to clarify the informed consent requirements to conform to current law.
3. **12 AAC 40.080. Medical procedures**, is proposed to be changed to amend the provisions relating to examination and record keeping before performing an abortion.
4. **12 AAC 40.100. Consultation requirements**, is proposed to be repealed.
5. **12 AAC 40.110. Abortion procedures**, is proposed to be amended to adopt by reference a national practice standard for abortion after the first trimester.
6. **12 AAC 40.120. Standards for hospitals and facilities**, is proposed to be amended to update requirements for hospitals and facilities to reflect current medical practice and technology.
7. **12 AAC 40.130. Records**, is proposed to be amended to cite the Board's existing standards of practice for record keeping.
8. **12 AAC 40.140. Limitation**, is proposed to be changed to remove a citation to a renumbered statute.

This is a **SUPPLEMENTAL NOTICE** adding to the **NOTICE OF PROPOSED CHANGES** that was issued on February 17, 2017, concerning these proposed regulation revisions contained in the Department of Law file number JU2017200090. This **SUPPLEMENTAL NOTICE** is being issued because the Board has decided to extend the written comment period on those proposed revisions. If you previously submitted written comments under the February 17, 2017 **NOTICE OF PROPOSED CHANGES**, you need not resubmit those comments under this notice as those comments are part of the record and will be considered by the Board.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Jun Maiquis, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806. Additionally, the Board will accept comments by facsimile at (907) 465-2974 and by electronic mail at RegulationsAndPublicComment@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system at <http://notice.alaska.gov/185172>, and using the comment link. **The comments must be received not later than 5:00 p.m. on April 18, 2017.** Comments received after this deadline will not be considered by the Board.

You may submit written questions relevant to the proposed action to Jun Maiquis, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806 or by e-mail at jun.maiquis@alaska.gov. **The questions must be received at least 10 days before the end of the public comment period.** The Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and

on the Board's website at <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/StateMedicalBoard.aspx>. The Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Jun Maiquis at (907) 465-2537 or jun.maiquis@alaska.gov not later than April 11, 2017 to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Jun Maiquis at (907) 465-2537 or jun.maiquis@alaska.gov, or go to <https://www.commerce.alaska.gov/web/portals/5/pub/MED-0217-Project1.pdf>.

A copy of the material proposed for adoption by reference may be viewed at the Board's office at the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, Atwood Building, 550 West 7th Avenue, Suite 1500, Anchorage, AK.


After the public comment period ends, the Board will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. **You should comment during the time allowed if your interests could be affected.** Written comments and questions received are public records and are subject to public inspection.

Statutory Authority: AS 08.64.100; AS 08.64.105

Statutes Being Implemented, Interpreted, or Made Specific: AS 08.64.105

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 3/29/17




Jun Maiquis, Regulations Specialist
Division of Corporations, Business and
Professional Licensing

For each occupation regulated under the Division of Corporations, Business and Professional Licensing, the Division keeps a list of individuals or organizations who are interested in the regulations of that occupation. The Division automatically sends a Notice of Proposed Regulations to the parties on the appropriate list each time there is a proposed change in an occupation's regulations in Title 12 of the Alaska Administrative Code. If you would like your address added to or removed from such a list, send your request to the Division at the address above, giving your name, either your e-mail address or mailing address (as you prefer for receiving notices), and the occupational area in which you are interested.

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. **Adopting agency:** State Medical Board – Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
2. **General subject of regulation:** Abortion.
3. **Citation of regulation:** 12 AAC 40.060, 12 AAC 40.070, 12 AAC 40.080, 12 AAC 40.100, 12 AAC 40.110, 12 AAC 40.120, 12 AAC 40.130, and 12 AAC 40.140.
4. **Department of Law file number:** JU2017200090.
5. **Reason for the proposed action:** Update and clarify regulations; compliance with state statute.
6. **Appropriation/Allocation:** Corporations, Business and Professional Licensing – #2360.
7. **Estimated annual cost to comply with the proposed action to:**
A private person: None known.
Another state agency: None known.
A municipality: None known.
8. **Cost of implementation to the state agency and available funding (in thousands of dollars):**
No costs are expected in FY 2017 or in subsequent years.
9. **The name of the contact person for the regulation:**
Debora Stovern, Executive Administrator
Alaska State Medical Board
Division of Corporations, Business and Professional Licensing
Telephone: (907) 269-8163
E-mail: debora.stovern@alaska.gov
10. **The origin of the proposed action:** State Medical Board.
11. **Date:** 3/29/17

Prepared by:



Jun Marquis
Regulations Specialist

STATE OF ALASKA

FIRST JUDICIAL DISTRICT

} **ss.**

**AFFIDAVIT OF NOTICE OF PROPOSED ADOPTION OF REGULATIONS
AND FURNISHING OF ADDITIONAL INFORMATION**

I, Jun Maiquis, Regulations Specialist, of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 12 AAC 40.060, 12 AAC 40.070, 12 AAC 40.080, 12 AAC 40.100, 12 AAC 40.110, 12 AAC 40.120, 12 AAC 40.130, and 12 AAC 40.140, dealing with abortion, has been given by being:

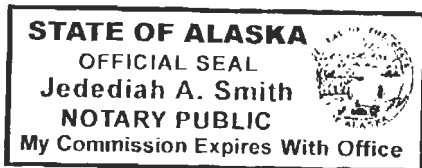
1. published in a newspaper or trade publication;
2. furnished to interested persons;
3. furnished to appropriate state officials;
4. furnished to the Department of Law, along with a copy of the proposed regulations;
5. electronically transmitted to incumbent State of Alaska legislators;
6. furnished to the Legislative Affairs Agency, Legislative Legal and Research Services;
7. posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
8. furnished electronically, along with a copy of the proposed regulations, to the Legislative Affairs Agency, the chair of the Labor and Commerce Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190(d), additional regulations notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulations notice information also has been posted on the Alaska Online Public Notice System.

DATE: 5/12/17
Juneau, Alaska


Jun Maiquis, Regulations Specialist

SUBSCRIBED AND SWORN TO before me this 12 day of May, 2017.



Paul Smith
Notary Public in and for the
State of Alaska
My commission expires: with office

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss.

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

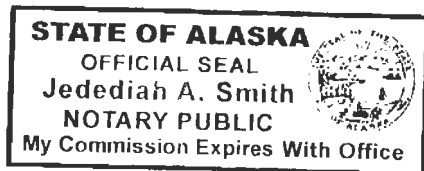
I, Jun Maiquis, Regulations Specialist for the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being duly sworn, state the following:

In compliance with AS 44.62.215, the State Medical Board has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the State Medical Board regulations on dealing with abortion.

DATE: 5/12/17
Juneau, Alaska


Jun Maiquis, Regulations Specialist

SUBSCRIBED AND SWORN TO before me this 12 day of May, 2017.



Ed Smith

 Notary Public in and for the
 State of Alaska
 My commission expires: *with officer*

268972
0001400502
\$527.90

RECEIVED
Juneau

FEB 23 2017

CBPL

AFFIDAVIT OF PUBLICATION

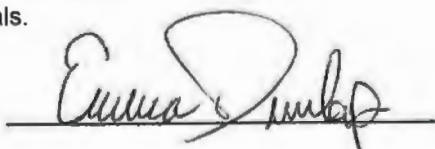
STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Emma Dunlap
being first duly sworn on oath deposes and
says that he/she is a representative of the
Alaska Dispatch News, a daily newspaper.
That said newspaper has been approved
by the Third Judicial Court, Anchorage,
Alaska, and it now and has been published
in the English language continually as a
daily newspaper in Anchorage, Alaska, and
it is now and during all said time was
printed in an office maintained at the
aforesaid place of publication of said
newspaper. That the annexed is a copy of
an advertisement as it was published in
regular issues (and not in supplemental
form) of said newspaper on

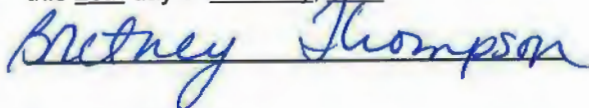
February 19, 2017

and that such newspaper was regularly
distributed to its subscribers during all of
said period. That the full amount of the fee
charged for the foregoing publication is not
in excess of the rate charged private
individuals.

Signed



Subscribed and sworn to before me
this 20th day of February, 2017



Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES



NOTICE OF PROPOSED CHANGES RELATING TO ABORTION IN THE REGULATIONS OF THE STATE MEDICAL BOARD

The State Medical Board (Board) proposes to adopt regulation changes
in Title 12, Chapter 40 of the Alaska Administrative Code, dealing with
abortion, including the following:

1. **12 AAC 40.060. Termination of pregnancy**, is proposed to
be amended to conform to current law.
2. **12 AAC 40.070. Informed consent**, is proposed to be
amended to clarify the informed consent requirements to
conform to current law.
3. **12 AAC 40.080. Medical procedures**, is proposed to be
changed to amend the provisions relating to examination and
record keeping before performing an abortion.
4. **12 AAC 40.100. Consultation requirements**, is proposed
to be repealed.
5. **12 AAC 40.110. Abortion procedures**, is proposed to be
amended to adopt by reference a national practice standard
for abortion after the first trimester.
6. **12 AAC 40.120. Standards for hospitals and facilities**, is
proposed to be amended to update requirements for hospitals
and facilities to reflect current medical practice and
technology.
7. **12 AAC 40.130. Records**, is proposed to be amended to cite
the Board's existing standards of practice for record keeping.
8. **12 AAC 40.140. Limitation**, is proposed to be changed to
remove a citation to a renumbered statute.

You may comment on the proposed regulation changes, including the
potential costs to private persons of complying with the proposed
changes, by submitting written comments to Jun Maiquis, Regulations
Specialist, Division of Corporations, Business and Professional
Licensing, P.O. Box 110806, Juneau, AK 99811-0806. Additionally, the
Board will accept comments by facsimile at (907) 465-2974 and by
electronic mail at RegulationsAndPublicComment@alaska.gov.
Comments may also be submitted through the Alaska Online Public
Notice System by accessing this notice on the system at
<http://notice.alaska.gov/184700>, and using the comment link. **The
comments must be received not later than 5:00 p.m. on March
24, 2017.** Comments received after this deadline will not be considered
by the Board.

You may submit written questions relevant to the proposed action to
Jun Maiquis, Regulations Specialist, Division of Corporations, Business
and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806
or by e-mail at jun.maiquis@alaska.gov. **The questions must be
received at least 10 days before the end of the public
comment period.** The Board will aggregate its response to
substantially similar questions and make the questions and responses
available on the Alaska Online Public Notice System and on the Board's
website at
<https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/StateMedicalBoard.aspx>. The Board may, but is not required to, answer
written questions received after the 10-day cut-off date and before the
end of the comment period.

If you are a person with a disability who needs a special
accommodation in order to participate in this process, please contact
Jun Maiquis at (907) 465-2537 or jun.maiquis@alaska.gov not later than
March 17, 2017 to ensure that any necessary accommodation can be
provided.

AC
Only
25
hr
P

Includ

We re

S

268972
0001402752
\$557.78

RECEIVED
Juneau
APR 03 2017

CBPL

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

Emma Dunlap
being first duly sworn on oath deposes and
says that he/she is a representative of the
Alaska Dispatch News, a daily newspaper.
That said newspaper has been approved
by the Third Judicial Court, Anchorage,
Alaska, and it now and has been published
in the English language continually as a
daily newspaper in Anchorage, Alaska, and
it is now and during all said time was
printed in an office maintained at the
aforesaid place of publication of said
newspaper. That the annexed is a copy of
an advertisement as it was published in
regular issues (and not in supplemental
form) of said newspaper on

March 30, 2017

and that such newspaper was regularly
distributed to its subscribers during all of
said period. That the full amount of the fee
charged for the foregoing publication is not
in excess of the rate charged private
individuals.

Signed

Emma Dunlap

Subscribed and sworn to before me
this 30th day of March, 2017

Britney Thompson

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES

Notary Public
BRITNEY L. THOMPSON
State of Alaska

My Commission Expires Feb 23, 2019

Notary Public
BRITNEY L. THOMPSON

SUPPLEMENTAL NOTICE OF PROPOSED CHANGES RELATING TO ABORTION IN THE REGULATIONS OF THE STATE MEDICAL BOARD

The State Medical Board (Board) proposes to adopt regulation changes in Title 12, Chapter 40 of the Alaska Administrative Code, dealing with abortion, including the following:

1. **12 AAC 40.060. Termination of pregnancy**, is proposed to be amended to conform to current law.
2. **12 AAC 40.070. Informed consent**, is proposed to be amended to clarify the informed consent requirements to conform to current law.
3. **12 AAC 40.080. Medical procedures**, is proposed to be changed to amend the provisions relating to examination and record keeping before performing an abortion.
4. **12 AAC 40.100. Consultation requirements**, is proposed to be repealed.
5. **12 AAC 40.110. Abortion procedures**, is proposed to be amended to adopt by reference a national practice standard for abortion after the first trimester.
6. **12 AAC 40.120. Standards for hospitals and facilities**, is proposed to be amended to update requirements for hospitals and facilities to reflect current medical practice and technology.
7. **12 AAC 40.130. Records**, is proposed to be amended to cite the Board's existing standards of practice for record keeping.
8. **12 AAC 40.140. Limitation**, is proposed to be changed to remove a citation to a renumbered statute.

This is a **SUPPLEMENTAL NOTICE** adding to the **NOTICE OF PROPOSED CHANGES** that was issued on February 17, 2017, concerning these proposed regulation revisions contained in the Department of Law file number JU2017200090. This **SUPPLEMENTAL NOTICE** is being issued because the Board has decided to extend the written comment period on those proposed revisions. If you previously submitted written comments under the February 17, 2017 **NOTICE OF PROPOSED CHANGES**, you need not resubmit those comments under this notice as those comments are part of the record and will be considered by the Board.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Jun Maiquis, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806. Additionally, the Board will accept comments by facsimile at (907) 465-2974 and by electronic mail at RegulationsAndPublicComment@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system at <http://notice.alaska.gov/185172>, and using the comment link. The comments must be received not later than 5:00 p.m. on April 18, 2017. Comments received after this deadline will not be considered by the Board.

You may submit written questions relevant to the proposed action to Jun Maiquis, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806 or by e-mail at jun.maiquis@alaska.gov. **The questions must be received at least 10 days before the end of the public comment period.** The Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and on the Board's website.

Learn for FREE

THIRD JUDICIAL DISTRICT

AFFIDAVIT OF BOARD ACTION

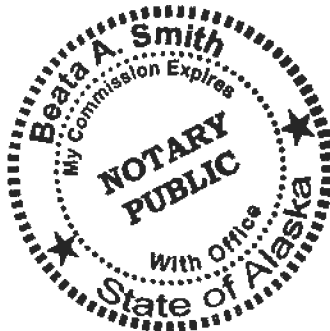
I, Debora Stovern, Executive Administrator for the State Medical Board, being duly sworn, state the following:

The attached motion dealing with abortion was passed by the State Medical Board during its May 4-5, 2017 meeting.

Date: 6/6/17
Anchorage, Alaska

Debora Stovern
Debora Stovern, Executive Administrator

SUBSCRIBED AND SWORN TO before me this 6th day of June, 2017.



Beata A. Smith
Notary Public in and for the
State of Alaska
My commission expires: with office

May 4, 2017:

Approved Regulation Project – Abortion

The regulations project regarding abortion, as published in the public notice, proposes to amend regulations to conform to current law, amend regulations regarding record keeping, repeal a consultation requirement, adopt a national practice standard for abortion after the first trimester, and update requirements for hospitals and facilities to reflect current medical practice and technology.

In 1970, the Alaska Legislature enacted laws decriminalizing abortion, which included a requirement that the State Medical Board adopt regulations necessary to carry into effect the provisions of the new law and set standards of professional competency in the performance of abortions and establish procedures and set standards for facilities, equipment and care of patients. The Board adopted such regulations in 1970, and revised them in 1973.

The State has been named in a lawsuit challenging the constitutionality of the existing abortion regulations. Although the lawsuit brought the regulations to the attention of the Board, the Board is guided by their public protection mandate, not just to resolve the litigation.

After consulting with attorneys from the Office of the Attorney General, the State Medical Board issued a scoping notice to invite public comment on the existing regulations. After considering the comments, the status of the litigation, and guidance from the AAGs, the Board is proposing to revise the regulations regarding abortion, including the following:

1. 12 AAC 40.060. Termination of pregnancy: is proposed to be amended to conform to current law. The requirements regarding parents/guardians were authorized under AS 11.15.060, which was repealed and replaced by AS 18.60.010-.090. The replacement statutes includes specific language regarding these situations and informed consent.

12 AAC 40.060 Termination of Pregnancy is proposed to read “Termination of pregnancy must be requested by the pregnant woman.” The remaining language to be deleted: “unless she has been adjudged mentally incompetent or is unmarried and under 18 years of age, in which case the request must be made by her parent or guardian.”

2. 12 AAC 40.070. Informed consent: is proposed to be amended to clarify the informed consent requirements to conform to current law. The requirements regarding informed consent were referenced under 12 AAC 40.060 and authorized under AS 11.15.060(a), which was repealed and replaced by AS 18.60.010-.090.

12 AAC 40.070 Informed Consent is proposed to read “A written informed consent that complies with AS 18.16.060 shall be obtained from the patient. Such written informed consent shall be on the patient's chart. The patient shall be advised of the medical

implications and the possible emotional and physical sequelae of the procedure.” The remaining language to be deleted: “Unless otherwise provided in 12 AAC 40.060, a written informed consent shall be obtained from the patient or from any other person whose consent is required before termination of a pregnancy.”

3. 12 AAC 40.080. Medical procedures: is proposed to be changed to amend the provisions relating to examination and record keeping before performing an abortion, by removing the citation to 12 AAC 40.110, which is proposed for change, and to conform to existing patient record standards.

12 AAC 40.080 Medical Procedures is proposed to read “The patient shall be examined by a physician licensed in Alaska, and a written record of the patient's health shall be prepared before performing an abortion.” The language “physical and emotional” to be deleted and the remaining language to be deleted: “...procedure as set out in 12 AAC 40.110.”

4. 12 AAC 40.100. Consultation requirements: is proposed to be repealed. Necessary consultation is already required under other professional practice standards.

12 AAC 40.100 Consultation Requirements is proposed to be repealed. The language to be repealed: “Abortions interrupting a pregnancy up to and including the twelfth week of gestation may be performed without consultation. Abortions performed after the twelfth week of gestation shall be preceded by consultation with another physician. The consultation shall include an opinion as to the preferred method of termination of pregnancy.”

5. 12 AAC 40.110. Abortion procedures: is proposed to be amended to adopt by reference a national practice standard for abortion after the first trimester.

12 AAC 40.110 Abortion Procedures is proposed to read “The *Clinical Management Guidelines for Obstetrician-Gynecologists: Second-Trimester Abortion* Practice Bulletin Number 135, (dated June 2013, reaffirmed 2015) of the American College of Obstetricians and Gynecologists is adopted by reference as the standard of practice when providing an abortion after the first trimester.” The language to be deleted: “During the second or third trimester of a pregnancy, acceptable procedures include dilation and curettage, suction aspiration of the uterus, injection of pharmacological agents, hysterectomy and hysterotomy. The exact procedure to be used will depend upon the patient’s total health, age, associated disease and pathology, and anomalies such as skeletal defects and other medical indications.”

6. 12 AAC 40.120. Standards for hospitals and facilities: is proposed to be amended to update requirements for hospitals and facilities to reflect current medical practice and technology.

12 AAC 40.120(b) Standards for Hospitals and Facilities is proposed to read “From and after the point in time when a fetus becomes viable, as determined by such medical examinations and tests which in the physician’s professional judgment are necessary, an abortion may only be performed at a hospital with a Neonatal Intensive Care Unit (NICU).” The language to be deleted: “During the second or third trimester of a pregnancy, blood, blood derivatives, blood substitutes or plasma expanders shall be immediately available when an abortion is

performed, and an operating room appropriately staffed and equipped for major surgery in accordance with regulations adopted under AS 18.20.060 shall be immediately available.”

Note, the provisions of 12 AAC 40.120(a) are not proposed to be changed: (a) During the second or third trimester of a pregnancy, abortions shall be performed under sterile conditions. A bed and a registered nurse shall be available for a minimum recovery period of one-half hour. A registered nurse shall be present during the procedure.

7. 12 AAC 40.130 Records: is proposed to be amended to cite the Board’s existing standards of practice for record keeping.

12 AAC 40.130 Records is proposed to read “In accord with 12 AAC 40.940, during the second or third trimester of a pregnancy, the attending physician shall record a medical history, findings of the physical examination, operative report of the abortion procedure and pathology report as part of the clinical record to be maintained by the hospital or facility. The physician and hospital or facility shall treat the patient's identity and medical record as confidential information.”

8. 12 AAC 40.140. Limitation: is proposed to be changed to remove a citation to a renumbered statute.

12 AAC 40.140 Limitation is proposed to read “A fetus which has not developed beyond 150 days after the first day of the last menstrual period may be considered non-viable. In the performance of an abortion after that date, the physician shall be guided by a reasonable judgment as to whether the fetus is viable in fact.” The remaining language to be deleted: “...for purposes of AS 11.15.060(a).”

Abortion continues to be regulated under AS 18.16.010-.090, which includes provisions such as: requiring that abortion may only be performed by a physician licensed by the State Medical Board, residency requirements, requirements for minors and judicial bypass provisions, informed consent requirements, partial-birth abortion prohibition, definition of abortion, civil and criminal penalties, etc.

The Board reviewed and considered public comments. Assistant Attorneys General Megyn Greider and Margaret Paton-Walsh joined the meeting. AAG Greider summarized the public comments:

- 26 comments were received from licensees in support of the proposed regulations
- 7 comments were received from licenses who supported no changes to the regulations
- 15 comments were received from other health care professionals in support of the proposed regulation
- 6 comments were received from other health care professionals who supported no changes to the regulations
- 195 lay comments (including Planned Parenthood) were received in support of the proposed regulations
- 130 lay comments (including Alaska Family Council) were received from those who supported no changes to the regulations

- Comments regarding the proposed NICU requirements included those who felt the proposed regulations were too restrictive and those who supported the proposed regulations
- Comments regarding the proposed documentation requirements included those who supported and those who opposed
- Comments regarding the proposal to adopt the ACOG bulletin included those that opposed, those that supported, and some that felt the procedures should be regulated as any other procedure
- Comments included a recurring misunderstanding about
 - parental notification requirements, which were previously regulated by a statute that was invalidated by the Supreme Court in approximately 2014
 - consent for the mentally incompetent, which is regulated under the informed consent statutes
 - second and third trimester abortion, which is legal in Alaska
 - partial birth abortion, which was previously prohibited by a statute that was invalidated by the courts

The Board also noted that some of the public comments included concerns about the accessibility of the ACOG bulletin, which is not accessible by the general public on their website, but is available in the Board office and is available by requesting it from the ACOG or one of their members. Some of the public comments also included concerns about information in the ACOG bulletin that are not related to practice standards or procedures.

The Board reviewed the proposed language in 12 AAC 40.080, which currently reads: “Medical Procedures. The patient shall be examined by a physician licensed in Alaska, and a written record of the patient’s physical and emotional health shall be prepared before performing an abortion procedure as set out in 12 AAC 40.110.” The proposed changes include removing the phrases “physical and emotional” and “procedure as set out in 12 AAC 40.110.” The Board determined to retain the phrase “physical and emotional” but to pursue the removal of the phrase “procedure as set out in 12 AAC 40.110.”

The Board reviewed the proposed language in 12 AAC 40.110, which includes replacing the current language with the following: “The *Clinical Management Guidelines for Obstetrician-Gynecologists: Second-Trimester Abortion* Practice Bulletin Number 135, (dated June 2013, reaffirmed 2015) of the American College of Obstetricians and Gynecologists is adopted by reference as the standard of practice when providing an abortion after the first trimester.” The language to be deleted: “During the second or third trimester of a pregnancy, acceptable procedures include dilation and curettage, suction aspiration of the uterus, injection of pharmacological agents, hysterectomy and hysterotomy. The exact procedure to be used will depend upon the patient’s total health, age, associated disease and pathology, and anomalies such as skeletal defects and other medical indications.” The Board noted that it was their intent to adopt the practice standards for abortion procedures, but not necessarily to adopt other information included in the bulletin. They determined to pursue the change, but add a clarifying phrase to the beginning of the proposed first sentence: “The procedures describing in...”

The Board noted that these were not substantive changes, so would not require a new public notice period for the regulations changes.

In considering the proposed regulations project, the Board reviewed and considered public comments. The Board does not expect the regulations change to incur cost to private persons, or to require an increased appropriation.

A motion was duly made by Dr. Clift, seconded by Dr. Liu, and failed by roll call vote, to adopt proposed regulations changes to 12 AAC 40.060 – 12 AAC 40.140, as revised.

Roll Call Vote:

Dr. Clift-Yea
Dr. Humphreys-No
Dr. Liu-Yea
Mr. Mertz-Yea
Dr. Neyhart-No
Mr. Olson-No
Mrs. Carlson-No
Dr. Roderer-Yea

It was noted that a motion must pass by a majority, which requires five votes. This motion failed because it received only four votes in support.

Upon a motion duly made by Mr. Olson, seconded by Dr. Clift, and approved by unanimous consent, the Board determined to reconsider the regulations at tomorrow's meeting.

May 5, 2017:

Approved Regulation Project – Abortion

Assistant Attorneys General Megyn Greider and Margaret Paton-Walsh joined the meeting. AAG Greider provided additional information regarding this history of the partial birth abortion prohibition under Alaska Statute (AS) 18.16.050. She reported that the statute was determined by the Alaska Superior Court to be unconstitutional; the state initially appealed, but later withdrew the appeal.

The Board reviewed the proposed language in 12 AAC 40.120(b), which includes replacing the current language with the following: “From and after the point in time when a fetus becomes viable, as determined by such medical examinations and tests which in the physician’s professional judgment are necessary, an abortion may only be performed at a hospital with a Neonatal Intensive Care Unit (NICU).”

They discussed the term “viable” and the NICU requirement. The following substitution was suggested, but not widely supported by Board members: “From and after the point in time when a fetus becomes viable, as determined by such medical examinations and tests which in the physician’s professional judgment are necessary, an abortion may only be performed at a at a

facility with the ability to immediately transport to a hospital with a Neonatal Intensive Care Unit (NICU).”

Approved Regulation Project – Abortion (continued)

The Board reviewed the proposed language in 12 AAC 40.120(b), which includes replacing the current language with the following: “From and after the point in time when a fetus becomes viable, as determined by such medical examinations and tests which in the physician’s professional judgment are necessary, an abortion may only be performed at a hospital with a Neonatal Intensive Care Unit (NICU).”

They discussed the term “viable” and the NICU requirement. The following substitution was suggested, but not widely supported by Board members: “In the event of a failed abortion that results in a live birth, there must be the ability to transport to a Neonatal Intensive Care Unit (NICU).” It was noted that, if approved, this change would be considered substantive and would require a new public notice period for the regulations changes.

The Board determined to consider the proposed regulations changes individually.

Upon a motion duly made by Dr. Neyhart, seconded by Dr. Clift, and approved by roll call vote, the Board adopted the regulations change to 12 AAC 40.060 Termination of Pregnancy, which is proposed to read: “Termination of pregnancy must be requested by the pregnant woman.”

Roll Call Vote:

Mrs. Carlson-No
Dr. Clift-Yea
Dr. Humphreys-Yea
Dr. Liu-Yea
Mr. Mertz-Yea
Dr. Neyhart-Yea
Mr. Olson-Yea
Dr. Roderer-Yea

Upon a motion duly made by Dr. Neyhart, seconded by Dr. Clift, and approved by roll call vote, the Board adopted the regulations change to 12 AAC 40.070 Informed Consent, which is proposed to read: “A written informed consent that complies with AS 18.16.060 shall be obtained from the patient. Such written informed consent shall be on the patient's chart. The patient shall be advised of the medical implications and the possible emotional and physical sequelae of the procedure.”

Roll Call Vote:

Dr. Humphreys-Yea
Dr. Liu-Yea
Mr. Mertz-Yea
Dr. Neyhart-Yea

Mr. Olson-Yea
Mrs. Carlson-No
Dr. Clift-Yea
Dr. Roderer-Yea

Upon a motion duly made by Dr. Neyhart, seconded by Dr. Humphreys, and approved by roll call vote, the Board adopted the regulations change to 12 AAC 40.080 Medical Procedures, as revised to read: "The patient shall be examined by a physician licensed in Alaska, and a written record of the patient's physical and emotional health shall be prepared before performing an abortion."

Roll Call Vote:

Dr. Liu-Yea
Mr. Mertz-Yea
Dr. Neyhart-Yea
Mr. Olson-Yea
Mrs. Carlson-Yea
Dr. Clift-Yea
Dr. Humphreys-Yea
Dr. Roderer-Yea

Upon a motion duly made by Dr. Neyhart, seconded by Dr. Clift, and approved by roll call vote, the Board adopted the regulations change to 12 AAC 40.100 Consultation Requirements, which is proposed to be repealed.

Roll Call Vote:

Mr. Mertz-Yea
Dr. Neyhart-Yea
Mr. Olson-Yea
Mrs. Carlson-No
Dr. Clift-Yea
Dr. Humphreys-Yea
Dr. Liu-Yea
Dr. Roderer-Yea

Upon a motion duly made by Dr. Neyhart, seconded by Dr. Clift, and approved by roll call vote, the Board adopted the regulations change to 12 AAC 40.110 Abortion Procedures, as revised to read: "The procedures described in the *Clinical Management Guidelines for Obstetrician-Gynecologists: Second-Trimester Abortion Practice Bulletin Number 135*, (dated June 2013, reaffirmed 2015) of the American College of Obstetricians and Gynecologists is adopted by reference as the standard of practice when providing an abortion after the first trimester." The language to be deleted: "During the second or third trimester of a pregnancy, acceptable procedures include dilation and curettage, suction aspiration of the uterus, injection of pharmacological agents, hysterectomy and hysterotomy. The exact procedure to

be used will depend upon the patient's total health, age, associated disease and pathology, and anomalies such as skeletal defects and other medical indications."

Roll Call Vote:

Dr. Neyhart-Yea
Mr. Olson-Yea
Mrs. Carlson-No
Dr. Clift-Yea
Dr. Humphreys-No
Dr. Liu-No
Mr. Mertz-Yea
Dr. Roderer-Yea

Upon a motion duly made by Dr. Humphreys, seconded by Mr. Mertz, and approved by roll call vote, the Board adopted the regulations change to 12 AAC 40.120(b) Standards for Hospitals and Facilities, which is proposed to read: "From and after the point in time when a fetus becomes viable, as determined by such medical examinations and tests which in the physician's professional judgment are necessary, an abortion may only be performed at a hospital with a Neonatal Intensive Care Unit (NICU)."

Roll Call Vote:

Mr. Olson-No
Mrs. Carlson-Yea
Dr. Clift-No
Dr. Humphreys-Yea
Dr. Liu-Yea
Mr. Mertz-Yea
Dr. Neyhart-No
Dr. Roderer-Yea

Upon a motion duly made by Dr. Neyhart, seconded by Dr. Humphreys, and approved by roll call vote, the Board adopted the regulations change to 12 AAC 40.130 Records, which is proposed to read: "In accord with 12 AAC 40.940, during the second or third trimester of a pregnancy, the attending physician shall record a medical history, findings of the physical examination, operative report of the abortion procedure and pathology report as part of the clinical record to be maintained by the hospital or facility. The physician and hospital or facility shall treat the patient's identity and medical record as confidential information."

Roll Call Vote:

Mrs. Carlson-Yea
Dr. Clift-Yea
Dr. Humphreys-Yea
Dr. Liu-Yea
Mr. Mertz-Yea

Dr. Neyhart-Yea
Mr. Olson-Yea
Dr. Roderer-Yea

Upon a motion duly made by Dr. Clift, seconded by Dr. Neyhart, and approved by roll call vote, the Board adopted the regulations change to 12 AAC 40.140 Limitations, which is proposed to read: "A fetus which has not developed beyond 150 days after the first day of the last menstrual period may be considered non-viable. In the performance of an abortion after that date, the physician shall be guided by a reasonable judgment as to whether the fetus is viable in fact."

Roll Call Vote:

Dr. Clift-Yea
Dr. Humphreys-No
Dr. Liu-Yea
Mr. Mertz-Yea
Dr. Neyhart-Yea
Mr. Olson-Yea
Mrs. Carlson-No
Dr. Roderer-Yea

The adoption order was signed by the Chair.