

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




530 West 7th Ave, Suite 1700
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: Triptaa Surve
Department of Health and Social Services

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: April 14, 2021

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

Department of Health and Social Services regulations re: licensure of home health agencies, Medicaid coverage and payment for home health agency services, and attending or treating health care professionals involved with home health agencies (7 AAC 12; 7 AAC 125.310; 7 AAC 125.320)

Attorney General File:	2020200541
Regulation Filed:	4/14/2021
Effective Date:	5/14/2021
Print:	238, July 2021

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

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

The attached 17 pages of regulations, dealing with Home Health Agency Licensure Requirements and Medicaid Coverage, specifically, 7 AAC 12. Facilities and Local Units; 7 AAC 125. Medicaid Coverage; Personal Care Services and Home Health Care Services, 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 18.05.040, AS 47.05.010, AS 47.07.030, AS 47.07.040, AS 47.32.010, AS 47.32.020, and AS 47.32.030, 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 of Health & Social Services paid special attention to the cost to private persons of the regulatory action being taken.

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: 2021.04.05 08:30:40 -08'00'

Adam Crum, Commissioner
Department of Health & Social Services

April Simpson, for

FILING CERTIFICATION

↑
I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that¹ on April 14,
2021, at 1:26 pm., I filed the attached regulations according to the provisions of AS 44.62.040 -
44.62.120.

April Simpson
for Lieutenant Governor *Kevin Meyer*

Effective: May 14, 2021

Register: 238, July 2021

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

**I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA,
designate the following state employees to perform the Administrative Procedures Act
filing functions of the Office of the Lieutenant Governor:**

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have
signed and affixed the Seal of the State of
Alaska, in Juneau, on December 11th,
2018.**



Kevin Meyer
.....

**KEVIN MEYER
LIEUTENANT GOVERNOR**

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

7 AAC 12.110(c)(10) is amended to read:

(10) establish procedures for selection and supervision of advanced **practice registered nurses** [NURSE PRACTITIONERS] and physician assistants;

(Eff. 11/19/83, Register 88; am 5/4/97, Register 142; am 9/1/2000, Register 155; am 6/23/2006,

Register 178; am 12/3/2006, Register 180; am 9/30/2007, Register 183; am 5 / 14 / 2021,

Register 238)

Authority: AS 47.32.010 AS 47.32.020 AS 47.32.030

7 AAC 12.265(e)(5) is amended to read:

(5) provides for scheduled visits after the initial visit; the responsible physician may alternate between in-person visits and visits by a physician assistant or advanced **practice registered** nurse [PRACTITIONER] in accordance with (f) of this section.

7 AAC 12.265(f) is amended to read:

(f) A nursing facility may permit a physician to delegate tasks to a physician assistant who is acting within the scope of practice set out under AS 08.64 and 12 AAC 40, or to an advanced **practice registered** nurse [PRACTITIONER] who is acting under the scope of practice set out under AS 08.68 and 12 AAC 44. The nursing facility may not permit a physician to delegate a task if state or federal statutes or regulations prohibit the delegation, or if the nursing facility's own policies prohibit the delegation. (Eff. 11/19/83, Register 88; am 5/28/92, Register 122; am 7/29/2011, Register 199; am 5 / 14 / 2021, Register 238)

Authority: AS 47.32.010 AS 47.32.030

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

7 AAC 12.316(a)(1) is amended to read:

(1) physician or advanced **practice registered** nurse [PRACTITIONER] services to provide directed medical care that meets the client's medical needs for palliative care and management of terminal illness;

7 AAC 12.316(c) is amended to read:

(c) The hospice agency shall make nursing services, physician or advanced **practice registered** nurse [PRACTITIONER] services, and drugs and biologicals available on a 24-hour basis to the extent necessary to meet the client's needs for palliative care and management of terminal illness and related conditions.

(Eff. 5/24/2007, Register 182; am 5 / 14 / 2021, Register 238)

Authority: AS 47.32.010 AS 47.32.020

7 AAC 12.317(d) is amended to read:

(d) A volunteer hospice agency shall ensure that each client has a plan of care approved by the attending physician or advanced **practice registered** nurse [PRACTITIONER], and by the program manager.

(Eff. 5/24/2007, Register 182; am 5 / 14 / 2021, Register 238)

Authority: AS 47.32.010 AS 47.32.030

7 AAC 12.319(b)(3) is amended to read:

(3) advanced **practice registered** nurse [PRACTITIONER] responsible for the

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

client's care; or

7 AAC 12.319(e) is amended to read:

(e) The hospice agency shall promptly alert the attending physician or advanced **practice registered** nurse [PRACTITIONER] of conditions that may require a change to a plan of care.

The agency must obtain a verbal order from the attending physician or advanced **practice registered** nurse [PRACTITIONER], or from the medical director, before making any change to a client's medical treatment. The agency shall ensure that signed written orders are in the client's file within 21 days after the verbal order was taken. (Eff. 5/24/2007, Register 182; am

5 / 14 / 2021, Register 238)

Authority: AS 47.32.010 AS 47.32.030

7 AAC 12.326(a)(2) is amended to read:

(2) a physician or advanced **practice registered** nurse [PRACTITIONER];

(Eff. 5/24/2007, Register 182; am 5 / 14 / 2021, Register 238)

Authority: AS 47.32.010 AS 47.32.030

7 AAC 12.331(a) is amended to read:

(a) A full-service hospice agency shall have a physician or advanced **practice registered** nurse [PRACTITIONER] to serve as medical director and assume overall responsibility for each client's care program. The medical director shall be a member of and oversee the interdisciplinary team and the professional advisory committee. The medical director's duties

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

include verifying that certification of terminal illness has been issued in accordance with 7 AAC 12.318(a)(2).

(Eff. 5/24/2007, Register 182; am 5 / 14 / 2021, Register 238)

Authority: AS 47.32.010 AS 47.32.030

7 AAC 12.333(a)(6) is amended to read:

(6) assist with client-administered nonprescription and prescription medications by handing the client the medication bottle, or the medication that was prepared under the supervision of a physician, a registered nurse, or an advanced **practice registered** nurse [PRACTITIONER];

(Eff. 5/24/2007, Register 182; am 5 / 14 / 2021, Register 238)

Authority: AS 47.32.010 AS 47.32.030

7 AAC 12.335(a)(1) is amended to read:

(1) under the direction of a physician or advanced **practice registered** nurse [PRACTITIONER]; and

(Eff. 5/24/2007, Register 182; am 5 / 14 / 2021, Register 238)

Authority: AS 47.32.010 AS 47.32.030

7 AAC 12.339(b)(4) is amended to read:

(4) the name of the attending physician or advanced **practice registered** nurse [PRACTITIONER];

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

7 AAC 12.339(b)(6) is amended to read:

(6) copies of summary reports sent to the attending physician or advanced **practice registered** nurse [PRACTITIONER];

(Eff. 5/24/2007, Register 182; am 5 / 14 / 2021, Register 238)

Authority: AS 47.32.010 AS 47.32.030

7 AAC 12.343(b) is amended to read:

(b) Only a physician or advanced **practice registered** nurse [PRACTITIONER] may order medications for the client. If the medication order is verbal,

(1) the physician or advanced **practice registered** nurse [PRACTITIONER] may give the order only to a licensed nurse, pharmacist, or another physician or advanced **practice registered** nurse [PRACTITIONER]; and

(2) the individual receiving the order must record and sign it immediately and have the prescribing physician or advanced **practice registered** nurse [PRACTITIONER] sign it within 21 days after the date of signature.

7 AAC 12.343(c) is amended to read:

(c) Medication may be administered only by a licensed nurse or, if the attending physician or advanced **practice registered** nurse [PRACTITIONER] has approved, by

(1) the client;

(2) a member of the client's family; or

(3) a caregiver designated by the client. (Eff. 5/24/2007, Register 182; am

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

5 / 14 / 2021, Register 238)

Authority: AS 47.32.010 AS 47.32.030

7 AAC 12.349(12) is amended to read:

(12) "medical director" means a physician or advanced **practice registered** nurse [PRACTITIONER] who oversees the medical components of hospice services and the interdisciplinary team;

7 AAC 12.349(13) is amended to read:

(13) "palliative care" means care provided for the reduction or abatement of pain, for physical symptoms, and for psychosocial or spiritual needs of an individual with a terminal illness; "palliative care" includes physician or advanced **practice registered** nurse [PRACTITIONER] services, skilled nursing care, social work services, volunteer services, and bereavement services; "palliative care" does not include treatment provided solely to cure a medical condition or disease or to artificially prolong life; however, treatment that is curative in nature may be provided if the purpose of the treatment is to reduce or abate pain or other symptoms, or to slow the progression or reduce the psychological effects of the terminal illness; (Eff. 5/24/2007, Register 182; am 5 / 14 / 2021, Register 238)

Authority: AS 47.32.010 AS 47.32.030

7 AAC 12.449(5) is amended to read:

(5) "certified nurse midwife" means a person who is authorized to practice as an

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

advanced **practice registered** nurse [PRACTITIONER] under 12 AAC 44.400 and who is certified to practice midwifery by a national certification body recognized under 12 AAC 44.420 and 12 AAC 44.430;

(Eff. 5/24/2007, Register 182; am 9/30/2007, Register 183; am 5 / 14 / 2021, Register 238)

Authority: AS 47.32.010 AS 47.32.030

7 AAC 12.470(b) is amended to read:

(b) The clinic must consider the clinic staff availability when determining a patient's eligibility for admission for extended stay. A physician, a physician assistant, an advanced **practice registered** nurse [PRACTITIONER], a registered nurse, a licensed practical nurse, a primary community health aide, or an emergency medical technician must be on duty whenever the clinic has one or more extended stay patients. The number of clinic staff and the level of training required to provide treatment to an extended stay patient is at the discretion of the clinic and the practitioner involved in the patient's care, after determining what is required to meet the patient's needs.

(Eff. 12/3/2006, Register 180; am 5 / 14 / 2021, Register 238)

Authority: AS 47.32.010 AS 47.32.030

7 AAC 12.513(a) is amended to read:

(a) A home health agency shall, in consultation with the patient and the patient's attending physician, **advanced practice registered nurse, or physician assistant,** develop a plan of care for each patient accepted by the agency. The plan of care must

(1) be reviewed, as often as the patient's condition requires but at least every 62 days, by

(A) the attending physician, advanced practice registered nurse, or physician assistant; and

(B) the professional staff of the agency [AS OFTEN AS THE PATIENT'S CONDITION REQUIRES, BUT AT LEAST EVERY 62 DAYS];

(2) be signed by the attending physician, advanced practice registered nurse, or physician assistant and included in the patient's clinical record not later than [WITHIN] 21 days after [OF] the start of care or the recertification date of the agency;

(3) identify long and short term goals of patient care that provide measurable indices of performance;

(4) address all pertinent diagnoses, rehabilitation potential, functional limitations, activities permitted, nutritional requirements, medications and treatments, safety measures to protect against injury, planning for discharge, instructions for timely discharge or referral, and any other factors relevant to the care of that patient.

7 AAC 12.513(b) is amended to read:

(b) The agency shall promptly alert the attending physician, advanced practice registered nurse, or physician assistant of conditions that may require a change to the plan of care. The attending physician, advanced practice registered nurse, or physician assistant must approve any changes to the plan of care.

(Eff. 9/6/96, Register 139; am 5 / 14 / 2021, Register ~~238~~)

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

Authority: AS 18.05.040 AS 47.32.010 AS 47.32.030

7 AAC 12.517(a)(10) is amended to read:

(10) inform the attending physician, advanced practice registered nurse, or physician assistant and inform other personnel of changes in the patient's condition and needs;

(Eff. 9/6/96, Register 139; am 5 / 14 / 2021, Register 238)

Authority: AS 18.05.040 AS 47.32.010 AS 47.32.030

7 AAC 12.521(a)(2) is amended to read:

(2) establish or modify a physical therapy treatment plan upon written or verbal orders from a physician, advanced practice registered nurse, or physician assistant;

7 AAC 12.521(b)(2) is amended to read:

(2) establish or modify an occupational therapy treatment plan upon written or verbal orders from a physician, advanced practice registered nurse, or physician assistant;

7 AAC 12.521(d)(2) is amended to read:

(2) establish or modify a speech therapy treatment plan upon written or verbal instructions from the treating physician, advanced practice registered nurse, or physician assistant;

(Eff. 9/6/96, Register 139; am 5 / 14 / 2021, Register 238)

Authority: AS 18.05.040 AS 47.32.010 AS 47.32.030

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

7 AAC 12.523(b)(1) is amended to read:

(1) assist the treating physician, advanced practice registered nurse, or physician assistant, the team members, and the family in understanding the social and emotional factors related to health problems of the patient;

7 AAC 12.523(b)(6) is amended to read:

(6) accept, [PHYSICIAN ORDERS] in relation to social services issues, the orders of a physician, advanced practice registered nurse, or physician assistant;

(Eff. 9/6/96, Register 139; am 5 / 14 / 2021, Register 238)

Authority: AS 18.05.040 AS 47.32.010 AS 47.32.030

7 AAC 12.524(10) is amended to read:

(10) maintain liaison with the treating physician, advanced practice registered nurse, or physician assistant and with the agency staff to ensure that their efforts are coordinated effectively and support the objectives outlined in a plan of care. (Eff. 9/6/96, Register 139; am 5 / 14 / 2021, Register 238)

Authority: AS 18.05.040 AS 47.32.010 AS 47.32.030

7 AAC 12.526(a)(3) is amended to read:

(3) administer treatments only upon the order of a physician, advanced practice registered nurse, or physician assistant.

(Eff. 9/6/96, Register 139; am 5 / 14 / 2021, Register 238)

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

Authority: AS 18.05.040 AS 47.32.010 AS 47.32.030

7 AAC 12.551(a) is amended to read:

(a) If ordered by the patient's physician, [OR] advanced practice registered nurse, or physician assistant [PRACTITIONER], a drug may be administered to a patient by an employee or a contractor of the home health agency who is authorized to administer drugs by law.

7 AAC 12.551(c) is amended to read:

(c) The agency shall document all drugs a patient may be taking, including a drug not prescribed by the attending physician, advanced practice registered nurse, or physician assistant. (Eff. 9/6/96, Register 139; am 5/14/2021, Register 238)

Authority: AS 18.05.040 AS 47.32.010 AS 47.32.030

7 AAC 12.561(a)(1) is amended to read:

(1) attending physician, advanced practice registered nurse, or physician assistant;

7 AAC 12.561(b)(4) is amended to read:

(4) name of the attending physician, advanced practice registered nurse, or physician assistant;

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

7 AAC 12.561(b)(6) is amended to read:

(6) copies of summary reports sent to the attending physician, **advanced practice registered nurse, or physician assistant**;

7 AAC 12.561(c) is amended to read:

(c) Clinical progress notes must be written or dictated on the day that care or service is rendered. The clinical progress notes must be incorporated into the patient's clinical record within seven days. Summaries of the care or service reported must be submitted to the attending physician, **advanced practice registered nurse, or physician assistant** at least every 62 days.

(Eff. 9/6/96, Register 139; am 5 / 14 / 2021, Register 238)

Authority: AS 18.05.040 **AS 47.32.010** **AS 47.32.030**

7 AAC 12.990(2) is amended to read:

(2) "advanced **practice registered** nurse [PRACTITIONER]" means a person who is authorized to practice as an advanced **practice registered** nurse [PRACTITIONER] under 12 AAC 44.400;

7 AAC 12.990(41)(A) is amended to read:

(A) authorized to practice as an advanced **practice registered** nurse [PRACTITIONER] under 12 AAC 44.400 and who is certified to practice midwifery by a national certification body recognized under 12 AAC 44.420 and 12 AAC 44.430;

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

7 AAC 12.990(86)(B) is amended to read:

(B) advanced practice registered nurse [PRACTITIONER];

(Eff. 11/19/83, Register 88; am 5/28/92, Register 122; am 5/4/97, Register 142; am 9/1/2000, Register 155; am 6/23/2006, Register 179; am 12/3/2006, Register 180; am 5/24/2007, Register 182; am 9/30/2007, Register 183; am 7/29/2011, Register 199; am 5/14/2021, Register 238)

Authority: AS 18.05.040 AS 47.32.010 AS 47.32.030

7 AAC 125.310(a) is amended to read:

(a) The department will pay a public or private home health agency for the following home health care services, if recommended by a licensed physician, advanced practice registered nurse, or physician assistant as part of a plan of care developed in accordance with 7 AAC 125.320:

(1) the following services if they are provided to a recipient in the recipient's place of residence by a public or private organization that the department has certified as a home health agency for purposes of Medicare:

(A) intermittent or part-time skilled nursing services that are provided by a registered nurse or a licensed practical nurse, under the continued direction of the recipient's physician, advanced practice registered nurse, or physician assistant, and within the scope of the nurse's license;

(B) home health aide services that are prescribed by and under the continued direction of a physician, advanced practice registered nurse, or physician assistant and supervised by a registered nurse;

(C) supplies suitable for use in the home;

(D) physical therapy, occupational therapy, speech-language pathology services, and audiology services that are prescribed by a physician, **advanced practice registered nurse, or physician assistant** and provided to a recipient by or under the supervision of a qualified practitioner;

(2) skilled nursing services, at a payment rate determined under 7 AAC 145.700 - 7 AAC 145.730, if

(A) they are provided by a rural health clinic enrolled under 7 AAC 140.200;

(B) they are provided to a recipient by a registered nurse who receives written orders from the recipient's physician, **advanced practice registered nurse, or physician assistant**, and those services are within the scope of the nurse's license; and

(C) the location of the recipient's place of residence is not served by any public or private organization that the department has certified as a home health agency for purposes of Medicare.

7 AAC 125.310(d) is amended to read:

(d) The department will pay a home health agency for home health care services provided to a recipient who is eligible for Medicare, if on the basis of one or more of the following exclusions, Medicare will not pay for some or all of the home health care services ordered by the physician, **advanced practice registered nurse, or physician assistant**:

(1) the recipient does not need intermittent or part-time skilled nursing services;

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

(2) the recipient is not confined to the home. (Eff. 2/1/2010, Register 193; am 5/1/2019, Register 230; am 5 / 14 / 2021, Register 238)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

The introductory language of 7 AAC 125.320(b) is amended to read:

(b) A home health agency must submit a request for prior authorization on a form provided by the department, and must include a written statement from the attending physician, advanced practice registered nurse, or physician assistant that

...

The introductory language of 7 AAC 125.320(d) is amended to read:

(d) A physician, advanced practice registered nurse, or physician assistant shall develop a plan of care for a recipient of home health care services. The plan of care must include

...

7 AAC 125.320(e) is amended to read:

(e) If a physician, advanced practice registered nurse, or physician assistant refers a recipient under a plan of care that cannot be completed until after an evaluation visit, the physician, advanced practice registered nurse, or physician assistant shall make additions or modifications to the original plan of care as necessary to reflect the outcome of the evaluation.

7 AAC 125.320(f) is amended to read:

(f) To determine the immediate care and support needs of the recipient, and except as provided in (h) of this section, a registered nurse shall complete an initial assessment of the recipient no more than 48 hours after the referral, no more than 48 hours after the recipient's return to the recipient's place of residence, or on the [PHYSICIAN-ORDERED] start-of-care date **that the physician, advanced practice registered nurse, or physician assistant ordered.**

The introductory language of 7 AAC 125.320(h) is amended to read:

(h) If speech-language pathology, physical therapy, or occupational therapy is the only service ordered by the physician, **advanced practice registered nurse, or physician assistant,**

...

The introductory language of 7 AAC 125.320(i) is amended to read:

(i) The attending physician, **advanced practice registered nurse, or physician assistant** shall review the plan of care, initial assessment, and comprehensive assessment

...

7 AAC 125.320(j) is amended to read:

(j) At least annually, a physician, **advanced practice registered nurse, or physician assistant** shall review a recipient's need for supplies. The department may require more frequent physician, **advanced practice registered nurse, or physician assistant** reviews for particular

Register 238, July 2021 HEALTH AND SOCIAL SERVICES

prescribed items. (Eff. 2/1/2010, Register 193; am 5/1/2019, Register 230; am 5 / 14 / 2021,

Register 238)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040


MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: April 8, 2021

File No.: 2020200541

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 regulations re: licensure of
home health agencies, Medicaid
coverage and payment for home
health agency services, and attending
or treating health care professionals
involved with home health agencies
(7 AAC 12; 7 AAC 125.310; 7 AAC
125.320)

The Department of Law has reviewed the attached regulations of the Department of Health and Social Services against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Department of Health and Social Services after the close of the public comment period. For purposes of licensure of home health agencies and Medicaid coverage and payment for home health agency services, the regulations expand the role of an attending or treating physician to allow an attending or treating advanced practice registered nurse or physician assistant to assume that role, and also make technical changes to the facility licensure regulations overall, updating the term "advanced nurse practitioner" to the current term "advanced practice registered nurse."

The September 13, 2020 public notice and the April 5, 2021 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

SCW

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

Triptaa Surve, Regulations Contact
Department of Health and Social Services

Susan Miller Dunkin, Medicaid Program Specialist
Division of Health Care Services
Department of Health and Social Services

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

NOTICE OF PROPOSED CHANGES ON HOME HEALTH AGENCY LICENSURE REQUIREMENTS AND
MEDICAID COVERAGE IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL
SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations on home health agency licensure requirements and Medicaid coverage.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with home health agency licensure requirements and Medicaid coverage, including the following:

- 7 AAC 12. Facilities and Local Units; and 7 AAC 125. Medicaid Coverage; Personal Care Services and Home Health Care Services, are proposed to be changed as follows:
 - Allow advanced practice registered nurses and physician assistants to certify the need for, and oversee, plans of care.
 - Align regulations with the professional scope of practice.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Ms. Susan Miller Dunkin at the Department of Health & Social Services, Division of Health Care Services, 4501 Business Park Blvd., Building L, Attention: Susan Miller Dunkin, Anchorage, AK 99503. Additionally, the Department of Health & Social Services will accept comments by electronic mail at susan.dunkin@alaska.gov. The comments must be received not later than 5 p.m. on October 22, 2020.

You may submit written questions relevant to the proposed action to Ms. Susan Miller Dunkin by e-mail at susan.dunkin@alaska.gov or at the Department of Health & Social Services, Division of Health Care Services, 4501 Business Park Blvd., Building L, Attention: Susan Miller Dunkin, Anchorage, AK 99503. 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 and agency website at <http://www.dhss.alaska.gov/dhcs/Pages/default.aspx>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Ms. Susan Miller Dunkin at susan.dunkin@alaska.gov or at (907) 269-3638 not later than October 12, 2020, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Ms. Susan Miller Dunkin at susan.dunkin@alaska.gov or by telephone at (907) 269-3638. After the public comment period ends, the Department of Health & Social Services will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected.

Statutory authority: AS 18.05.040; AS 47.05.010; AS 47.07.030; AS 47.07.040.

Statutes being implemented, interpreted, or made specific: AS 18.05.040; AS 47.05.010; AS 47.07.030; AS 47.07.040.

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

The Department of Health & Social Services, Division of Health Care Services, keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Department of Health & Social Services, Division of Health Care Services, notices of proposed regulation changes. To be added to or removed from the list, send a request to the Department of Health & Social Services, Division of Health Care Services at susan.dunkin@alaska.gov , giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

DATE: September 9, 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: Home Health Agency Licensure Requirements and Medicaid Coverage, specifically, 7 AAC 12. Facilities and Local Units; 7 AAC 125. Medicaid Coverage; Personal Care Services and Home Health Care Services (7 AAC 125.310. Home health care services, and 7 AAC 125.320. Requirements for home health care services).
3. Citation of regulation (may be grouped): 7 AAC 12, 125.
4. Department of Law file number, if any: 2020200541
5. Reason for the proposed action:
 - (X) Compliance with federal law or action (identify): Comply with Section 3708 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act that allows, on a permanent basis, advanced practice registered nurses and physician assistants to certify need for, and oversee, plans of care.
 - () Compliance with new or changed state statute
 - () Compliance with federal or state court decision (identify): _____
 - (X) Development of program standards
 - (X) Other (identify): Align DHSS regulations with professional scopes of practice.
6. Appropriation/Allocation: Department of Health and Social Services/Health Care Services/Medical Assistance Administration
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 FY _____	Subsequent Years
Operating Cost	\$ _____	\$ _____
Capital Cost	\$ _____	\$ _____
1002 Federal receipts	\$ _____	\$ _____
1003 General fund match	\$ _____	\$ _____
1004 General fund	\$ _____	\$ _____
1005 General fund/ program	\$ _____	\$ _____
Other (identify)	\$ _____	\$ _____

9. The name of the contact person for the regulation:
Name: Ms. Susan Miller Dunkin
Title: Medicaid Program Specialist IV
Address: 4501 Business Park Blvd., Bldg. L, Anchorage, AK 99503.
Telephone: (907) 269-3638 or (907) 310-2769
E-mail address: susan.dunkin@alaska.gov

10. The origin of the proposed action:
☒ Staff of state agency
☒ Federal government
☐ General public
☐ Petition for regulation change⁷
☐ Other (identify): _____

11. Date & Prepared by: Susan Miller Dunkin
[signature]
Name (printed): Susan Miller Dunkin
Title (printed): Medicaid Program Specialist IV
Telephone: (907) 269-3638 or (907) 310-2769

Digitally signed by
Susan Miller Dunkin
Date: 2020.08.28
17:43:39 -08'00'

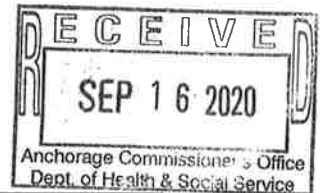
ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

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

Order #: W0017801

Cost: \$418.36



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

09/13/2020

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 14th 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 PROPOSED CHANGES ON HOME HEALTH AGENCY LICENSURE REQUIREMENTS AND MEDICAID COVERAGE IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with home health agency licensure requirements and Medicaid coverage, including the following:

- * 7 AAC 12. Facilities and Local Units; and 7 AAC 125. Medicaid Coverage; Personal Care Services and Home Health Care Services, are proposed to be changed as follows:
 - o Allow advanced practice registered nurses and physician assistants to certify the need for, and oversee, plans of care.
 - o Align regulations with the professional scope of practice.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Ms. Susan Miller Dunkin at the Department of Health & Social Services, Division of Health Care Services, 4501 Business Park Blvd., Building L, Attention: Susan Miller Dunkin, Anchorage, AK 99503. Additionally, the Department of Health & Social Services will accept comments by electronic mail at susan.dunkin@alaska.gov. The comments must be received not later than 5 p.m. on October 22, 2020.

You may submit written questions relevant to the proposed action to Ms. Susan Miller Dunkin by e-mail at susan.dunkin@alaska.gov or at the Department of Health & Social Services, Division of Health Care Services, 4501 Business Park Blvd., Building L, Attention: Susan Miller Dunkin, Anchorage, AK 99503. 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 and agency website at <http://www.dhss.alaska.gov/dhcs/Pages/default.aspx>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Ms. Susan Miller Dunkin at susan.dunkin@alaska.gov or at (907) 269-3638 not later than October 12, 2020, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Ms. Susan Miller Dunkin at susan.dunkin@alaska.gov or by telephone at (907) 269-3638. After the public comment period ends, the Department of Health & Social Services will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected.

Statutory authority: AS 18.05.040; AS 47.05.010; AS 47.07.030; AS 47.07.040.

Statutes being implemented, interpreted, or made specific: AS 18.05.040; AS 47.05.010; AS 47.07.030; AS 47.07.040.

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

The Department of Health & Social Services, Division of Health Care Services, keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Department of Health & Social Services, Division of Health Care Services, notices of proposed regulation changes. To be added to or removed from the list, send a request to the Department of Health & Social Services, Division of Health Care Services at susan.dunkin@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

DATE: September 9, 2020.

/s/Adam Crum
Commissioner,
Department of Health & Social Services,
State of Alaska.

Published: September 13, 2020

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Susan Miller Dunkin, of the Department of Health & Social Services, under penalty of perjury, certify the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to Home Health Agency Licensure Requirements and Medicaid Coverage, specifically, 7 AAC 12. Facilities and Local Units; 7 AAC 125. Medicaid Coverage; Personal Care Services and Home Health Care Services (7 AAC 125.310. Home health care services, and 7 AAC 125.320. Requirements for home health care services), has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1).

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

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.

Susan Miller
Dunkin

Digitally signed by
Susan Miller Dunkin
Date: 2021.01.28
08:54:09 -09'00'

[original or password-protected electronic signature]
Susan Miller Dunkin, Medicaid Program Specialist IV

State of Alaska
Anchorage, AK 99503

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Susan Miller Dunkin, 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 as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Health & Social Services regulation on Home Health Agency Licensure Requirements and Medicaid Coverage, specifically, 7 AAC 12. Facilities and Local Units; 7 AAC 125. Medicaid Coverage; Personal Care Services and Home Health Care Services (7 AAC 125.310. Home health care services, and 7 AAC 125.320. Requirements for home health care services).

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.

**Susan Miller
Dunkin**

Digitally signed by
Susan Miller Dunkin
Date: 2021.01.28
08:52:34 -09'00'

[original or password-protected electronic signature]
Susan Miller Dunkin, Medicaid Program Specialist IV

State of Alaska
Anchorage, AK 99503.