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Lieutenant Governor
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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

DATE: September 4, 2020

RE: Filed Permanent Regulations: Board of Dental Examiners

Board of Dental Examiners regulations re: examinations, registration with PDMP controlled substance prescription database, and administration of opioids to patients (12 AAC 28.940; 12 AAC 28.953; 12 AAC 28.957)

Attorney General File:	2020200378
Regulation Filed:	9/4/2020
Effective Date:	10/4/2020
Print:	236, January 2021

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

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE BOARD OF DENTAL EXAMINERS


The attached two pages of regulations, dealing with examinations, registration with the prescription drug monitoring program (PDMP), and the use of an opioid for acute dental pain, are hereby certified to be a correct copy of the regulation changes that the Board of Dental Examiners adopted at its August 7, 2020 meeting, under the authority of AS 08.36.070; AS 08.36.110; AS 08.36.234; AS 08.36.355; and AS 17.30.200, 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 Dental 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: 8/7/2020
Anchorage, Alaska


DocuSigned by:

CE9D767EED2B418

Dr. David Nielson, President
Board of Dental Examiners

April Simpson for

FILING CERTIFICATION

I, ^TKevin Meyer, Lieutenant Governor for the State of Alaska, certify that on September 4th, 2020 at 1:28 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.

for 

Kevin Meyer, Lieutenant Governor

Effective: October 4, 2020.

Register: 236, January 2021.

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 28. Board of Dental Examiners.

« Publisher: At the end of the introductory language of 12 AAC 28.940(b)(8)(B), after "characteristics", change the semicolon to a colon »

12 AAC 28.940(b)(8)(B)(ii) is repealed:

« bold and underline not necessary »

(ii) **repealed** 10 / 4 / 2020; ~~[PATIENT-BASED~~

~~-PERIODONTICS TESTING;]~~

12 AAC 28.940(b)(8)(B)(iii) is amended to read:

(iii) constructive response or objective structured clinical exam

testing that includes diagnosis and treatment planning, periodontics, restorative

dentistry, oral pathology, medical considerations, prescription writing and

prosthodontics;

« Publisher: At the end of 12 AAC 28.940(b)(8)(B)(iv), change the colon to a semicolon »
« Publisher: In 12 AAC 28.940(b)(8)(B)(v), after "testing" change the period to a comma, and after "bridge prep" change the colon to a semicolon »

12 AAC 28.940(b)(8)(B)(vi) is amended to read:

(vi) ^(a) patient based, or if passed before December 31, 2020, a

mannequin based operative examination that includes one class II posterior alloy

or composite procedure, and one additional operative procedure, either anterior

class III or posterior class II; or

(Eff. 1/28/2000, Register 153; am 8/15/2001, Register 159; am 1/15/2003, Register 165; am

1/22/2004, Register 169; am 4/27/2007, Register 182; am 10/19/2008, Register 188; am

12/2/2012, Register 204; am 12/15/2013, Register 208; am 9/26/2018, Register 227; am

5/1/2019, Register 230; am 3/5/2020, Register 233; am 10 / 4 / 2020, Register 236)

Authority: AS 08.36.070

AS 08.36.110

Register 236, January 2020 ¹ PROFESSIONAL REGULATIONS

12 AAC 28.953 is repealed and readopted to read:

12 AAC 28.953. Registration with the prescription drug monitoring program controlled substance prescription database. A licensed dentist under this chapter who holds a federal Drug Enforcement Administration registration number must

(1) register with the prescription drug monitoring program (PDMP) controlled substance prescription database (not later than) (after) within 30 days of initial licensure or registration with the Drug Enforcement Administration (DEA), whichever is later; and

(2) comply with the requirements of AS 17.30.200 and 12 AAC 52.865. (Eff. 9/26/2018, Register 227; am 10 / 4 / 2020, Register 236)

Authority: AS 08.36.070 AS 08.36.234 AS 17.30.200
AS 08.36.110

12 AAC 28 is amended by adding a new section to read:

12 AAC 28.957. Maximum dosage of an opioid for acute pain. A dentist prescribing or dispensing an opioid for acute dental pain under AS 08.36.355 ^{may} ~~shall~~ not exceed 60 morphine milligram equivalents (MME) a day. (Eff. 10 / 4 / 2020, Register 236)

Authority: AS 08.36.070 AS 08.36.355

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: September 2, 2020

File No.: 2020200378

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: Board of Dental Examiners
regulations re: examinations,
registration with the PDMP
controlled substance prescription
database, and administration of
opioids to patients (12 AAC 28.940;
12 AAC 28.953; 12 AAC 28.957)

The Department of Law has reviewed the attached regulations of the Board of Dental Examiners 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 Board of Dental Examiners after the close of the public comment period. In part to address the COVID-19 pandemic, the regulations concern the suspension of patient-based periodontics testing as part of examinations for applicants, the use of mannequins as part of examinations for applicants, other aspects of examinations for applicants, registration with the prescription drug management program (PDMP) controlled substance prescription database, and the administration of opioids to patients.

The May 19, 2020 public notice and the August 7, 2020 certification of 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 w/enc.: Dr. David Nielson, President
Board of Dental Examiners
(via e-mail through Sher Zinn)

Amy Demboski, Assistant Commissioner and Regulations Contact
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

Harriet Dinegar-Milks, Senior Assistant Attorney General
Commercial, Fair Business, and Child Support Section

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE BOARD OF DENTAL EXAMINERS

BRIEF DESCRIPTION: The Board of Dental Examiners proposes to update regulations regarding examinations, registration with the prescription drug monitoring program (PDMP), and the use of an opioid for acute dental pain.

The Board of Dental Examiners (Board) proposes to adopt regulation changes in Title 12, Chapter 28 of the Alaska Administrative Code including the following:

1. **12 AAC 28.940. Dental licensure by examination**, is being proposed to repeal the patient based periodontics testing, amend the constructive response testing, and allow for a mannequin based examination if taken before December 31, 2020. These regulations are being proposed as a response to the public health emergency declared by the governor March 11, 2020.
2. **12 AAC 28.953. Registration with the prescription drug monitoring program controlled substance prescription database**, is being proposed to repeal and readopt the requirements for registration with the prescription drug monitoring program (PDMP).
3. **12 AAC 28.957. Maximum dosage of an opioid for acute pain**, is a proposed new section that limits a dentist's prescription or dispensing of an opioid.

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/198237>, and using the comment link. **The comments must be received not later than 4:30 p.m. on June 19, 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/BoardofDentalExaminers.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 12, 2020, to ensure that any necessary accommodation 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/DEN-Regs-0520.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 08.36.070; AS 08.36.110; AS 08.36.234; AS 08.36.355; AS 17.30.200.

Statutes Being Implemented, Interpreted, or Made Specific: AS 08.36.070; AS 08.36.110; AS 08.36.234; AS 08.36.355; AS 17.30.200.

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

DATE: 5/19/2020

Sher Zinn
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:** Board of Dental Examiners – Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
2. **General subject of regulation:** Examinations, prescription drug monitoring program, prescribing and dispensing.
3. **Citation of regulation:** 12 AAC 28.940; 12 AAC 28.953; 12 AAC 28.957.
4. **Department of Law file number:** To be assigned.
5. **Reason for the proposed action:** Update and clarification of current regulations.
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:**
Christianne Carrillo, Licensing Examiner
Board of Dental Examiners
Division of Corporations, Business and Professional Licensing
Telephone: (907) 465-2542
E-mail: christianne.carrillo@alaska.gov
10. **The origin of the proposed action:** Board of Dental Examiners.
11. **Date:** 5/19/2020 **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 #: W0015401

Cost: \$508

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

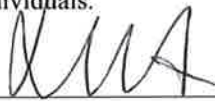
STATE OF ALASKA
THIRD JUDICIAL DISTRICT

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

05/19/2020

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 21st day of May 2020.

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

MY COMMISSION EXPIRES

7/14/2020

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE BOARD OF DENTAL EXAMINERS

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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/BoardofDentalExaminers.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 12, 2020, to ensure that any necessary accommodation can be provided.

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Statutory Authority: AS 08.36.070; AS 08.36.110; AS 08.36.234; AS 08.36.355; AS 17.30.200.

Statutes Being Implemented, Interpreted, or Made Specific: AS 08.36.070; AS 08.36.110; AS 08.36.234; AS 08.36.355; AS 17.30.200.

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

DATE: 5/19/2020
/s/ 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.

Published: May 19, 2020

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 28, dealing with examinations, registration with the prescription drug monitoring program (PDMP), and the use of an opioid for acute dental pain, 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.

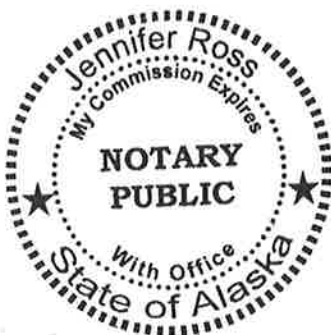
Date: 8/10/2020

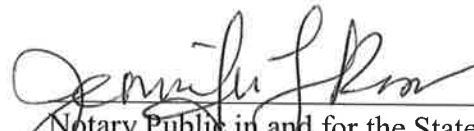


Sher Zinn, Regulations Specialist

Subscribed and sworn to before me at Juneau, AK on
8/10/2020

(date)





Notary Public in and for the State of Alaska
My commission expires with office

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 Board of Dental Examiners regulations on dealing with examinations, registration with the prescription drug monitoring program (PDMP), and the use of an opioid for acute dental pain.

Date: 8/10/2020

Sher Zinn
Sher Zinn, Regulations Specialist

Subscribed and sworn to before me at Juneau, Alaska on
8/10/2020
(date)



Jennifer J. Ross
Notary Public in and for the State of Alaska
My commission expires: with office

Excerpt of August 7, 2020 Board of Dental Examiners Teleconference

Agenda Item 7

Regulation Update: Chapter 28

Time: 10:31 AM

Public comment about the regulation project was discussed. There was a discussion about mannequin based exams. Dr. Nielson proposed that the board votes on the regulations as written.

On a motion duly made by Dr. David Nielson, seconded by Dr. Dominic Wenzell, and approved unanimously by a roll call, it was

RESOLVED to adopt the entire regulation project as written.

AFFIDAVIT OF BOARD OF DENTAL EXAMINERS ACTION

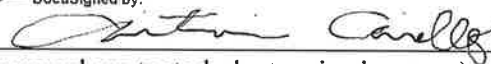
I, Christianne Carrillo, Licensing Examiner, for the Board of Dental Examiners, under penalty of perjury, state the following:

The attached motion dealing with examinations, registration with the prescription drug monitoring program (PDMP), and the use of an opioid for acute dental pain, was passed by the Board of Dental Examiners during its August 7, 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: 8/10/2020

DocuSigned by:

(password-protected electronic signature)
Christianne Carrillo

State of Alaska
Juneau, Juneau City and Borough