

Kevin Meyer
Lieutenant Governor
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Debbie Morgan
Department of Commerce Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: July 22, 2019

RE: Filed Permanent Regulations: Department of Commerce Community and Economic Development

Department of Commerce Community and Economic Development regulations re:
telemedicine services for audiologists, speech-language pathologists, and speech-
language pathologist assistants (12 AAC 07.020 - 12 AAC 07.090)

Attorney General File:	2019200356
Regulation Filed:	7/22/2019
Effective Date:	8/21/2019
Print:	231, October 2019

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

ORDER ADOPTING CHANGES TO
REGULATIONS OF THE DEPARTMENT OF COMMERCE,
COMMUNITY, AND ECONOMIC DEVELOPMENT

The attached three pages of regulations, dealing with telemedicine services for audiologists, speech-language pathologists, and speech-language pathologist assistants regulated by the Department of Commerce, Community, and Economic Development, are adopted and certified to be a correct copy of the regulation changes that the Department of Commerce, Community and Economic Development adopts under the authority of AS 08.11.080, AS 08.11.083, AS 08.11.085, 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.

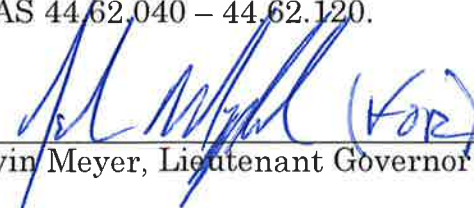
In considering public comments, the Department of Commerce, Community, and Economic Development paid special attention to the cost to private persons of the regulatory action being taken.

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 June 2019
Juneau, Alaska


Sara Chambers, Director
Division of Corporations, Business and
Professional Licensing

Josh Applebee for FILING CERTIFICATION
I, ¹Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on
July 22, 2019 at 1:31 pm., I filed the attached
regulations according to the provisions of AS 44.62.040 – 44.62.120.


Kevin Meyer, Lieutenant Governor

Effective: August 21, 2019.

Register: 231, October 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.**



A handwritten signature in blue ink, appearing to read "K. Meyer", is written over a horizontal dotted line.

**KEVIN MEYER
LIEUTENANT GOVERNOR**



THE STATE
of **ALASKA**
GOVERNOR MICHAEL J. DUNLEAVY

Department of Commerce, Community,
and Economic Development

OFFICE OF THE COMMISSIONER

P.O. Box 110800
Juneau, Alaska 99811-0800
Main: 907.465.2500
Toll free fax: 907.465.2500

In accordance with AS 44.17.010, the authority and responsibility for adopting regulations, outside of the Alcohol and Marijuana Control Office (AMCO), but for the Division of Corporations, Business and Professional Licensing (CBPL), under the Alaska Administrative Procedure Act, is hereby delegated to:

Sara Chambers
Division Director
Division of Corporations, Business and Professional Licensing
DCCED
P.O. Box 110806
Juneau, AK 99811-0806
907-465-2536
sara.chambers@alaska.gov

In accordance with AS 44.17.010, the authority and responsibility for adopting regulations of the Alcohol and Marijuana Control Office, under the Alaska Administrative Procedure Act, is hereby delegated to:

Shawn Williams
Assistant Commissioner
DCCED
550 West Seventh Avenue, Suite 1535
Anchorage, AK 99501
907-269-8100
shawn.williams@alaska.gov

This Delegation of Authority will remain in effect until modified or revoked by a subsequent delegation. This Delegation supersedes and revokes all delegations preceding it.

Dated the 30th day of April, 2019

A handwritten signature in dark ink, appearing to read "Julie Anderson", written over a horizontal line.

Julie Anderson
Commissioner
Department of Commerce, Community,
and Economic Development

12 AAC 07 chapter ^{heading} ~~title~~ is changed to read:

Chapter 07.

Audiologists, Speech-Language Pathologists and Speech-Language Pathologist Assistants

12 AAC 07 is amended by adding ^{CS} a new section to read:

12 AAC 07.020. Telemedicine. (a) A person who is ^{or registered} licensed under AS 08.11 may provide telemedicine services to a ^{client} ~~patient~~ in the state if

(1) the telemedicine services are of the same scope, nature and quality as those services provided in person;

(2) the quality of electronic transmissions used to provide telemedicine services allow the licensee ^{or registrant} to provide services equivalent to those provided in person;

(3) the licensee ^{or registrant} has the skill and ability to operate the equipment used to provide telemedicine services;

(4) the licensee ^{CS} assesses the ^{or registrant} ~~patient's~~ ^{client's} level of comfort in receiving telemedicine services and make appropriate adjustments to the treatment plan based on that assessment;

(5) the licensee ^{or registrant} ensures the presence of a telemedicine facilitator who is physically present with the ^{client} ~~patient~~, when appropriate;

(6) the licensee ^{or registrant} ensures ^{that} the ^{client's} ~~patient~~ can contact a licensed health care provider in person as part of the ^{or registrant} ~~patient's~~ treatment plan;

(7) the licensee ^{or registrant} ensures the electronic transmissions used to provide telemedicine services have sufficient security to ensure the protection of the ^{client's} ~~patient's~~ medical records as if the ^{client were} ~~patient was~~ receiving in-person treatment; and

(8) the licensee ^{or registrant} does not provide telemedicine services solely through written

correspondence, however, written correspondence may be used to supplement telemedicine services.

(b) Nothing in this section prevents the use of asynchronous telemedicine. (Eff.

8 / 21 / 2019, Register 231)

Authority: AS 08.11.080 AS 08.11.083 AS 08.11.085

~~12 AAC 07 is amended by adding a new section to read:~~

12 AAC 07.030. Consent to send records. (a) A licensee or registrant who provides telemedicine services under 12 AAC 07.020 shall document the person's efforts to obtain the client's consent to send all records to the client's primary care provider, if the licensee or registrant person is not the client's primary care provider.

(b) If a client provides consent under (a) of this section, the licensee or registrant ~~person~~ who provides telemedicine services shall obtain that consent in writing signed by the client client's ~~patient~~ or the ~~patient's~~ legal guardian. (Eff. 8 / 21 / 2019, Register 231)

Authority: AS 08.11.080 AS 08.11.083 AS 08.11.085

~~12 AAC 07 is amended by adding a new section to read:~~

12 AAC 07.040. Definitions. In this chapter

(1) "asynchronous telemedicine" means the capturing and transmitting of data for the later viewing or interpreting by a person licensed or registered under AS 08.11;

(2) "in-person treatment" means providing consultation, testing or therapeutic services to a client ~~patient~~ who is physically present at the same location as the provider;

(3) "licensed health care provider" means

(A) a person who holds the same category of license as the provider of ^{or registration} another audiologist or speech-language pathologist telemedicine services or ^a ~~other person~~ licensed under AS 08.11;

(B) ^a ~~an allopathic physician~~, osteopathic physician or physician assistant licensed under AS 08.64; or

^c (A) an advanced practice registered nurse under AS 08.68;

(4) “telemedicine services” has the meaning given in AS 44.33.381(c) ² ~~(2)~~;

(5) “telemedicine facilitator” means a person at the client site trained in the use of telemedicine technology and trained to assist a ^{client} ~~patient~~ in understanding and using that technology at the direction of the licensee. ^{or registrant} (Eff. 8 / 21 / 2019, Register 231)

Authority: AS 08.11.080 AS 08.11.083 AS 08.11.085

12 AAC 07 chapter title is changed to read:

Chapter 07.

*Unedited and Unapproved
by the Department of Law
For Use by the Publisher Only*

Audiologists, Speech-Language Pathologists and Speech-Language Pathologist Assistants

12 AAC 07 is amended by adding a new section to read:

12 AAC 07.020. Telemedicine. (a) A person who is licensed under AS 08.11 may provide telemedicine services to a patient in the state if

- (1) the telemedicine services are of the same scope, nature and quality as those services provided in person;
- (2) the quality of electronic transmissions used to provide telemedicine services allow the licensee to provide services equivalent to those provided in person;
- (3) the licensee has the skill and ability to operate the equipment used to provide telemedicine services;
- (4) the licensee assesses the patient's level of comfort in receiving telemedicine services and make appropriate adjustments to the treatment plan based on that assessment;
- (5) the licensee ensures the presence of a telemedicine facilitator who is physically present with the patient, when appropriate;
- (6) the licensee ensures the patient can contact a licensed health care provider in person as part of the patient's treatment plan;
- (7) the licensee ensures the electronic transmissions used to provide telemedicine services have sufficient security to ensure the protection of the patient's medical records as if the patient was receiving in-person treatment; and
- (8) the licensee does not provide telemedicine services solely through written

correspondence, however, written correspondence may be used to supplement telemedicine services.

(b) Nothing in this section prevents the use of asynchronous telemedicine. (Eff. ____/____/____, Register ____)

Authority: AS 08.11.080 AS 08.11.083 AS 08.11.085

12 AAC 07 is amended by adding a new section to read:

12 AAC 07.030. Consent to send records. (a) A person licensed under AS 08.11 who provides telemedicine services under 12 AAC 07.020 shall document that person's efforts to obtain the patient's consent to send all records to the patient's primary care provider, if that person is not the patient's primary care provider.

(b) If a patient provides consent under (a) of this section, the person licensed under AS 08.11 who provides telemedicine services shall obtain that consent in writing signed by the patient or the patient's legal guardian. (Eff. ____/____/____, Register ____)

Authority: AS 08.11.080 AS 08.11.083 AS 08.11.085

12 AAC 07 is amended by adding a new section to read:

12 AAC 07.040. Definitions. In this chapter:

(1) "asynchronous telemedicine" means the capturing and transmitting of data for the later viewing or interpreting by a person licensed under AS 08.11;

(2) "in-person treatment" means providing consultation, testing or therapeutic services to a patient who is physically present at the same location as the provider;

(3) "licensed health care provider" means

(A) a person who holds the same category of license as the provider of telemedicine services or other person licensed under AS 08.11;

(B) an allopathic physician, osteopathic physician or physician assistant licensed under AS 08.64; or

(A) an advanced practice registered nurse under AS 08.68;

(4) “telemedicine services” has the meaning given in AS 44.33.381(c)(2);

(5) “telemedicine facilitator” means a person at the client site trained in the use of telemedicine technology and trained to assist a patient in understanding and using that technology at the direction of the licensee. (Eff. ____/____/____, Register ____)

Authority: AS 08.11.080 AS 08.11.083 AS 08.11.085

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: July 9, 2019

File No.: 2019200356

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

Tel. No.: 465-3600

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

Re: Department of Commerce,
Community, and Economic
Development regulations re:
telemedicine services for
audiologists, speech-language
pathologists, and speech-language
pathologist assistants (12 AAC
07.020 - 12 AAC 07.090)

The Department of Law has reviewed the attached regulations of the Department of Commerce, Community, and Economic Development 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 Department of Commerce, Community, and Economic Development after the close of the public comment period. Implementing AS 08.11.080(b) and (c), 08.11.083(b) and (c), and 08.11.085(b) and (c), added by secs. 1 - 3, ch. 25, SLA 2016, the regulations concern telemedicine services for audiologists, speech-language pathologists, and speech-language pathologist assistants, professions that the department regulates directly under AS 08.11.

The April 29, 2019 public notice and the June 5, 2019 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.

SCW

cc: Honorable Julie Anderson, Commissioner
Department of Commerce, Community, and Economic Development

Debbie Morgan, Regulations Contact
Department of Commerce, Community, and Economic Development

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

Glenn Hoskinson, Junior Special Assistant
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

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

Megyn Weigand, Assistant Attorney General
Commercial, Fair Business, and Child Support Section

**NOTICE OF PROPOSED CHANGES TO THE AUDIOLOGY AND SPEECH-
LANGUAGE PATHOLOGY REGULATIONS OF THE DEPARTMENT OF
COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT**

BRIEF DESCRIPTION: The Department of Commerce, Community, and Economic Development proposes to adopt new regulations for audiologists, speech-language pathologists, and speech-language pathology assistants, for telemedicine services, to implement changes to AS 08.11 enacted under Chapter 25, SLA 2016 (SB 74).

The Department of Commerce, Community, and Economic Development (Department) proposes to adopt regulation changes in Title 12, Chapter 07 of the Alaska Administrative Code, dealing with telemedicine services for audiologists, speech-language pathologists, and speech-language pathologist assistants, including the following:

12 AAC 07.020. Telemedicine. This proposed new section outlines the requirements for telemedicine services by a licensed audiologist, speech-language pathologist, and speech-language pathologist assistant.

12 AAC 07.030. Consent to send records. This proposed new section describes the requirements for documenting consent to provide patient records to a patient's primary care provider.

12 AAC 07.040. Definitions. This proposed new section defines terms used in the telemedicine regulations.

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 Department will accept comments by facsimile at (907) 465-2974 and by electronic mail at 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/193971>, and using the comment link. **The comments must be received not later than 4:30 p.m. on May 31, 2019.** Comments received after this deadline will not be considered by the Department.

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. **The questions must be received at least 10 days before the end of the public comment period.** The Department will aggregate its response to substantially similar questions and make the questions and responses available on the Department's website at <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/AudiologistsandSpeech-LanguagePathologists.aspx>, or on the Alaska Online Public Notice System. The Department 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 not later than May 24, 2019, 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 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/AUD-0419.pdf>.

After the public comment period ends, the Department 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.** Written comments and questions received are public records and are subject to public inspection.

Statutory Authority: AS 08.11.080, AS 08.11.083, AS 08.11.085

Statutes Being Implemented, Interpreted, or Made Specific: AS 08.11.080, AS 08.11.083, AS 08.11.085

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

DATE: 4/29/19



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:** Department of Commerce, Community, and Economic Development – Division of Corporations, Business and Professional Licensing.
2. **General subject of regulation:** Telemedicine services requirements for audiologists, speech-language pathologists, and speech-language pathology assistants.
3. **Citation of regulation:** 12 AAC 07.020, 12 AAC 07.030, 12 AAC 07.040.
4. **Department of Law file number:** To be assigned.
5. **Reason for the proposed action:** Compliance with state statute.
6. **Appropriation/Allocation:** Corporations, Business and Professional Licensing – #2360.
7. **Estimated annual cost to comply with the proposed action to:**
A private person: None known.
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 2020 or in subsequent years.
9. **The name of the contact person for the regulation:**
Thomas Bay, Occupational Licensing Examiner
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community, and Economic Development
Telephone: (907) 465-2588

E-mail: Thomas.bay@alaska.gov

10. The origin of the proposed action: Division of Corporations, Business and Professional Licensing.

11. Date: 4/29/19

Prepared by: 

Sher Zinn
Regulations Specialist
(907) 465-1049

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 07.020-12 AAC 07.040, dealing with telemedicine services for audiologists, speech-language pathologists, and speech-language pathology assistants regulated by the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing 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: 6/6/19


Sher Zinn, Regulations Specialist

Subscribed and sworn to before me at Juneau Alaska on 6/6/2019.

(date)



Notary Public in and for the State of Alaska
My commission expires 5/07/10

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 Department of Commerce, Community, and Economic Development 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 Department of Commerce, Community, and Economic Development regulations on dealing with telemedicine services for professions regulated by the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.

Date: 6/6/19

Sher Zinn

Sher Zinn, Regulations Specialist

Subscribed and sworn to before me at Juneau Alaska on
6.6.2019

(date)



D. Ames

Notary Public in and for the State of Alaska

My commission expires: 4/30/2020

ANCHORAGE DAILY NEWS

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AFFIDAVIT OF PUBLICATION

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Cost \$517.94

Product ADN-Anchorage Daily News
Placement 0300
Position 0301

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Joleesa Stepetin
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

April 29, 2019

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 Joleesa Stepetin
Joleesa Stepetin

Subscribed and sworn to before me
this 29th day of April, 2019

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

MY COMMISSION EXPIRES
7/14/2020

STATE OF ALASKA
NOTARY
PUBLIC
Jada L. Nowlin

NOTICE OF PROPOSED CHANGES TO THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY REGULATIONS OF THE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

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<https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/AudiologistsandSpeech-LanguagePathologists.aspx>, or on the Alaska Online Public Notice System. The Department 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.

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