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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Amy Demboski
Department of Commerce Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor
465.4081

A handwritten signature in blue ink, appearing to be "AS", is written over the "FROM:" line.

DATE: July 31, 2020

RE: Filed Permanent Regulations: Board of Pharmacy

Board of Pharmacy emergency regulations made permanent re: expedited handling of prescriptions in response to the COVID-19 pandemic and future disasters (12 AAC 52)

Attorney General File:	2020200314
Regulation Filed:	4/3/2020 & 7/31/2020
Effective Date:	8/30/2020
Print:	235, October 2020

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis
Jun Maiquis, Regulations Specialist

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE BOARD OF PHARMACY

The attached fourteen pages of permanent amended emergency regulations, relating to the practice of pharmacy, including pharmacist duties, pharmacy interns, pharmacy technicians, pharmacy technician with national certification, license renewal, shared pharmacy services during emergency, refills, labeling, prescriptions by electronic transmission, transfer of a prescription drug order, substitution, emergency preparedness, independent administration of vaccines and related emergency medications, and definitions, are hereby certified to be a correct copy of the regulation changes that the Board of Pharmacy adopted at its May 28, 2020 teleconference meeting, under the authority of AS 08.01.075, AS 08.01.100, AS 08.80.005, AS 08.80.030, AS 08.80.110, AS 08.80.116, AS 08.80.147, AS 08.80.157, AS 08.80.159, AS 08.80.165, AS 08.80.168, AS 08.80.261, AS 08.80.295, AS 08.80.330, AS 08.80.410, AS 08.80.480, AS 11.71.900, AS 17.30.200, and AS 17.30.900, 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.

On the record, in considering public comments, the Board of Pharmacy 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: 06/03/2020
Juneau, Alaska

Laura Carrillo
Laura Carrillo, Executive Administrator
Board of Pharmacy

April Simpson for

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on July 31, 2020 at 1:13 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.

Kevin Meyer
for Kevin Meyer, Lieutenant Governor

Effective: August 30, 2020.

Register: 235, October 2020

CERTIFICATION OF COMPLIANCE

I, Laura Carrillo, Executive Administrator for the Board of Pharmacy, certify that, as required by AS 44.62.260 in order to make the attached fourteen pages of regulations permanent, as of this date a legal opinion of the Department of Law has been requested under AS 44.62.060, a notice conforming to AS 44.62.200 was issued in compliance with AS 44.62.190, and an opportunity for public comment was provided under AS 44.62.210, for the following emergency regulation:

12 AAC 52.060 – 12 AAC 52.995, relating to the practice of pharmacy under the authority of AS 08.80 and 12 AAC 52, including pharmacist duties, pharmacy interns, pharmacy technicians, pharmacy technician with national certification, license renewal, shared pharmacy services during emergency, refills, labeling, prescriptions by electronic transmission, transfer of a prescription drug order, substitution, emergency preparedness, independent administration of vaccines and related emergency medications, and definitions.

This regulation originally was filed as an emergency regulation on April 3, 2020.

This action is not expected to require an increased appropriation.

In considering the public comments, the Board of Pharmacy paid special attention to the cost to private persons of the regulatory action being taken.

DATE: 06/03/2020
Juneau, Alaska



Laura Carrillo, Executive Administrator
Board of Pharmacy

April Simpson for

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on July 31, 2020 at 1:14 p.m., I filed the attached regulation according to the provisions of AS 44.62.

for 

Kevin Meyer, Lieutenant Governor

Register: 235, October 2020

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, KEVIN MEYER, 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:

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on December 11th, 2018.



Kevin Meyer

**KEVIN MEYER
LIEUTENANT GOVERNOR**

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Chapter 52. Board of Pharmacy.

(and that subsection is further amended)

The emergency adoption of 12 AAC 52.060(d) is made permanent to read: *(that)*

(d) In this section, "other disaster" includes any disaster situation *[which]* causes a pharmacy the need to move to a temporary location or results in damage to the drug or device inventory. (Eff. 1/16/98, Register 145; am 4/3/2020, Register 234)

am 8/30/2020, Register 235

Authority: AS 08.80.005 AS 08.80.157 AS 08.80.330
AS 08.80.030

The emergency amendment of the introductory language of 12 AAC 52.210 is made permanent to read:

12 AAC 52.210. Pharmacist duties. Except as provided in 12 AAC 52.220 and 12 AAC 52.235, the following duties may be performed only by a pharmacist:
...

The emergency amendment of 12 AAC 52.210(1) is made permanent to read:

- (1) receiving an oral prescription drug order from a practitioner or authorized agent of a practitioner;

The emergency adoption of 12 AAC 52.210(8) is made permanent and that paragraph is further amended to read:

The emergency amendment of 12 AAC 52.210(6), *(7)*, and *(8)* are made permanent to read:

- (6) assuming the responsibility for a filled prescription;

The emergency amendment of 12 AAC 52.210(7) is made permanent to read:

- (7) consulting with a patient or a patient's agent regarding a prescription or

information contained in the patient medication record system; and

- (8) *(administering)* administer a prescription drug order in accordance with *(the practitioner's)* prescriber's order.

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2; am 8/30/2020,
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(Eff. 1/16/98, Register 145; am 7/9/2017, Register 223; am 4/3/2020, Register 234)

Authority: AS 08.80.005 AS 08.80.030 AS 08.80.330

The emergency repeal of 12 AAC 52.220(e)(3) is made permanent to read:

(3) repealed 4/3/2020;

(Eff. 1/16/98, Register 145; am 1/17/2007, Register 181; am 10/31/2019, Register 232; am 4/3/2020, Register 234)

Authority: AS 08.80.005 AS 08.80.110 AS 08.80.410

AS 08.80.030 AS 08.80.116

12 AAC 52.230(c) is amended to read:
c) Except as provided in 12 AAC
52.235, a [A] pharmacy technician
may not perform any of the duties
listed in 12 AAC
52.210.

The emergency amendment of 12 AAC 52.230(a)(2) is made permanent to read:

(2) a supportive staff member assigned to work in the dispensing area of a pharmacy.

(Eff. 1/16/98, Register 145; am 4/4/2002, Register 162; am 1/23/2003, Register 165; am 4/3/2020, Register 234)

am 8/30/2020
Register 235

Authority: AS 08.80.030 AS 08.80.480

The emergency adoption of 12 AAC 52.235 is made permanent and that section is further amended to read:

12 AAC 52.235. Pharmacy technician with national certification. (a) A pharmacy technician who holds a national certification [AND WHO WORKS UNDER THE DIRECT (and under the direct supervision of that pharmacist) SUPERVISION OF A PHARMACIST] may, at the direction of the pharmacist on duty,

(1) perform a final check (of) and distribute a non-controlled substance prescription if

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(A) the prescription drug order has previously undergone a drug regimen review by a pharmacist, including determination ^{of} substitution;

that (B) the pharmacy uses a bar code scanning and verification system that confirms the drug selected to fill the prescription is the same as indicated on the prescription label;

(C) [(B)] the pharmacy uses software that displays the image or graphical description of the correct drug being verified; ^{however,} provided that if there is any distributed deviation ^{between} [from] the image or graphical description ^{the} and actual product being [dispensed], a pharmacist must review and dispense the order; and

(D) [(C)] each prescription distributed is electronically verified and the date and quantity distributed is documented in the patient record;

(2) transfer a non-controlled substance prescription drug order as described in 12 AAC 52.500; ^{or}

(3) clarify or obtain missing information from the practitioner or the practitioner's authorized agent on a non-controlled substance prescription drug order.

(b) Prescription drug order information clarifications ^{(a)(3) of} under this ^{section} subsection must have the following information documented on the prescription drug order [;]

(1) the result of the clarification;

practitioner (2) the initials of the pharmacy technician who holds a national certification;

(3) the name of the prescriber or authorized agent ^{that the pharmacy technician} [they] spoke to; and technician

(4) the date [AND TIME] of the call.

(c) A pharmacy technician who holds a national certification may not sign or initial any document that is required to be signed or initialed by a pharmacist.

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(d) In this section, ^{that} [a] "bar code scanning and verification system" means any technology ^{that} [which] scans the bar code on a manufacturer drug container to ensure ^{inputted} the product being distributed matches the expectation of what was prescribed and ^{input} into the dispensing software. (Eff. 4/3/2020, Register 234; am 8/30/2020, Register 235)

Authority: AS 08.80.005 AS 08.80.030

and is further amended

CC Publisher: To reflect the repeal of 12 AAC 52.300(c)(4), please insert an "and" connector at the end of 12 AAC 52.300(c)(2).))

The emergency amendment of 12 AAC 52.300(c)(3) is made permanent to read:

(3) an attestation that the applicant has met all continuing education requirements of 12 AAC 52.320 – 12 AAC 52.350; **[AND]**

The emergency repeal of 12 AAC 52.300(c)(4) is made permanent to read:

(4) repealed 4/3/2020. (Eff. 1/16/98, Register 145; am 2/26/2000, Register 153; am 5/5/2000, Register 154; am 5/26/2006, Register 178; am 4/3/2020, Register 234)

is am 8/30/2020 Register 235

Authority: AS 08.01.100 AS 08.80.030 AS 08.80.157
AS 08.80.005 AS 08.80.147 AS 08.80.165

and that section is further amended

The emergency adoption of 12 AAC 52.446 is made permanent to read:

12 AAC 52.446. Shared pharmacy services during emergency. (a) Notwithstanding 12 AAC 52.445, during a disaster emergency declared by the governor, a pharmacy participating in shared pharmacy services, or a pharmacist acting independently of a pharmacy and participating in shared pharmacy services, shall do so in accordance with this section.

(b) During a disaster emergency declared by the governor, a pharmacist, pharmacist intern, or pharmacy licensed or registered under AS 08.80 may participate in shared pharmacy

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services [as defined in 12 AAC 52.995(33)] without applying for approval under 12 AAC 52.443 and 12 AAC 52.444.

(c) Except as provided in (d) of this section, if a filling pharmacy or filling pharmacist or pharmacist intern delivers a prescription medication directly to the patient or the patient's agent, (or filling [,]) the filling pharmacy, pharmacist, ([,]) or pharmacist intern shall provide, on the prescription container or on a separate sheet delivered with the prescription container the local telephone number and, if applicable, the toll-free telephone number of the filling pharmacy or filling pharmacist.

(d) The requirement of (c) of this section does not apply to prescription medication delivered to patients in facilities where a licensed health care professional is responsible for administering the prescription medication to the patient.

(e) A pharmacy participating in shared pharmacy services, or a pharmacist acting independently of a pharmacy and participating in shared pharmacy services, shall

(1) maintain manual or electronic records identifying, individually for each order processed, filled or dispensed

(1) (A) the name, initials, or identification code of each pharmacist or pharmacist intern responsible for the final verification of dispensing; and

(2) (B) the patient, date, drug, strength, directions, and quantity dispensed.

(f) A pharmacy participating in shared pharmacy services (that) (which) distributes prescription under 12 AAC 52.235 drug orders using a pharmacy technician who holds (2) national certification shall maintain manual or electronic records identifying, individually for each order processed, filled or distributed

(1) the name, initials, or identification code of each pharmacy technician

(1) who holds a national certification; and

(2) the patient, date, drug, strength, directions, and quantity distributed.

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(g) Nothing in this section prevents a pharmacist who is employed by or working under a contract with the pharmacy, or prevents a licensed pharmacist intern or pharmacy technician from accessing the electronic database of that pharmacy from inside or outside the pharmacy and processing a prescription drug order. (Eff. 4/3/2020, Register 234)

Authority: AS 08.80.005 AS 08.80.030

is am 8/30/2020,
Register 235

The emergency repeal of 12 AAC 52.470(a) is made permanent to read:

(a) Repealed 4/3/2020.

The emergency repeal of 12 AAC 52.470(b) is made permanent to read:

(b) Repealed 4/3/2020.

The emergency amendment of 12 AAC 52.470(c) is made permanent to read:

(c) Each time a prescription drug order refill is dispensed, the pharmacist or pharmacist intern shall record the quantity and date of the dispensing.

The emergency amendment of 12 AAC 52.470(d) is made permanent to read:

(d) A pharmacist or pharmacist intern may dispense any quantity of a prescription drug order so long as the

(1) total quantity of dosage units dispensed does not exceed the total quantity of dosage units authorized by the prescriber on the prescription, including refills; and

(2) drug is not a federal or state scheduled controlled substance.

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The emergency adoption of 12 AAC 52.470(g) is made permanent to read:

(g) Under (d) of this section, if the total quantity of a drug or device to dispense on an existing, chronic, non-controlled substance prescription drug order has been exhausted and the pharmacist is unable to reach the practitioner, a pharmacist or pharmacist intern may continue to dispense a quantity not to exceed a 120-day supply. In this section,

(1) “existing” means the pharmacy has record of a previous prescription drug order or the pharmacist can validate the prescription drug order from another pharmacy or patient labelled product;

(2) “chronic” means a drug that the patient takes regularly, for greater than three months.

The emergency adoption of 12 AAC 52.470(h) is made permanent to read:

(h) Under (g) of this section, the pharmacist must

(1) reduce the patient’s prescription drug order to a written prescription drug order using the previously verified prescription drug order information and practitioner name;

(2) document “continuation of therapy”, “COT”, or words of similar meaning on the prescription drug order; and

(3) file and maintain the prescription in accordance with 12 AAC 52.450.

12 AAC 52.470 is amended by adding a new subsection to read:

(i) A pharmacist may not dispense a refill of a prescription drug order for a noncontrolled substance after one year from the date of issue of the original prescription drug order. (Eff.

1/16/98, Register 145; am 6/29/2018, Register 226; am 4/3/2020, Register 234; am

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8 / 30 / 2020, Register 235)

Authority: AS 08.80.005 AS 08.80.030

The emergency amendment of 12 AAC 52.480(4) is made permanent to read:

(4) initials, which may be handwritten, of the dispensing pharmacist or pharmacist intern;

(Eff. 1/16/98, Register 145; am 1/14/2004, Register 169; am 2/15/2006, Register 177; am 4/3/2020, Register 234)

Authority: AS 08.80.005 AS 08.80.295 AS 08.80.480
AS 08.80.030

The emergency amendment of the introductory language of 12 AAC 52.490(a) is made permanent to read:

(a) Legend drug, device, and controlled substance prescriptions may be transmitted electronically under this section, consistent with state and federal laws. A pharmacist or pharmacist intern may dispense a prescription transmitted electronically under this section only if the prescribing practitioner includes the following information on the prescription before it is transmitted:

• • •
(Eff. 1/16/98, Register 145; am 11/10/2001, Register 160; am 8/12/2007, Register 183; am 4/3/2020, Register 234)

Authority: AS 08.80.005 AS 08.80.030

The emergency repeal of 12 AAC 52.500(d)(1) is made permanent to read:

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(1) repealed 4/3/2020;

(and that paragraph is further amended)

The emergency amendment of 12 AAC 52.500(d)(3) is made permanent to read:

(3) the pharmacist, pharmacist intern, or pharmacy technician who holds a national certification transferring the prescription drug order information shall record the following information:

(A) the name, address, and if a controlled substance, the DEA registration number of the pharmacy receiving the prescription drug order information;

(B) the name of the pharmacist, pharmacist intern, or pharmacy technician who holds national certification receiving the prescription drug order information;

(C) the name of the pharmacist, pharmacist intern, or pharmacy technician who holds national certification transferring the prescription drug order information; and

(D) the date of the transfer;

The emergency amendment of 12 AAC 52.500(d)(4) is made permanent to read:

(4) the pharmacist, pharmacist intern, or pharmacy technician who holds a national certification receiving the transferred prescription drug order information shall record the following information:

(A) the original date of issue;

(B) the original unique identification number of the prescription;

(C) the quantity of drug or device remaining;

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(D) the name, address, and if a controlled substance, the DEA registration number of the pharmacy transferring the prescription drug order information; and

(E) the name of the pharmacist, pharmacist intern, or pharmacy technician who holds a national certification transferring the prescription drug order information; and

The emergency amendment of 12 AAC 52.500(d)(5) is made permanent to read:

(5) when a prescription drug order is transferred, the transferring pharmacy may not issue any further dispensing from that prescription drug order.

The emergency amendment of 12 AAC 52.500(f)(2) is made permanent to read:

(2) to ensure that the total quantity dispensed from the prescription drug order does not exceed the total quantity authorized.

(Eff. 1/16/98, Register 145; am 7/9/2017, Register 223; am 10/31/2019, Register 232; am 4/3/2020, Register 234) ; am 8/30/2020, Register 235

Authority: AS 08.80.005 AS 08.80.030

The emergency amendment of the introductory language of 12 AAC 52.510(a) is made permanent to read:

(a) A pharmacist or pharmacist intern may dispense an equivalent drug product or interchangeable biological product instead of the prescribed drug if

(and that paragraph is further amended)

The emergency amendment of 12 AAC 52.510(a)(1) is made permanent to read:

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(1) the prescribing practitioner does not indicate on the prescription drug order that a specific brand must be dispensed, using language such as "brand medically necessary", "dispense as written", "do not substitute", or other similar wording indicating ^{that} the practitioner does not want it substituted;

and that subsection is further amended

The emergency adoption of 12 AAC 52.510(c) is made permanent to read:

(c) Nothing in this section prohibits a patient from requesting the original trade product instead of the substituted product ^{if} so long as there is nothing on the prescription drug order from ^{prescribing practitioner that indicates that the practitioner wants} the prescriber that would indicate they want only the substituted product dispensed. (Eff. 1/16/98, Register 145; am 10/9/2008, Register 188; am 6/29/2018, Register 226; am 10/31/2019, Register 232; am 4/3/2020, Register 234) *am 8/30/2020, Register 235*

Authority: AS 08.80.005 AS 08.80.030 AS 08.80.295

and that subsection is further amended

The emergency amendment of 12 AAC 52.985(a) is made permanent to read:

(a) If, as a consequence of a disaster or terrorist attack, a disaster emergency is declared by the governor ^{that} under AS 26.23.020 which results in the inability to refill existing prescriptions, the board will cooperate with the state, borough, city, or town to assist in the provision of drugs, devices, and professional services to the public.

The emergency amendment of 12 AAC 52.985(b) is made permanent to read:

(b) If, as a consequence of a disaster or terrorist attack, a disaster emergency is declared by the governor of another state or territory, or a province of Canada which results in an individual being temporarily relocated to Alaska who is unable to refill an existing prescription,

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the board will assist in the provision of drugs, devices, and professional services to the relocated individual.

The emergency repeal of 12 AAC 52.985(c) is made permanent to read:

(c) Repealed 4/3/2020.

The emergency repeal of 12 AAC 52.985(d) is made permanent to read:

(d) Repealed 4/3/2020.

and that subsection is further amended

The emergency adoption of 12 AAC 52.985(f) is made permanent to read:

(f) During a disaster emergency declared by the governor of this state

(1) a pharmacist or pharmacist intern may administer immunizations, in accordance with 12 AAC 52.992, without obtaining or maintaining a CPR certificate;

(2) the notice required under 12 AAC 52.150(a) need not be provided until 30 days after the ^{that} date ^{ends} the governor determines the disaster emergency ^{no longer exists};

(3) an application under 12 AAC 52.070, 12 AAC 52.092, 12 AAC 52.095, 12 AAC 52.120, 12 AAC 52.423, 12 AAC 52.610, 12 AAC 52.696, and 12 AAC 52.697 does not need to be notarized. (Eff. 10/31/2019, Register 232; am 4/3/2020, Register 234)

Authority: AS 08.80.005 AS 08.80.030

am 8/31/2020, Register 235

The emergency amendment of 12 AAC 52.992(d) is made permanent to read:

(d) A pharmacist or pharmacist intern administering a vaccine must offer the patient or the patient's agent the current vaccine information statement (VIS) issued by the CDC for each

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vaccine administered.

(Eff. 7/9/2017, Register 223; am 4/3/2020, Register 234)

Authority: AS 08.01.075 AS 08.80.168 AS 08.80.480
AS 08.80.030 AS 08.80.261

The emergency amendment of 12 AAC 52.995(a)(33) is made permanent to read:

(33) "shared pharmacy services" means a system allowing the processing by a participating pharmacist, ~~pharmacist intern, or pharmacy technician who holds a national certification~~ or a pharmacy of a request from another participating pharmacist, ~~pharmacist intern, or pharmacy technician who holds a national certification~~ or pharmacy to enter or review a prescription drug order ^{or} process or fill a prescription drug order, including dispensing or distributing, drug utilization review, claims adjudication, refill authorizations, therapeutic interventions, counseling, monitoring of drug therapy, and institutional order review;

Struck out text is disapproved. AC 28 7/27/2020

paragraph

The emergency adoption of 12 AAC 52.995(a)(38) is made permanent and that ~~section~~ is further amended to read:

(38) "pharmacy technician who holds a national certification" means a pharmacy technician, licensed by the board, who obtains and maintains an active national certification through the Pharmacy Technician Certification Board (PTCB) or the National Healthcareer Association (NHA) [INSTITUTE FOR THE CERTIFICATION OF PHARMACY TECHNICIANS (ICPT)].

(Eff. 1/16/98, Register 145; am 5/5/2000, Register 154; am 11/10/2001, Register 160; am 8/21/2002, Register 163; am 2/15/2006, Register 177; am 8/12/2007, Register 183; am

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9/11/2010, Register 195; am 12/29/2011, Register 200; am 8/1/2014, Register 211; am 6/7/2018,

Register 226; am 10/31/2019, Register 232; am 4/3/2020, Register 234; am 8 / 30 / 2020,

Register 235)

Authority: AS 08.80.005 AS 08.80.159 AS 17.30.200
AS 08.80.030 AS 11.71.900 AS 17.30.900
AS 08.80.157