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**OFFICE OF THE LIEUTENANT GOVERNOR
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M E M O R A N D U M

TO: Amy Demboski
Department of Commerce Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: February 25, 2020

RE: Filed Permanent Regulations: Board of Social Work Examiners

Board of Social Work Examiners regulations re: continued competency, standards of practice, continuing education, teletherapy, and board member absences (12 AAC 18.112; 12 AAC 18.160; 12 AAC 18.210; 12 AAC 18.300 - 12 AAC 18.330; 12 AAC 18.940; 12 AAC 18.990)

Attorney General File:	2019200267
Regulation Filed:	2/25/2020
Effective Date:	3/26/2020
Print:	233, April 2020

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis
Jun Maiquis, Regulations Specialist

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE BOARD OF SOCIAL WORK EXAMINERS


The attached eight pages of regulations, dealing with continued competency, standards of practice, continuing education requirements, teletherapy practice, board member absences, and definitions, are hereby certified to be a correct copy of the regulation changes that the Board of Social Work Examiners adopted at its January 27-28, 2020 meeting, under the authority of AS 08.01.020, AS 08.95.030, AS 08.95.040, AS 08.95.050, AS 08.95.100, and AS 08.95.120, 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 Social Work 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 the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: 1/27/2020
Anchorage, Alaska



Danielle LaFon, LBSW, Chair
Board of Social Work Examiners

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on Febr. 25th, 2020 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: March 26, 2020.

Register: 233, April 2020.

Chapter 18. Board of Social Work Examiners.

12 AAC 18.112 is amended to read:

12 AAC 18.112. Continued competency. Proof of continued competency satisfactory to the board includes

(1) successful passage of the applicable examination in 12 AAC 18.105 within the two years immediately before [AND] the [TWO YEARS IMMEDIATELY AFTER] application; or

(2) verification of completion within the five years immediately preceding application of

(A) 1,500 hours of work as a social worker while holding a license similar to that for which application has been made; and

(B) the continuing education requirements described in

12 AAC 18.210(a)(1) and (3). (Eff. 10/14/99, Register 152; am 8/29/2003, Register 167; am 3 / 26 / 2020, Register 233)

Authority: AS 08.95.030 AS 08.95.120

12 AAC 18.160 is amended to read:

12 AAC 18.160. Standards of practice. A social worker licensed in this state shall adhere to the standards of practice adopted by the board under this section. The board hereby adopts by reference the [*"STANDARDS OF PRACTICE/CODE OF CONDUCT", PARTS 1 - 10 OF THE*] *Model Social Work Practice Act Model Law Task Force*, 1996 – 1997, *with amendments, 1998 – 2012, with amendments, 2013 – 2015, with amendments, 2018, and the*

Model Regulatory Standards for Technology and Social Work Practice ASWB International

Technology Task Force, 2013 – 2014 published by the Association of Social Work Boards, as the standards of practice for social workers licensed in this state. (Eff. 10/14/99, Register 152; am 8/29/2003, Register 167; am 11/4/2015, Register 216; am 3 / 26 / 2020, Register 233.)

Authority: AS 08.95.030

Editor's note: A copy of the *Model Social Work Practice Act* ^{*it's no italics!!!*} and the *Model Regulatory Standards for Technology and Social Work Practice* ^{*it's no italics!!!*} ["STANDARDS OF PRACTICE/CODE OF CONDUCT"] adopted in 12 AAC 18.160 is available for inspection at the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, Juneau, Alaska, or may be obtained from the Association of Social Work Boards, 400 Southridge Parkway, Suite B, Culpeper, VA 22701-3791, phone: (800) 225-6880, fax: (540) 829-0562, or websites at https://www.aswb.org/wp-content/uploads/2013/10/Model_law.pdf and <https://www.aswb.org/wp-content/uploads/2015/03/ASWB-Model-Regulatory-Standards-for-Technology-and-Social-Work-Practice.pdf>.

@@ Publisher: Remainder of editor's note is unchanged. @@

12 AAC 18.210(a) is amended to read:

~~12 AAC 18.210. Continuing education requirement.~~ ^{*g*} (a) For the first biennial renewal of a person's social worker license, an applicant for renewal shall document completion of 45 contact hours of continuing education activities acceptable to the board that were earned during the two years before the expiration date of the person's license that included a minimum of

(1) six contact hours in substance abuse education;

(2) six contact hours in cross-cultural education relating to Alaska Natives;

[AND]

(3) three contact hours in professional ethics; **and**

(4) three contact hours in teletherapy practice.

12 AAC 18.210(b) is amended to read:

(b) After a person's first biennial renewal of a social worker license, an applicant for renewal shall document completion of 45 contact hours of continuing education activities acceptable to the board that were earned during that licensing period and included a minimum of

(1) six contact hours in substance abuse education;

(2) six contact hours in cross-cultural education, of which three hours include issues relating to Alaska Natives; [AND]

(3) three contact hours in professional ethics; **and**

(4) three contact hours in teletherapy practice.

12 AAC 18.210(c) is amended to read:

(c) For purposes of this section,

(1) one "contact hour" equals a minimum of 50 minutes of classroom instruction between instructor and participant;

(2) one academic semester credit equals 15 contact hours; [AND]

(3) one academic quarter credit equals 10 contact hours;

(4) "relating to Alaska Natives" means a structured educational experience such as a course, lecture, workshop, or other organized training that focuses on the indigenous peoples of Alaska as it applies to social work practices; and

(5) "teletherapy practice" means the use of audio, video, or data communications to perform functions or practices within the training required for licensure under AS 08.95 and this chapter and while physically separated from a client.

12 AAC 18.210 is amended by adding new subsections to read:

~~(f) The three contact hours in teletherapy training may be used to satisfy up to three hours of the 45 contact hours required under (a) and (b) of this section but may not substitute for the subject specific training required under (a)(1) - (3) or (b)(1) - (3) of this section.~~

(f)
(g) An applicant for renewal under this section may receive up to three hours of professional ethics continuing education credit under (a)(3) or (b)(3) of this section once every biennial licensing period for each 150 minutes of attendance at a regularly scheduled board meeting. (Eff. 9/26/91, Register 119; am 10/14/99, Register 152; am 11/4/2015, Register 216; am 3 / 26 / 2020, Register 233)

Authority: AS 08.95.030 AS 08.95.040

12 AAC 18 is amended by adding new sections to read:

Article 3. Teletherapy Practice.

Section

- 300. Requirements to practice teletherapy
- 310. Scope of teletherapy practice
- 320. Providing teletherapy
- 330. Safety and confidentiality of communications

12 AAC 18.300. Requirements to practice teletherapy. A licensee may provide professional services under AS 08.95 through audio, video, or data communications when physically separated from the client, if the licensee is licensed under AS 08.95 and in good standing with the board. (Eff. 3/26/2020, Register 233)

Authority: AS 08.95.030 AS 08.95.050

12 AAC 18.310. Scope of teletherapy practice. The practice of teletherapy under this chapter includes functions or practices that are within the training required for licensure under AS 08.95 and this chapter. (Eff. 3/26/2020, Register 233)

Authority: AS 08.95.030 AS 08.95.050

12 AAC 18.320. Providing teletherapy. (a) Before providing teletherapy, a licensee shall ~~must~~ determine that the client is intellectually, emotionally, and physically capable of using the technology and that the technology is appropriate for the needs of the client.

(b) ^a If licensee or client determines teletherapy is not appropriate, the licensee shall refer the client to a clinician local to the client for in-person services if available. If the client refuses referral, the licensee shall ~~must~~ document the reasons for continuing to provide teletherapy.

(c) For each teletherapy session, a licensee shall ~~must~~ verify the client's identity and record the client's identity ~~it~~ in the client's file. (Eff. 3/26/2020, Register 233)

Authority: AS 08.95.030 AS 08.95.050

12 AAC 18.330. Safety and confidentiality of communications. (a) A licensee shall ~~must~~ advise each client about the risks of exchanging information by electronic communication and

~~provide~~
~~must include~~ a disclaimer of the need to maintain confidentiality when communicating through electronic communication. Electronic communications are part of the client record; copies must be kept in a file maintained by the licensee in independent practices or within the licensee's agency record keeping policies.

(b) A licensee ~~must~~ ^{shall} discourage a client from texting ~~of~~ personal information. A licensee ~~must include~~ ^{shall provide} a disclaimer about the confidentiality risks when exchanging text messages. Text messages are considered a part of the client record; copies must be kept in a file maintained by the licensee.

(c) A licensee's online scheduling and billing software must be encrypted and secure.

(d) A licensee ~~must~~ ^{shall} avoid unwanted interruptions during synchronous teletherapy sessions. (Eff. 3/26/2020, Register 233)

Authority: AS 08.95.030 AS 08.95.050

^{changed}
The article heading for Article 3 is ~~amended~~ to read:

Article 4 [3]. General Provisions.

12 AAC 18 is amended by adding a new section to read:

12 AAC 18.940. Board member absences. (a) The board may recommend to the governor that a member be removed from the board if that member has had three or more unexcused absences from regularly scheduled board meeting during the member's term on the board.

(b) Before the close of each regularly scheduled board meeting from which a member has been absent, the board will determine on the record whether the member's absence from that

The board will excuse an meeting was excused or unexcused. the absence An absence will be excused if it was approved by the chairperson of the board 30 days before the scheduled meeting date or was due to an emergency.

(Eff. 3/26/2020, Register 233)

Authority: AS 08.01.020 AS 08.95.030

12 AAC 18.990(7) is amended to read:

(7) "substance abuse education" means a structured educational experience such as a course, lecture, workshop, or other organized training that focuses on **a misuse of psychoactive substances**, [SUBSTANCE ABUSE] as it applies to social work practices;
substance abuse education does not include an educational experience that focuses on behavior addiction; for the purposes of this paragraph

(A) "psychoactive substance" means a chemical substance that changes brain function and results in alterations in perception, mood, consciousness, cognition, or behavior and includes alcohol, marijuana, prescription drugs, pharmaceuticals, or illegal substances;

(B) "behavior addiction" means a behavior that produces short-term reward that may create persistent behavior despite knowledge of adverse consequences and diminished control over the behavior;

12 AAC 18.990 is amended by adding new paragraphs to read:

(9) "synchronous" means ^areal-time interaction between a licensee and a client occurring at exactly the same time during which the licensee and client are able to communicate using real time;

(10) "teletherapy" means the use of audio, video, or data communications to perform functions or practices within the training required for licensure under AS 08.95 and this chapter and while physically separated from a client. (Eff. 9/26/91, Register 119; am 10/15/99, Register 152; am 5/11/2012, Register 202; am 3 / 26 / 2020, Register 233)

Authority: AS 08.95.030 AS 08.95.050 AS 08.95.100
AS 08.95.040