

## **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: 6/14/2021

/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.

**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 caused by the COVID-19 pandemic.
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:** 6/14/2021                      **Prepared by:** \_\_\_\_\_ /s/  
Jun Maiquis  
Regulations Specialist

## 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