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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: February 26, 2021

RE: Filed Emergency Regulations: Board of Nursing

Board of Nursing emergency regulations re: program instructors, training, certification requirements for CNA, and delegation of the administration of medication (12 AAC 44.840 - .965)

Attorney General File:	Emergency Regulations
Regulation Filed:	2/26/2021
Effective Date:	2/26/2021
Expiration Date:	June 25, 2021 unless made permanent by the adopting agency
Print:	238, July 2021

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

FINDING OF EMERGENCY

The Board of Nursing finds that an emergency exists under AS 44.62.250 and that an emergency regulation change is necessary to 12 AAC 44, dealing with training and certification requirements for certified nurse aides, and delegation of the administration of medication, 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 the regulations could negatively impact the health of the public by decreasing healthcare worker availability by impeding the license application process during this public health emergency.
- The proposed changes are necessitated by challenges to staffing training facilities and engaging instructors qualified under the existing regulations.
- They will streamline training for CNAs, speeding the process for CNA candidates to achieve certification as well qualified professionals ready to enter the critical care workforce.

ORDER CERTIFYING ADOPTION

I certify that the Board of Nursing, under the authority of AS 08.68.100, AS 08.68.331, AS 08.68.805, and AS 08.68.850, adopted at its February 23, 2021 teleconference meeting the attached seven pages of regulation changes as an emergency regulation to take effect immediately upon filing by the lieutenant governor, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

DATE: February 23, 2021
Anchorage, Alaska

Danette M. Schloeder, RN
Danette Schloeder, RN, Chair
Alaska Board of Nursing

April Simpson, for
↑

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on February 26th, 2021 at 9:18 a.m., I filed the attached regulation according to the provisions of AS 44.62.

for Kevin Meyer
for Kevin Meyer, Lieutenant Governor

Effective: February 26, 2021

Register: 238, July 2021

Expires June 25, 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.**



A handwritten signature in blue ink, appearing to read "K. Meyer", is written over a horizontal dotted line.

**KEVIN MEYER
LIEUTENANT GOVERNOR**

EMERGENCY REGULATION

Register 238, July 2021 PROFESSIONAL REGULATIONS

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted. Complete new sections are not in boldface or underlined.)

Chapter 44. Board of Nursing.

12 AAC 44.840 is repealed and readopted to read:

12 AAC 44.840. Program instructors. (a) In a non-facility based program, an instructor must be either a registered nurse or practical nurse licensed under AS 08.68 and have completed a course in teaching adults or have experience in teaching adults or supervising nurse aides. The program instructor or the program director must have at least one year in the provision of long-term care facility services.

(b) In a facility-based program, the training of nurse aides may be performed under the general supervision of a registered nurse who has at least two years of nursing experience or by the director of nursing for the facility who has at least one year of experience in a long-term care facility, but who may be prohibited from performing the actual training. Other persons may assist the instructor to meet program objectives for specific topics in training nurse aides, including registered nurses, licensed practical/vocational nurses, pharmacists, dietitians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists, activities specialists, speech/language/hearing therapists, and resident rights experts; persons assisting an instructor must have at least one year of experience in their fields. (Eff. 2/14/99, Register 149; am 10/3/2011, Register 200; am 12/27/2012, Register 204; am 10/16/2013, Register 208; am 2 / 26 / 2021, Register

238)

EMERGENCY REGULATION

Register 238, July 2021 PROFESSIONAL REGULATIONS

Authority: AS 08.68.100 AS 08.68.331

12 AAC 44.850 is amended to read:

12 AAC 44.850. Nurse aide competency evaluation. (a) To be approved by the board a certified nurse aide competency evaluation must include

(1) an examination covering the subjects specified in 12 AAC 44.845 and 12 AAC 44.847; the competency evaluation must offer the applicant a choice between a written examination and an oral examination;

(2) a practical examination demonstrating the applicant's clinical and practical nurse aide skills; and

(3) notification to the applicant of the applicant's performance on the competency evaluation, identifying those portions, if any, of the competency evaluation that the applicant did not pass.

(b) The board approves the National Nurse Aide Assessment Program, developed by and administered under the supervision of the National Council of State Boards of Nursing, Inc., as the competency evaluation required under (a) of this section. The competency evaluation must be administered and evaluated by a registered nurse approved by the board who has at least one year's experience in providing care for the elderly or the chronically ill of any age.

(c) Except as provided in (d) of this section, an applicant who does not successfully complete the competency evaluation required under this section may retake that portion of the competency evaluation that the applicant did not pass, upon payment of the examination fee required under 12 AAC 02.282.

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(d) An applicant who does not successfully complete the competency evaluation after three attempts must complete a remedial course of training as required by the board. The applicant must provide proof of having fulfilled the requirements of the remedial course of training before the board will approve the applicant to retake the competency evaluation.

(e) In addition to the requirements of this section, the board may allow the competency evaluation examination to be conducted at the facility in which the nurse aide is or will be employed, provided that all requirements are met.

(f) The board may advise individuals who successfully completed the competency evaluation examination that a record of their successful completion of the evaluation will be included in the nurse aide registry. (Eff. 2/14/99, Register 149; am 5/29/99, Register 150; am 10/3/2011, Register 200; am 2 / 20 / 2021, Register 238)

Authority: AS 08.68.100 AS 08.68.331

12 AAC 44.860 is amended to read:

12 AAC 44.860. Discontinuation of a training program. (a) The program provider of a certified nurse aide training program that discontinues operation shall

(1) notify the board in writing of the date the program provider intends to cease operation; and

(2) submit to the board a written list of the names and dates of graduation of students who graduated from that training program within the last two years, and those who are expected to graduate before the program ceases operation.

(b) Students who have started a training and competency evaluation program from

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which approval has been withdrawn may complete the course and receive any credits

earned. (Eff. 2/14/99, Register 149; am 2 / 26 / 2021, Register 238)

Authority: AS 08.68.100 AS 08.68.331

12 AAC 44.862 is amended to read:

12 AAC 44.862. Withdrawal of approval. (a) The board will withdraw approval of a certified nurse aide training program offered by or in a nursing facility described in 12 AAC 44.835(g), but will allow the operation of a training program under the conditions set out in 12 AAC 44.835(h).

(b) The board will withdraw approval of a certified nurse aide training program if the program provider refuses to permit unannounced visits by the board.

(c) The board may withdraw approval of a certified nurse aide training program if the board determines that the program no longer meets the requirements of 12 AAC 44.835 - 12 AAC 44.847 and 12 AAC 44.852 - 12 AAC 44.860, or that the program has been unable to achieve minimal standards within two years after being placed on conditional approval under 12 AAC 44.858. If the board withdraws approval of the training program the board will notify the program provider in writing, indicating the reasons for the action.

(d) The provider of a certified nurse aide training program for which approval has been withdrawn may request a hearing under AS 44.62.330 - 44.62.630 (Administrative Procedure Act) to appeal the withdrawal of program approval.

(e) Students who have started a training and competency evaluation program from which approval has been withdrawn may complete the course and receive any credits

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earned. (Eff. 2/14/99, Register 149; am 11/19/2008, Register 188; am 2 / 26 / 2021,

Register 238)

Authority: AS 08.68.100 AS 08.68.331

12 AAC 44.965 is amended to read:

12 AAC 44.965. Delegation of the administration of medication. (a) The administration of medication is a specialized nursing task that may be delegated under the standards set out in 12 AAC 44.950, 12 AAC 44.960, and this section.

(b) Administration of medication may be delegated only to a

(1) "home and community-based services provider" as defined in 7 AAC 43.1110(8);

(2) "residential supported living services provider" as defined in 7 AAC 43.1110(15); [OR]

(3) "school setting provider"; in this paragraph, "school setting provider" means a person who is employed at a school that provides educational services to students age 21 or younger; or

(4) long-term care facilities licensed and certified by the Health Facilities

Licensing and Certification.

(c) The person to whom the administration of medication is to be delegated must successfully complete a training course in administration of medication approved by the board.

The training course in administration of medication approved by the board in this subsection must be reviewed by the board every two years.

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(d) To delegate to another person the administration of routinely scheduled oral, topical, transdermal, nasal, inhalation, optic, otic, vaginal, or rectal medications to a patient the written instructions provided to the person under 12 AAC 44.950(a)(7) must also include

(1) directions for the storage and administration of medication, including the brand and generic name of the medication, the dosage amount and proper measurement, timing of the administration, recording the administration, the expected outcome of administration, and any contraindications to administration;

(2) possible interactions of medications;

(3) how to observe and report side effects, complications, errors, missed doses, or unexpected outcomes of the medications and appropriate response to such developments; and

(4) if the delegating nurse is not available on-site, the action that the person must take when medications are changed by order of a health care provider, including how to notify the delegating nurse of the change, how the delegating nurse will receive verification from the health care provider of the medication change, and how the nurse is to notify the other person if the administration of the change of medication is delegated.

(e) The administration of PRN medication, other than controlled substances, may be delegated under this section if a nurse is not available on-site. Before the administration of PRN medications may be delegated, the nurse shall first assess the patient to determine whether on-site patient assessment will be required before administration of each dose of PRN medication. The written instructions provided to the person under 12 AAC 44.950(a)(7) must meet the requirements of (d) of this section, and must also include

(1) when to administer the PRN medication to the patient;

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(2) the procedure to follow for the administration of the PRN medication, including dosage amount, frequency, and duration; and

(3) the circumstances under which the person should contact the delegating nurse.

(Eff. 10/14/2004, Register 172; am 11/4/2004, Register 172; am 12/23/2009, Register 192; am 12/27/2012, Register 204; am 8/10/2016, Register 219; am 2 / 26 / 2021, Register 238)

Authority: AS 08.68.100 AS 08.68.805 AS 08.68.850

Excerpt from the Draft Minutes of the
February 23, 2021 Teleconference Meeting of the
Alaska Board of Nursing

Emergency Regulation 12 AAC 44.840, 12 AAC 44.850, 12 AAC 44.860, 12 AAC 44.862, and 12 AAC 44.965 – dealing with program instructors, nurse aide competency evaluation, training program, withdrawal of CNA training program, and delegation of the administration of medication

FINDING OF EMERGENCY

The Board of Nursing finds that an emergency exists under AS 44.62.250 and that an emergency regulation change is necessary to 12 AAC 44, dealing with training and certification requirements for certified nurse aides, and delegation of the administration of medication, 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 the regulations could negatively impact the health of the public by decreasing healthcare worker availability by impeding the license application process during this public health emergency.
- The proposed changes are necessitated by challenges to staffing training facilities and engaging instructors qualified under the existing regulations.
- They will streamline training for CNAs, speeding the process for CNA candidates to achieve certification as well qualified professionals ready to enter the critical care workforce.

On a motion made by Wendy Monrad and second by Cathy Hample and carried with 5 ayes, it was RESOLVED that the Alaska Board of Nursing adopt the emergency regulation as written under 12 AAC 44.840, .850, .860, .862 and .965, and that the Board intends to make the emergency regulation permanent.

The motion passed with no further discussion.

AFFIDAVIT OF BOARD ACTION

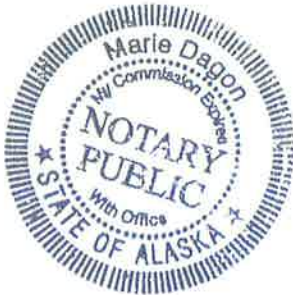
I, Joan Green, Nurse Consultant for the Board of Nursing, being duly sworn, state the following:

The attached motion dealing with program instructors, nurse aide competency evaluation, discontinuation of a training program, withdrawal of approval, and delegation of the administration of medication was passed by the Board of Nursing during its February 23, 2021 teleconference meeting.

Date: Feb. 23, 2021
Anchorage, Alaska

Joan Green
Joan Green, Nurse Consultant

SUBSCRIBED AND SWORN TO before me this 23 day of February, 2021.



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