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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Debbie Banaszak
Department of Labor & Workforce Development

FROM: Scott Meriwether, Office of the Lieutenant Governor 
465.4081

DATE: June 27, 2017

RE: Filed Permanent Regulations: Workers' Compensation Board and Department of Labor and Workforce Development

Alaska Workers' Compensation Board and Department of Labor and Workforce Development update to regulations re: second independent medical evaluations (SIMEs) and the definition of "previously rehabilitated" under AS 23.30.041(f)(3) (8 AAC 45.092(b)(5); 8 AAC 45.900(j))

Attorney General File:	JU2017200159
Regulation Filed:	6/27/2017
Effective Date:	7/27/2017
Print:	223, October 2017

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

ORDER ADOPTING CHANGES TO REGULATIONS OF THE
ALASKA DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

The attached 3 pages of regulations, dealing with second independent medical evaluation procedures and the definition of previously rehabilitated are adopted and certified to be a correct copy of the regulation changes that the Alaska Department of Labor and Workforce Development adopts under the authority of AS 23.30.005 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.

In considering public comments, the Alaska Department of Labor and Workforce Development 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: 5/17/17



Heidi Drygas, Commissioner

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on June 27, 2017, at 1051h a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: July 27, 2017

Register: 223, October 2017

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE ALASKA WORKERS' COMPENSATION BOARD

The attached 3 pages of regulations, dealing second independent medical evaluation procedures and the definition of previously rehabilitated are certified to be a correct copy of the regulation changes that the Alaska Workers' Compensation Board adopted at its May 11-12, 2017 meeting, under the authority of AS 23.30.005 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 Alaska Workers' Compensation 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: 5/15/17


Marie Marx, Director

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on June 27, 2017 at 1055 A.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


Lieutenant Governor

Effective: July 27, 2017

Register: 223, October 2017

Register 223, October 2017 LABOR AND WORKFORCE DEV.

8 AAC 45.092(b)(5) is amended to read:

Throughout: "Margins should be left justified, not full justified"

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(5) The panel members shall vote, or abstain from voting, upon the physicians whose names were listed in the bulletin published under (2) of this subsection or are suggested by a panel member, even if the physician's name did not appear in the bulletin. A physician who receives three affirmative votes will be sent by the board or its designee an application and a letter asking if the physician is interested in performing second independent medical examinations. Unless the board determines that good cause exists to extend the time, **not**

later than [WITHIN] 60 days after the date of the board's letter the physician must submit

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(A) a completed application listing the physician's education, training, work experience, specialty, and the particular discipline in which the physician is licensed, as well as the names and addresses of professional organizations that have certified the physician or in which the physician is an active member;

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(B) a copy [OF] or proof of the physician's current license from the appropriate licensing agency in the state in which the physician practices;

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(C) a certificate of insurance for the physician's current and enforceable professional liability insurance for the services performed; [THE CERTIFICATE OF INSURANCE MUST PROVIDE FOR 30-DAY PRIOR NOTICE TO THE BOARD OF CANCELLATION, NONRENEWAL, OR MATERIAL CHANGE OF THE POLICY;] and

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(D) a certificate of insurance for the physician's workers' compensation insurance if the physician has employees [; THE CERTIFICATE OF

INSURANCE MUST PROVIDE FOR 30-DAY PRIOR NOTICE TO THE BOARD OF
CANCELLATION, NONRENEWAL, OR MATERIAL CHANGE OF THE POLICY].

(Eff. 7/1/88, Register 107; am 10/28/88, Register 108; am 3/16/90, Register 113; am 7/20/97,
Register 143; am 7/2/98, Register 146; am 2/27/2000, Register 153; am 3/13/2004, Register 169;
am 2/28/2010, Register 193; am 4/1/2017, Register 221; am 7/27/2017, Register 223)

Authority: AS 23.30.005 AS 23.30.095 AS 23.30.110

8 AAC 45.900(j) is amended to read:

December 22, 2011

all bold/underline

(j) For an injury occurring after the effective date of this subsection, "previously
rehabilitated" under AS 23.30.041(f)(3) means having

all all caps

(1) completed a reemployment benefits plan under AS 23.30.041 or a

substantially similar law in another jurisdiction; or

(2) stipulated to eligibility, had an eligibility request approved or had an

eligibility evaluation ordered under AS 23.30.041(c) and waived reemployment benefits under
AS 23.30.041(q), 23.30.012 [AS 23.30.012], or a substantially similar law in another

jurisdiction. (Eff. 5/28/83, Register 86; am 12/14/86, Register 100; am 7/1/88, Register 107; am
3/16/90, Register 113; am 7/20/97, Register 143; am 7/2/98, Register 146; am 4/16/2010,
Register 194; am 12/22/2011, Register 200; am 12/1/2015, Register 216; 7/27/2017,
Register 223)

Authority: AS 23.30.005 AS 23.30.097 AS 23.30.230

AS 23.30.030 AS 23.30.175 AS 23.30.240

Register 223, October 2017 LABOR AND WORKFORCE DEV.

AS 23.30.041

AS 23.30.220

AS 23.30.395

AS 23.30.090