

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




530 West 7<sup>th</sup> Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**M E M O R A N D U M**

**TO:** Triptaa Surve  
Department of Health and Social Services

**FROM:** Scott Meriwether, Office of the Lieutenant Governor   
465.4081

**DATE:** April 3, 2018

**RE:** Filed Permanent Regulations: Department of Health and Social Services  
  
Department of Health and Social Services regulations re: fees for public health  
laboratory services (7 AAC 80.035)

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Attorney General File:	JU2016200956
Regulation Filed:	4/2/2018
Effective Date:	5/2/2018
Print:	226, July 2018

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

ORDER ADOPTING CHANGES TO REGULATIONS  
OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

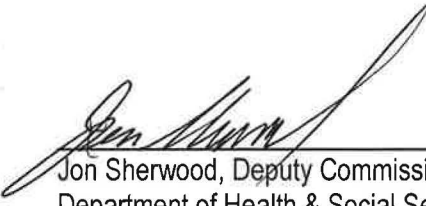
The attached one page of regulations, dealing with the Fee for Laboratory Services (7 AAC 80.035), is adopted and certified to be a correct copy of the regulation changes that the Department of Health & Social Services adopts under the authority of AS 18.05.040, AS 44.29.020, and AS 44.29.022, and after 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.

Although no public comments were received, the Department of Health & Social Services paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under 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: 12-18-17

  
Jon Sherwood, Deputy Commissioner  
Department of Health & Social Services

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that<sup>1</sup> on April 2,  
2018, at 12:00 p m., I filed the attached regulations according to the provisions of AS 44.62.040 -  
44.62.120.

  
Byron Mallott, Lieutenant Governor

Effective: May 2, 2018  
Register: 226, July 2018



THE STATE  
of ALASKA

GOVERNOR BILL WALKER

Department of  
Health and Social Services

OFFICE OF THE COMMISSIONER

Anchorage

3601 C Street, Suite 902  
Anchorage, Alaska 99503-5923  
Main: 907.269.7800  
Fax: 907.269.0060

Juneau

350 Main Street, Suite 404  
Juneau, Alaska 99801-1149  
Main: 907.465.3030  
Fax: 907.465.3068

DELEGATION OF AUTHORITY  
FOR ADOPTING REGULATIONS

UNDER AS 44.17.010, THE AUTHORITY AND RESPONSIBILITY FOR ADOPTING  
REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES UNDER  
THE ALASKA ADMINISTRATIVE PROCEDURE ACT ARE HEREBY DELEGATED  
TO JON SHERWOOD, DEPUTY COMMISSIONER.

SIGNED:


  
Commissioner

  
(Printed name)

SIGNED AND SWORN TO before me this 31<sup>st</sup> day of August, 2015.

[NOTARY SEAL]



  
Notary Public in and for the  
State of Alaska  
My commission expires: w/office

7 AAC 80.035 is repealed and readopted to read:

More 0.5"  
tab 111

→ **7 AAC 80.035. Fee for laboratory services.** The fee for laboratory services provided by a department laboratory for

More 0.5" tab 111

(1) clinical diagnostic testing is the charge estimate determined under the Alaska  
(Medicaid payment rates: laboratory services payment);  
Medicaid fee schedule in 7 AAC 145.460 and adopted by reference in this paragraph; and

More 0.5" tab 111

→ (2) non-clinical diagnostic testing is the actual cost of the test.  
(Eff. 8/19/98, Register 147; am 5 / 2 / 2018, Register 226)

Authority: AS 18.05.040 AS 44.29.020 AS 44.29.022

(bold)

Editor's note: Before Register 147, October 1998, the substance of 7 AAC 80.035 appeared as 7 AAC 80.010(j). The history of 7 AAC 80.035 under its former number is not reflected in the history note for 7 AAC 80.035.

A COPY OF THE STANDARD METHODS FOR THE EXAMINATION OF WATER AND WASTEWATER REFERRED TO IN 7 AAC 80.035 MAY BE OBTAINED FROM THE AMERICAN PUBLIC HEALTH ASSOCIATION, PUBLICATION SALES, DEPARTMENT 5037, WASHINGTON, DC 20061-5037; PHONE (202) 789-5636.]



# MEMORANDUM


## State of Alaska Department of Law

**To:** Hon. Byron Mallott  
Lieutenant Governor

**Date:** March 30, 2018

**File No.:** JU2016200956

**Tel. No.:** 465-3600

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

**Re:** Department of Health and Social  
Services regulations re: fees for public  
health laboratory services (7 AAC  
80.035)

We have reviewed the attached regulations from the Department of Health and Social Services against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated March 30, 2018 from the Regulations Attorney. The regulations update provisions setting fees for public health laboratory services.

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 October 17, 2017 public notice and the December 18, 2017 adoption order both 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: JU2016200956

March 30, 2018  
Page 2

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SCW

cc w/enc: (via email)

Hon. Valerie "Nurr'araaluk" Davidson, Commissioner  
Department of Health and Social Services

Triptaa Surve, Regulations Contact  
Department of Health and Social Services

Jon Sherwood, Deputy Commissioner  
Department of Health and Social Services

Dr. Bernard Jilly, Ph. D.  
Division of Public Health  
Department of Health and Social Services

Leah Farzin, Assistant Attorney General  
Human Services Section

# MEMORANDUM


## State of Alaska Department of Law

**TO:** Hon. Byron Mallott  
Lieutenant Governor

**DATE:** March 30, 2018

**FILE NO.:** JU2016200956

**TELEPHONE NO.:** (907) 465-3600

**FROM:** Susan R. Pollard   
Chief Assistant Attorney General  
and Regulations Attorney  
Legislation/Regulations Section

**SUBJECT:** Specific delegation of authority  
regarding regulations review on  
Department of Health and Social  
Services regulations re: fees for  
public health laboratory services  
(7 AAC 80.035)

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc: Scott C. Meriwether, AAC Coordinator  
Office of the Lieutenant Governor

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

NOTICE OF PROPOSED CHANGES ON FEE FOR LABORATORY SERVICES  
IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations on the fee for laboratory services.

The Department of Health & Social Services proposes to adopt regulation changes in 7 AAC 80.035 of the Alaska Administrative Code, dealing with clinical diagnostic and non-clinical testing fees, including the following:

- 7 AAC 80.035 is proposed to be changed as follows:
  - The clinical diagnostic testing fee is the charge estimate determined under the Alaska Medicaid fee schedule; and
  - Non-clinical diagnostic testing is the actual cost of the test.

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 Dr. Bernd Jilly, Alaska State Public Health Laboratory, 5455 Dr. Martin Luther King Jr. Ave., Anchorage, AK 99577. Additionally, the Department of Health & Social Services will accept comments by facsimile at (907) 334-2161 and by electronic mail at [bernard.jilly@alaska.gov](mailto:bernard.jilly@alaska.gov). The comments must be received not later than 5 p.m. on December 8, 2017.

You may submit written questions relevant to the proposed action to Dr. Bernd Jilly, Alaska State Public Health Laboratory, 5455 Dr. Martin Luther King Jr. Ave., Anchorage, AK 99577, or by e-mail at [bernard.jilly@alaska.gov](mailto:bernard.jilly@alaska.gov). The questions must be received at least 10 days before the end of the public comment period. The Department of Health & Social Services will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Dr. Bernd Jilly, Alaska State Public Health Laboratory, by e-mail at [bernard.jilly@alaska.gov](mailto:bernard.jilly@alaska.gov), or telephone at (907) 334-2109 not later than November 27, 2017, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/> and by contacting Dr. Bernd Jilly, Alaska State Public Health Laboratory, by e-mail at [bernard.jilly@alaska.gov](mailto:bernard.jilly@alaska.gov), or by telephone at (907) 334-2109.

A copy of material proposed for adoption by reference may be viewed at the agency's office at 3601 C Street, Suite 902, Anchorage, AK 99503.

After the public comment period ends, the Department of Health & Social Services 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.**


**Statutory authority:** AS 18.05.040; AS 44.29.020; AS 44.29.022.

**Statutes being implemented, interpreted, or made specific:** AS 18.05.040; AS 44.29.020; AS 44.29.022.

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



DATE: 10-11-17

  
Jon Sherwood  
Deputy Commissioner  
Department of Health & Social Services

NOTICE OF PROPOSED CHANGES ON FEE FOR LABORATORY SERVICES  
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DATE: 10-11-17

  
\_\_\_\_\_  
Jon Sherwood  
Deputy Commissioner  
Department of Health & Social Services

ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))<sup>1</sup>

1. Adopting agency: Department of Health & Social Services
2. General subject of regulation: Fee for laboratory services
3. Citation of regulation (may be grouped): 7 AAC 80.035
4. Department of Law file number, if any: JU2016200956

5. Reason for the proposed action:

- ( ) Compliance with federal law or action (identify): \_\_\_\_\_
- ( ) Compliance with new or changed state statute
- ( ) Compliance with federal or state court decision (identify): \_\_\_\_\_
- ( ) Development of program standards
- (X) Other (identify): Legislative intent

6. Appropriation/Allocation: DHSS, Division of Public Health, Section of Public Health Laboratories

7. Estimated annual cost to comply with the proposed action to:

A private person: 0

Another state agency: 0

A municipality: 0

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>2017</u>	Subsequent Years
Operating Cost	\$ <u>0</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>
1004 General fund	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>
Other (identify)	\$ <u>0</u>	\$ <u>0</u>

9. The name of the contact person for the regulation:



AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

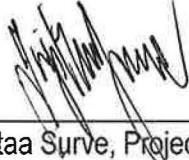
I, Triptaa Surve, Project Coordinator, of the Department of Health & Social Services, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to the Fee for Laboratory Services (7 AAC 80.035) 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 regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of 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 regulation, to the Legislative Affairs Agency, the chair of the Health & Social Services and Finance Committees of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190, additional regulation 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 regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: February 8, 2018 <sup>4</sup>

  
\_\_\_\_\_  
Triptaa Surve, Project Coordinator

Subscribed and sworn to before me at 3601 C St., Suite 878 Anchorage, AK on Feb. 8, 2018.  
(date)

  
\_\_\_\_\_  
Notary Public in and for the State of Alaska



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Bernard Jilly, Ph.D., Chief, Section of Laboratories for the Department of Health & Social Services, being duly sworn, state the following:

The Department of Health & Social Services did not receive any 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 Department of Health & Social Services regulation on the Fee for Laboratory Services (7 AAC 80.035).

Date: 1/16/18

Bernard Jilly, Ph.D.

Bernard Jilly, Ph.D.  
Chief, Section of Laboratories  
Department of Health & Social Services

Subscribed and sworn to before me at Anchorage, AK on January 16, 2018  
(date)

[Signature]  
Notary Public in and for the State of Alaska

[NOTARY SEAL]



270229  
0001411763  
\$308.78

# AFFIDAVIT OF PUBLICATION

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

Lisa Hartlieb  
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

October 17, 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

*Lisa Hartlieb*

Subscribed and sworn to before me  
this 17th day of October, 2017

*Britney Thompson*

Notary Public in and for  
The State of Alaska.  
Third Division

Anchorage, Alaska  
MY COMMISSION EXPIRES

*2/23/2019*

## NOTICE OF PROPOSED CHANGES ON FEE FOR LABORATORY SERVICES IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

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**Statutes being implemented, interpreted, or made specific:** AS  
18.05.040; AS 44.29.020; AS 44.29.022.

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

Date: 10/11/2017  
/s/Jon Sherwood, Deputy Commissioner  
Department of Health & Social Services

Published: October 17, 2017

Notary Public  
BRITNEY L. THOMPSON  
State of Alaska  
My Commission Expires Feb 23, 2019