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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

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, appearing to be "AS", is written over the name "April Simpson".

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
ADB8AD198F73048B...

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 Simpson 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.



Kevin Meyer

**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. ((i leave lowercase)))

((i leave lowercase))) (b) During a **disaster** [PUBLIC HEALTH] emergency [DISASTER] ((i 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 [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:

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 ~~such~~ 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.