

Nancy Dahlstrom
Lieutenant Governor
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Alexis Hildebrand, Department of Labor and Workforce Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: June 7, 2024

RE: Filed Permanent Regulations: Department of Labor and Workforce Development
Department of Labor and Workforce Development and the Alaska Workers'
Compensation Board regulations re: Hearing Procedures (8 AAC 45.070, .071)

Attorney General File:	2024200072
Regulation Filed:	6/7/2024
Effective Date:	7/7/2024
Print:	251, October 2024

cc with enclosures: Colleen Bailey, Department of Law
Judy Herndon, LexisNexis



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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June 6, 2024

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: *8 AAC 45.070, .071: DLWD, Workers Comp: Hearing Procedures*
Our file: 2024200072

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Department of Labor and Workforce Development, Alaska Workers' Compensation Board against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter 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 Labor and Workforce Development, Alaska Workers' Compensation Board after the close of the public comment period.

The regulations concern the adoption of procedures to resolve medical disputes or request the board order a physical examination. In addition, the regulations add an uninsured employer's discharge order to the list of procedural matters to be heard by a single hearing officer.

The April 7, 2024, public notice, the May 24, 2024 adoption order and the May 24, 2024 certification order all state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

No technical corrections were necessary to conform the regulations in accordance with AS 44.62.060.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**
Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

Digitally signed by
Rebecca C. Polizzotto
Date: 2024.06.06
15:36:05 -08'00'

RCP/kmd

CC w/enclosure: Alexis Hildebrand, Regulations Contact
Department of Labor and Workforce Development

Claire Keneally, Assistant Attorney General
Department of Law

APPENDIX I: Adoption Order

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE ALASKA DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT AND
THE ALASKA WORKERS' COMPENSATION BOARD

The attached 2 pages of regulations, dealing with hearing procedures, is adopted and certified to be a correct copy of the regulation changes that the Alaska Department of Labor and Workforce Development and the Alaska Workers' Compensation Board adopts under the authority of AS 23.30.005 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.

Although no public comments were received, the Alaska Department of Labor and Workforce Development and the Alaska Workers' Compensation Board 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.


Date: 5/24/2024


Catherine Muñoz, Commissioner



FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on June 7, 2024, at 11:50a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


for Lieutenant Governor Nancy Dahlstrom

Effective: July 7, 2024.

Register: 25, October 2024.

APPENDIX J: Certification Order

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE ALASKA DEPARTMENT OF LABOR AND WORKFORCE
DEVELOPMENT AND THE ALASKA WORKERS' COMPENSATION BOARD

The attached 2 pages of regulations, dealing with hearing procedures, is certified to be a correct copy of the regulation changes that the Alaska Department of Labor and Workforce Development and the Alaska Workers' Compensation Board adopted at its May 16, 2024 meeting, under the authority of AS 23.30.005 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.

Although no public comments were received, the Alaska Department of Labor and Workforce Development and the Alaska Workers' Compensation Board paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 5/24/2024


Catherine Muñoz, Commissioner

FILING CERTIFICATION

for April Simpson

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on

June 7, 2024 at 11:51 a .m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


for Lieutenant Governor Nancy Dahlstrom

Effective: July 7, 2024.

Register: 251, October 2024.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, 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:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

The introductory language of 8 AAC 45.070(b) is amended to read:

(b) Except as provided in (1)(A) **and (F)** of this subsection and 8 AAC 45.074(c), a hearing will not be scheduled unless a claim or petition has been filed, and an affidavit of readiness for hearing has been filed and that affidavit is not returned by the board or designee nor is the affidavit the basis for scheduling a hearing that is cancelled or continued under 8 AAC 45.074(b). The board has available an Affidavit of Readiness for Hearing form that a party may complete and file. The board or its designee will return an affidavit of readiness for hearing, and a hearing will not be set if the affidavit lacks proof of service upon all other parties, or if the affiant fails to state that the party has completed all necessary discovery, has all the necessary evidence, and is fully prepared for the hearing.

...

8 AAC 45.070(b)(1) is amended by adding a new subparagraph to read:

(F) To resolve a medical dispute under AS 23.30.095(k) or to request the board order a physical examination under AS 23.30.110(g), a party shall file with the division and serve on opposing parties a petition asking the board to order a second independent medical evaluation, a completed second independent medical evaluation form signed by the party that filed the petition, and medical records reflecting the medical disputes; if the parties do not stipulate to the second independent medical evaluation within 20 days of service of the documents, the board or its designee will schedule a hearing, the board will hold a hearing on the written record with briefs, and the board will issue its decision and order within 60 days of the date the documents were filed with the division and served on the opposing party; an affidavit of readiness for hearing form is not required.

Register 251, October 2024 LABOR AND WORKFORCE DEV.

(In effect before 7/28/59; am 5/28/83, Register 86; am 12/14/86, Register 100; am 7/1/88, Register 107; am 3/16/90, Register 113; am 7/20/97, Register 143; am 7/2/98, Register 146; am 3/31/2002, Register 161; am 5/12/2019, Register 230; am 7 / 7 / 2024, Register 251)

Authority: AS 23.30.005 AS 23.30.110 AS 23.30.135

8 AAC 45.071(b)(1) is amended by adding a new subparagraph to read:

(I) an uninsured employer's discharge order;

(Eff. 3/28/2012, Register 201; am 7 / 7 / 2024, Register 251)

Authority: AS 23.30.005

(((Publisher: please move the "or" connector from the end of 8 AAC 45.071(b)(1)(G) to end of 8 AAC 45.071(b)(1)(H).)))