

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
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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, appearing to read "April", is written over the "FROM:" line.

DATE: February 24, 2021

RE: Filed Permanent Regulations: State Medical Board

State Medical Board emergency regulations made permanent re: direct contact between collaborating physician and physician assistant (12 AAC 40.430(r))

Attorney General File:	2020200720
Regulation Filed:	2/24/2021
Effective Date:	12/8/2020 & 3/26/2021
Print:	237, April 2021

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

CERTIFICATION OF COMPLIANCE

I, Dr. Richard Wein, Chair for the State Medical Board, certify that, as required by AS 44.62.260 in order to make the attached one page 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 40.430, dealing with direct personal contact for physician assistant assessments.

This regulation originally was filed as an emergency regulation on December 8, 2020.

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.

DATE: 2/2/2021
Sitka, Alaska

DocuSigned by:
Richard J Wein, MD
Richard Wein, MD, Chair
Alaska State Medical Board

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on Febr. 24th, 2021 at 3:15 P.m., I filed the attached regulation according to the provisions of AS 44.62.

Kevin Meyer
Kevin Meyer, Lieutenant Governor

Register: 237, April 2021

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE STATE MEDICAL BOARD

The attached one page of permanent amended emergency regulations, dealing with direct personal contact for physician assistant assessments, is hereby certified to be a correct copy of the regulation changes that the State Medical Board adopted at its January 29, 2021 teleconference meeting, under the authority of AS 08.64.100 and AS 08.64.107, 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: 2/2/2021
Sitka, Alaska

DocuSigned by:
Richard J. Wein, MD
Richard J. Wein, MD, Chair
Alaska State Medical Board

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on Febr. 24th, 2021 at 3:06 P.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.

Kevin Meyer
Kevin Meyer, Lieutenant Governor

Effective: March 26, 2021.

Register: 237, April 2021.

Chapter 40. State Medical Board.

The emergency adoption of 12 AAC 40.430(r) is made permanent and that subsection is further amended to read:

(r) During an urgent situation as determined by the board, direct personal contact as required under this section may be met by audio and video [OR OTHER ELECTRONIC] means; “urgent situation” has the meaning given in 12 AAC 40.045. (Eff. 1/13/80, Register 73; am 7/11/81, Register 79; am 7/4/84, Register 90; am 3/12/89, Register 109; am 6/28/97, Register 142; am 3/27/2003, Register 165; am 9/1/2007, Register 183; am 5/8/2013, Register 206; am 12/8/2020, Register 237; am 3 / 26 / 2021, Register 237)

Authority: AS 08.64.100 AS 08.64.107

Editor's note: Effective December 8, 2020, the State Medical Board adopted 12 AAC 40.430(r) as an emergency regulation, to appear in Register 237 (April 2021) of the Alaska Administrative Code (AAC). The State Medical Board's action to make the regulation permanent also appeared in Register 237 (April 2021), as did a permanent amendment by the board to 12 AAC 40.430(r). Though the history note for 12 AAC 40.430(r) reflects the permanent amendment, the original emergency regulation did not appear in print. The published version of the regulation displays the emergency regulation as amended.


MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: February 24, 2021

File No.: 2020200720

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: State Medical Board emergency
regulations made permanent re: direct
contact between collaborating
physician and physician assistant
(12 AAC 40.430(r))

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 a further amendment. Based upon our review, we find no legal problems. The emergency regulations were adopted on November 20, 2020, and were filed and took effect on December 8, 2020. The State Medical Board action to make the regulations permanent and to make the permanent amendment occurred on January 29, 2021 (which was after the state legislature convened). The emergency regulations will expire on April 6, 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 State Medical Board, after the close of the public comment period, as permanent regulations with further permanent amendments. In response to the COVID-19 pandemic and future urgent situations, the regulations allow a physician and physician assistant in a collaborative practice to satisfy requirements for direct personal contact by using audio and video means.

The December 7, 2020 certification of emergency adoption order, the December 10, 2020 public notice, the February 2, 2021 certification of compliance, and the February 2, 2021 certification of adoption order for the permanent regulations 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.

Honorable Kevin Meyer, Lieutenant Governor
File No. 2020200720; State Medical Board

February 24, 2021
Page 2 of 2

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: Richard Wein, M.D., Chair
State Medical Board
(via e-mail through Jun Maiquis)

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

Sher Zinn, Acting Executive Administrator, State Medical Board
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, and Economic Development

Jun Maiquis, 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 ADOPTION OF EMERGENCY REGULATION ON PERFORMANCE AND
ASSESSMENT OF PRACTICE FOR PHYSICIAN ASSISTANTS IN THE REGULATIONS OF
THE ALASKA STATE MEDICAL BOARD**

BRIEF DESCRIPTION: The State Medical Board proposes to make permanent regulation changes made by emergency regulation regarding direct personal contact for physician assistant assessments.

On **November 20, 2020**, the State Medical Board (Board) adopted, as an emergency regulation, changes in 12 AAC 40 of the Alaska Administrative Code dealing with direct personal contact for physician assistant assessments, including the following:

12 AAC 40.430. Performance and assessment of practice, is proposed to amend the requirements regarding direct personal contact for physician assistants with their primary or alternate collaborating physician to allow the use of audio and video or other electronic means during an urgent situation, specific to public health emergency or crisis due to COVID-19 pandemic.

The emergency regulation took effect on **December 8, 2020**, and will expire **April 6, 2021** unless made permanent. The Board 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 Jun Maiquis, 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/200717>, and using the comment link. **The comments must be received not later than 4:30 p.m. on January 13, 2021.** Comments received after this deadline will not be considered by the Board.

You may submit written questions relevant to the proposed action to Jun Maiquis, 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 Jun Maiquis at (907) 465-2537 or RegulationsAndPublicComment@alaska.gov not later than January 6, 2021 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 Jun Maiquis at (907) 465-2537 or RegulationsAndPublicComment@alaska.gov, or go to <https://www.commerce.alaska.gov/web/portals/5/pub/MED-EmergencyReg-1220.pdf>.

The language of the permanent regulation 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 and questions received are public records and are subject to public inspection.

Statutory Authority: AS 08.64.100; AS 08.64.107

Statutes Being Implemented, Interpreted, or Made Specific: AS 08.64.100; AS 08.64.107

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

DATE:

12/9/2020



Jun Maiquis, 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:** Performance and assessment of practice for physician assistants.
3. **Citation of regulation:** 12 AAC 40.430.
4. **Department of Law file number:** 2020200720.
5. **Reason for the proposed action:** Emergency regulation due to COVID-19.
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 2021 or in subsequent years.
9. **The name of the contact person for the regulation:**
Sher Zinn, Acting Executive Administrator
Alaska State Medical Board
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community, and Economic Development
Telephone: (907) 465-1049
E-mail: sher.zinn@alaska.gov
10. **The origin of the emergency regulation action:** State Medical Board.
11. **Date:** 12/9/2020

Prepared by:


Jun Maiquis
Regulations Specialist

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

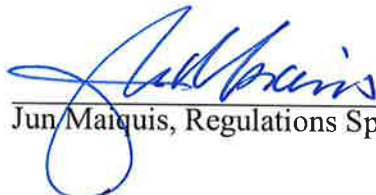
I, Jun Maiquis, Regulations Specialist, of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being sworn, state the following:

As required by AS 44.62.250, notice of the December 8, 2020 emergency changes to 12 AAC 40.430, dealing with performance and assessment of practice for physician assistant, 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 December 8, 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.

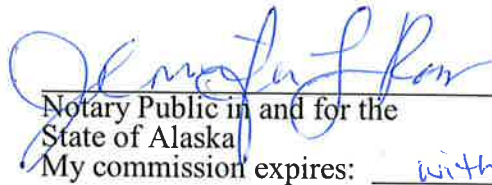
DATE: 2/16/21
Juneau, Alaska



Jun Maiquis, Regulations Specialist

SUBSCRIBED AND SWORN TO before me this 16th day of February, 2021.





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

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Jun Maiquis, Regulations Specialist for the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being duly sworn, state the following:

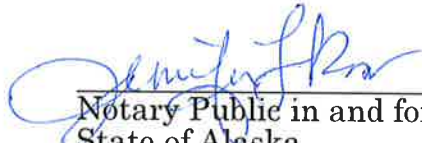
In compliance with AS 44.62.215, the State Medical Board has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the State Medical Board regulations on dealing with direct personal contact for physician assistant assessments.

DATE: 2/16/21
Juneau, Alaska


Jun Maiquis, Regulations Specialist

SUBSCRIBED AND SWORN TO before me this 16th day of February, 2021.




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

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 #: W0019430

Cost: \$473.14

RECEIVED
Juneau
DEC 15 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

12/10/2020

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 11th day of December 2020.

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

MY COMMISSION EXPIRES

NOTARY PUBLIC
JADA L. NOWLING
STATE OF ALASKA
MY COMMISSION EXPIRES July 14, 2024

NOTICE OF ADOPTION OF EMERGENCY REGULATION ON PERFORMANCE AND ASSESSMENT OF PRACTICE FOR PHYSICIAN ASSISTANTS IN THE REGULATIONS OF THE ALASKA STATE MEDICAL BOARD

On November 20, 2020, the State Medical Board (Board) adopted, as an emergency regulation, changes in 12 AAC 40 of the Alaska Administrative Code dealing with direct personal contact for physician assistant assessments, including the following:

12 AAC 40.430. Performance and assessment of practice, is proposed to amend the requirements regarding direct personal contact for physician assistants with their primary or alternate collaborating physician to allow the use of audio and video or other electronic means during an urgent situation, specific to public health emergency or crisis due to COVID-19 pandemic.

The emergency regulation took effect on December 8, 2020, and will expire April 6, 2021 unless made permanent. The Board 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 Jun Maiquis, 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/200717>, and using the comment link. The comments must be received not later than 4:30 p.m. on January 13, 2021. Comments received after this deadline will not be considered by the Board.

You may submit written questions relevant to the proposed action to Jun Maiquis, 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 Jun Maiquis at (907) 465-2537 or RegulationsAndPublicComment@alaska.gov not later than January 6, 2021 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 Jun Maiquis at (907) 465-2537 or RegulationsAndPublicComment@alaska.gov, or go to <https://www.commerce.alaska.gov/web/portals/5/pub/MED-EmergencyReg-1220.pdf>.

The language of the permanent regulation 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 and questions received are public records and are subject to public inspection.

Statutory Authority: AS 08.64.100; AS 08.64.107

Statutes Being Implemented, Interpreted, or Made Specific:
AS 08.64.100; AS 08.64.107

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

DATE: 12/9/2020
/s/ Jun Maiquis,
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: December 10, 2020

AFFIDAVIT OF BOARD ACTION


I, Sher Zinn, Acting Executive Administrator for the State Medical Board, being duly sworn, state the following:

The attached motion dealing with direct personal contact for physician assistant assessments was passed by the State Medical Board during its January 29, 2021 teleconference 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: 2/1/2021

DocuSigned by:

A52FE59D83C54C7...

Sher Zinn, Acting Executive Administrator

State of Alaska
Juneau

Excerpt of minutes from State Medical Board meeting of January 29, 2021.

The board reviewed the emergency regulation for 12 AAC 40.430, and the public comment that was received for the regulation project. The board discussed the regulation and preferred to remove the wording "or other electronic" because it is too vague. The board voted to adopt the emergency regulations as permanent with amendments.

On a motion duly made by Lydia Mielke, seconded by David Boswell, and approved by roll call vote, the board voted to amend the regulation project by removing the wording "or other electronic" in 12 AAC 40.430.

Roll call- Yeas: Sarah Bigelow-Hood, David Boswell, Dr. Daugherty, Lydia Mielke, Dr. Parker, Dr. Wein.
No nays.

On a motion duly made by Dr. Daugherty, seconded by Lydia Mielke, in considering costs to private persons and public comment received, the board adopts the emergency regulations as permanent for changes to 12 AAC 40.430, with amendments.

Roll call- Yeas: Sarah Bigelow-Hood, David Boswell, Dr. Daugherty, Lydia Mielke, Dr. Parker, Dr. Wein.
No nays.

FINDING OF EMERGENCY

The State Medical Board finds that an emergency exists under AS 44.62.250, and that an emergency regulation change is necessary to 12 AAC 40.430, dealing with direct personal contact for physician assistant assessments, for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

The restrictive nature of these regulations could negatively impact the health of the public by decreasing healthcare worker availability, and putting healthcare workers' health under risk, 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 and AS 08.64.107, adopted at its November 20, 2020 videoconference meeting the attached one page 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: December 7, 2020

Sitka, Alaska

DocuSigned by:
Richard Wein, MD
Richard Wein, MD, Chair
State Medical Board

FILING CERTIFICATION

Kady Lervick for
I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on December 8, 2020 at 1:00 p.m., I filed the attached regulation according to the provisions of AS 44.62.

Kady Lervick for
Kevin Meyer, Lieutenant Governor

Effective: December 8, 2020

Register: 237, April 2021

Expires April 6, 2021
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 REGULATION

Register 231, April 2021 PROFESSIONAL REGULATIONS

Chapter 40. State Medical Board.

12 AAC 40.430 is amended by adding a new subsection to read:

12 AAC 40.430. Performance and assessment of practice.

...

(r) During an urgent situation as determined by the board, direct personal contact as required under this section may be met by audio and video or other electronic means; "urgent situation" has the meaning given in 12 AAC 40.045. (Eff. 1/13/80, Register 73; am 7/11/81, Register 79; am 7/4/84, Register 90; am 3/12/89, Register 109; am 6/28/97, Register 142; am 3/27/2003, Register 165; am 9/1/2007, Register 183; am 5/8/2013, Register 206; am

12/08/2020, Register 231)

Authority: AS 08.64.100 AS 08.64.107