

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, April 16, 2020
9

10
11 By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, a special COVID-19
12 video-conference meeting of the Alaska State Medical Board was held on Thursday, April 16, 2020.
13
14

15
16 Thursday, April 16, 2020
17

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

19 The meeting was called to order by Chair Wein at 4:00 p.m.
20

21 **Roll Call**

22 Board members present, constituting a quorum:

23 Sarah Bigelow Hood, PA

24 David Boswell, Public Member

25 Larry Daugherty, MD

26 Christopher Gay, MD

27 Lydia Mielke, Public Member

28 Steve Parker, MD

29 Richard Wein, MD (Chair)
30

31 Board staff:

32 Alysia Jones, Executive Administrator

33 Jason Kaeser, Licensing Examiner

34 Olena Ziuba, Licensing Examiner
35

36 The following visitors attended the meeting:

37 Megyn Weigand, Assistant Attorney General, Department of Law

38 Ed Hall, PA, former member of the Alaska State Medical Board (2005-2013)

39 Jackie Blomker

40 Sharon Walsh, Deputy Director, Division of Corporations, Business and Professional Licensing
41

42 **2. Review Agenda**

43 The Board reviewed the agenda. It was noted that the agenda had been updated prior to the meeting to
44 include COVID-19 Health Mandate 15, that was released on April 15, 2020.
45

1 **On a Motion duly made by Dr. Gay, seconded by Mr. Boswell and approved**
2 **unanimously, the Board approved the agenda as presented.**

3
4 **3. Review/Approve Meeting Minutes**

5 The board reviewed the meeting minutes from the April 9, 2020 meeting.

6
7 **On a Motion duly made by Dr. Daugherty, seconded by Dr. Gay, and approved**
8 **unanimously, the Board approved the minutes of the April 9th meeting as presented.**

9
10 Ms. Jones explained that a statement of justification was required to proceed with the emergency
11 regulations adopted at the April 9th meeting. The board reviewed the statement of justification

12
13 **On a motion duly made by Dr. Daugherty, seconded by Ms. Mielke, and approved**
14 **unanimously, the Board approved the statement of justification.**

15
16 **Secretary Boswell read the following statement into the record:**

17
18 **For the record, the Alaska State Medical Board adopted emergency regulations to 12 AAC**
19 **40.010, .015, .035, .045, and .963 because the restrictive nature of these regulations could**
20 **negatively impact the health of the public by decreasing healthcare worker availability and/or**
21 **impeding the licensure application process during this public health emergency caused by the**
22 **COVID-19 pandemic.**

23 **4. Health Mandate 015: Services by Health Care Providers**

24 Health Mandate 015 was released on Wednesday, April 15. The intent of this health mandate was to
25 balance the need to suspend non-essential procedures to slow the spread of COVID-19 and caring for
26 delayed health care and other health outcomes. Health Mandate 15 provides for a phased approach for
27 health care facilities and providers as defined in statutes, to resume services requiring minimal
28 protective equipment and in accordance with guidelines outlined in the mandate.

29 The board discussed the mandate, noting that it provided clarity as well as offered flexibility.

30 **5. Public Comment**

31 The Chair asked if anyone wished to offer public comment. There being no response, the board moved
32 on to Agenda Item 6.

33
34 **6. Discussion of PA Collaborative Plans**

35 The Chair reported a number of documents had been provided for the board to review including:

- 36 • Correspondence
37 • 12 AAC 40.410 Collaborative Relationship and Plan
38 • 12 AAC 40.415 Remote Practice Location
39 • Board Issued Guidelines for Collaborating with Physicians
40 • Physician Assistant Collaborative Plan (Form 08-4226d)
41 • Addendum to Collaborative Plan (Form 08-4226e)

42
43 Ms. Bigelow Hood stated that Ed Hall, a physician assistant and former member of the Alaska State
44 Medical Board was on the line to help address the board's questions and mentioned that she has spoken

1 with Senior Assistant Attorney General Harriet Milks. Ms. Milks attended last week's meeting and had
2 offered to look into a few questions for the board.

3
4 Ms. Bigelow Hood invited members of the board to attend the Alaska Academy of Physician Assistants
5 (AKAPA) meeting scheduled for later this evening and provided information to Ms. Jones to share with
6 the board. The Chair and Secretary Boswell indicated they planned to attend.

7
8 Dr. Parker indicated that several of his colleagues expressed concern with the board's direction to waive
9 collaborative plans and that there did not appear to be an issue in obtaining collaborative plans. Dr.
10 Parker remarked that the board's decision was a big change from precedent and it was not congruent
11 with good patient care. Dr. Parker noted that he had not spoken with physician assistants, but offered to
12 do so.

13
14 Assistant Attorney General Megyn Weigand introduced herself to the board, stating that she was
15 attending on Ms. Milk's behalf to follow up on the board's questions. Weigand said Ms. Milks
16 considered the issue of hospitals not wanting to agree to collaborative agreements and found that is not
17 universal. Ms. Weigand further stated that it does not come from the hospital policy, it comes from the
18 separate medical practices.

19
20 The Chair thanked Ms. Weigand for the follow up.

21
22 The Chair addressed Dr. Parker's previous statement indicating that he would have voted against
23 removing the collaborative plan language from the emergency courtesy license regulations as well. The
24 Chair explained the physician assistant's scope of practice is naturally limited by the physician's scope of
25 practice and asked how scope of practice would be defined in the absence of a collaborative plan.

26
27 The Chair noted a lack of clarity regarding oversight and liability in the absence of a collaborative plan.
28 The Chair explained current regulations indicate the collaborating physician obtains and maintains
29 employer and general liability.

30
31 Ms. Mielke stated that she had conducted additional research following last week's meeting and had
32 some questions regarding the collaborative plans including the ones noted by the Chair.

33
34 Ms. Bigelow Hood asked the concerns to be repeated so that they could be brought to the AKAPA later
35 this evening as they were different than concerns previously raised. The Chair summarized his concerns
36 with scope of practice, oversight and liability.

37
38 Dr. Daugherty commented that he had spoken in favor of lifting the collaborative plan requirement in
39 regards to the emergency license provisions in order to mobilize work force and allow for quick access to
40 health care providers in a time of crisis. Dr. Daugherty indicated that he stands by that, and indicated
41 that it provides the board with a testing environment for the next four months. Dr. Daugherty stated
42 making that a permanent decision was a much larger discussion and expressed his interest in hearing
43 the concerns of his colleagues.

44
45 Dr. Parker explained that physician assistants were created to extend the role of the physician and
46 explained the differences in training between a physician assistant and physician. Dr. Parker noted
47 during the current emergency, PAs may be able to help in the hospital ward, but that what the state

1 really needs to handle the potential spike is pulmonologists, intensivists, and hospitalists. Questions
2 regarding malpractice insurance were also brought up.

3
4 Dr. Parker said this is a significant precedent setting event and mentioned there are concerns amongst
5 family practice physicians that it is being used to set up a precedent at an opportunistic time. Dr. Parker
6 stated that he did not believe it helpful to the patients nor the PAs given their level of training.

7
8 Dr. Daugherty noted that the board previously reviewed information from several other states that had
9 waived collaborative agreements for this situation and asked if there was any additional information on
10 how that is working in those jurisdictions.

11
12 Ms. Bigelow Hood requested clarification that the concerns being expressed were related to the current
13 situation and short-term need. Dr. Parker argued that the concerns are more pertinent to the current
14 situation than long term due to the possibility of having a PA from outside of Alaska coming in to a new
15 environment without a collaborating physician. It was noted that anyone coming in would need to
16 adhere to the 14-day quarantine which would allow appropriate time for processing.

17
18 Mr. Boswell asked what the difference would be for those already in the state. Ms. Bigelow Hood said
19 that it is not applicable to PAs currently working in the state and that she has not seen a large increase
20 at this time of health care providers coming to Alaska. Ms. Bigelow Hood clarified that PAs are provided
21 a window of 14 days in which they can work while the collaborative plan is processed.

22
23 12 AAC 40.410(b) states: The collaborative plan must be filed with the division within 14 days
24 after the effective date of the collaborative plan or within 14 days after the effective date of any
25 change to that plan.

26
27 The board discussed hiring of PAs and the understanding that an employer is looking for specific skills
28 within a particular scope of practice. It was noted that it does establish, but that it does not provide for
29 the one on one of a collaborative agreement with a specific provider.

30
31 It was noted that Mr. Hall had attempted to speak during the public comment period, but was
32 experiencing technical difficulties. Mr. Hall stated that he had previously worked with the AKAPA to
33 lobby for a PA position on the board and that he had served on the ASMB in that capacity from 2005 to
34 2013. Mr. Hall provided some background regarding the impetus for establishing the PA seat to educate
35 fellow board members and streamline the application and collaborative plan process. Mr. Hall noted
36 that he was in favor of maintaining the collaborative agreement and clarified that an alternate physician
37 is required.

38
39 Mr. Hall said the major changes that took place in 2005, was the ability for a PA to begin working on day
40 1, provided that the collaborative plan was submitted within 14 days of the start date. Mr. Hall stated
41 that if the board is allowing PAs from out of state to come in without the collaborative plan, he hoped
42 those PAs understand what their scope of practice should be from the employer. Mr. Hall cautioned that
43 PAs coming in from states with optimal team practice (OTP) they won't have any directive on scope. OTP
44 is a policy passed by the AAPA in 2017 that allows state chapters to eliminate the legal requirement for
45 PAs to have a specific relationship with a particular physician to practice. Mr. Hall noted that PAs, along
46 with any other provider is taught to work within and recognize their own limitations. Mr. Hall offered an
47 example of a PA with an established collaborative plan taking on additional work at another site

1 requiring the same scope of practice versus the need for an additional collaborative plan with a
2 collaborating physician that has the necessary skill set if there is a difference in scope of practice.

3
4 Mr. Hall asked about the vetting process for out of state PAs that would be applying under the
5 emergency courtesy license. Mr. Hall offered to be a resource for the board given his experience as a PA
6 in Alaska since 1994 and as a former member of the board. The Chair thanked Mr. Hall for his
7 commentary.

8
9 Dr. Gay reminded the board that the regulations were to address a potential emergency and that the
10 board was not obligated to approve licenses that did not meet the criteria. He also added that the spirit
11 in which the emergency regulations were adopted was to have something in place to quickly mobilize if
12 the need arises and that regardless of whether it is a PA, MD, or DO, knowing their area of expertise and
13 scope is beneficial.

14
15 Ms. Jones clarified that the emergency regulations the board adopted required an application applying
16 for an emergency courtesy license required an unencumbered license as well as clearance reports from
17 the Federation of State Medical Boards (FSMB) and National Practitioners Data Bank (NPDB).

18
19 Ms. Jones reported that two circumstances regarding PAs had been brought by attendees to the
20 meeting for the boards consideration:

- 21 • PA has a collaborative plan, but needs to be sent to a remote location to assist with the
22 pandemic
- 23 • PA has a collaborative plan, but is needed to assist in another of the same facility.

24
25 Licensing examiner Jason Kaeser asked if, during the current emergency, the board would consider
26 allowing PAs to list all the doctors that they may be assisting within a particular facility on one
27 collaborative plan rather than requiring a separate collaborative plan and pay additional fees to be
28 submitted for each plan. Mr. Kaeser also reported difficulties finding alternative physicians for single
29 physician practices.

30
31 Mr. Boswell asked for clarification on what would be required in order to allow for multiple primary
32 collaborative physicians. The board discussed scope of practice, physician requests for PA assistance,
33 and the need for separate collaborative plans to care for any changes in the scope. Ms. Bigelow Hood
34 encouraged the board to consider a PAs background and full skill set rather than their most recent and/r
35 current position and scope of practice.

36
37 Dr. Gay asked for clarification on whether PAs coming in to the state could come in independently or is
38 the expectation that they would be hired by somebody. It was noted the current language would allow
39 independent practice by inference, but the expectation is that they would come in with an employer.

40
41 Dr. Parker stated that there were numerous physicians who wished to comment on this topic. The Chair
42 reminded the board that the standing agenda item for public comment is intended for any persons to be
43 heard.

44
45 Jackie Blomker asked the board to address Ms. Jones previous question regarding remote practice. Ms.
46 Blomker explained they have an established PA that is medically very knowledgeable and there is a need
47 for a PA to work in a remote location on a short term basis.

1 The Chair and Dr. Parker referenced 12 AAC 40.415 regulations relating to remote practice. Ms. Blomker
2 asked for clarification on what paper work is required during the current situation.

3
4 Mr. Kaeser responded that written notification to add the remote location is all that is needed if the
5 primary collaborating physician is the same. If there is a change in the primary collaborating physician
6 then a new collaborative plan is required.

7
8 The emergency regulation process was offered as an option as well. Ms. Jones clarified that the board
9 had adopted the emergency courtesy license regulations on April 9th, but that the regulations would not
10 be in effect until signed by the Lt. Governor. In terms of timeframe, Ms. Jones anticipated the
11 emergency courtesy license application would be available by the next board meeting.

12 13 **7. Review of Telemedicine Guidance**

14 Ms. Jones reported at the board's April 9th meeting, Mr. Boswell had requested clarification on bullet #4
15 of the *Alaska State Medical Board Issued Guidelines – Telemedicine* which states:

16 A physician may render a diagnosis, provide treatment, or prescribe, dispense, or administer a
17 prescription drug, without first conducting a physical exam, however...

- 18 • a physically separated physician may prescribe, dispense, or administer a controlled drug only
19 if an appropriate licensed health care provider is physically present with the patient

20 Ms. Jones provided the board with excerpts of past meeting minutes showing the evolution of the
21 guidelines. Ms. Weigand explained that the choice to include “appropriate health care provider” was
22 intentional to offer necessary flexibility. Ms. Weigand noted the intent of the bill at the time was to
23 increase access to providers and appropriateness may vary depending upon the extent of the
24 examination being conducted, type of treatment being administered, etc.

25
26 The Chair asked how the board can ensure providers are working within their scope of practice. Ms.
27 Weigand directed the board to SB 241 Section 7(a)(2) and (3) which states:

28
29 2) the health care services provided without an in-person physical examination are within the
30 provider's authorized scope of practice in the jurisdiction that issued the provider's license,
31 permit, or certification;

32
33 (3) in the event that the health care provider determines that the encounter will extend beyond
34 the scope of practice or scope of services described in this section, the health care provider
35 advises the patient that the health care provider is not authorized to provide the services to the
36 patient, recommends that the patient contact a health care provider licensed in the state, and
37 terminates the encounter.

38
39 Mr. Boswell asked what the benefit of telemedicine is if an appropriate health care provider is required
40 to be physically present with the patient and asked how it is helpful in the current COVID-19 emergency.
41 Ms. Weigand clarified that the requirement for an appropriate, licensed health care provider be
42 physically present while a health care provider is providing telemedicine from afar is for a very limited
43 set of circumstances in which a controlled substance or botulinum toxin is being prescribed or
44 administered. Ms. Weigand further explained there is an array of services listed in section 7 of SB 241
45 including providing treatment, rendering a diagnosis, or prescribing, dispensing, or administering a

1 prescription that is not a controlled substance all of which do not require an appropriate health care
2 provided to be physically present with the patient.

3
4 Mr. Boswell thanked Ms. Weigand for the clarification.

5
6 The board discussed the ability to prescribe controlled substances over the phone if prior physician-
7 patient relationship exists. Ms. Weigand directed the board to Alaska Statute 08.64.364 for additional
8 information.

9 10 **8. Follow up on Previously Asked Questions**

11 Ms. Jones provided an update on questions asked at the previous board meeting:

- 12
13 • **Respiratory therapists** – Licensure of respiratory therapists is required in all U.S. states, except
14 Alaska. In Alaska, a respiratory therapist is required to have a degree in respiratory therapy and
15 encouraged to earn nationally recognized RT credentials. Staff are in the process of conducting
16 additional research as to why Alaska is the only exception.
- 17
18 • **Request for staff needs from hospitals** – Jeannine Monk from ASHNHA indicated that they are
19 integrating staffing needs into the daily survey tool to capture information regarding physicians,
20 NP, PA, nurses, and CNAs. Intended to be updated on a daily basis, the survey tool asks hospitals
21 to indicate whether staffing is Normal, Low, Critical.

22
23 The Board expressed their interest in seeing the data once it is compiled.

- 24
25 • **Request for clarification on treatment vs. procedures** – Ms. Jones asked the board if they
26 wished to move this topic to a discussion/ direction item and propose clarification. Dr. Gay
27 suggested that Health Mandate 15 made additional action on this unnecessary. Several
28 members agreed.
- 29
30 • **Hospital Privileges** – Ms. Jones reiterated Ms. Weigand had previously addressed the issue of
31 hospitals not wanting to agree to collaborative agreements and found that it is not universal, it
32 comes from the separate medical practices rather than hospital policy.
- 33
34 • **Topics on the Board's Radar** - Ms. Jones noted the following topics are being monitored but that
35 there were no updates to report at this time.
 - 36 ○ Clarification regarding Telemedicine Business Registry
 - 37 ○ SB 173 Transfer of MICPs to DHSS/EMS
 - 38 ○ Asset Data

39 40 **9. FSMB Delegate**

41 In preparation for FSMB's' House of Delegates meeting on May 2nd, it was requested the Board
42 determine a delegate. The Chair explained that there were a number of resolutions for the board to
43 consider. The Chair recommended the board schedule a time to discuss the resolutions and reach a
44 consensus, as the selected delegate would be voting on behalf of the board.

45
46 Chair Wein was nominated by Dr. Daugherty to be the FSMB Delegate for the Alaska State Medical
47 Board. Secretary Boswell offered to serve as the alternate. Both were approved by acclamation.

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There being no further business, the meeting was adjourned at 5:26 p.m.

Respectfully submitted:

Approved:

/s/ _____

/s/ _____

Alysia D. Jones, Executive Administrator
Alaska State Medical Board

Richard Wein, MD, President
Alaska State Medical Board

Date

Date