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**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

**DATE:** June 10, 2021

**RE:** Filed Emergency Regulations: State Medical Board

State Medical Board Emergency Regulations re: standards of practice for telemedicine  
(12 AAC 40.943(b))

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Attorney General File:	Emergency Regulations
Regulation Filed:	6/10/2021
Effective Date:	6/10/2021
Expiration Date:	October 7, 2021 unless made permanent by the adopting agency
Print:	239, October 2021

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

## 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 40.943, dealing with standards of practice for telemedicine, for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

The amendment is necessary to continue to allow the use of telemedicine to provide medication assisted treatment for opioid use disorders and avoid a negative health impact on the public by decreasing access to treatment during the 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, AS 08.64.101, and AS 08.64.364, adopted at its June 3, 2021 videoconference meeting the attached two 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: 6/4/2021  
Juneau, Alaska

Natalie Norberg  
Natalie Norberg, Executive Administrator  
State Medical Board

April Simpson for  
↑

## FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on June 10, 2021 at 2:18 p.m., I filed the attached regulation according to the provisions of AS 44.62.

Kevin Meyer  
Kevin Meyer, Lieutenant Governor

Effective: June 10, 2021  
Register: 239, October 2021

Expires October 7, 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*  
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**KEVIN MEYER  
LIEUTENANT GOVERNOR**

## EMERGENCY REGULATION

Register 239, October 2021 PROFESSIONAL REGULATIONS

### Chapter 40. State Medical Board.

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

12 AAC 40.943(b) is amended to read:

(b) During a **public health** [DISASTER] emergency declared by the governor **or**  
**commissioner of health and social services, or an emergency as defined in (c) of this section,**

an appropriate licensed health care provider need not be present with the patient to assist a physician or physician assistant with examination, diagnosis, and treatment if the physician or physician assistant is prescribing, dispensing, or administering buprenorphine to initiate **or**  
**continue** treatment for opioid use disorder and the physician or physician assistant

(1) is a waived practitioner under 21 U.S.C 823(g)(2) (Drug Addiction Treatment Act (DATA));

(2) documents all attempts to conduct a physical examination under AS  
08.64.364(b), [AND] the reason why the examination cannot be performed, **and the reason why**  
**another health care provider cannot be present with the patient;** and

(3) requires urine or oral toxicology screening as part of the patient's medication adherence plan.

12 AAC 40.943 is amended by adding a new subsection to read:

**(c) In this section, "emergency" means a health crisis affecting all or part of the state when circumstances prohibit another licensed health care provider's presence with the patient.** (Eff. 10/8/2017, Register 224; am 5/5/2020, Register 234; am 9/20/2020, Register 235;

## EMERGENCY REGULATION

Register 239, October 2021 PROFESSIONAL REGULATIONS

am 6 / 10 / 2021, Register 239)

**Authority:** AS 08.64.100 AS 08.64.101 AS 08.64.364

Excerpt From:

**STATE OF ALASKA**

**DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT**

**DIVISION OF CORPORATIONS, BUSINESS, AND PROFESSIONAL LICENSING**

**STATE MEDICAL BOARD**

**MINUTES OF MEETING**

Thursday June 3, 2021

**3. Consideration of Emergency Regulations on Buprenorphine via Telemedicine**

Chair Wein invited Division staff, Jun Maiquis, Regulation Specialist, and Sara Chambers, Director, to introduce and explain the statutory and regulatory framework and amendments needed to address the allowance of the use of telemedicine for medication assisted treatment for opioid use disorder. To address this, the board must first acknowledge the existence of an emergency situation for which emergency regulations are needed. Secondly, the regulations that govern the way in which a public health emergency may be declared must be amended to allow providers to have more long-term flexibility in the ability to administer medication assisted treatment for opioid use disorder. Under this proposed amendment, should a provider choose to prescribe buprenorphine via telemedicine while the state is not under a governor or DHSS declared public health emergency, it will be incumbent on providers to justify why they determined an emergency exists. During discussion, members of the board confirmed that they believe the use of opioids continues to be a public health emergency and that buprenorphine is a safe and effective treatment for opioid addictions.

**On a motion duly made by Mr. Boswell, seconded by Dr. Parker and approved by roll call vote, the State Medical Board affirmed that an emergency exists under AS 44.62.250 and an emergency regulation change is necessary to 12 AAC 40.943, dealing with standards of practice for telemedicine, for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:**

**The amendment is necessary to continue to allow the use of telemedicine to provide medication assisted treatment for opioid use disorders and avoid a negative health impact on the public by decreasing access to treatment during the public health emergency caused by the COVID-19 pandemic.**

Roll Call: Yeas, Ms. Bigelow-Hood, Mr. Boswell, Dr. Freeman, Ms. Mielke, Dr. Parker, Chair Wein  
Absent for Vote: Dr. Daugherty

**On a motion duly made by Mr. Boswell, seconded by Dr. Freeman and approved by roll call vote, the board agreed to adopt as emergency regulations with the intent to make permanent the proposed amendments to 12 AAC 40.943 regarding the declaration of an emergency,**

**continuation of OUD treatment, documentation, and the definition of *emergency* as presented in the board meeting materials. (See Attachment I)**

Roll Call: Yeas, Ms. Bigelow-Hood, Mr. Boswell, Dr. Freeman, Ms. Mielke, Dr. Parker, Chair Wein

Absent for Vote: Dr. Daugherty

## AFFIDAVIT OF BOARD ACTION

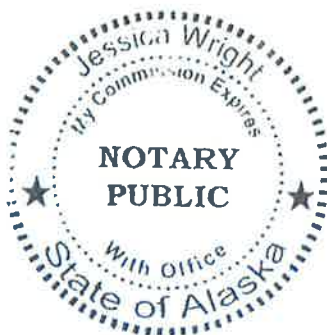
I, Natalie Norberg, Executive Administrator for the State Medical Board, being duly sworn, state the following:

The attached motion dealing with standards of practice for telemedicine was passed by the State Medical Board during its June 3, 2021 videoconference meeting.

Date: 6/4/2021  
Juneau, Alaska

Natalie Norberg  
Natalie Norberg, Executive Administrator

SUBSCRIBED AND SWORN TO before me this 4 day of June, 2021.



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