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**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)

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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

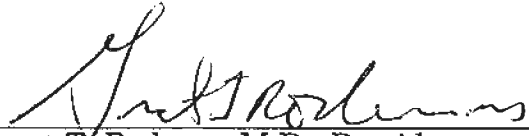
The attached four pages of regulations, dealing with abortion, are hereby certified to be a correct copy of the regulation changes that the State Medical Board adopted at its May 4-5, 2017 meeting, under the authority of AS 08.64.100 and AS 08.64.105 and after compliance with the Administrative Procedure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

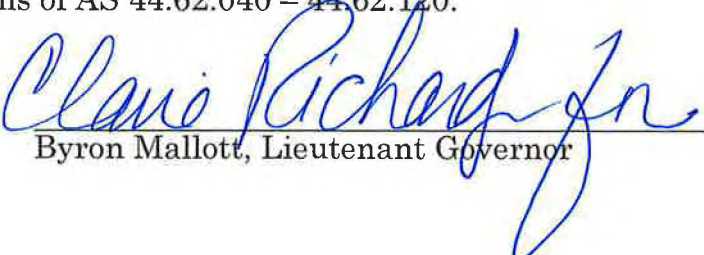
The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

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 <sup>1</sup> 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

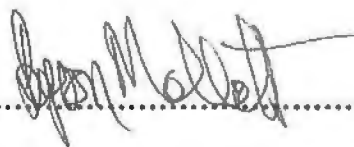
**FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY**

**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 7<sup>th</sup> 2015.**



  
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**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, dated June 2013, <sup>and</sup> reaffirmed 2015<sup>s</sup> of the American College of

Obstetricians and Gynecologists <sup>are</sup> 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, <sup>and</sup> 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~~ <sup>repealed and readopted</sup> to read:

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

such medical examinations and tests <sup>those</sup> which <sup>that</sup> in the physician's professional judgment are

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

Unit (NICU) <sup>(lowercase)</sup> 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)] →