

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV



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

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Debbie Morgan
Department of Commerce, Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor
465.4081

A handwritten signature in blue ink, appearing to read "April Simpson".

DATE: May 23, 2019

RE: Filed Permanent Regulations: Board of Marital and Family Therapy

Board of Marital and Family Therapy regulations re: approved supervisors, license renewal, continuing education, teletherapy practice, and ethics (12 AAC 19.210; 12 AAC 19.300; 12 AAC 19.350; 12 AAC 19.400 - 12 AAC 19.420; 12 AAC 19.900; 12 AAC 19.990)

Attorney General File:	2018200911
Regulation Filed:	5/23/2019
Effective Date:	6/22/2019
Print:	230, July 2019

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis
Jun Maiquis, Regulations Specialist

ORDER CERTIFYING THE CHANGES TO REGULATIONS
OF THE BOARD OF MARITAL AND FAMILY THERAPY

The attached eleven pages of regulations, dealing with approved supervisors, license renewal, continuing education course approval, teletherapy practice, code of ethics, and definitions, are hereby certified to be a correct copy of the regulation changes that the Board of Marital and Family Therapy adopted at its January 22, 2019 meeting, under the authority of AS 08.63.050, AS 08.63.100, AS 08.63.110, and AS 08.63.120 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 Board of Marital and Family Therapy 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: 3-7-19
Anchorage, Alaska

Dorothea Goddard-Aguero
Dorothea Goddard-Aguero, Chair
Board of Marital and Family Therapy

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on MAY 23, 2019 at 11:46 Am., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.

Kevin Meyer
Kevin Meyer
Lieutenant Governor

Effective: June 22, 2019.

Register: 230, July 2019.

Chapter 19. Board of Marital and Family Therapy.

12 AAC 19.210 is repealed and readopted to read:

12 AAC 19.210. Approved supervisors. (a) The board will approve a person to be an approved supervisor for individual supervision under this chapter if the applicant submits

- (1) a complete, notarized application on a form provided by the department;
- (2) verification of a current license under AS 08.63.100 to practice marital and family therapy;
- (3) documentation of having practiced as a licensed marital and family therapist for five continuous years; and
- (4) documentation of having completed at least six contact hours of education related to the practice of supervising a marital and family therapist within the last two years.

(b) The board will approve a person to be an approved supervisor for group supervision under this chapter if the applicant submits

- (1) a complete, notarized application on a form provided by the department;
- (2) verification of a current holds a license as described under AS 08.63.120(b)(2)(A) – (F);
- (3) documentation of having practiced as a licensed professional as listed under AS 08.63.120(b)(2)(A) – (F) for five continuous years; and
- (4) documentation of having completed at least six contact hours of education related to the practice of supervising a marital and family therapist within the last two years.

(c) To maintain approval under AS 08.63.120 and this section, a supervisor shall document at the time of license renewal that during the concluding license period the supervisor completed at least two contact hours of continuing education related to the practice of

supervising a marital and family therapist. A supervisor may also include those two contact hours of continuing education in the total continuing education contact hours required for license renewal in 12 AAC 19.310.

(d) If a person does not maintain approval as an approved supervisor under AS 08.63.120 and this section because of noncompliance with the continuing education requirements of (c) of this section, the person may apply to the board for reinstatement of the approval. The board will reinstate the approval if the applicant

(1) submits

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

(B) documentation of compliance with the continuing education requirements of (b) of this section; and

(2) complies with the requirements of AS 08.63.120 and (a)(2) and (3) or (b)(2) and (3) of this section.

(e) A supervisor who participates in teletherapy must

required under 12 AAC 19.405(2)

(1) have completed at least four hours of training in the use of teletherapy technologies before engaging in teletherapy practice required by 12 AAC 19.405(2);

the supervisee's (2) determine that telesupervision is appropriate for a supervisee considering professional, intellectual, emotional, and physical needs;

(3) inform supervisees of the potential risks and benefits associated with telesupervision;

the supervisor's

(4) take reasonable steps to ensure the security of their communication medium;

(5) commence telesupervision only after gaining appropriate education, training,

or supervised experience using the relevant technology;

(6) be aware of the risks and responsibilities associated with telesupervision and advise supervisees in writing of these risk as well as the supervisor's and supervisees responsibilities for minimizing ~~such~~ risks;

(7) consider that communications may be synchronous or asynchronous and that technologies may augment traditional in-person supervision or be used as stand-alone supervision; and

(8) be aware of the potential benefits and limitations in ^{the supervisor's} their choices of technologies for a particular supervisee in a particular situation. (Eff. 10/1/93, Register 127; am 3/15/97, Register 141; am 8/17/2002, Register 163; am 6/4/2005, Register 174; am 6/24/2012, Register 202; am 6/22/2019, Register 230)

Authority: AS 08.63.050
AS 08.63.060

AS 08.63.100

AS 08.63.210

AS 08.63.120

12 AAC 19.300 is amended by adding a new subsection to read:

(c) An applicant renewing a license who participates in teletherapy must complete two hours of continuing education ^{that relates} relating to teletherapy practice, ^{and that} which includes teletherapy ethics. (Eff. 10/1/93, Register 127; am 8/24/2002, Register 163; am 12/14/2008, Register 188; am 6/22/2019, Register 230)

Authority: AS 08.63.050

to Article 3

12 AAC 19 is amended by adding a new section to read:

12 AAC 19.350. Application of providers for continuing education course approval.

(a) Except as provided in 12 AAC 19.310, to be approved by the board to meet the

continuing education requirements of 12 AAC 19.320, an applicant for continuing education course approval shall submit to the board, not less than seven days before the date of the proposed program presentation date,

- (1) a completed application on a form provided by the department;
- (2) the name of the course provider;
- (3) a complete course description, including the course title and a description of the learning objectives;
- (4) a course syllabus; and
- (5) an outline of the major topics covered by the course and the number of classroom hours allowed for each topic.

(b) Approval of continuing education courses under this section is valid until December 31 of the next even numbered year.

(c) An applicant who has a change in condition required under (a)(2) – (5) of this section during the approval period described in (b) of this section must reapply to the board for continuing education credit approval not later than seven days after the course is presented.

(d) The applicant shall keep records of attendance of all courses provided for a minimum of two years after the expiration date of the approved course, and may be audited at the discretion of the board.

(e) ^{In} For the purposes of this section, ^{means} an "applicant" ^{course seeking approval (continuing education unit)} is defined as a licensee, provider, or sponsor of a proposed CEU course. (Eff. 6 / 22 / 2019, Register 230)

Authority: AS 08.63.050 AS 08.63.100

12 AAC 19 is amended by adding new sections to read:

Article 4. Teletherapy Practice.

Section

400. Scope of teletherapy practice

405. Eligibility to practice teletherapy

410. Providing technology assisted distance professional services

415. Safety and confidentiality of communications

420. Informed consent

(((Publisher: Please note that on page 10, the article "General Provisions" is renumbered from "4" to "5".)))

12 AAC 19.400. Scope of teletherapy practice. Services offered by licensees of ^{the} this board across a distance by electronic means fall within the jurisdiction of the board ^(to the same degree) as with ^(The provisions of AS 08.63 and this chapter) traditional face-to-face services described in AS 08.63 and 12 AAC 19 will apply to these services. Teletherapy or technology-assisted services refers to the scope of marital and family therapy practice of diagnosis, evaluation, consultation, intervention, and treatment of behavioral, social, and interpersonal disorders through synchronous or asynchronous two-way electronic communication, including ^(electronic mail, text messaging,) But not limited to telephone, videoconferencing, email, text, instant messaging, and social media. The practice of technology-assisted distance professional services does not include functions or practices that are not within the training required for licensure under this chapter in accordance with AS 08.63.240. (Eff. 6 / 22 / 2019, Register 230)

Authority: AS 08.63.050

AS 08.63.100

AS 08.63.110

AS 08.63.210

12 AAC 19.405. Eligibility to practice teletherapy. To be eligible to practice teletherapy with clients physically present in this state, an individual must

(1) be licensed in good standing under AS 08.63.100 as a marital and family therapist or AS 08.63.110 as a marital and family therapy associate; ^{and}

(2) complete the following initial training in ~~all~~ topics regarding teletherapy, totaling a minimum of four hours.

(A) appropriateness of teletherapy;

(B) teletherapy theory and practice;

(C) modes of teletherapy delivery;

(D) legal and ethical issues;

(E) handling online emergencies;

(F) best practices and informed consent. (Eff. 6/22/2019, Register

230)

Authority: AS 08.63.050

AS 08.63.100

AS 08.63.110

AS 08.63.210

12 AAC 19.410. Providing technology² assisted distance professional services. (a) The provision of any service as the practice of marital and family therapy defined under AS 08.63.900¹ to a client physically present in this state through digital, telephonic, electronic, or other means, regardless of the location of the provider of such service, ^{the} shall constitute ^{CS} the practice of marital and family therapy in this state and ^{CS} shall require licensure of the service provider under AS 08.63 and this chapter. under AS 08.63.900 ~~the statutes and regulations of this state for marital and family therapy.~~

(b) The provision of any service defined ^{the} as the practice of marital and family therapy by a provider of such service in this state through digital, telephonic, electronic, or other means, regardless of the location of the client receiving such service, ^{the} shall constitute ^{CS} the practice of marital and family therapy in this state and ^{CS} shall require licensure of the provider under AS 08.63 and this chapter.

~~applicable provisions of the statutes and regulations of this state for marriage and family therapists. Additionally, licensees are required to comply with all statutes, regulations, and rules of the state where the client is physically located.~~

(c) When providing technology-assisted distance professional services, licensees ^a shall determine that clients ^{the} are ^{is} intellectually, emotionally, and physically capable of using the application and that the application is appropriate for the needs of the client.

(d) When technology-assisted distance professional services are ^{determined} deemed inappropriate by the licensee or client, licensees ^{the} may ^{the} consider referral to a clinician local to the client for in-person services. If the client refuses ^{the} referral, ^{shall} licensee ^{the} must document rationale for continuing to provide distance professional services.

(e) Each time a technology-assisted distance professional services session takes place the licensee ^{shall verify} verifies the client's identity and ^{shall note the client's identity,} ~~and notes the same~~ in the progress note.

(f) ^{Regarding the delivery of distance professional services, a licensee shall follow} Licensees are encouraged to refer to the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) Teletherapy Guidelines, ^{dated} adopted September 2016, ^{and adopted by} regarding ^{reference.}

(g) At the onset of services, licensees ^{shall} are required to develop a safety plan ^{identifying} naming local resources in the community of the distance client ^{required. The} should emergency care be ^{lower case} needed. Safety plan ^{include} must include contact ^{telephone} phone numbers. Local resources may ^{for local resources} be family members, law enforcement, ^{aides,} health aid, religious leader, ^s or tribal leader, ^s but should preferably be someone trusted by the client to be available during distance professional services. (Eff. 6/22/2019, Register 230)

Authority: AS 08.63.050

AS 08.63.100

AS 08.63.110

AS 08.63.210

Editor's note: A copy of the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) Teletherapy Guidelines, dated September 2016, adopted by reference in

12 AAC 19.410, may be obtained from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, P.O.

Box 110806, Juneau, AK 99811-0806; phone (907) 465-2551, or website at

[https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofMaritalFamilyTherap](https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofMaritalFamilyTherapy.aspx)

y.aspx.

To provide, by digital, telephonic, or other electronic means, any service defined under AS 08.63.900 as

the practice of marital and family

therapy, a licensee shall

secure informed consent from a client.

Informed consent must be written and clearly set out

12 AAC 19.415. Safety and confidentiality of communications. (a) All forms of

C, including electronic communications, communications with clients must be HIPPA compliant.

Comply with the requirements of 45 C.F.R. Parts 160 and 164 regarding privacy, security, and breach for purposes of

P.L. 104-191 (Health

Insurance Portability and Accountability Act of 1996).

(b) Synchronous distance professional services involving synchronous distance professional services. Licensees must endeavor to protect clients from unwanted interruptions during sessions. (Eff. 6/22/2019, Register 230)

Authority: AS 08.63.050

AS 08.63.100

AS 08.63.110

AS 08.63.210

12 AAC 19.420. Informed consent. Informed consent should be clearly set forth,

understandable, discuss the benefits and risks of entering into distance professional services, and

The informed consent must identify the means of contact with the client, including

address the use of phone, online synchronous counseling, electronic billing, text, and email

the use of a telephone, online synchronous counseling, electronic billing, text messaging, or

contact with a client. As part of the process of establishing informed consent, licensees do the

electronic mail. The informed consent must also

following:

identify

(1) address issues related to the difficulty of maintaining the confidentiality of

electronically transmitted communications;

(2) inform clients of all colleagues, supervisors, and employees, such as

information technology (IT) administrators, who might have authorized or unauthorized access to

electronic transmissions;

inform

of the risks of access,

(3) urge clients to be aware of all authorized or unauthorized users, including

by

family members and fellow employees, who have access to any technology clients may use in the counseling process;

(4) inform clients of pertinent legal rights and limitations governing the practice of a profession over state lines or international boundaries;

inform clients that, (5) whenever possible, use encrypted websites and email communications to help ensure confidentiality;

electronic mail

will be used

(6) when the use of encryption is not possible, inform licensees notify clients of this fact and limit electronic transmissions to general communications that are not client specific;

inform

limitation

(7) inform clients if and for how long archival storage of transaction records is maintained;

is

during a failure (8) discuss the possibility of technology failure and alternate methods of service delivery;

(9) inform clients of emergency procedures, such as calling 911 or a local crisis hotline when the licensee is not available;

(10) inform clients of the limits of confidentiality under AS 08.63.200;

under

identify, as applicable,

(11) discuss time zone differences, local customs, and cultural or language differences that might impact services delivery;

(12) inform clients when technology-assisted distance professional services are not covered by insurance; and

and

(13) fully disclose the licensee's licensing, credentials and areas of expertise. (Eff.

6 / 22 / 2019, Register 230)

Authority: AS 08.63.050

AS 08.63.100

AS 08.63.110

AS 08.63.210

The article heading for Article 4 is changed to read:

Article 5 [4]. General Provisions.

12 AAC 19.900 is amended to read:

12 AAC 19.900. Code of ethics. Marital and family therapists licensed in this state, professional services including those practicing distance therapy or teletherapy shall adhere to the *AAMFT Code of Ethics* of the American Association for Marriage and Family Therapy (AAMFT) (**January 1, 2015 Revision**) [(JULY 1, 2001 REVISION)]. The *AAMFT Code of Ethics* is adopted by reference in this section. (Eff. 10/1/93, Register 127; am 6/21/97, Register 142; am 8/24/2002, Register 163; am 6 / 22 / 2019, Register 230)

Authority: AS 08.63.050

Editor's note: A copy of the *AAMFT Code of Ethics*, adopted by reference in 12 AAC 19.900, may be obtained from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806, from the American Association for Marriage and Family Therapy (AAMFT), 112 South Alfred Street, Alexandria, VA 22314-3061; telephone: (703) 838-9808 [1133 15TH STREET, NW, WASHINGTON, DC 20005-2710], or at AAMFT's website at www.aamft.org.

(Publisher: Retain the first paragraph, as edited, of the editor's note that follows 12 AAC 19.900; but please delete the second paragraph.))

12 AAC 19.990 is amended by adding new paragraphs to read:

(5) "asynchronous" ^(with regard to an) interaction means the transmission of a client's information ^(marital and family therapist) from an originating site to a licensed professional counselor at a distant site not occurring at exactly the same time; no real-time communication is present or able;

(6) "distance professional services" means the mode of delivering services ^{by means of} ~~via~~ technology-assisted media, such as ~~but not limited to,~~ ^{personal computer (PC)} a telephone, video, internet, ^{3 cap} smartphone, tablet, ~~PC~~ desktop system, or other electronic means using appropriate encryption technology for electronic health information, occurring either synchronously or asynchronously as it pertains to marital and family therapy professional counseling practices;

(7) "distant site" means a site or location from which services are delivered by a licensee ^{by means of} ~~via~~ technology-assisted media;

(8) "originating site" means a site where a client is located at the time ^{that marital and family therapy} ~~counseling~~ ^{by means of} services are provided ~~via~~ technology-assisted media or where the asynchronous storage and forwarding services originate;

(9) "synchronous" interaction means a real-time interaction between a client and a ^{with regard to an} licensed marital and family therapist ^{therapist} ~~counselor~~ occurring at exactly the same time during which the client and ~~counselor~~ are able to communicate in real [#] time. (Eff. 10/1/93, Register 127; am 4/24/2016, Register 218; am 6 / 22 / 2019, Register 230)

Authority: AS 08.63.050