

Telehealth & Licensing During COVID-19

Guidance Regarding Your Professional License – Issued 3/18/20; Updated 5/26/20

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I. What are the state laws regarding prescribing via telecommunication?

Licensees of the State Medical Board:

- May prescribe a drug that is not a controlled substance without conducting a physical examination as described in AS 08.64.364(a) below
- May prescribe a controlled substance without conducting a physical examination as described in AS 08.64.364(b) below

AS 08.64.364. Prescription of drugs without physical examination. (a) The board may not impose disciplinary sanctions on a physician or physician assistant for rendering a diagnosis, providing treatment, or prescribing, dispensing, or administering a prescription drug that is not a controlled substance to a person without conducting a physical examination if

- (1) the physician, physician assistant, or another licensed health care provider in the medical practice is available to provide follow-up care; and
- (2) the physician or physician assistant requests that the person consent to sending a copy of all records of the encounter to the person's primary care provider if the prescribing physician or physician assistant is not the person's primary care provider and, if the person consents, the physician or physician assistant sends the records to the person's primary care provider.

(b) The board may not impose disciplinary sanctions on a physician or physician assistant for prescribing, dispensing, or administering a prescription drug that is a controlled substance or botulinum toxin if the requirements under (a) of this section and AS 08.64.363 are met and the physician or physician assistant prescribes, dispenses, or administers the controlled substance or botulinum toxin when an appropriate licensed health care provider is present with the patient to assist the physician or physician assistant with examination, diagnosis, and treatment.

(c) Notwithstanding (a) and (b) of this section,

- (1) a physician may not prescribe, dispense, or administer an abortion-inducing drug under (a) of this section unless the physician complies with AS 18.16.010; and
- (2) a physician or physician assistant may not prescribe, dispense, or administer a prescription drug in response to an Internet questionnaire or electronic mail message to a person with whom the physician or physician assistant does not have a prior physician-patient relationship.

(d) In this section,

- (1) "controlled substance" has the meaning given in AS 11.71.900;
- (2) "prescription drug" has the meaning given in AS 08.80.480;
- (3) "primary care provider" has the meaning given in AS 21.07.250.

12 AAC 40.943. STANDARDS OF PRACTICE FOR TELEMEDICINE. The guiding principles for telemedicine practice in the American Medical Association (AMA), *Report 7 of the Council on Medical Service (A-14), Coverage of and Payment for Telemedicine*, dated 2014, and the Federation of State Medical Boards (FSMB), *Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine*, dated April 2014, are adopted by reference as the standards of practice

when providing treatment, rendering a diagnosis, prescribing, dispensing, or administering a prescription or controlled substance without first conducting an in-person physical examination under AS 08.64.364.

(b) During a public health emergency disaster declared by the governor of this state under AS 26.23.020, 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 treatment for opioid use disorder and the physician or physician assistant

- (1) is a Drug Addiction Treatment Act (DATA) waived practitioner;
- (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
- (3) requires urine or oral toxicology screening as part of the patient's medication adherence plan.

Licensees of the State Nursing Board

Standards of practice for telehealth. (a) The guiding principles for telehealth practice in the American Telemedicine Association (ATA), Core Operational Guidelines for Telehealth Services Involving Provider-Patient Interaction, dated May 2014, and the American Psychiatric Association (APS) and the American Telemedicine Association (ATA), Best Practices in Videoconferencing-Based Telemental Health, dated April 2018, are adopted by reference as the standards of practice when providing treatment, rendering a diagnosis, prescribing, dispensing, or administering a prescription or controlled substance without first conducting an in-person physical examination under this section.

(b) An advanced practice registered nurse (APRN) may practice telehealth, including prescribing, dispensing, or administering a prescription drug that is not a controlled substance if

- (1) the APRN is licensed by the board;
- (2) the APRN, or another licensed health care provider in the group practice is available to provide follow-up care; and
- (3) the APRN requests that the person consent to sending a copy of all records of the encounter to the person's primary care provider if the prescribing APRN is not the person's primary care provider and, if the person consents, the APRN sends the records to the person's primary care provider.

(c) An APRN may prescribe, dispense, or administer a prescription drug that is a controlled substance if the requirements under (b) of this section and AS 08.68.705 are met and the APRN prescribes, dispenses, or administers the controlled substance when an appropriate health care provider is present with the patient to assist the APRN with examination, diagnosis, and treatment.

(d) Notwithstanding (c) of this section, during a public health disaster emergency declared by the governor of this state under AS 26.23.020, an appropriate health care provider need not be present with the patient to assist an APRN with examination, diagnosis, and treatment if the APRN is prescribing, dispensing, or administering buprenorphine to initiate treatment for opioid use disorder and the APRN

- (1) is a Drug Addiction Treatment Act (DATA) waived practitioner;
- (2) documents all attempts to conduct a physical examination under this section and the reason why the examination cannot be performed; and
- (3) requires urine or oral toxicology screenings as part of the patient's medication adherence plan.

(e) Notwithstanding (b) and (c) of this section, an APRN may not prescribe, dispense, or administer a prescription drug in response to an Internet questionnaire or electronic mail message to a person with whom the APRN does not have a prior APRN-patient relationship.

(f) For a telehealth encounter, an APRN must complete and document:

(1) the patient's informed consent to use telehealth technologies;

(2) a clinical history and review of systems establishing diagnoses and identifying conditions and contra-indications to recommended treatment; and

(3) a treatment plan that lists all recommendations and prescriptions issued via electronic means. The treatment plan must meet the same standards as in-person settings.

(g) An APRN practicing telehealth must ensure compliance with HIPAA and medical record retention rules, and transmissions, including patient e-mail, prescriptions, and laboratory results must be secure within existing technology to include password-protected, encrypted electronic prescriptions, or other reliable authentication techniques.

All prescribers:

Electronic Prescribing

Electronic prescribing is not mandatory in Alaska; however, the Board of Pharmacy explicitly allows the use of electronic prescribing technology for the purpose communicating therapeutic substitutions of equivalent drug products or interchangeable biological products. There is no requirement to prescribe controlled substances or non-controlled substances electronically; providers may do so in order to provide necessary treatment.

Prescription Drug Monitoring Program (PDMP)

Registrations -- All pharmacists dispensing controlled substances in Alaska and all practitioners with the authority to prescribe controlled substances must register promptly with the PDMP as required under AS 17.30.200.

Reviewing – Practitioners must review a patient's prescription history in the PDMP prior to prescribing, administering, or directly dispensing a federally-scheduled II or III controlled substance beyond a 3-day supply, unless the prescription is given in an inpatient setting, at the scene of an emergency or in an ambulance, emergency room, immediately before, during, or within the first 48 hours after surgery or a medical procedure, or in a hospice or nursing home as exempted by AS 17.30.200(k). Pharmacists are not required to review patient prescription information prior to dispensing but can do so in the course of exercising professional judgment.

Reporting – A pharmacist-in-charge of each pharmacy dispensing federally scheduled II – IV controlled substances in the state must report to the PDMP daily as required by AS 17.30.200(b). If a pharmacist-in-charge is not available, any pharmacist may report on the pharmacy's behalf. Practitioners who directly dispense are also required to report federally scheduled II – IV controlled substances daily, unless the prescription is administered at a healthcare facility, correctional facility, in-patient pharmacy, or emergency department, or if the prescription is written for an outpatient supply intended to last no more than two (2) days under AS 17.30.200(u). Exempt facilities include facilities defined in AS 18.07.111 and AS 18.20.499.

II. What temporary waivers or emergency provisions are available to expedite or expand the practice of telehealth during the COVID-19 pandemic?

State Medical Board, Board of Nursing:

SB 241 (effective April 10, 2020, through the earlier of November 15, 2020, or the public emergency has been declared over) **waives the requirement for a license under the State Medical Board or Board of Nursing** for a health care provider who is providing treatment, rendering a diagnosis, or prescribing, dispensing, or administering a prescription, excluding a controlled substance listed under AS 11.71.140 -11.71.190, through telehealth as defined in AS 47.05.270(e), without first conducting an in-person physical examination, if

- (1) the health care provider is licensed, permitted, or certified to provide health care services in another jurisdiction and is in good standing in the jurisdiction that issued the license, permit, or certification;
- (2) the health care services provided without an in-person physical examination are within the provider's authorized scope of practice in the jurisdiction that issued the provider's license, permit, or certification;
- (3) in the event that the health care provider determines that the encounter will extend beyond the scope of practice or scope of services described in this section, the health care provider advises the patient that the health care provider is not authorized to provide the services to the patient, recommends that the patient contact a health care provider licensed in the state, and terminates the encounter.

(b) The amount charged by a health care provider for services provided under this section must be reasonable and consistent with the ordinary fees typically charged for that service and may not be more than five percent above the ordinary fees typically charged for that service. A health care provider who is required to terminate an encounter under (a)(3) of this section may not charge for any services provided during the encounter.

AS 47.05.270(e): "telehealth" means the practice of health care delivery, evaluation, diagnosis, consultation, or treatment, using the transfer of health care data through audio, visual, or data communications, performed over two or more locations between providers who are physically separated from the recipient or from each other or between a provider and a recipient who are physically separated from each other.

III. What licensing documents do I need to file to practice telemedicine or telehealth in Alaska?

1. Businesses offering telemedicine or telehealth must hold a valid [Alaska business license](#) and comply with other Alaska laws pertaining to business practices.
2. Any business offering telemedicine or telehealth must be listed on the [Telemedicine Business Registry](#). This simple form can be downloaded [here](#).
3. Anyone providing telemedicine or telehealth must hold an **Alaska license** to perform those services, unless exempted under SB 241 as noted under Section II. Full applications and requirements can be found [online](#). Courtesy licenses for emergency or temporary situations are offered in the following health care programs:

Licensing Program/Board	License Type & Link to Application	Length of Time Valid	Additional Details (Click Link for More)
Acupuncturists	Courtesy License	<ul style="list-style-type: none"> 90 consecutive days Renewable once within 18-month period 	The department can, in its discretion, restrict the license to cover only the professional services required to respond to an emergency situation.
Audiologists	Courtesy License	<ul style="list-style-type: none"> 90 consecutive days Renewable once within 18-month period 	The department can, in its discretion, restrict the license to cover only the professional services required to respond to an emergency situation.
Audiologists	Temporary License	<ul style="list-style-type: none"> 30 days or less in a calendar year Not renewable 	The department may impose limitations in regulation. None at this time.
Behavior Analysts	Behavior Analyst & Assistant Behavior Analyst	<ul style="list-style-type: none"> 30 days Not renewable Issued only once per calendar year 	<ul style="list-style-type: none"> - Complete application - Unencumbered license in another state - \$360 fee
Dentists	Temporary Dental License	<ul style="list-style-type: none"> 90 days & may be extended for an additional 60 days. 	May only practice at the locations of the incapacitated dentist for whom they are substituting.
Marital and Family Therapists	Emergency Courtesy License	Expires the date the Governor lifts the state of emergency or November 15, 2020; whichever is first.	<ul style="list-style-type: none"> - Complete application - Unencumbered license in another state
Nurses (RN, LPN, and APRN)	None needed for out-of-state telehealth practitioners	Defined in SB241: Telehealth and non-controlled substance prescribing only	
Nurses (RN, LPN, and APRN)	Emergency Courtesy License to practice in-state or for Alaska residents	Expires August 7, 2020	<ul style="list-style-type: none"> - Complete application - Two copies of ID or notarized signature - Unencumbered license in another state
Nursing Home Administrators	Six Month Provisional License	Expires in six months, the date the Governor lifts the state of emergency, or	

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		November 15, 2020—check with the department	
Pharmacy	Emergency Pharmacist	<ul style="list-style-type: none"> • 60 days • Not renewable but may be extended until the emergency no longer exists. 	
Physical Therapists and Occupational Therapists	Limited Permit	<ul style="list-style-type: none"> • 120 days • Not renewable • Issued only once per calendar year and three in a lifetime 	
Physicians & Physician Assistants	None needed for out-of-state telehealth practitioners	Defined in SB241: Telehealth and non-controlled substance prescribing only. Exception: Buprenorphine allowable via telemedicine (see 12 AAC 40.943 above)	
Professional Counselors	Emergency Courtesy License	Expires the date the Governor lifts the state of emergency or November 15, 2020; whichever is first.	<ul style="list-style-type: none"> - Complete application - Unencumbered license in another state - \$150 fee
Psychologists	Courtesy License	<ul style="list-style-type: none"> • 30 days • Not renewable • Issued only once per calendar year 	Within an identified/specific scope
Psychologists	Emergency Courtesy License	Expires the date the Governor lifts the state of emergency or November 15, 2020; whichever is first.	<ul style="list-style-type: none"> - Complete application - Two copies of ID or notarized signature - Unencumbered license in another state - No previous license denials - \$50 fee
Social Workers	Emergency Clinical Social Worker License	Expires the date the Governor lifts the state of emergency or November 15, 2020; whichever is first.	<ul style="list-style-type: none"> - Complete application - Unencumbered license in another state - \$75 fee
Speech-Language Pathologists	Temporary License	<ul style="list-style-type: none"> • 60 days • Not renewable • Issued only once per calendar year 	The department may impose limitations in regulation. None at this time.
Veterinarians	Temporary Permit	<ul style="list-style-type: none"> • 60 days • Can be renewed 	To conduct the practice of a person licensed in this State who is absent from his/her practice.

- 4. Full licensure is available for additional health care professions. Some professions also offer temporary licenses while awaiting an exam.** Please visit professionallicense.alaska.gov to find yours. Please note that some processes may be delayed or unavailable in the case of sickness or office closure. Every effort is being made to offer online services and/or reassign staff to meet the licensing needs of primary care professions.

During this public health emergency, the division and our partner licensing boards are working to identify opportunities to ensure access to health care for those who are sick and address economic hardships to licensees. If you have suggestions or questions, please navigate directly to your program at professionallicense.alaska.gov. For fastest response, send a message directly to the program's email address. You may email our general delivery box at license@alaska.gov, or contact our front office at (907)269-8160 or (907) 465-2550. Please note that volume is currently high, and you may experience a delay if contacting us by phone.

For more information on professional licensing during the coronavirus pandemic, please visit <https://www.commerce.alaska.gov/web/cbpl/CBPLCOVID-19Information.aspx>.

For statewide updates on the coronavirus pandemic, visit covid19.alaska.gov.