

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




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Anchorage, Alaska 99501  
907.269.7460  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Glenn Hoskinson  
Department of Commerce, Community, and Economic Development

**FROM:** Kady Levale, Office of the Lieutenant Governor   
465.4081

**DATE:** October 7, 2021

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

State Medical Board emergency regulations being made permanent re: standards of practice for telemedicine during an emergency situation (12 AAC 40.943(b))

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Attorney General File: 2021200238

Regulation Filed: 10/6/2021

Effective Date: 06/10/2021

Print: 240, January 2022

cc with enclosures: Joseph Felkl, Department of Law  
Judy Herndon, LexisNexis  
Jun Maiquis, Regulations Specialist

## CERTIFICATION OF COMPLIANCE

I, Natalie Norberg, Executive Administrator 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 40.943(b) and (c), dealing with standards of practice for telemedicine during an emergency situation.

This regulation originally was filed as an emergency regulation on June 10, 2021.

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: 8/25/2021

Natalie Norberg  
Natalie Norberg, Executive Administrator  
State Medical Board

Kady Levale for

## FILING CERTIFICATION

I, <sup>↑</sup>Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on October 4, 2021 at 2:55p.m., I filed the attached regulation according to the provisions of AS 44.62.

for Kady  
Kevin Meyer, Lieutenant Governor

Register: 240, January 2022.

**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**

**Chapter 40. State Medical Board.**

The emergency amendment of 12 AAC 40.943(b) is made permanent to read:

(b) During a public health 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), 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.

~~The emergency adoption of 12 AAC 40.943(e) is made permanent 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; am 6/10/2021, Register 239)

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


# MEMORANDUM

## State of Alaska Department of Law

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

**Date:** October 6, 2021

**File No.:** 2021200238

**From:** Rebecca C. Polizzotto   
Chief Assistant Attorney General  
and Regulations Attorney  
Legislation and Regulations Section

**Tel. No.:** 907-465-3600

**Re:** Department of Commerce,  
Community, and Economic  
Development amendment to  
12 AAC 40.943; State Medical Board  
emergency regulations

The Department of Law has reviewed the attached regulations of the Department of Commerce, Community, and Economic Development against the statutory standards of the Administrative Procedure Act. The regulations were adopted June 3, 2021 as emergency regulations, filed on June 10, 2021, and expire October 7, 2021 unless made permanent. The State Medical Board proceeded to public notice and comment in order to make the regulations permanent under AS 44.62.260.

Based upon our review, we have disapproved proposed 12 AAC 40.943(c) and made a corresponding conforming edit to 12 AAC 40.943(b). We find no legal problems with the rest of the regulations as permanent regulations. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the rest of the attached regulations. The amendments concern State Medical Board ("Board") exceptions to when a health care provider is required to be present with a patient to assist a physician or physician assistant when prescribing, administering, or dispensing buprenorphine to treat opioid use disorder.

Under 12 AAC 40.943(b), a health care provider need not be present with a patient to assist a physician or physician assistant in treating a patient's opioid use disorder with buprenorphine if there is a "public health emergency declared by the governor or commissioner of health and social services, *or an emergency as defined in (c) of this section.*" However, it is our assessment that 12 AAC 40.943(c), as currently written, is vague and likely unenforceable under law. 12 AAC 40.943(c) defines an "emergency" as "a health crisis affecting all or part of the state when circumstances prohibit another licensed health care provider's presence with the

patient." This language presents three unresolvable legal issues:

(1) it leaves the regulation ambiguous as to what party is responsible for determining whether a health crisis is affecting all or part of the state;

(2) if the finding of a health crisis is meant to be determined by the Board, the self-grant of that discretion likely exceeds the scope of the State Medical Board's regulatory adoption authority under AS 08.64; and

(3) if the finding of a health crisis is to be identified by the health care provider, that discretion likely exceeds the scope of a health care provider's authority, as there is nothing in statute or State Medical Board regulations (12 AAC 40) that authorizes a determination of this kind. If this interpretation of the amendment is correct, it would seemingly place the authority of health care providers on equal ground with that of the governor or the commissioner of health and social services to designate exceptions from ordinary treatment procedures.

Accordingly, because 12 AAC 40.943(c) is vague and unlikely to be supported by law, we have disapproved the regulation and made a conforming edit to 12 AAC 40.943(b). We have marked the disapproval on the attached copy of the regulations.

To address this disapproval while preserving the formatting of the proposed regulations, we request that the Publisher amend the editor's note following 12 AAC 40.943 by adding the following new paragraph:

The State Medical Board originally amended 12 AAC 40.943(b) by emergency action on June 4, 2021. Those emergency amendments were filed and took effect June 10, 2021, Register 239 (October 2021). The amendments had included the addition of 12 AAC 40.943(c), with a conforming cross-reference in 12 AAC 40.943(b). Acting under the authority of AS 44.62.060(b) and 44.62.125, the regulations attorney disapproved proposed 12 AAC 40.943(c) and the conforming cross-reference that had appeared in 12 AAC 40.943(b). These disapprovals are not reflected in the history note for 12 AAC 40.943.

The June 15, 2021 public notice states that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

bws:RCP

**cc w/ enclosures:** Dr. Richard Wein, Chair  
State Medical Board  
(via email through Jun Maquis)

Natalie Norberg, Executive Administrator  
State Medical Board

Sara Chambers, Director  
Division of Corporations, Business, and Professional Licensing  
Department of Commerce, Community, and Economic Development

Glenn Hoskinson, Regulations Specialist  
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 TELEMEDICINE 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 standards of practice for telemedicine during an emergency situation.

On **June 3, 2021**, the State Medical Board (Board) adopted, as an emergency regulation, changes in 12 AAC 40 of the Alaska Administrative Code dealing with standards of practice for telemedicine, including the following:

**12 AAC 40.943. Standards of practice for telemedicine**, is proposed to allow physicians and physician assistants who are licensed in Alaska to have flexibilities to prescribe, dispense, and administer buprenorphine via telemedicine without an in-person visit during an emergency situation or public health emergency.

The emergency regulation took effect on **June 10, 2021**, and will expire **October 7, 2021** unless made permanent by the Board. 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](mailto: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/202869>, and using the comment link. **The comments must be received not later than 4:30 p.m. on July 19, 2021.**

Oral comments relevant to the proposed regulations, including the potential costs to private persons of complying with the proposed changes, may also be given at a hearing to be held on August 20, 2021 **via zoom/video and teleconference**. You may participate **via [www.zoom.us](http://www.zoom.us) by entering Meeting ID 988 0757 3799 Access Code 061932**, or you may participate **via teleconference by calling 253-215-8782 and enter the Meeting ID and Access Code noted above**. The hearing will be held from 12:30 p.m. to 1:00 p.m. and might be extended to accommodate those present before 12:30 p.m. who did not have an opportunity to comment. Callers should be on the line before the hearing begins at 12:30 p.m. if they would like to provide oral testimony. Priority will be given to those who called in before 12:30 p.m., and the chair of the Board may limit each participant's length of oral testimony, determined before the hearing begins, to provide for those who timely called in to participate.

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](mailto: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](mailto:RegulationsAndPublicComment@alaska.gov) not later than July 12, 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](mailto:RegulationsAndPublicComment@alaska.gov), or go to <https://www.commerce.alaska.gov/web/portals/5/pub/MED-Telemedicine-EmergencyReg-0621.pdf>.


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

**Statutory Authority:** AS 08.64.100; AS 08.64.101; AS 08.64.364

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 08.64.100; AS 08.64.101; AS 08.64.364

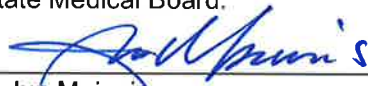
**Fiscal Information:** The emergency regulation changes are not expected to require an increased appropriation.

DATE: 6/14/21

  
\_\_\_\_\_  
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:** Standards of practice for telemedicine.
3. **Citation of regulation:** 12 AAC 40.943.
4. **Department of Law file number:** 2021200238.
5. **Reason for the proposed action:** Emergency regulation due to emergency situation or public health emergency.
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:**  
Natalie Norberg, Executive Administrator  
State Medical Board  
Division of Corporations, Business and Professional Licensing  
Department of Commerce, Community, and Economic Development  
Telephone: (907) 465-6243  
E-mail: natalie.norberg@alaska.gov
10. **The origin of the emergency regulation action:** State Medical Board.
11. **Date:** 6/14/21      **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 June 10, 2021 emergency changes to 12 AAC 40.943, dealing with standards of practice for telemedicine during an emergency situation, has been given under AS 44.62.190(a) by being

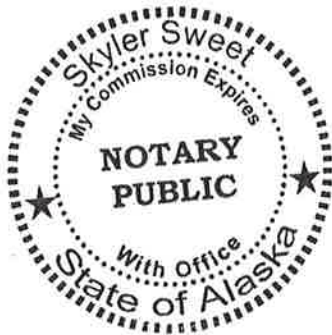
1. published in a newspaper or trade publication;
2. furnished to every person who has filed a request for notice of proposed action with the state agency;
3. furnished to appropriate state officials;
4. furnished to interested persons;
5. furnished to the Department of Law, along with a copy of the 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 June 10, 2021 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: 9/2/21

  
\_\_\_\_\_  
Jun Maiquis, Regulations Specialist

SUBSCRIBED AND SWORN TO before me this 2<sup>nd</sup> day of September, 2021.



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

## AFFIDAVIT OF ORAL HEARING

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

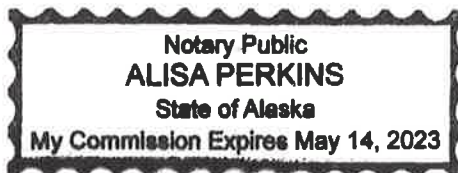
The State Medical Board presided over the following public hearing held in accordance with AS 44.62.210 for the purpose of taking testimony in connection with the adoption of changes to 12 AAC 40.943 dealing with standards of practice for telemedicine during an emergency situation:

August 20, 2021, at 12:30 p.m., via videoconference and teleconference.

Date: 8/25/21

Natalie Norberg  
Natalie Norberg, Executive Administrator

SUBSCRIBED AND SWORN TO before me this 25 day of August, 2021.



[Signature]  
Notary Public in and for the  
State of Alaska  
My Commission Expires: May 14 2023

**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:

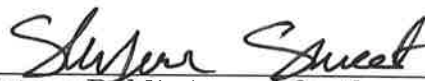
In compliance with AS 44.62.215, the State Medical Board has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the State Medical Board emergency regulations on dealing with standards of practice for telemedicine during an emergency situation.

DATE: 9/2/21

  
\_\_\_\_\_  
Jun Maiquis Regulations Specialist

SUBSCRIBED AND SWORN TO before me this 2<sup>nd</sup> day of September, 2021.



  
\_\_\_\_\_  
Notary Public in and for the  
State of Alaska  
My commission expires: With Office

# ANCHORAGE DAILY NEWS

## AFFIDAVIT OF PUBLICATION

Account #: 105545 ST OF AK/DEC/OCCU  
Attention To: ATTN TO: JUN MAIQUIS  
PO BOX 110806, JUNEAU, AK 99811

Order #: W0023275

Cost: \$537.88

RECEIVED  
Juneau

JUN 21 2021

CBPL

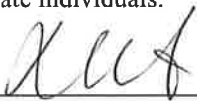
STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

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

06/15/2021

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 15th day of June 2021.

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

MY COMMISSION EXPIRES

7/14/2024

NOTARY PUBLIC  
JADAL NOWLING  
STATE OF ALASKA  
MY COMMISSION EXPIRES July 14, 2024

### NOTICE OF ADOPTION OF EMERGENCY REGULATION ON TELEMEDICINE IN THE REGULATIONS OF THE ALASKA STATE MEDICAL BOARD

On June 3, 2021, the State Medical Board (Board) adopted, as an emergency regulation, changes in 12 AAC 40 of the Alaska Administrative Code dealing with standards of practice for telemedicine, including the following:

12 AAC 40.943. Standards of practice for telemedicine, is proposed to allow physicians and physician assistants who are licensed in Alaska to have flexibilities to prescribe, dispense, and administer buprenorphine via telemedicine without an in-person visit during an emergency situation or public health emergency.

The emergency regulation took effect on June 10, 2021, and will expire October 7, 2021 unless made permanent by the Board. 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](mailto: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/202869>, and using the comment link. The comments must be received not later than 4:30 p.m. on July 19, 2021.

Oral comments relevant to the proposed regulations, including the potential costs to private persons of complying with the proposed changes, may also be given at a hearing to be held on August 20, 2021 via zoom/video and teleconference. You may participate via [www.zoom.us](http://www.zoom.us) by entering Meeting ID 988 0757 3799 Access Code 061932, or you may participate via teleconference by calling 253-215-8782 and enter the Meeting ID and Access Code noted above. The hearing will be held from 12:30 p.m. to 1:00 p.m. and might be extended to accommodate those present before 12:30 p.m. who did not have an opportunity to comment. Callers should be on the line before the hearing begins at 12:30 p.m. If they would like to provide oral testimony, Priority will be given to those who called in before 12:30 p.m., and the chair of the Board may limit each participant's length of oral testimony, determined before the hearing begins, to provide for those who timely called in to participate.

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](mailto: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](mailto:RegulationsAndPublicComment@alaska.gov) not later than July 12, 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](mailto:RegulationsAndPublicComment@alaska.gov), or go to <https://www.commerce.alaska.gov/web/portals/5/pub/MED-Telemedicine-EmergencyReg-0621.pdf>.

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

Statutory Authority: AS 08.64.100; AS 08.64.101; AS 08.64.364  
Statutes Being Implemented, Interpreted, or Made Specific: AS 08.64.100; AS 08.64.101; AS 08.64.364

Fiscal Information: The emergency regulation changes are not expected to require an increased appropriation.

DATE: 6/14/2021  
/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.

Pub: June 15, 2021

## AFFIDAVIT OF BOARD ACTION

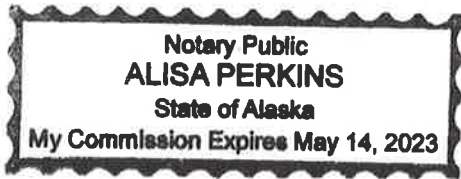
I, Natalie Norberg, Executive Administrator for the State Medical Board, being duly sworn, state the following:

The attached motion dealing with standards of practice for telemedicine during an emergency situation was passed by the State Medical Board during its August 20, 2021 videoconference meeting.

Date: 8/25/21

Natalie Norberg  
Natalie Norberg, Executive Administrator

SUBSCRIBED AND SWORN TO before me this 25 day of August, 2021.



[Signature]  
Notary Public in and for the  
State of Alaska  
My commission expires: May 14, 2023

## Excerpt from Medical Board Meeting Minutes, August 20, 2021

### **Current Regulation Projects /review of status and public comments, continued**

After acknowledging no public comments received during the time set for oral public comments for the regulation changes proposed for 12 AAC 40.943(b) and (c), Chair Wein proposed moving forward with adopting the changes.

**On a motion duly made by Dr. Wein, seconded by Dr. Daugherty and approved by roll call vote the board adopted the changes to 12 AAC 40.943(b) and (c), as public noticed, considering public comment and there is no additional cost to the public for the proposed regulations.**

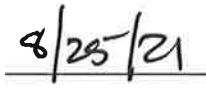
Roll Call: Yeas, Ms. Bigelow Hood, Dr. Daugherty, Dr. Freeman, Ms. Mielke, Dr. Wein

Absent for Vote: Mr. Boswell and Dr. Parker.

Respectfully submitted:



Natalie Norberg, Executive Administrator



08/25/2021

## 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*

**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

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am 6 / 10 / 2021, Register 239)

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