

1 STATE OF ALASKA  
2 DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT  
3 DIVISION OF CORPORATIONS, BUSINESS, AND PROFESSIONAL LICENSING  
4

5 STATE MEDICAL BOARD  
6

7 MINUTES OF MEETING  
8 Thursday, May 7, 2020  
9

10 By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, a special COVID-19  
11 video-conference meeting of the Alaska State Medical Board was held on Thursday, May 7, 2020.  
12

13 Thursday, May 7, 2020  
14

15 **1. Call to Order/ Roll Call**

16 The meeting was called to order by Chair Wein at 4:01 p.m.  
17

18 **Roll Call**

19 Board members present, constituting a quorum:

20 Sarah Bigelow Hood, PA

21 David Boswell, Public Member

22 Larry Daugherty, MD

23 Christopher Gay, MD

24 Steve Parker, MD

25 Richard Wein, MD (Chair)  
26

27 Board member Lydia Mielke was unable to attend the meeting.  
28

29 Board staff:

30 Alysia Jones, Executive Administrator

31 Steven Alvarado, Licensing Examiner

32 Jason Kaeser, Licensing Examiner  
33

34 The following visitors attended the meeting:

35 Megyn Weigand, Assistant Attorney General, Department of Law

36 Janice Sheufelt, MD, SEARCH and Boulder Care  
37

38 **2. Review Agenda**

39 The board reviewed the agenda.  
40

41 **On a Motion duly made by Dr. Daugherty, seconded by Mr. Boswell and approved**  
42 **unanimously, the Board approved the agenda as presented.**  
43

44 **3. Review/Approve April 30<sup>th</sup> Meeting Minutes**

45 The board reviewed the meeting minutes from the April 30, 2020 meeting. Ms. Jones noted a correction  
46 to page 5, lines 41-44:

1  
2 Ms. Weigand directed the board to the proposed language that specifies it is only allowed  
3 during the Governor’s declaration of the public health emergency disaster and explained  
4 emergency regulations would only remain in effect for 120 days.  
5

6 **On a Motion duly made by Dr. Daugherty, seconded by Mr. Boswell, and approved**  
7 **unanimously, the Board approved the minutes of the April 30<sup>th</sup> meeting as amended.**  
8

9 **4. Public Comment**

10 The Chair invited Dr. Janice Sheufelt to speak. Dr. Sheufelt has spoken to the board during last week’s  
11 meeting to express her support for the ability to initiate medication assisted treatment (MAT) with  
12 buprenorphine via telemedicine. Dr. Sheufelt stated that she had a friendly request to amend the  
13 emergency regulation to allow for oral fluid toxicology screening in addition to the urine toxicology  
14 screening that was including in last week’s regulation changes adopted by the board. Dr. Sheufelt  
15 offered to explain how saliva is used to do drug screening if the board had questions.  
16

17 Dr. Daugherty called a point of order and suggested the board review the correspondence that was  
18 directly related to this topic.  
19  
20

21 **5. Correspondence (Sent / Received)**

22 The board reviewed three pieces of correspondence including:

- 23 • A letter from the Alaska State Medical Board to Department of Commerce, Community, and  
24 Economic Development Commissioner Julie Anderson expressing the Board’s support for the  
25 Board of Pharmacy’s grant application for the Prescription Drug Monitoring Program.  
26

27 Ms. Jones apologized to the board for the confusion regarding last week’s vote. The Chair noted  
28 a discussion regarding what constituted a majority occurred and that there are two ways to  
29 view majority (1) Majority in the full board or (2) Majority of those present. The Chair explained  
30 this board follows obtaining a quorum, those present.  
31

- 32 • An email from Dr. Sheufelt requesting an amendment to the regulation changes (12 AAC  
33 40.943(b)(3)) to include oral fluid.  
34
- 35 • An email from Kathryn Chapman, Department of Health and Social Services expressing support  
36 of the addition of oral fluid to 12 AAC 40.943(b)(3)  
37

38 **6. Proposed amendment to 12 AAC 40.943(b)(3)**

39 Dr. Daugherty stated that the request appeared straightforward and expressed his support of the  
40 change. Several members agreed. The Chair asked Ms. Jones to explain the necessary process to make  
41 the change. Ms. Jones deferred to Assistant Attorney General Megyn Weigand.  
42

43 Ms. Weigand explained that emergency regulations, regardless of content, are only in effect for 120  
44 days, after which they expire. Ms. Weigand noted that they cannot be extended and explained that the  
45 intent of the emergency regulations is to address an emergent situation, while giving the board time to  
46 determine what they want the permanent regulations to say and issue it in its final version.

47 Ms. Weigand explained that emergency regulations can be changed into permanent regulations through  
48 the notice that occurs after it is filed. Ms. Weigand explained that the public notice introduces the

1 emergency regulation and then let's people know that you intend to make it permanent and are  
2 accepting public comments. After reviewing the public comments, the board would then file their  
3 permanent version.

4  
5 Ms. Weigand stated that it was her understanding the board's intent for the emergency regulation  
6 regarding 12 AAC 40.943(b) was to have it be a permanent regulation as that would last for the duration  
7 of the declaration of the public health emergency, which, per SB 241 is currently November 15, 2020  
8 and exceeds the 120 days of an emergency regulation. Ms. Weigand explained that it was drafted as an  
9 emergency regulation that would be public noticed as a permanent regulation. The language was  
10 intentionally drafted to be coextensive with the governor's declaration of emergency. It was noted that  
11 there may have been some confusion regarding what type of notice (emergency or permanent) should  
12 be put out now that the regulations have been filed.

13  
14 Ms. Weigand asked the board if they wanted a regulation that would expire at the end of 120 days no  
15 matter what or one that might be coextensive with the governor's declaration of emergency.

16  
17 The Chair noted his preference to have an expiration date. Dr. Daugherty suggested moving forward  
18 with the emergency regulation and noticing as permanent to capture in put and bring to light any  
19 objections and offered to make a motion.

20  
21 Due to the potential amendment and need to clarify the type of notice of the emergency regulation, the  
22 Chair suggested both items be discussed before a motion was made.

23  
24 Ms. Weigand explained that the process for adopting the amendment would require another emergency  
25 regulation package, including a new finding of emergency.

26  
27 The Chair asked the board for commentary on adding "oral fluid" to 12 AAC 40.943(b)(3). Dr. Gay  
28 expressed his support of the amendment, but asked if a timeframe of when the screening needed to  
29 occur should be added to the language. There were no further comments.

30  
31 Dr. Daugherty made a motion to adopt the language on the screen (12 ACC 40.943(b)(3)) requiring  
32 "urine or oral toxicology screening as part of the patient's medication adherence plan" effective  
33 immediately as an emergency regulation.

34  
35 Ms. Weigand reiterated that if the board wished to receive comments it should be public noticed as a  
36 permanent regulation after filing.

37  
38 The Chair reiterated his preference for an expiration date, particularly given the far-reaching aspects of  
39 this topic. The Chair stated that he likes to promote patient-provider interactions, especially as it relates  
40 to addiction and expressed his concern with making it permanent. Ms. Weigand explained that noticing  
41 this regulation change as permanent, gives the board the opportunity to receive comments and adjust  
42 the language within the 120 days, at the end of which, a final version will be issued.

43  
44 The Chair asked the board for comments. Dr. Daugherty appreciated the Chair's concerns and was  
45 amenable to the will of the board, but argued that noticing it as permanent would allow for deeper  
46 consideration and public input, which would assist in keep it on the board's radar.

47  
48 The Chair asked Ms. Jones to assist the board in tracking these regulation projects.

1 Dr. Daugherty amended the motion.

2  
3 **On motion duly made by Dr. Daugherty, seconded by Dr. Parker, and approved**  
4 **unanimously, the board adopt the language on the screen (in 12 ACC 40.943(b)(3)) requiring**  
5 **urine or oral toxicology screening as part of the patient’s medication adherence plan effective**  
6 **immediately and noticed as permanent.**

7  
8 **Ms. Bigelow Hood was experiencing technical difficulties and unable to provide an auditory**  
9 **vote. She submitted the following via text: “I agree but would like to later address the Chair’s**  
10 **concern”**

11  
12 The Chair thanked Dr. Sheufelt for bringing this topic to the board’s attention. Dr. Sheufelt thanked the  
13 board for all their hard work.

#### 14 **7. Guidance related to Health Mandate 15**

15 Dr. Zink requested input from the board on testing of patients prior to procedures and other types of  
16 medical interactions, as well as testing of asymptomatic patients. The board discussed Health Mandate  
17 15 and recommended offering guidance vs. mandates as a way of building in flexibility and caring for the  
18 fluidity of the current situation.

19  
20  
21 The Chair said Alaska is one of nine states that has been found to be doing adequate testing, according  
22 to CDC standards.

23  
24 The Chair and Ms. Jones plan to relay the board’s suggestions to Dr. Zink.

#### 25 **8. FSMB House of Delegates Meeting**

26 The Chair provided a brief report of the Federation of State Medical Board’s first Virtual House of  
27 Delegates (HOD) meeting that was held on Saturday, May 2<sup>nd</sup>. The Chair was one of 62 delegates that  
28 attended. Mr. Boswell attended as the alternate delegate and Ms. Jones attended as staff/ observer.

29  
30  
31 The HOD voted in support of bylaws changes and an amended report of the Workgroup on Physician  
32 Sexual Misconduct. Elections were held for FSMB Chair, Chair-elect, Board of Directors seats and the  
33 Nominating Committee. and the Board of Directors.

34 It was noted that representatives from FSMB would give a brief presentation at the board’s May 21-22,  
35 meeting.

#### 36 **9. May 21-22, 2020 Meeting Discussion**

37 The board discussed current travel policies, future in-person meetings, and evaluating the meeting  
38 format and schedule.

#### 39 **10. Follow up on Previously Asked Questions**

40  
41 Ms. Jones reported that the regulations adopted at the April 30<sup>th</sup> meeting went into effect on May 5<sup>th</sup>  
42 and requested the board complete the finding of emergency statement for the regulations adopted at  
43 today’s meeting.

44  
45  
46 Ms. Jones also announced the paper versions of the emergency courtesy license applications are now  
47 available on the website. Online versions would be posted shortly.

1 The board reviewed the draft finding of emergency statement provided by Ms. Weigand.

2

3 **On a motion duly made by Mr. Boswell, seconded by Dr. Daugherty, approved**  
4 **unanimously, the Board accepted the finding of emergency statement.**

5

6 **Mr. Boswell read the following statement into the record:**

7

8 **The recent regulation allowing the initiation of medication assisted treatment via**  
9 **telemedicine was found too restrictive and an amendment was necessary to avoid a negative**  
10 **health impact on the public by decreasing access to and engagement with treatment during**  
11 **the public health emergency caused by the Covid19 pandemic.**

12 **Due to technical difficulties, Ms. Bigelow Hood submitted her vote of "I agree!" via text.**

13

14

15 There being no further business, the meeting was adjourned at 5:10 p.m.

16

17

18

19

20 Respectfully submitted:

21

22 /s/ \_\_\_\_\_

23 Alysia D. Jones, Executive Administrator  
24 Alaska State Medical Board

25

26 6/14/20

27 Date

Approved:

/s/ Richard J. Wein, M.D.

Richard Wein, MD, President  
Alaska State Medical Board

6/14/20

Date