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**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

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.

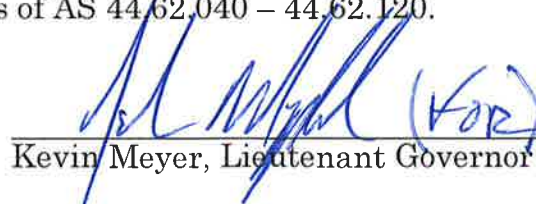
In considering public comments, the Department of Commerce, Community, and Economic Development paid special attention to the cost to private persons of the regulatory action being taken.

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 p.m., 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.



Kevin Meyer

**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 cursive script, 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 licensed ^{or registered} 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 ^{or registrant} allow the licensee 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 assesses the ^{or registrant} patient's ^{client's} level of comfort in receiving telemedicine services and make ^{CS} 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} patient can contact a licensed health care provider in person as part of the ^{client's} 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 person licensed under AS 08.11 who provides telemedicine services under 12 AAC 07.020 shall document the that person's efforts to obtain the client's patient's consent to send all records to the client's patient's primary care provider, if the licensee or registrant that person is not the client's patient's primary care provider.

(b) If a client patient provides consent under (a) of this section, the licensee or registrant person licensed under AS 08.11 who provides telemedicine services shall obtain that consent in writing signed by the client patient or the client's 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 or registered 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 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 telemedicine services or another audiologist or speech-language pathologist ^{or registration} other person licensed under AS 08.11;

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

(C) ^a ~~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 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

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Chapter 07.

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by the Department of Law
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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

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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

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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