

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**

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

A handwritten signature in blue ink, likely belonging to April Simpson, the sender of the memorandum.

DATE: August 21, 2020

RE: Filed Permanent Regulations: State Medical Board

State Medical Board emergency regulations made permanent re: telemedicine (12 AAC 40.943)

Attorney General File:	2020200365
Regulation Filed:	8/21/2020
Effective Date:	5/5/2020 and 9/20/2020
Print:	235, October 2020

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis
Sher Zinn, Regulations Specialist

CERTIFICATION OF COMPLIANCE

I, Alysia Jones, certify that, as required by AS 44.62.260 in order to make the attached two pages of regulations permanent, as of this date a legal opinion of the Department of Law has been requested under AS 44.62.060, a notice conforming to AS 44.62.200 was issued in compliance with AS 44.62.190, and an opportunity for public comment was provided under AS 44.62.210, for the following emergency regulation:

12 AAC 40.943, regarding standards of practice for telemedicine during a public health emergency disaster declared by the governor under AS 26.23.020.

This regulation originally was filed as an emergency regulation on May 5, 2020.

This action is not expected to require an increased appropriation.

In considering the public comments, the State Medical Board paid special attention to the cost to private persons of the regulatory action being taken.

Date: 7/27/2020

DocuSigned by:
Alysia Jones
AD8AD198F73048B...

Alysia Jones, Executive Administrator
State Medical Board

FILING CERTIFICATION

April Simpson for

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on August 21, 2020, at 2:26 p.m., I filed the attached regulation according to the provisions of AS 44.62.

April Simpson
for Lieutenant Governor *Kevin Meyer*

Register: 235, October 2020.

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE STATE MEDICAL BOARD

The attached two pages of regulations, dealing with standards of practice for telemedicine, is certified to be a correct copy of the regulation changes that the State Medical Board adopted at its July 23, 2020 meeting, under the authority of AS 08.64.100, AS 08.64.101, and AS 08.64.634, 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 State Medical Board 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: 7/27/2020

DocuSigned by:
Alysia Jones
AD8AD198F73048B

Alysia Jones, Executive Administrator
State Medical Board

April Sampson for

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on August 21, 2020 at 2:27 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Kevin Meyer

for Lieutenant Governor *Kevin Meyer*

Effective: September 20, 2020.

Register: 235, October 2020.

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 dotted line.

**KEVIN MEYER
LIEUTENANT GOVERNOR**

Chapter 40. State Medical Board.

The emergency amendment to 12 AAC 40.943 is made permanent and that section is further amended to read:

12 AAC 40.943. Standard of practice for telemedicine. (a) The guiding principles for telemedicine practice in the American Medical Association (AMA), *Report 7 of the Council on Medical Service (A-14), Coverage of and Payment for Telemedicine*, dated 2014, and the Federation of State Medical Boards (FSMB), *Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine*, dated April 2014, are adopted by reference as the standards of practice when providing treatment, rendering a diagnosis, prescribing, dispensing, or administering a prescription or controlled substance without first conducting an in-person physical examination under AS 08.64.364. ((Leave lowercase)))

((Leave lowercase))) (b) During a **disaster** [PUBLIC HEALTH] emergency [DISASTER] ((Leave lowercase))) DECLARED BY THE GOVERNOR [OF THIS STATE UNDER AS 26.23.020], an appropriate licensed health care provider need not be present with the patient to assist a physician or physician assistant with examination, diagnosis, and treatment if the physician or physician assistant is prescribing, dispensing, or administering buprenorphine to initiate treatment for opioid use disorder and the physician or physician assistant (under 21 U.S.C. 823(g)(2) (Drug Addiction Treatment Act (DATA)))

(1) is a Drug Addiction Treatment Act (DATA) waived practitioner;

(2) documents all attempts to conduct a physical examination under

AS 08.64.364(b) and the reason why the examination cannot be performed; and

(3) requires urine or oral toxicology screening as part of the patient's medication adherence plan. (Eff. 10/8/2017, Register 224; am 5/5/2020, Register 234; am 9 / 20 / 2020 ,

Register 235)

Authority: AS 08.64.100

AS 08.64.101

AS 08.64.364

(C) Publisher: At the end of the editor's note that follows 12 AAC 40.943, please add the following new paragraph:
~~Previously~~ The State Medical Board originally adopted

12 AAC 40.943(b) by emergency action on April 30, 2020. Those
emergency regulations were filed and took effect May 5, 2020,
with an expiration date of September 1, 2020 under AS 44.62.260.

Owing in part to confusion about whether AS 44.62.260 or a governor's
disaster declaration under AS 26.23.020 set the duration of the
emergency regulations, the State Medical Board proposed a minor
amendment to add "or oral" after "urine" in 12 AAC 40.943(b)(3)

to the emergency regulations. On May 7, 2020, the board adopted
that change with the rest of 12 AAC 40.943(b) as a single set of
~~which~~ emergency regulations, and issued a supplemental public
notice under AS 44.62.190 stating that the board intended to
to make the emergency regulations permanent. So that all
the emergency regulations would have a single effective date,
and thus a single expiration date if not made permanent, the
regulations attorney requested that the lieutenant governor's
office file the regulations with the original May 5, 2020
effective date.

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: August 14, 2020

File No.: 2020200365

Tel. No.: 465-3600

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

Re: State Medical Board emergency
regulations made permanent re:
telemedicine (12 AAC 40.943)

The Department of Law has reviewed, against the statutory standards of the Administrative Procedure Act, the attached emergency regulations that the State Medical Board intends to make permanent with further amendments. Based upon our review, we find no legal problems. I have reviewed this project under a delegation of authority dated March 23, 2020 from the regulations attorney.

As explained in this memorandum, the emergency regulations were adopted on April 30, 2020, and were filed and took effect on May 5, 2020; the emergency regulations were readopted with a small amendment on May 11, 2020, were filed on May 12, 2020, and had the same May 5, 2020 effective date. All of the emergency regulations will expire on September 1, 2020 unless made permanent.

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 State Medical Board after the close of the public comment period. In response to the COVID-19 pandemic, the regulations relax telemedicine requirements to allow a physician or physician assistant to examine, diagnose, and treat a patient for an opioid use disorder without a healthcare provider present with the patient, during a disaster emergency declared by the governor.

The May 1, 2020 certification of adoption order for the emergency regulations, the May 11, 2020 certification of adoption order for the emergency regulations, the May 10, 2020 public notice, the May 14, 2020 supplemental public notice, the July 27, 2020 certification of compliance, and the July 27, 2020 certification of adoption order all state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

The State Medical Board originally adopted 12 AAC 40.943(b) by emergency action on April 30, 2020. Those regulations were filed and took effect May 5, 2020, with an expiration date of September 1, 2020 under AS 44.62.260. Owing in part to confusion about whether

AS 44.62.260 or a governor's disaster declaration under AS 26.23.020 set the duration of the emergency regulations, the State Medical Board proposed a minor amendment to add "or oral" after "urine" in 12 AAC 40.943(b)(3) to the emergency regulations.

On May 7, 2020, the board adopted that change with the rest of 12 AAC 40.943(b) as a single set of emergency regulations, and issued a supplemental public notice under AS 44.62.190 stating that the board intended to make the emergency regulations permanent. So that all the emergency regulations would have a single effective date, and thus a single expiration date if not made permanent, the regulations attorney requested that the lieutenant governor's office file the regulations with the original May 5, 2020 effective date. To bump the effective date beyond the original effective date would raise questions as to whether the State Medical Board's emergency regulations were in compliance with AS 44.62.260. On the other hand, to allow the two-word amendment to survive beyond the expiration date of the rest of the regulations would lead to a useless result.

After the existing editor's note for 12 AAC 40.943 we have inserted a new paragraph to explain the effective date and expiration date of the emergency regulations. We have also made some technical corrections to conform the regulations in accordance with AS 44.62.125. The editor's note text and corrections are shown on the attached copy of the regulations.

SCW

cc w/enc: Richard Wein, M.D., Chair
State Medical Board
(via e-mail through Sher Zinn)

Amy Demboski, Assistant Commissioner and Regulations Contact
Department of Commerce, Community, and Economic Development

Alysia Jones, Executive Administrator, State Medical Board
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

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

NOTICE OF ADOPTION OF EMERGENCY REGULATION
OF THE STATE MEDICAL BOARD

BRIEF DESCRIPTION: The State Medical Board adopted emergency regulations regarding telemedicine.

On April 30, 2020, the State Medical Board adopted, as emergency regulations, changes in 12 AAC 40 of the Alaska Administrative Code dealing with telemedicine, including the following:

12 AAC 40.943. Standards of practice for telemedicine, is being amended to allow a physician or physician assistant to examine, diagnose and treat a patient for an opioid use disorder without a healthcare provider present with the patient, during a public health emergency disaster declared by the governor under AS 26.23.020.

The emergency regulation took effect May 5, 2020, and will expire September 1, 2020. The State Medical Board does not intend to make the emergency regulations filed May 5, 2020, permanent.

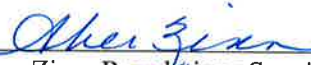
A copy of the emergency regulation is available on the Alaska Online Public Notice System and by contacting Sher Zinn at (907) 465-1049 or RegulationsAndPublicComment@alaska.gov, or go to <https://www.commerce.alaska.gov/web/portals/5/pub/MED-0520-Regs.pdf>.

Statutory authority: AS 08.64.100; AS 08.64.101; AS 08.64.364

Statutes being implemented, interpreted, or made specific: AS 08.64.100; AS 08.64.101; AS 08.64.364

Fiscal information: The regulation is not expected to require an increased appropriation.

Date: 5/8/2020



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:** State Medical Board – Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
2. **General subject of regulation:** Telemedicine.
3. **Citation of regulation:** 12 AAC 40.943.

4. **Department of Law file number:**
5. **Reason for the proposed action:** Emergency regulations dealing with the declared public health emergency for the COVID 19 pandemic.
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:**
Alysia Jones, Executive Administrator
State Medical Board
Division of Corporations, Business and Professional Licensing
Telephone: (907) 465-6243
E-mail: alysia.jones@alaska.gov
10. **The origin of the proposed action:** State Medical Board.
11. **Date:** 5/8/2020 **Prepared by:** Sher Zinn
Sher Zinn
Regulations Specialist

SUPPLEMENTAL NOTICE OF ADOPTION OF EMERGENCY
REGULATION OF THE STATE MEDICAL BOARD

BRIEF DESCRIPTION: The State Medical Board adopted emergency regulations regarding telemedicine.

On May 7, 2020, the State Medical Board adopted, as emergency regulations, changes in 12 AAC 40 of the Alaska Administrative Code dealing with telemedicine, including the following:

12 AAC 40.943. Standards of practice for telemedicine, is being amended to allow a physician or physician assistant to examine, diagnose and treat a patient for an opioid use disorder without a healthcare provider present with the patient, during a public health emergency disaster declared by the governor under AS 26.23.020.

The emergency regulation took effect May 5, 2020, and will expire September 1, 2020 unless made permanent. The State Medical Board intends to make the emergency regulations permanent.

This is a SUPPLEMENTAL NOTICE adding to the NOTICE OF ADOPTION OF EMERGENCY REGULATION OF THE STATE MEDICAL BOARD that was issued May 10, 2020. This SUPPLEMENTAL NOTICE is being issued because the State Medical Board, during its May 7, 2020 teleconference meeting, made amendments to its initial regulations addressed in the May 10, 2020 NOTICE OF ADOPTION OF EMERGENCY REGULATION: regulations that the board initially adopted at the board's April 30, 2020 meeting, that the lieutenant governor's office filed on May 5, 2020; and that the May 10, 2020 NOTICE OF ADOPTION stated were not going to be made permanent. The State Medical Board is issuing this SUPPLEMENTAL NOTICE to announce the adoption of all the amendments to 12 AAC 40.943, those made at the board's April 30, 2020 meeting and those made at the May 7, 2020 meeting, to announce that the board intends to make all of the regulations permanent, and to open a written comment period regarding the amended regulation changes.

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. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system at <http://notice.alaska.gov/198186>, and using the comment link. **The comments must be received not later than 4:30 p.m. on June 16, 2020.** 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. **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/StateMedicalBoard.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, no later than June 9, 2020, to ensure that any necessary accommodation can be provided.

A copy of the emergency regulation 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/MEDEmergencyRegsFiled.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 08.64.100; AS 08.64.101; AS 08.64.364

Statutes being implemented, interpreted, or made specific: AS 08.64.100; AS 08.64.101; AS 08.64.364

Fiscal information: The regulation is not expected to require an increased appropriation.

Date: 5/14/2020


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:** State Medical Board – Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
2. **General subject of regulation:** Telemedicine.
3. **Citation of regulation:** 12 AAC 40.943.
4. **Department of Law file number:** 2020200365
5. **Reason for the proposed action:** Emergency regulations dealing with the declared public health emergency for the COVID 19 pandemic.
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:**
Alysia Jones, Executive Administrator
State Medical Board
Division of Corporations, Business and Professional Licensing
Telephone: (907) 465-6243
E-mail: alysia.jones@alaska.gov

10. **The origin of the proposed action:** State Medical Board.

11. **Date:** 5/14/2020

Prepared by: Sher Zinn
Sher Zinn
Regulations Specialist

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 268972 ST OF AK/DEC/OCCU
Attention To: ATTN TO: JUN MAIQUIS
PO BOX 110806, JUNEAU, AK 99811

Order #: W0015166

Cost: \$263.98

RECEIVED
JUN 02 2020
Division of Corporations, Business
and Professional Licensing

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Lisi Misa being first duly sworn on oath deposes and says that 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 afore-said 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

05/10/2020

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 _____

Subscribed and sworn to before me
this 18th day of May 2020.

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

Jada L. Nowling
PUBLIC

MY COMMISSION EXPIRES

7/14/2020

NOTICE OF ADOPTION OF EMERGENCY REGULATION OF THE STATE MEDICAL BOARD

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The emergency regulation took effect May 5, 2020, and will expire September 1, 2020. The State Medical Board does not intend to make the emergency regulations, filed on May 5, 2020, permanent.

A copy of the emergency regulation 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/MED-0520-Regs.pdf>.

Statutory authority: AS 08.64.100; AS 08.64.101; AS 08.64.364

Statutes being implemented, interpreted, or made specific: AS 08.64.100; AS 08.64.101; AS 08.64.364

Fiscal information: The regulation is not expected to require an increased appropriation.

Date: 5/8/2020

/s/ Sher Zinn, Regulations Specialist
Division of Corporations, Business and
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Published: May 10, 2020

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 268972 ST OF AK/DEC/OCCU
Attention To: ATTN TO: JUN MAIQUIS
PO BOX 110806, JUNEAU, AK 99811

Order #: W0015271

Cost: \$557.8

RECEIVED
JUN 02 2020
Division of Corporations, Business
and Professional Licensing

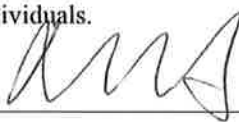
STATE OF ALASKA THIRD JUDICIAL DISTRICT

Lisi Misa being first duly sworn on oath deposes and says that 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 afore-said 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

05/14/2020

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



Subscribed and sworn to before me
this 18th day of May 2020.

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

MY COMMISSION EXPIRES

7/14/2020

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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. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system at <http://notice.alaska.gov/198186>, and using the comment link. The comments must be received not later than 4:30 p.m. on June 16, 2020. 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. 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/cpl/ProfessionalLicensing/StateMedicalBoard.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, no later than June 9, 2020, to ensure that any necessary accommodation can be provided.

A copy of the emergency regulation 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/s/pub/MEEmergencyRegsFiled.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 08.64.100; AS 08.64.101; AS 08.64.364

Statutes being implemented, interpreted, or made specific: AS 08.64.100; AS 08.64.101; AS 08.64.364

Fiscal Information: The regulation is not expected to require an increased appropriation.

Date: 5/14/2020
By: /s/ Sher Zinn,
Regulations Specialist
Division of Corporations, Business and
Professional Licensing

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Published: May 14, 2020

AFFIDAVIT OF NOTICE OF ADOPTION
OF EMERGENCY REGULATION
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 44.62.250, notice of the May 5, 2020 emergency changes to 12 AAC 40, dealing with telemedicine, has been given under AS 44.62.190(a) 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 regulation;
- (6) electronically transmitted 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 May 14, 2020 emergency changes to the regulation described above has been furnished to interested persons and furnished to 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: 6/3/2020

Sher Zinn
Sher Zinn, Regulations Specialist

Subscribed and sworn to before me at Juneau, Alaska on 6/3/2020.

Jolene Siirila
Notary Public in and for the State of Alaska



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 State Medical Board 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 State Medical regulations on dealing with telemedicine.

Date: 7/24/2020

Sher Zinn
Sher Zinn, Regulations Specialist

Subscribed and sworn to before me at Juneau, Alaska on
7.24.2020
(date)



Jolene Siirila
Notary Public in and for the State of Alaska
My commission expires: w/ office

AFFIDAVIT OF STATE MEDICAL BOARD ACTION

I, Alysia Jones, for State Medical Board, under penalty of perjury, state the following:

The attached motion dealing with telemedicine, was passed by the State Medical Board during its July 23, 2020 meeting.

There is no notary public or other official empowered to administer oaths available to notarize this document as a result of social distancing requirements implemented statewide.

I certify under penalty of perjury that the foregoing is true.

Date: 7/27/2020

DocuSigned by:
Alysia Jones
AD8AD198F73048B...

(password-protected electronic signature)
Alysia Jones, Executive Administrator
State Medical Board

State of Alaska
Juneau, Juneau City and Borough

Excerpt from July 23, 2020, State Medical Board Teleconference:

The Chair stated that the board reviewed the public comments relating to proposed changes to 12 AAC 40.943 at their July 9th meeting and determined the comments warranted a separate, more in-depth discussion at a future meeting.

Additionally, the board determined there is no additional cost to the public for the proposed regulations.

On a motion duly made by Dr. Daugherty, seconded by Dr. Freeman, and approved by the majority, the Board revised the proposed changes, new subsection (b) of 12 AAC 40.943 Standards of Practice for Telemedicine by implementing the following amendments:

Strike “Declared by the Governor of this state under AS 26.23.020” and replace with “During a disaster emergency”

Dr. Daugherty, Dr. Freeman, Dr. Gay, Ms. Mielke, and Dr. Wein vote “Yes”, Mr. Boswell voted “No”. Motion carried.

FINDING OF EMERGENCY

The State Medical Board finds that an emergency exists and that the attached regulation changes are necessary to 12 AAC 40.943, dealing with telemedicine, for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

The recent regulation allowing the initiation of medication assisted treatment via telemedicine was found too restrictive and an amendment was necessary to avoid a negative health impact on the public by decreasing access to and engagement with treatment during this public health emergency caused by the COVID-19 pandemic.

ORDER CERTIFYING ADOPTION

I certify that the State Medical Board, under the authority of AS 08.64.100, AS 08.64.101, and AS 08.64.364, adopted at its May 7, 2020 teleconference meeting the attached two pages of regulation changes as an emergency regulation to take effect immediately upon filing by the lieutenant governor, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

DATE: 5/11/2020
Juneau, Alaska

Alysia D. Jones Digitally signed by Alysia D. Jones
Date: 2020.05.11 16:30:27 -08'00'

Alysia Jones, Executive Administrator
State Medical Board

April Simpson for

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on May
12th, 2020, at 1:42 p.m., I filed the attached regulations according to the provisions of AS 44.62.

for *Kevin Meyer*
Kevin Meyer, Lieutenant Governor

Effective: May 5, 2020

Register: 234, July 2020

Expires September 1st 2020
unless made "permanent"
by the adopting agency

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.**



K. Meyer
.....

**KEVIN MEYER
LIEUTENANT GOVERNOR**

EMERGENCY REGULATIONS

Register 234, July 2020 PROFESSIONAL REGULATIONS

Chapter 40. State Medical Board.

12 AAC 40.943 is amended to read:

12 AAC 40.943. Standard of practice for telemedicine. (a) The guiding principles for telemedicine practice in the American Medical Association (AMA), *Report 7 of the Council on Medical Service (A-14), Coverage of and Payment for Telemedicine*, dated 2014, and the Federation of State Medical Boards (FSMB), *Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine*, dated April 2014, are adopted by reference as the standards of practice when providing treatment, rendering a diagnosis, prescribing, dispensing, or administering a prescription or controlled substance without first conducting an in-person physical examination under AS 08.64.364.

(b) During a public health emergency disaster declared by the governor of this state under AS 26.23.020, an appropriate licensed health care provider need not be present with the patient to assist a physician or physician assistant with examination, diagnosis, and treatment if the physician or physician-assistant is prescribing, dispensing, or administering buprenorphine to initiate treatment for opioid use disorder and the physician or physician assistant

(1) is a Drug Addiction Treatment Act (DATA) waived practitioner;

(2) documents all attempts to conduct a physical examination under AS 08.64.364(b) and the reason why the examination cannot be performed; and

(3) requires urine or oral toxicology screening as part of the patient's medication adherence plan. (Eff. 10/8/2017, Register 224; am 5 / 5 / 2020, Register

234)

EMERGENCY REGULATIONS

Register 234, July 2020 **PROFESSIONAL REGULATIONS**

Authority: AS 08.64.100 AS 08.64.101 AS 08.64.364