

Kevin Meyer  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
WWW.LTGOV.ALASKA.GOV




530 West 7<sup>th</sup> Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Triptaa Surve  
Department of Health and Social Services

**FROM:** April Simpson, Office of the Lieutenant Governor   
465.4081

**DATE:** December 7, 2020

**RE:** Filed Permanent Regulations: Department of Health and Social Services

Department of Health and Social Services emergency regulations made permanent re:  
permitted disclosure of identifiable health information for public health purposes (7  
AAC 27.650(e)(1); 7 AAC 27.655(a); 7 AAC 27.891(c); 7 ACC 27.900; 7 AAC 27.903; 7  
AAC 27.990)

---

Attorney General File:	2020200588
Regulation Filed:	12/7/2020
Effective Date:	9/21/2020 & 1/06/2021
Print:	237, April 2021

cc with enclosures: Harry Hale, Department of Law  
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS  
OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

The attached 8 pages of regulations, dealing with Permitted Public Health Information Disclosures During a Declared Public Health Emergency, specifically, 7 AAC 27. Preventive Medical Services; New section- 7 AAC 27.903. Permitted disclosures during a federal or state-declared public health disaster emergency, are adopted and certified to be a correct copy of the regulation changes that the Department of Health and Social Services adopts under the authority of AS 18.05.010, AS 18.05.030, AS 18.05.040, AS 18.15.355, AS 18.15.360, AS 18.15.362, AS 18.15.395, AS 44.29.022, AS 47.05.010, and AS 47.07.030, 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 paid special attention to the cost to private persons of the regulatory action being taken.

The regulations were first amended as emergency regulations effective September 21, 2020. These changes make permanent, with amendments, those regulations and the regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

**Adam Crum**

Digitally signed by Adam Crum  
Date: 2020.12.03 12:51:59 -09'00'

Adam Crum

Commissioner, Department of Health & Social Services

FILING CERTIFICATION

*April Simpson for*  
↑

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on December 7, 2020, at 3:50 p.m., I filed the attached regulation according to the provisions of AS 44.62.

*Kevin Meyer*  
for Lieutenant Governor *Kevin Meyer*

Register:

237, April 2021

CERTIFICATION OF COMPLIANCE

I, Adam Crum, Commissioner, certify that, as required by AS 44.62.260 in order to make the attached 8 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:

Permitted Public Health Information Disclosures During a Declared Public Health Emergency, specifically, 7 AAC 27. Preventive Medical Services; New section- 7 AAC 27.903. Permitted disclosures during a federal or state-declared public health disaster emergency.

This regulation originally was filed as an emergency regulation on September 21, 2020.

In considering the public comments, the Department of Health & Social Services paid special attention to the cost to private persons of the regulatory action being taken.

**Adam Crum**

Digitally signed by Adam Crum  
Date: 2020.12.03 12:52:24 -09'00'

Adam Crum

Commissioner, Department of Health & Social Services

FILING CERTIFICATION

*April Simpson for*

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on December 7, 2020, at 3:51 p.m., I filed the attached regulation according to the provisions of AS 44.62.

*for* *Kevin Meyer*  
Lieutenant Governor *Kevin Meyer*

Register: 237, April 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.**



*K. Meyer*

**KEVIN MEYER  
LIEUTENANT GOVERNOR**

The emergency amendment of 7 AAC 27.650(e)(1) is made permanent to read:

- (1) any use permitted under 7 AAC 27.892, 7 AAC 27.893, and 7 AAC 27.903;

(Eff. 12/29/2013, Register 208; am 9/21/2020, Register 236)

**Authority:** AS 18.05.010 AS 18.15.355 AS 18.15.362  
AS 18.05.040 AS 18.15.360

The emergency amendment of 7 AAC 27.655(a) is made permanent to read:

(a) A request for patient-specific data from the immunization information system maintained by the department will be responded to only if made by an authorized health care provider for information about a patient under its care, by a public health authority for patients within its jurisdiction, or as otherwise allowed under 7 AAC 27.893(b) or 7 AAC 27.903.

Except as described in 7 AAC 27.893(b) or 7 AAC 27.903, a request from a person other than an authorized health care provider, from an authorized health care provider for data beyond that of a specific patient under its care, or from a public health authority for data beyond that of patients within the public health authority's jurisdiction will be considered on a case-by-case basis in the interest of public health practice and will be responded to only with aggregate or de-identified data.

(Eff. 12/29/2013, Register 208; am 9/21/2020, Register 236)

**Authority:** AS 18.05.010 AS 18.15.355 AS 18.15.362  
AS 18.05.040 AS 18.15.360 AS 44.29.022

The emergency amendment of 7 AAC 27.891(c) is made permanent to read:

(c) A public health agent in the department is authorized to use identifiable health information to accomplish a public health purpose in a manner consistent with 7 AAC 27.892. A public health agent is permitted to disclose identifiable health information only for purposes and in a manner consistent with 7 AAC 27.893 and 7 AAC 27.903. (Eff. 12/29/2006, Register 180; am 9/21/2020, Register 236)

**Authority:** AS 18.05.040            AS 18.15.360            AS 18.15.362  
AS 18.15.355

**Editor's note: Effective September 21, 2020, the Department of Health and Social Services adopted an emergency amendment to add "and 7 AAC 27.903" to 7 AAC 27.891(c). Owing to a technical oversight, the remainder of 7 AAC 27.891(c) was incorrectly displayed. When preparing the emergency regulations for filing as permanent regulations, the regulations attorney made a technical correction under AS 44.62.125(b) to restore the correct existing text of 7 AAC 27.891(c). The history note for 7 AAC 27.891 does not reflect the technical correction.**

The emergency repeal of 7 AAC 27.900 is made permanent to read: ,

**7 AAC 27.900. Definitions.** Repealed. (Eff. 1/19/96, Register 137; am 2/10/99, Register 149; am 12/29/2006, Register 180; am 12/29/2013, Register 208; repealed 9/21/2020, Register 236)

**Editor's note:** The subject matter of [ON] 7 AAC 27.900 has been relocated to 7 AAC 27.990.

The emergency adoption of 7 AAC 27.903 in article 16 is made permanent and that section is further amended to read:

**7 AAC 27.903. Permitted disclosures during a federal- or state-declared public health disaster emergency.** (a) The department may disclose identifiable health information that the department collects, uses, and maintains under AS 18.05 or AS 18.15 in the conduct of public health surveillance, investigation, and intervention during a public health disaster emergency declared by the governor or by the federal government that is related to a contagious disease outbreak when an individual who is the subject of the information provides written consent to the disclosure as set out in 7 AAC 27.896, under all circumstances described in 7 AAC 27.893, and under the circumstances set out in this section.

---

(b) In addition to the disclosures permitted in 7 AAC 27.893, the department may disclose the minimum necessary identifiable health information without written consent from an individual if the disclosure is to

(1) a federal public health agency, health oversight agency, or law enforcement authority as permitted by federal or state law for the purpose of disease prevention;

(2) a school district, school, college, university, or licensed child care facility to provide information concerning contagious disease status and immunizations to promote effective disease prevention and control in schools and child care facilities within the state;

(3) an individual or group of individuals directly able to prevent or lessen a

serious and imminent threat to the health of a group of individuals, or the public;

(4) an individual or group of individuals who may have been exposed to a contagious or possibly contagious disease or may otherwise be at imminent risk of contracting or spreading that disease; [OR]

(5) a state agency, local government, village, federally recognized tribe, or tribal health program for the purpose of preventing or lessening a serious and imminent threat to the health of an individual, group of individuals, or the public being served by that entity; or

**(6) the Department of Labor and Workforce Development, Division of Labor Standards and Safety, Alaska Occupational Safety and Health (AKOSH) program, for the purposes of public health investigation and outbreak prevention and control, and to assist the program in its investigatory activities related to those purposes.**

(c) The department may disclose minimum necessary identifiable health information under this section for the purpose of conducting its own public health surveillance, investigation, intervention, prevention, and treatment.

(d) An individual or entity who receives identifiable health information from the department as a permitted disclosure under (a) of this section may not disclose the information to another individual or entity except for a purpose authorized in the written consent. Any identifiable health information disclosed by the department under this subsection shall be accompanied by

(1) a statement explaining the restriction on secondary disclosures under this subsection; and

(2) any relevant written consent that the department knowingly has in its



possession.

(e) A public health agent may disclose the identity of an individual who has violated an order of a state medical officer under AS 18.15.375 or an emergency administrative order issued under AS 18.15.385 to the operator or manager of a public conveyance, accommodation, or other public place to prevent the spread of a contagious or possibly contagious disease.

(f) The department will not disclose identifiable health information in the course of legal discovery, subpoena, or compelled testimony of a public health agent, in any civil, criminal, administrative, or other legal proceeding, except

(1) in a legal proceeding initiated by a public health agent or public health official for quarantine or isolation of the individual or group of individuals who is [ARE] the subject of the health information to be disclosed, whether the proceeding is open or closed to the public; or

(2) when a court orders the disclosure.

---

~~(g) Nothing in this section prohibits or restricts disclosure of identifiable health information otherwise permitted under this chapter.~~

(h) In this section,

(1) "local government" means any borough, municipality, or other political subdivision of the state;

(2) "federally recognized tribe" means an Alaska Native or American Indian tribe that is recognized by the United States Secretary of the Interior to exist as an Indian tribe under 25 U.S.C. 5129 (Federally Recognized Indian Tribe List Act of 1994); [AND]

(3) "tribal health program" means a hospital, clinic, or other type of health care

facility, program, association, or organization operated by a federally recognized tribe, or an intertribal consortium as defined in 25 U.S.C. 5381 or as established by federal law. (Eff.

9/21/2020, Register 236; am 1/6/2021, Register 237)

**Authority:** AS 18.05.010 AS 18.05.040 AS 18.15.360  
AS 18.05.030 AS 18.15.355 AS 18.15.362

The emergency amendment of 7 AAC 27 by adding a new section to Article 17 is made permanent to read:

**7 AAC 27.990. Definitions.** In this chapter, unless the context requires otherwise,

- (1) "department" means the Department of Health and Social Services;
- (2) "health care-associated infection" means a localized or systemic patient condition resulting from an infectious agent that was not present or incubating at the time of admission to a facility or entity unless the condition was related to a previous admission or procedure, including central line insertion or other surgical procedure;
- (3) "health care practitioner" has the meaning given in AS 18.15.395;
- (4) "health care provider" has the meaning given in AS 18.15.395;
- (5) "health oversight agency" means a public agency or entity acting under a grant of authority from a public agency, including an employee or agent of the public agency or its contractors, that is authorized by law to oversee a health care system or government program in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant;
- (6) "identifiable health information" has the meaning given in AS 18.15.395;

(7) "immunization information system" means a confidential, population-based, computerized database that records all immunization doses administered by participating providers to persons residing within this state or a given geographical area of this state;

(8) "infectious disease" has the meaning given in AS 18.15.395;

(9) "known rabid animal" means an animal with a positive laboratory test for rabies virus;

(10) "National Healthcare Safety Network" means the Internet-based surveillance system managed by the United States Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Healthcare Quality Promotion (DHQP);

(11) "PPD skin test" means an intradermal purified protein derivative skin test for tuberculosis;

(12) "public health agent" means an official or employee of the department who is in the division of public health or who has oversight over the division responsible for carrying out the provisions of AS 18.05 and AS 18.15;

(13) "public health official" means an employee or appointee of a local government or political subdivision of the state who is employed or appointed to fulfill public health responsibilities;

(14) "state medical officer" has the meaning given in AS 18.15.395;

(15) "working day" means a day other than Saturday, Sunday, or a state or federal holiday. (Eff. 9/21/2020, Register 236)

**Authority:** AS 18.05.040 AS 18.15.355 AS 18.15.395

**Editor's note:** The subject matter of 7 AAC 27.990 was originally set out in 7 AAC 27.900. The history of 7 AAC 27.990 does not reflect the history of the former section.

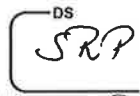
# MEMORANDUM

## State of Alaska Department of Law

**To:** The Honorable Kevin Meyer  
Lieutenant Governor

**Date:** December 3, 2020

**File No.:** 2020200588

**Thru:** Susan R. Pollard   
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:** Department of Health and Social  
Services emergency regulations made  
permanent re: permitted disclosure of  
identifiable health information for  
public health purposes (7 AAC  
27.650(e)(1); 7 AAC 27.655(a);  
7 AAC 27.891(c); 7 AAC 27.900;  
7 AAC 27.903; 7 AAC 27.990)

The Department of Law has reviewed, against the statutory standards of the Administrative Procedure Act, the attached emergency regulations that the Department of Health and Social Services intends to make permanent with further amendments. Based upon our review, we find no legal problems. The emergency regulations were adopted, were filed, and took effect on September 21, 2020. They expire on January 18, 2021 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 emergency regulations were approved by the Department of Health and Social Services, after the close of the public comment period, as permanent regulations with further permanent amendments. In response to the COVID-19 pandemic and future public health crises, the regulations enhance the ability of the Department of Health and Social Services to disclose and share health information identifiable to specific individuals during a public health disaster emergency declared by the governor or by the federal government related to a contagious disease outbreak. The regulations also make related conforming changes and reposition a chapter-wide definitions section to keep new regulations in a logical arrangement.

The September 21, 2020 emergency adoption order, the September 23, 2020 public notice, and the December 3, 2020 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.

SCW

cc w/enc: Hon. Adam Crum, Commissioner  
Department of Health and Social Services

Triptaa Surve, Regulations Contact  
Department of Health and Social Services

Heidi Hedberg, Director  
Division of Public Health  
Department of Health and Social Services

Louisa Castrodale, M.D., Veterinary Epidemiologist  
Epidemiology Section  
Division of Public Health  
Department of Health and Social Services

Kelly E. Henriksen, Senior Assistant Attorney General  
Human Services Section

Leah R. Farzin, Assistant Attorney General  
Human Services Section

NOTICE OF ADOPTION OF EMERGENCY REGULATION ON PERMITTED PUBLIC HEALTH INFORMATION DISCLOSURES DURING A DECLARED PUBLIC HEALTH EMERGENCY OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to make permanent regulation changes made by emergency regulation on permitted public health information disclosures during a declared public health emergency.

On September 21, 2020, the Department of Health & Social Services adopted, as an emergency regulation, changes in Title 7 of the Alaska Administrative Code dealing with permitted public health information disclosures during a declared public health emergency, including the following:

- 7 AAC 27. Preventive Medical Services, is proposed to be changed as follows:
  - Amend 7 AAC 27.
  - Add a new section, 7 AAC 27.903. Permitted disclosures during a federal or state-declared public health disaster emergency.
  - Add a new section, 7 AAC 990. Definitions.

The emergency regulation took effect on September 21, 2020, and will expire January 18, 2021. The Department of Health & Social Services intends to make the emergency regulation permanent.

You may comment on the regulation changes, including the potential costs to private persons of complying with the changes, by submitting written comments to Mr. Christopher Hardin, State of Alaska, Division of Public Health, Director' Office, P.O. Box 110611, Juneau, AK 99811-0611. Additionally, the Department of Health & Social Services will accept comments by electronic mail at [christopher.hardin@alaska.gov](mailto:christopher.hardin@alaska.gov) . The comments must be received not later than 5 p.m. on November 2, 2020.

You may provide oral comments relevant to the proposed action **via telephone** at the hearing to be held on October 15, 2020, 1 p.m. – 4 p.m., **by calling 1-800-944-8766, and using the participant access code number 82769#.** **Please note that in-person attendance will not be permitted at the hearing site because of the public health and safety concerns associated with the COVID – 19 pandemic. Please prepare to share your oral comments by telephone only.** If you call to provide oral testimony, you should be on the line **before** the hearing begins at 1 p.m. The Department of Health & Social Services will give priority to those who call in before 3:30 p.m. The Department of Health & Social Services may, before the hearing begins, limit the time allotted for each person providing oral testimony. The time limit may be necessary to conclude the hearing in the time provided.

You may submit written questions relevant to the proposed action to Mr. Christopher Hardin, by electronic mail at [christopher.hardin@alaska.gov](mailto:christopher.hardin@alaska.gov) or at the State of Alaska, Department of Health & Social Services, Division of Public Health, Division of Public Health, Director' Office, P.O. Box 110611, Juneau, AK 99811-0611. The questions must be received at least 10 days before the end of the public comment period. The Department of Health & Social Services will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Mr. Christopher Hardin at (907) 465-8229 not later than October 5, 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 at <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx> and by contacting Mr. Christopher Hardin at [christopher.hardin@alaska.gov](mailto:christopher.hardin@alaska.gov) or at (907) 465-8229.

The language of the permanent regulations may be different from that of the original emergency regulation and may include other provisions dealing with the same subject. You should comment during the time allowed if your interests could be affected. Written comments received are public records and are subject to public inspection.

**Statutory authority:** AS 18.05.010; AS 18.05.030; AS 18.05.040; AS 18.15.355; AS 18.15.360; AS 18.15.362; AS 18.15.395; AS 44.29.022.

**Statutes being implemented, interpreted, or made specific:** AS 18.05.010; AS 18.05.030; AS 18.05.040; AS 18.15.355; AS 18.15.360; AS 18.15.362; AS 18.15.395; AS 44.29.022.

**Fiscal information:** The regulations are not expected to require an increased appropriation.

DATE: September 21, 2020.  
/s/Adam Crum  
Commissioner,  
Department of Health & Social Services  
State of Alaska.



ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Department of Health & Social Services
2. General subject of regulation: Permitted Public Health Information Disclosures During a Declared Public Health Emergency, specifically, 7 AAC 27. Preventive Medical Services; New section- 7 AAC 27.903. Permitted disclosures during a federal or state-declared public health disaster emergency.
3. Citation of regulation (may be grouped): 7 AAC 27
4. Department of Law file number, if any: 2020200588
5. Reason for the proposed action:
  - Compliance with federal law or action (identify): \_\_\_\_\_
  - Compliance with new or changed state statute
  - Compliance with federal or state court decision (identify): \_\_\_\_\_
  - Development of program standards
  - Other (identify): Allow for disclosure of protected health information to relevant entities able to mitigate or prevent further transmission of disease during the time of a declared public health emergency.
6. Appropriation/Allocation: Public Health/Epidemiology
7. Estimated annual cost to comply with the proposed action to:
  - A private person: \$0.
  - Another state agency: \$0.
  - A municipality: \$0.

8. Cost of implementation to the state agency and available funding (in thousands of dollars): None.

	Initial Year	Subsequent Years	
	FY2021	FY2022	FY2023
Operating Cost	\$ _____	\$ _____	\$ _____
Capital Cost	\$ _____	\$ _____	\$ _____
1002 Federal receipts	\$ _____	\$ _____	\$ _____
1003 General fund match	\$ _____	\$ _____	\$ _____
1004 General fund	\$ _____	\$ _____	\$ _____
1005 General fund/ program	\$ _____	\$ _____	\$ _____
Other (identify)-Grants & Benefits	\$ _____	\$ _____	\$ _____

9. The name of the contact person for the regulation:

Name: Dr. Louisa Castrodale  
Title: Veterinary Epidemiologist  
Address: 3601 C St., Suite 540, Anchorage, AK 99503  
Telephone: (907) 269-8000  
E-mail address: louisa.castrodale@alaska.gov

10. The origin of the proposed action:
- Staff of state agency
  - Federal government
  - General public
  - Petition for regulation change<sup>7</sup>
  - Other (identify): Allow for disclosure of protected health information to relevant entities able to mitigate or prevent further transmission of disease during the time of a declared public health emergency.

11. Date & Prepared by: Louisa Castrodale
- [signature]
- Name: Dr. Louisa Castrodale.
- Title (printed): Veterinary Epidemiologist
- Telephone: (907) 269-8000
- Digitally signed by Louisa Castrodale  
Date: 2020.09.15 20:42:55 -08'00'

AFFIDAVIT OF NOTICE OF ADOPTION OF EMERGENCY REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Louisa Castrodale, Veterinary Epidemiologist, of the Department of Health & Social Services, under penalty of perjury, certify the following:

As required by AS 44.62.250, notice of the September 21, 2020, emergency changes to Permitted Public Health Information Disclosures During a Declared Public Health Emergency, specifically, 7 AAC 27. Preventive Medical Services; New section- 7 AAC 27.903. Permitted disclosures during a federal or state-declared public health disaster emergency, 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 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 September 21, 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.

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.

Louisa Castrodale Digitally signed by Louisa Castrodale  
Date: 2020.11.17 12:34:35 -09'00'

[original or password-protected electronic signature]  
Louisa Castrodale, Veterinary Epidemiologist

State of Alaska  
Anchorage, AK 99503.

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Louisa Castrodale, Veterinary Epidemiologist, of the Department of Health & Social Services, under penalty of perjury, state the following:

In compliance with AS 44.62.215, the Department of Health & Social Services has kept a record of its use or rejection of factual or other substantive information that was submitted in writing and orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Health & Social Services regulation on Permitted Public Health Information Disclosures During a Declared Public Health Emergency, specifically, 7 AAC 27. Preventive Medical Services; New section- 7 AAC 27.903. Permitted disclosures during a federal or state-declared public health disaster emergency.

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.

Louisa Castrodale

Digitally signed by Louisa  
Castrodale  
Date: 2020.11.19 18:40:01 -09'00'

[original or password-protected electronic signature]

Louisa Castrodale, Veterinary Epidemiologist

State of Alaska  
Anchorage, AK 99503.

# ANCHORAGE DAILY NEWS

## AFFIDAVIT OF PUBLICATION

Account #: 270229 ST OF AK/DHSS/COMMISSIONERS  
3601 C STREET STE 902, ANCHORAGE, AK 99503

Order #: W0018006

Cost: \$463.18

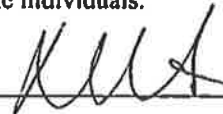
STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

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

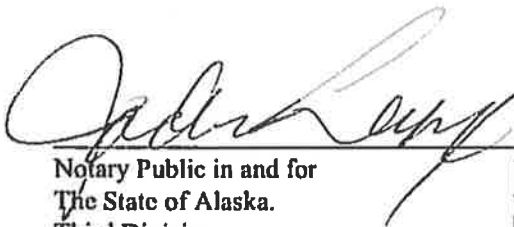
09/23/2020

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 28th day of September 2020.



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

MY COMMISSION EXPIRES

7/14/2024

### NOTICE OF ADOPTION OF EMERGENCY REGULATION ON PERMITTED PUBLIC HEALTH INFORMATION DISCLOSURES DURING A DECLARED PUBLIC HEALTH EMERGENCY OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

On September 21, 2020, the Department of Health & Social Services adopted, as an emergency regulation, changes in Title 7 of the Alaska Administrative Code dealing with permitted public health information disclosures during a declared public health emergency, including the following:

- 7 AAC 27. Preventive Medical Services, is proposed to be changed as follows:
  - o Amend 7 AAC 27.
  - o Add a new section, 7 AAC 27.903. Permitted disclosures during a federal or state-declared public health disaster emergency.
  - o Add a new section, 7 AAC 990. Definitions.

The emergency regulation took effect on September 21, 2020, and will expire January 18, 2021. The Department of Health & Social Services intends to make the emergency regulation permanent.

You may comment on the regulation changes, including the potential costs to private persons of complying with the changes, by submitting written comments to Mr. Christopher Hardin, State of Alaska, Division of Public Health, Director Office, P.O. Box 110611, Juneau, AK 99811-0611. Additionally, the Department of Health & Social Services will accept comments by electronic mail at [christopher.hardin@alaska.gov](mailto:christopher.hardin@alaska.gov). The comments must be received not later than 5 p.m. on November 2, 2020.

You may provide oral comments relevant to the proposed action via telephone at the hearing to be held on October 15, 2020, 1 p.m. - 4 p.m., by calling 1-800-944-8766, and using the participant access code number 82769#. Please note that in-person attendance will not be permitted at the hearing site because of the public health and safety concerns associated with the COVID - 19 pandemic. Please prepare to share your oral comments by telephone only. If you call to provide oral testimony, you should be on the line before the hearing begins at 1 p.m. The Department of Health & Social Services will give priority to those who call in before 3:30 p.m. The Department of Health & Social Services may, before the hearing begins, limit the time allotted for each person providing oral testimony. The time limit may be necessary to conclude the hearing in the time provided.

You may submit written questions relevant to the proposed action to Mr. Christopher Hardin, by electronic mail at [christopher.hardin@alaska.gov](mailto:christopher.hardin@alaska.gov) or at the State of Alaska, Department of Health & Social Services, Division of Public Health, Director Office, P.O. Box 110611, Juneau, AK 99811-0611. The questions must be received at least 10 days before the end of the public comment period. The Department of Health & Social Services will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Mr. Christopher Hardin at (907) 465-8229 not later than October 5, 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 at <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx> and by contacting Mr. Christopher Hardin at [christopher.hardin@alaska.gov](mailto:christopher.hardin@alaska.gov) or at (907) 465-8229.

The language of the permanent regulations may be different from that of the original emergency regulation and may include other provisions dealing with the same subject. You should comment during the time allowed if your interests could be affected. Written comments received are public records and are subject to public inspection.

Statutory authority: AS 18.05.010; AS 18.05.030; AS 18.05.040; AS 18.15.355; AS 18.15.360; AS 18.15.362; AS 18.15.395; AS 44.29.022.

Statutes being implemented, interpreted, or made specific: AS 18.05.010; AS 18.05.030; AS 18.05.040; AS 18.15.355; AS 18.15.360; AS 18.15.362; AS 18.15.395; AS 44.29.022.

Fiscal Information: The regulations are not expected to require an increased appropriation.

DATE: September 21, 2020.  
/s/Adam Crum  
Commissioner,  
Department of Health & Social Services  
State of Alaska.

Published: September 23, 2020

## AFFIDAVIT OF ORAL HEARING

I, Christopher Hardin, Administrative Assistant II, of the Department of Health & Social Services, under penalty of perjury, state the following:

On October 15, 2020, at 1 p.m., via teleconference and without in-person attendance because of the public health and safety concerns related to the COVID-19 pandemic, I presided over a public hearing held under AS 44.62.210 for the purpose of taking testimony in connection with the adoption of emergency changes to Permitted Public Health Information Disclosures During a Declared Public Health Emergency, specifically, 7 AAC 27. Preventive Medical Services; New section- 7 AAC 27.903. Permitted disclosures during a federal or state-declared public health disaster emergency.

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.

**Christopher Hardin** Digitally signed by Christopher Hardin  
Date: 2020.11.04 15:48:41 -09'00'

[original or password-protected electronic signature]

Christopher Hardin, Administrative Assistant II

State of Alaska  
Juneau, AK 99801

Kevin Meyer  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
WWW.LTGOV.ALASKA.GOV




530 West 7<sup>th</sup> Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460 269.0263  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Triptaa Surve  
Department of Health and Social Services

**FROM:** April Simpson, Office of the Lieutenant Governor   
465.4081

**DATE:** September 21, 2020

**RE:** Filed Emergency Regulations: Department of Health and Social Services  
  
Department of Health and Social Services Emergency Regulations re: Division of Public Health - Permitted Public Health Information Disclosures During a Declared Public Health Emergency (7 AAC 27)

---

Attorney General File:	Emergency Regulations
Regulation Filed:	9/21/2020
Effective Date:	9/21/2020
Expiration Date:	January 18, 2021 unless made permanent by the adopting agency
Print:	236, January 2021

cc with enclosures: Harry Hale, Department of Law  
Judy Herndon, LexisNexis

## **FINDING OF EMERGENCY**

The Department of Health and Social Service (DHSS) finds that an emergency exists because the COVID-19 pandemic has revealed a significant barrier in state law that is preventing effective information sharing between state public health authorities and state agencies, municipalities, communities, boroughs, schools and school districts, private entities, individuals, tribes and tribal health organizations, and village councils, for the purpose of preventing the spread of COVID-19. DHSS further finds that adoption of the attached regulations is necessary for the immediate preservation of the public peace, health, safety, or general welfare, as required by AS 44.62.250. Facts supporting these findings are set out below.

### **Statement of Facts**

The COVID-19 pandemic has continued to infect Alaskans throughout the state since March 2020, but the recent numbers of new cases each day remain high. This virus can be transmitted from pre-symptomatic and asymptomatic individual. Therefore, getting information about positive cases in any given area is critical to protecting the public. This is true for school districts, municipalities, and private business in particular as local jurisdictions contemplate daily whether to allow in-person activities. DHSS has the information, but its regulations are too restrictive to allow the sharing of that information. The high case counts but lack of information flow has created an unsustainable situation that directly threatens the health of Alaska residents. DHSS is therefore extremely concerned that it is unable to help the entities and jurisdictions that are pleading for this information.

Local governments, school districts, and other entities need to make important and time-sensitive decisions about access to public accommodations and spaces like local businesses and schools and mitigating the risk of spreading COVID-19. DHSS encourages everyone, but especially local governments, to base their decisions on the best available data about current infection rates. Alaska's unique geography, with communities existing unconnected by road to any other community, means that local governments and schools, among others, need information about the COVID-19 infection rate in their immediate community.



The current regulations that govern DHSS's ability to disclose identifiable health information are very restrictive (7 AAC 27.890 – 7 AAC 27.900). DHSS has not been able to disclose the level of local detail necessary for public, private, and tribal entities to make informed decisions about whether or when to open or close, and whether and how to protect individuals from exposure. Compared to 7 AAC 27.893, the attached emergency regulations, 7 AAC 27.903, permits DHSS to disclose identifiable health information not just to protect the health of the person who is ill, but to protect the health of others who are at risk of becoming ill. This is critical during the COVID-19 pandemic because contagious people often have no symptoms. The emergency regulation will permit DHSS to disclose information in this way to schools, universities, and federally recognized tribes, among others, to help them protect their own communities.

Public health responsibilities are centralized with DHSS; very few local governments have public health authority or capacity. Therefore, they rely upon DHSS to share public health information that they can use to make policy.

The attached emergency regulations, therefore, make explicit that DHSS may release identifiable health information to a broader list of people and for purposes limited to protecting the health and lives of community members, to respond to and to develop local policy related to COVID-19 to provide for the health, safety and welfare of their local communities. This increased disclosure would only apply when there is a federal- or state-declared public health emergency, and do not change DHSS's existing legal ability to share identifiable health information in other situations not related to this pandemic.

THEREFORE, I find:

The current public health emergency necessitates that local communities and entities have identifiable health information to take action to prevent transmission of COVID-19 in their communities;

The attached regulations enable DHSS to disclose identifiable health information to smaller communities and entities when that disclosure would help mitigate the spread of COVID-19, and requires that DHSS disclose only the minimum amount necessary to accomplish that goal; and

The attached regulations are necessary to preserve the public peace, health, safety, or general welfare of Alaskans and visitors to Alaska by permitting a broader swath of governments and groups to take actions and make policies to prevent or reduce the transmission of COVID-19 during public health emergencies.

### ADOPTION ORDER

Under the authority of AS 18.05.010, AS 18.05.030, AS 18.05.040, AS 18.15.355, AS 18.15.360, AS 18.15.362, AS 18.15.395, AS 44.29.022, AS 47.05.010, and AS 47.07.030, the attached 7 pages of regulation changes are adopted 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.

**Adam Crum**

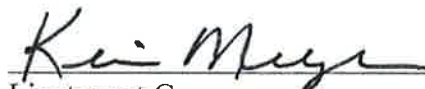
Digitally signed by Adam Crum  
Date: 2020.09.21 12:09:45 -08'00'

Adam Crum, Commissioner  
Department of Health & Social Services

### FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

Sept. 21, 2020, at 4:23p., I filed the attached regulation according to the provisions of AS 44.62.

  
\_\_\_\_\_  
Lieutenant Governor

Effective: September 21, 2020

Register: 236, January 2021

*Expires January 18, 2021  
unless made permanent by  
the adopting agency*

# DEPARTMENT OF HEALTH & SOCIAL SERVICES



## EMERGENCY REGULATIONS PROPOSED CHANGES TO REGULATIONS

### PERMITTED PUBLIC HEALTH INFORMATION DISCLOSURES DURING A DECLARED PUBLIC HEALTH EMERGENCY

- 7 AAC 27. Preventive Medical Services.
  - New section- 7 AAC 27.903. Permitted disclosures during a federal or state-declared public health disaster emergency.



**PUBLIC REVIEW DRAFT**  
September 21, 2020

**COMMENT PERIOD ENDS: November 2, 2020**

Please see the public notice for details about how to comment on these proposed changes.

EMERGENCY REGULATIONS

Register 236 January 2021

HEALTH AND SOCIAL SERVICES

Notes to reader:

1. Except as discussed in note 2, new text that amends an existing regulation is **bolded and underlined**.
2. If the lead-in line above the text of each section of the regulations states that a new section, subsection, paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined.*
3. [ALL-CAPS TEXT WITHIN BRACKETS] indicates text that is to be deleted.
4. When the word “including” is used, Alaska Statutes provide that it means “including, but not limited to.”
5. Only the text that is being changed within a section of the current regulations is included in this draft. Refer to the text of that whole section, published in the current Alaska Administrative Code, to determine how a proposed change relates within the context of the whole section and the whole chapter.

**Title 7 Health and Social Services.**

7 AAC 27.650(e)(1) is amended to read:

(1) any use permitted under 7 AAC 27.892, [AND] 7 AAC 27.893, **and 7 AAC 27.903**;

(Eff. 12/29/2013, Register 208; am 9/21/2020, Register 236)

**Authority:** AS 18.05.010                      AS 18.15.355                      AS 18.15.362  
AS 18.05.040                      AS 18.15.360

7 AAC 27.655(a) is amended to read:

(a) A request for patient-specific data from the immunization information system maintained by the department will be responded to only if made by an authorized health care provider for information about a patient under its care, by a public health authority for patients within its jurisdiction, or as otherwise allowed under 7 AAC 27.893(b) **or 7 AAC 27.903**.

Except as described in 7 AAC 27.893(b) **or 7 AAC 27.903**, a request from a person other than an authorized health care provider, from an authorized health care provider for data beyond that of a specific patient under its care, or from a public health authority for data beyond that of patients within the public health authority’s jurisdiction will be considered on a case-by-case basis in the

EMERGENCY REGULATIONS

Register 236, January 2021

HEALTH AND SOCIAL SERVICES

interest of public health practice and will be responded to only with aggregate or de-identified data.

(Eff. 12/29/2013, Register 208; am 9/21/2020, Register 236)

<b>Authority:</b>	AS 18.05.010	AS 18.15.355	AS 18.15.362
	AS 18.05.040	AS 18.15.360	AS 44.29.022

7 AAC 27.891(c) is amended to read:

(c) A public health agent in the department is authorized to use identifiable health information to accomplish a public health purpose in a manner consistent with 7 AAC 27.893 and 7 AAC 27.903. (Eff. 12/29/2006, Register 180; am 9/21/2020, Register 236)

<b>Authority:</b>	AS 18.05.040	AS 18.15.360	AS 18.15.362
	AS 18.15.355		

7 AAC 27.900 is repealed:

**7 AAC 27.900. Definitions.** Repealed. (Eff. 1/19/96, Register 137; am 2/10/99, Register 149; am 12/29/2006, Register 180; am 12/29/2013, Register 208; repealed 9/21/2020, Register 236)

<b>Authority:</b>	AS 18.05.040	AS 18.15.355	AS 18.15.395
-------------------	--------------	--------------	--------------

An editor's note is added following 7 AAC 27.900 to read:

**Editor's note:** The subject matter on 7 AAC 27.900 has been relocated to 7 AAC 27.990.

7 AAC 27 is amended by adding a new section to Article 16 to read:

EMERGENCY REGULATIONS

Register 236 <sup>January</sup> 2021

HEALTH AND SOCIAL SERVICES

**7 AAC 27.903. Permitted disclosures during a federal- or state-declared public health disaster emergency.** (a) The department may disclose identifiable health information that the department collects, uses, and maintains under AS 18.05 or AS 18.15 in the conduct of public health surveillance, investigation, and intervention during a public health disaster emergency declared by the governor or by the federal government that is related to a contagious disease outbreak when an individual who is the subject of the information provides written consent to the disclosure as set out in 7 AAC 27.896, under all circumstances described in 7 AAC 27.893, and under the circumstances set out in this section.

~~(b) In addition to the disclosures permitted in 7 AAC 27.893, the department may~~ disclose the minimum necessary identifiable health information without written consent from an individual if the disclosure is to

(1) a federal public health agency, health oversight agency, or law enforcement authority as permitted by federal or state law for the purpose of disease prevention;

(2) a school district, school, college, university, or licensed child care facility to provide information concerning contagious disease status and immunizations to promote effective disease prevention and control in schools and child care facilities within the state;

(3) an individual or group of individuals directly able to prevent or lessen a serious and imminent threat to the health of a group of individuals, or the public;

(4) an individual or group of individuals who may have been exposed to a contagious or possibly contagious disease or may otherwise be at imminent risk of contracting or spreading that disease; or

EMERGENCY REGULATIONS

Register 236, January 2021

HEALTH AND SOCIAL SERVICES

(5) a state agency, local government, village, federally recognized tribe, or tribal health program for the purpose of preventing or lessening a serious and imminent threat to the health of an individual, group of individuals, or the public being served by that entity.

(c) The department may disclose minimum necessary identifiable health information under this section for the purpose of conducting its own public health surveillance, investigation, intervention, prevention, and treatment.

(d) An individual or entity who receives identifiable health information from the department as a permitted disclosure under (a) of this section may not disclose the information to another individual or entity except for a purpose authorized in the written consent. Any identifiable health information disclosed by the department under this subsection shall be accompanied by

(1) a statement explaining the restriction on secondary disclosures under this subsection; and

(2) any relevant written consent that the department knowingly has in its possession.

(e) A public health agent may disclose the identity of an individual who has violated an order of a state medical officer under AS 18.15.375 or an emergency administrative order issued under AS 18.15.385 to the operator or manager of a public conveyance, accommodation, or other public place to prevent the spread of a contagious or possibly contagious disease.

(f) The department will not disclose identifiable health information in the course of legal discovery, subpoena, or compelled testimony of a public health agent, in any civil, criminal, administrative, or other legal proceeding, except

EMERGENCY REGULATIONS

Register 236 January 2021

HEALTH AND SOCIAL SERVICES

(1) in a legal proceeding initiated by a public health agent or public health official for quarantine or isolation of the individual or group of individuals who are the subject of the health information to be disclosed, whether the proceeding is open or closed to the public; or

(2) when a court orders the disclosure.

(g) Nothing in this section prohibits or restricts disclosure of identifiable health information otherwise permitted under this chapter.

(h) In this section

(1) "local government" means any borough, municipality, or other political subdivision of the state;

(2) "federally recognized tribe" means an Alaska Native or American Indian tribe that is recognized by the United States Secretary of the Interior to exist as an Indian tribe under 25 U.S.C. 5129 (Federally Recognized Indian Tribe List Act of 1994); and

(3) "tribal health program" means a hospital, clinic, or other type of health care facility, program, association, or organization operated by a federally recognized tribe, or an intertribal consortium as defined in 25 U.S.C. 5381 or as established by federal law. (Eff.

9/21/2020, Register 236 )

<b>Authority:</b>	AS 18.05.010	AS 18.05.040	AS 18.15.360
	AS 18.05.030	AS 18.15.355	AS 18.15.362

7 AAC 27 is amended by adding a new section to Article 17 to read:

**7 AAC 27.990. Definitions.** In this chapter, unless the context requires otherwise,

(1) "department" means the Department of Health and Social Services;



EMERGENCY REGULATIONS

Register 236 <sup>January</sup> 2021

HEALTH AND SOCIAL SERVICES

(2) "health care-associated infection" means a localized or systemic patient condition resulting from an infectious agent that was not present or incubating at the time of admission to a facility or entity unless the condition was related to a previous admission or procedure, including central line insertion or other surgical procedure;

(3) "health care practitioner" has the meaning given in AS 18.15.395;

(4) "health care provider" has the meaning given in AS 18.15.395;

(5) "health oversight agency" means a public agency or entity acting under a grant of authority from a public agency, including an employee or agent of the public agency or its contractors, that is authorized by law to oversee a health care system or government program in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant;

(6) "identifiable health information" has the meaning given in AS 18.15.395;

(7) "immunization information system" means a confidential, population-based, computerized database that records all immunization doses administered by participating providers to persons residing within this state or a given geographical area of this state;

(8) "infectious disease" has the meaning given in AS 18.15.395;

(9) "known rabid animal" means an animal with a positive laboratory test for rabies virus;

(10) "National Healthcare Safety Network" means the Internet-based surveillance system managed by the United States Department of Health and Human Services, Centers for Disease Control and Prevention (CDC), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Healthcare Quality Promotion (DHQP);

EMERGENCY REGULATIONS

Register 236, January 2021

HEALTH AND SOCIAL SERVICES

(11) "PPD skin test" means an intradermal purified protein derivative skin test for tuberculosis;

(12) "public health agent" means an official or employee of the department who is in the division of public health or who has oversight over the division responsible for carrying out the provisions of AS 18.05 and AS 18.15;

(13) "public health official" means an employee or appointee of a local government or political subdivision of the state who is employed or appointed to fulfill public health responsibilities;

(14) "state medical officer" has the meaning given in AS 18.15.395;

(15) "working day" means a day other than Saturday, Sunday, or a state or federal holiday. (Eff. 9/21/2020, Register 236)

**Authority:** AS 18.05.040 AS 18.15.355 AS 18.15.395

**Editor's note:** The subject matter of 7 AAC 27.990 was originally set out in 7 AAC 27.900. The history of 7 AAC 27.990 does not reflect the history of the former section.