

Kevin Meyer  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
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Anchorage, Alaska 99501  
907.269.7460  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Linda Mattson  
Department of Commerce, Community and Economic Development

**FROM:** April Simpson, Office of the Lieutenant Governor   
465.4081

**DATE:** February 4, 2019

**RE:** **CORRECTED** - Filed Permanent Regulations: Board of Dental Examiners  
Board of Dental Examiners Regulations re: 12 AAC 28: Board of Dental Examiners:  
New Temporary Permit (12 AAC 28)

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Attorney General File:	2018200844
Regulation Filed:	1/22/2019
Effective Date:	2/21/2019
Print:	229, April 2019

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

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF THE BOARD OF DENTAL EXAMINERS


The attached two pages of regulations, dealing with temporary licenses are hereby certified to be a correct copy of the regulation changes the Board of Dental Examiners adopted at its November 9, 2018 teleconference meeting, under the authority of AS 08.36.070, and AS 08.36.254, 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 Board of Dental Examiners 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 January 1, 2019, as provided in AS 44.62.180.

DATE: Nov 9, 2018  
Valdez, Alaska

  
\_\_\_\_\_  
Dr. Paul Silveira, DDS, Board Chair  
Board of Dental Examiners

FILING CERTIFICATION

Kevin Meyer  
I, ~~Valerie Nurr araaluk Davidson~~, Lieutenant Governor for the State of Alaska, certify that  
on January 22, <sup>2019</sup>~~2018~~ at 10:45 Am., I filed the attached regulations  
according to the provisions of AS 44.62.040 – 44.62.120.

  
\_\_\_\_\_  
Valerie Nurr araaluk Davidson, Lieutenant Governor  
Kevin Meyer

Effective: February 21, 2019 - AK  
~~January 1, 2019~~  
Register: 229, April 2019

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

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

**Josh Applebee, Chief of Staff  
Kady Levale, Notary Administrator  
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on December 11th, 2018.**



*Kevin Meyer*  
.....

**KEVIN MEYER  
LIEUTENANT GOVERNOR**

**Chapter 28. Board of Dental Examiners.**

12 AAC 28 is amended by adding a new section to read:

**12 AAC 28.953. Temporary permit.** (a) The board may issue a temporary permit to practice dentistry to a dentist who meets the requirements of this section for the purpose of substituting for a dentist the board has determined to be "incapacitated" as defined under AS 08.36.254.

(b) An applicant for a temporary permit under this section <sup>must</sup> ~~shall~~ submit to the department

(1) a complete, notarized application on a form provided by the department;

(2) the applicable fees in 12 AAC 02.190;

(3) a form completed by the incapacitated dentist <sup>or authorized representative of the incapacitated dentist</sup> providing information regarding

the reason for the incapacitation and documentation of reasonable effort to find a substitute dentist licensed under this chapter;

(4) a form completed by the incapacitated dentist's healthcare provider verifying the dentist is incapacitated and unable to practice;

(5) verification of <sup>the applicant's</sup> a current license to practice dentistry from a board of dental examiners of a state or territory of the United States; <sup>the</sup> The verification must include the applicants status and complete information regarding any disciplinary action or investigation taken or pending on behalf of the applicant;

(6) verification of <sup>the applicant's</sup> graduation from a dental school that at the time of graduation was accredited by the Commission on Dental Accreditation of the American Dental Association by submitting

(A) a certified true copy of the applicant's dental school diploma showing credentials similar or equivalent to the incapacitated dentist credentials; or

(B) transcripts sent directly from the issuing educational institution showing credentials similar or equivalent to the incapacitated dentist credentials;

(c) The department shall <sup>request</sup> receive a report from the National Practitioner Data Bank on behalf of the applicant. The ~~report shall be reviewed by the~~ board <sup>will review the report</sup> as part of the application process and ~~the board~~ may deny a temporary permit application based on report content.

(d) An applicant for a temporary permit may not have had a license to practice dentistry revoked, suspended, or voluntarily surrendered in this state or another state or territory of the United States.

(e) The temporary permit issued will be authorized only for the practice locations of the incapacitated dentist. The name <sup>J</sup> and license number <sup>J</sup> of the dentist, and practice locations of the incapacitated dentist will be printed on the license.

(f) The temporary permit will be extended past the initial 90 days if the applicant meets the requirements of AS 08.36.254(f) or (g) and pays the fee required in 12 AAC 02.190. (Eff.

2 / 21 / 2019, Register 229 )

**Authority:** AS 08.36.070 AS 08.36.254

# MEMORANDUM

State of Alaska  
Department of Law

**To:** The Honorable Kevin Meyer  
Lieutenant Governor

**Date:** January 8, 2019

**File No.:** 2018200844

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

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

**Re:** Board of Dental Examiners  
Regulation re: 12 AAC 28: Board of  
Dental Examiners: New Temporary  
Permit

The Department of Law has reviewed the attached regulations of the Board of Dental Examiners against the statutory standards of the Administrative Procedure Act. Based upon our review, 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 regulations were adopted by the board after the close of the public comment period. The regulations concern authorization of temporary permits for dentists to practice on behalf of an incapacitated dentist. There is a companion project to authorize fees for temporary permits, 2018200914, these two projects should be filed to be effective the same day, with this one filed first.

The public notice and the certification of adoption 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.

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.

SRP:srp

cc:

Linda Mattson, Regulations Contact  
Department of Commerce, Community, and Economic Development

Sara Chamber, Acting Director  
Division of Corporations, Business, and Professional Licensing  
Department of Commerce, Community, and Economic Development

Paul Silveira, DDS, Chair  
Board of Dental Examiners  
(via e-mail by *Sher Zinn*)

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

Sher Zinn, Regulations Specialist  
Division of Corporations, Business, and Professional Licensing  
Department of Commerce, Community, and Economic Development

Joan M. Wilson, Assistant Attorney General,  
Commercial, Fair Business, and Child Support Section

## NOTICE OF PROPOSED CHANGES RELATING TO TEMPORARY PERMITS IN THE REGULATIONS OF THE BOARD OF DENTAL EXAMINERS

**BRIEF DESCRIPTION:** The Board of Dental Examiners proposes to update regulations regarding temporary permits, to implement amendments to AS 08.36 enacted under Chapter 29, SLA 2018 (HB 346).

The Board of Dental Examiners (Board) proposes to adopt regulation changes in Title 12, Chapter 28 of the Alaska Administrative Code including the following:

**12 AAC 28.953. Temporary permit,** is proposed to add a new section for board approval and issuance of a temporary permit.

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 Sher Zinn, 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](mailto: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/191606>, and using the comment link. **The comments must be received not later than 5:00 p.m. on November 5, 2018.** Comments received after this deadline will not be considered by the Board.

You may submit written questions relevant to the proposed action to Sher Zinn, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806 or by e-mail at [RegulationsAndPublicComment@alaska.gov](mailto:RegulationsAndPublicComment@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/BoardofDentalExaminers.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 Sher Zinn at (907) 465-1049 or [RegulationsAndPublicComment@alaska.gov](mailto:RegulationsAndPublicComment@alaska.gov), no later than October 30, 2018, 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 Sher Zinn at (907) 465-1049 or [RegulationsAndPublicComment@alaska.gov](mailto:RegulationsAndPublicComment@alaska.gov), or go to <https://www.commerce.alaska.gov/web/portals/5/pub/DEN-10-18.pdf>.

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 regulations may be different from that of the proposed regulations. **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 08.36.070; AS 08.36.254

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 08.36.070; AS 08.36.254

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

DATE: 10/13/18

  
\_\_\_\_\_  
Sher Zinn, 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:** Board of Dental Examiners – Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
2. **General subject of regulation:** Qualifications for issuance of a temporary permit by the Board of Dental Examiners.
3. **Citation of regulation:** 12 AAC 28.953
4. **Department of Law file number:** #2018200844
5. **Reason for the proposed action:** Compliance with new statute.
6. **Appropriation/Allocation:** Corporations, Business and Professional Licensing – #2360.
7. **Estimated annual cost to comply with the proposed action to:**  
**A private person:** Cost of the temporary permit and application fee for a person seeking the permit.  
**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 2019 or in subsequent years.
9. **The name of the contact person for the regulation:**  
Amber Treston, Records and Licensing Supervisor  
Board of Dental Examiners  
Division of Corporations, Business and Professional Licensing  
Telephone: (907) 465-2542  
E-mail: [amber.treston@alaska.gov](mailto:amber.treston@alaska.gov)
10. **The origin of the proposed action:** Board of Dental Examiners.
11. **Date:** 10/3/18      **Prepared by:** Sher Zinn  
Sher Zinn  
Regulations Specialist

STATE OF ALASKA )  
 ) ss.  
FIRST JUDICIAL DISTRICT )

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

I, Sher Zinn, 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 28.953, dealing with issuance of temporary permits, has been given by being:

1. published in a newspaper or trade publication;
2. furnished to every person who has filed a request for notice of proposed action with the state agency;
3. furnished to appropriate state officials;
4. furnished to interested persons;
5. furnished to the Department of Law, along with a copy of the proposed regulation;
6. furnished electronically to incumbent State of Alaska legislators;
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);

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 (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

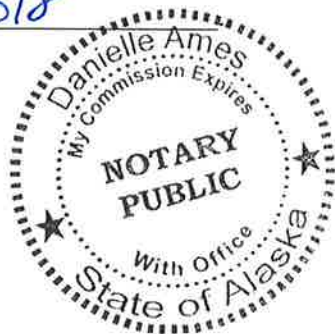
Date: 11/26/18

Sher Zinn  
Sher Zinn, Regulations Specialist

Subscribed and sworn to before me at Juneau Alaska on

11.26.2018

(date)



DAmes  
Notary Public in and for the State of Alaska  
My commission expires with office

STATE OF ALASKA )  
 ) ss.  
FIRST JUDICIAL DISTRICT )

**AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT**

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

In compliance with AS 44.62.215, the Board of Dental Examiners 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 Board of Dental Examiners regulations on dealing with issuance of temporary permits.

Date: 11/26/18

Sher Zinn  
Sher Zinn, Regulations Specialist

Subscribed and sworn to before me at Juneau Alaska

on 11.26.2018



DAmes  
Notary Public in and for the State of Alaska  
My commission expires: 12/31/2021

# ANCHORAGE DAILY NEWS

## AFFIDAVIT OF PUBLICATION

Account #: 268972  
ST OF AK/DEC/OCCU  
PO BOX 110806  
JUNEAU, AK 998110806

Order# 0001428593  
Cost \$443.24

Product ADN-Anchorage Daily News  
Placement 0300  
Position 0301

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

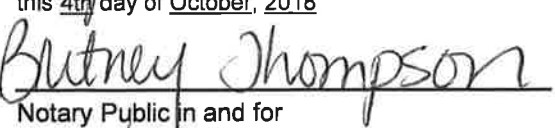
Sarah Jennett  
being first duly sworn on oath deposes and says that he/she is a representative of the Anchorage Daily News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as 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 03, 2018

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   
Sarah Jennett

Subscribed and sworn to before me  
this 4th day of October, 2018

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

MY COMMISSION EXPIRES



### NOTICE OF PROPOSED CHANGES RELATING TO TEMPORARY PERMITS IN THE REGULATIONS OF THE BOARD OF DENTAL EXAMINERS

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A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Sher Zinn at (907) 465-1049 or RegulationsAndPublicComment@alaska.gov, or go to <https://www.commerce.alaska.gov/web/portals/5/pub/DEN-10-18.pdf>.

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 regulations may be different from that of the proposed regulations. **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 08.36.070; AS 08.36.254

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 08.36.070; AS 08.36.254

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

DATE: 10/2/18

STATE OF ALASKA )  
FIRST JUDICIAL DISTRICT ) ss.

**AFFIDAVIT OF BOARD ACTION**

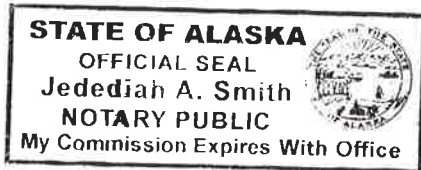
I, Amber Treston, Records and Licensing Supervisor for the Board of Dental Examiners, being duly sworn, state the following:

The attached motion dealing with temporary permits was passed by the Board of Dental Examiners during its November 9, 2018 meeting.

Date: 11/15/18  
Juneau, Alaska

Amber Treston  
Amber Treston, Records and Licensing Supervisor

Subscribed and sworn to before me at 9:50 A.M.  
on 11/15/18.



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

93 **RESOLVED to accept the Consent Agreement for case No. 2017-**  
94 **001070.**

95  
96 **Silveira – yea, Walden – yea, Nielson – yea, Kovaleski – yea, Wenzell - yea**  
97 **Wahto – yea.**  
98 **6 yeas, 0 nays.**

99  
100 **Motion passed.**

101  
102 Case No. 2017-001070 involved a consent agreement for a dental license for James  
103 Wimsatt III, license #DEND1451.

104  
105 Dr. Silveira proposed to start a new regulation project regarding the radiology regulation  
106 and to open a file with the AAG so a representative from the board can discuss this  
107 information and prepare this for the December 7<sup>th</sup>, 2018 meeting. Zinn will open the file  
108 and Dr. Nielson and Dr. Wenzell volunteered to work with the AAG on these regulations.

109  
110 **Agenda Item 4 – Regulation Review**

111  
112 Reviewed the temporary permit that closed for public comment on 11/5/18. No public  
113 comments were received.

114  
115 **On a motion made by Nielson, seconded by Wenzel, and approved by roll call**  
116 **vote, it was**

117  
118 **RESOLVED to adopt the regulation project that was sent out for public**  
119 **comment regarding the temporary permit 12 AAC 28.953.**

120  
121 **Silveira – yea, Walden – yea, Nielson – yea, Kovaleski – yea, Wenzell - yea**  
122 **Wahto – yea.**  
123 **6 yeas, 0 nays.**

124  
125 **Motion passed.**

126  
127 The board reviewed and agree with the temporary permit fees. No changes  
128 recommended.

129  
130 Discussed 12 AAC 28.360 to remove the language the board will maintain a registry of  
131 all board approved courses of instruction for the local anesthetic agents or nitrous oxide  
132 sedation.

133  
134 Reviewed the language suggested for 12 AAC 28.937(c)(4)(B), 12 AAC 28.937(c)(7), 12  
135 AAC 28.951(c)(6)(B) and 12 AAC 28.951 (c)(11) and add *continuous* active clinical  
136 practice to each regulation. The board feels this language would be restrictive in case  
137 the professional was on maternity or medical leave for an extended period of time.  
138 Recommend changing the language in these regulations to be worded as follows: the