DEPARTMENT OF LAW
2020 REGULATIONS PRIMER

EMERGENCY REGULATIONS PROCESS
WHY ARE WE HERE?
WE WANT TO INTRODUCE YOU TO THE PROCESS OF DRAFTING REGULATIONS

(DON’T WORRY, YOU’LL GET A COPY OF THIS POWER POINT)
WHO ARE WE?

Harriet Dinegar-Milks
- Department of Law
- Commercial & Fair Business Section
- Provides advice to the Department of Commerce, Community, & Economic Development and related boards and commissions

Samantha Weinstein
- Department of Law
- Legislation & Regulations Section
- Drafts legislation and reviews regulations for all agencies
Emergency disaster declaration: threat of an imminent disease outbreak

- Grants statutory powers to deal with the disaster to:
  - the governor,
  - Department of Health and Social Services, and
  - Department of Military and Veterans Affairs

- Legislature must agree that there is a disaster within 30 days of the declaration
<table>
<thead>
<tr>
<th>If necessary, boards may</th>
<th>If necessary, boards may</th>
<th>A doctor or nurse is exempt from licensing if</th>
</tr>
</thead>
</table>
| • Expedite licensing for a person holding the corresponding license in another state  
• Limit the expedited license to the length of the disaster | • Waive or modify continuing education requirements  
• Regulate the scope or duration of expedited licenses  
• Require supervision of a person with an expedited license | • Licensed & in good standing in another state  
• Within the scope of services  
• Using two-way, real time, electronic communication  
• Not prescribing a controlled substance |
AUTHORITY FOR REGULATIONS: ALASKA STATUTES

The Alaska State Legislature

31st Legislature (2019-2020)
Alaska Statutes 2018

TITLE 1. GENERAL PROVISIONS.
Chapter 05. Alaska Statutes.
Sec. 01.85.000. Adoption of Alaska Statutes; notes, headings, and references not law.

The bulk formal revision of the laws of Alaska which was authorized by AS 34.20.078 and prepared under the direction of the Alaska Legislative Council and published by The Michie Company, legal publishers of Charlottesville, Virginia, and titled "Alaska Statutes," as set out in the 47 titles of the Alaska Statutes, but not including the table of contents, indexes, citations to Alaska Compiled Laws Annotated, 1949, and session laws, chapter, article, section, subsection, and paragraph headings, annotations, collateral references, notes, and decisions, is adopted and enacted as the general and permanent law of Alaska.
Drafting Manual for Administrative Regulations

Prepared by
State of Alaska
Department of Law
August 2018 (22nd Edition)
All boards have statutes giving the authority and duty to regulate the applicable profession.

Boards can follow the normal procedure or, if necessary to protect the public, adopt emergency regulations.

Regulations fill the gaps left by statutes – the legislature makes the outline, and boards add the specifics.
WHAT’S A REGULATION?

Standard of general application

Adopted by a state agency to
• Implement, interpret, or make specific a law, or
• Govern the agency’s procedure (but not its internal management)

Affects the public or is used by the agency in dealing with the public

Must be reasonably necessary and not arbitrary
Do circumstances indicate that the board needs to make or change a regulation?

- **Necessary for the immediate preservation of the public peace, health, safety, or general welfare.**

- State policy: emergencies are held to a minimum and rarely found to exist
**HOW TO DRAFT AND ADOPT EMERGENCY REGULATIONS**

**Know your Limits**
- Emergency regulations don’t last forever
- Be prepared to convert to permanent regulation

**Know your Lawyer**
- AAGs are here to assist at every step
- Identification of emergency, drafting, review,

**Know the Rules**
- Administrative Procedure Act
- Notice, meeting, voting
- Drafting Manual
- Procedure and Examples
- Appendices T and U
THE PUBLIC MEETING

The meeting must look like this:

3 or more members who have the power to act on behalf of the board

Reasonable notice – the more the better
- 3 days is usual minimum;
- 10 days if possible

Open to the public – listen & testify
- A place people can walk into
- A number people can call
- A place to record minutes

At the meeting, the board must:

Identify, describe, and VOTE on finding of an emergency

Describe how the proposed regulation responds to the emergency

Roll call vote if any member is telephonic
DELIVERY TO LT. GOVERNOR

Notify April Simpson

• (907) 465-3520 or april.simpson@Alaska.gov

Create your packet

• Original signed finding & order
• Relevant section of board meeting minutes
• Board staff affidavit
• Fiscal note (if applicable)
• Emergency regulations

Take a quick nap, you’re not done yet
<table>
<thead>
<tr>
<th>TITLE</th>
<th>BRIEF DESCRIPTION</th>
<th>INFORMATIVE SUMMARY</th>
<th>MEETING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Which board?</td>
<td>Enough to put</td>
<td>What parts of the</td>
<td>When?</td>
</tr>
<tr>
<td>What topic?</td>
<td>interested parties on notice that this could affect their interests</td>
<td>regulatory scheme are affected and, briefly, how?</td>
<td>Where?</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>How will people comment?</td>
</tr>
</tbody>
</table>
PUBLICATION AND DISTRIBUTION OF NOTICE
APPENDIX H

**Must be:**

- Published in a newspaper or trade publication
- Furnished electronically to incumbent State of Alaska legislators
- Posted on the Alaska Online Public Notice System

**Must be Furnished to:**

- Every person who has filed a request for notice of proposed action with the state agency
- Appropriate state officials
- Interested persons
- The Department of Law, along with a copy of the proposed regulation
MAKING REGULATIONS PERMANENT
A SUMMARY OF NEXT STEPS
MAKING REGULATIONS PERMANENT

1. Open a file with Law: Appendix G
2. Have public comments & questions
3. Review public comments
4. Vote on making the regulations permanent
5. Submit regulations to the Governor, Lt. Governor, and Law
Final regulations may be changed or refined without re-noticing if:

- The subject matter remains the same
- Public notice made clear that action might affect same interests
The Office of the Lt. Governor sends out a notice of filing, including the effective date of the changes and the register number.

Check the published regulations one more time for accuracy – mistakes are not common, but they do happen.

Publish a summary on the Alaska Online Public Notice System.

Contact Susan Pollard and Steve Weaver if you have a question about published regulations.
THANK YOU!