

STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS, BUSINESS, AND PROFESSIONAL LICENSING  
BOARD OF MARITAL AND FAMILY THERAPY

333 W. Willoughby Ave., 9<sup>th</sup> Floor, Conference Room D - Teleconference  
Juneau, Alaska

Conference Call Number: 1-800-315-2588 Access Code: 59859

**TENTATIVE MEETING AGENDA**

Friday, June 10<sup>th</sup>, 2016

|    | <b><u>TIME</u></b> | <b><u>TOPIC</u></b>                      | <b><u>LEAD PERSON(S)</u></b> |
|----|--------------------|--|------------------------------|
| 1. | 9:00 a.m.          | Call to order/Roll call                  | Leon Webber, Chair           |
| 2. | 9:02 a.m.          | Review Agenda                            | Chair                        |
| 3. | 9:03 a.m.          | Ethics Disclosure                        | Chair                        |
| 4. | 9:05 a.m.          | Implementation of Teletherapy Guidelines | Chair                        |
| 5. | 9:30 a.m.          | Adjourn                                  | Chair                        |



## EXECUTIVE SESSION MOTION

### **Sec. 44.62.310. Government meetings public.**

(c) The following subject may be considered in an executive session:

- (1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
- (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (3) matters which by law, municipal charter, or ordinance are required to be confidential;
- (4) matters involving consideration of government records that by law are not subject to public disclosure.

### **MOTION WORDING:**

**“In accordance with the provisions of Alaska Statute 44.62.310 (c), I move to go into executive session for the purpose of discussing** (select the appropriate statutory citation for the situation):

- (1) **matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity; *OR***
- (2) **subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion; *OR***
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- (4) **matters involving consideration of government records that by law are not subject to public disclosure.**

**Board staff is requested to remain during the session *OR*  
Board only to remain during session.”**

Staff will then state **“The board is off the record at \_\_\_\_\_(time).”**

**CONFIDENTIAL**

**ETHICS SUPERVISOR DETERMINATION FORM**  
**(Board or Commission Member)**

Board or Commission: \_\_\_\_\_

Member Disclosing Potential Ethics Violation: \_\_\_\_\_

I have determined that the situation described on the attached ethics disclosure form

does or would violate AS 39.52.110 - .190. Identify applicable statute below.

does not or would not violate AS 39.52.110 - .190.

\_\_\_\_\_  
Signature of Designated Ethics Supervisor (Chair)

\_\_\_\_\_  
Printed Name of Designated Ethics Supervisor

Date: \_\_\_\_\_

COMMENTS (Please attach a separate sheet for additional space):

Large light blue rectangular area for comments.

**Note: Disclosure Form must be attached.** Under AS 39.52.220, if the chair or a majority of the board or commission, not including the disclosing member, determines that a violation of AS 39.52.110-39.52.190 will exist if the member participates, the member shall refrain from voting, deliberating, or participating in the matter. A member will not be liable under the Ethics Act for action in accordance with such a determination so long as the member has fully disclosed all facts reasonably necessary to the determination and the attorney general has not advised the member, chair, or board or commission that the action is a violation. Forward disclosures with determinations to the State Ethics Attorney as part of your quarterly report. Quarterly reports are submitted to Litigation Assistant, Opinions, Appeals & Ethics, Department of Law, 1031 W. 4<sup>th</sup> Avenue, Suite 200, Anchorage, AK 99501.  
Revised 2012

**MEMORANDUM****State of Alaska  
Department of Law**

TO: \_\_\_\_\_ DATE: \_\_\_\_\_  
 FILE NO.: \_\_\_\_\_  
 TEL. NO.: \_\_\_\_\_  
 FROM: Angie White  
 Litigation Assistant  
 Department of Law  
 Opinions, Appeals, & Ethics Section  
 FAX: \_\_\_\_\_  
 SUBJECT: Executive Branch Ethics Act, AS  
 39.52 Quarterly Report  
 [INSERT QUARTERLY DATE  
 RANGE]

**\*\*\*\*SAMPLE LANGUAGE – PLEASE COPY ONLY THE PARTS THAT APPLY  
 ONTO YOUR BOARD OR COMMISSION’S LETTERHEAD \*\*\*\***

As designated ethics supervisor and chair [executive director] for the \_\_\_\_\_, I wish to advise you that I have received no notifications of potential violations or requests for ethics determinations under the Ethics Act (AS 39.52) and have made no written determinations for this quarter.

**OR**

As designated ethics supervisor and chair [executive director] for the \_\_\_\_\_, I have received \_\_\_ notification(s) of a potential violation and \_\_\_ requests for ethics determinations under the Ethics Act (AS 39.52) I have attached a copy of the notices and requests along with my written determination(s) for review by the attorney general. I did [did not] receive an advisory opinion from the Attorney General.

**AND**

Except as addressed above, no other [board member] [commissioner] disclosed a potential conflict of interest at a recorded public meeting during this quarter.

**OR**

In addition to the above, at the [date] meeting, [Board member] [Commissioner] \_\_\_\_\_ disclosed a potential conflict with respect to \_\_\_\_\_ [insert brief description]\_\_\_\_\_. *Insert disposition:* [S/He refrained from participation.] or [I determined s/he could [could not] participate.] or [The Board [Commission] members voted to permit [not to permit] participation.]

## State of Alaska Department of Law

### Who Is My Designated Ethics Supervisor?

Every state public officer, employee or board or commission member, has a designated ethics supervisor.

#### Executive Agencies

The ethics supervisor for each agency is the Commissioner or a senior manager to whom the Commissioner has delegated the function. The current ethics supervisor for each agency is listed below. The ethics supervisor for a Commissioner is Guy Bell, Director of Administrative Services in the Office of Governor, by delegation from the Governor.

#### Boards and Commissions

The Chair of each board and commission serves as the ethics supervisor for the other members and any executive director. The ethics supervisor for the Chair is Guy Bell, Director of Administrative Services in the Office of Governor, by delegation from the Governor. If a board or commission employs staff, the executive director serves as the ethics supervisor for these employees.

#### Public Corporations

The Chair of the board serves as the ethics supervisor for the other members of the board and any executive director. The executive director is the ethics supervisor for employees of the corporation.

#### Office of the Governor

The ethics supervisor for the Governor and Lieutenant Governor is the Attorney General. By delegation from the Governor, the ethics supervisor for the staff of the offices of the Governor and Lieutenant Governor is Guy Bell, Director of Administrative Services.

#### University of Alaska

By delegation of the University President, the ethics supervisor for university employees is Associate General Counsel Andy Harrington.

### EXECUTIVE BRANCH AGENCIES

Administration: Leslie Ridle, Deputy Commissioner

Commerce, Community & Economic Development: Jon Bittner, Deputy Commissioner

Corrections: April Wilkerson, Director of Administrative Services

Education & Early Development: Les Morse, Deputy Commissioner

Environmental Conservation: Tom Cherian, Director of Administrative Services

Fish & Game: Kevin Brooks, Deputy Commissioner

Health & Social Services: Dallas Hargrave, Human Resource Manager

Labor & Workforce Development: Michael Monagle, Director, Division of Workers Compensation

Law: Jonathan Woodman, Assistant Attorney General

Military & Veterans Affairs: Marty Meyer, Special Assistant to Commissioner

Natural Resources: John Crowther, Inter-Governmental Coordinator

Public Safety: Terry Vrabec, Deputy Commissioner

Revenue: Dan DeBartolo, Administrative Services Director

Transportation & Public Facilities:

- Highways & Public Facilities: Steve Hatter, Deputy Commissioner
- Aviation: John Binder, Deputy Commissioner
- Central Region: Rob Campbell, Regional Director
- Northern Region: Rob Campbell, Acting Regional Director
- Southcoast Region: Acting Regional Director
- Alaska Marine Highway System: Michael Neussl, Deputy Commissioner
- Headquarters: Mary Siroky, Administrative Services Director

Updated April 2015

Department of Law attorney.general@alaska.gov P.O. Box 110300, Juneau, AK 99811-0300  
Phone: 907-465-3600 Fax: 907-465-2075 TTY: 907-258-9161  
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# State of Alaska

## Department of Law

### Ethics Information for Members of Boards & Commissions (AS 39.52)

#### Introduction

This is an introduction to AS 39.52, the Alaska Executive Branch Ethics Act. This guide is not a substitute for reading the law and its regulations. State board and commission members who have further questions should contact their board chair or staff.

The Ethics Act applies to all current and former executive branch public employees and members of statutorily created boards and commissions.

#### Scope of Ethics Act (AS 39.52.110)

Service on a state board or commission is a public trust. The Ethics Act prohibits substantial and material conflicts of interest. Further, board or commission members, and their immediate family, may not improperly benefit, financially or personally, from their actions as board or commission members. The Act does not, however, discourage independent pursuits, and it recognizes that minor and inconsequential conflicts of interest are unavoidable.

#### Misuse of Official Position (AS 39.52.120)

Members of boards or commissions may not use their positions for personal gain or to give an unwarranted benefit or treatment to any person. For example, board members may not:

- use their official positions to secure employment or contracts;
- accept compensation from anyone other than the State for performing official duties;
- use State time, equipment, property or facilities for their own personal or financial benefit or for partisan political purposes;
- take or withhold official action on a matter in which they have a personal or financial interest; or
- coerce subordinates for their personal or financial benefit.
- attempt to influence outcome of an administrative hearing by privately contacting the hearing officer.



Terry knew that a proposal that was before the board would harm Terry's business competitor. Instead of publicly disclosing the matter and requesting recusal, Terry voted on the proposal.



Board member Mick has board staff employee Bob type an article for him that Mick hopes to sell to an Alaskan magazine. Bob types the article on State time.

## Improper Gifts (AS 39.52.130)

A board member may not solicit or accept gifts if a person could reasonably infer from the circumstances that the gift is intended to influence the board member's action or judgment. "Gifts" include money, items of value, services, loans, travel, entertainment, hospitality, and employment. All gifts from registered lobbyists are presumed to be improper, unless the giver is immediate family of the person receiving the gift.

A gift worth more than \$150 to a board member or the board member's immediate family must be reported within 30 days if:

- the board member can take official action that can affect the giver, or
- the gift is given to the board member because he or she is on a state board.

The receipt of a gift worth less than \$150 may be prohibited if a person could reasonably infer from the circumstances that the gift is intended to influence the board member's action or judgment. Receipt of such a gift should be disclosed.

Any gift received from another government, regardless of value, must be reported; the board member will be advised as to the disposition of this gift.

A form for reporting gifts is available at [www.law.alaska.gov/doclibrary/ethics](http://www.law.alaska.gov/doclibrary/ethics) or from the board or commission staff.

This restriction on gifts does not apply to lawful campaign contributions.



The commission is reviewing Roy's proposal for an expansion of his business. Roy invites all the board members out to dinner at an expensive restaurant. He says it will be okay, since he isn't excluding any of the members.



Jody receives a holiday gift every year from Sam. Jody was recently appointed to a state board, but Sam has no business that is before the board. Jody may accept the gift.

## Improper Use or Disclosure of Information (AS 39.52.140)

No former or current member of a board may use or disclose any information acquired from participation on the board if that use or disclosure could result in a financial or personal benefit to the board member (or immediate family), unless that information has already been disseminated to the public. Board members are also prohibited from disclosing confidential information, unless authorized to do so.



Sheila has been on the board for several years. She feels she has learned a great deal of general information about how to have a successful business venture. So she sets up her own business and does well.



Delores has always advised and assisted the other doctors in her clinic on their continuing education requirements. After Delores is appointed to the medical board, she discloses this role to the board and continues to advise the doctors in her clinic.



Jim reviews a confidential investigation report in a licensing matter. He discusses the practitioner's violation with a colleague who is not a board member.

## Improper Influence in State Grants, Contracts, Leases or Loans (AS 39.52.150)

A board member, or immediate family, may not apply for, or have an interest in a State grant, contract, lease, or loan, if the board awards or takes action to administer the State grant, contract, lease, or loan.

A board member (or immediate family) may apply for or be a party to a competitively solicited State grant, contract or lease, if the board as a body does not award or administer the grant, contract, or lease and so long as the board member does not take official action regarding the grant, contract, or lease.

A board member (or immediate family) may apply for and receive a State loan that is generally available to the public and has fixed eligibility standards, so long as the board member does not take (or withhold) official action affecting the loan's award or administration.

Board members must report to the board chair any personal or financial interest (or that of immediate family) in a State grant, contract, lease or loan that is awarded or administered by the agency the board member serves. A form for this purpose is available at [www.law.alaska.gov/doclibrary/ethics](http://www.law.alaska.gov/doclibrary/ethics) or from the board or commission staff.



John sits on a board that awards state grants. John hasn't seen his daughter for nearly ten years so he figures that it doesn't matter when her grant application comes up before the board.



The board wants to contract out for an analysis of the board's decisions over the last ten years. Board member Kim would like the contract since she has been on the board for ten years and feels she could do a good job.

## Improper Representation (AS 39.52.160)

A board or commission member may not represent, advise, or assist a person in matters pending before the board or commission for compensation. A nonsalaried board or commission member may represent, advise, or assist in matters in which the member has an interest that is regulated by the member's own board or commission, if the member acts in accordance with AS 39.52.220 by disclosing the involvement in writing and on the public record, and refraining from all participation and voting on the matter. This section does not allow a board member to engage in any conduct that would violate a different section of the Ethics Act.



Susan sits on the licensing board for her own profession. She will represent herself and her business partner in a licensing matter. She discloses this situation to the board and refrains from participation in the board's discussions and determinations regarding the matter.

## Restriction on Employment After Leaving State Service (AS 39.52.180)

For two years after leaving a board, a former board member may not provide advice or work for compensation on any matter in which the former member personally and substantially participated while serving on the board. This prohibition applies to cases, proceedings, applications, contracts, legislative bills, regulations, and similar matters. This section does not prohibit a State agency from contracting directly with a former board member.

With the approval of the Attorney General, the board chair may waive the above prohibition if a determination is made that the public interest is not jeopardized.

Former members of the governing boards of public corporations and former members of boards and commissions that have regulation-adoption authority, except those covered by the centralized licensing provisions of AS 08.01, may not lobby for pay for one year.



The board has arranged for an extensive study of the effects of the Department's programs. Andy, a board member, did most of the liaison work with the contractor selected by the board, including some negotiations about the scope of the study. Andy quits the board and goes to work for the contractor, working on the study of the effects of the Department's programs.



Andy takes the job, but specifies that he will have to work on another project.

## Aiding a Violation Prohibited (AS 39.52.190)

Aiding another public officer to violate the Ethics Act is prohibited.

## Agency Policies (AS 39.52.920)

Subject to the Attorney General's review, a board may adopt additional written policies further limiting personal or financial interests of board members.

## Disclosure Procedures

### **DECLARATION OF POTENTIAL VIOLATIONS BY MEMBERS OF BOARDS OR COMMISSIONS (AS 39.52.220)**

A board member whose interests or activities could result in a violation of the Ethics Act if the member participates in board action must disclose the matter on the public record and in writing to the board chair who determines whether a violation exists. A form for this purpose is available at [www.law.alaska.gov/doclibrary/ethics](http://www.law.alaska.gov/doclibrary/ethics) or from the board or commission staff. If another board member objects to the chair's ruling or if the chair discloses a potential conflict, the board members at the meeting (excluding the involved member) vote on the matter. If the chair or the board determines a violation will occur, the member must refrain from deliberating, voting, or participating in the matter. For more information, see Ethics Act Procedures for Boards and Commissions available at the above noted web site.

When determining whether a board member's involvement in a matter may violate the Ethics Act, either the chair or the board or commission itself may request guidance from the Attorney General.

### **ATTORNEY GENERAL'S ADVICE (AS 39.52.240-250)**

A board chair or a board itself may request a written advisory opinion from the Attorney General interpreting the Ethics Act. A former board member may also request a written advice from the Attorney General. These opinions are confidential. Versions of opinions without identifying information may be made available to the public.

### **REPORTS BY THIRD PARTIES (AS 39.52.230)**

A third party may report a suspected violation of the Ethics Act by a board member in writing and under oath to the chair of a board or commission. The chair will give a copy to the board member and to the Attorney General and review the report to determine whether a violation may or does exist. If the chair determines a violation exists, the board member will be asked to refrain from deliberating, voting, or participating in the matter.

## Complaints, Hearings, and Enforcement

### **COMPLAINTS (AS 39.52.310-330)**

Any person may file a complaint with the Attorney General about the conduct of a current or former board member. Complaints must be written and signed under oath. The Attorney General may also initiate complaints based on information provided by a board. A copy of the complaint will be sent to the board member who is the subject of the complaint and to the Personnel Board.

All complaints are reviewed by the Attorney General. If the Attorney General determines that the complaint does not warrant investigation, the complainant and the board member will be notified of the dismissal. The Attorney General may refer a complaint to the board member's chair for resolution.

After investigation, the Attorney General may dismiss a complaint for lack of probable cause to believe a violation occurred or recommend corrective action. The complainant and board member will be promptly notified of this decision.

Alternatively, if probable cause exists, the Attorney General may initiate a formal proceeding by serving the board or commission member with an accusation alleging a violation of the Ethics Act. Complaints or accusations may also be resolved by settlement with the subject.

## **CONFIDENTIALITY (AS 39.52.340)**

Complaints and investigations prior to formal proceedings are confidential. If the Attorney General finds evidence of probable criminal activity, the appropriate law enforcement agency shall be notified.

## **HEARINGS (AS 39.52.350-360)**

An accusation by the Attorney General of an alleged violation may result in a hearing. An administrative law judge from the state's Office of Administrative Hearings serves as hearing officer and determines the time, place and other matters. The parties to the proceeding are the Attorney General, acting as prosecutor, and the accused public officer, who may be represented by an attorney. Within 30 days after the hearing, the hearing officer files a report with the Personnel Board and provides a copy to the parties.

## **PERSONNEL BOARD ACTION (AS 39.52.370)**

The Personnel Board reviews the hearing officer's report and is responsible for determining whether a violation occurred and for imposing penalties. An appeal may be filed by the board member in the Superior Court.

## **PENALTIES (AS 39.52.410-460)**

When the Personnel Board determines a board member has violated the Ethics Act, it will order the member to refrain from voting, deliberating, or participating in the matter. The Personnel Board may also order restitution and may recommend that the board member be removed from the board or commission. If a recommendation of removal is made, the appointing authority will immediately remove the member.

If the Personnel Board finds that a former board member violated the Ethics Act, it will issue a public statement about the case and will ask the Attorney General to pursue appropriate additional legal remedies.

State grants, contracts, and leases awarded in violation of the Ethics Act are voidable. Loans given in violation of the Ethics Act may be made immediately payable.

Fees, gifts, or compensation received in violation of the Ethics Act may be recovered by the Attorney General.

The Personnel Board may impose a fine of up to \$5,000 for each violation of the Ethics Act. In addition, a board member may be required to pay up to twice the financial benefit received in violation of the Ethics Act.

Criminal penalties are in addition to the civil penalties listed above.

## **DEFINITIONS (AS 39.52.960)**

Please keep the following definitions in mind:

**Benefit** - anything that is to a person's advantage regardless financial interest or from which a person hopes to gain in any way.

**Board or Commission** - a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch, including the Alaska Railroad Corporation.

**Designated Ethics Supervisor** - the chair or acting chair of the board or commission for all board or commission members and for executive directors; for staff members, the executive director is the designated ethics supervisor.

**Financial Interest** - any property, ownership, management, professional, or private interest from which a board or commission member or the board or commission member's immediate family receives or expects to receive a financial benefit. Holding a position in a business, such as officer, director, partner, or employee, also creates a financial interest in a business.

**Immediate Family** - spouse; another person cohabiting with the person in a conjugal relationship that is not a legal marriage; a child, including a stepchild and an adoptive child; a parent, sibling, grandparent, aunt, or uncle of the person; and a parent or sibling of the person's spouse.

**Official Action** - advice, participation, or assistance, including, for example, a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction, by a public officer.

**Personal Interest** - the interest or involvement of a board or commission member (or immediate family) in any organization or political party from which a person or organization receives a benefit.

For further information and disclosure forms, visit our Executive Branch Ethics web site or please contact:

State Ethics Attorney  
Alaska Department of Law  
1031 West 4th Avenue, Suite 200  
Anchorage, Alaska 99501-5903  
(907) 269-5100  
attorney.general@alaska.gov

Revised 9/2013

Department of Law attorney.general@alaska.gov P.O. Box 110300, Juneau, AK 99811-0300  
Phone: 907-465-3600 Fax: 907-465-2075 TTY: 907-258-9161  
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# State of Alaska

## Department of Law

### Executive Branch Ethics Act

## Responsibilities of Designated Ethics Supervisors for Boards and Commissions

Boards and commissions subject to the Ethics Act have designated ethics supervisors. The chair serves as the designated ethics supervisor for board or commission members and the executive director. The executive director is the designated ethics supervisor for staff. The designated ethics supervisor for a chair is the governor, who has delegated this responsibility to Guy Bell, Administrative Director of the Office of the Governor.

Designated ethics supervisors should refer to the Manual for Designated Ethics Supervisors (April 2008), available from the state ethics attorney, regarding their responsibilities under the Ethics Act. Briefly, as designated ethics supervisor, you must --

1. Ensure that members and employees are provided copies of the guides, Ethics Information for Members of Boards and Commissions and Ethics Act Procedures for Boards and Commissions -- and keep a supply of disclosure forms.
  1. These guides, other educational materials, disclosure forms, statutes and regulations are available for review and copying on the Department of Law ethics web site. If access to this page is not available, please contact the Attorney General's office at 269-7195.
2. Review all disclosures, investigate potential ethics violations, make determinations regarding conduct, and take action.
3. Keep member or employee disclosure statements (of potential violations, receipt of gifts, and interests in grants/contracts/leases/loans) on file in your office. Disclosure of a gift received from another government must be forwarded to the Office of the Governor.
4. Submit an ethics report to the Department of Law in April, July, October and January for the preceding quarter. You will receive a reminder. There is a sample report on the ethics web page.
  1. Mail, email or fax to Kim Halstead, Litigation Assistant, Department of Law, Opinions, Appeals & Ethics Section, 1031 W. 4th Avenue, Suite 200, Anchorage, AK, 99501, ethicsreporting@alaska.gov, fax no. 907-279-2834.

You may request ethics advice from your agency's Assistant Attorney General or from the State Ethics Attorney, Jon Woodman, at 269-5100 or jonathan.woodman@alaska.gov. Please direct questions about reporting procedures to Kim Halstead at 269-7195 or kimberly.halstead@alaska.gov.

6/14

Department of Law attorney.general@alaska.gov P.O. Box 110300, Juneau, AK 99811-0300  
Phone: 907-465-3600 Fax: 907-465-2075 TTY: 907-258-9161  
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# AMFTRB

## Teletherapy Guidelines

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## Overview

The AMFTRB Teletherapy Committee was created and tasked with developing a set of guidelines for use by member boards when regulating the practice of teletherapy by Licensed Marriage and Family Therapists (LMFTs) across the country. The committee agreed upon the following tenets which informed each of the guidelines herein:

- I. Public protection must be the overriding principle behind each guideline.
- II. Each guideline should be written with consideration for the possibility of a national teletherapy credential.
- III. The regulation of teletherapy practice is intertwined with the challenges of portability of LMFT licensure across state lines.
- IV. Each guideline must be a recommendation for a minimum standard for safe practice *not* a best practice recommendation.
- V. A teletherapy standard should not be more restrictive than the respective face-to-face standard for safe practice.
- VI. All existing minimum standards for face-to-face client interaction are assumed for teletherapy practice.
- VII. Each guideline should be written with special consideration of those uniquely systemic challenges.

## Definitions

To be completed.

## Guidelines for the Regulation of Teletherapy Practice

### 1. Adhering to Laws and Rules in Each Jurisdiction

- Therapists must comply with the relevant licensing laws in the jurisdiction where the therapist is physically located when providing the care and where the client is located when receiving care. Note, in the United States the jurisdictional licensure requirement is usually tied to where the client is physically located when he or she is receiving the care, not where the client lives. Many states will only process complaints from residents of their state.
- Therapists of one state who are providing marriage and family therapy to clients in another state must comply with the laws and rules of both jurisdictions.
- Treatment, consultation, and supervision utilizing technology-assisted services will be held to the same standards of appropriate practice as those in traditional (in person) settings.

### 2. Training/Educational Requirements of Professionals

- Therapists must be accountable to states of jurisdiction education requirements for teletherapy prior to initiating teletherapy.
- Therapists should advertise and perform only those services they are licensed, certified, and trained to provide. The anonymity of electronic communication makes misrepresentation possible for both therapists and clients. Because of the potential misuse by unqualified individuals, it is essential that information be readily verifiable to ensure client protection.
- Therapists should review their discipline's definitions of "competence" prior to initiating teletherapy client care to assure that they maintain recommended technical and clinical competence for the delivery of care in this manner. Therapists should have completed basic education and training in suicide prevention. While the depth of training and the definition of "basic" are solely at the therapist's discretion, the therapist's competency may be evaluated by the state board.
- Therapists should assume responsibility to continually assess both their professional and technical competence when providing teletherapy services.
- Minimum 15 hours initial training. Minimum of 5 hours every 5 years is required. Must demonstrate continued competence in a variety of ways (e.g. encryption of data, HIPAA compliant connections).
  - Teletherapy Theory and Practice
  - Telephone and Video Conferencing
  - Legal/Ethical Issues
  - Handling Online Emergencies
  - Best Practices & Informed Consent

### 3. Identity Verification of Client

- Therapists must recognize the obligations, responsibilities, and client rights associated with establishing and maintaining a therapeutic relationship.

- An appropriate therapeutic relationship has not been established when the identity of the therapist may be unknown to the client or the identity of the client(s) may be unknown to the therapist. An initial face-to-face meeting, which may utilize HIPAA compliant video-conferencing, is highly recommended to verify the identity of the client. If such verification is not possible, the burden is on the therapist to document appropriate verification of the client.
- A therapist should not render therapy using technology-assisted services without verifying the location and identifying the requesting client(s) to the most reasonable extent possible at the onset of each session.
- Therapists should develop written procedures for verifying the identity of the recipient, his or her current location, and readiness to proceed at the beginning of each contact. Examples of verification means include the use of code words, phrases or inquiries. (For example, “is this a good time to proceed?”).

#### 4. Establishing the Therapist-Client Relationship

- A therapist who engages in technology-assisted services must provide the client with his/her license number and information on how to contact the board by telephone, electronic communication, or mail, and must adhere to all other rules and regulations in the relevant jurisdiction(s).
- The relationship is clearly established when informed consent documentation is signed.
- Therapists must communicate any risks and benefits of the teletherapy services to be offered to the client(s) and document such communication.
- Screening for client technological capabilities is part of the initial intake processes. (Ex. This type of screening could be accomplished by asking clients to complete a brief questionnaire about their technical and cognitive capacities.)
- Teletherapy services must have accurate and transparent information about the website owner/operator, location, and contact information, including a domain name that accurately reflects the identity.
- The therapist and/or client must use connection test tools (e.g., bandwidth test) to test the connection before starting their videoconferencing session to ensure the connection has sufficient quality to support the session.

#### 5. Cultural Competency Issues

- Therapists should be aware of and sensitive to clients from different cultures and have basic clinical competency skills providing these services.
- Therapists should be aware of the limitations of teletherapy and recognize and respect cultural differences (e.g. when therapist is unable to see the client, non-verbal cues). Therapists should remain aware of their own potential projections, assumptions, and cultural biases.
- Therapists should select and develop appropriate online methods, skills, and techniques that are attuned to their clients’ cultural, bicultural, or marginalized experiences in their environments.
- Client perspectives of therapy and service delivery via technology may differ. In addition, culturally competent therapists should know the strengths and limitations of current electronic modalities, process and practice models, to provide services that are applicable and relevant to

the needs of culturally and geographically diverse clients and members of vulnerable populations.

- Therapists should consider time zone, cultural differences, and readability of written communications.
- Sensory deficits, especially visual and auditory, can affect the ability to interact over a videoconference connection. Therapists should consider the use of technologies that can help with visual or auditory deficit. Techniques should be appropriate for a client who may be cognitively impaired, or find it difficult to adapt to the technology.

## 6. Informed Consent/Client Choice to Engage in Teletherapy

### Availability of Professional to Client

- The therapist must document the provision of consent in the medical record. The consent should include all information contained in the consent process for in-person care including discussion of the structure and timing of services, record keeping, scheduling, privacy, potential risks, confidentiality, mandatory reporting, and billing.
- This information must be specific to the identified service delivery type and include considerations for that particular individual.
- The information must be provided in language that can be easily understood by the client. This is particularly important when discussing technical issues like encryption or the potential for technical failure.
- Local, regional and national laws regarding verbal or written consent must be followed. If written consent is required, then electronic signatures may be used if they are allowed in the relevant jurisdiction.
- In addition to the usual and customary protocol of informed consent between therapist and client for face-to-face counseling, the following issues, unique to the use of teletherapy, technology, and/or social media, are addressed in the informed consent process:
  - confidentiality and the limits to confidentiality in electronic communication;
  - distance counseling credentials, physical location of practice, and contact information;
  - licensure qualifications and information on reporting complaints to appropriate licensing bodies;
  - risks and benefits of engaging in the use of teletherapy, technology, and/or social media;
  - possibility of technology failure and alternate methods of service delivery;
  - process by which client information will be documented and stored;
  - anticipated response time and acceptable ways to contact the therapist;
  - agreed upon emergency procedures;
  - procedures for coordination of care with other professionals;
  - conditions under which teletherapy services may be terminated and a referral made to in-person care;
  - time zone differences;
  - cultural and/or language differences that may affect delivery of services;
  - possible denial of insurance benefits;
  - social media policy;
  - specific services provided;
  - pertinent legal rights and limitations governing practice across state lines or international boundaries, when appropriate; and

- information collected and any passive tracking mechanisms utilized.
- Given that therapists may be offering teletherapy to individuals in different states at any one time, the therapists must document all relevant state regulations in the respective record(s). The therapist is responsible for knowing the correct informed consent forms for each applicable jurisdiction.
- Therapists should provide clients clear mechanisms to:
  - access, supplement, and amend client-provided personal health information;
  - provide feedback regarding the site and the quality of information and services; and
  - register complaints, including information regarding filing a complaint with the applicable state licensing board(s).

## 7. Acknowledgement of Limitations of Teletherapy

- Therapists must: (a) determine that teletherapy or telesupervision is appropriate for clients or supervisees, considering professional, intellectual, emotional, and physical needs; (b) inform clients or supervisees of the potential risks and benefits associated with teletherapy and telesupervision, respectively; (c) ensure the security of their communication medium; and (d) only commence teletherapy or telesupervision after appropriate education, training, or supervised experience using the relevant technology.
- Clients and supervisees must be made aware of the risks and responsibilities associated with teletherapy and telesupervision. Therapists are to advise clients and supervisees in writing of these risks, and of both the therapist's and clients'/supervisees' responsibilities for minimizing such risks.
- Therapists should consider the differences between face-to-face and electronic communication (nonverbal and verbal cues) and how these may affect the therapy process. Therapists should educate clients on how to prevent and address potential misunderstandings arising from the lack of visual cues and voice intonations when communicating electronically.
- Therapists will be aware of the limitations of teletherapy and recognize and respect cultural differences (e.g. when therapist is unable to see the client, non-verbal cues). Therapists will remain aware of their own potential projections, assumptions, and cultural biases.
- Therapists should recognize the members of the same family system may have different levels of competence and preference using technology. Therapists should acknowledge power dynamics when there are differing levels of technological competence within a family system.
- The burgeoning research in teletherapy suggests the effectiveness of certain types of interactive teletherapy interventions to their in-person counterparts (specific therapies delivered over videoconferencing and telephone). Therefore, before therapists engage in providing teletherapy services, they should conduct an initial assessment to determine the appropriateness of the teletherapy service to be provided for the client(s). Such an assessment may include the examination of the potential risks and benefits to provide teletherapy services for the client's particular needs, the multicultural and ethical issues that may arise, and a review of the most appropriate medium (e.g., video-conference, text, email, etc.) or best options available for the service delivery. It may also include considering whether comparable in-person services are

available, and why services delivered via teletherapy are equivalent or preferable to such services. In addition, it is incumbent on the therapist to engage in a continual assessment of the appropriateness of providing teletherapy services throughout the duration of the service delivery.

## 8. Working with Children

- Therapists must determine if a client is a minor and, therefore, in need of parental/guardian consent. Before providing teletherapy services to a minor, therapist must verify the identity of the parent, guardian, or other person consenting to the minor's treatment.
- In cases where conservatorship, guardianship or parental rights of the client have been modified by the court, therapists must obtain and review a written copy of the custody agreement or court order before the onset of treatment.

## 9. Confidentiality of Communication

- Therapists utilizing teletherapy should meet or exceed applicable federal and state legal requirements of health information privacy including HIPAA/HITECH.
- Therapists should assess carefully the remote environment in which services will be provided, to determine what impact, if any, there might be to the efficacy, privacy and/or safety of the proposed intervention offered via teletherapy.
- Therapists both understand and inform their clients of the limits to confidentiality and risks to the possible access or disclosure of confidential data and information that may occur during service delivery, including the risks of access to electronic communications.

## 10. Professional Boundaries Regarding Virtual Presence

- Reasonable expectations about contact between sessions should be discussed and verified with the client. At the start of the treatment, the client and therapist should discuss whether or not the provider will be available for phone or electronic contact between sessions and the conditions under which such contact is appropriate. The therapist should provide a specific time frame for expected response between session contacts. This should also include a discussion of emergency management between sessions.
- To facilitate the secure provision of information, therapists should provide in writing the appropriate ways to contact them.
- Therapists are discouraged from knowingly engaging in a personal virtual relationship with clients (e.g., through social and other media). Therapists should document any known virtual relationships with clients/associated with clients.
- Therapists should discuss, document, and establish professional boundaries with clients regarding the appropriate use and/or application of technology and the limitations of its use within the counseling relationship (e.g., lack of confidentiality, times when not appropriate to use).
- Therapists are aware that whatever personal information they disclose through electronic means may be broadly accessible and could be in the public domain. Even with privacy settings there are ways that information can be accessed. Therapists must protect their own privacy as adequately as possible.

## 11. Social Media

- Therapists should develop written procedures for the use of social media and other related digital technology with current and former recipients. These written procedures should, at a minimum, provide appropriate protections against the disclosure of confidential information. These procedures should also identify that personal social media accounts are distinct from any used for professional purposes.
- In cases where therapists wish to maintain a professional and personal presence for social media use, separate professional and personal web pages and profiles should be created to clearly distinguish between the two kinds of virtual presence.
- Therapists should respect the privacy of their clients' presence on social media unless given consent to view such information.
- Therapists should avoid the use of public social media sources (e.g., tweets, blogs, etc.) to provide confidential information.
- Therapists should refrain from referring to clients generally or specifically on social media.
- Therapists who use social networking sites for both professional and personal purposes are encouraged to review and educate themselves about the potential risks to privacy and confidentiality and consider utilizing all available privacy settings to reduce these risks. They are mindful of the possibility that any electronic communication can have a high risk of public discovery.
- Therapists who engage in online blogging are aware that they are revealing personal information about themselves, and are aware that clients may read the material. Therapists consider the effect of a client's knowledge of their blog information on the professional relationship, and when providing marriage and family therapy, place the client's interests as paramount.

## 12. Sexual Issues in Teletherapy

- Treatment, consultation, and supervision utilizing teletherapy or telesupervision services must be held to the same standards of appropriate practice as those in traditional (in person) settings.
- Sexual intimacy with current or former clients or with known members of the client's family system is prohibited. This prohibition applies to both in-person and electronic interactions or relationships.

## 13. Documentation/Record Keeping

- All direct client-related electronic communications, should be stored and filed in the client's medical record, consistent with traditional record-keeping policies and procedures.
- Written policies and procedures should be maintained at the same standard as traditional face-to-face services for documentation, maintenance, and transmission of the records of the services using teletherapy technologies.
- Services should be accurately documented as remote services and include dates, place of both therapist and client(s) location, duration, and type of service(s) provided.
- Requests for access to records should require written authorization from the client with a clear indication of what types of data and which information is to be released. If therapists are storing

the audiovisual data from the sessions, these cannot be released unless the client authorization indicates specifically that this is to be released.

- Therapists are encouraged to create policies and procedures for the secure destruction of data and information and the technologies used to create, store, and transmit data and information.
- Therapists should inform clients on how records are maintained electronically. This includes, but is not limited to, the type of encryption and security assigned to the records, and if/for how long archival storage of transaction records is maintained.
- Clients should be informed in writing of the limitations and protections offered by the therapist's technology.

#### 14. Payment and Billing Procedures

- Prior to the commencement of initial services, the client should be informed of any and all financial charges that may arise from the services to be provided. Arrangement for payment should be completed prior to the commencement of services.
- All billing and administrative data related to the client must be secured to protect confidentiality. Only relevant information is released for reimbursement purposes as outlined by HIPAA.
- Therapist should document who is present and use appropriate billing codes.
- Therapist should ensure online payment methods by clients are secure.

#### 15. Emergency Management

- Each jurisdiction has its own involuntary hospitalization and duty-to-notify laws outlining criteria and detainment conditions. Professionals must know and abide by the rules and laws in the jurisdiction where the therapist is located and where the client is receiving services.
- At the onset of the delivery of teletherapy services, therapists make reasonable effort to identify and learn how to access relevant and appropriate emergency resources in the client's local area, such as emergency response contacts (e.g., emergency telephone numbers, hospital admissions, local referral resources, clinical champion at a partner clinic where services are delivered, a support person in the client's life when available and appropriate consent has been authorized).
- Therapists should have clearly delineated emergency procedures and access to current resources in each of their client's respective locations; simply offering 911 is insufficient.
- If a client recurrently experiences crises/emergencies suggestive that in-person services may be appropriate, therapists take reasonable steps to refer a client to a local mental health resource or begin providing in-person services.
- Therapists prepare a plan to address any lack of appropriate resources, particularly those necessary in an emergency, and other relevant factors which may impact the efficacy and safety of said service. Therapists make reasonable effort to discuss with and provide all clients with clear written instructions as to what to do in an emergency (e.g., where there is a suicide risk). As part of emergency planning, therapists should be knowledgeable of the laws and rules of the jurisdiction in which the client resides and the differences from those in the therapist's jurisdiction, as well as document all their emergency planning efforts.

- In the event of a technology breakdown, causing disruption of the session, the therapist should have a backup plan in place. The plan should be communicated to the client prior to commencement of the treatment and may also be included in the general emergency management protocol.

## 16. Synchronous vs. Asynchronous Contact with Client(s)

- Communications may be synchronous with multiple parties communicating in real time (e.g., interactive videoconferencing, telephone) or asynchronous (e.g. email, online bulletin boards, storing and forwarding information). Technologies may augment traditional in-person services (e.g., psychoeducational materials online after an in-person therapy session), or be used as stand-alone services (e.g., therapy or supervision provided over videoconferencing). Different technologies may be used in various combinations and for different purposes during the provision of teletherapy services. The same medium may be used for direct and non-direct services. For example, videoconferencing and telephone, email, and text may also be utilized for direct service while telephone, email, and text may be used for non-direct services (e.g. scheduling). Regardless of the purpose, therapists should be aware of the potential benefits and limitations in their choices of technologies for particular clients in particular situations.

## 17. HIPAA Security, Web Maintenance, and Encryption Requirements

- Videoconferencing applications should have appropriate verification, confidentiality, and security parameters necessary to be properly utilized for this purpose.
- Video software platforms should not be used when they include social media functions that notify users when anyone in contact list logs on (skype, g-chat).
- Capability to create a video chat room should be disabled so others cannot enter at will.
- Personal computers used should have up-to-date antivirus software and a personal firewall installed.
- All efforts should be taken to make audio and video transmission secure by using point-to-point encryption that meets recognized standards.
- Videoconferencing software should not allow multiple concurrent sessions to be opened by a single user.
- Session logs stored by 3<sup>rd</sup> party locations should be secure.
- Therapists should conduct analysis of the risks to their practice setting, telecommunication technologies, and administrative staff, to ensure that client data and information is accessible only to appropriate and authorized individuals.
- Therapists should encrypt confidential client information for storage or transmission, and utilize such other secure methods as safe hardware and software and robust passwords to protect electronically stored or transmitted data and information.
- When documenting the security measures utilized, therapists should clearly address what types of telecommunication technologies are used (e.g., email, telephone, videoconferencing, text), how they are used, whether teletherapy services used are the primary method of contact or augments in-person contact.

## 18. Archiving/Backup Systems

- Therapists should retain copies of all written communications with distance service recipients. Examples of written communications include email/text messages, instant messages, and histories of chat based discussions even if they are related to housekeeping issues such as change of contact information or scheduling appointments.
- PHI and other confidential data should only be backed up to or stored on secure data storage locations.
- Therapists will have a plan for the professional retention of records and availability to clients in the event of the therapist's incapacitation or death.

## 19. Electronic Links

- Therapists should regularly ensure that electronic links are working and are professionally appropriate.
- The therapist and/or client may use connection test tools (e.g. bandwidth test) to test the connection before starting their session to ensure the connection has sufficient quality to support the session.

## 20. Testing/Assessment

- When employing assessment procedures in teletherapy, therapists should familiarize themselves with the tests' psychometric properties, construction, and norms in accordance with current research. Potential limitations of conclusions and recommendations that can be made from online assessment procedures should be clarified with the client prior to administering online assessments.
- Therapists are encouraged to consider the unique issues that may arise with test instruments and assessment approaches designed for in-person implementation when providing services.
- Therapists should maintain the integrity of the application of the testing and assessment process and procedures when using telecommunication technologies. When a test is conducted via teletherapy, therapists are encouraged to ensure that the integrity of the psychometric properties of the test or assessment procedure (e.g., reliability and validity) and the conditions of administration indicated in the test manual are preserved when adapted for use with such technologies.
- Therapists are encouraged to be cognizant of the specific issues that may arise with diverse populations when providing teletherapy and make appropriate arrangements to address those concerns (e.g., language or cultural issues; cognitive, physical or sensory skills or impairments; or age may impact assessment). In addition, therapists may consider the use of a trained assistant (e.g., proctor) to be on premise at the remote location in an effort to help verify the identity of the client(s), provide needed on-site support to administer certain tests or subtests, and protect the security of the testing and/or assessment process.

- Therapists should use test norms derived from telecommunication technologies administration if such are available. Therapists are encouraged to recognize the potential limitations of all assessment processes conducted via teletherapy, and be ready to address the limitations and potential impact of those procedures.
- Therapists should be aware of the potential for unsupervised online testing to compromise the standardization of administration procedures and take steps to minimize the associated risks. When data are collected online, security should be protected by the provision of usernames and passwords. Therapists should inform their clients of how test data will be stored (e.g., electronic database that is backed up). Regarding data storage, ideally secure test environments use a three-tier server model consisting of an internet server, a test application server, and a database server. Therapists should confirm with the test publisher that the testing site is secure and that it cannot be entered without authorization.
- Therapists should be aware of the limitations of “blind” test interpretation, that is, interpretation of tests in isolation without supporting assessment data and the benefit of observing the test taker. These limitations include not having the opportunity to make clinical observations of the test taker (e.g., test anxiety, distractibility, or potentially limiting factors such as language, disability etc.) or to conduct other assessments that may be required to support the test results (e.g., interview).

## 21. Supervision Standards vs. Client Standards

- Therapists should hold supervision to the same standards as all other technology-assisted services
- Before using technology in supervision, supervisors should be competent in the use of those technologies. Supervisors should take the necessary precautions to protect the confidentiality of all information transmitted through any electronic means and maintain competence.
- The type of communications used for telesupervision should be appropriate for the types of services being supervised, clients and supervisee needs. Telesupervision is provided in compliance with the supervision requirements of the appropriate licensing board(s). Therapists should review state board requirements specifically regarding face-to-face contact with supervisee as well as the need for having direct knowledge of all clients served by his or her supervisee.

## Contributors

To be completed.

## Resources

To be completed.

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## EXECUTIVE SESSION MOTION

### Sec. 44.62.310. Government meetings public.

(c) The following subject may be considered in an executive session:

- (1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
- (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (3) matters which by law, municipal charter, or ordinance are required to be confidential;
- (4) matters involving consideration of government records that by law are not subject to public disclosure.

### MOTION WORDING:

**“In accordance with the provisions of Alaska Statute 44.62.310 (c), I move to go into executive session for the purpose of discussing** (select the appropriate statutory citation for the situation):

- (1) **matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity; *OR***
- (2) **subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion; *OR***
- (3) **matters which by law, municipal charter, or ordinance are required to be confidential; *OR***
- (4) **matters involving consideration of government records that by law are not subject to public disclosure.**

**Board staff is requested to remain during the session *OR*  
Board only to remain during session.”**

Staff will then state **“The board is off the record at \_\_\_\_\_(time).”**

**From:** Carrillo, Laura N (CED)  
**To:** ["lking@hotmail.com"](mailto:lking@hotmail.com); ["leonwebber3@gmail.com"](mailto:leonwebber3@gmail.com); ["ken.m@discoverycovealaska.com"](mailto:ken.m@discoverycovealaska.com); ["ltw@alaska.net"](mailto:ltw@alaska.net); ["speakeasygame@me.com"](mailto:speakeasygame@me.com); ["grannyjo1953@yahoo.com"](mailto:grannyjo1953@yahoo.com); ["aguerolaw@gci.net"](mailto:aguerolaw@gci.net)  
**Cc:** [Hannasch, Dawn K \(CED\)](#)  
**Subject:** Continuing education and teletherapy guidelines  
**Date:** Tuesday, May 03, 2016 2:37:00 PM  
**Attachments:** [PharmacyStatutes.pdf](#)  
**Importance:** High

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Hi all,

Yesterday I was told that Boards are able to determine when continuing education changes are going to be “enforced”, but after Dawn spoke with our regulations specialist, she was informed that such changes will apply to *this* renewal. In the future, if the Board is wanting to allow licensees more time to find relevant continuing education courses, you could consider including a clause stating that the changes would take effect on xx/xx/xxxx. I am working now with the publications specialist to post a notice to the Board’s site.

Regarding teletherapy implementation, and after speaking with Sara this afternoon, the Board really can’t delegate to the regulations specialist to specify where the Board wants the regulation changes to be made/how to proceed; this is the responsibility of the Board. As such, the Board can choose to incorporate the guidelines similar to what the Board of Pharmacy has done for various guidelines (I wasn’t aware of this option until speaking with Sara today)—the Board may need to establish a new or amend a regulatory authority (also citing AS 08.63.210) if they chose to go this route. See the example below from the pharmacy Board and the attached stats/regs:

|   |    |
|---|----|
| <b>4. Guidelines Relating to:</b>   |    |
| <i>Facility Standards for Pharmacies</i><br>(Referenced in 12 AAC 52.400) ..... | 53 |
| <i>Sterile Pharmaceuticals</i><br>(Referenced in 12 AAC 52.430) .....           | 55 |
| <i>Good Compounding Practices</i><br>(Referenced in 12 AAC 52.440) .....        | 59 |

This pamphlet is prepared by the Alaska Board of Pharmacy to establish guidelines for a pharmacy or pharmacist on compounding practices. Professional conduct by a licensee includes adherence to these guidelines. See 12 AAC 52.440.

Note that the Pharmacy guidelines on pages 53-61 were developed by the AK Pharmacy Board and not a national association, so the Board would need to tweak the AMFTRB guidelines to make it specific to our state. The other option, as I’ve mentioned before, is to convert the guidelines into MFT-specific regulations, which would require adding or amending sections (Board’s responsibility).

Although Mr. McCarty has expressed he is not in favor of holding a teletherapy meeting to clarify how the Board would like to proceed, this is ultimately up to the Board chair to call a teleconference. Upon Mr. Webber’s recommendation, I’ll work with you all to establish a date that works best with your schedules. Teleconferences only require a 5-day public notice and could be a quick 15-30 minute meeting or so. I recommend the Board use a teleconference as an opportunity to state clearly on record how they will proceed with implementing the teletherapy guidelines.

Thank you,

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# ***Statutes and Regulations*** **Pharmacy**

***April 2016***

*(Centralized Statutes and Regulations not included)*



DEPARTMENT OF COMMERCE, COMMUNITY,  
AND ECONOMIC DEVELOPMENT

***DIVISION OF CORPORATIONS, BUSINESS  
AND PROFESSIONAL LICENSING***

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## CHAPTER 80. PHARMACISTS AND PHARMACIES.

## Article

1. The Board of Pharmacy (§§ 08.80.003 - 08.80.105)
2. Licensing and Registration (§§ 08.80.110 - 08.80.261)
3. Duties of Licensed Pharmacists (§§ 08.80.295 - 08.80.330)
4. Unlawful Acts (§§ 08.80.390 - 08.80.460)
5. General Provisions (§§ 08.80.470 - 08.80.490)

## ARTICLE 1. THE BOARD OF PHARMACY.

## Section

03. Practice of pharmacy as a profession
05. Statement of purpose
10. Creation and membership of board; officers
30. Powers and duties of the board
45. Nonprescription drugs
50. Applicability of Administrative Procedure Act
60. Meetings of the board
70. Quorum
80. Expenses of members
105. Removal of board members

**Sec. 08.80.003. PRACTICE OF PHARMACY AS A PROFESSION.** The practice of pharmacy is declared to be a professional practice affecting the public health, safety, and welfare and is subject to regulation and control in the public interest. It is further declared to be a matter of public interest that only qualified persons be permitted to engage in the practice of pharmacy, and to ensure the quality of drugs and related devices distributed in the state.

**Sec. 08.80.005. STATEMENT OF PURPOSE.** It is the purpose of this chapter to promote, preserve, and protect the public health, safety, and welfare by and through the effective control and regulation of the practice of pharmacy.

**Sec. 08.80.010. CREATION AND MEMBERSHIP OF BOARD; OFFICERS.** (a) There is created the Board of Pharmacy, composed of seven members, five of whom shall be pharmacists licensed in the state who have been actively engaged in the practice of pharmacy in the state for a period of three years immediately preceding their appointment. Two shall be persons with no direct financial interest in the health care industry. Whenever possible, the board shall include at least one member from each judicial district.

(b) An officer elected by the board serves a term of one year and may not serve more than four consecutive full terms in a specific office.

**Sec. 08.80.030. POWERS AND DUTIES OF THE BOARD.** (a) The board is responsible for the control and regulation of the practice of pharmacy.

(b) In order to fulfill its responsibilities, the board has the powers necessary for implementation and enforcement of this chapter, including the power to

- (1) elect a president and secretary from its membership and adopt rules for the conduct of its business;
- (2) license by examination or by license transfer the applicants who are qualified to engage in the practice of pharmacy;
- (3) assist the department in inspections and investigations for violations of this chapter, or of any other state or federal statute relating to the practice of pharmacy;
- (4) adopt regulations to carry out the purposes of this chapter;
- (5) establish and enforce compliance with professional standards and rules of conduct for pharmacists engaged in the practice of pharmacy;
- (6) determine standards for recognition and approval of degree programs of schools and colleges of pharmacy whose graduates shall be eligible for licensure in this state, including the specification and enforcement of requirements for practical training, including internships;
- (7) establish for pharmacists and pharmacies minimum specifications for the physical facilities, technical equipment, personnel, and procedures for the storage, compounding, and dispensing of drugs or related devices, and for the monitoring of drug therapy;
- (8) enforce the provisions of this chapter relating to the conduct or competence of pharmacists practicing in the state, and the suspension, revocation, or restriction of licenses to engage in the practice of pharmacy;
- (9) license and regulate the training, qualifications, and employment of pharmacy interns and pharmacy technicians;
- (10) issue licenses to persons engaged in the manufacture and distribution of drugs and related devices;
- (11) establish and maintain a controlled substance prescription database as provided in AS 17.30.200;

(12) establish standards for the independent administration by a pharmacist of vaccines and related emergency medications under AS 08.80.168, including the completion of an immunization training program approved by the board.

**Sec. 08.80.045. NONPRESCRIPTION DRUGS.** (a) Except as provided in (b) of this section the board may not regulate the sale of patent or nonprescription drugs that are prepackaged for use by the consumer, are in their original, unbroken packaging, and are labeled in accordance with requirements of the federal government.

(b) The board may regulate the sale and distribution of patent or nonprescription drugs under AS 44.62.250 when the regulation is required by an emergency to protect the public health and safety.

**Sec. 08.80.050. APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT.** The board shall comply with the Administrative Procedure Act (AS 44.62).

**Sec. 08.80.060. MEETINGS OF THE BOARD.** The board shall meet at least three times each year at the call of the president for the transaction of business properly before it. The president shall also call the board into session when requested in writing by at least two members. Meetings may be held telephonically.

**Sec. 08.80.070. QUORUM.** Four members constitute a quorum for the transaction of business. However, when the board meets for the purpose of examining applications for licensure, three members of the board constitute a quorum.

**Sec. 08.80.080. EXPENSES OF MEMBERS.** Members of the board are entitled to reimbursement for actual travel expenses incidental to the discharge of their duties and, while in the performance of their duties, are entitled to the per diem expenses allowed by law.

**Sec. 08.80.105. REMOVAL OF BOARD MEMBERS.** A member of the board may be removed from office by the governor for cause.

## ARTICLE 2. LICENSING AND REGISTRATION.

### Section

- 110. Qualifications for licensure by examination
- 116. Internship and other training programs
- 120. Grading and content of examination
- 145. Reciprocity; license transfer
- 147. Renewal of licensure
- 150. Temporary license
- 155. Emergency permit
- 157. Licensing of facilities
- 158. Registration of pharmacies located outside of state
- 160. Fees
- 165. Continuing education requirements
- 168. Administration of vaccines and related emergency medications
- 261. Disciplinary sanctions

**Sec. 08.80.110. QUALIFICATIONS FOR LICENSURE BY EXAMINATION.** An applicant for licensure as a pharmacist shall

- (1) be fluent in the reading, writing, and speaking of the English language;
- (2) furnish the board with at least two affidavits from reputable citizens that the applicant has known for at least one year attesting to the applicant's good moral character;
- (3) be a graduate of a college in a degree program approved by the board;
- (4) pass an examination or examinations given by the board or acceptable to the board under the score transfer process administered by the National Association of Boards of Pharmacy;
- (5) have completed internship training or another program that has been approved by the board or demonstrated to the board's satisfaction that the applicant has experience in the practice of pharmacy that meets or exceeds the minimum internship requirements of the board.

**Sec. 08.80.116. INTERNSHIP AND OTHER TRAINING PROGRAMS.** (a) An applicant for licensure by examination shall obtain practical experience in the practice of pharmacy concurrent with or after college attendance, or both, under terms and conditions the board shall determine.

(b) The board shall establish licensure requirements for interns and standards for internship or other training programs that are necessary to qualify an applicant for the licensure examination and shall also determine the qualifications of preceptors used in practical experience programs.

**Sec. 08.80.120. GRADING AND CONTENT OF EXAMINATION.** The examination or examinations shall be prepared to measure the competence of the applicant to engage in the practice of pharmacy. The board may employ, cooperate, and contract with an organization or consultant in the preparation and grading of an examination, but shall retain sole discretion and responsibility for determining which applicants have successfully passed the examinations.

**Sec. 08.80.145. RECIPROcity; LICENSE TRANSFER.** If another jurisdiction allows licensure in that jurisdiction of a pharmacist licensed in this state under conditions similar to those in this section, the board may license as a pharmacist in this state a person licensed as a pharmacist in the other jurisdiction if the person

- (1) submits a written application to the board on a form required by the board;
- (2) is at least 18 years of age;
- (3) is of good moral character;
- (4) possesses at the time of the request for licensure as a pharmacist in this state the qualifications necessary to be eligible for licensure in this state;
- (5) has engaged in the practice of pharmacy for at least one year or has met the internship requirements of this state within the one-year period immediately before applying for a license under this section;
- (6) presents proof satisfactory to the board that the person is currently licensed as a pharmacist in the other jurisdiction and does not currently have a pharmacist license suspended, revoked, or otherwise restricted except for failure to apply for renewal or failure to obtain the required continuing education credits;
- (7) has passed an examination approved by the board that tests the person's knowledge of Alaska laws relating to pharmacies and pharmacists and the regulations adopted under those laws; and
- (8) pays all required fees.

**Sec. 08.80.147. RENEWAL OF LICENSURE.** If a pharmacist fails to apply for renewal of a license within five years from the expiration of the license, the person must pass an examination for license renewal, except that a person who has continually practiced pharmacy in another state under a license issued by the authority of that state may renew an expired license in this state upon fulfillment of the requirements that may be established by the board.

**Sec. 08.80.150. TEMPORARY LICENSE.** The board shall adopt regulations regarding the issuance of a temporary license to practice pharmacy.

**Sec. 08.80.155. EMERGENCY PERMIT.** The board shall adopt regulations regarding the issuance of an emergency permit to practice pharmacy.

**Sec. 08.80.157. LICENSING OF FACILITIES.** (a) A facility engaged in the practice of pharmacy or in the manufacture, production, or wholesale distribution of drugs or devices, and a pharmacy where drugs or devices are dispensed, shall be licensed by the board, and shall renew the license at intervals determined by the board. If operations are conducted at more than one location, each location shall be licensed by the board.

(b) The board may by regulation determine the licensure classifications of facilities and establish minimum standards for the facilities.

(c) The board shall establish by regulation the criteria that a facility must meet to qualify for licensure in each classification. The board may issue licenses with varying restrictions to facilities when the board considers it necessary to protect the public interest.

(d) The board may deny or refuse to renew a license if it determines that the granting or renewing of the license would not be in the public interest.

(e) Licenses issued by the board are not transferable or assignable.

(f) The board shall specify by regulation the minimum standards for responsibility of a facility or pharmacy that has employees or personnel engaged in the practice of pharmacy or engaged in the manufacture, wholesale distribution, production, or use of drugs or devices in the conduct of its business.

(g) A licensed facility shall report to the board

- (1) permanent closing;
- (2) change of ownership, management, location, or pharmacist-in-charge of a pharmacy;
- (3) theft or loss of drugs or devices as defined by regulations of the board;
- (4) conviction of an employee of violation of a state or federal drug law;
- (5) disasters, accidents, theft, destruction, or loss relating to records required to be maintained by state or federal law;

(6) occurrences of significant adverse drug reactions as defined by regulations of the board;

(7) other matters and occurrences the board may require by regulation.

(h) The board may suspend, revoke, deny, or refuse to renew the license of a facility or pharmacy on the following grounds:

(1) the finding by the board of violations of a federal, state, or local law relating to the practice of pharmacy, drug samples, wholesale or retail drug or device distribution, or distribution of controlled substances;

(2) a felony conviction under federal, state, or local law of an owner of the facility or pharmacy or of an employee of the facility or pharmacy;

- (3) the furnishing of false or fraudulent material in an application made in connection with drug or device manufacturing or distribution;
  - (4) suspension or revocation by federal, state, or local government of a license currently or previously held by the applicant for the manufacture or distribution of drugs or devices, including controlled substances;
  - (5) obtaining remuneration by fraud, misrepresentation, or deception;
  - (6) dealing with drugs or devices that are known or should have been known to be stolen drugs or devices;
  - (7) dispensing or distributing drugs or devices directly to patients by a wholesale drug distributor other than a pharmacy;
  - (8) violation of this chapter or a regulation adopted under this chapter.
- (i) The board's regulations under (b) - (d) and (f) of this section may not establish more stringent licensing requirements for the facilities governed by AS 08.80.390 than are set out in AS 08.80.390.
  - (j) This section does not apply to the offices of physicians, osteopaths, podiatrists, physician assistants, advanced nurse practitioners, dentists, veterinarians, dispensing opticians, or optometrists.

**Sec. 08.80.158. REGISTRATION OF PHARMACIES LOCATED OUTSIDE OF STATE.** (a) A pharmacy located outside of the state that regularly ships, mails, or delivers prescription drugs to consumers in the state shall register with the board.

(b) A pharmacy registering with the board under (a) of this section shall furnish to the board annually

- (1) the location, names, and titles of all principal corporate officers and of all pharmacists who are dispensing prescription drugs to residents of the state;
- (2) a copy of a current valid license, permit, or registration to conduct operations in the jurisdiction in which it is located, and a copy of the most recent report resulting from an inspection of the pharmacy by the regulatory or licensing agency of the jurisdiction in which the pharmacy is located;
- (3) a sworn statement indicating that the pharmacy complies with all lawful directions and requests for information from the regulatory or licensing authority of the jurisdiction in which the pharmacy is licensed; and
- (4) proof satisfactory to the board that the pharmacy maintains its records of prescription drugs dispensed to persons in the state so that the records are readily retrievable from the records of other prescription drugs dispensed by the pharmacy.

(c) A pharmacy subject to this section shall, during its regular hours of operations, provide a toll-free telephone service to facilitate communication between persons in the state and a pharmacist at the pharmacy who has access to records concerning the dispensing of prescription drugs to persons in the state. The toll-free number and the hours that the service is available shall be disclosed on a label affixed to each container of drugs dispensed to persons in the state. The telephone service shall be available at least 40 hours a week and at least six days a week.

(d) The board may, after a hearing, deny, revoke, or suspend the registration of a pharmacy located outside of the state and subject to this section if the pharmacy fails to comply with the requirements of this section, AS 17.20.080 - AS 17.20.135, or AS 17.30.020 - 17.30.080, or if the license, permit, or registration of the pharmacy is denied, revoked, or suspended by the licensing or regulatory agency of the jurisdiction in which the pharmacy is located.

(e) A pharmacy located outside of the state that is subject to this section but is not registered with the board under this section may not ship, mail, or deliver prescription drugs into the state and may not advertise its services in the state.

(f) A pharmacy subject to this section shall appoint a registered agent in the state who is empowered to accept, on behalf of the pharmacy, process, notice, and demand required or permitted by law to be served upon the pharmacy. If the pharmacy fails to appoint an agent under this subsection, if the registered agent cannot with reasonable diligence be found at the registered office, or if the registration of the pharmacy is suspended or revoked, the commissioner of commerce and economic development is an agent upon whom process, notice, or demand may be served. Service is made upon the commissioner in the same manner as provided for corporations under AS 10.06.175(b), except that for the purposes of AS 10.06.175(b)(2)(A), the address shall be the last registered address of the pharmacy as shown by the records of the board.

(g) The board shall by regulation define "regularly" for this section.

**Sec. 08.80.160. FEES.** The Department of Commerce, Community, and Economic Development shall set fees under AS 08.01.065 for the following:

- (1) examination;
- (2) reexamination;
- (3) investigation for licensing by license transfer;
- (4) pharmacist license;
- (5) temporary license;
- (6) pharmacy technician license;
- (7) pharmacy intern license;
- (8) emergency permit;
- (9) license amendment or replacement;
- (10) registration or licensure of a facility classified under AS 08.80.157(b).

**Sec. 08.80.165. CONTINUING EDUCATION REQUIREMENTS.** The board shall establish requirements for continuing education in pharmacy that must be satisfied before a license issued under this chapter may be renewed.

**Sec. 08.80.168. ADMINISTRATION OF VACCINES AND RELATED EMERGENCY MEDICATIONS.**

(a) A pharmacist may independently administer a vaccine and related emergency medication if the pharmacist has completed an immunization training program approved by the board and otherwise complies with the standards established by the board under AS 08.80.030(b).

(b) In this section, "related emergency medication" includes an epinephrine injection or other medication for the treatment of a severe allergic reaction to a vaccine.

**Sec. 08.80.261. DISCIPLINARY SANCTIONS.** (a) The board may deny a license to an applicant or, after a hearing, impose a disciplinary sanction authorized under AS 08.01.075 on a person licensed under this chapter when the board finds that the applicant or licensee, as applicable,

(1) secured or attempted to secure a license through deceit, fraud, or intentional misrepresentation;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;

(3) advertised professional services in a false or misleading manner;

(4) has been convicted of a felony or has been convicted of another crime that affects the applicant's or licensee's ability to practice competently and safely;

(5) intentionally or negligently engaged in or permitted the performance of patient care by persons under the applicant's or licensee's supervision that does not conform to minimum professional standards regardless of whether actual injury to the patient occurred;

(6) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the board;

(7) is incapable of engaging in the practice of pharmacy with reasonable skill, competence, and safety for the public because of

(A) professional incompetence;

(B) failure to keep informed of or use current professional theories or practices;

(C) addiction or severe dependency on alcohol or a drug that impairs the applicant's or licensee's ability to practice safely;

(D) physical or mental disability; or

(E) other factors determined by the board;

(8) engaged in conduct involving moral turpitude or gross immorality;

(9) made a controlled substance available to a person except upon prescription issued by a person licensed to prescribe controlled substances;

(10) was convicted of selling federal legend drugs without the prescription of a person licensed to prescribe federal legend drugs;

(11) violated state or federal laws or regulations pertaining to drugs or pharmacies;

(12) failed to report relevant information to the board about a pharmacist or pharmacy intern that the applicant or licensee knew or suspected was incapable of engaging in the practice of pharmacy with reasonable skill, competence, and safety to the public;

(13) aided another person to engage in the practice of pharmacy or to use the title of "pharmacist" or "pharmacy intern" without a license; or

(14) engaged in unprofessional conduct, as defined in regulations of the board.

(b) The board may place under seal all drugs that are owned by or in the possession, custody, or control of a licensee at the time a license is suspended or revoked or at the time the board refuses to renew a license. Except for perishable items, the drugs may not be disposed of until the licensee has exhausted administrative and judicial remedies relating to the licensing action. Perishable items may be sold upon order of the court with the proceeds to be deposited with the court. The board shall notify the Department of Health and Social Services about drugs placed under seal under this subsection.

### ARTICLE 3. DUTIES OF LICENSED PHARMACISTS.

#### Section

**294. Information about equivalent generic drugs**

**295. Substitution of equivalent drug products**

**297. Prescription prices available to consumer**

**315. Confidentiality of records**

**330. Licensed pharmacist appointed as "pharmacist-in-charge"**

**Sec. 08.80.294. INFORMATION ABOUT EQUIVALENT GENERIC DRUGS.** (a) In addition to other information that may be required under state or federal laws or regulations, a pharmacist, when dispensing a brand-name prescription drug order, shall include the generic drug name that is an equivalent drug product for the drug dispensed.

(b) The generic drug name required under (a) of this section shall be placed directly on the container's label near the brand name.

**Sec. 08.80.295. SUBSTITUTION OF EQUIVALENT DRUG PRODUCTS.** (a) Unless the prescription indicates that it is to be dispensed only as written, the pharmacist may, with the consent of the patient, substitute an equivalent drug product.

(b) A pharmacist who substitutes an equivalent drug product in compliance with this section and applicable regulations incurs no greater liability in filling the prescription than would be incurred in filling the prescription by dispensing the prescribed name brand product.

**Sec. 08.80.297. PRESCRIPTION PRICES AVAILABLE TO CONSUMER.** A pharmacist shall disclose the price of filling any prescription when requested by the consumer.

**Sec. 08.80.315. CONFIDENTIALITY OF RECORDS.** Information maintained by a pharmacist in the patient's records or that is communicated to the patient as part of patient counseling is confidential and may be released only to

- (1) the patient or as the patient directs;
- (2) a practitioner or pharmacist when, in the pharmacist's professional judgment, release is necessary to protect the patient's health and well-being; and
- (3) other persons or governmental agencies authorized by law to receive confidential information.

**Sec. 08.80.330. LICENSED PHARMACIST APPOINTED AS "PHARMACIST-IN-CHARGE".** (a) Each pharmacy shall have a pharmacist-in-charge. Whenever an applicable law or regulation requires or prohibits action by a pharmacy, responsibility shall be that of the owner and the pharmacist-in-charge, whether the owner is a sole proprietor, partnership, association, corporation, or otherwise. The pharmacist-in-charge shall ensure compliance with all laws and regulations governing the operation of the pharmacy. A licensed pharmacist appointed as pharmacist-in-charge of a pharmacy shall immediately advise the board of that appointment.

(b) A license may not be issued to a pharmacy unless there is a licensed registered pharmacist-in-charge whose name appears on the face of the license.

#### ARTICLE 4. UNLAWFUL ACTS.

##### Section

- 390. Pharmacists required in hospitals and clinics**
- 400. Other licensees not affected**
- 410. Use of term "pharmacist" prohibited**
- 420. Certain advertising prohibited**
- 430. Use of pharmacy symbols prohibited**
- 450. Disciplinary action**
- 460. Penalties**

**Sec. 08.80.390. PHARMACISTS REQUIRED IN HOSPITALS AND CLINICS.** (a) A hospital, clinic, nursing home, infirmary, or related facility that dispenses drugs for outpatient treatment shall have a licensed pharmacist in charge of the dispensary, except that prescriptions may be compounded and dispensed by or under the supervision of the prescribing physician.

(b) The board shall issue a license to a hospital drug room, nursing home drug room, or related facility that dispenses drugs from bulk supply for inpatient treatment, providing the facility employs a licensed pharmacist on a continual or consultant basis.

**Sec. 08.80.400. OTHER LICENSEES NOT AFFECTED.** This chapter does not affect the practice of medicine by a licensed medical doctor, and does not limit a licensed medical doctor, osteopath, podiatrist, physician assistant, advanced nurse practitioner, dentist, veterinarian, dispensing optician, or optometrist in supplying a patient with any medicinal preparation or article within the scope of the person's license.

**Sec. 08.80.410. USE OF TERM "PHARMACIST" PROHIBITED.** A person may not assume or use the title "pharmacist," or any variation of the title, or hold out to be a pharmacist, without being licensed.

**Sec. 08.80.420. CERTAIN ADVERTISING PROHIBITED.** (a) A person may not use or exhibit the title "pharmacist," "assistant pharmacist," or "druggist," or the descriptive term "pharmacy," "drug store," "drug sundries," or other similar title or term containing the word "drug," in any business premises, or in an advertisement through the media of press, or publication, or by radio or television, unless the business has a licensed pharmacist in regular and continuous employment.

(b) *Repealed 1980.*

**Sec. 08.80.430. USE OF PHARMACY SYMBOLS PROHIBITED.** A person may not display in a place of business the characteristic pharmacy symbol of “Rx” in any form unless the business has a pharmacist licensed under this chapter.

**Sec. 08.80.450. DISCIPLINARY ACTION.** The board may consider a complaint based upon the alleged violation of any provision of this chapter, and may by a majority vote of a quorum dismiss the complaint, reprimand a licensee, or take other punitive action as the nature of the facts warrant. Orders issued by the board shall be in writing, signed by a majority and filed with the secretary of the board. The accused shall receive an authenticated copy of the order.

**Sec. 08.80.460. PENALTIES.** (a) A person who violates a provision of this chapter is guilty of a class B misdemeanor.

(b) A person who violates the provisions of AS 08.80.295 is punishable by a civil fine in an amount established by the board in a schedule or schedules establishing the amount of civil fine for a particular violation. The schedule or schedules shall be adopted by the board by regulation. Any civil fine imposed under this section may be appealed in the manner provided for appeals in the Administrative Procedure Act (AS 44.62).

## ARTICLE 5. GENERAL PROVISIONS.

### Section

- 470. Construction
- 475. Federal facilities not affected
- 480. Definitions
- 490. Short title

**Sec. 08.80.470. CONSTRUCTION.** Nothing in this chapter amends, modifies, repeals or otherwise changes any provision of AS 11.71, AS 17.30, or AS 17.20 (the Alaska Food, Drug and Cosmetic Act).

**Sec. 08.80.475. FEDERAL FACILITIES NOT AFFECTED.** This chapter does not apply to the safe storage, preservation, dispensing, or control of drugs in a federally operated hospital or institution.

**Sec. 08.80.480. DEFINITIONS.** In this chapter, unless the context otherwise requires

(1) “administer” means the direct application of a drug to the body of a patient or research subject by injection, inhalation, ingestion, or other means;

(2) “board” means the Board of Pharmacy;

(3) “compounding” means the preparation, mixing, assembling, packaging, or labeling of a drug or device (A) as the result of a practitioner’s prescription drug order or initiative based on the relationship of the practitioner, patient, and pharmacist in the course of professional practice or (B) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; “compounding” also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns;

(4) “controlled substance” has the meaning given in AS 11.71.900;

(5) “deliver” or “delivery” means the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for consideration;

(6) “device” means an instrument, apparatus, implement, machine, contrivance, implant, or other similar or related article, including a component part or accessory, that is required under federal law to bear the label “Caution: Federal or state law requires dispensing by or on the order of a physician”;

(7) “dispense” or “dispensing” means the preparation and delivery of a drug or device to a patient or patient’s agent under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to, or use by, a patient;

(8) “distribute” means the delivery of a drug or device other than by administering or dispensing;

(9) “drug” means an article recognized as a drug in an official compendium, or supplement to an official compendium; an article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animal; an article other than food, intended to affect the structure or function of the body of man or animal; and an article intended for use as a component of an article specified in this paragraph but does not include devices or their components, parts, or accessories;

(10) “drug regimen review” includes evaluation of the prescription drug order and patient record for

(A) known allergies;

(B) rational therapy-contraindications;

(C) reasonable dose and route of administration;

(D) reasonable directions for use;

(E) duplication of therapy;

(F) drug-drug, drug-food, and drug-disease interactions;

(G) adverse drug reactions; and

(H) proper utilization, including over- or under-utilization, and optimum therapeutic outcomes;

(11) “equivalent drug product” means a drug product that has the same established name, active ingredients, strength or concentration, dosage form, and route of administration and that is formulated to contain the same amount of active ingredients in the same dosage form and to meet the same compendia or other applicable standards for strength, quality, purity, and identity, but that may differ in characteristics such as shape, scoring configuration, packaging, excipients including colors, flavors, preservatives, and expiration time;

(12) “intern” means an individual who is

(A) currently licensed by this state to engage in the practice of pharmacy while under the personal supervision of a pharmacist and is satisfactorily progressing toward meeting the requirements for licensure as a pharmacist; or

(B) a graduate from a college of pharmacy who is currently licensed by the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist;

(13) “labeling” means the process of preparing and affixing a label to a drug container, exclusive, however, of the labeling by a manufacturer, packer, or distributor or a nonprescription drug or commercially packed legend drug or device;

(14) “legend drug” means a prescription drug;

(15) “manufacturing” means the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from a substance of natural origin or independently by means of chemical or biological synthesis, and includes packaging or repackaging of a substance or labeling or relabeling of its container, and the promotion and marketing of drugs or devices; “manufacturing” also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons;

(16) “nonprescription drug” means a nonnarcotic medicine or drug that may be sold without a prescription and that is prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of the state and the federal government;

(17) “outpatient dispensing” means dispensing drugs for administration outside of the hospital pharmacy’s control;

(18) “owner” means the owner of a place of business for wholesaling, retailing, compounding, or dispensing drugs, medicines, or poisons;

(19) “patient counseling” means the communication by the pharmacist of information, as defined in the regulations of the board, to the patient or care giver in order to improve therapy by ensuring proper use of drugs and devices;

(20) “person” has the meaning given in AS 01.10.060 and also includes a governmental agency;

(21) “pharmaceutical care” is the provision of drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient’s symptoms, or arresting or slowing of a disease process as defined in regulations of the board;

(22) “pharmacist” means an individual currently licensed by this state to engage in the practice of pharmacy;

(23) “pharmacist-in-charge” means a pharmacist who accepts responsibility for operation of a pharmacy in a manner that complies with laws and regulations applicable to the practice of pharmacy and the distribution of drugs and who is personally in charge of the pharmacy and the pharmacy’s personnel;

(24) “pharmacy” means a place in this state where drugs are dispensed and pharmaceutical care is provided and a place outside of this state that is subject to licensure or registration under AS 08.80.157(b);

(25) “pharmacy located outside of the state” means a pharmacy that prepares or mixes prescription drugs outside of the state, regardless of the location at which those drugs may be shipped, mailed, or delivered to the consumer;

(26) “pharmacy technician” means a supportive staff member who works under the immediate supervision of a pharmacist;

(27) “practice of pharmacy” means the interpretation, evaluation, and dispensing of prescription drug orders in the patient’s best interest; participation in drug and device selection, drug administration, drug regimen reviews, and drug or drug-related research; provision of patient counseling and the provision of those acts or services necessary to provide pharmaceutical care; the administration of vaccines and related emergency medication; and the responsibility for compounding and labeling of drugs and devices except labeling by a manufacturer, repackager, or distributor of nonprescription drugs and commercially packaged legend drugs and devices; proper and safe storage of drugs and devices; and maintenance of proper records for them;

(28) “practitioner” means an individual currently licensed, registered, or otherwise authorized by the jurisdiction in which the individual practices to prescribe and administer drugs in the course of professional practice;

(29) “preceptor” means an individual who is currently licensed by the board, meets the qualifications as a preceptor under the regulations of the board, and participates in the instructional training of pharmacy interns;

(30) “prescription drug” means a drug that, under federal law, before being dispensed or delivered, is required to be labeled with either of the following statements: (A) “Caution: Federal law prohibits dispensing without prescription”; (B) “Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian”; or a drug that is required by an applicable federal or state law or regulation to be dispensed only under a prescription drug order or is restricted to use by practitioners only;

(31) “prescription drug order” means a lawful order of a practitioner for a drug or device for a specific patient;

(32) “prospective drug use review” means a review of the patient’s drug therapy and prescription drug order, as defined in the regulations of the board, before dispensing the drug as part of a drug regimen review;

(33) “significant adverse drug reaction” means a drug-related incident that may result in serious harm, injury, or death to the patient;

(34) “substitution” means to dispense without the prescriber’s expressed authorization, an equivalent drug product in place of the prescribed drug;

(35) “wholesale” means sale by a manufacturer, wholesale dealer, distributor, or jobber to a person who sells, or intends to sell, directly to the user:

(36) “wholesale drug distributor” means anyone engaged in wholesale distribution of drugs, including but not limited to manufacturers; repackagers; own-label distributors; private label distributors; jobbers; brokers; warehouses, including manufacturers’ and distributors’ warehouses; chain drug warehouses; wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions.

**Sec. 08.80.490. Short title.** This chapter may be known as the Pharmacy Act.

**CHAPTER 52.  
BOARD OF PHARMACY.**

**Article**

1. **Licensing, Registration, and Permit Requirements**  
(12 AAC 52.010 – 12 AAC 52.140)
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**ARTICLE 1.  
LICENSING, REGISTRATION, AND PERMIT REQUIREMENTS.**

**Section**

10. **Classifications of licensure**
20. **Facility license**
30. **Change of pharmacy location or name**
40. **Change of pharmacy ownership**
50. **Closed pharmacies**
60. **Fire or other disaster**
70. **Application for pharmacist license by examination**
75. **Good moral character**
80. **Internship requirements for a pharmacist license**
90. **Examination requirements and registration**
92. **Approval to sit for examination**
95. **Application for pharmacist license by reciprocity**
100. **Temporary pharmacist license**
110. **Emergency pharmacist permit**
120. **Review of pharmacist intern license application**
130. **Review of applications for registration of pharmacies located outside of the state**
140. **Pharmacy technician license**

**12 AAC 52.010. CLASSIFICATIONS OF LICENSURE.** (a) The board will issue the following categories of licenses or permits to a qualified individual:

- (1) pharmacist license;
  - (2) temporary pharmacist license;
  - (3) emergency permit to practice pharmacy;
  - (4) pharmacist intern license;
  - (5) pharmacy technician license.
- (b) The board will issue the following categories of licenses or registrations to a qualified facility:
- (1) pharmacy license;
  - (2) *repealed 2/26/2000*;
  - (3) wholesale drug distributor license;
  - (4) drug room license;
  - (5) registration of a pharmacy located outside of the state;
  - (6) remote pharmacy license.

AS 08.80.030  
AS 08.80.116

AS 08.80.155  
AS 08.80.157

AS 08.80.390

**12 AAC 52.020. FACILITY LICENSE.** (a) An applicant for a facility license shall submit

- (1) the fees required in 12 AAC 02.310;
- (2) a completed application on a form provided by the department;
- (3) within 14 days after commencement of business, a completed self-inspection of the premises questionnaire on a form provided by the department; and

(4) the name of the pharmacy or pharmacist that will provide consultant pharmacist services as required in AS 08.80.390, if applicable.

(b) *Repealed 1/17/2007.*

(c) An application for a remote or other pharmacy license must include the name of the pharmacist designated to be the pharmacist-in-charge as required in AS 08.80.330 and 12 AAC 52.200.

(d) An application for a pharmacy license must include the name and specific location of each remote pharmacy that will be under that pharmacy's control.

(e) An application for a remote pharmacy license must include the name and, if it has been issued, the license number of the pharmacy that is the central pharmacy.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.330  
AS 08.80.030

**12 AAC 52.030. CHANGE OF PHARMACY LOCATION OR NAME.** (a) The pharmacist-in-charge of a pharmacy that has changed its name or physical address shall apply for a new and separate pharmacy license. The applicant shall

- (1) submit a new, completed application for a pharmacy license; and
- (2) pay the duplicate license fee required in 12 AAC 02.105;
- (3) *repealed 1/17/2007.*

(b) Within 14 days after commencement of business under the new license, the pharmacist-in-charge of a pharmacy that has changed its physical address shall complete a self-inspection questionnaire on a form provided by the department.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.330  
AS 08.80.030

**12 AAC 52.040. CHANGE OF PHARMACY OWNERSHIP.** (a) *Repealed 1/17/2007.*

(b) A new owner of a pharmacy shall apply for a new and separate facility license in accordance with 12 AAC 52.020.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.157

**12 AAC 52.050. CLOSED PHARMACIES.** (a) When a pharmacy ceases operations, the pharmacist-in-charge of that pharmacy shall

(1) submit to the board a written notice of the cessation of pharmacy operations; the written notice must be submitted within 10 days after the cessation of operations and include

(A) the date the pharmacy ceased operations;

(B) a statement signed by the pharmacist-in-charge attesting that an inventory of all controlled substances on hand has been conducted; and

(C) a statement signed by the pharmacist-in-charge attesting to the manner of disposition for all prescription drugs possessed by the pharmacy;

(2) arrange for the transfer of prescription drug orders or computer prescription records to another pharmacy to facilitate continuous patient care; and

(3) provide for the maintenance and availability of prescription drug orders or hard copies of computer prescription records in accordance with 12 AAC 52.450(a) that are not transferred to another pharmacy;

(4) *repealed 1/17/2007.*

(b) In the absence of a pharmacist-in-charge, the owner of the pharmacy shall meet all requirements of this section.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.330  
AS 08.80.030

**12 AAC 52.060. FIRE OR OTHER DISASTER.** (a) If a pharmacy has a fire or other disaster, the pharmacist-in-charge of the pharmacy shall

(1) within 10 days, report to the board the date of a fire or any disaster that may affect the strength, purity, or labeling of drugs, devices, or other materials used in the practice of the pharmacy;

(2) provide the board with a copy of a completed DEA Form 106, "Report of Theft or Loss of Controlled Substances," reporting the loss or destruction of controlled substances or DEA order forms; if the extent of the loss of controlled substances cannot be determined, the pharmacist-in-charge shall submit to the board a complete inventory of all remaining controlled substances and a statement, signed by the pharmacist-in-charge, attesting to the accuracy of the inventory; and

(3) notify the board in writing within 10 days after any change in the pharmacy's address, including a move to a temporary location or a return to the pharmacy's permanent location.

(b) If a pharmacy maintains a temporary location for more than 90 days, the pharmacist-in-charge of the pharmacy shall apply for a new and separate facility license as required in 12 AAC 52.030.

(c) A pharmacy may not dispense any drug that has been exposed to excessive heat, smoke, or other conditions that may have caused deterioration.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.330  
AS 08.80.030

**12 AAC 52.070. APPLICATION FOR PHARMACIST LICENSE BY EXAMINATION.** (a) The board will issue a pharmacist license by examination to an applicant who meets the requirements of AS 08.80.110, 08.80.116, and this section.

(b) An applicant for licensure under this section must submit to the department

(1) a complete, notarized application on a form provided by the department; the application form must include a statement from the applicant attesting to the applicant's fluency in reading, writing, and speaking the English language;

(2) the applicable fees established in 12 AAC 02.310;

(3) on a form provided by the department, a signed authorization for the release of records relating to the applicant's qualifications for licensure;

(4) either

(A) an official transcript, sent directly to the department from the applicant's college of pharmacy, that establishes that the applicant has received a professional degree from a college of pharmacy accredited by the ACPE; or

(B) a certified copy of

(i) the original pharmacy school diploma issued to the applicant; and

(ii) a Foreign Pharmacy Graduate Examination Committee certificate issued to the applicant by the National Association of Boards of Pharmacy, sent directly to the department from the National Association of Boards of Pharmacy;

(5) two affidavits from reputable citizens that the applicant has known for at least one year attesting to the applicant's good moral character;

(6) verification that the applicant has completed 1,500 hours of internship or experience in the practice of pharmacy that meet the requirements of 12 AAC 52.080, sent directly to the department from the agency where the hours of internship or experience were completed;

(7) verification that the applicant has passed the examinations required in 12 AAC 52.090, sent directly to the department by the National Association of Boards of Pharmacy.

**Authority:** AS 08.80.005 AS 08.80.110 AS 08.80.116  
AS 08.80.030

**Editor's note:** Information about accredited colleges of pharmacy may be obtained from the Accreditation Council for Pharmacy Education, 20 North Clark Street, Suite 2500, Chicago, IL 60602-5109. Information about Foreign Pharmacy Graduate Examination Committee certification and colleges recognized by that committee may be obtained from the National Association of Boards of Pharmacy, Foreign Pharmacy Graduate Examination Committee, 1600 Feehanville Drive, Mount Prospect, IL 60056.

**12 AAC 52.075. GOOD MORAL CHARACTER.** As used in AS 08.80, "good moral character" includes not having been convicted of a felony or another crime that affects the applicant's ability to practice pharmacy competently and safely.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.110

**12 AAC 52.080. INTERNSHIP REQUIREMENTS FOR A PHARMACIST LICENSE.** (a) An applicant for a pharmacist license shall submit an affidavit signed by the applicant, on a form provided by the department, documenting completion of 1,500 hours of internship or experience in the practice of pharmacy.

(b) The board will accept as internship experience only internship hours completed under the direct supervision of a pharmacist licensed under AS 08.80 or the pharmacy licensing laws of another state.

(c) *Repealed 4/16/2016.*

(d) An internship program in a nontraditional site, such as an industry sponsored program, must be approved by the board before the board will give any internship credit for the program.

**Authority:** AS 08.80.005 AS 08.80.110 AS 08.80.116  
AS 08.80.030

**12 AAC 52.090. EXAMINATION REQUIREMENTS AND REGISTRATION.** (a) In addition to the requirements in AS 08.80.110, an applicant for a pharmacist license shall pass the

(1) North American Pharmacy licensing examination (NAPLEX) administered by the National Association of Boards of Pharmacy with a NAPLEX scaled score of 75 or above; and

(2) Alaska pharmacy jurisprudence examination with a scaled score of 75 or above.

(b) An applicant for a temporary pharmacist license shall pass the Alaska pharmacy jurisprudence examination with a scaled score of 75 or above.

(c) An applicant for a pharmacist license that has passed the NAPLEX examination in another licensing jurisdiction shall make arrangements for the National Association of Boards of Pharmacy to send verification of examination scores directly to the department.

(d) An applicant for licensure by examination must submit an application under 12 AAC 52.070 and be approved under 12 AAC 52.092 before sitting for examination under this section.

(e) An applicant who has failed the Alaska pharmacy jurisprudence examination specified in (f) of this section may not retake the examination for at least 30 days.

(f) The Multistate Pharmacy Jurisprudence Examination administered by the national Association of Boards of Pharmacy (NABP) is the examination adopted by the board as the Alaska pharmacy jurisprudence examination. An applicant shall satisfy all other license requirements within one year after passing the Alaska pharmacy jurisprudence examination or retake the examination.

(g) An applicant applying for a pharmacy license by examination shall make application within one year of successfully passing the NAPLEX. An applicant applying more than one year after passing the NAPLEX shall retake the NAPLEX or apply for a pharmacy license under AS 08.80.145.

**Authority:** AS 08.01.065 AS 08.80.110 AS 08.80.150  
AS 08.80.005 AS 08.80.120 AS 08.80.160  
AS 08.80.030

**12 AAC 52.092. APPROVAL TO SIT FOR EXAMINATION.** (a) An applicant for licensure by examination under 12 AAC 52.070 who has submitted documents that meet the requirements on the checklist set out in (b) of this section may be approved to sit for the North American Pharmacy Licensing Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Examination (MPJE) required under 12 AAC 52.090. An applicant whose application documents do not meet the requirements set out in (b) of this section will not be approved to sit for the NAPLEX or MPJE unless the board further reviews the application and determines that the applicant meets the requirements of AS 08.80.110, 08.80.116, and 12 AAC 52.070.

(b) The following checklist is established by the board for review by staff to determine if an applicant for a pharmacist license by examination may sit for examination. Except as provided in (a) of this section, an applicant for licensure by examination will be approved to sit for the NAPLEX and the MPJE if the applicant submits to the department

(1) a complete, notarized application on a form provided by the department; the application form must include a statement from the applicant attesting to the applicant's fluency in reading, writing, and speaking the English language;

(2) the applicable fees established in 12 AAC 02.310;

(3) on a form provided by the department, a signed authorization for the release of records relating to the applicant's qualifications for licensure;

(4) either

(A) an official transcript, sent directly to the department from the applicant's college of pharmacy, that establishes that the applicant has received a professional degree from a college of pharmacy accredited by the ACPE; or

(B) a certified copy of

(i) the original pharmacy school diploma issued to the applicant; and

(ii) a Foreign Pharmacy Graduate Examination Committee certificate issued to the applicant by the National Association of Boards of Pharmacy, sent directly to the department from the National Association of Boards of Pharmacy;

(5) two affidavits from reputable citizens that the applicant has known for at least one year attesting to the applicant's good moral character.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.110

**12 AAC 52.095. APPLICATION FOR PHARMACIST LICENSE BY RECIPROCITY.** (a) The board will issue a pharmacist license by reciprocity to an applicant who meets the requirements of AS 08.80.145 and this section.

(b) An applicant for licensure under this section must show that the licensing jurisdiction where the applicant is licensed as a pharmacist allows licensure in that jurisdiction of a pharmacist licensed in this state under conditions similar to those in AS 08.80.145. A licensing jurisdiction that is a member of the National Association of Boards of Pharmacy meets the licensing jurisdiction reciprocity requirements of AS 08.80.145.

(c) An applicant for licensure under this section must submit to the department

- (1) a complete, notarized application on a form provided by the department;
  - (2) the applicable fees established in 12 AAC 02.310;
  - (3) on a form provided by the department, a signed authorization for the release of records related to the applicant's qualifications for licensure;
  - (4) either
    - (A) an official transcript, sent directly to the department from the applicant's college of pharmacy, that establishes that the applicant has received a professional degree from a college of pharmacy accredited by the ACPE; or
    - (B) a certified copy of
      - (i) the original pharmacy school diploma issued to the applicant; and
      - (ii) a Foreign Pharmacy Graduate Examination Committee certificate issued to the applicant by the National Association of Boards of Pharmacy sent directly to the department from the National Association of Boards of Pharmacy;
  - (5) two affidavits from reputable citizens that the applicant has known for at least one year attesting to the applicant's good moral character;
  - (6) either
    - (A) verification that, within the one-year period immediately preceding application for a license in this state, the applicant completed 1,500 hours of internship or experience in the practice of pharmacy that meet the requirements of 12 AAC 52.080; the verification must be sent directly to the department from the agency where the hours of internship or experience were completed; or
    - (B) verification that the applicant has engaged in the practice of pharmacy for at least one year in another licensing jurisdiction;
  - (7) verification that the applicant has passed the examinations required in 12 AAC 52.090, sent directly to the department by the National Association of Boards of Pharmacy;
  - (8) verification that the applicant is currently licensed as a pharmacist in another licensing jurisdiction and the applicant's license in the other jurisdiction is not suspended, revoked, or otherwise restricted except for failure to apply for renewal or failure to obtain the required continuing education requirements;
  - (9) if the licensing jurisdiction in which the applicant is licensed as a pharmacist is a member of the National Association of Boards of Pharmacy, a copy of the applicant's Official Application for Transfer of Pharmaceutic Licensure, sent directly to the department from the National Association of Boards of Pharmacy;
  - (10) verification of the present status of the applicant's license in each licensing jurisdiction where the applicant holds, or has ever held, a license as a pharmacist.
- (d) An applicant for licensure under this section who has not taken the Multistate Pharmacy Jurisprudence Examination (MPJE) required under 12 AAC 52.090 is approved to sit for that examination if the applicant has submitted the documents required under (c)(1) – (6) and (8) – (10) of this section.

**Authority:** AS 08.80.005                      AS 08.80.030                      AS 08.80.145

**12 AAC 52.100. TEMPORARY PHARMACIST LICENSE.** (a) The board will issue a temporary pharmacist license to an applicant for licensure if the applicant

- (1) submits a completed application for licensure;
  - (2) provides certified evidence of meeting the requirements in AS 08.80.110, AS 08.80.145, and this chapter;
  - (3) *repealed 2/26/2000*;
  - (4) provides for the National Association of Boards of Pharmacy (NABP) to notify the board that the applicant has submitted a preliminary application to NABP for license transfer;
  - (5) pays the application fee, pharmacist license fee, and temporary license fee required in 12 AAC 02.310;
  - (6) passes the Alaska pharmacy jurisprudence examination with a scaled score of 75 or above;
  - (7) has not been convicted of a felony or another crime that affects the applicant's ability to practice pharmacy competently and safely; and
  - (8) submits a verification of a current license in good standing to practice in another state or other jurisdiction with licensing requirements at least equivalent to those of this state.
- (b) An applicant whose application for permanent licensure as a pharmacist has been denied by the board is not eligible to receive a temporary license.
- (c) A temporary license is valid for 90 days. For good cause shown to the board's satisfaction, the board will extend the temporary license for an additional period not to exceed 60 days.
- (d) A temporary license is not renewable.
- (e) An individual may not receive more than one temporary license.

**Authority:** AS 08.80.005 AS 08.80.145 AS 08.80.150  
AS 08.80.030

**12 AAC 52.110. EMERGENCY PHARMACIST PERMIT.** (a) If the board determines that an emergency exists, the board will issue an emergency pharmacist permit for the purpose of providing coverage in a pharmacy that is temporarily without the services of a pharmacist due to death, illness, or other emergency circumstances, to an applicant who

- (1) submits a completed application for a pharmacist license;
- (2) pays the emergency permit fee required in 12 AAC 02.310;
- (3) submits a certified true copy of a current pharmacist license in good standing in another state;
- (4) passes the Alaska pharmacy jurisprudence examination with a scaled score of 75 or above; and
- (5) has not been convicted of a felony or another crime that affects the applicant's ability to practice pharmacy competently and safely.

(b) An emergency permit is valid for 60 days or until the emergency circumstances no longer exist, whichever is shorter.

(c) An applicant may not receive more than one emergency permit. An emergency permit is not renewable.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.155

**12 AAC 52.120. REVIEW OF PHARMACIST INTERN LICENSE APPLICATION.** (a) An applicant who meets the requirements on the checklist set out in (b) of this section has demonstrated the necessary qualifications for a pharmacist intern license. An applicant who does not meet the requirements on the checklist or whose application documents do not clearly show that the applicant is qualified to receive a pharmacist intern license will not be issued a license unless the board further reviews the application and determines that the applicant meets the qualifications in AS 08.80 and this chapter for that license.

(b) The following checklist is established by the board for review by staff of an application for a pharmacist intern license. A pharmacist intern license will be issued to an applicant who

- (1) applies on a form provided by the department;
- (2) pays the application fee and the pharmacist intern license fee established in 12 AAC 02.310;
- (3) has
  - (A) completed the first year of a professional pharmacy curriculum in a college of pharmacy accredited by the ACPE; or
  - (B) graduated from a college of pharmacy recognized by and earned certification from the Foreign Pharmacy Graduate Examination Committee of the National Association of Boards of Pharmacy;
- (4) certifies that the applicant has not been convicted of a felony or another crime that affects the applicant's ability to practice as a pharmacy intern competently and safely;
- (5) submits a Declaration of Sponsorship of Pharmacy Intern form completed by the applicant's sponsor pharmacist at each work location for which the applicant is to work;
- (6) submits a completed authorization of release of records on a form provided by the department and signed by the applicant; and
- (7) submits a completed Alaska Jurisprudence Intern Practice Questionnaire prepared by the board covering the provisions of AS 08.80 and this chapter and 21 U.S.C. 801-847 (Controlled Substances Act).

(c) A pharmacist intern license is valid for two years and may be renewed. An applicant for renewal of a pharmacist intern license must meet the requirements of (b)(1) - (2) and (5) of this section.

(d) An individual must be licensed as a pharmacist intern before beginning an internship in the state. The pharmacist intern license is valid for only those work locations for which the individual previously submitted sponsorship declarations in accordance with (b)(5) of this section. Before the individual may work at an additional work location, the individual must

- (1) submit a sponsorship declaration for that location in accordance with (b)(5) of this section; and
- (2) have a revised license issued to the individual.

**Authority:** AS 08.80.005 AS 08.80.110 AS 08.80.116  
AS 08.80.030

**12 AAC 52.130. REVIEW OF APPLICATIONS FOR REGISTRATION OF PHARMACIES LOCATED OUTSIDE OF THE STATE.** (a) An applicant who meets the requirements on the checklist set out in (b) of this section has demonstrated the necessary qualifications for an out-of-state pharmacy registration. An applicant who does not meet the requirements on the checklist or whose application documents do not clearly show that the applicant is qualified to receive an out-of-state pharmacy registration will not be issued a registration unless the board further reviews the application and determines that the applicant meets the qualifications in AS 08.80 and this chapter for that registration.

(b) The following checklist is established by the board for review by staff of an application for an out-of-state pharmacy registration. An out-of-state pharmacy registration will be issued to an applicant who

- (1) applies on an application provided by the department that includes
  - (A) the company name and owner name;

- (B) the pharmacy name;
  - (C) the location of the facility;
  - (D) a mailing address and telephone number;
  - (E) a toll free number accessible by patients in this state;
  - (F) the federal employer identification number;
  - (G) the names of all partners or corporate officers;
  - (H) the name, address, and telephone number for pharmacist-in-charge;
  - (I) the names of all pharmacists working in the facility;
  - (J) completion of the professional fitness section of the application; and
  - (K) the name of the appointed registered agent;
- (2) pays the application fee and the out-of-state pharmacy registration fee established in 12 AAC 02.310;
- (3) submits a certified true copy of a current, valid facility license or registration from the jurisdiction where the pharmacy is located; and
- (4) submits an inspection report or self-inspection report completed within the last two years.
- (c) A pharmacy located outside of the state that ships, mails, or delivers prescription drugs more than twice during a 12-month period to individual patients in the state shall register with the board.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.158

**12 AAC 52.140. PHARMACY TECHNICIAN LICENSE.** (a) An applicant who meets the requirements on the checklist set out in (b) of this section has demonstrated the necessary qualifications for a pharmacy technician license. An applicant who does not meet the requirements on the checklist or whose responses on the form for application do not clearly show that the applicant is qualified to receive a pharmacy technician license will not be issued a license unless the board reviews the application and determines that the applicant meets the qualifications in this section for a pharmacy technician license.

(b) The following checklist is established by the board for review of an application for a pharmacy technician license; a pharmacy technician license will be issued to an applicant who

- (1) submits a completed form for application, including
    - (A) the applicant's name, mailing address, and telephone number; and
    - (B) the applicant's date of birth that shows the applicant is at least 18 years old;
  - (2) certifies that the applicant has not been convicted of a felony or another crime that affects the applicant's ability to perform the duties of a pharmacy technician safely and competently;
  - (3) certifies that the applicant has earned a high school diploma or its equivalent and provides the name of the issuing institution and the date the diploma or its equivalent was issued;
  - (4) certifies that the applicant is fluent in the reading, writing, and speaking of the English language; and
  - (5) pays the application fee and the pharmacy technician license fee established in 12 AAC 02.310.
- (c) A pharmacy technician license expires on June 30 of even-numbered years and may be renewed.

**Authority:** AS 08.80.005 AS 08.80.030

## ARTICLE 2. PERSONNEL.

### Section

- 200. Pharmacist-in-charge**
- 210. Pharmacist duties**
- 220. Pharmacist interns**
- 230. Pharmacy technicians**
- 240. Pharmacist collaborative practice authority**
- 250. Job shadowing in pharmacy**

**12 AAC 52.200. PHARMACIST-IN-CHARGE.** (a) Before the board will issue a license to a pharmacy, the owner of the pharmacy must designate a pharmacist who practices in that pharmacy location as the pharmacist-in-charge of the pharmacy in accordance with AS 08.80.330. For a remote pharmacy, the owner of the central pharmacy must designate a pharmacist in the central pharmacy as the pharmacist-in-charge of the remote pharmacy. The board will indicate the name of the pharmacist-in-charge on the face of the pharmacy license.

- (b) The responsibilities of the pharmacist-in-charge include
- (1) compliance with all laws and regulations governing the activities of the pharmacy;
  - (2) training of all pharmacy personnel;
  - (3) establishing policies and procedures for pharmacy operations;
  - (4) maintaining required records;
  - (5) storage of all materials, including drugs and chemicals;
  - (6) establishing and maintaining effective controls against theft or diversion of prescription drugs; and
  - (7) on request, reporting to the board the names of all pharmacists employed by the pharmacy.

(c) A pharmacist designated to replace the pharmacist-in-charge of a pharmacy shall notify the board within 10 days of that designation.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.330  
AS 08.80.030

**12 AAC 52.210. PHARMACIST DUTIES.** Except as provided in 12 AAC 52.220, the following duties may be performed only by a pharmacist:

- (1) receiving an oral prescription drug order, including refill approval or denial that includes any change to the original prescription drug order;
- (2) consulting with a prescriber regarding a patient or prescription;
- (3) interpreting a prescription drug order;
- (4) determining the product required for a prescription;
- (5) interpreting data in a patient medication record system;
- (6) making a final check on all aspects of a completed prescription and assuming the responsibility for a filled prescription, including the accuracy of the drug prescribed and of the prescribed drug's strength, labeling, and proper container; and
- (7) consulting with a patient or a patient's agent regarding a prescription or information contained in the patient medication record system.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.330

**12 AAC 52.220. PHARMACIST INTERNS.** (a) A pharmacist intern may not represent that the pharmacist intern is a pharmacist. Only a person licensed by the board as a pharmacist intern may take, use, or exhibit the title of pharmacist intern or any other similar term.

(b) Except as provided in (c) of this section, a pharmacist intern may perform any duty of a pharmacist under the direct supervision of a pharmacist.

(c) A pharmacist intern may not sign or initial any document that is required to be signed or initialed by a pharmacist unless the supervising pharmacist also signs or initials the document.

(d) A pharmacist intern shall file with the board a report of work experience on a form provided by the department within 30 days of completion or termination of an internship in the practice of pharmacy required under 12 AAC 52.080.

(e) A pharmacist supervising a pharmacist intern

- (1) must be licensed as a pharmacist and be in good standing with the board;
- (2) shall provide direct supervision to an intern during professional activities throughout the entire period of the internship;
- (3) shall physically review prescription drug orders and the dispensed product before delivery of a product to the patient or the patient's agent;
- (4) is responsible for the work of the pharmacist intern;
- (5) may supervise more than one pharmacist intern; more than one pharmacist intern may not dispense simultaneously under the direct supervision of the same supervising pharmacist.

**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. PHARMACY TECHNICIANS.** (a) The following persons must be licensed as a pharmacy technician:

(1) any individual who assists in performing manipulative, nondiscretionary functions associated with the practice of pharmacy; and

(2) a supportive staff member assigned to work in the dispensing area of a pharmacy, including a cashier or a bookkeeper.

(b) A pharmacy technician shall work under the direct supervision of a person who is licensed as a pharmacist.

(c) A pharmacy technician may not perform any of the duties listed in 12 AAC 52.210.

(d) An individual working as a pharmacy technician shall wear an identification badge that shows the individual's name and identifies the individual as a pharmacy technician.

(e) Before an individual may regularly perform the tasks of a pharmacy technician, the individual shall complete training required by the pharmacist-in-charge. Duties performed by the pharmacy technician must be consistent with the training the pharmacy technician has received.

(f) If a pharmacy technician will assist in the preparation of sterile pharmaceuticals, including parenteral medications, the pharmacy technician must have completed a minimum of 40 hours of on-the-job training in the preparation, sterilization, aseptic technique, and admixture of parenteral and other sterile pharmaceuticals before the pharmacy technician may regularly perform those tasks.

**Authority:** AS 08.80.030 AS 08.80.480

**12 AAC 52.240. PHARMACIST COLLABORATIVE PRACTICE AUTHORITY.** (a) A pharmacist planning to exercise collaborative practice authority in the pharmacist's practice by initiating or modifying drug therapy in accordance with a written protocol established and approved for the pharmacist's practice by a practitioner authorized to prescribe drugs under AS 08 must submit the completed written protocol to the board and be approved by the board before implementation.

(b) A written protocol must include

(1) an agreement in which practitioners authorized to prescribe legend drugs in this state authorize pharmacists licensed in this state to administer or dispense in accordance with that written protocol;

(2) a statement identifying the practitioners authorized to prescribe and the pharmacists who are party to the agreement;

(3) the time period during which the written protocol will be in effect, not to exceed two years;

(4) the types of collaborative authority decisions that the pharmacists are authorized to make, including

(A) types of diseases, drugs, or drug categories involved and the type of collaborative authority authorized in each case; and

(B) procedures, decision criteria, or plans the pharmacists are to follow when making therapeutic decisions, particularly when modification or initiation of drug therapy is involved;

(5) activities the pharmacists are to follow in the course of exercising collaborative authority, including documentation of decisions made, and a plan for communication and feedback to the authorizing practitioners concerning specific decisions made;

(6) a list of the specific types of patients eligible to receive services under the written protocol;

(7) a plan for the authorizing practitioners to review the decisions made by the pharmacists at least once every three months; and

(8) a plan for providing the authorizing practitioners with each patient record created under the written protocol.

(c) To enter into a written protocol under this section, practitioners authorized to prescribe must be in active practice, and the authority granted must be within the scope of the practitioners' practice.

(d) Unless the board is satisfied that the pharmacist has been adequately trained in the procedures outlined in the written protocol, the board will specify and require completion of additional training that covers those procedures before issuing approval of the protocol.

(e) Documentation related to the written protocol must be maintained for at least two years.

(f) The written protocol may be terminated upon written notice by the authorizing practitioners or pharmacists. The pharmacists shall notify the board in writing within 30 days after a written protocol is terminated.

(g) Any modification to the written protocol must be approved by the board as required by this section for a new written protocol.

(h) This section does not apply to participation, by a pharmacist practicing in an institutional facility, in drug therapy protocols and guidelines approved by the institutional facility's pharmacy and therapeutics committee or by another medical staff governing body of that institutional facility, if records related to the drug therapy protocols and guidelines are maintained and made available to the board upon request.

(i) A signed copy of the approved collaborative practice application and protocols must remain at the pharmacy location at all times.

**Authority:** AS 08.80.030

AS 08.80.480

**12 AAC 52.250. JOB SHADOWING IN PHARMACY.** (a) A pharmacist-in-charge or job shadowing preceptor of a pharmacy may allow job shadowing by a student in the pharmacy only as specified in this section.

(b) Before a student begins a job shadowing program under this section, the pharmacist-in-charge or job shadowing preceptor shall complete that portion of the job shadowing documentation form prescribed by the board, which includes the names of the pharmacy, the participating student, and the pharmacist-in-charge or job shadowing preceptor. The student and the pharmacist-in-charge or preceptor shall sign the form. The parent or guardian of the student shall also sign the form if the student is less than 18 years of age.

(c) The pharmacist-in-charge or, if applicable, the job shadowing preceptor shall familiarize the student with the confidentiality requirements of 45 C.F.R., Parts 160 and 164 (HIPAA) and ensure compliance with this section and the relevant sections of AS 08.80 and this chapter.

(d) A pharmacist-in-charge or job shadowing preceptor may not allow

(1) a student in a job shadowing program to

(A) receive any remuneration or other compensation;

(B) perform job shadowing for more than 50 hours;

(C) perform any functions reserved for licensed, certified, or registered pharmacy personnel;

(2) a ratio of job shadowing student to pharmacist-in-charge or job shadowing preceptor other than one to one.

(e) After completion of the job shadowing program by a student, the pharmacist-in-charge or job shadowing preceptor shall complete that portion of the job shadowing documentation form prescribed by the board where the pharmacist-in-charge or job shadowing preceptor provides the date and time in hours student was present and job shadowing in the pharmacy, any patient counseling observations, problems that may have occurred during job

shadowing. The job shadowing documentation form must be kept in the pharmacy record for at least two years after the job shadowing program has been completed by that student.

(f) In this section,

(1) "job shadowing" means for educational purposes and through observation only, the observation by a student of the functions and duties of a pharmacy and pharmacy staff with the intended purpose of giving the student an opportunity to observe career possibilities available in the field of pharmacy;

(2) "job shadowing preceptor" means a licensed pharmacist, other than the pharmacist-in-charge, designated by the pharmacist-in-charge to supervise a student while that student is job shadowing;

(3) "student" means a person currently enrolled in a high school or post-secondary education program.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.330

*Editor's note:* The job shadowing documentation form required by 12 AAC 52.250 may be obtained from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, Board of Pharmacy, State Office Building, 9th Floor, 333 Willoughby Avenue, P.O. Box 110806, Juneau, AK 99811-0806; phone: (907) 465-2589; or the division's website at <http://www.commerce.state.ak.us/occ/ppha.htm>.

### ARTICLE 3. LICENSE RENEWAL AND CONTINUING EDUCATION REQUIREMENTS.

#### Section

- 300. License renewal**
- 310. Reinstatement of an expired pharmacist or pharmacy technician license**
- 320. Continuing education requirements for pharmacists**
- 325. Continuing education requirements for pharmacy technicians**
- 330. Alternative continuing education schedule**
- 340. Approved programs**
- 350. Audit of records by the board**

**12 AAC 52.300. LICENSE RENEWAL.** (a) Pharmacy, wholesale drug distributor, and drug room licenses expire on June 30 of even-numbered years.

(b) An applicant for renewal of a pharmacy, wholesale drug distributor, or drug room license shall submit

- (1) a completed renewal application;
- (2) the license renewal fees required in 12 AAC 02.310; and
- (3) a completed self-inspection of the premises questionnaire on a form provided by the department.

(c) An applicant for renewal of a pharmacist or pharmacy technician license shall submit on or before the license expiration date

- (1) a completed renewal application;
- (2) the license renewal fees required in 12 AAC 02.310;
- (3) documentation that the applicant has met all continuing education requirements of 12 AAC 52.320 – 12 AAC 52.350; and

(4) if seeking renewal for a licensing period that begins on or after July 1, 2006, a completed jurisprudence questionnaire prepared by the board, covering the provisions of AS 08.80 and this chapter.

**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

**12 AAC 52.310. REINSTATEMENT OF AN EXPIRED PHARMACIST OR PHARMACY TECHNICIAN LICENSE.** (a) If a pharmacist's or pharmacy technician's license has expired for any reason, that pharmacist or pharmacy technician may not practice pharmacy until the license is reinstated by the board.

(b) The board will reinstate a pharmacist or pharmacy technician license that has been expired less than two years if the applicant submits

- (1) a completed renewal application;
- (2) any applicable license renewal fees required in 12 AAC 02.310;
- (3) documentation that the applicant has met all continuing education requirements of 12 AAC 52.320 – 12 AAC 52.350; and

(4) for a licensing period that begins on or after July 1, 2006, a completed jurisprudence questionnaire prepared by the board, covering the provisions of AS 08.80 and this chapter.

(c) The board will reinstate a pharmacist license that has been expired two years or more if the applicant

- (1) submits a completed application for reinstatement on a form provided by the department;
- (2) pays any applicable license renewal fees required in 12 AAC 02.310 for the entire period the license has been expired;
- (3) *repealed 5/5/00;*

- (4) submits evidence of completion of all continuing education requirements in 12 AAC 52.320 - 12 AAC 52.350 that would have been required to maintain a current license for the entire period the license has been expired;
- (5) qualifies by
- (A) retaking and passing the examinations required in 12 AAC 52.090(a); or
  - (B) providing verification that the applicant has continually practiced pharmacy in another state under a license issued by the authority of that state for the period that the license has been expired, and by meeting the requirements of 12 AAC 52.090(a)(2); for purposes of AS 08.80.147 and this subparagraph, an applicant has continually practiced pharmacy if the pharmacist has actively practiced pharmacy in the other state for at least six months during each year that the license in this state was lapsed; and
- (6) submits a verification issued directly to the board by each licensing jurisdiction where the applicant holds, or has ever held, a license as a pharmacist during the time period in which the applicant's license was lapsed in this state that the applicant's license in the other jurisdiction were not suspended, revoked, or otherwise restricted except for failure to apply for renewal or failure to obtain the required continuing education requirements.
- (d) *Repealed 8/1/2014.*
- (e) A pharmacy technician license that has been expired for two years or more will not be reinstated.

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

**12 AAC 52.320. CONTINUING EDUCATION REQUIREMENTS FOR PHARMACISTS.** (a) Except as provided in (c) of this section, an applicant for renewal of a pharmacist license shall certify having completed 30 contact hours of continuing education accepted by the board under 12 AAC 52.340(a) during the concluding license period.

(b) This section does not prevent the board from imposing additional continuing education requirements under its disciplinary powers.

(c) An individual who is applying for renewal of a pharmacist license for the first time shall certify having completed one half of the continuing education requirements in (a) of this section for each complete 12 month period that the applicant was licensed during the concluding license period.

(d) An applicant for reinstatement of a pharmacist license that has expired shall certify that the applicant completed the continuing education requirements in (a) of this section before applying for reinstatement.

**Authority:** AS 08.80.005 AS 08.80.147 AS 08.80.165  
AS 08.80.030

**12 AAC 52.325. CONTINUING EDUCATION REQUIREMENTS FOR PHARMACY TECHNICIANS.** (a) Except as provided in (c) of this section, an applicant for renewal of a pharmacy technician license shall certify that, during the concluding licensing period, the applicant

(1) completed 10 contact hours of continuing education accepted by the board under 12 AAC 52.340; or

(2) obtained initial certification as a pharmacy technician by the Pharmacy Technician Certification Board (PTCB).

(b) This section does not prevent the board from imposing additional continuing education requirements under its disciplinary powers.

(c) Instead of complying with the continuing education requirements in (a) of this section, an applicant for renewal of a pharmacy technician license for the first time may

(1) verify in an affidavit, on an application for renewal, that the applicant has read the state statutes and regulations compiled by the board; and

(2) submit an affidavit, signed by the pharmacist-in-charge, verifying the applicant's pharmacy technician training in accordance with 12 AAC 52.230.

(d) An applicant for reinstatement of a pharmacy technician license that has expired shall certify that the applicant completed the continuing education requirements in (a) of this section before applying for reinstatement.

**Authority:** AS 08.01.100 AS 08.80.030 AS 08.80.165  
AS 08.80.005

**Editor's note:** Information regarding certification with the Pharmacy Technician Certification Board described in 12 AAC 52.325 may be obtained from the Pharmacy Technician Certification Board, 1100 15th Street, NW, Suite 703, Washington, DC 20005-1707, phone: (202) 429-4120 or at PTCB's website at [www.ptcb.org](http://www.ptcb.org). The Alaska Pharmacists Association, 203 West 15th Avenue, #100, Anchorage, AK 99501, phone: (907) 563-8880, email: [akphrmcy@alaska.net](mailto:akphrmcy@alaska.net) also provides certification information.

**12 AAC 52.330. ALTERNATIVE CONTINUING EDUCATION SCHEDULE.** An individual licensed under AS 08.80 may apply to the board for an alternative schedule of continuing education if the individual's failure to meet the continuing education requirements in 12 AAC 52.320 is due to illness or other extenuating circumstances.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.165

**12 AAC 52.340 APPROVED PROGRAMS.** (a) The following programs will be accepted by the board as continuing education for pharmacists and pharmacy technicians under 12 AAC 52.320 and 12 AAC 52.325:

- (1) any program presented by a provider accredited by the ACPE;
- (2) cardiopulmonary resuscitation(CPR) courses presented by the American Red Cross or the American Heart Association that lead to CPR certification; the board will accept no more than one contact hour of continuing education credit in a 24 month period for completion of a CPR course.

(b) The following programs will be accepted by the board as continuing education under 12 AAC 52.325, when the subject contributes directly to the professional competency of a pharmacy technician and is directly related to pharmacy principles and practice:

- (1) any program presented or approved by the Alaska Pharmacists Association;
- (2) any program presented or approved by the Pharmacy Technician Certification Board (PTCB) or the National Pharmacy Technician Association (NPTA).

(c) An individual who presents an approved continuing education program may receive credit for the time spent during the actual presentation of the program. An individual may not receive credit for the same presentation more than once during a licensing period.

**Authority:** AS 08.80.005 AS 08.80.147 AS 08.80.165  
AS 08.80.030

**12 AAC 52.350. AUDIT OF RECORDS BY THE BOARD.** (a) The board will randomly audit renewal applications for verification of reported continuing education contact hours. To conduct an audit under this section, the board will access and evaluate continuing pharmacy education data reported to the ACPE-NABP CPE Monitor Service during the time period audited.

(b) Upon written request, a pharmacist or pharmacy technician shall provide the board with a copy of each certificate of completion for the continuing education units not reported to the ACPE-NABP CPE Monitor Service during the time period audited by the board.

(c) If the board disallows any continuing education contact units reported on behalf of or by a pharmacist or pharmacy technician, the pharmacist or pharmacy technician shall

- (1) complete the number of disallowed contact hours in an approved program and report the completion to the board no later than 90 days after the date the board sends notification of the disallowed contact hours; and
- (2) provide the board with copies of certificates of completion for all continuing education units
  - (A) not reported to the ACPE-NABP CPE Monitor Service; and
  - (B) completed for the next two licensing periods.

(d) A pharmacist or pharmacy technician who submits to the board a false or fraudulent record relating to the pharmacist's or pharmacy technician's satisfaction of a continuing education requirement under 12 AAC 52.320 or 12 AAC 52.325 is subject to disciplinary action by the board.

(e) In this section,

(1) "ACPE-NABP CPE Monitor Service" means the electronic tracking service of the ACPE and the National Association of Boards of Pharmacy for monitoring continuing pharmacy education that pharmacists and pharmacy technicians receive from participating providers;

(2) "certificate of completion" means a certificate or other document that

(A) is presented to a participant upon successful completion of a continuing education program that is not reported to the ACPE-NABP CPE Monitor Service; and

(B) contains the following information:

- (i) the name of the participant;
- (ii) the title and date of the program;
- (iii) the name of the accredited provider;
- (iv) the number of contact hours or continuing education units awarded;
- (v) a dated, certifying signature of the accredited provider;
- (vi) for a pharmacist renewal, the assigned ACPE universal program number.

**Authority:** AS 08.80.005 AS 08.80.165 AS 08.80.261  
AS 08.80.030

#### **ARTICLE 4. GUIDELINES FOR PHARMACIES AND PHARMACISTS.**

##### **Section**

- 400. General guidelines for pharmacies**
- 410. Care of drug stocks and devices**
- 420. Security**
- 423. Remote pharmacy license**

- 425. Telepharmacy system for a remote pharmacy
- 430. Guidelines relating to sterile pharmaceuticals
- 440. Guidelines relating to compounding practices
- 443. Approval for shared pharmacy services by pharmacy
- 444. Approval for shared pharmacy services by pharmacist
- 445. Shared pharmacy services

**12 AAC 52.400. GENERAL GUIDELINES FOR PHARMACIES.** A person that is required to be licensed by AS 08.80 and who has a license under AS 08.80 and this chapter shall adhere to the guidelines on facilities, reference material, equipment, supplies, and other guidelines established by the board in the pamphlet titled, "Facility Standards for Pharmacies," dated February 2008, and incorporated by reference in this section.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.157

*Editor's note: The pamphlet incorporated by reference in 12 AAC 52.400, "Facility Standards for Pharmacies" may be obtained from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, Board of Pharmacy, State Office Building, 9th Floor, 333 Willoughby Avenue, Juneau, Alaska 99801; phone (907) 465-2589.*

**12 AAC 52.410. CARE OF DRUG STOCKS AND DEVICES.** (a) A drug or device that has exceeded its expiration date shall be removed from stock and quarantined until properly disposed of in accordance with 12 AAC 52.560.

(b) A pharmacist may not dispense a drug or device beyond the expiration date on the drug or device.

(c) All drugs and devices on shelves or display for sale shall be protected against contamination, deterioration, and adulteration.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.157

**12 AAC 52.420. SECURITY.** (a) Each pharmacist, while on duty, is responsible for the security of the pharmacy, including effective control against theft or diversion of drugs.

(b) The pharmacist-in-charge is responsible for compliance with all prescription department security requirements.

(c) All drugs, devices, and other items or products that are restricted to sale by or under the direct supervision of a pharmacist shall be kept in the prescription department.

(d) The prescription department shall be secured to prevent unauthorized access when a pharmacist is not available to provide direct supervision.

(e) A pharmacy with service hours differing from the remainder of the business establishment must have a telephone number that is separate from the remainder of the business establishment.

(f) Prescriptions shall be stored in the prescription department and may be removed only under the direct supervision of a pharmacist and for immediate delivery to the patient, the patient's agent, or the person delivering the prescription to the patient or the patient's agent.

(g) A pharmacist shall provide adequate security for prescription records to prevent unauthorized access to confidential health information.

(h) In this section, "prescription department" means the area of the pharmacy where prescription drugs are stored.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.315  
AS 08.80.030

**12 AAC 52.423. REMOTE PHARMACY LICENSE.** (a) A central pharmacy that wishes to provide pharmacy services through a remote pharmacy in the state using a telepharmacy system as provided in 12 AAC 52.425 must apply to the board for a license. The central pharmacy applying under this section must submit to the department

(1) a complete, notarized application on a form provided by the department;

(2) the applicable fees established in 12AAC 02.310; and

(3) comply with the requirements of 12 AAC 52.020.

(b) The board will approve an application to provide pharmacy services through a remote pharmacy if the central pharmacy establishes that

(1) it is able to comply with the requirements of 12 AAC 52.425; and

(2) there is no access to a non-remote pharmacy within ten road miles of the proposed remote pharmacy site unless the non-remote pharmacy is prevented by federal law from providing pharmacy services to all the individuals within the ten road miles.

(c) An applicant for renewal of a remote pharmacy license must comply with the requirements of 12 AAC 52.300. A remote pharmacy license may not be renewed if a non-remote pharmacy opens for business within ten

road miles of the remote pharmacy site unless the non-remote pharmacy is prevented by federal law from providing pharmacy services to all the individuals within the ten road miles.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.157

**12 AAC 52.425. TELEPHARMACY SYSTEM FOR A REMOTE PHARMACY.** (a) Only a central pharmacy located in this state may provide pharmacy services to a remote pharmacy through a telepharmacy system. A telepharmacy system must be conducted under the direct supervision of a pharmacist. The pharmacist-in-charge of a central pharmacy may supervise one or more remote pharmacies.

(b) Before a central pharmacy may provide pharmacy services to a remote pharmacy, the telepharmacy system between the central pharmacy and remote pharmacy must be tested by the supervising pharmacist of the central pharmacy and found to operate properly. The supervising pharmacist of the central pharmacy shall make the results of the test available to the board upon request. The computer link and video link with sound of the telepharmacy system must include at least one of the following:

- (1) still image capture;
- (2) real time link;
- (3) store and forward.

(c) A remote pharmacy must be

- (1) staffed by a pharmacist, pharmacy technician, or pharmacy intern; and
- (2) operated under the direct supervision of a pharmacist.

(d) A remote pharmacy must be secured to prevent unauthorized access at all times when a pharmacist is not available to provide direct supervision to that location.

(e) Drugs may be shipped to a remote pharmacy only from the central pharmacy. Drugs must be shipped in a sealed container with an itemized list of the product contained. The itemized list of drugs shipped must be kept on file at both the central pharmacy and the remote pharmacy for at least two years from the date that the drugs are shipped. Itemized records of drugs shipped or received must be verified by the supervising pharmacist at both the central pharmacy and the remote pharmacy.

(f) A remote pharmacy must keep a record of all prescriptions filled at that location. The central pharmacy must also maintain a record of the prescriptions filled at the remote pharmacy. The records must distinguish prescriptions filled at the remote pharmacy from those filled at the central pharmacy and at other remote pharmacy locations.

(g) The prescription label of a prescription drug distributed by a remote pharmacy must meet the requirements of 12 AAC 52.480.

(h) Under a telepharmacy system a prescription drug is considered as being dispensed by the central pharmacy and distributed by the remote pharmacy. A prescription drug may not be distributed by a remote pharmacy until a pharmacist at the central pharmacy has verified the finished prescription product through the telepharmacy system.

(i) A pharmacist must conduct a physical inventory at each remote pharmacy location at least annually. The record of the inventory must be

- (1) kept both at the central pharmacy and the remote pharmacy; and
- (2) distinguishable from the inventory of the central pharmacy and other remote pharmacies.

(j) The pharmacist-in-charge of the central pharmacy must ensure that the remote pharmacy is in compliance with all laws, including regulations, governing the activities of the pharmacy.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.157

**12 AAC 52.430. GUIDELINES RELATING TO STERILE PHARMACEUTICALS.** A pharmacy or pharmacist that prepares or dispenses sterile pharmaceuticals shall adhere to the guidelines established by the board in the pamphlet titled, “*Sterile Pharmaceuticals*,” dated February 2008, and incorporated by reference in this section.

**Authority:** AS 08.80.030 AS 08.80.157

*Editor’s note:* The pamphlet incorporated by reference in 12 AAC 52.430, “*Sterile Pharmaceuticals*” may be obtained from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, Board of Pharmacy, State Office Building, 9th Floor, 333 Willoughby Avenue, Juneau, Alaska 99801; phone (907) 465-2589.

**12 AAC 52.440. GUIDELINES RELATING TO COMPOUNDING PRACTICES.** A pharmacy or pharmacist that compounds drugs shall adhere to the guidelines established by the board in the pamphlet titled, “*Compounding Practices*,” dated February 2008, and incorporated by reference in this section

**Authority:** AS 08.80.030 AS 08.80.157

*Editor’s note:* The pamphlet incorporated by reference in 12 AAC 52.440, “*Compounding Practices*” may be obtained from the Department of Commerce, Community, and Economic Development, Division of Corporations,

*Business and Professional Licensing, Board of Pharmacy, State Office Building, 9th Floor, 333 Willoughby Avenue, Juneau, Alaska 99801; phone (907) 465-2589.*

**12 AAC 52.443. APPROVAL FOR SHARED PHARMACY SERVICES BY PHARMACY.** (a) A requesting pharmacy in this state that seeks to participate in shared pharmacy services must apply to the board for approval on a form provided by the department.

(b) The board will approve an application by a requesting pharmacy to participate in shared pharmacy services if the pharmacy establishes

- (1) that the pharmacy has a current in-state pharmacy license issued under AS 08.80.157 and this chapter;
- (2) that the pharmacy is able to comply with the requirements of 12 AAC 52.445;
- (3) that the pharmacy either
  - (A) is owned by the same owner as the filling pharmacy with which pharmacy services are to be shared; or
  - (B) has a written contract or agreement with the filling pharmacy or filling pharmacist that outlines the pharmacy services to be provided and the obligation of each pharmacy or pharmacist to comply with federal and state pharmacy statutes and regulations; and
- (4) that the participants in shared pharmacy services share a common electronic file or other appropriate technology that allows access to the information needed to provide shared pharmacy services in compliance with the requirements of AS 08.80 and this chapter.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.157

**12 AAC 52.444. APPROVAL FOR SHARED PHARMACY SERVICES BY PHARMACIST.** (a) A requesting pharmacist in this state that seeks to participate in shared pharmacy services must apply to the board for approval on a form provided by the department.

(b) The board will approve an application by a requesting pharmacist to participate in shared pharmacy services if the requesting pharmacist establishes

- (1) that the pharmacist
  - (A) has a current in-state pharmacy license issued under AS 08.80 and this chapter;
  - (B) has a written contract or agreement with the filling pharmacy or filling pharmacist that outlines the pharmacy services to be provided and the obligations of each pharmacy or pharmacist to comply with federal and state pharmacy statutes and regulations; and
  - (C) is able to comply with the requirements of 12 AAC 52.445; and
- (2) that the participants in shared pharmacy services share a common electronic file or other appropriate technology that allows access to the information needed to provide shared pharmacy services in compliance with the requirements of AS 08.80 and this chapter.

**Authority:** AS 08.80.005 AS 08.80.030

**12 AAC 52.445. SHARED PHARMACY SERVICES.** (a) A pharmacy participating in shared pharmacy services, or a pharmacist acting independently of a pharmacy and participating in shared pharmacy services, shall use an identifier on the prescription container that identifies prescriptions to be filled at a filling pharmacy or by the filling pharmacist. The requesting pharmacy or requesting pharmacist shall notify the patient or the patient's agent that the patient's prescription order may be processed or filled by another pharmacy or pharmacist, and shall identify the filling pharmacy or filling pharmacist. If the requesting pharmacy is part of a network of pharmacies under common ownership, and the prescription order may be processed or filled at any of the pharmacies in the network, the requesting pharmacy shall notify the patient of this. Notice under this subsection may be provided through an initial written notice to the patient or the patient's agent, or through the use of a sign prominently displayed in the requesting pharmacy or in the public portion of the office of the requesting pharmacist.

(b) Except as provided in (c) of this section, if a filling pharmacy or filling pharmacist delivers a prescription medication directly to the patient or the patient's agent, the filling pharmacy or filling pharmacist shall provide, on the prescription container or on a separate sheet delivered with the prescription container,

- (1) the local telephone number and, if applicable, the toll-free telephone number of the filling pharmacy or filling pharmacist; and
- (2) a statement that conveys to the patient or patient's agent the following information: "Written information about this prescription has been provided for you; please read this information before you take the medication. If you have questions concerning this prescription, a pharmacist is available during normal business hours to answer these questions at [insert the filling pharmacist or filling pharmacy's telephone numbers]."

(c) The requirements of (b) of this section do 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.

(d) 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, the name, initials, or identification code of each pharmacist responsible for the final verification of dispensing; those records must include descriptions of actions taken in interpretation of the order, order entry

verification, drug utilization review, drug compatibility and drug allergy review, final order verification, therapeutic intervention, and refill authorization functions performed at that pharmacy or by that pharmacist;

(2) report to the board as soon as practical the results of any license disciplinary action taken by a regulatory agency in another licensing jurisdiction involving a pharmacy or pharmacist participating in shared pharmacy services;

(3) maintain a mechanism for tracking the order during each step of the processing and filling procedures performed at the pharmacy or by that pharmacist;

(4) provide for adequate security to protect the confidentiality and integrity of patient information;

(5) provide for inspection of any required record or information no later than 72 hours after any request by the board or its designee.

(e) Each pharmacy participating in shared pharmacy services, if a

(1) requesting pharmacy, shall have a current in-state pharmacy license issued under AS 08.80.157 and this chapter;

(2) filling pharmacy, shall either

(A) have a current in-state pharmacy license issued under AS 08.80.157 and this chapter; or

(B) be registered as an out-of-state pharmacy under AS 08.80.158 and this chapter.

(f) Each participant in shared pharmacy services shall jointly develop, implement, review, revise, and comply with joint policies and procedures for shared pharmacy services. Each participant is required to maintain only those portions of the joint policies and procedures that relate to that participant's operations. The policies and procedures must

(1) outline the responsibilities of each participant;

(2) include a list that contains

(A) each pharmacy participating in shared pharmacy services, and each pharmacist acting independently of a pharmacy and participating in shared pharmacy services;

(B) the name, address, and telephone number of each of those participants; and

(C) the license numbers for all licenses held by each of those participants; and

(3) address

(A) patient notification that meets the requirements of this section;

(B) the adequate protection of the confidentiality and integrity of patient information;

(C) dispensing prescription orders when the filled order is not received or the patient comes in before the order is received;

(D) the maintenance of manual or electronic records that meet the requirements of this section;

(E) compliance with federal and state laws; and

(F) the operation of a continuous quality improvement program for shared pharmacy services, designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.

(g) Nothing in this section prevents an individual pharmacist licensed in this state who is employed by or working under a contract with a pharmacy, or prevents a licensed pharmacy intern or pharmacy technician working under the supervision of that licensed pharmacist, from accessing the electronic database of that pharmacy from inside or outside the pharmacy and processing a prescription order in compliance with AS 08.80 and this chapter if

(1) the pharmacy has established controls to protect the privacy and security of confidential records; and

(2) the pharmacist, pharmacy intern, or pharmacy technician does not duplicate, download, or remove data from the pharmacy's electronic database.

(h) A pharmacist working independently outside of the state may participate in shared pharmacy services with an institutional pharmacy in this state if the pharmacist holds

(1) a current license as a pharmacist issued under AS 08.80 and this chapter; and

(2) a current license to practice as a pharmacist issued by the licensing jurisdiction where the pharmacist is working.

(i) The pharmacist-in-charge of the requesting pharmacy must ensure compliance with the applicable requirements of AS 08.80 and this section.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.158  
AS 08.80.030

## ARTICLE 5. PHARMACY PRACTICE STANDARDS.

### Section

**450. Prescription drug order records**

**460. Prescription drug order information**

**470. Refills**

**480. Labeling**

**490. Prescriptions by electronic transmission**

**500. Transfer of a prescription drug order**

- 510. Substitution
- 520. Customized patient medication package (patient med-pak)
- 530. Return or exchange of drugs
- 540. Notification of theft or significant loss
- 550. Advertising
- 560. Destruction and disposal of drugs
- 570. Drug regimen review
- 580. Data processing systems
- 585. Mandatory patient counseling
- 590. Prepackaging of drugs

**12 AAC 52.450. PRESCRIPTION DRUG ORDER RECORDS.** (a) A pharmacy shall maintain prescription drug orders for a period of two years from the date of filling or the date of the last dispensed refill. The prescription drug orders shall be maintained in numerical order and in a manner that ensures they will remain legible for the required two-year period.

(b) To comply with (a) of this section, a pharmacy shall maintain the prescription drug orders by keeping in its file

- (1) the original written prescription drug order;
  - (2) a plain paper version of the prescription drug order received by facsimile or digital electronic transmittal;
- or
- (3) a prescription drug order put into writing either manually or electronically by the pharmacist.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.157

**12 AAC 52.460. PRESCRIPTION DRUG ORDER INFORMATION.** (a) Before a pharmacist may fill a prescription drug order, the pharmacist shall obtain the following information:

- (1) name of the patient or, if the prescription drug order is for an animal, species of the animal and name of the owner;
- (2) address of the patient unless the prescription drug order is for a noncontrolled substance and the address is readily retrievable on another appropriate, uniformly maintained pharmacy record, such as a patient medication record;
- (3) name and, if the prescription drug order is for a controlled substance, the address and DEA registration number of the prescribing practitioner;
- (4) name and strength of the drug prescribed;
- (5) quantity prescribed;
- (6) directions for use;
- (7) date of issue;
- (8) refills authorized, if any;
- (9) if a written prescription drug order, the prescribing practitioner's signature; and
- (10) if a facsimile prescription drug order, the prescribing practitioner's signature, or authorized agent's signature.

(b) At the time of dispensing, a pharmacist shall add the following information to the prescription drug order:

- (1) unique identification number of the prescription drug order;
- (2) initials or identification code of the dispensing pharmacist;
- (3) quantity dispensed, if different from the quantity prescribed;
- (4) date of dispensing, if different from the date of issue;
- (5) if the drug was prescribed by generic name or if an equivalent drug product other than the one prescribed was dispensed, for the drug product actually dispensed, at least one of the following:
  - (A) the name of the manufacturer or distributor;
  - (B) the national drug code number;
  - (C) the short name code; or
  - (D) the trade name.

(c) After oral consultation with the prescribing practitioner, a pharmacist may add the following information to schedule II controlled substance prescriptions:

- (1) date of issue of the prescription;
- (2) address of the patient;
- (3) strength of the drug prescribed;
- (4) drug dosage form;
- (5) drug quantity prescribed;
- (6) directions for use;
- (7) DEA registration number.

(d) After oral consultation with the prescribing practitioner, a pharmacist may modify the types of information described in (c)(2) – (7) of this section. However, any modification to the information concerning drug quantity must be limited to strength of the drug prescribed and may not result in an increase in the original total dosage prescribed.

(e) A pharmacist may not change the name of non-generic drugs, the name of the patient, or the signature of the practitioner.

**Authority:** AS 08.80.005 AS 08.80.030

**12 AAC 52.470. REFILLS.** (a) A pharmacist may dispense a refill of a prescription drug order only in accordance with the prescribing practitioner's authorization as indicated on the prescription drug order. If there are no refill instructions on the prescription drug order, or if all refills authorized on the original prescription drug order have been dispensed, a pharmacist shall obtain authorization from the prescribing practitioner before dispensing a refill.

(b) 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.

(c) Each time a prescription drug order is dispensed, the pharmacist shall record the refill electronically or on the back of the prescription drug order by listing the date of dispensing, the written initials or identification code of the dispensing pharmacist, and the amount dispensed if different from the quantity on the original prescription drug order.

**Authority:** AS 08.80.005 AS 08.80.030

**12 AAC 52.480. LABELING.** One or more labels containing the following information shall be affixed to every container in which a prescription drug order is dispensed:

- (1) name, address, and phone number of the dispensing pharmacy;
- (2) unique identification number of the prescription drug order;
- (3) date the prescription drug order is dispensed;
- (4) initials of the dispensing pharmacist;
- (5) name of the prescribing practitioner;
- (6) name of the patient or, if the drug was prescribed for an animal, the species of animal and the name of the owner;
- (7) directions for use;
- (8) quantity dispensed;
- (9) appropriate ancillary instructions or cautions;
- (10) if the prescription drug order is for a schedule II-V controlled substance, the statement, "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed";
- (11) the name and strength of the actual drug product dispensed, unless otherwise directed by the prescribing practitioner; and
- (12) the accepted generic drug name and strength of the drug dispensed; if the drug product dispensed has multiple ingredients, the pharmacist shall provide this information in writing to the patient or the patient's agent.

**Authority:** AS 08.80.005 AS 08.80.295 AS 08.80.480  
AS 08.80.030

**12 AAC 52.490. PRESCRIPTIONS BY ELECTRONIC TRANSMISSION.** (a) Legend drug and controlled substance prescriptions may be transmitted electronically under this section, consistent with state and federal laws. A pharmacist 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:

- (1) name, address, and telephone number of the prescribing practitioner;
  - (2) electronic signature or manual signature of the prescribing practitioner;
  - (3) the information required in 12 AAC 52.460(a)(1) - (8); and
  - (4) any other information required by federal law.
- (b) A pharmacist may dispense a prescription that has been received electronically.
- (c) The system for electronic transmission of prescriptions must address the following:
- (1) patient's choice of pharmacy; the system may not restrict the patient's choice of pharmacy;
  - (2) security of the system; the system must have security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription information; the system must include
    - (A) documented formal procedures for selecting and executing security safeguards;
    - (B) physical safeguards to protect computer systems and other applicable equipment from an unauthorized access, modification, or manipulation of the information;
    - (C) processes to protect, control, and audit access to confidential patient information; and
    - (D) processes to prevent unauthorized access to the prescription information when transmitted electronically;
  - (3) confidentiality of patient information; the system must maintain the confidentiality of patient information consistent with state and federal laws;
  - (4) authentication; to be valid prescriptions transmitted by an authorized prescriber or the prescribing practitioner's authorized agent from computer to a facsimile machine or from computer to computer must use an

electronic signature; the prescribing practitioner's system must authenticate the sender's authority and credentials to transmit a prescription to a pharmacy and

(A) the prescribing practitioner's system must provide an audit record of all prescriptions electronically transmitted that documents for retrieval all actions and persons who have acted on a prescription, including authorized delegation of transmission;

(B) the right of the board to access the prescribing practitioner's electronically transmitted prescriptions for purposes of investigations;

(5) a prescribing practitioner's system that utilizes intermediaries in the electronic communication of prescriptions to pharmacies is responsible to ensure that the contracts with the intermediaries require security measures that are equal to or better than those provided by this section and prohibit the modification of a record of a prescription after it has been transmitted by the prescribing practitioner to the pharmacist;

(6) if a paper copy prescription that is generated by the pharmacist or pharmacy technician from the electronic prescription system is printed, an electronic signature may be substituted for a manual signature;

(7) the system must maintain the integrity and confidentiality of patient information transmitted electronically for its system as required by this chapter, other state law, and federal law.

(d) In this section,

(1) "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a prescription and executed or adopted by an authorized person with the intent to sign the prescription;

(2) "electronic transmission of prescriptions" means the communication from an authorized prescribing practitioner or the prescribing practitioner's authorized agent to a pharmacy of the patient's choice, by computer, by the transmission of an exact visual image of a prescription by facsimile, or by other electronic means other than electronic voice communication, of original prescription information or prescription refill information for a legend drug or controlled substance consistent with this section, other state law, and federal law;

(3) "security" means a system to maintain the confidentiality and integrity of prescription information, including

(A) documented formal procedures for selecting and executing security safeguards;

(B) physical safeguards to protect computer systems and other pertinent equipment from unauthorized access, modification, or manipulation of the information;

(C) processes to protect, control and audit access to confidential patient information; and

(D) processes for its system to prevent unauthorized access to the prescription information when transmitted electronically.

**Authority:** AS 08.80.005 AS 08.80.030

**12 AAC 52.500. TRANSFER OF A PRESCRIPTION DRUG ORDER.** (a) For the purpose of dispensing a refill of a prescription drug order, original prescription drug order information may be transferred between pharmacies if the requirements of 12 AAC 52.460 and this section are met.

(b) Original prescription drug order information for controlled substances listed in schedules III, IV, or V may be transferred only by the pharmacy that originally received the prescription drug order from the prescribing practitioner.

(c) Original prescription drug order information for noncontrolled substances may be transferred between pharmacies without limitation up to the number of originally authorized refills.

(d) A pharmacy transferring a prescription drug order or receiving a transferred prescription drug order must meet the following requirements:

(1) the transfer shall be communicated directly between two licensed pharmacists;

(2) both the original and the transferred prescription drug order must meet the requirements of 12 AAC 52.450(a);

(3) the pharmacist transferring the prescription drug order information shall

(A) write "void" on the face of the transferred prescription drug order; and

(B) record on the reverse side of the transferred prescription drug order the following information:

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

(ii) name of the pharmacist receiving the prescription drug order information;

(iii) name of the pharmacist transferring the prescription drug order information; and

(iv) date of the transfer;

(4) the pharmacist receiving the transferred prescription drug order information shall

(A) write "transfer" on the face of the transferred prescription drug order; and

(B) record on the transferred prescription drug order the following information:

(i) original date of issue and date of dispensing, if different from the date of issue;

(ii) original prescription drug order number and the number of refills authorized on the original prescription drug order;

(iii) number of valid refills remaining and the date of the last refill;

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

- (v) name of the pharmacist transferring the prescription drug order information; and
- (5) when a prescription drug order is transferred, the transferring pharmacy may not issue any further refills.
- (e) A pharmacy using an automated data processing system shall meet the same requirements for a manual prescription drug order transfer listed in (d) of this section.
- (f) If two or more pharmacies use a common electronic database for prescription record keeping, prescription drug orders may be refilled at any of the pharmacies using the common electronic database if provisions are made
  - (1) for an audit trail that documents the location of each filling; and
  - (2) to ensure that the number of authorized refills is not exceeded.

**Authority:** AS 08.80.005 AS 08.80.030

**12 AAC 52.510. SUBSTITUTION.** (a) A pharmacist may dispense an equivalent drug product instead of the prescribed drug if

- (1) the prescribing practitioner does not hand write or electronically note on the prescription drug order that a specific brand must be dispensed, using language such as “brand medically necessary” or similar wording;
- (2) the patient is notified and consents to the substitution;
- (3) the equivalent drug product costs the patient less than the prescribed drug product; and
- (4) for the drug product actually dispensed, the pharmacist notes on the prescription drug order one of the following:
  - (A) the drug product’s manufacturer or distributor;
  - (B) national drug code number;
  - (C) short name code; or
  - (D) trade name.

(b) The determination of the drug product to be dispensed for a prescription drug order is a professional responsibility of the pharmacist. A pharmacist may not dispense any product that in the pharmacist’s professional opinion is not an equivalent drug product as the term “equivalent drug product” is defined in AS 08.80.480.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.295

**12 AAC 52.520. CUSTOMIZED PATIENT MEDICATION PACKAGE (PATIENT MED-PAK).** (a) Instead of dispensing one or more prescribed drug products in separate containers, a pharmacist may, with the written consent of the patient, patient’s caregiver, or prescribing practitioner, provide a customized patient medication package or patient med-pak.

(b) A patient med-pak is a series of containers prepared by a pharmacist for a specific patient containing one or more prescribed solid oral dosage forms and designed or labeled to indicate the day and time, or period of time, when the contents within each container are to be taken.

- (c) The pharmacist shall prepare a label for a patient med-pak that includes
  - (1) the name of the patient;
  - (2) the unique identification number for the patient med-pak itself and a separate unique identification number for each of the prescription drug orders for the drug products in the patient med-pak;
  - (3) the name, strength, physical description or identification, and total quantity of each drug product in the patient med-pak;
  - (4) the directions for use and cautionary statements, if any, contained in the prescription drug order for each drug product in the patient med-pak;
  - (5) any other information, statements, or warnings required or appropriate for any of the drug products in the patient med-pak;
  - (6) the name of the prescribing practitioner of each drug product in the patient med-pak;
  - (7) the date of preparation of the patient med-pak and the expiration date assigned to the patient med-pak; the expiration date may not be more than 60 days from the date of preparation of the patient med-pak;
  - (8) the name, address, and telephone number of the pharmacy; and
  - (9) the initials of the dispensing pharmacist.

(d) If the patient med-pak allows for the removal or separation of the intact containers from the patient med-pak, the pharmacist shall label each individual container of the patient med-pak to identify each of the drug products contained in the patient med-pak.

(e) When preparing a patient med-pak, the dispensing pharmacist shall take into account any applicable compendium requirements or guidelines and the physical and chemical compatibility of the dosage forms placed within each container in the med-pak and any therapeutic incompatibilities that may attend the simultaneous administration of the drugs.

(f) In addition to any individual prescription filing requirements, the pharmacist shall make and file a record of each patient med-pak. Each record must contain

- (1) the name and address of the patient;
- (2) a unique identification number for the patient med-pak itself and a separate, unique, identification number for each of the prescription drug orders for each drug product contained in the patient med-pak;
- (3) information identifying or describing the design, characteristics, or specifications of the patient med-pak that is sufficient to prepare an identical patient med-pak for the patient;

- (4) the date of preparation of the patient med-pak and the expiration date assigned;
- (5) any special labeling instructions; and
- (6) the name or initials of the pharmacist who prepared the patient med-pak.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.480

**12 AAC 52.530. RETURN OR EXCHANGE OF DRUGS.** (a) Except as provided in (b) of this section, a pharmacy or pharmacist may not accept a drug for return or exchange after the drug has been taken from the premises where the drug was sold, distributed, or dispensed.

(b) A pharmacy serving an institutional facility may accept for return or reuse unit dose packages or full or partial multiple dose medication cards if

(1) the pharmacist can readily determine that there has been no entry or attempt at entry to the unit dose package or blister card;

(2) in the pharmacist's professional judgment, the unit dose package or multiple dose medication card meets the standards of the United States Pharmacopoeia (1995 revision) for storage conditions, including temperature, light sensitivity, and chemical and physical stability;

(3) the drug has not come into the physical possession of the person for whom it was prescribed, and control of the drug is known to the pharmacist to have been the responsibility of a person or persons licensed to prescribe, dispense, or administer drugs; and

(4) the drug labeling or packaging has not been altered or defaced, and the identity of the drug, its strength, lot number, and expiration date are retrievable.

**Authority:** AS 08.80.005 AS 08.80.030

*Editor's note:* A copy of the United States Pharmacopoeia may be obtained from the United States Pharmacopoeial Convention, Inc., P.O. Box 560, Williston, VT 05495.

**12 AAC 52.540. NOTIFICATION OF THEFT OR SIGNIFICANT LOSS.** If a pharmacy is required under 21 U.S.C. 801 - 904 (Controlled Substances Act) to complete DEA Form 106, "Report of Theft or Loss of Controlled Substances," the pharmacist-in-charge shall also send a copy of the completed form to the board.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.157

**12 AAC 52.550. ADVERTISING.** A pharmacy may advertise prescription drug prices if the advertisement contains all of the following information:

(1) proprietary, trade, or generic name of the drug product;

(2) name of the manufacturer or distributor of the drug product;

(3) dosage form and strength of the drug product;

(4) price charged for a specific quantity of the drug product; and

(5) the hours that pharmaceutical services are available from the advertiser.

**Authority:** AS 08.80.005 AS 08.80.030

**12 AAC 52.560. DESTRUCTION AND DISPOSAL OF DRUGS.** (a) A licensed pharmacist may destroy noncontrolled prescription drugs if the drugs are destroyed in a manner that makes the drugs unfit for human consumption.

(b) A drug that is a controlled substance shall be disposed of in accordance with federal statutes and regulations.

**Authority:** AS 08.80.005 AS 08.80.030

**12 AAC 52.570. DRUG REGIMEN REVIEW.** (a) A pharmacist shall perform a drug regimen review, as defined in AS 08.80.480, for each prescription drug order.

(b) If a pharmacist identifies any of the items listed in AS 08.80.480 during the drug regimen review, the pharmacist shall avoid or resolve the problem by consulting with the prescribing practitioner, if necessary.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.480

**12 AAC 52.580. DATA PROCESSING SYSTEMS.** A pharmacy may use an automated data processing system to maintain the records required in AS 08.80 and this chapter if the system

(1) is capable of on-line retrieval of all information required in 12 AAC 52.460, 12 AAC 52.470, and 21 C.F.R. 1306.22, as amended as of February 6, 1997;

(2) is capable of producing an audit trail printout for all dispensing of any specified strength and dosage form of a drug; and

(3) has adequate safeguards to prevent loss of data and reasonable security to prevent unauthorized access to, modification of, or manipulation of patient records.

**Authority:** AS 08.80.005 AS 08.80.030

**12 AAC 52.585. MANDATORY PATIENT COUNSELING.** (a) With each new prescription dispensed, the pharmacist shall verbally provide counseling to the patient or the patient's agent on matters considered significant in the pharmacist's professional judgment. The counseling may include

- (1) the name and description of the prescribed drug;
- (2) the dosage and the dosage form;
- (3) the method and route of administration;
- (4) the duration of the prescribed drug therapy;
- (5) any special directions and precautions for preparation, administration, and use by the patient that the pharmacist determines are necessary;
- (6) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, how to avoid them, and what actions should be taken if they occur;
- (7) patient techniques for self-monitoring of the drug therapy;
- (8) proper storage;
- (9) prescription refill information; and
- (10) the action to be taken in the event of a missed dose.

(b) A pharmacist shall counsel the patient or the patient's agent face-to-face. If face-to-face counseling is not possible, a pharmacist shall make a reasonable effort to provide the counseling by use of a telephone, two-way radio, or in writing. In place of a pharmacist's own written information regarding a prescribed drug, the pharmacist may use abstracts of the Patient United States Pharmacopoeia Drug Information or comparable information.

(c) This section does not apply to a pharmacist who dispenses drugs for inpatient use in a hospital or other institution if the drug is to be administered by a nurse or other appropriate health care provider.

(d) This section does not require a pharmacist to provide patient counseling when a patient or the patient's caregiver refuses the counseling.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.480

**12 AAC 52.590. PREPACKAGING OF DRUGS.** For the purpose of supplying drugs to a prescribing practitioner, drugs shall be prepackaged in child-resistant containers under the direct supervision of a pharmacist and bear a label that contains

- (1) the name, address, and telephone number of the pharmacy;
- (2) the name, strength, and quantity of the drug;
- (3) the lot number and expiration date of the drug, if not already contained on the unit-of-use or drug packaging;
- (4) cautionary information required for patient safety and information; and
- (5) the initials of the pharmacist.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.480

## ARTICLE 6. WHOLESALE DRUG DISTRIBUTORS AND FACILITIES.

### Section

- 610. Wholesale drug distributor license**
- 620. Wholesale drug facilities**
- 625. Personnel requirements; grounds for denial or other disciplinary action**
- 630. Drug storage**
- 640. Written policies and procedures**
- 645. Examination of drug shipments**
- 650. Records and inventories**
- 660. Returned, damaged, and outdated drugs**
- 670. Drug recalls**
- 680. Inspections**
- 685. Prohibition against direct distribution**
- 690. Salvage and reprocessing**
- 695. Provisions not applicable**

**12 AAC 52.610. WHOLESALE DRUG DISTRIBUTOR LICENSE.** (a) An applicant for a wholesale drug distributor license shall

- (1) apply on the form provided by the department;
- (2) pay the fees required in 12 AAC 02.310;
- (3) provide a list of the names and résumés of officers, directors, or primary stockholders responsible for the wholesale drug facility;

(4) provide the name and the résumé of the person who will manage the wholesale distribution of drugs and the wholesale drug facility;

(5) submit a completed self-inspection of the premises questionnaire on a form provided by the department; and

(6) submit completed fingerprint cards of the facility manager for evaluation and investigation by the Department of Public Safety.

(b) An applicant for a wholesale drug distributor license that will be distributing controlled substances shall

(1) meet the requirements of (a) of this section; and

(2) be registered with the DEA.

(c) Within 30 days of a change in facility manager, the new facility manager must meet the requirements of (a)(4) and (6) of this section.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030

**12 AAC 52.620. WHOLESALE DRUG FACILITIES.** (a) A wholesale drug facility in which drugs are stored, repacked, or sold to persons, businesses, or government agencies that may legally purchase drugs must

(1) have storage areas that ensure proper lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;

(2) be of suitable size, construction, and location to facilitate cleaning, maintenance, and proper operations;

(3) be equipped with an alarm system to detect entry into the wholesale drug facility after business hours;

(4) meet all applicable federal, state, and local building standards;

(5) be secure from unauthorized entry from outside the facility, including having exterior lighting along the outside perimeter of the facility;

(6) restrict entry into areas inside the facility where drugs are stored; entry must be open to authorized personnel only;

(7) have a quarantine area for storage of drugs that are outdated, damaged, deteriorated, misbranded, or adulterated, or that are in a secondary container that has been opened or the seal of which has been broken;

(8) be maintained in a clean and orderly condition; and

(9) be free from infestation by insects, rodents, birds, or vermin of any kind.

(b) A wholesale drug facility must develop internal security policies, including protection of computer records, to provide reasonable protection against theft or diversion of drugs by personnel.

(c) A wholesale drug facility may not be located in a residence.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030

**12 AAC 52.625. PERSONNEL REQUIREMENTS; GROUNDS FOR DENIAL OR OTHER DISCIPLINARY ACTION.** (a) A wholesale drug distributor shall maintain a roster of all officers, directors, and managers responsible for wholesale drug distribution, storage, and handling. The roster shall include a description of each person's duties and a summary of the person's experience.

(b) The board will not approve an application for a wholesale drug distributor license unless the designated manager in charge of the drug facility documents having a basic knowledge of federal and state laws related to the wholesale distribution of drugs.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030 AS 08.80.261

**12 AAC 52.630. DRUG STORAGE.** (a) A wholesale drug distributor shall ensure that all drugs are stored at appropriate temperatures in accordance with label requirements or official United States Pharmacopoeia (USP), 1995 revision, compendium requirements, to help ensure that the identity, strength, quality, and purity of the products are not affected. If a temperature requirement is not listed for a drug, the drug may be stored at controlled room temperature as defined in the USP.

(b) A wholesale drug distributor shall ensure that a separate quarantine storage area is provided for drugs that are deteriorated, outdated, damaged, misbranded, adulterated, or are in a secondary container that has been opened or the seal of which has been broken.

(c) A wholesale drug distributor shall ensure that appropriate manual, electromechanical, or electronic temperature and humidity recording equipment or handwritten logs are used to document how drugs have been stored.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030

*Editor's notes:* A copy of the United States Pharmacopoeia may be obtained from the United States Pharmacopoeial Convention, Inc., P.O. Box 560, Williston, VT 05495.

**12 AAC 52.640. WRITTEN POLICIES AND PROCEDURES.** A wholesale drug distributor shall prepare and follow a written procedure to

- (1) handle crisis situations that affect the security or operation of the wholesale drugs facility, including fire, flood, earthquake or other natural disasters, and situations of local, state, or national emergency;
- (2) identify, record, report to the board, and correct any error found in an inventory;
- (3) ensure that any outdated drug or any drug with an expiration date that, in the wholesale drug distributor's view, does not allow sufficient time for repacking or resale, is segregated from other stock, is documented as a drug that has a characteristic described in this paragraph and is prepared for timely return to the manufacturer or is destroyed;
- (4) ensure that the wholesale drug distributor exercises control over the shipping and receiving of all drugs within the wholesale drug distribution operation;
- (5) ensure the proper handling and disposal of returned drugs;
- (6) ensure that the oldest approved stock of a drug is distributed first and that any deviation from this requirement is only temporary;
- (7) ensure the proper handling of a drug recall and a replacement of a drug in accordance with 12 AAC 52.670.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030

**12 AAC 52.645. EXAMINATION OF DRUG SHIPMENTS.** (a) A wholesale drug distributor shall ensure that upon receipt of a drug shipment, each outside shipping container is visually examined for identity and damage in order to reduce the acceptance of drugs that are contaminated or unfit for distribution.

(b) A wholesale drug distributor shall ensure that each outgoing shipment of drugs is inspected for identity of the contents and the integrity of the shipping container in order to ensure that the drugs to be shipped were not damaged in storage, held under improper conditions, or likely to receive damage in shipment.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030

**12 AAC 52.650. RECORDS AND INVENTORIES.** (a) A wholesale drug distributor shall establish and maintain records and inventories of all transactions regarding the receipt, distribution, or disposition of a drug. The records must include the following information:

- (1) the source of the drug, including the name and principal address of the seller or transferor and the address of the location from which the drug was shipped;
- (2) the identity and quantity of the drug received, distributed, or disposed of; and
- (3) the date of receipt and of distribution or other disposition.

(b) The records and inventories required by this section must be made available at a central location for inspection within two working days after a request by an authorized inspector. The records and inventories required by this section must be kept for a period of two years after disposition of the drug.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030

**12 AAC 52.660. RETURNED, DAMAGED, AND OUTDATED DRUGS.** (a) A wholesale drug distributor shall ensure that a drug that is outdated, damaged, deteriorated, misbranded, or adulterated is quarantined and physically separated from other drugs until it is either destroyed or returned to the supplier.

(b) A wholesale drug distributor shall ensure that a drug that has a secondary container that has been opened or used is identified as such, and is quarantined and physically separated from other drugs until the drug is either destroyed or returned to the supplier.

(c) A wholesale drug distributor shall ensure that if the conditions under which a drug has been returned, shipped, or stored cast doubt on the drug's safety, identity, strength, quality, or purity, the drug is destroyed or returned to the supplier, unless examination, testing, or other investigation proves that the drug meets appropriate standards of safety, identity, strength, quality, and purity.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030

**12 AAC 52.670. DRUG RECALLS.** A wholesale drug distributor shall prepare and follow a written policy for handling the recall of a drug due to

- (1) a voluntary action on the part of the manufacturer;
  - (2) an order of the Food and Drug Administration, or of any other federal, state, or local government agency;
- or
- (3) the replacement of an existing drug with an improved drug or new package design.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030

**12 AAC 52.680. INSPECTIONS.** A wholesale drug distributor shall permit an authorized inspector or law enforcement official, who shows proper identification, to enter and inspect that distributor's facilities and delivery vehicles at reasonable times and in a reasonable manner, and to inspect that distributor's records and written operating procedures.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030

**12 AAC 52.685. PROHIBITIONS AGAINST DIRECT DISTRIBUTION.** A wholesale drug distributor may not distribute a drug or preparation directly to a consumer or patient.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.261  
AS 08.80.030

**12 AAC 52.690. SALVAGE AND REPROCESSING.** A wholesale drug distributor is subject to the provisions of all applicable federal and state statutes and regulations and local ordinances that relate to drug salvaging or reprocessing, including 21 C.F.R. Parts 207, 210, and 211, as amended as of February 6, 1997.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030

**12 AAC 52.695. PROVISIONS NOT APPLICATIONS.** The following activities do not constitute wholesale distribution of prescription drugs for which a wholesale drug distributor license is required by 12 AAC 52.610 – 12 AAC 52.690:

(1) intracompany sales, defined as any transaction or transfer between any division, subsidiary, parent, and an affiliated or related company under the common ownership and control of a corporate entity;

(2) the purchase or acquisition, by a hospital or other health care entity that is a member of a group purchasing organization, of a drug, for its own use, from the group purchasing organization or from another hospital or health care entity that is a member of the group purchasing organization;

(3) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in 26 U.S.C. 501(c)(3) (Internal Revenue Code of 1954), as amended as of February 6, 1997, to a nonprofit affiliate of the organization to the extent otherwise permitted by the law;

(4) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control; for purposes of this paragraph, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, by voting rights, by contract, or otherwise;

(5) any of the following transfers of a drug, if the gross dollar value of the transfer does not exceed five percent of the total prescription drug sales revenue of either the transferor or transferee during any 12-consecutive-month period:

(A) the sale of a drug by a retail pharmacy to another retail pharmacy or to a practitioner, or the offer by a retail pharmacy to sell a drug to another retail pharmacy or to a practitioner;

(B) the purchase of a drug by a retail pharmacy or by a practitioner from another retail pharmacy, or the offer by a retail pharmacy or by a practitioner to purchase a drug from another retail pharmacy;

(C) the trade of a drug by a retail pharmacy with another retail pharmacy, or the offer by a retail pharmacy to trade a drug with another retail pharmacy;

(6) the sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug, under a prescription;

(7) the distribution of drug samples by manufacturers' representatives or distributors' representatives; or

(8) the sale, purchase, or trade of blood and blood components intended for transfusion.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.157

## ARTICLE 7. INSTITUTIONAL PHARMACIES.

### Section

**700. (Repealed)**

**710. Absence of a pharmacist from an institutional pharmacy**

**720. Emergency room outpatient medications**

**730. Drug distribution and control**

**12 AAC 52.700. INSTITUTIONAL PHARMACIES.** *Repealed 2/26/2000.*

**12 AAC 52.710. ABSENCE OF A PHARMACIST FROM AN INSTITUTIONAL PHARMACY.** (a) When an institutional pharmacy will be unattended by a pharmacist, the pharmacist-in-charge shall arrange in advance for providing drugs for use within the institutional facility.

(b) When an institutional pharmacy is closed and a drug is required to treat a patient's immediate need and is not available from the drug stock outside of the pharmacy, a person designated by the pharmacist-in-charge and licensed to handle drugs may obtain the drug from the institutional pharmacy. The pharmacist-in-charge is responsible

(1) to record on a suitable form the removal of any drug from the institutional pharmacy by the person designated; the record must show the

- (A) patient's name and room number;
- (B) name, strength, and amount of the drug;
- (C) date and time of removal; and
- (D) initials or signature of the person designated who removed the drug from the pharmacy;

(2) when the pharmacy reopens or as soon as is practical to check the stock container or similar unit dose package of the drug removed ; and

(3) to ensure that the quantity of drugs that were removed is only the quantity necessary to sustain the patient until the pharmacy reopens.

(c) If an institutional pharmacy is open and the pharmacist is absent from the pharmacy, but present in the institutional facility, a pharmacy technician may continue to prepare and process drug prescriptions. However, drugs may not be dispensed until the pharmacist has verified the finished prescription product.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.390  
AS 08.80.030

**12 AAC 52.720. EMERGENCY ROOM OUTPATIENT MEDICATIONS.** (a) The pharmacist-in-charge of an institutional pharmacy, in cooperation with the appropriate committee of the institutional facility's medical staff, shall prepare a list of prescription drugs that may be delivered to outpatients receiving emergency treatment and shall determine appropriate quantities for unit-of-use packaging and prepackaging of the prescription drug.

(b) A licensed health care provider on emergency room staff may deliver the medications identified on the list of prescription drugs prepared under (a) of this section to a patient receiving emergency outpatient treatment if

(1) the drug is ordered by an authorized prescribing practitioner either in writing or verbally; a verbal order must be transcribed into writing on the patient's record;

(2) the medication is prepackaged in a child-resistant container under the direct supervision of a pharmacist;

(3) the medication bears a label that contains the

- (A) name, address, and telephone number of the institutional facility;
- (B) name, strength, and quantity of the drug;
- (C) cautionary information required for patient safety and information;
- (D) lot number and expiration date if not already contained on the unit-of-use packaging or prepackaging;

and

(E) initials of the pharmacist;

(4) no more than one prepackaged container of a drug is delivered to a patient unless more than one package is required to sustain the patient until a retail pharmacist is on duty in the community; however, the amount of the controlled substance delivered may not exceed a 72 hour supply; and

(5) labeling of the container is completed by the licensed health care provider before the container is presented to the patient; the container label must include the

- (A) name of the patient;
- (B) directions for use by the patient;
- (C) date of delivery;
- (D) identifying number unique to the patient;
- (E) name of the prescribing practitioner; and
- (F) initials of the licensed health care provider delivering the prepackaged medication.

(c) Prepackaged medications shall be kept in a secure place within the emergency room.

(d) Following delivery of the prepackaged medication to the patient, the licensed health care provider shall document the quantity issued and initial the patient record containing the prescribing practitioner's order.

(e) This section does not apply to the administration of a single dose to a patient.

(f) In this section, "licensed health care provider" means a physician, physician assistant, or mobile intensive care paramedic licensed under AS 08.64; a dentist licensed under AS 08.36; or a nurse licensed under AS 08.68.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.390  
AS 08.80.030

**12 AAC 52.730. DRUG DISTRIBUTION AND CONTROL.** (a) The pharmacist-in-charge of an institutional pharmacy is responsible for the storage, preparation, distribution, and control of the institutional facility's drug

supply and for ensuring that these activities are carried out in conformance with established policies, procedures, and accepted standards.

(b) The pharmacist-in-charge of an institutional pharmacy shall establish written procedures for the distribution and control of drugs and for the provision of pharmacy service. The procedures must be consistent with 12 AAC 52.710 and 12 AAC 52.720. The pharmacist-in-charge shall make an annual updated copy of the policies and procedures available for inspection by the board.

(c) Persons employed at an institutional pharmacy who are licensed under AS 08.80 and this chapter shall provide drug information to the staff and practitioners of the institutional facility.

(d) Persons employed at an institutional pharmacy who are licensed under AS 08.80 and this chapter may assist in the planning of and participate in the institutional facility's education and staff development programs relating to drugs.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.390  
AS 08.80.030

## ARTICLE 8. DRUG ROOMS AND FACILITIES WITHOUT A PHARMACY.

### Section

- 800. Drug room license**
- 810. Pharmacist required**
- 820. Responsibilities of the consultant pharmacist**
- 830. Emergency drug kits**
- 840. First dose kits**
- 850. Emergency distribution**

**12 AAC 52.800. DRUG ROOM LICENSE.** (a) An institutional facility that does not maintain a pharmacy but prepares and administers prescription drugs from bulk supplies for patients receiving treatment within the facility must be licensed by the board as a drug room under 12 AAC 52.010 and 12 AAC 52.020.

(b) An institutional facility that does not maintain a pharmacy but stores and administers prescription drugs that are labeled and dispensed for specific patients by a pharmacy does not require a drug room or pharmacy license.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030 AS 08.80.390

**12 AAC 52.810. PHARMACIST REQUIRED.** An institutional facility described in 12 AAC 52.800(a) must continuously employ a pharmacist or have a written agreement with a pharmacy or pharmacist to provide consultant pharmacist services.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.390  
AS 08.80.030

**12 AAC 52.820. RESPONSIBILITIES OF THE CONSULTANT PHARMACIST.** A pharmacist who, under 12 AAC 52.810, provides consultant pharmacy services shall

- (1) provide evaluations and recommendations concerning drug distribution, control, and use;
- (2) complete on-site reviews to ensure that drug handling and use procedures conform to AS 08.80, this chapter, and recognized standards of practice;
- (3) provide drug information to facility staff and physicians;
- (4) plan and participate in the facility's staff development program relating to drug distribution, control, and use;
- (5) assist in establishing policies and procedures to control the distribution and administration of drugs; and
- (6) document pharmacy services that are provided and maintain the documentation for a period of at least two years.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030 AS 08.80.390

**12 AAC 52.830. EMERGENCY DRUG KITS.** (a) An institutional facility described in 12 AAC 52.800(b) may have a limited supply of drugs provided by a pharmacist licensed under this chapter and AS 08.80 in emergency drug kits on-site. An emergency drug kit is for use by personnel authorized to administer the drugs to patients receiving treatment within the institutional facility.

(b) The pharmacist who provides or supplies drugs in emergency drug kits shall cooperate with the prescribing practitioners on staff at the institutional facility to determine the identity and quantity of the drugs to be included in the emergency drug kits.

(c) An emergency drug kit must

- (1) only contain drugs that are not available from any other source in sufficient time to prevent risk of harm to patients;
  - (2) only contain drugs that are provided and sealed by a pharmacist;
  - (3) be stored in a secured area to prevent unauthorized access;
  - (4) be labeled on the exterior to indicate it is for use only in emergencies as described in this section; and
  - (5) have a list of the kit's contents posted on or near the kit.
- (d) Drugs may be removed from an emergency drug kit only under a valid order from a prescribing practitioner.
- (e) When the supplying pharmacist is notified that an emergency drug kit has been opened, the supplying pharmacist shall restock the kit within a reasonable time, not to exceed seven days.
- (f) The supplying pharmacist shall label the exterior of an emergency drug kit to indicate the expiration date of the kit's contents. The expiration date of an emergency drug kit is the earliest expiration date of any drug supplied in the kit. When an emergency drug kit expires, the supplying pharmacist shall replace any expired drugs in the kit.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030 AS 08.80.390

**12 AAC 52.840. FIRST DOSE KITS.** (a) In addition to the emergency drug kit described in 12 AAC 52.830, an institutional facility described in 12 AAC 52.800 may maintain a first dose kit for the initiation of nonemergency drug therapy to a patient receiving treatment within the institutional facility if the necessary drug is not available from a pharmacy in time to prevent risk of harm to a patient.

(b) The dispensing or consultant pharmacy for the institutional facility and the medical staff of the institutional facility are responsible for the proper storage, security, and accountability of the first dose kit.

(c) The staff of the dispensing or consultant pharmacy for the institutional facility shall determine jointly with the medical staff of the institutional facility the content and quantity of drugs to be included in the first dose kit.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.390  
AS 08.80.030

**12 AAC 52.850. EMERGENCY DISTRIBUTION.** In an emergency, if a drug is not otherwise available, a drug room may distribute the drug from bulk supplies to a practitioner or a pharmacist for use by a patient outside the facility, under a prescription, until the drug can be otherwise obtained.

**Authority:** AS 08.80.005 AS 08.80.157 AS 08.80.480  
AS 08.80.030 AS 08.80.390

## ARTICLE 9. CONTROLLED SUBSTANCE PRESCRIPTION DATABASE.

### Section

- 855. Registration by dispensers and access requirements for controlled substance prescription database**
- 860. Conditions for access to and use of database**
- 865. Requirement for dispensers**
- 870. Waiver of electronic submission requirement by dispenser**
- 875. Solicited requests for information from non-registered persons**
- 880. Reports**
- 890. Termination of access; grounds for discipline**

**12 AAC 52.855. REGISTRATION BY DISPENSERS AND ACCESS REQUIREMENTS FOR CONTROLLED SUBSTANCE PRESCRIPTION DATABASE.** (a) To receive information from the controlled substance prescription database, a dispenser must register with the board by submitting a completed application on a form prescribed by the board, and must agree in writing to comply with the conditions set out in 12 AAC 52.860. The department shall issue a dispenser registered under this section a user account, login name, and password.

(b) A pharmacist or practitioner not registered under this section may request a patient profile from the board if the pharmacist or practitioner

- (1) has a valid license to practice in this state or in another jurisdiction with licensure standards that are substantially similar to the licensure standards in this state;
- (2) submits the request on a form prescribed by the board and
  - (A) mails it to the board; or
  - (B) sends it to the board by facsimile transmission;
- (3) signs the request and includes the business name and address of the pharmacist or practitioner;
- (4) includes in the request the patient's name and date of birth, the purpose of the request, and the date range for the patient profile; and
- (5) includes evidence establishing that the requester has, with the subject of the requested information,

(A) a pharmacist-patient relationship as required under AS 17.30.200(d)(4); for purposes of this subparagraph, a pharmacist-patient relationship exists if the subject of the requested information is a current patient to whom the pharmacist is dispensing or considering dispensing a controlled substance; or

(B) a practitioner-patient relationship as required under AS 17.30.200(d)(3).

(c) A patient profile generated by the board under (b) of this section shall be

(1) sent by facsimile transmission or mailed certified mail, return receipt requested, to the pharmacist or practitioner at that person's business address; and

(2) marked "confidential, to be opened by addressee only."

(d) Nothing in this section requires a pharmacist or practitioner to receive information from the controlled substance prescription database or to request a patient profile from the board.

**Authority:** AS 08.80.005 AS 08.80.030 AS 17.30.200

**12 AAC 52.860. CONDITIONS FOR ACCESS TO AND USE OF DATABASE.** (a) A dispenser registered under 12 AAC 52.855(a) to receive information from the controlled substance prescription database may not

(1) share user account information, login names, or passwords with any person, regardless of whether that person is also an authorized user of the controlled substance prescription database;

(2) permit any authorized person to use the practitioner's or pharmacist's user account, account name, or password in order to access the controlled substance prescription database regarding any person or for any purpose.

(b) Information obtained from the controlled substance prescription database shall be kept confidential in accordance with the confidentiality requirements of P.L. 104-191 (Health Insurance Portability and Accountability Act of 1996 (HIPAA)), 42 C.F.R. Part 2, and 45 C.F.R. Parts 160, 162, and 164.

**Authority:** AS 08.80.005 AS 08.80.030 AS 17.30.200

**12 AAC 52.865. REQUIREMENT FOR DISPENSERS.** (a) A dispenser must acquire and maintain a National Provider Identifier (NPI) number under 45 C.F.R. 162.404 - 162.414 issued to the dispensing pharmacy.

(b) Except as provided under 12 AAC 52.870, a dispenser shall submit information required under AS 17.30.200(b) through the use of

(1) the American Society for Automation in Pharmacy's *Standard for Prescription-Monitoring Programs*, 2009, Version 4.1; or

(2) the website provided for that purpose by the board.

(c) No later than the fifth day of each month, a dispenser shall report to the board the controlled substance dispensing information required under AS 17.30.200(b) concerning controlled substances dispensed during the previous month. The requirement in 12 AAC 02.920(b) for time computation applies to a report made under this section.

(d) If notified by the board or the department of an error in transmitting the information required under AS 17.30.200(b), the dispenser shall correct the error no later than 14 days after the date of the notification.

(e) A pharmacist that is not required to report under AS 17.30.200 shall submit a sworn statement at the end of each calendar year certifying that the pharmacist has not dispensed any controlled substances listed in that section during the previous 12 months and does not intend to dispense the controlled substances listed in that section.

**Authority:** AS 08.80.005 AS 08.80.030 AS 17.30.200

**12 AAC 52.870. WAIVER OF ELECTRONIC SUBMISSION REQUIREMENT BY DISPENSER.** (a) The department shall waive the electronic submission requirements of 12 AAC 52.865(b) for good cause. The dispenser requesting the waiver is responsible for establishing the basis for the requested waiver under this section.

(b) To establish good cause for purposes of this section, a dispenser must submit an application and sworn statement showing that

(1) a natural disaster or other emergency beyond the control of the dispenser prevents the dispenser from complying with 12 AAC 52.865(b);

(2) the dispenser will only dispense controlled substances as part of a controlled research project approved by an accredited institution of higher education or under the supervision of a government agency;

(3) the dispenser will dispense nine or fewer prescriptions of controlled substances a month;

(4) the dispenser's business is located in an area that lacks access to the telecommunication services needed to comply with 12 AAC 52.865(b); or

(5) the dispenser will suffer financial hardship if required to acquire the technology necessary to comply with 12 AAC 52.865(b).

(c) The department may not grant a waiver under this section unless the dispenser first agrees in writing that, if the waiver is granted, the dispenser will satisfy the reporting requirements of AS 17.30.200(b) by submitting the required information by United States mail to the board using

(1) the pharmacy universal claims form of the National Council for Prescription Drug Programs; or

(2) an alternative form approved by the board as providing substantially the same information as the form described in (1) of this subsection.

(d) A request for a waiver under this section must be in writing using an application form prescribed by the board and sent to the board.

(e) The department's grant or denial of a waiver request constitutes a final agency action unless, no later than 30 days after the department issues notice of the grant or denial, the dispenser files a written notice of appeal with the board.

(f) A waiver granted under this section expires at the end of the year in which it is granted.

(g) A dispenser shall inform the board within 30 days if the basis for the waiver of electronic reporting no longer exists.

**Authority:** AS 08.80.005 AS 08.80.030 AS 17.30.200

**12 AAC 52.875. SOLICITED REQUESTS FOR INFORMATION FROM NON-REGISTERED PERSONS.** (a) A patient authorized under AS 17.30.200(d)(6) to receive information from the controlled substance prescription database, the patient's authorized agent, or in the case of a unemancipated minor unable to give consent for medical services under AS 25.20.025(a), the minor's parent or legal guardian, may request profile information from the controlled substance prescription database concerning the patient if the person requesting the information

(1) submits the request on a form provided by the board;

(2) pays a \$10 fee; and

(3) does one of the following:

(A) if a patient, presents to the department, in person, government-issued photographic identification confirming the patient's identity as the same person on whom profile information is sought;

(B) if a patient, submits a signed and notarized request

(i) verifying that the patient is the same person on whom profile information is sought; and

(ii) providing the patient's full name, address, and date of birth;

(C) presents a valid power of attorney concerning the patient, or presents

(i) verification that the person requesting the information is the parent, legal guardian, or legal administrator of a minor, incapacitated person, or deceased person on whom profile information is sought; and

(ii) if the person is a parent or legal guardian of a patient who is a minor, verification that the patient is not an emancipated minor legally able to consent to medical treatment under AS 25.20.025.

(b) Profile information may be

(1) disseminated in person; or

(2) mailed certified mail, return receipt requested, no later than five days after the date that the department receives a request that meets the requirements of this section.

**Authority:** AS 08.80.005 AS 08.80.030 AS 17.30.200

**12 AAC 52.880. REPORTS.** (a) The board will maintain a register for patient profile requests solicited under 12 AAC 52.855(b) or 12 AAC 52.875. The register includes the following information:

(1) the date on which the request was received;

(2) the name of the patient and the patient's date of birth;

(3) the name, title, business, and address of the individual requesting the profile and, if the individual is a practitioner, the practitioner's current federal Drug Enforcement Administration registration number;

(4) the date on which the information was disseminated, mailed, or sent by facsimile transmission.

(b) The register and the information in it are confidential and may only be accessed subject to the restrictions set out in AS 17.30.200(d) and 12 AAC 52.855 - 12 AAC 52.890.

**Authority:** AS 08.80.005 AS 08.80.030 AS 17.30.200

**12 AAC 52.890. TERMINATION OF ACCESS; GROUNDS FOR DISCIPLINE.** A violation of 12 AAC 52.855 - 12 AAC 52.890 may be grounds for suspension, revocation, or restriction of the practitioner's or pharmacist's authorization to access the controlled substance prescription database and for discipline of the practitioner or pharmacist and the imposition of penalties under AS 08.80 and AS 17.30.200.

**Authority:** AS 08.80.005 AS 08.80.030 AS 17.30.200

## ARTICLE 10. DISCIPLINARY GUIDELINES.

### Section

**895. Correcting information in database**

**900. Purpose of disciplinary guidelines**

**910. Violations**

**920. Disciplinary guidelines**

- 930. Terms of probation
- 940. Use of alcohol or controlled substances
- 950. Probation terms for professional incompetence
- 960. Mental or physical disabilities
- 970. Reinstatement of a suspended license
- 980. Reinstatement of a revoked license

**12 AAC 52.895. CORRECTING INFORMATION IN DATABASE.** (a) To request a correction under AS 17.30.200(k)(2) to information in the controlled substance prescription database concerning a person, that person must submit to the board

- (1) on a form or in a format prescribed by the board,
  - (A) a description of the information asserted to be incorrect, and the correction requested;
  - (B) the mailing and physical address and telephone number of the requester; and
  - (C) a signed, sworn statement attesting to the truth of the corrected information;
- (2) documentation to support the correction requested; and
- (3) proof of the requester's identity.
- (b) If the board determines that it
  - (1) has sufficient information to make a determination, the board will
    - (A) notify the requester that the request is granted; or
    - (B) issue a written denial of the request, if the board determines that the information for which a correction was requested is accurate and complete; in the denial, the board will notify the requester that the requester may request, in accordance with (c) of this section, an administrative hearing to contest the denial;
  - (2) lacks sufficient information to grant or deny the request, the board
    - (A) will request additional information from the requester; and
    - (B) will not act on the request until after the additional information is received.
- (c) If the board receives, no later than 30 days after it issues a denial under (b)(1)(B) of this section, a written request for an administrative hearing, the board will conduct an administrative hearing of the denial through the Office of Administrative Hearings in accordance with AS 44.62 (Administrative Procedure Act) and AS 44.64. If the board does not receive a request, the denial is a final administrative decision for purposes of judicial review.

**Authority:** AS 08.80.005 AS 08.80.050 AS 17.30.020  
AS 08.80.030

**12 AAC 52.900. PURPOSE OF DISCIPLINARY GUIDELINES.** The disciplinary guidelines in 12 AAC 52.900 - 12 AAC 52.980 are established to ensure the board's disciplinary policies are known and are administered consistently and fairly.

**Authority:** AS 08.80.005 AS 08.80.261 AS 08.80.450  
AS 08.80.030

**12 AAC 52.910. VIOLATIONS.** (a) A person who is licensed under AS 08.80 and this chapter who, after a hearing under AS 44.62 (Administrative Procedure Act), is found to have violated a provision of AS 08.80 or this chapter is subject to the disciplinary penalties listed in AS 08.01.075, including public notice of the violation and penalty in appropriate publications.

(b) Nothing in the guidelines set out in 12 AAC 52.920 prohibits the board from imposing greater or lesser penalties than those described in 12 AAC 52.920 or restricting the practice of a licensee depending upon the circumstances of a particular case.

**Authority:** AS 08.80.005 AS 08.80.261 AS 08.80.450  
AS 08.80.030

**12 AAC 52.920. DISCIPLINARY GUIDELINES.** (a) In addition to acts specified in AS 08.80 or elsewhere in this chapter, each of the following constitutes engaging in unprofessional conduct and is a basis for the imposition of disciplinary sanctions under AS 08.01.075:

- (1) knowingly dispensing a drug under a forged, altered, or fraudulent prescription drug order;
- (2) dispensing drugs to an individual or individuals in quantities, dosages, or for periods of time that grossly exceed standards of practice, approved labeling of the federal Food and Drug Administration, or the guidelines published in professional literature; this paragraph does not apply to prescriptions dispensed to persons with intractable pain or to a narcotic drug dependent person in accordance with the requirements of 21 C.F.R. 1306.07, as amended as of February 6, 1997;
- (3) delivering or offering to deliver a prescription drug in violation of AS 08.80 or this chapter;
- (4) acquiring, possessing, or attempting to possess prescription drugs in violation of AS 08.80, AS 11.71, or this chapter;
- (5) distributing prescription drugs to a practitioner or a pharmacy not in the course of professional practice or in violation of AS 08.80 or this chapter;

- (6) refusing or failing to keep, maintain, or furnish any record, notification, or information required in AS 08.80 or this chapter;
- (7) refusing entry into a pharmacy for an inspection authorized by AS 08.80 or this chapter;
- (8) making a false or fraudulent claim to a third party for reimbursement for pharmacy services;
- (9) operating a pharmacy in an unsanitary manner;
- (10) making a false or fraudulent claim concerning a drug;
- (11) refilling a prescription drug order for a period of time in excess of one year from the date of issue of that prescription drug order;
- (12) violating the provisions of a board order or memorandum of agreement;
- (13) failing to provide information or providing false or fraudulent information on an application, notification, or other document required in AS 08.80 or this chapter;
- (14) for the following licensees, failing to establish or maintain effective controls against the diversion or loss of prescription drugs or prescription drug records, or failing to ensure that prescription drugs are dispensed in compliance with state and federal laws and regulations:
- (A) a pharmacist-in-charge of a pharmacy;
- (B) a sole proprietor or individual owner of a pharmacy;
- (C) a partner in the ownership of a pharmacy; or
- (D) a managing officer of a corporation, association, or joint-stock company owning a pharmacy;
- (15) failing to use reasonable knowledge, skills, or judgment in the practice of pharmacy;
- (16) knowingly delegating a function, task, or responsibility that is part of the practice of pharmacy to a person who is not licensed to perform that function, task, or responsibility when the delegation is contrary to AS 08.80 or this chapter or the delegation involves a substantial harm or risk to a patient;
- (17) failing to exercise adequate supervision over a person who is authorized to practice only under the supervision of a pharmacist;
- (18) violating AS 08.80.315 dealing with the confidentiality of records;
- (19) discriminating on the basis of race, religious creed, color, national origin, ancestry, or sex in the provision of a service that is part of the practice of pharmacy;
- (20) offering, giving, soliciting, or receiving compensation for referral of a patient; or
- (21) violating AS 08.80.261(a)(3).
- (b) The board will, in its discretion, revoke a license if the licensee
- (1) commits a violation that is a second offense;
- (2) violates the terms of probation from a previous offense;
- (3) violates AS 08.80.261(a)(1) or (4);
- (4) intentionally or negligently engages in conduct that results in a significant risk to the health or safety of a patient or injury to a patient;
- (5) is professionally incompetent if the incompetence results in risk of injury to a patient.
- (c) The board will, in its discretion, suspend a license for up to two years followed by probation of not less than two years if the licensee
- (1) wilfully or repeatedly violates AS 08.80 or this chapter; or
- (2) is professionally incompetent if the incompetence results in the public health, safety, or welfare being placed at risk.
- (d) The board will review, on an individual basis, the need for revocation or limitation of a license of a licensee who practices or attempts to practice while afflicted with a physical or mental illness, deterioration, or disability that interferes with the individual's practice of pharmacy.

**Authority:** AS 08.01.075 AS 08.80.030 AS 08.80.315  
AS 08.80.005 AS 08.80.261 AS 08.80.460

**12 AAC 52.930. TERMS OF PROBATION.** The board will, in its, discretion, subject a licensee who is placed on probation to one or more of the following terms of probation, and to other relevant terms of probation, including those in 12 AAC 52.940 - 12 AAC 52.960:

- (1) obey all laws pertaining to the practice of pharmacy in this state;
- (2) fully comply with the probation program established by the board and cooperate with representatives of the board;
- (3) notify the board in writing of the dates of departure and return if the licensee leaves the state to reside or practice pharmacy outside the state;
- (4) report in person at meetings of the board or to its designated representatives during the period of probation, as directed by the board;
- (5) submit written reports and verification of actions as required by the board during the period of probation;
- (6) if employed in the practice of pharmacy at any time during the period of probation, have the employer submit to the board verification that the employer understands the conditions of probation;
- (7) be employed as a pharmacist only in a setting in which full supervision is provided and not personally act as a supervisor.

**Authority:** AS 08.01.075 AS 08.80.030 AS 08.80.261

AS 08.80.005

**12 AAC 52.940. USE OF ALCOHOL OR CONTROLLED SUBSTANCES.** (a) In addition to one or more of the terms of probation set out in 12 AAC 52.930, a licensee placed on probation for the habitual abuse of alcohol or illegal use of controlled substances may also be subject to one or more of the following:

(1) physical and mental health examinations as determined by the board to evaluate the licensee's ability to perform the professional duties of a pharmacist;

(2) as determined by the board, participation until completion in an ongoing program of rehabilitative counseling, Alcoholics Anonymous, Narcotics Anonymous, or an impaired practitioner group that includes progress reports from the care provider when requested by the board;

(3) abstaining from the personal use of alcohol or controlled substances in any form except when lawfully prescribed by a practitioner licensed to practice in Alaska;

(4) submitting to tests and samples required for the detection of alcohol or controlled substances at the request of the board or the board's representative.

(b) Access to a controlled substance in the work setting will, in the board's discretion, be restricted.

**Authority:** AS 08.01.075 AS 08.80.030 AS 08.80.261  
AS 08.80.005

**12 AAC 52.950. PROBATION TERMS FOR PROFESSIONAL INCOMPETENCE.** In addition to one or more of the terms of probation set out in 12 AAC 52.930, a licensee placed on probation after being found professionally incompetent may be subject to one or more of the following terms of probation:

(1) successful completion of an appropriate course or courses in pharmacy, as determined by the board, before the end of the probationary period; or

(2) participation in 15 contact hours of appropriate continuing education in pharmacy.

**Authority:** AS 08.01.075 AS 08.80.030 AS 08.80.261  
AS 08.80.005

**12 AAC 52.960. MENTAL OR PHYSICAL DISABILITIES.** In addition to one or more of the terms of probation set out in 12 AAC 52.930, a licensee placed on probation for practicing or attempting to practice pharmacy while afflicted with a physical or mental illness, deterioration, or disability that interferes with the licensee's performance of pharmacy may be subject to a physical or mental health examination to evaluate the licensee's ability to perform the professional duties of a pharmacist and if medically determined to be necessary may be required to participate in and complete a recommended treatment program that includes written progress reports from the care provider when requested by the board.

**Authority:** AS 08.01.075 AS 08.80.261 AS 08.80.450  
AS 08.80.030

**12 AAC 52.970. REINSTATEMENT OF A SUSPENDED LICENSE.** The board may reinstate a suspended license only if the requirements of the suspension order have been met.

**Authority:** AS 08.01.075 AS 08.80.030 AS 08.80.261  
AS 08.80.005

**12 AAC 52.980. REINSTATEMENT OF A REVOKED LICENSE.** (a) One year after revocation of a license, a licensee may apply to the board in writing for reinstatement of the license.

(b) The applicant for reinstatement shall appear before the board.

(c) The board will, in its discretion, impose restrictions upon the pharmacist or pharmacy when reinstating a license.

**Authority:** AS 08.01.075 AS 08.80.030 AS 08.80.261  
AS 08.80.005

## ARTICLE 11. GENERAL PROVISIONS.

### Section

**990. Display of license certificate**

**991. Disciplinary decision or conviction reporting requirement**

**995. Definitions**

**12 AAC 52.990. DISPLAY OF LICENSE CERTIFICATE.** A licensee shall conspicuously display, in the practice site, the licensee's current license certificate. Pending receipt of the current license certificate from the department, the licensee shall display the department's Internet web site posting confirming licensure. The current license certificate, or web site posting confirming licensure, of a licensee practicing in an institutional facility may be displayed in a central location.

**Authority:** AS 08.80.005 AS 08.80.030

*Editor's note: The current posting confirming licensure can be found at the Internet web site of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing: [www.commerce.state.ak.us/occ/search3.htm](http://www.commerce.state.ak.us/occ/search3.htm).*

**12 AAC 52.991. DISCIPLINARY DECISION OR CONVICTION REPORTING REQUIREMENT.** A licensee shall report in writing to the board any disciplinary decision or conviction, including conviction of a felony or conviction of another crime that affects the applicant's or licensee's ability to practice competently and safely, issued against the licensee not later than 30 days after the date of the disciplinary decision or conviction.

**Authority:** AS 08.01.075 AS 08.80.030 AS 08.80.315  
AS 08.80.005 AS 08.80.261 AS 08.80.460

**12 AAC 52.995. DEFINITIONS.** (a) In this chapter, unless the context requires otherwise,

- (1) "ACPE" means Accreditation Council for Pharmacy Education;
- (2) "approved program" means a continuing education activity that is a live program, home study, or other mediated instruction delivered by an approved or accredited provider;
- (3) "approved provider" means an individual, institution, organization, association, corporation, or agency offering an approved program under 12 AAC 52.340 and is not an accredited provider;
- (4) "authorized inspector" means a member of the board or an investigator with the division assigned occupational licensing functions in the department;
- (5) "blood" means whole blood collected from a single donor and processed either for transfusion or further manufacturing;
- (6) "blood component" means that part of blood separated by physical or mechanical means;
- (7) "board" means the Alaska Board of Pharmacy;
- (8) "care provider" means a person or organization that by the nature of experience and training is qualified, in the opinion of the board, to provide substance abuse counseling, rehabilitation, or related services to the public through established and recognized treatment programs;
- (9) "consultant pharmacist" means a licensed pharmacist retained by written agreement with an institutional facility to consult on a routine basis with an institutional facility about the practice of pharmacy as it relates to that facility;
- (10) "contact hour" means a unit of measure of educational credit that is equivalent to approximately 50 minutes of participation in an organized learning experience; a continuing education unit or "CEU" is equivalent to ten contact hours;
- (11) "DEA" means the United States Drug Enforcement Administration;
- (12) "department" means the Department of Commerce, Community, and Economic Development;
- (13) "direct supervision" means supervision that insures adequate safety controls either by personal supervision or through a telepharmacy system;
- (14) "home study" and "other mediated instruction" mean continuing education activities that are not conducted as live programs, including audio tapes, video tapes, television, computer assisted instruction, journal articles, or monographs;
- (15) "institutional facility" means a
  - (A) hospital;
  - (B) long-term care facility, including a nursing home, convalescent home, or other related facility;
  - (C) mental health facility;
  - (D) rehabilitation center;
  - (E) psychiatric center;
  - (F) developmental disability center;
  - (G) drug abuse treatment center;
  - (H) family planning clinic;
  - (I) penal institution;
  - (J) hospice; or
  - (K) public health facility;
- (16) "institutional pharmacy" means a pharmacy located in an institutional facility;
- (17) "licensee" means a person who is licensed under AS 08.80 and this chapter;
- (18) "live program" means an on-site continuing education activity, including a lecture, symposium, live teleconference, or workshop;
- (19) "sterile pharmaceutical" means a drug dosage form free from living microorganisms (aseptic);

(20) “wholesale distribution” means distribution of prescription drugs to a person other than a consumer or patient, but does not include an activity described in 12 AAC 52.695;

(21) “central pharmacy” means a pharmacy providing remote pharmacy services through a telepharmacy system;

(22) “personal supervision” means supervision that includes visual or physical proximity to ensure adequate safety controls;

(23) “pharmacy” includes a central pharmacy and a remote pharmacy;

(24) “remote pharmacy” means a facility that provides pharmacy services, including the storage and distribution of prescription drugs, drug regimen review, and patient counseling through a telepharmacy system;

(25) “still image capture” means a specific image captured electronically from a video or other image capture device;

(26) “store and forward” means a video or still image record that is saved electronically for future review;

(27) “telepharmacy system” means a system under the direct supervision of a licensed pharmacist that monitors the dispensing and distribution of prescription drugs and provides for related drug use review and patient counseling services through a computer link and a video link with sound;

(28) “accredited provider” means an individual, institution, organization, association, corporation, or agency that is recognized by the ACPE as able to provide quality continuing education programs;

(29) “filling pharmacist” means a pharmacist participating in shared pharmacy services that processes or fills a prescription order for a patient;

(30) “filling pharmacy” means a pharmacy participating in shared pharmacy services that processes or fills a prescription order for a patient;

(31) “requesting pharmacist” means a pharmacist participating in shared pharmacy services that forwards a prescription order to another participating pharmacy or pharmacist to be processed or filled;

(32) “requesting pharmacy” means a pharmacy participating in shared pharmacy services that forwards a prescription order to another participating pharmacy to be processed or filled;

(33) “shared pharmacy services” means a system allowing the processing by a participating pharmacist or a pharmacy of a request from another participating pharmacist or pharmacy to process or fill a prescription drug order, including dispensing, drug utilization review, claims adjudication, refill authorizations, therapeutic interventions, and institutional order review;

(34) “dispenser” means a practitioner who delivers a controlled substance to an ultimate user or research subject under the lawful order of a practitioner; in this paragraph, “delivers” includes the prescribing and administering of a controlled substance and the packaging, labeling, or compounding necessary to prepare the substance for delivery;

(35) “profile” means a compilation of data concerning a patient, a dispenser, a practitioner, or a controlled substance.

(b) In AS 08.80.315(3), “other persons or governmental agencies” include investigators for the department who are assigned to conduct investigations under AS 08.

(c) In AS 08.80.030(b)(7), “monitoring of drug therapy” means a review of the drug therapy regimen of patients by a pharmacist for the purpose of evaluating and rendering advice to the prescribing practitioner regarding adjustment of the regimen. “Monitoring of drug therapy” includes

(1) collecting and reviewing records of patient drug use histories;

(2) measuring and reviewing routine patient vital signs, including pulse, temperature, blood pressure, and respiration; and

(3) ordering and evaluating the results of laboratory tests relating to drug therapy, including blood chemistries and cell counts, drug levels in blood, urine, tissue, or other body fluids, and culture and sensitivity tests that are performed in accordance with a written protocol approved under 12 AAC 52.240.

**Authority:** AS 08.80.005 AS 08.80.030 AS 08.80.157

**CHAPTER 30.  
CONTROLLED SUBSTANCES.**

**Article**

- 1. Regulation of Manufacture, Distribution, Prescription, and Dispensing of Controlled Substances (§§ 17.30.020 – 17.30.090)**
- 2. Enforcement and Forfeiture (§§ 17.30.100 – 17.30.126)**
- 3. Education and Research (§§ 17.30.140)**
- 4. General Provisions (§§ 17.30.150 – 17.30.900)**
- 4A. Controlled Substance Prescription Database (§§ 17.30.200)**

**ARTICLE 1.  
REGULATION OF MANUFACTURE, DISTRIBUTION,  
PRESCRIPTION, AND DISPENSING  
OF CONTROLLED SUBSTANCES.**

**Section**

- 20. Registration requirements; inspections**
- 60. Records of registrants**
- 70. Order forms; prescriptions**
- 80. Unlawful administration, prescriptions, and dispensation of controlled substances**
- 90. Sale or purchase of certain listed chemicals**

**Sec. 17.30.020. Registration requirements; inspections.** (a) A person who manufactures, distributes, dispenses, or conducts research with a controlled substance in the state or who proposes to manufacture, distribute, or dispense a controlled substance in the state, shall comply with the registration requirements of 21 U.S.C. 811–830 (Controlled Substances Act), and the regulations adopted under those sections.

(b) A person registered under federal law to manufacture, distribute, dispense, or conduct research with controlled substances in the state may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by the person's registration and in conformity with the other provisions of this chapter.

(c) *[Repealed, § 22 ch 146 SLA 1986.]*

(d) *[Repealed, § 22 ch 146 SLA 1986.]*

(e) *[Repealed, § 22 ch 146 SLA 1986.]*

(f) A peace officer may enter a registrant's premises at reasonable times and in a reasonable manner to inspect the premises and records required to be maintained under federal law. An inspection may not extend to financial data, pricing data, or sales data, other than shipment data, unless the owner, operator, or agent in charge of the premises consents.

(g) Upon request from a peace officer, a person who manufactures, distributes, dispenses, or conducts research with a controlled substance in the state shall provide evidence of current registration under 21 U.S.C. 811-830 (Controlled Substances Act) and the regulations adopted under those sections.

**Sec. 17.30.060. Records of registrants.** A person registered under federal law to manufacture, distribute, dispense, or conduct research with controlled substances in the state shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of federal law.

**Sec. 17.30.070. Order forms; prescriptions.** (a) A controlled substance may be distributed by one registrant to another registrant only if the distribution is in accordance with federal requirements for order forms.

(b) A controlled substance may not be dispensed by a practitioner other than in accordance with federal requirements regarding prescriptions for controlled substances.

(c) If the classification of a controlled substance in a schedule set out in AS 11.71.140–11.71.190 is different from its corresponding classification under federal law, the requirements of (a) and (b) of this section are determined by the classification of the substance under federal law.

**Sec. 17.30.080. Unlawful administration, prescription, and dispensation of controlled substances.** (a) A controlled substance classified under federal law or in a schedule set out in AS 11.71.140–11.71.190 may not be administered, prescribed, dispensed, or distributed other than for a medical purpose.

(b) A person who violates (a) of this section, or who otherwise manufactures, distributes, dispenses, or conducts research with a controlled substance in the state without fully complying with 21 U.S.C. 811-830 (Controlled Substances Act), and regulations adopted under those sections, is guilty of misconduct involving a controlled substance under AS 11.71.010–11.71.070 in the degree appropriate to the circumstances as described in those sections. Upon filing a complaint, information, presentment, or indictment charging a medical assistance provider with misconduct involving a controlled substance under AS 11.71.140 – 11.71.190, the attorney general shall, in writing, notify the commissioner of health and social services of the filing.

(c) Upon receiving a notice from the attorney general under (b) of this section, the commissioner of health and social services shall immediately undertake a review of all unpaid claims or requests for reimbursements attributable to services claimed to have been provided by the person charged.

(d) In this section,

- (1) "claims" has the meaning given in AS 47.05.290;
- (2) "medical assistance provider" has the meaning given in AS 47.05.290;
- (3) "medical purpose" means a purpose that is solely medical as opposed to any other purpose, that is reasonably necessary for treatment of a person's illness, injury, or physical or mental health, and that is provided by a practitioner while acting within the usual course of professional practice or research and in accordance with a standard of care generally recognized and accepted within the medical profession in the United States;
- (4) "practitioner" has the meaning given in AS 11.71.900.

**Sec. 17.30.090. Sale or purchase of certain listed chemicals.** (a) A seller, retailer, or vendor may not sell for personal use and a person may not purchase for personal use ephedrine base, pseudoephedrine base, or phenylpropanolamine base, as those terms are used in P.L. 109-177, 120 Stat. 192, unless that sale or purchase complies with and meets the requirements of P.L. 109-177, 120 Stat. 192, with regard to amounts, identification required, storage, access and availability, and logbooks. A seller, retailer, or vendor shall maintain the logbook for the period required under P.L. 109-177, 120 Stat. 192, and shall allow law enforcement officers access to the logbook. Each seller, retailer, and vendor shall provide training to the seller's, retailer's, or vendor's employees and agents in the requirements of this section. The Department of Public Safety shall provide assistance and information to sellers, retailers, and vendors to meet the requirements of this section.

(b) A seller, retailer, or vendor may not sell to a person under 16 years of age and a person under 16 years of age may not purchase a product or substance identified in (a) of this section.

(c) Nothing in this section limits the authority of a seller, retailer, or vendor regulated by this section to report to a law enforcement agency or officer suspicious purchases of a chemical, product, or substance. A seller, retailer, or vendor is not liable in a civil action for release of information to a law enforcement agency concerning matters related to this section.

(d) A seller, retailer, or vendor does not violate this section if the seller, retailer, or vendor proves by a preponderance of the evidence that the seller, retailer, or vendor

- (1) exercised the degree of care of a reasonable employer to ensure compliance with (a) - (c) of this section; and
- (2) determined that the employees and agents of the seller, retailer, or vendor had been notified of the requirements of this section by
  - (A) securing each employee's or agent's written acknowledgment of notification of those requirements; or
  - (B) making another appropriate determination.

(e) A person who violates this section shall forfeit and pay to the state a civil penalty of not more than \$10,000 for each violation.

## ARTICLE 2. ENFORCEMENT AND FORFEITURE.

### Section

- 100. Powers of the department of public safety**
- 110. Items subject to forfeiture**
- 112. Proceedings resulting in forfeiture**
- 114. Seizure and custody of property**
- 116. Procedure for forfeiture action**
- 118. Petition for release of seized items**
- 120. Petition for sale of seized item**
- 122. State disposal of forfeited property**
- 124. Remittance of claimant**
- 126. Forfeiture of controlled substances**

**Sec. 17.30.100. Powers of the department of public safety.** (a) The commissioner of public safety shall enforce this chapter and shall cooperate with other state and federal agencies in the discharge of their responsibilities pertaining to illicit traffic in controlled substances and in suppressing the abuse of controlled substances. Under this section, the powers of the commissioner of public safety include but are not limited to the following:

- (1) arranging for the exchange of information among government officials concerning illicit traffic in and abuse of controlled substances;
- (2) coordinating training programs pertaining to controlled substances at both local and state levels;
- (3) cooperating with the Drug Enforcement Administration of the United States Department of Justice by establishing a centralized unit to accept, catalog, file, and collect statistics, including records of persons who have violated the provisions of this chapter or AS 11.71 in the state and making the information available for federal, state, and local law enforcement purposes; and

(4) instituting in the superior court, actions for injunctions against continued manufacture, distribution, dispensation, or research with a controlled substance in the state by a person who violates 21 U.S.C. 811—830 (Controlled Substances Act) or the regulations adopted under those sections.

(b) The commissioner of public safety may not furnish the name or identity of a patient or research subject whose identity could not be obtained under AS 17.30.155.

(c) The Department of Public Safety, in accordance with AS 37.07 (the Executive Budget Act), may apply for and accept money necessary to exchange information concerning narcotics trafficking between the states, or otherwise related to the enforcement of AS 11.71 or AS 11.73.

(d) The Department of Public Safety or a local law enforcement agency may accept from the United States Attorney General property, including money, that is forfeited under 21 U.S.C. 881 (the Controlled Substances Act). The Department of Public Safety and local law enforcement agencies shall, in accordance with 21 U.S.C. 881 (e) and regulations and policies adopted under that section, use property and the proceeds of property obtained under this subsection in the enforcement of this chapter, AS 11.71, and municipal ordinances substantially similar to this chapter and AS 11.71.

**Sec. 17.30.110. Items subject to forfeiture.** The following may be forfeited to the state:

(1) a controlled substance which has been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or AS 11.71;

(2) raw materials, products, and equipment which are used or intended for use in manufacturing, distributing, compounding, processing, delivering, importing, or exporting a controlled substance which is a felony under this chapter or AS 11.71;

(3) property which is used or intended for use as a container for property described in (1) or (2) of this section;

(4) a conveyance, including but not limited to aircraft, vehicles or vessels, which has been used or is intended for use in transporting or in any manner in facilitating the transportation, sale, receipt, possession, or concealment of property described in (1) or (2) of this section in violation of a felony offense under this chapter or AS 11.71; however,

(A) a conveyance may not be forfeited under this paragraph if the owner of the conveyance establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the owner was neither a consenting party nor privy to the violation;

(B) a forfeiture of a conveyance encumbered by a valid security interest at the time of seizure is subject to the interest of the secured party if the secured party establishes, by a preponderance of the evidence, at a hearing before the court as the trier of fact, that use of the conveyance in violation of this chapter or AS 11.71 was committed by another person and that the secured party was neither a consenting party nor privy to the violation;

(5) books, records, and research products and materials, including formulas, microfilm, tapes, and data, which are used in violation of this chapter or AS 11.71;

(6) money, securities, negotiable instruments, or other things of value used in financial transactions derived from activity prohibited by this chapter or AS 11.71; and

(7) a firearm which is visible, carried during, or used in furtherance of a violation of this chapter or AS 11.71.

**Sec. 17.30.112. Proceedings resulting in forfeiture.** (a) Property listing in AS 17.30.110 may be forfeited to the state either upon conviction of the defendant of a violation of this chapter or AS 11.71, or upon judgment of a court in a separate civil proceeding in rem. The court may order a forfeiture in the in rem proceeding if it finds that an item specified in AS 17.30.110 was used during or in aid of a violation of this chapter or AS 11.71.

(b) It is not a defense in an in rem proceeding brought under this section that a criminal proceeding has resulted in a conviction or conviction of a lesser offense for a violation of this chapter or AS 11.71.

(c) When forfeiting property under (a) of this section, a court may award to a municipal law enforcement agency that participated in the arrest or conviction of the defendant, the seizure of property, or the identification of property for seizure, (1) the property if the property is worth \$5,000 or less and is not money or some other thing that is divisible, (2) up to 75 percent of the property or the value of the property if the property is worth more than \$5,000 or is money or some other thing that is divisible. In determining the percentage a municipal law enforcement agency may receive under this subsection, the court shall consider the municipal law enforcement agency's total involvement in the case relative to the involvement of the state.

**Sec. 17.30.114. Seizure and custody of property.** (a) Property listed in AS 17.30.110 may be seized by a peace officer upon an order issued by a court having jurisdiction over the property upon under AS 17.30.110. Seizure without a court order may be made if

(1) the seizure is incident to a valid arrest or a search under a valid search warrant;

(2) the property subject to seizure has been the subject of an earlier judgment in favor of the state in a criminal proceeding or civil proceeding in rem under this chapter or AS 11.71; or

(3) there is probable cause that the property was used, is being used, or is intended for use, in violation of this chapter or AS 11.71 and the property is easily movable; property seized under this paragraph may not be held for more than 48 hours without a court order obtained to continue its detention.

(b) Property taken or detained under (a) of this section shall be held in the custody of either the commissioner of public safety or a municipal law enforcement agency authorized by the commissioner of public safety to retain custody of property listed in AS 17.30.110 subject only to the orders and decrees of the court having jurisdiction over any forfeiture proceedings. If property is seized under this chapter, the commissioner of public safety or an authorized municipal law enforcement agency may

- (1) place the property under seal;
- (2) remove the property to a place designated by the court; or
- (3) take custody of the property and remove it to an appropriate location for disposition in accordance with law; or
- (4) with court approval, transfer the property to another state or federal law enforcement agency for forfeiture proceedings by that agency; the court having jurisdiction shall grant the approval under this paragraph if the property
  - (A) will be retained within the jurisdiction of the court by the agency to which the property is being transferred; or
  - (B) is
    - (i) not needed as evidence; or
    - (ii) needed as evidence, and the property is fungible or the property's evidentiary value can otherwise be preserved without retaining the property within the jurisdiction of the court.

(c) Within 10 days after a seizure under AS 17.30.110-17.30.126, the commissioner of public safety shall make an inventory of any property seized, including controlled substances, and shall appraise the value of any items seized other than controlled substances.

**Sec. 17.30.116. Procedure for forfeiture action.** (a) Within 20 days after a seizure under AS 17.30.110-17.30.126, the commissioner of public safety shall, by certified mail, notify any person known to have an interest in an item with an appraised value of \$500 or more, or who is ascertainable from official registration numbers, licenses, or other state, federal or municipal numbers on the item, of the pending forfeiture action. Additionally, the commissioner of public safety shall publish notice of forfeiture action of an item valued at \$500 or more in a newspaper of general circulation in the judicial district in which the seizure was made, or if no newspaper is published in that judicial district, in a newspaper published in the state and distributed in that judicial district. The notice shall be published once each week during four consecutive calendar weeks. The requirements of this subsection do not apply to the forfeiture of controlled substances which have been manufactured, distributed, dispensed, or possessed in violation of this chapter or AS 11.71, regardless of their value.

(b) Upon service or publication of notice of commencement of a forfeiture action under this section, a person claiming interest in the property shall file within 30 days after the service or publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the state's allegations. If a claim and answer is not filed within the time specified, the property described in the state's allegation must be ordered forfeited to the state without further proceedings or showings.

(c) Questions of fact or law raised by a notice of forfeiture action and answer of a claimant in an action commenced under this section must be determined by the court sitting without jury. This proceeding may be held in abeyance until conclusion of any pending criminal charges against the claimant under this chapter or AS 11.71.

**Sec. 17.30.118. Petition for release of seized items.** (a) A claimant under AS 17.30.116(b) may at any time petition for release of a seized item as follows:

- (1) to a court in which a warrant for seizure has been issued;
- (2) to a court in which a criminal or civil action alleging forfeiture of the item has been filed; or
- (3) before an action is filed, or if no seizure warrant was issued, to a court, in the judicial district in which the violation took place.

(b) An item may not be released by the court under (a) of this section unless the claimant gives adequate assurance that the item will remain subject to the court's jurisdiction and

- (1) the court finds that the release is in the best interests of the state; or
- (2) the claimant provides a bond or other valid and equivalent security equal to twice the assessed value of the item.

**Sec. 17.30.120. Petition for sale of seized item.** A claimant may petition the court for sale of an item before final disposition of court proceedings. The court shall grant a petition for sale upon a finding that the sale is in the best interests of the state and the preservation and maintenance of the item seized. Proceeds from the sale plus interest to the date of final disposition of the court proceedings become the subject of the forfeiture action.

**Sec. 17.30.122. State disposal of forfeited property.** Property forfeited under AS 17.30.110—17.30.126 other than controlled substances and firearms shall be disposed of by the commissioner of administration in accordance with applicable law. Firearms shall be disposed of as provided in AS 18.65.340. As to property other than firearms or controlled substances, the commissioner of administration may

- (1) destroy property harmful to the public;
- (2) sell the property and use the proceeds for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, custody, and court costs;

- (3) take custody of the property and authorize its use in the enforcement of this chapter or AS 11.71, or transfer it to another agency of the state or a political subdivision of the state for a use in furtherance of the administration of justice;
- (4) take custody of the property and remove it for disposition in accordance with law;
- (5) forward it to the Drug Enforcement Administration of the United States Department of Justice for disposition; or
- (6) transfer ownership of an aircraft to the Alaska Wing, Civil Air Patrol.

**Sec. 17.30.124. Remittance to claimant.** (a) Upon a showing that a claimant is entitled to remittance under AS 17.30.110-17.30.126, the court shall order that

- (1) if the claimant is entitled to the item, it shall be delivered to the claimant immediately;
- (2) if the claimant is entitled to remittance of some value less than the total value of the item, the claimant is entitled, at the claimant's choice, to receive either the value of the claimant's interest or, upon receipt of payment of the difference in value by the claimant, the entire item.

(b) An offender who used an item subject to remission in violation of this chapter or AS 11.71 shall be assessed a fine which may not be less than the cost of any lien payment or remittance made by the state plus the reasonable costs of the seizure.

**Sec. 17.30.126. Forfeiture of controlled substances.** (a) A controlled substance manufactured, possessed, transferred, sold, or offered for sale in violation of this chapter or AS 11.71 is contraband and must be seized and summarily forfeited to the state. The commissioner of public safety or the commissioner's designee, including a municipal law enforcement agency authorized under AS 17.30.114(b) of this section to retain custody of controlled substances, is responsible for the disposal of controlled substances which have been forfeited. The controlled substances shall be disposed of in accordance with procedures and requirements prescribed by the commissioner.

(b) Plants from which controlled substances may be derived and which have been planted or cultivated in violation of this chapter or AS 11.71, or which are grown in the wild, may be seized and summarily forfeited to the state.

### ARTICLE 3. EDUCATION AND RESEARCH.

#### Section

#### 140. Education and research

**Sec. 17.30.140. Education and research.** (a) The commissioner of health and social services shall provide for educational programs designed to prevent and deter the abuse of controlled substances. In connection with these programs, the commissioner may

- (1) assist the regulated industry and interested groups and organizations in contributing to the reduction of abuse of controlled substances;
- (2) promote better recognition of the problems surrounding abuse of controlled substances within the regulated industry and among interested groups and organizations;
- (3) consult with interested groups and organizations to aid them in solving administrative and organizational problems;
- (4) evaluate procedures, projects and techniques conducted or proposed as part of educational programs on abuse of controlled substances;
- (5) disseminate the results of research on abuse of controlled substances to promote a better public understanding of the problems which exist and their solutions; and
- (6) with the cooperation of the Department of Law, assist in the education and training of state and local law enforcement officials in their efforts to prevent illicit traffic in and abuse of controlled substances.

(b) The commissioner of health and social services shall encourage research on controlled substances and may

- (1) establish methods to assess the effects of controlled substances and identify and characterize those with potential for abuse;
- (2) make studies and undertake research to
  - (A) develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this chapter;
  - (B) determine patterns of abuse of controlled substances and their social effects; and
  - (C) improve methods for preventing, predicting, and understanding the abuse of controlled substances;
- (3) enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for conducting research, demonstrations, or special projects which bear directly on abuse of controlled substances and for related research and educational activities.

**ARTICLE 4.  
GENERAL PROVISIONS.**

**Section**

- 150. Reliance on Drug Enforcement Administration**  
**155. Confidentiality of certain information**  
**900. Definitions**

**Sec. 17.30.150. Reliance on Drug Enforcement Administration.** Results, information, and evidence received from the Drug Enforcement Administration of the United States Department of Justice relating to the enforcement functions of this chapter, including results of inspections conducted by it, may be relied on and acted on by the Department of Public Safety in the exercise of its enforcement functions under this chapter.

**Sec. 17.30.155. Confidentiality of certain information.** A practitioner engaged in medical practice or research may not disclose the name or identity of a patient or research subject that the practitioner is required to keep confidential unless ordered by a court to disclose it within the context of a criminal investigation or proceeding.

**Sec. 17.30.900. Definitions.** (a) Unless the context clearly requires otherwise the definitions set out in AS 11.71.900 apply to this chapter.

(b) *[Repealed, 22 ch 146 SLA 1986.]*

**ARTICLE 4A.  
CONTROLLED SUBSTANCE PRESCRIPTION DATABASE.**

**Section**

- 200. Controlled substance prescription database**

**Sec. 17.30.200. Controlled substance prescription database.** (a) The controlled substance prescription database is established in the Board of Pharmacy. The purpose of the database is to contain data as described in this section regarding every prescription for a schedule IA, IIA, IIIA, IVA, or VA controlled substance under state law or a schedule I, II, III, IV, or V controlled substance under federal law dispensed in the state to a person other than those administered to a patient at a health care facility. The Department of Commerce, Community, and Economic Development shall assist the board and provide necessary staff and equipment to implement this section.

(b) The pharmacist-in-charge of each licensed or registered pharmacy, regarding each schedule IA, IIA, IIIA, IVA, or VA controlled substance under state law or a schedule I, II, III, IV, or V controlled substance under federal law dispensed by a pharmacist under the supervision of the pharmacist-in-charge, and each practitioner who directly dispenses a schedule IA, IIA, IIIA, IVA, or VA controlled substance under state law or a schedule I, II, III, IV, or V controlled substance under federal law other than those administered to a patient at a health care facility, shall submit to the board, by a procedure and in a format established by the board, the following information for inclusion in the database:

(1) the name of the prescribing practitioner and the practitioner's federal Drug Enforcement Administration registration number or other appropriate identifier;

(2) the date of the prescription;

(3) the date the prescription was filled and the method of payment; this paragraph does not authorize the board to include individual credit card or other account numbers in the database;

(4) the name, address, and date of birth of the person for whom the prescription was written;

(5) the name and national drug code of the controlled substance;

(6) the quantity and strength of the controlled substance dispensed;

(7) the name of the drug outlet dispensing the controlled substance; and

(8) the name of the pharmacist or practitioner dispensing the controlled substance and other appropriate identifying information.

(c) The board shall maintain the database in an electronic file or by other means established by the board to facilitate use of the database for identification of

(1) prescribing practices and patterns of prescribing and dispensing controlled substances;

(2) practitioners who prescribe controlled substances in an unprofessional or unlawful manner;

(3) individuals who receive prescriptions for controlled substances from licensed practitioners and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance; and

(4) individuals who present forged or otherwise false or altered prescriptions for controlled substances to a pharmacy.

(d) The database and the information contained within the database are confidential, are not public records, and are not subject to public disclosure. The board shall undertake to ensure the security and confidentiality of the database and the information contained within the database. The board may allow access to the database only to the following persons, and in accordance with the limitations provided and regulations of the board:

- (1) personnel of the board regarding inquiries concerning licensees or registrants of the board or personnel of another board or agency concerning a practitioner under a search warrant, subpoena, or order issued by an administrative law judge or a court;
  - (2) authorized board personnel or contractors as required for operational and review purposes;
  - (3) a licensed practitioner having authority to prescribe controlled substances, to the extent the information relates specifically to a current patient of the practitioner to whom the practitioner is prescribing or considering prescribing a controlled substance;
  - (4) a licensed or registered pharmacist having authority to dispense controlled substances, to the extent the information relates specifically to a current patient to whom the pharmacist is dispensing or considering dispensing a controlled substance;
  - (5) federal, state, and local law enforcement authorities may receive printouts of information contained in the database under a search warrant, subpoena, or order issued by a court establishing probable cause for the access and use of the information; and
  - (6) an individual who is the recipient of a controlled substance prescription entered into the database may receive information contained in the database concerning the individual on providing evidence satisfactory to the board that the individual requesting the information is in fact the person about whom the data entry was made and on payment of a fee set by the board under AS 37.10.050 that does not exceed \$10.
- (e) The failure of a pharmacist-in-charge, pharmacist, or practitioner to submit information to the database as required under this section is grounds for the board to take disciplinary action against the license or registration of the pharmacy or pharmacist or for another licensing board to take disciplinary action against a practitioner.
- (f) The board may enter into agreements with (1) dispensers in this state that are not regulated by the state to submit information to and access information in the database, and (2) practitioners in this state to access information in the database, subject to this section and the regulations of the board. The board shall prohibit a dispenser that is not regulated by the state from accessing the database if the dispenser has accessed information in the database contrary to the limitations of this section, discloses information in the database contrary to the limitations of this section, or allows unauthorized persons access to the database.
- (g) The board shall promptly notify the president of the senate and the speaker of the house of representatives if, at any time after the effective date of this Act, the federal government fails to pay all or part of the costs of the controlled substance prescription database.
- (h) An individual who has submitted information to the database in accordance with this section may not be held civilly liable for having submitted the information. Nothing in this section requires or obligates a dispenser or practitioner to access or check the database before dispensing, prescribing, or administering a medication, or providing medical care to a person. Dispensers or practitioners may not be held civilly liable for damages for accessing or failing to access the information in the database.
- (i) A person who has reason to believe that prescription information from the database has been illegally or improperly accessed shall notify an appropriate law enforcement agency.
- (j) The board shall notify any person whose prescription information from the database is illegally or improperly accessed.
- (k) In the regulations adopted under this section, the board shall provide
- (1) that prescription information in the database shall be purged from the database after two years have elapsed from the date the prescription was dispensed;
  - (2) a method for an individual to challenge information in the database about the individual that the person believes is incorrect or was incorrectly entered by a dispenser.
- (l) A person
- (1) with authority to access the database under (d) of this section who knowingly
    - (A) accesses information in the database beyond the scope of the person's authority commits a class A misdemeanor;
    - (B) accesses information in the database and recklessly discloses that information to a person not entitled to access or to receive the information commits a class C felony;
    - (C) allows another person who is not authorized to access the database to access the database commits a class C felony;
  - (2) without authority to access the database under (d) of this section who knowingly accesses the database or knowingly receives information that the person is not authorized to receive under (d) of this section from another person commits a class C felony.
- (m) To assist in fulfilling the program responsibilities, performance measures shall be reported to the legislature annually. Performance measures may include outcomes detailed in the federal prescription drug monitoring program grant regarding efforts to
- (1) reduce the rate of inappropriate use of prescription drugs by reporting education efforts conducted by the Board of Pharmacy;
  - (2) reduce the quantity of pharmaceutical controlled substances obtained by individuals attempting to engage in fraud and deceit;
  - (3) increase coordination among prescription drug monitoring program partners; and
  - (4) involve stakeholders in the planning process.
- (n) In this section,
- (1) "board" means the Board of Pharmacy;

- (2) "database" means the controlled substance prescription database established in this section;
- (3) "knowingly" has the meaning given in AS 11.81.900;
- (4) "pharmacist-in-charge" has the meaning given in AS 08.80.480.

**FACILITY STANDARDS FOR PHARMACIES**  
**February 2008**

**General Requirements.**

- (a) Each pharmacy is of sufficient size to allow for the safe and proper storage of prescription drugs and for the safe and proper compounding and/or preparation of prescription drug orders.
- (b) There is a minimum of three linear feet by a minimum of 18 inches in depth of counter working space for each pharmacist or intern compounding or filling prescriptions at the same time.
- (c) The prescription department and all areas where drugs are stored are well lighted, well ventilated, dry, and maintained in a clean and orderly condition. Walls, floors, ceilings, and windows are clean and in general good repair and order.
- (d) Each pharmacy has a sink with hot and cold running water within the pharmacy and maintained in a sanitary condition.
- (e) There are refrigeration facilities with a thermometer in the prescription department for the proper storage of drugs requiring refrigeration. Temperatures in the refrigerator are maintained within United States Pharmacopeia standards.
- (f) The temperature of the pharmacy is maintained within a range compatible with the proper storage of drugs.

**Equipment and Supplies.**

- (a) All pharmacies have in their possession the equipment and supplies necessary to compound, dispense, label, administer and distribute drugs and devices. The equipment is in good repair and is available in sufficient quantity to meet the needs of the practice of pharmacy conducted therein.
- (b) All equipment is kept in a clean and orderly manner. Equipment used in the compounding or preparation of prescription drug orders (counting, weighing, measuring, mixing, stirring, and molding equipment) is clean and in good repair.

**Library.** A reference library is maintained which includes the following:

- (1) A current copy of the Alaska Pharmacy Statutes and Regulations.
- (2) At least one current or updated reference (hard-copy or electronic media) from each of the following categories:
  - (A) Patient information – examples are;
    - (i) USP Dispensing Information; or
    - (ii) Patient Drug Facts; or
    - (iii) reference text or information leaflets which provide patient information.
  - (B) General information – examples are;
    - (i) Facts and Comparisons; or
    - (ii) USP Dispensing Information, Volume I (Drug Information for the Healthcare Provider);  
or
    - (iii) Remington's Pharmaceutical Sciences.
  - (C) Clinical Information – examples are;
    - (i) AHFS Drug Information; or
    - (ii) Micromedex; or
    - (iii) Clinical Pharmacology; or

(iv) reference material pertinent to the practice setting.

(3) The telephone number of the nearest poison control center is readily available.

This pamphlet is prepared by the Alaska Board of Pharmacy to establish guidelines on facilities, reference materials, equipment, supplies and other matters. Professional conduct by a licensee includes adherence to these guidelines. See 12 AAC 52.400.

**STERILE PHARMACEUTICALS**  
**February 2008**

**Scope and Purpose.**

The purpose of this pamphlet is to provide standards for the preparation, labeling, and distribution of sterile products by pharmacies, pursuant to or in anticipation of a prescription drug order. These standards are intended to apply to all sterile products, notwithstanding the location of the patient (eg. home, hospital, extended care facility, hospice, practitioner's office).

**Definitions.**

- (a) "Biological Safety Cabinet" – a containment unit suitable for the preparation of low to moderate risk agents where there is a need for protection of the product, personnel and environment, according to National Sanitation Foundation (NSF) Standard 49.
- (b) "Class 100 Environment" – an atmospheric environment which contains less than 100 particles 0.5 microns in diameter per cubic foot of air, according to Federal Standard 209D.
- (c) "Cytotoxic" – a pharmaceutical that has the capability of killing living cells.
- (d) "Parenteral" – a sterile preparation of drugs for injection through one or more layers of the skin.
- (e) "Sterile Pharmaceutical" – dosage form free from living micro-organisms (aseptic).

**Policy and Procedure Manual.**

- (a) A policy and procedure manual is prepared and maintained for the compounding, dispensing, and delivery of sterile pharmaceutical drug orders. The manual is reviewed and revised as necessary on an annual basis by the pharmacist-in-charge and is available for inspection at the pharmacy.
- (b) The manual includes policies and procedures, as applicable, for:
  - (1) Clinical services;
  - (2) Sterile product handling, preparation, dating, storage and disposal;
  - (3) Major and minor spills of cytotoxic agents;
  - (4) Disposal of unused supplies and medications;
  - (5) Drug destruction and returns;
  - (6) Drug dispensing;
  - (7) Drug labeling;
  - (8) Duties and qualifications for professional and nonprofessional staff;
  - (9) Equipment use and maintenance;
  - (10) Handling of infectious waste pertaining to drug administration;
  - (11) Infusion devices and drug delivery systems;
  - (12) Training and orientation of professional and non-professional staff commensurate with the services provided;
  - (13) Dispensing of investigational medications;
  - (14) Quality control and quality assurance;
  - (15) Recall procedures;
  - (16) Infection control;
  - (17) Suspected contamination of sterile products;
  - (18) Orientation of employees to sterile technique;
  - (19) Sanitation;
  - (20) Security; and
  - (21) Transportation.

**Physical Requirements.**

- (a) The pharmacy designates an area for the preparation of sterile products that is functionally separate from areas for the preparation of non-sterile products and is constructed to minimize traffic and airflow disturbances. It is used only for the preparation of these specialty products. It is of sufficient size to accommodate a laminar airflow hood and to provide for the proper storage of drugs and supplies under appropriate conditions of temperature, light, moisture, sanitation, ventilation, and security.

- (b) The pharmacy preparing parenteral products has:
- (1) Appropriate environmental control devices capable of maintaining at least a Class 100 environment condition in the workspace where critical objects are exposed and critical activities are performed; furthermore, these devices are capable of maintaining Class 100 environments during normal activity;
  - (2) When cytotoxic drug products are prepared, appropriate environmental control also includes appropriate biological safety cabinets;
  - (3) Sink with hot and cold running water which is convenient to the compounding area for the purpose of hand washing prior to compounding;
  - (4) The designated area shall have hard cleanable surfaces, walls, floors and ceilings;
  - (5) Appropriate disposal containers for used needles, syringes, etc. and if applicable, for cytotoxic waste from the preparation of chemotherapy agents and infectious wastes from patient's homes;
  - (6) Refrigerator/freezer with thermometer;
  - (7) Temperature controlled delivery container, if appropriate;
  - (8) Infusion devices, if appropriate;
  - (9) Supplies adequate to maintain an environment suitable for the aseptic preparation of sterile products.
- (c) Laminar flow hood certification (or clean room certification, if applicable) are conducted at least every six months by an independent contractor according to Federal Standard 209B or National Sanitation Foundation 49 for operational efficiency. These reports are maintained for at least two years. In addition, prefilters are replaced on a regular basis and the replacement date documented.
- (d) The pharmacy has current reference materials related to sterile products. These reference materials will contain information on stability, incompatibilities, preparation guidelines, and the handling of chemotherapy drug products.

**Personnel.**

- (a) All personnel participating in the preparation and/or dispensing of compounded sterile pharmaceuticals are trained in this specialized function, including the principles of aseptic technique. All duties and responsibilities of personnel are consistent with their training and experience.
- (b) Pharmacies providing parenteral products to non-hospitalized patients have a pharmacist accessible twenty-four hours per day to respond to patient's and other health professional's questions and needs.

**Drug Distribution and Control.**

- (a) In addition to labeling required for all dispensed prescription drug orders, the labeled container of a sterile pharmaceutical bears the expiration date of the preparation based upon published data.
- (b) Delivery Service. The pharmacist-in-charge assures the environmental control of all products shipped. Therefore, any compounded sterile pharmaceutical is shipped or delivered to a patient in appropriate temperature controlled (as defined by United States Pharmacopeia Standards) delivery containers and stored appropriately in the patient's home or outpatient location.
- (c) Disposal of Infectious/Hazardous Waste. The pharmacist-in-charge is responsible for assuring there is a system for the disposal of cytotoxic waste and infectious waste in a manner so as not to endanger the public health.
- (d) Emergency Kit. When sterile pharmaceuticals are provided to home care patients, the pharmacy may supply the licensed nurse with emergency drugs, if the prescribing practitioner has authorized the use of these drugs by a protocol for use in an emergency situation (e.g. anaphylactic shock).

**Cytotoxic Drugs.**

The following additional requirements are necessary for those pharmacies that prepare cytotoxic drugs to assure the protection of the personnel involved:

- (a) All cytotoxic drugs are compounded within a vertical flow, Class II, Biological Safety Cabinet. Policy and procedures are developed for the cleaning of the laminar airflow hood between compounding cytotoxic drugs and other parenteral products, if applicable.
- (b) Protective apparel is worn by personnel compounding cytotoxic drugs. This includes disposable gloves and gowns with tight cuffs.
- (c) Appropriate safety and containment techniques for compounding cytotoxic drugs are used in conjunction with the aseptic techniques required for preparing sterile products.
- (d) Disposal of cytotoxic waste complies with all applicable local, state, and federal requirements.
- (e) Written procedures for handling both major and minor spills of cytotoxic agents are developed and included in the policy and procedure manual.
- (f) Prepared doses of cytotoxic drugs are dispensed, labeled with proper precautions, and shipped in a manner to minimize the risk of accidental rupture of the primary container.

**Patient Training.**

If appropriate, the Pharmacist demonstrates or documents the patient's training and competency in managing the type of therapy provided by the Pharmacist to the patient in the home environment. A pharmacist is involved in the patient training process in any area that relates to drug compounding, labeling, storage, stability, or incompatibility. The Pharmacist is responsible for seeing the patient's competency in the above areas is reassessed on an ongoing basis.

**Quality Control and Quality Assurance Procedures.**

- (a) Quality Control. There is a documented, ongoing quality control program that monitors and evaluates personnel performance, equipment and facilities. Procedures are in place to assure the pharmacy is capable of consistently preparing pharmaceuticals which are sterile and stable. Quality control procedures include, but are not limited to, the following:
  - (1) recall procedures;
  - (2) storage and dating;
  - (3) documentation of appropriate functioning of refrigerator, freezer, and other equipment;
  - (4) documentation of aseptic environmental control device certification and the regular replacement of prefilters;
  - (5) a process to evaluate and confirm the quality of the prepared pharmaceutical product; and
  - (6) if bulk compounding of parenteral solutions is performed utilizing non-sterile chemicals, extensive end product testing is documented prior to the release of the product from quarantine. This process includes appropriate tests for particulate matter and pyrogens.
- (b) Quality Assurance.
  - (1) There is a documented, ongoing quality assurance program for monitoring and evaluating personnel performance and patient outcomes to assure efficient drug delivery, patient safety, and positive patient outcomes.
  - (2) There is documentation of quality assurance audits at regular, planned intervals which may include infection control, sterile technique, delivery systems/times, order transcription accuracy, drug administration systems, adverse drug reactions, and drug therapy appropriateness.
  - (3) A plan for corrective action of problems identified by quality assurance audits is developed which includes procedures for the documentation of identified problems and action taken.

- (4) A periodic evaluation of the effectiveness of the quality assurance activities is completed and documented.

This pamphlet is prepared by the Alaska Board of Pharmacy to establish guidelines for a pharmacy or pharmacist that prepares or dispenses sterile pharmaceuticals. Professional conduct by a licensee includes adherence to these guidelines. See 12 AAC 52.430.

**GOOD COMPOUNDING PRACTICES**  
**February 2008**

- (a) A pharmacist may compound drugs in limited quantities before receiving a valid prescription drug order if the pharmacist has a historical basis of valid prescription drug orders generated solely within an established relationship between the pharmacist, a patient, and a prescribing practitioner for the amount of drugs compounded. Compounding drugs in an amount above that for which there is a historical basis is considered manufacturing.
- (b) Compounding includes the preparation
  - (1) according to a prescription drug order of drugs or devices that are not commercially available;
  - (2) of commercially available products from bulk when the prescribing practitioner has prescribed the compounded product on a per prescription basis and the patient has been made aware that the compounded product will be prepared by the pharmacist.
- (c) When a compounded product is to be substituted for a commercially available product, both the patient and the prescribing practitioner must authorize the use of the compounded product. The pharmacist shall document these authorizations on the prescription drug order or in the computerized patient medication record. The prescribing practitioner's authorization is in addition to signing to permit substitution on a prescription drug order or advising verbally that substitution is permitted. The reconstitution of commercially available products according to the manufacturer's guidelines is permissible without notice to the prescribing practitioner.
- (d) A pharmacist may not offer compounded drug products to prescribing practitioners, pharmacists, or pharmacies for resale except in the course of professional practice for a prescribing practitioner to administer to an individual patient. The distribution of inordinate amounts of compounded products without a relationship between the pharmacist and the prescribing practitioner and patient is considered manufacturing.
- (e) A pharmacist may receive, store, and use drug substances for compounding prescriptions that meet official compendia requirements. A pharmacist shall use the pharmacist's professional judgment to receive, store, and use drug substances for compounding prescriptions not found in official compendia.

**PERSONNEL**

A pharmacist engaging in compounding shall maintain proficiency through current awareness and training. Continuing education should include training in the art and science of compounding and the rules and regulations of compounding.

**COMPOUNDING FACILITIES**

- (a) A pharmacy engaging in compounding shall have a specifically designated and adequate area for the orderly compounding of prescriptions that is maintained in a good state of repair and for the placement of materials and equipment. There is a minimum of three linear feet by a minimum of 18 inches in depth of counter working space for each pharmacist or intern compounding or filling prescriptions at the same time.
- (b) Bulk medications and other chemicals or materials used in the compounding of medications must be stored in adequately labeled containers in a clean, dry, and temperature controlled area or, if required, under proper refrigeration.
- (c) Adequate lighting and ventilation must be provided in all drug compounding areas. Potable water must be supplied under continuous positive pressure in a plumbing system free of defects that could contribute contamination to any compounded drug product. Adequate washing facilities, easily accessible to the compounding area of the pharmacy must be provided. The facilities must include hot and cold water, soap or detergent, and air-driers or single use towels.
- (d) The area used for the compounding of drugs must be maintained in a clean and sanitary condition. It must be free of infestation by insects, rodents, and other vermin. Trash must be held and disposed of in a timely and sanitary manner. Sewage and other refuse must be disposed of in a safe and sanitary manner.
- (e) If drug products with special precautions for contamination, such as penicillin, are involved in a compounding procedure, appropriate measures, including either the dedication of equipment or meticulous

cleaning of contaminated equipment prior to its use for the preparation of other drugs, must be used in order to prevent cross-contamination.

## RECORDS AND REPORTS

- (a) A pharmacist shall keep records of all compounded products for two years. The records must be readily available for authorized inspection at the pharmacy.
- (b) A pharmacist shall ensure that there are formulas maintained electronically or manually. A formula must include ingredients, amounts, methodology and equipment, if needed, and special information regarding sterile compounding.
- (c) A pharmacy engaging in compounding must have written procedures for the compounding of drugs to assure that the finished products have the identity, strength, quality, and purity they are represented to possess. The procedures must include a listing of the components, their amounts in weight or volume, the order of component mixing, and a description of the compounding process. The procedures must list all equipment and utensils and the container or closure system relevant to the sterility and stability of the intended use of the drug. The procedures must be followed in the execution of the drug compounding procedure.
- (d) A pharmacist shall accurately weigh, measure, or subdivide as appropriate the components for drug product compounding. The compounding pharmacist shall check these operations at each stage of the compounding process to ensure that each weight or measure is correct as stated in the written compounding procedures. If a component is transferred from the original container to another container, the new container must be identified with the component name and the weight or measure.
- (e) To assure the reasonable uniformity and integrity of compounded drug products, written procedures must be established and followed that describe the tests or examinations to be conducted on the product compounded. The control procedures must be established to monitor the output and to validate the performance of those compounding processes that include the following when appropriate:
  - (1) capsule weight variation;
  - (2) adequacy of mixing to assure uniformity and homogeneity;
  - (3) clarity, completeness, or pH of solutions;
- (f) A pharmacy engaging in compounding shall establish and follow appropriate written procedures designed to prevent microbiological contamination of compounded drug products purporting to be sterile. The procedures must include validation of any sterilization process.
- (g) For the purpose of compounding in quantities larger than required for immediate dispensing by a prescriber or for future dispensing upon prescription, a pharmacy shall maintain records that include
  - (1) the date of preparation;
  - (2) the lot numbers – the lot numbers may be the manufacturer’s lot numbers or new numbers assigned by the pharmacy. If a lot number is assigned by the pharmacy, the pharmacy shall record the original manufacturer’s lot numbers and expiration dates, if known. If the original manufacturer’s lot numbers and expiration dates are not known, the pharmacy shall record the source and acquisition date of the components;
  - (3) the expiration date of the finished product. This date may not exceed 180 days or the shortest expiration date of any component in the finished product unless a longer date is supported by stability studies in the same type of packaging as furnished to the prescriber or to be stored in until dispensing. Shorter dating than set forth in this subsection may be used if it is deemed appropriate in the professional judgment of the responsible pharmacist;
  - (4) the signature or initials of the pharmacist performing the compounding;
  - (5) initials of the person preparing each process;
  - (6) initials of the pharmacist supervising each process;
  - (7) a formula for the compounded product maintained in a readily retrievable form;

- (8) the name of the manufacturer of the raw materials;
  - (9) the quantity in units of finished products or grams of raw materials; and
  - (10) the package size and the number of units prepared.
- (h) “Component” means any ingredient intended for use in the compounding of a drug product, including those that may not appear in the product.

This pamphlet is prepared by the Alaska Board of Pharmacy to establish guidelines for a pharmacy or pharmacist on compounding practices. Professional conduct by a licensee includes adherence to these guidelines.  
See 12 AAC 52.440.

***Statutes and Regulations***  
**Marital and Family**  
**Therapy**

***April 2016***



DEPARTMENT OF COMMERCE, COMMUNITY,  
AND ECONOMIC DEVELOPMENT

***DIVISION OF CORPORATIONS, BUSINESS  
AND PROFESSIONAL LICENSING***

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***Statutes and Regulations***  
**Marital and Family**  
**Therapy**

***April 2016***



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**CHAPTER 63.  
MARITAL AND FAMILY THERAPY.**

**Article**

- 1. Board of Marital and Family Therapy (§§ 08.63.010 — 08.63.060)**
- 2. Marital and Family Therapy Licenses (§§ 08.63.100 — 08.63.140)**
- 3. General Provisions (§§ 08.63.200 — 08.63.900)**

**ARTICLE 1.  
BOARD OF MARITAL AND FAMILY THERAPY.**

**Section**

- 10. Board established**
- 20. Board appointments**
- 30. Meetings**
- 40. Removal of board members**
- 50. Powers and duties of the board**
- 60. Administrative Procedure Act**

**Sec. 08.63.010. Board established.** (a) There is established the Board of Marital and Family Therapy.  
(b) The board consists of three persons licensed under this chapter and two members of the public.

**Sec. 08.63.020. Board appointments.** The governor shall appoint the members of the board subject to confirmation by the legislature.

**Sec. 08.63.030. Meetings.** The board shall hold an annual meeting and may hold special meetings at the call of the chair or a majority of the board members.

**Sec. 08.63.040. Removal of board members.** The governor may only remove a member of the board for good cause.

**Sec. 08.63.050. Powers and duties of the board.** (a) The board shall

- (1) establish objective examination requirements and training and education requirements for persons who apply for a license to practice marital and family therapy;
- (2) examine applicants and issue licenses to qualified applicants;
- (3) establish continuing education requirements for license renewal;
- (4) adopt a code of ethical practice for marital and family therapy;
- (5) hold hearings and order the disciplinary sanction of a person who violates this chapter or a regulation of the board;
- (6) ensure that licensees are aware of the requirements of AS 47.17.020;
- (7) establish standards for supervisors and supervision under this chapter;
- (8) enforce the provisions of this chapter and adopt regulations necessary to carry out its duties under this chapter.

(b) The board may order a licensed marital and family therapist to submit to a reasonable physical or mental examination if the board has credible evidence sufficient to conclude that the marital and family therapist's physical or mental capacity to practice safely is at issue.

**Sec. 08.63.060. Administrative Procedure Act.** AS 44.62 (Administrative Procedure Act) applies to regulations and proceedings under this chapter.

**ARTICLE 2.  
MARITAL AND FAMILY THERAPY LICENSES.**

**Section**

- 100. Qualifications for license to practice**
- 110. License for supervised practice**
- 120. Authorized supervisors**
- 130. Temporary license for the practice of marital and family therapy**
- 140. Licensure by credentials**

**Sec. 08.63.100. Qualifications for license to practice.** (a) The board shall issue a license to practice marital and family therapy to a person who

- (1) applies on a form provided by the board;

- (2) pays the fee established under AS 08.01.065;
- (3) furnishes evidence satisfactory to the board that the person
  - (A) has not engaged in conduct that is a ground for imposing disciplinary sanctions under AS 08.63.210;
  - (B) holds a master's degree or doctorate in marital and family therapy or allied mental health field from a regionally accredited educational institution approved by the board for which the person completed a course of study that included instruction substantially equivalent to the following:
    - (i) three courses or nine semester or 12 quarter hours of course work in marital and family therapy;
    - (ii) three courses or nine semester or 12 quarter hours of course work in marital and family studies;
    - (iii) three courses or nine semester or 12 quarter hours of course work in human development;
    - (iv) one course or three semester or four quarter hours of course work in professional studies or professional ethics and law;
    - (v) one course or three semester or four quarter hours of course work in research; and
    - (vi) one year of supervised clinical practice in marital and family therapy;
  - (C) after receiving a degree described in (B) of this paragraph, has
    - (i) practiced marital and family therapy, including 1,500 hours of direct clinical contact with couples, individuals, and families; and
    - (ii) been supervised in the clinical contact for at least 200 hours, including 100 hours of individual supervision and 100 hours of group supervision approved by the board;
  - (D) has received training related to domestic violence; and
  - (E) has passed a written or oral examination administered by the board.
- (b) Under regulations adopted by the board, a person who holds a master's or doctorate degree in marital and family therapy or allied mental health field from a regionally accredited educational institution approved by the board, but whose course of degree study did not include all the courses or clinical practice requirements set out in (a)(3)(B) of this section may substitute post-degree courses or practice, as approved by the board, to satisfy the requirements of (a)(3)(B) of this section.
- (c) An applicant who fails an examination given under this section may not retake the examination for a period of six months from the date of the examination that the applicant failed.
- (d) A license issued under this section shall be renewed biennially by the applicant on a date set by the department and approved by the board. It shall be renewed by payment of the fee established under AS 08.01.065 and by satisfaction of the continuing education requirements established by the board for the renewal of licenses issued under this section.

**Sec. 08.63.110. License for supervised practice.** (a) The board shall issue a four-year license for the supervised practice of marital and family therapy to a person who meets the requirements of AS 08.63.100(a)(1), (2), and (3)(A)—(B).

- (b) A licensee under this section may practice only
  - (1) under the direct supervision of a supervisor approved by the board under AS 08.63.120; and
  - (2) in a clinic, social service agency, or other setting approved by the board.
- (c) A license for supervised practice expires four years from the date of issuance and may not be renewed.
- (d) A licensee under this section shall submit to the board for its approval a proposed plan for satisfying the supervision requirements of AS 08.63.100(a)(3)(C).
- (e) A licensee under this section shall use the title "marital therapy associate," "family therapy associate," or other title that is approved by the board.
- (f) The board shall revoke a license for supervised practice if the person fails the examination required under AS 08.63.100 two or more times.

**Sec. 08.63.120. Authorized supervisors.** (a) A person may not supervise a person under this chapter unless approved by the board to be a supervisor.

- (b) A person who supervises a licensee under this section must
  - (1) have practiced marital and family therapy for five years;
  - (2) be licensed under this chapter; and
  - (3) meet the minimum standards established by the board for approved supervisors.

**Sec. 08.63.130. Temporary license for the practice of marital and family therapy.** (a) The board shall issue a temporary license for the practice of marital and family therapy to an applicant who satisfies the requirements of AS 08.63.100(a)(1), (2), and (3)(A), (B), and (C) and has been approved by the board to take the marital and family therapy examination.

- (b) A person may practice under a temporary license until the board issues the results of the first marital and family therapy examination given after issuance of the person's temporary license and either issues or denies a license under AS 08.63.100 to the person.
- (c) If a licensee under this section fails the marital and family therapy examination, the board may not renew the person's temporary license.

**Sec. 08.63.140. Licensure by credentials.** The board shall issue a license to practice marital and family therapy to a person who

- (1) is licensed or certified for the practice of marital and family therapy in another state that has requirements for the license or certificate that are substantially equal to or greater than the requirements of this state; and
- (2) meets the requirements of AS 08.63.100(a)(1), (2), and (3)(A).

### ARTICLE 3. GENERAL PROVISIONS.

#### Section

- 200. Confidentiality of communication**
- 210. Grounds for imposition of disciplinary sanctions**
- 220. License required if designation used**
- 230. Disclosure statement**
- 240. Limitation of practice**
- 900. Definitions**

**Sec. 08.63.200. Confidentiality of communication.** (a) A person licensed under this chapter may not reveal to another person a communication made to the licensee by a client about a matter concerning which the client has employed the licensee in a professional capacity. This section does not apply to

- (1) a case conference or case consultation with other mental health professionals at which the patient is not identified;
  - (2) the release of information that the client in writing authorized the licensee to reveal;
  - (3) information released to the board as part of a disciplinary or other proceeding;
  - (4) situations where the rules of evidence applicable to the psychotherapist-patient privilege allow the release of the information;
  - (5) a communication to a potential victim or to law enforcement officers where a threat of imminent serious physical harm to an identified victim has been made by a client; or
  - (6) a disclosure revealing a communication about an act that the licensee has reasonable cause to suspect constitutes unlawful or unethical conduct that would be grounds for imposition of disciplinary sanctions by a person licensed to provide health or mental health services, if the disclosure is made only to the licensing board with jurisdiction over the person who allegedly committed the act, and the disclosure is made in good faith.
- (b) Notwithstanding (a) of this section, a person licensed under this chapter shall report incidents of
- (1) child abuse or neglect as required by AS 47.17;
  - (2) harm or assaults suffered by a vulnerable adult as required by AS 47.24.
- (c) Information obtained by the board under (a)(3) of this section is confidential and is not a public record for purposes of AS 09.25.110 — 09.25.140.

**Sec. 08.63.210. Grounds for imposition of disciplinary sanctions.** (a) After a hearing, the board may impose a disciplinary sanction under AS 08.01.075 on a person licensed under this chapter when the board finds that the person

- (1) secured a license through deceit, fraud, or intentional misrepresentation;
  - (2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;
  - (3) advertised professional services in a false or misleading manner;
  - (4) has been convicted of a felony or of another crime that affects the person's ability to practice competently and safely;
  - (5) failed to comply with a provision of this chapter or a regulation adopted under this chapter, or an order of the board;
  - (6) continued to practice after becoming unfit due to
    - (A) professional incompetence;
    - (B) addiction or severe dependency on alcohol or another drug that impairs the person's ability to practice safely;
  - (7) engaged in unethical conduct in connection with the delivery of professional services to clients;
  - (8) engaged in sexual misconduct with a client during the course of therapy, either within or outside the treatment setting, or within two years after therapy or counseling with the client has terminated; in this paragraph, "sexual misconduct" includes sexual contact, as defined in regulations adopted under this chapter, or attempted sexual contact, regardless of the client's or former client's consent or lack of consent.
- (b) The board may summarily suspend the license of a licensee who refuses to submit to a physical or mental examination under AS 08.63.050(b). A person whose license is suspended under this subsection is entitled to a hearing by the board within seven days after the effective date of the order. If, after a hearing, the board upholds the suspension, the licensee may appeal the suspension to a court of competent jurisdiction.

**Sec. 08.63.220. License required if designation used.** A person who is not licensed under this chapter or whose license is suspended or revoked, or whose license has lapsed, who knowingly uses in connection with the person's name the words or letters "L.M.F.T.," "L.M.F.C.," "Licensed Marital and Family Therapist," "Licensed Marriage and Family Counselor," or other letters, words, or insignia indicating or implying that the person is licensed as a marital and family therapist by this state or who in any way, orally or in writing, directly or by implication, knowingly holds out as being licensed by the state as a marital and family therapist in this state is guilty of a class B misdemeanor.

**Sec. 08.63.230. Disclosure statement.** Before the performance of services, a licensed marital and family therapist shall ensure that the client was furnished a copy of a professional disclosure statement that contained

- (1) the name, title, business address, and business telephone number of the marital and family therapist;
- (2) a description of the formal professional education of the marital and family therapist, including the institutions attended and the degrees received from the institutions;
- (3) the marital and family therapist's areas of specialization and the services available;
- (4) the marital and family therapist's fee schedule listed by type of service or hourly rate;
- (5) a description of the exception to confidentiality contained in AS 08.63.200(a)(6); and
- (6) at the bottom of the first page of the statement, the following sentence: "This information is required by the Board of Marital and Family Therapy, which regulates all licensed marital and family therapists," followed by the name, address, and telephone number of the board's office.

**Sec. 08.63.240. Limitation of practice.** Notwithstanding that a specific act is within the definition of the "practice of marital and family therapy," a person licensed under this chapter may not perform the act if the person lacks the appropriate education, training, and experience related to the act.

**Sec. 08.63.900. Definitions.** In this chapter, unless the context indicates otherwise;

- (1) "advertise" includes issuing or causing to be distributed a card, sign, or device to a person, or causing, permitting, or allowing a sign or marking on or in a building or structure, or in a newspaper, magazine, or directory, or on radio or television, or using other means designed to secure public attention;
- (2) "board" means the Board of Marital and Family Therapy;
- (3) "course" means a class of at least three credit hours in a graduate program at an accredited educational institution or an institution approved by the board;
- (4) "department" means the Department of Commerce, Community, and Economic Development;
- (5) "practice of marital and family therapy" means the diagnosis and treatment of mental and emotional disorders that are referenced in the standard diagnostic nomenclature for marital and family therapy, whether cognitive, affective, or behavioral, within the context of human relationships, particularly marital and family systems; marital and family therapy involves
  - (A) the professional application of assessments and treatments of psychotherapeutic services to individuals, couples, and families for the purpose of treating the diagnosed emotional and mental disorders;
  - (B) an applied understanding of the dynamics of marital and family interactions, along with the application of psychotherapeutic and counseling techniques for the purpose of resolving intrapersonal and interpersonal conflict and changing perceptions, attitudes, and behaviors in the area of human relationships and family life;
- (6) "supervision" means face-to-face consultation, direction, review, evaluation, and assessment of the practice of the person being supervised, including direct observation and the review of case presentations, audio tapes, and video tapes.

**CHAPTER 19.**  
**BOARD OF MARITAL AND FAMILY THERAPY.**

**Article**

1. **Licensing Requirements (12 AAC 19.100 – 12 AAC 19.130)**
2. **Supervised Practice (12 AAC 19.200 – 12 AAC 19.210)**
3. **License Renewal and Continuing Education (12 AAC 19.300 – 12 AAC 19.340)**
4. **General Provisions (12 AAC 19.900 – 12 AAC 19.990)**

**ARTICLE 1.**  
**LICENSING REQUIREMENTS.**

**Section**

100. **(Repealed)**
110. **License by examination**
115. **Licensure by credentials**
120. **Substitution of post-degree courses or practice**
130. **Supervised experience**

**12 AAC 19.100. TRANSITIONAL LICENSE.** *Repealed 8/24/2002.*

**12 AAC 19.110. LICENSE BY EXAMINATION.** (a) The board will issue a license by examination to practice marital and family therapy to an applicant who meets the requirements of AS 08.63.100(a) and this section.

(b) An applicant for a license under this section shall submit

- (1) a complete, notarized application, on a form provided by the board;
- (2) the applicable fees established in 12 AAC 02.242;

(3) an official transcript documenting a master's degree or doctorate in marital and family therapy or allied mental health field from a regionally accredited educational institution approved by the board for which the applicant completed a course of study substantially equivalent to the requirements of AS 08.63.100(a)(3)(B), sent directly to the department from the school;

(4) the supporting documentation required by this section and AS 08.63.100; and

(5) an authorization for release of records.

(c) The applicant's supervised experience must meet the requirements of 12 AAC 19.130.

(d) To show fulfillment of the training requirement in AS 08.63.100(a)(3)(D), the applicant must document at least six contact hours of training related to domestic violence in courses approved by the board under 12 AAC 19.320(b)(1) – (7).

(e) The examinations required for a license to practice marital and family therapy are the Examination in Marital and Family Therapy administered by the Professional Examination Service and the state written examination prepared and administered by the board. To pass the examinations the applicant must achieve at least the minimum passing score recommended by the Professional Examination Service on the Examination in Marital and Family Therapy and 90 percent or higher on the state written examination.

(f) An applicant may substitute post-degree courses or practice as allowed in 12 AAC 19.120 to meet the course of study requirements in AS 08.63.100(a)(3)(B)(i) – (vi).

(g) To be scheduled for and take an examination, an applicant must meet the requirements of this section. An individual approved by the board under AS 08.63.110 for a license for supervised practice may schedule and take the Professional Examination Service's Examination in Marital and Family Therapy by filing with the department a complete application showing fulfillment of the requirements in AS 08.63.100(a)(1), (2), and (3)(A) and (B).

(h) The state written examination includes questions covering

- (1) state statutes and regulations applying to the practice of marital and family therapy; and
- (2) the code of ethics adopted by the board under 12 AAC 19.900.

(i) The state written examination is an open book examination. The examination and study materials will be mailed directly to each applicant. Completed examinations must be returned to the department within 30 days after mailing, as shown by the postmark dates.

(j) An applicant who fails an examination may be reexamined, after six months have lapsed since the initial test date, if the applicant notifies the department in writing of the intent to be reexamined. If one year or more has lapsed since the applicant last took an examination, the applicant must submit a new and complete application for examination and submits the applicable fees established in 12 AAC 02.242.

**Authority:** AS 08.63.050 AS 08.63.100 AS 08.63.120

**12 AAC 19.115. LICENSURE BY CREDENTIALS.** (a) The board will issue a license by credentials to practice marital and family therapy to an applicant who meets the requirements of AS 08.63.140 and this section.

(b) An applicant for a license under this section shall submit

- (1) a complete, notarized application, on a form provided by the board;
- (2) the applicable fees established in 12 AAC 02.242;
- (3) verification of a current license in another state on a form provided by the department, sent directly to the department from the licensing jurisdiction;
- (4) verification from all licensing jurisdictions in which the applicant holds or has ever held a license to practice marital and family therapy showing that the applicant's license has not been the subject of any disciplinary action of the type set out in AS 08.63.210 and that there are no pending or unresolved actions against the applicant, sent directly to the department from the licensing jurisdiction;
- (5) an authorization for release of records;
- (6) satisfactory evidence that the applicant's qualifications for a license to practice marital and family therapy are equivalent to the requirements set out in AS 08.63.100; and
- (7) a completed *Alaska Jurisprudence Questionnaire* prepared by the board covering the provisions of AS 08.63, this chapter, the code of ethics by the board under 12 AAC 19.900, and that meets the score requirements of 12 AAC 19.110.

**Authority:** AS 08.63.050 AS 08.63.100 AS 08.63.140

**12 AAC 19.120. SUBSTITUTION OF POST-DEGREE COURSES OR PRACTICE.** (a) The board will, in its discretion, accept post-degree courses to satisfy the course of study requirements in AS 08.63.100(a)(3)(B)(i)--(vi) if

- (1) the substituted courses meet the requirements of 12 AAC 19.320(a) and (b)(1)--(4);
- (2) the substituted courses are in the same subject area as the educational requirement for which they are being substituted; and
- (3) the substituted course hours are equivalent to the hours of course work of the educational requirement for which they are being substituted as determined by 12 AAC 19.310(d).

(b) The board will, in its discretion, accept post-degree practice as a marital and family therapist to satisfy the course of study requirements listed in AS 08.63.100(a)(3)(B)(i)--(iii) as follows:

- (1) three years of continuous practice is equivalent to one course or three semester or four quarter hours of course work;
- (2) the same three years of practice may not be used to substitute for more than one course.

(c) An applicant wishing to substitute post-degree courses or practice for a course of study requirement in AS 08.63.100(a)(3)(B)(i)--(vi) shall submit to the board a completed equivalency worksheet on a form provided by the department.

**Authority:** AS 08.63.050 AS 08.63.100(b)

**12 AAC 19.130. SUPERVISED EXPERIENCE.** (a) The board will, in its discretion, approve the supervised experience of an applicant to satisfy the requirements of AS 08.63.100(a)(3)(B)(vi) and (C)(ii) if the supervisor

- (1) is approved by the board; and
  - (2) verifies the applicant's experience on a form provided by the department.
- (b) *Repealed 6/24/2012.*

**Authority:** AS 08.63.050 AS 08.63.100

## ARTICLE 2. SUPERVISED PRACTICE.

### Section

#### 200. License for supervised practice

#### 210. Approved supervisors

**12 AAC 19.200. LICENSE FOR SUPERVISED PRACTICE.** (a) The board will issue a license for supervised practice of marital and family therapy to a person who meets the requirements of AS 08.63.110 and this section.

- (b) A person for a license under this section shall submit
  - (1) a complete, notarized application, on a form provided by the board;
  - (2) the applicable fees established in 12 AAC 02.242;
  - (3) an official transcript documenting a master's degree or doctorate in marital and family therapy or allied mental health field from a regionally accredited educational institution approved by the board for which the applicant completed a course of study substantially equivalent to the requirements under AS 08.63.100(a)(3)(B), sent directly to the department from the school;
  - (4) an authorization for release of records; and
  - (5) a proposed plan to satisfy the supervision requirements of AS 08.63.110(d).

(c) A holder of a license for the supervised practice of marital and family therapy may practice under supervision in a clinic, social service agency, or private marital and family therapy practice.

(d) A holder of a license for the supervised practice of marital and family therapy shall use the title “marital therapy associate,” “family therapy associate,” or “marital and family therapy associate.”

(e) A holder of a license for the supervised practice of marital and family therapy may practice only under the direct supervision of a supervisor approved by the board under 12 AAC 19.210.

(f) A marital and family therapy associate candidate seeking licensure in this state must attain marital and family associate licensure status prior to accruing hours in Alaska. No therapy or counseling may begin in Alaska before the applicant is licensed under this section.

**Authority:** AS 08.63.050 AS 08.63.110 AS 08.63.120

**12 AAC 19.210. APPROVED SUPERVISORS.** (a) The board will approve a person to be an approved supervisor under this chapter if the applicant submits

- (1) a complete, notarized application on a form provided by the department;
- (2) verification of a current license under AS 08.63.100 to practice marital and family therapy;
- (3) documentation of having practiced as a licensed marital and family therapist for five continuous years; and
- (4) documentation of having completed at least six contact hours of education related to the practice of supervising a marital and family therapist within the last two years.

(b) To maintain approval under AS 08.63.120 and this section, a supervisor shall document at the time of license renewal that during the concluding license period the supervisor completed at least two contact hours of continuing education related to the practice of supervising a marital and family therapist. A supervisor may also include those two contact hours of continuing education in the total continuing education contact hours required for license renewal in 12 AAC 19.310.

(c) If a person does not maintain approval as an approved supervisor under AS 08.63.120 and this section because of noncompliance with the continuing education requirements of (b) of this section, the person may apply to the board for reinstatement of the approval. The board will reinstate the approval if the applicant

- (1) submits
  - (A) a complete, notarized application on a form provided by the department; and
  - (B) documentation of compliance with the continuing education requirements of (b) of this section; and
- (2) complies with the requirements of AS 08.63.120 and (a)(2) and (3) of this section.

**Authority:** AS 08.63.050 AS 08.63.100 AS 08.63.120  
AS 08.63.060

### **ARTICLE 3. LICENSE RENEWAL AND CONTINUING EDUCATION.**

#### **Section**

**300. License renewal**

**310. Continuing education requirements**

**320. Approved continuing education activities**

**330. Audit of continuing education requirements**

**340. Failure to meet continuing education requirements and license reinstatement**

**12 AAC 19.300. LICENSE RENEWAL.** (a) A license to practice marital and family therapy expires on December 31 of even-numbered years.

(b) A marital and family therapist applying for license renewal shall

- (1) complete a renewal application on a form provided by the department;
- (2) pay the license renewal fee established in 12 AAC 02.242; and
- (3) submit a statement of the continuing education contact hours completed during the concluding license period; the statement must include the following information, when applicable, for each course, seminar, or workshop:

- (A) the name of the sponsoring organization;
- (B) the location of the course, seminar, or workshop;
- (C) the title and a brief description of the course, seminar, or workshop;
- (D) the principal instructor;
- (E) the dates of attendance;
- (F) the titles, issues, and dates of publications or presentations; and
- (G) the number of continuing education contact hours claimed.

**Authority:** AS 08.63.050

**12 AAC 19.310. CONTINUING EDUCATION REQUIREMENTS.** (a) An applicant for renewal of a marital and family therapy license who has been licensed 18 months or more of the concluding license period shall document completion of 45 contact hours of continuing education acceptable to the board that was earned during the concluding license period including at least

- (1) two contact hours in professional ethics;
- (2) two contact hours in addictions;
- (3) two contact hours in cross cultural education; and
- (4) two contact hours related to issues of domestic violence.

(b) An applicant for renewal of a marital and family therapy license who has been licensed at least 12 months but less than 18 months of the concluding license period shall document completion of 30 contact hours of continuing education acceptable to the board that was earned during the concluding license period including at least

- (1) two contact hours in professional ethics;
- (2) two contact hours in addictions;
- (3) two contact hours in cross cultural education; and
- (4) two contact hours related to issues of domestic violence.

(c) An applicant for renewal of a marital and family therapy license who has been licensed less than 12 months of the concluding license period shall document completion of 23 contact hours of continuing education acceptable to the board that was earned during the concluding license period including at least

- (1) two contact hours in professional ethics;
- (2) two contact hours in addictions;
- (3) two contact hours in cross cultural education; and
- (4) two contact hours related to issues of domestic violence.

(d) For the purposes of this section,

(1) one "contact hour" equals a minimum of 50 minutes of classroom instruction between instructor and participant;

(2) one academic semester credit equals 15 contact hours; and

(3) one academic quarter credit equals 10 contact hours.

(e) Only hours of actual attendance during which instruction was given will be accepted as continuing education contact hours earned from an academic course that is audited by the licensee, and the total number of contact hours earned may not exceed the academic credit hours offered for that course.

**Authority:** AS 08.63.050 AS 08.63.100

**12 AAC 19.320. APPROVED CONTINUING EDUCATION ACTIVITIES.** (a) To be accepted by the board, continuing education must contribute directly to the professional competency of a marital and family therapist and must be directly related to the skills and knowledge required to implement marital and family therapy principles and methods.

(b) The following continuing education activities are acceptable if they are related to marital and family therapy in accordance with (a) of this section:

(1) postgraduate courses given by a regionally accredited academic institution, either audited or for credit;

(2) courses offered by the American Association for Marital and Family Therapy;

(3) courses offered by the Alaska Association for Marital and Family Therapy;

(4) seminars, workshops, or mini-courses offered by professional organizations;

(5) cross-disciplinary courses, seminars, or workshops in the fields of medicine, law, behavioral sciences, ethics, or other disciplines;

(6) courses, seminars, or workshops in substance abuse, domestic violence, cross-cultural issues, gender issues, or child abuse;

(7) other courses not covered under (1)--(6) of this subsection that are specifically preapproved by the board, up to a maximum of 15 contact hours;

(8) first-time preparation and presentation of a marital and family therapy course, seminar, or workshop, up to a maximum of 10 contact hours allocated among all marital and family therapists and other professionals involved;

(9) first-time presentation or publication of an article or book chapter related to the practice of marital and family therapy that was presented at a state or national association meeting or published by a publisher recognized by the profession, up to a maximum of 10 contact hours allocated among all marital and family therapists and other professionals involved; and

(10) completion of a formal correspondence program, video tape program, audio cassette program, or other individual study program; the number of hours of continuing education credit awarded will be determined by the board using the contact hour standards described in 12 AAC 19.310(d)(1), not to exceed one-half of the total contact hours of continuing education required for license renewal under 12 AAC 19.310; a program under this paragraph is acceptable only if

(A) the program requires registration and provides evidence of successful completion; or

(B) the licensee submits a signed statement verifying that the licensee has successfully completed the program from a licensee who is a supervisor approved under 12 AAC 19.210 and has supervised the licensee's study program under this paragraph.

(c) Hours spent in job orientation will not be accepted as continuing education contact hours.

(d) To be accepted by the board, an instructor presenting information concerning counseling or the treatment of clients must hold a master's degree or higher in a mental health field unless specifically preapproved by the board under this section.

**Authority:** AS 08.63.050 AS 08.63.100

**12 AAC 19.330. AUDIT OF CONTINUING EDUCATION REQUIREMENTS.** (a) After each renewal period the board will, in its discretion, audit renewal applications to monitor compliance with the continuing education requirements of this chapter.

(b) A licensee selected for audit shall, within 30 days from the date of notification, submit documentation to verify completion of the contact hours claimed under 12 AAC 19.300.

(c) An applicant for renewal is responsible for maintaining adequate and detailed records of all continuing education hours claimed and shall make them available to the board upon request under this section. Records must be retained for three years after the date the continuing education hours were earned.

**Authority:** AS 08.63.050 AS 08.63.100(d)

**12 AAC 19.340. FAILURE TO MEET CONTINUING EDUCATION REQUIREMENTS AND LICENSE REINSTATEMENT.** (a) The board will reinstate a license that was not renewed because of the licensee's failure to meet the continuing education requirements in 12 AAC 19.300 - 12 AAC 19.330 if the licensee submits to the board proof of completion of all required continuing education credit hours and meets all other requirements for license renewal.

(b) A licensee who is unable to obtain the continuing education hours required for license renewal due to reasonable cause or excusable neglect may submit a written request to the board for an exemption. The request for an exemption must include an explanation of the reasonable cause or excusable neglect that resulted in the licensee's failure to meet the continuing education requirements. If the board grants the exemption, the board will, in its discretion, prescribe an alternative method of compliance with the continuing education requirements as the board considers appropriate to the individual situation.

(c) In this section, "reasonable cause or excusable neglect" includes

- (1) chronic illness;
- (2) retirement;
- (3) military service;
- (4) leave of absence from active practice during the concluding licensing period; and
- (5) hardships recognized by the board.

**Authority:** AS 08.63.050 AS 08.63.100

#### **ARTICLE 4. GENERAL PROVISIONS.**

##### **Section**

**900. Code of ethics**

**990. Definitions**

**12 AAC 19.900. CODE OF ETHICS.** Marital and family therapists licensed in this state shall adhere to the *AAMFT Code of Ethics* of the American Association for Marriage and Family Therapy (AAMFT) (July 1, 2001 Revision). The *AAMFT Code of Ethics* is adopted by reference in this section.

**Authority:** AS 08.63.050

*Editor's note: A copy of the AAMFT Code of Ethics, adopted by reference in 12 AAC 19.900, may be obtained from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806, from the American Association for Marriage and Family Therapy (AAMFT), 1133 15th Street, NW, Washington, DC 20005-2710, or at AAMFT's website at [www.aamft.org](http://www.aamft.org).*

**12 AAC 19.990. DEFINITIONS.** In this chapter and in AS 08.63,

- (1) "board" means the Board of Marital and Family Therapy;
- (2) "department" means the Department of Commerce, Community, and Economic Development;

- (3) “year of practice” means 12 months of active, clinical practice of marital and family therapy totaling at least 500 hours.
- (4) “one year of supervised clinical practice” means one academic year.

**Authority:** AS 08.63.050

**CHAPTER 01.  
CENTRALIZED LICENSING.**

**Section**

- 10. Applicability of chapter**
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- 90. Applicability of the Administrative Procedure Act**
- 100. License renewal, lapse, and reinstatement**
- 102. Citation for unlicensed practice or activity**
- 103. Procedure and form of citation**
- 104. Failure to obey citation**
- 105. Penalty for improper payment**
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**Sec. 08.01.010. Applicability of chapter.** This chapter applies to the

- (1) Board of Public Accountancy (AS 08.04.010);
- (2) regulation of acupuncturists under AS 08.06;
- (3) State Board of Registration for Architects, Engineers, and Land Surveyors (AS 08.48.011);
- (4) Athletic Commission (AS 05.05 and AS 05.10);
- (5) regulation of athletic trainers under AS 08.07;
- (6) regulation of audiologists and speech-language pathologists under AS 08.11;
- (7) Board of Barbers and Hairdressers (AS 08.13.010);
- (8) regulation of behavior analysts under AS 08.15;
- (9) Big Game Commercial Services Board (AS 08.54.591);
- (10) regulation of business licenses under AS 43.70;
- (11) Board of Chiropractic Examiners (AS 08.20.010);
- (12) regulation of collection agencies under AS 08.24;
- (13) regulation of concert promoters under AS 08.92;
- (14) regulation of construction contractors and home inspectors under AS 08.18;
- (15) Board of Dental Examiners (AS 08.36.010);
- (16) regulation of dietitians and nutritionists under AS 08.38;
- (17) Board of Certified Direct-Entry Midwives (AS 08.65.010);
- (18) regulation of dispensing opticians under AS 08.71;
- (19) regulation of electrical and mechanical administrators under AS 08.40;
- (20) regulation of agencies that perform euthanasia services under AS 08.02.050;
- (21) regulation of professional geologists under AS 08.02.011;
- (22) regulation of private professional guardians and private professional conservators (AS 08.26);
- (23) regulation of hearing aid dealers under AS 08.55;
- (24) Board of Marine Pilots (AS 08.62.010);
- (25) Board of Marital and Family Therapy (AS 08.63.010);
- (26) Board of Massage Therapists (AS 08.61.010);
- (27) State Medical Board (AS 08.64.010);
- (28) regulation of morticians under AS 08.42;
- (29) regulation of the practice of naturopathy under AS 08.45;
- (30) Board of Nursing (AS 08.68.010);
- (31) regulation of nursing home administrators under AS 08.70;
- (32) Board of Examiners in Optometry (AS 08.72.010);
- (33) regulation of pawnbrokers (AS 08.76.100 – 08.76.590);

- (34) Board of Pharmacy (AS 08.80.010);
- (35) State Physical Therapy and Occupational Therapy Board (AS 08.84.010);
- (36) Board of Professional Counselors (AS 08.29.010);
- (37) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010);
- (38) Real Estate Commission (AS 08.88.011);
- (39) Board of Certified Real Estate Appraisers (AS 08.87.010);
- (40) Board of Social Work Examiners (AS 08.95.010);
- (41) Board of Veterinary Examiners (AS 08.98.010).

**Sec. 08.01.020. Board organization.** Board members are appointed by the governor and serve at the pleasure of the governor. Unless otherwise provided, the governor may designate the chair of a board, and all other officers shall be elected by the board members. Unless otherwise provided, officers of a board are the chair and the secretary. A board may provide by regulation that three or more unexcused absences from meetings are cause for removal.

**Sec. 08.01.025. Public members.** A public member of a board may not

- (1) be engaged in the occupation that the board regulates;
- (2) be associated by legal contract with a member of the occupation that the board regulates except as a consumer of the services provided by a practitioner of the occupation; or
- (3) have a direct financial interest in the occupation that the board regulates.

**Sec. 08.01.030. Quorum.** A majority of the membership of a board constitutes a quorum unless otherwise provided.

**Sec. 08.01.035. Appointments and terms.** Members of boards subject to this chapter are appointed for staggered terms of four years. Except as provided in AS 39.05.080(4), a member of a board serves until a successor is appointed. Except as provided in AS 39.05.080(4), an appointment to fill a vacancy on a board is for the remainder of the unexpired term. A member who has served all or part of two successive terms on a board may not be reappointed to that board unless four years have elapsed since the person has last served on the board.

**Sec. 08.01.040. Transportation and per diem.** A board member is entitled to transportation expenses and per diem as set out in AS 39.20.180.

**Sec. 08.01.050. Administrative duties of department.** (a) The department shall perform the following administrative and budgetary services when appropriate:

- (1) collect and record fees;
- (2) maintain records and files;
- (3) issue and receive application forms;
- (4) notify applicants of acceptance or rejection as determined by the board or, for occupations or activities listed in AS 08.01.010 that are regulated directly by the department, as determined by the department under applicable law;
- (5) designate dates examinations are to be held and notify applicants;
- (6) publish notice of examinations and proceedings;
- (7) arrange space for holding examinations and proceedings;
- (8) notify applicants of results of examinations;
- (9) issue licenses or temporary licenses as authorized by the board or, for occupations or activities listed in AS 08.01.010 that are regulated directly by the department, as authorized by the department under applicable law;
- (10) issue duplicate licenses upon submission of a written request by the licensee attesting to loss of or the failure to receive the original and payment by the licensee of a fee established by regulation adopted by the department;
- (11) notify licensees of renewal dates at least 30 days before the expiration date of their licenses;
- (12) compile and maintain a current register of licensees;
- (13) answer routine inquiries;
- (14) maintain files relating to individual licensees;
- (15) arrange for printing and advertising;
- (16) purchase supplies;
- (17) employ additional help when needed;
- (18) perform other services that may be requested by the board;
- (19) provide inspection, enforcement, and investigative services to the boards and for the occupations listed in AS 08.01.010 regarding all licenses issued by or through the department;
- (20) retain and safeguard the official seal of a board and prepare, sign, and affix a board seal, as appropriate, for licenses approved by a board;
- (21) issue business licenses under AS 43.70.

(b) The form and content of a license, authorized by a board listed in AS 08.01.010, including any document evidencing renewal of a license, shall be determined by the department after consultation with and consideration of the views of the board concerned.

(c) *[Repealed, Sec. 49 ch 94 SLA 1987.]*

(d) At the request of one of the following boards, the department may contract with public agencies and private professional organizations to provide assistance and treatment to persons licensed by the board who abuse alcohol, other drugs, or other substances:

- (1) Board of Social Work Examiners;
- (2) Board of Dental Examiners;
- (3) Board of Marital and Family Therapy;
- (4) State Medical Board;
- (5) Board of Nursing;
- (6) Board of Examiners in Optometry;
- (7) Board of Pharmacy;
- (8) State Physical Therapy and Occupational Therapy Board;
- (9) Board of Professional Counselors;
- (10) Board of Psychologist and Psychological Associate Examiners; and
- (11) Board of Veterinary Examiners.

**Sec. 08.01.060. Application for license.** (a) All applications for examination or licensing to engage in the business or profession covered by this chapter shall be made in writing to the department.

(b) If the applicant is a natural person, the application must require that the applicant submit the applicant's social security number to the department. Notwithstanding any other provision of this title, a license to engage in a profession may not be issued by the department to a natural person unless the social security number has been provided to the department.

**Sec. 08.01.062. Courtesy licenses.** (a) A board established under this title and the Department of Commerce, Community, and Economic Development, with respect to an occupation that it regulates under this title, may by regulation establish criteria for issuing a temporary courtesy license to nonresidents who enter the state so that, on a temporary basis, they may practice the occupation regulated by the board or the department.

(b) The regulations adopted under (a) of this section may include limitations relating to the

- (1) duration of the license's validity;
- (2) scope of practice allowed under the license; and
- (3) other matters considered important by the board or the department.

**Sec. 08.01.063. Military courtesy licenses.** (a) Except as provided in (d) of this section, and notwithstanding another provision of law, the department or appropriate board may issue a temporary courtesy license to the spouse of an active duty member of the armed forces of the United States if the spouse applies to the department or appropriate board in the manner prescribed by the department or appropriate board. An application must include evidence satisfactory to the department or appropriate board that the applicant

(1) is married to and living with a member of the armed forces of the United States who is on active duty and assigned to a duty station in this state under official active duty military orders;

(2) holds a current license or certificate in another state, district, or territory of the United States with requirements that the department or appropriate board determines are equivalent to those established under this title for that occupation;

(3) if required by the department or appropriate board for obtaining a license in the applicant's profession, has been fingerprinted and has provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400;

(4) has not committed an act in any jurisdiction that would have constituted grounds for the refusal, suspension, or revocation of a license or certificate to practice that occupation under this title at the time the act was committed;

(5) has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing or credentialing entity in another jurisdiction; and

(6) pays any fees required under this title.

(b) The department or appropriate board shall expedite the procedure for issuance of a license under (a) of this section.

(c) A temporary courtesy license issued under this section is valid for 180 days and may be extended at the discretion of the department or appropriate board for one additional 180-day period, on application of the holder of the temporary courtesy license.

(d) This section does not apply to the practice of law or the regulation of attorneys under AS 08.08.

**Sec. 08.01.064. Military education, training, and service credit; temporary license.** (a) Notwithstanding another provision of law, the department or applicable board shall accept military education, training, and service for some or all of the qualifications otherwise required of an applicant for a license or certificate issued under this chapter if

(1) the department or applicable board determines that the military education, training, and service is substantially equivalent to some or all of the qualifications otherwise required of an applicant for a license or certificate issued under this chapter; and

(2) the applicant provides satisfactory evidence of successful completion of the education, training, or service as a member of the armed forces of the United States, the United States Reserves, the National Guard of any state, the Military Reserves of any state, or the Naval Militia of any state.

(b) If the department issues temporary licenses or certificates as authorized by the department or applicable board under AS 08.01.050(a)(9), the department or applicable board shall issue a temporary license or certificate to a person who

(1) applies to the department or applicable board in a manner prescribed by the department or board;

(2) meets the requirements in AS 08.01.063(a)(3) - (6); and

(3) while in the armed forces of the United States or any state, as described in (a) of this section,

(A) held a current license or certificate in another state, district, or territory of the United States, practiced in the area of the license or certificate, and maintained the license or certificate in active status before and at the time of application for a license or certificate under this subsection; or

(B) was awarded a degree, diploma, or certificate by a branch of the armed forces of the United States or any state, as described in (a) of this section, that met standards for an equivalent license or a certificate of technical training.

(c) The department or applicable board shall expedite the procedure for issuance of a license or certificate under (b) of this section for an applicant who is on active duty.

(d) A license or certificate issued under (b) of this section is valid for 180 days and may be extended at the discretion of the department or applicable board for one additional 180-day period if the holder of the license or certificate applies for an extension on a form approved by the department or applicable board.

(e) The department or applicable board may adopt regulations necessary to implement this section.

**Sec. 08.01.065. Establishment of fees.** (a) Except for business licenses, the department shall adopt regulations that establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by this chapter.

(b) *[Repealed, Sec. 4 ch 34 SLA 1992.]*

(c) Except as provided in (f) – (i) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation. The department shall annually review each fee level to determine whether the regulatory costs of each occupation are approximately equal to fee collections related to that occupation. If the review indicates that an occupation's fee collections and regulatory costs are not approximately equal, the department shall calculate fee adjustments and adopt regulations under (a) of this section to implement the adjustments. In January of each year, the department shall report on all fee levels and revisions for the previous year under this subsection to the office of management and budget. If a board regulates an occupation covered by this chapter, the department shall consider the board's recommendations concerning the occupation's fee levels and regulatory costs before revising fee schedules to comply with this subsection. In this subsection, "regulatory costs" means costs of the department that are attributable to regulation of an occupation plus

(1) all expenses of the board that regulates the occupation if the board regulates only one occupation;

(2) the expenses of a board that are attributable to the occupation if the board regulates more than one occupation.

(d) The license fee for a business license is set by AS 43.70.030(a). The department shall adopt regulations that establish the manner of payment of the license fee.

(e) *[Repealed, Sec. 28 ch 90 SLA 1991.]*

(f) Notwithstanding (c) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected by the State Board of Registration for Architects, Engineers, and Land Surveyors approximately equals the total regulatory costs of the department and the board for all occupations regulated by the board. The department shall set the fee levels for the issuance and renewal of a certificate of registration issued under AS 08.48.211 so that the fee levels are the same for all occupations regulated by the board.

(g) Notwithstanding (c) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected by the department for all occupations regulated under AS 08.11 approximately equals the total regulatory costs of the department for all occupations regulated by the department under AS 08.11. The department shall set the fee levels for the issuance and renewal of licenses issued under AS 08.11 so that the fee levels are the same for all occupations regulated by the department under AS 08.11.

(h) Notwithstanding (c) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected by the Board of Barbers and Hairdressers approximately equals the total regulatory costs of the department, the board, and the Department of Environmental Conservation for all occupations regulated by the board. For purposes of this subsection, the regulatory costs of the Department of Environmental Conservation

for the occupations regulated by the board include the cost of inspections under AS 08.13.210(b), the cost of developing and adopting regulations under AS 44.46.020 for barbershop, hairdressing, manicuring, esthetics, body piercing, ear piercing, and tattooing and permanent cosmetic coloring establishments, and the cost to the Department of Environmental Conservation of enforcing those regulations except for the enforcement costs relating to ear piercing establishments. The department shall set the fee levels for the issuance and renewal of a practitioner's license issued under AS 08.13.100 so that the license and license renewal fees are the same for all occupations regulated by the Board of Barbers and Hairdressers.

(i) Notwithstanding (c) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected by the Department of Commerce, Community, and Economic Development for specialty contractors, home inspectors, and associate home inspectors approximately equals the total regulatory costs of the department for those three registration categories. The department shall set the fee levels for the issuance and renewal of a certificate of registration issued under AS 08.18 so that the fee levels are the same for all three of these registration categories and so that the fee level for a home inspector with a joint registration is not different from the fee level for a home inspector who does not have a joint registration. In this subsection, "joint registration" has the meaning given in AS 08.18.171.

**Sec. 08.01.070. Administrative duties of boards.** Each board shall perform the following duties in addition to those provided in its respective law:

- (1) take minutes and records of all proceedings;
- (2) hold a minimum of one meeting each year;
- (3) hold at least one examination each year;
- (4) request, through the department, investigation of violations of its laws and regulations;
- (5) prepare and grade board examinations;
- (6) set minimum qualifications for applicants for examination and license and may establish a waiver of continuing education requirements for renewal of a license for the period in which a licensee is engaged in active duty military service as described under AS 08.01.100(f);
- (7) forward a draft of the minutes of proceedings to the department within 20 days after the proceedings;
- (8) forward results of board examinations to the department within 20 days after the examination is given;
- (9) notify the department of meeting dates and agenda items at least 15 days before meetings and other proceedings are held;
- (10) submit before the end of the fiscal year an annual performance report to the department stating the board's accomplishments, activities, and needs.

**Sec. 08.01.075. Disciplinary powers of boards.** (a) A board may take the following disciplinary actions, singly or in combination:

- (1) permanently revoke a license;
  - (2) suspend a license for a specified period;
  - (3) censure or reprimand a licensee;
  - (4) impose limitations or conditions on the professional practice of a licensee;
  - (5) require a licensee to submit to peer review;
  - (6) impose requirements for remedial professional education to correct deficiencies in the education, training, and skill of the licensee;
  - (7) impose probation requiring a licensee to report regularly to the board on matters related to the grounds for probation;
  - (8) impose a civil fine not to exceed \$5,000.
- (b) A board may withdraw probationary status if the deficiencies that required the sanction are remedied.
- (c) A board may summarily suspend a licensee from the practice of the profession before a final hearing is held or during an appeal if the board finds that the licensee poses a clear and immediate danger to the public health and safety. A person is entitled to a hearing conducted by the office of administrative hearings (AS 44.64.010) to appeal the summary suspension within seven days after the order of suspension is issued. A person may appeal an adverse decision of the board on an appeal of a summary suspension to a court of competent jurisdiction.
- (d) A board may reinstate a suspended or revoked license if, after a hearing, the board finds that the applicant is able to practice the profession with skill and safety.
- (e) A board may accept the voluntary surrender of a license. A license may not be returned unless the board determines that the licensee is competent to resume practice and the licensee pays the appropriate renewal fee.
- (f) A board shall seek consistency in the application of disciplinary sanctions. A board shall explain a significant departure from prior decisions involving similar facts in the order imposing the sanction.

**Sec. 08.01.077. Conviction as grounds for disciplinary action.** Notwithstanding any other provision of this title, the conviction under AS 47.24.010 of a person licensed, certified, or regulated by the department or a board under this title may be considered by the department or board as grounds for disciplinary proceedings or sanctions.

**Sec. 08.01.080. Department regulations.** The department shall adopt regulations to carry out the purposes of this chapter including but not limited to describing

- (1) how an examination is to be conducted;
- (2) what is contained in application forms;
- (3) how a person applies for an examination or license.

**Sec. 08.01.087. Investigative and enforcement powers of department.** (a) The department may, upon its own motion, conduct investigations to

(1) determine whether a person has violated a provision of this chapter or a regulation adopted under it, or a provision of AS 43.70, or a provision of this title or regulation adopted under this title dealing with an occupation or board listed in AS 08.01.010; or

(2) secure information useful in the administration of this chapter.

(b) If it appears to the commissioner that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it, or a provision of AS 43.70, or a provision of this title or regulation adopted under this title dealing with an occupation or board listed in AS 08.01.010, the commissioner may, if the commissioner considers it in the public interest, and after notification of a proposed order or action by telephone, telegraph, or facsimile to all board members, if a board regulates the act or practice involved, unless a majority of the members of the board object within 10 days,

(1) issue an order directing the person to stop the act or practice; however, reasonable notice of and an opportunity for a hearing must first be given to the person, except that the commissioner may issue a temporary order before a hearing is held; a temporary order remains in effect until a final order affirming, modifying, or reversing the temporary order is issued or until 15 days after the person receives the notice and has not requested a hearing by that time; a temporary order becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receiving the notice; the office of administrative hearings (AS 44.64.010) shall conduct the hearing and shall issue a proposed decision within 10 days after the hearing; the commissioner shall issue a final order within five days after the proposed decision is issued;

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter, a regulation adopted under it, an order issued under it, or with a provision of this title or regulation adopted under this title dealing with business licenses or an occupation or board listed in AS 08.01.010;

(3) examine or have examined the books and records of a person whose business activities require a business license or licensure by a board listed in AS 08.01.010, or whose occupation is listed in AS 08.01.010; the commissioner may require the person to pay the reasonable costs of the examination; and

(4) issue subpoenas for the attendance of witnesses, and the production of books, records, and other documents.

(c) Under procedures and standards of operation established by the department by regulation, and with the agreement of the appropriate agency, the department may designate appropriate state or municipal agencies to investigate reports of abuse, neglect, or misappropriation of property by certified nurse aides.

**Sec. 08.01.089. Copies of records for child support purposes.** If a copy of a public record concerning an individual who owes or is owed child support that is prepared or maintained by the department is requested by the child support services agency created in AS 25.27.010 or a child support enforcement agency of another state, the department shall provide the requesting agency with a certified copy of the public record, including the individual's social security number. If these records are prepared or maintained by the department in an electronic data base, the records may be supplied by providing the requesting agency with a copy of the electronic record and a statement certifying its contents. A requesting agency receiving information under this section may use it only for child support purposes authorized under law.

**Sec. 08.01.090. Applicability of the Administrative Procedure Act.** The Administrative Procedure Act (AS 44.62) applies to regulations adopted and proceedings held under this chapter, except those under AS 08.01.087(b) and actions taken under AS 08.68.333(c).

**Sec. 08.01.100. License renewal, lapse, and reinstatement.** (a) Licenses shall be renewed biennially on the dates set by the department with the approval of the respective board.

(b) A license subject to renewal shall be renewed on or before the date set by the department. If the license is not renewed by the date set by the department, the license lapses. In addition to renewal fees required for reinstatement of the lapsed license, the department may impose a delayed renewal penalty, established by regulation, that shall be paid before a license that has been lapsed for more than 60 days may be renewed. The department may adopt a delayed renewal penalty only with the concurrence of the appropriate board.

(c) Except as provided in (f) of this section, when continuing education or other requirements are made a condition of license renewal, the requirements shall be satisfied before a license is renewed.

(d) Except as otherwise provided, a license may not be renewed if it has been lapsed for five years or more.

(e) Notwithstanding any other provision of this title, a renewal of a license may not be issued by the department to a natural person unless the licensee's social security number has been provided to the department.

(f) The department may establish and implement a waiver of continuing education requirements for renewal of a license regulated by the department and a board may establish and implement a waiver of continuing education

requirements for renewal of a license regulated by the board for the period in which a licensee is engaged in active duty military service in the armed forces of the United States.

(g) A member of the armed forces of the United States on active duty in a combat zone, danger pay post, or qualified hazardous duty area, who is a licensee under this title in good standing at the time of the licensee's active duty order is exempt from any fees or other requirements to maintain that license or good standing while the licensee is in that zone, at that post, or in that area. This exemption is valid for 180 days after returning to the licensee's permanent duty station, if the licensee does not engage in licensed practice for profit in the private sector. The licensee shall pay fees and meet all other requirements for the license period beginning after the exemption ends. In this subsection,

- (1) "combat zone" has the meaning given in 26 U.S.C. 112(c)(2) (Internal Revenue Code);
- (2) "danger pay post" means a post so designated by the United States Secretary of State in the Department of State Standardized Regulations for purposes of danger pay under 5 U.S.C. 5928;
- (3) "qualified hazardous duty area" means an area that, during the applicant's deployment, is treated as if it were a combat zone for purposes of a federal tax exemption under 26 U.S.C. 112 (Internal Revenue Code).

**Sec. 08.01.102. Citation for unlicensed practice or activity.** The department may issue a citation for a violation of a license requirement under this chapter, except a requirement to have a license under AS 43.70, if there is probable cause to believe a person has practiced a profession or engaged in business for which a license is required without holding the license. Each day a violation continues after a citation for the violation has been issued constitutes a separate violation. A citation issued under this section must comply with the standards adopted under AS 12.25.175 - 12.25.230.

**Sec. 08.01.103. Procedure and form of citation.** (a) A person receiving the citation issued under AS 08.01.102 is not required to sign a notice to appear in court.

(b) The time specified in the notice to appear on a citation issued under AS 08.01.102 shall be at least five working days after the issuance of the citation.

(c) The department is responsible for the issuance of books containing appropriate citations and shall maintain a record of each book issued and each citation contained in it. The department shall require and retain a receipt for every book issued to an employee of the department.

(d) On or before the 10th working day after the issuance of a citation, the department shall deposit the original or a copy of the citation with a court having jurisdiction over the alleged offense. Upon its deposit with the court, the citation may be disposed of only by trial in the court or other official action taken by the magistrate, judge, or prosecutor. The department may not dispose of a citation, copies of it, or the record of its issuance except as required under this subsection and (e) of this section.

(e) The department shall require the return of a copy of every citation issued by the department and all copies of a citation that has been spoiled or upon which an entry has been made and not issued to an alleged violator. The department shall also maintain, in connection with each citation, a record of the disposition of the charge by the court where the original or copy of the citation was deposited.

(f) A citation issued under AS 08.01.102 is considered to be a lawful complaint for the purpose of prosecution.

**Sec. 08.01.104. Failure to obey citation.** Unless the citation has been voided or otherwise dismissed by the magistrate, judge, or prosecutor, a person who without lawful justification or excuse fails to appear in court to answer a citation issued under AS 08.01.102, regardless of the disposition of the charge for which the citation was issued, is guilty of a class B misdemeanor.

**Sec. 08.01.105. Penalty for improper payment.** An applicant shall pay a penalty of \$10 each time a negotiable instrument is presented to the department in payment of an amount due and payment is subsequently refused by the named payor.

**Sec. 08.01.110. Definitions.** In this chapter,

- (1) "board" includes the boards and commissions listed in AS 08.01.010;
- (2) "commissioner" means the commissioner of commerce, community, and economic development;
- (3) "department" means the Department of Commerce, Community, and Economic Development;
- (4) "license" means a business license or a license, certificate, permit, or registration or similar evidence of authority issued for an occupation by the department or by one of the boards listed in AS 08.01.010;
- (5) "licensee" means a person who holds a license;
- (6) "occupation" means a trade or profession listed in AS 08.01.010.

**CHAPTER 02.**  
**MISCELLANEOUS PROVISIONS.**

**Section**

- 10. Professional designation requirements**
- 11. Professional geologist**
- 20. Limitation of liability**
- 40. Access to certain mental health information and records by the state**
- 50. Permits for use of drugs to euthanize domestic animals**
- 90. Definition**

**Sec. 08.02.010. Professional designation requirements.** (a) An acupuncturist licensed under AS 08.06, an audiologist or speech-language pathologist licensed under AS 08.11, a behavior analyst licensed under AS 08.15, a person licensed in the state as a chiropractor under AS 08.20, a professional counselor licensed under AS 08.29, a dentist under AS 08.36, a dietitian or nutritionist licensed under AS 08.38, a massage therapist licensed under AS 08.61, a marital and family therapist licensed under AS 08.63, a medical practitioner or osteopath under AS 08.64, a direct-entry midwife certified under AS 08.65, a registered nurse under AS 08.68, an optometrist under AS 08.72, a licensed pharmacist under AS 08.80, a physical therapist or occupational therapist licensed under AS 08.84, a psychologist under AS 08.86, or a clinical social worker licensed under AS 08.95, shall use as professional identification appropriate letters or a title after that person's name that represents the person's specific field of practice. The letters or title shall appear on all signs, stationery, or other advertising in which the person offers or displays personal professional services to the public. In addition, a person engaged in the practice of medicine or osteopathy as defined in AS 08.64.380, or a person engaged in any manner in the healing arts who diagnoses, treats, tests, or counsels other persons in relation to human health or disease and uses the letters "M.D." or the title "doctor" or "physician" or another title that tends to show that the person is willing or qualified to diagnose, treat, test, or counsel another person, shall clarify the letters or title by adding the appropriate specialist designation, if any, such as "dermatologist," "radiologist," "audiologist," "naturopath," or the like.

(b) A person subject to (a) of this section who fails to comply with the requirements of (a) of this section shall be given notice of noncompliance by that person's appropriate licensing board or, if the person is not regulated by a board, by the department. If, after a reasonable time, with opportunity for a hearing, the person's noncompliance continues, the board or department, as appropriate, may suspend or revoke the person's license or registration, or administer other disciplinary action which in its determination is appropriate.

**Sec. 08.02.011. Professional geologist.** The commissioner of commerce, community, and economic development shall certify an applicant as a professional geologist if the applicant is certified as a professional geologist by the American Institute of Professional Geologists.

**Sec. 08.02.020. Limitation of liability.** An action may not be brought against a person for damages resulting from

- (1) the person's good faith performance of a duty, function, or activity required as a
  - (A) member of, or witness before, a licensing board or peer review committee established to review a licensing matter;
  - (B) member of a committee appointed under AS 08.64.336(c);
  - (C) contractor or agent of a contractor under AS 08.01.050(d) or AS 08.64.101(5);
- (2) a recommendation or action in accordance with the prescribed duties of a licensing board, peer review committee established to review a licensing matter, committee appointed under AS 08.64.336(c), or contractor or agent of a contractor under AS 08.01.050(d) or AS 08.64.101(5) when the person acts in the reasonable belief that the action or recommendation is warranted by facts known to the person, board, peer review committee, committee appointed under AS 08.64.336(c), or contractor or agent of the contractor under AS 08.01.050(d) or AS 08.64.101(5) after reasonable efforts to ascertain the facts upon which the action or recommendation is made; or
- (3) a report made in good faith to a public agency by the person, or participation by the person in an investigation by a public agency or a judicial or administrative proceeding relating to the report, if the report relates to the abuse of alcohol, other drugs, or other substances by a person licensed by a board listed in AS 08.01.050(d).

**Sec. 08.02.040. Access to certain mental health information and records by the state.** (a) Notwithstanding AS 08.29.200, AS 08.63.200, AS 08.86.200, AS 08.95.900, another provision of this title, or a regulation adopted under this title, a licensee or an entity employing or contracting with a licensee may disclose confidential patient mental health information, communications, and records to the Department of Health and Social Services when disclosure is authorized under AS 47.30.540, 47.30.590, 47.30.845, or AS 47.31.032. Information, communications, and records received by the Department of Health and Social Services under this section are confidential medical records of patients and are not open to public inspection and copying under AS 40.25.110 - 40.25.120.

(b) In this section, "licensee" has the meaning given in AS 08.01.110.

**Sec. 08.02.050. Permits for use of drugs to euthanize domestic animals.** (a) A qualified agency may apply to the department and obtain a permit that authorizes the purchase, possession, and use by the agency of sodium pentobarbital, sodium pentobarbital with lidocaine, and other drugs authorized in regulations adopted by the department for the purpose of euthanizing injured, sick, or abandoned domestic animals in the lawful possession of the agency. To qualify to obtain the permit, the agency shall certify that it will

(1) comply with applicable federal laws related to the use of the drugs; and

(2) not permit an employee to administer the drugs unless the employee has successfully completed a euthanasia technician certification course approved by the National Animal Control Association, the American Humane Association, or the Humane Society of the United States.

(b) The department may revoke or suspend a permit or take another disciplinary action under AS 08.01.075 if it determines that the agency or an employee of the agency

(1) improperly used sodium pentobarbital, sodium pentobarbital with lidocaine, or another drug authorized for use under this section;

(2) failed to follow federal or state laws regarding proper storage and handling of the drugs;

(3) allowed an employee to administer the drugs before the employee successfully completed the certification course described in (a)(2) of this section; or

(4) violated this title or a regulation adopted under this title.

(c) In this section, "agency" means an animal control agency of a municipality or recognized governmental entity or an entity that has contracted with a municipality or recognized governmental entity to perform animal control or animal euthanasia services.

(d) The department may adopt regulations to implement this section.

**Sec. 08.02.090. Definition.** In this chapter, "department" means the Department of Commerce, Community, and Economic Development.

**CHAPTER 03.**  
**TERMINATION, CONTINUATION AND REESTABLISHMENT**  
**OF REGULATORY BOARDS.**

**Section**

**10. Termination dates for regulatory boards**

**20. Procedures governing termination, transition, and continuation**

**Sec. 08.03.010. Termination dates for regulatory boards.**

(a) *[Repealed, Sec. 4 ch 14 SLA 1987.]*

(b) *[Repealed, Sec. 4 ch 14 SLA 1987.]*

(c) The following boards have the termination date provided by this subsection:

- (1) Board of Public Accountancy (AS 08.04.010) – June 30, 2021;
  - (2) Board of Governors of the Alaska Bar Association (AS 08.08.040) – June 30, 2021;
  - (3) State Board of Registration for Architects, Engineers, and Land Surveyors (AS 08.48.011) – June 30, 2017;
  - (4) Board of Barbers and Hairdressers (AS 08.13.010) – June 30, 2019;
  - (5) Board of Chiropractic Examiners (AS 08.20.010) – June 30, 2022;
  - (6) Board of Professional Counselors (AS 08.29.010) – June 30, 2018;
  - (7) Board of Dental Examiners (AS 08.36.010) – June 30, 2019;
  - (8) Board of Certified Direct-Entry Midwives (AS 08.65.010) – June 30, 2017;
  - (9) Big Game Commercial Services Board (AS 08.54.591) – June 30, 2016;
  - (10) Board of Marine Pilots (AS 08.62.010) – June 30, 2019;
  - (11) Board of Marital and Family Therapy (AS 08.63.010) – June 30, 2018;
  - (12) Board of Massage Therapists (AS 08.61.010) – June 30, 2018;
  - (13) State Medical Board (AS 08.64.010) – June 30, 2020;
  - (14) Board of Nursing (AS 08.68.010) – June 30, 2019;
  - (15) Board of Examiners in Optometry (AS 08.72.010) – June 30, 2022;
  - (16) Board of Pharmacy (AS 08.80.010) – June 30, 2018;
  - (17) State Physical Therapy and Occupational Therapy Board (AS 08.84.010) – June 30, 2022;
  - (18) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010) – June 30, 2018;
  - (19) Real Estate Commission (AS 08.88.011) – June 30, 2016;
  - (20) Board of Certified Real Estate Appraisers (AS 08.87.010) – June 30, 2018;
  - (21) Board of Social Work Examiners (AS 08.95.010) – June 30, 2018;
  - (22) Board of Veterinary Examiners (AS 08.98.010) – June 30, 2017.
- (d) *[Repealed, Sec. 3 ch 74 SLA 1979.]*
- (e) *[Repealed, Sec. 3 ch 74 SLA 1979.]*

**Sec. 08.03.020. Procedures governing termination, transition, and continuation.** (a) Upon termination, each board listed in AS 08.03.010 shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities, and the statutory authority of the board is transferred to the department.

(b) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(c) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed eight years unless the board is continued or reestablished for a longer period under AS 08.03.010.

(d) The department shall carry out the functions of a board that has ceased all activities under (a) of this section. Litigation, hearings, investigations, and other proceedings pending at the time the board ceased activities continue in effect and may be continued or completed by the department. Licenses, certificates, orders, and regulations issued or adopted by the board and in effect at the time the board ceased activities remain in effect for the term issued or until revoked, amended, vacated, or repealed by the department.

**CHAPTER 02.**  
**GENERAL OCCUPATIONAL LICENSING FUNCTIONS.**

**Article**

- 1. Collection of Fees**  
(12 AAC 02.010 — 12 AAC 02.030)
- 2. Occupational Licensing Fees**  
(12 AAC 02.100 — 12 AAC 02.396)
- 3. Examination Review Procedures**  
(12 AAC 02.400)
- 4. Real Estate Errors and Omissions Insurance**  
(12 AAC 02.510 — 12 AAC 02.590)
- 5. General Provisions**  
(12 AAC 02.900 — 12 AAC 02.990)

**ARTICLE 1.**  
**COLLECTION OF FEES.**

**Section**

- 10. Licensing and renewal fees**
- 15. Refund of license fees**
- 20. Prorating renewal fees**
- 30. Prorating initial renewal fees**

**12 AAC 02.010. LICENSING AND RENEWAL FEES.** (a) The department will collect fees for licensing and for license renewal for the boards and professions listed in AS 08.01.010.

(b) The department will not issue a license or renew a license unless the applicable fees established in AS 08 or in this chapter have been collected.

(c) Except as otherwise provided in this title, an application for initial licensure or renewal of license will be considered filed as of the filing date of the document, as determined by 12 AAC 02.920.

(d) *Repealed 5/4/90.*

(e) An application fee is not refundable.

**Authority:** AS 08.01.050 AS 08.01.065 AS 08.01.100  
AS 08.01.060 AS 08.01.080

**12 AAC 02.015. REFUND OF LICENSE FEES.** (a) Except as provided in (b) of this section, after a license is initially issued or renewed, the department will not refund the initial license fee or the license renewal fee.

(b) On request, the department will issue a prorated refund of a license fee paid for a licensing period in which the individual licensee dies. The department will issue the refund to the estate of the licensee. The department will not issue a refund when the estate of the licensee remains a partner in a partnership that received a license under AS 08.

(c) To request a refund under this section, the estate of the licensee shall submit to the department

(1) a written request for a refund within 12 months of the licensee's death or before the end of the licensing period in which the licensee died, whichever time period is greater; and

(2) verification of the licensee's death; the department will accept a letter from a coroner or mortuary, a death certificate, or a copy of a newspaper article as verification.

(d) The department will calculate the amount of the prorated refund described in (b) of this section based on the number of complete months remaining in the licensing period on the date of the licensee's death.

**Authority:** AS 08.01.050 AS 08.01.065 AS 08.01.080

**12 AAC 02.020. PRORATING RENEWAL FEES.** The department will prorate the first license renewal fees following initial licensure, in accordance with 12 AAC 02.030. All renewal fees, including penalty and delinquent fees must be paid by the licensee applying for renewal of a license, except as provided in 12 AAC 02.030(a)(1) and (b)(1).

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.01.100

**12 AAC 02.030. PRORATING INITIAL RENEWAL FEES.** (a) When the department issues an initial biennial license

(1) on or within the 90 days before the date by which it must be renewed, the applicant shall pay the entire license fee but is not required to pay the prescribed renewal fee until the second renewal date;

(2) more than 90 days but 12 months or less before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay one-half of the prescribed renewal fee at the time of the first renewal date; or

(3) more than 12 months before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay the entire prescribed renewal fee at the time of the first renewal date.

(b) When the department issues an initial annual license

(1) on or within the 90 days before the date by which it must be renewed, the applicant shall pay the entire license fee but is not required to pay the prescribed renewal fee until the second renewal date;

(2) more than 90 days but six months or less before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay one-half of the prescribed renewal fee at the time of the first renewal date; or

(3) more than six months before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay the entire prescribed renewal fee at the time of the first renewal date.

(c) *Repealed 12/28/97.*

(d) *Repealed 9/29/2005.*

(e) The department will not prorate fees for applications, examinations, reexaminations, credential review or investigation, temporary or emergency permits, locum tenens permits, certificates, or other such fees established in AS 08 or in this chapter.

**Authority:** AS 08.01.065 AS 08.01.080 AS 08.01.100

## ARTICLE 2. OCCUPATIONAL LICENSING FEES.

### Section

**100. Fees established by department**

**102. Fees for a temporary license issued under AS 14.43.148 or AS 25.27.244; waivers; refunds**

**105. Administrative fees**

**242. Board of Marital and Family Therapy**

**12 AAC 02.100. FEES ESTABLISHED BY DEPARTMENT.** The fees established in this chapter have been adopted by the department after considering any recommendations of the applicable board or commission listed in AS 08.01.010.

**Authority:** AS 08.01.065

**12 AAC 02.102. FEES FOR A TEMPORARY LICENSE ISSUED UNDER AS 14.43.148 OR AS 25.27.244; WAIVERS; REFUNDS.** (a) When the division issues a temporary license under AS 14.43.148 or AS 25.27.244, the division will collect the annual or biennial license fee for the trade or profession for which the temporary license is issued, subject to the refund and waiver provisions set out in this section. The temporary license fee is the amount paid to the division under this section from the annual or biennial license fee that is not refunded or waived under this section.

(b) When an individual who holds a temporary license issued under AS 14.43.148 is

(1) issued a notice of release by the Alaska Commission on Postsecondary Education and takes the action necessary, on or before the expiration date of the temporary license, to convert the temporary license to an annual or biennial license under AS 05.10, AS 08, or AS 46.03.375, the division will waive one-half of the annual or biennial license fee for the trade or profession for which the individual is receiving an annual or biennial license;

(2) not issued a notice of release by the Alaska Commission on Postsecondary Education on or before the expiration date of the temporary license, the department will

(A) refund one-half of the annual or biennial license fee paid under (a) of this section; and

(B) not refund a bond, cash deposit, negotiable instrument, or other mechanism to provide proof of financial responsibility that was deposited for claims under AS 05.10.090, AS 08, or this chapter, except as required by law.

(c) When an individual who holds a temporary license issued under AS 25.27.244 is

(1) issued a release by the child support services agency and takes the action necessary, on or before the expiration date of the temporary license, to convert the temporary license to an annual or biennial license under AS 05.10, AS 08, or AS 46.03.375, the division will waive one-half of the annual or biennial license fee for the trade or profession for which the individual is receiving an annual or biennial license;

(2) not issued a notice of release by the child support services agency on or before the expiration date of the temporary license, the department will

(A) refund one-half of the annual or biennial license fee paid under (a) of this section; and

(B) not refund a bond, cash deposit, negotiable instrument, or other mechanism to provide proof of financial responsibility that was deposited for claims under AS 05.10.090, AS 08, or this chapter, except as required by law.

(d) In this section, "annual or biennial license fee" means the initial license fee or the license renewal fee established in

(1) AS 05.10.120 or this chapter for a licensing category included under the trades and professions listed in AS 08.01.010; and

(2) 18 AAC 78.495 for certification as an underground storage tank worker.

**Authority:** AS 08.01.050 AS 14.43.148 AS 25.27.244  
AS 08.01.065

**12 AAC 02.105. ADMINISTRATIVE FEES.** Except as otherwise provided in this chapter for a particular board or occupation, the following fees apply to all boards and professions listed in AS 08.01.010:

- (1) duplicate license fee, \$5;
- (2) fee for verification or certification of an Alaska license, registration, or examination, \$20;
- (3) name change, except for construction contractors, \$5;
- (4) photocopy fee, \$.25 per page, which may be waived by the department if the total fee is less than \$5;
- (5) facsimile fee, \$1 per page, which may be waived by the department if the total fee is less than \$5;
- (6) returned check fee, \$20;
- (7) *repealed 12/28/97;*
- (8) exam postponement fee, \$25;
- (9) wall certificate fee, \$20;
- (10) fee for proctoring an examination for another state's applicant, \$50;
- (11) fee for specialized report of licensing data that the department has agreed to provide, \$100 plus the cost of supplies;
- (12) express delivery handling fee, \$20;
- (13) fee for providing the most recently printed roster of all licensees in a licensing program, other than business licensing, with
  - (A) 2,000 or less licensees, \$5;
  - (B) more than 2,000 licensees, \$15;
  - (C) *repealed 3/25/2004;*
- (14) fee for a courtesy license issued under 12 AAC 02.955, \$100;
- (15) courtesy license application fee, \$50;
- (16) examination review fee, \$50.

**Authority:** AS 08.01.062 AS 08.01.065 AS 08.01.100

**12 AAC 02.242. BOARD OF MARITAL AND FAMILY THERAPY.** The following fees are established for marital and family therapists and associates:

- (1) nonrefundable application fee for initial license, \$175;
- (2) license fee for all or part of the initial biennial license period, \$665;
- (3) biennial license renewal fee, \$665;
- (4) four-year associate license fee for supervised practice, \$445;
- (5) temporary license fee, \$100.

**Authority:** AS 08.01.065 AS 08.63.110 AS 08.63.140  
AS 08.63.100 AS 08.63.130

### ARTICLE 3. EXAMINATION REVIEW PROCEDURES.

#### Section

#### 400. Examination review

**12 AAC 02.400. EXAMINATION REVIEW.** (a) The division will follow the examination review procedures established in this section unless the public or private organization that prepares and owns the examination has procedures for examination review that conflict with the procedures in this section. When there is a conflict, the division will follow the procedures of the public or private organization that prepares and owns the examination.

(b) An applicant who wishes to review a failed examination shall submit a written request, and the applicable examination review fee specified in this chapter, to the division within 30 days after the notice of examination results was mailed to the applicant.

(c) All examination reviews will be conducted in the presence of division staff or the division's designee at the time and location determined by the division. An examination review will not be conducted within 30 days of the next examination the applicant is scheduled to take.

(d) Only an applicant who has failed an examination may participate in the examination review and the applicant may review only his or her own examination.

(e) An applicant may use the same reference materials during an examination review that were allowed during the examination itself, but applicants may not use other materials or take notes or make copies of any kind. All materials brought to an examination review are subject to inspection by the division staff.

(f) An applicant may challenge questions on the examination by submitting the challenge in writing during the time allowed to conduct the examination review under (h) of this section. The written challenge to an examination question must include

- (1) the applicant's name;
- (2) the date of the examination;
- (3) the title of the examination;
- (4) the number of the question being challenged; and
- (5) a detailed explanation of the reason for the challenge.

(g) A challenge to an examination question will be reviewed by the division, licensing board, or the public or private organization administering the examination. If the division, licensing board, or public or private organization administering the examination sustains a challenge to an examination question, the department will give credit to the applicant for that question.

(h) To conduct the examination review, the division will allow the applicant challenging a question under (f) of this section one half of the length of time that was allowed for the taking of the examination being reviewed.

(i) Unless otherwise provided by an organization that provides or administers an examination for the division or the release is prohibited by law or contract, the division will provide an applicant who requests an examination review with the questions answered incorrectly on the failed examination and the answer that the applicant selected only. If the examination contains multiple choice questions, the applicant may be provided with all of the answer selections to each failed question without identification of the correct answers.

**Authority:** AS 08.01.050

AS 08.01.080

#### **ARTICLE 4. REAL ESTATE ERRORS AND OMISSIONS INSURANCE.**

##### **Section**

- 510. Minimum standards**
- 520. Exceptions to coverage**
- 530. Standards for equivalent coverage**
- 540. Notification required for cancellation**
- 550. Maximum amount of premium**
- 560. Method of adjustment**
- 590. Definitions**

**12 AAC 02.510. MINIMUM STANDARDS.** (a) The master errors and omissions insurance policy must provide to each individual licensee, at a minimum, the following terms of coverage:

(1) not less than \$100,000 limit of liability for each licensee per covered wrongful act or per covered claim depending on the policy form used by the insurer; claims expenses including the cost for investigation or defense must be in addition to the limit of liability; if the limit of liability is on a

(A) covered wrongful act basis, two or more claims arising out of a single wrongful act or a series of related wrongful acts may be considered one claim;

(B) covered claim basis, two or more related wrongful acts may be considered one claim;

(2) an annual aggregate limit of liability of not less than \$200,000 per licensee;

(3) a deductible amount for each covered wrongful act of not more than \$2,000 for every \$200,000 annual aggregate limit of liability; an additional deductible for investigation and defense costs may be considered if necessary to meet the maximum premium amount under 12 AAC 02.550, but it is not required;

(4) an extended reporting period of 90 days and an option to purchase an additional three years extended reporting period for a premium not to exceed 150 percent of the premium charged for the last year of the terminating coverage;

(5) the ability of a licensee, upon payment of an additional premium, to obtain higher limits of coverage or to purchase additional coverages from the group insurer as may be available from the insurer;

(6) the coverage provided under the master errors and omissions insurance policy must be individual and specific to the licensee and must cover the licensee regardless of changes in real estate broker employing the licensee; and

(7) prior acts coverage must be offered to a licensee who has maintained the same or similar coverage, continually in-force until the date and the time that coverage begins under the master errors and omissions insurance policy coverage.

(b) The master errors and omissions insurance policy must contain a provision requiring the consent of the insured to settle a claim except that the insured may not unreasonably withhold consent.

(c) The insurer that is selected to provide the master errors and omissions insurance policy shall

- (1) maintain an A.M. Best rating of "B+" or better and financial size category of class VI or higher;
- (2) maintain a certificate of authority issued under AS 21.09 by the director of insurance to transact insurance business in this state and be in compliance with AS 21;
- (3) provide the master errors and omissions insurance policy after notification by the Real Estate Commission that it is the successful bidder of a competitive bidding process under AS 36.30;
- (4) enter into contract to provide the master errors and omissions insurance policy in conformity with AS 08.88.172, 12 AAC 02.510 – 12 AAC 02.590, and AS 21; and
- (5) collect premiums, maintain records, and report to the Real Estate Commission the names of those insured and claims experience, date of claim, amount paid, nature of claim, and claims information on an annual or a bi-annual basis or on request by the Real Estate Commission.

**Authority:** AS 08.88.172

**12 AAC 02.520. EXCEPTIONS TO COVERAGE.** Except as provided in this section, the master errors and omissions insurance policy may not exclude coverage for claims brought against the insured licensee arising out of a wrongful act by the licensee when performing a professional service for which a real estate license is required. The policy may limit or exclude coverage for claims brought against a licensee that arise as follows:

- (1) out of claims or lawsuits made or brought by any insured person against any other insured person within the same firm or from compensation disputes between licensees;
- (2) out of loss assumed under a contract or an agreement, except for liability the insured would have had in the absence of the agreements;
- (3) from a criminal, dishonest, fraudulent, or intentional act or omission; this exclusion does not apply to an insured person who did not personally participate in committing the act or omission and who, upon having knowledge of the act or omission, reported it to the Real Estate Commission, or appropriate law enforcement authorities;
- (4) from unlawful discrimination committed by or for the insured person;
- (5) from fines or penalties imposed by a tribunal or other governmental agency;
- (6) from bodily injury, personal injury, advertising injury, or property damage;
- (7) from related business activities for which a license is not required under AS 08.88;
- (8) from the presence of or the actual, alleged, or threatened discharge, dispersal, release, or escape of hazardous materials, nuclear materials, or pollutants;
- (9) from prior wrongful acts unless specific prior wrongful acts coverage is provided;
- (10) from any violation of 15 U.S.C. 77a – 77aa (Securities Act of 1933) or 15 U.S.C. 78a – 78mm (Securities Exchange Act of 1934) or any state blue sky or securities law or similar state or federal statutes; or
- (11) other standard exclusions that are typical in a professional liability insurance policy and that have been approved by the director of insurance under AS 21.42.

**Authority:** AS 08.88.172

**12 AAC 02.530. STANDARDS FOR EQUIVALENT COVERAGE.** An insurer issuing equivalent coverage under AS 08.88.172(c)(2) shall hold a certificate of authority issued under AS 21.09. All activities contemplated under AS 08.88.172 must be covered. The insurance must meet the minimum coverage standards of 12 AAC 02.510, except that

- (1) a policy with a higher deductible amount or self-insured retention will qualify as equivalent coverage for purposes of AS 08.88.172(c)(2) if the insured licensee provides the Alaska Real Estate Commission with an affidavit certifying that the insured licensee has the financial resources to pay the higher deductible amount or self-insured retention; and
- (2) a broker employing other real estate licensees may comply with the requirements of 12 AAC 02.510(a)(1) and (2) by obtaining insurance with coverage of a minimum of \$200,000 per wrongful act and \$1,000,000 aggregate, if all licensees associated with the broker are covered.

**Authority:** AS 08.88.172

**12 AAC 02.540. NOTIFICATION REQUIRED FOR CANCELLATION.** If equivalent insurance coverage obtained by a licensee under AS 08.88.172(c)(2) is to lapse or not be renewed, the insurer shall notify the Real Estate Commission of the intent to lapse or not to renew a minimum of 30 days before the expiration date of the term. It is the responsibility of the employing broker or licensee, as applicable, to instruct the insurer to provide the notice required by this section to the Real Estate Commission.

**Authority:** AS 08.88.172

**12 AAC 02.550. MAXIMUM AMOUNT OF PREMIUM.** The maximum amount of premium to be charged a licensee annually under the master errors and omissions insurance policy is \$300.

**Authority:** AS 08.88.172

**12 AAC 02.560. METHOD OF ADJUSTMENT.** Every five years after the initial procurement of the master errors and omissions insurance policy, the department may adjust the amount of coverage under 12 AAC 02.510(a) and the maximum amount of the premium under 12 AAC 02.550 to reflect the change in the consumer price index for all urban consumers in the Anchorage metropolitan area using the standards set out in this section. The department will not make an adjustment if the department finds the adjustment will significantly reduce the number of insurers willing to bid on a contract to offer the master errors and omissions insurance policy. An adjustment in the limits of liability under 12 AAC 02.510(a) must be an increment of no less than \$25,000. An adjustment in the amount of the premium must be in an increment of no less than \$25. The department will give notice of the adjustments under this section by posting the amounts on its Internet Website. An adjustment under this section does not take effect until the renewal or the issuance of a new master errors and omissions insurance policy.

**Authority:** AS 08.88.172

**12 AAC 02.590. DEFINITIONS.** In this chapter, unless the context requires otherwise,

(1) "aggregate limit" means the maximum liability of an insurer regardless of the number of claims during the policy term;

(2) "director of insurance" means the person appointed under AS 21.06.010 to head the division of insurance of this state;

(3) "equivalent coverage" means errors and omissions insurance coverage obtained independently of the master errors and omissions insurance policy available from the Real Estate Commission and that complies with the requirements, terms, and conditions as set out in 12 AAC 02.510 – 12 AAC 02.590;

(4) "errors and omissions insurance" means professional liability insurance that provides coverage to holders of active real estate brokers, associate brokers, and salesperson licenses in this state for wrongful acts made during the course of real estate transactions, subject to the coverages, limitations, and exclusions of one or more specific insurance policies in place;

(5) "extended reporting period" means a designated period of time after an errors and omissions insurance policy has expired during which a claim may be made and coverage triggered as if the claim has been made during the policy period;

(6) "master errors and omissions insurance policy" means the policy obtained by the Real Estate Commission under AS 08.88.172 that meets the requirements of 12 AAC 02.510 – 12 AAC 02.590.

(7) "prior acts coverage" means the insurance policy provides coverage for claims that are made during a current policy period, but one or more acts causing the claim or injuries for which the claim is made occurred before the inception of the current policy period;

(8) "wrongful act" means a negligent act, error, or omission.

**Authority:** AS 08.88.081

AS 08.88.172

## ARTICLE 5. GENERAL PROVISIONS.

### Section

**900. Name and address changes**

**910. Abandoned applications**

**920. Filing date**

**930. Date of license lapse**

**935. Effective date of license**

**940. Effective date of renewed licenses**

**950. (Repealed)**

**955. Courtesy license**

**960. Audit of compliance with continuing competency requirements**

**965. Failure to meet continuing education requirements for renewal and reinstatement of license**

**990. Definitions**

**12 AAC 02.900. NAME AND ADDRESS CHANGES.** (a) A person licensed, registered, or certified by a board or commission listed in AS 08.01.010, or in an occupation listed in AS 08.01.010, shall maintain a current, valid,

mailing address on file with the division at all times. The latest mailing address on file with the division is the address that will be used for official communications, notifications, and service of legal process.

(b) A licensee must notify the division in writing, of a change of the licensee's address.

(c) If a licensee has a change of name, the licensee shall submit to the division within 30 days of the change of name

(1) notification of the change of the licensee's name, on a form provided by the division that has been completed by the licensee and notarized;

(2) a copy of the marriage certificate, court document, or other legal document verifying the change of name; and

(3) the fee established in 12 AAC 02.105 for a name change.

(d) The division will issue a new license showing the change of name if a licensee meets the requirements in (c) of this section.

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.01.087

**12 AAC 02.910. ABANDONED APPLICATIONS.** (a) Except if procedures are otherwise expressly provided in this title for a particular board or occupation, an application is considered abandoned when

(1) 12 months have elapsed since correspondence was last received from or on behalf of the applicant; or

(2) the applicant has failed to appear for two successive examinations.

(b) An abandoned application is denied without prejudice and the application fee forfeited.

(c) At the time an application is considered abandoned, the division will send notification of abandonment to the last known address of the applicant. An applicant may request a refund of all unused examination and licensing fees credited to the application by submitting a written request for refund within 30 days from the date notification of abandonment was mailed by the division. If no request for refund is received, all fees are forfeited.

**Authority:** AS 08.01.050 AS 08.01.080

**12 AAC 02.920. FILING DATE.** (a) Except as otherwise provided in this title, a document submitted to the division will be considered filed as of the postmark date of the document. If the document is submitted by a method that does not provide a postmark date, the document will be considered filed as of the date stamped on the document,

(1) except as provided in (2) of this subsection, when it is received in the division office in Juneau;

(2) for a document related to licensing for nursing under 12 AAC 44 or real estate licensing under 12 AAC 64, when it is received in the division office in Anchorage.

(b) If a filing deadline established in AS 08 or this title falls on a Saturday, Sunday, or state holiday, the deadline will be extended to the next regular state business day.

(c) For the purposes of this section, "postmark date" means the date of a document with prepaid postage and correctly addressed to the division by the United States Postal Service or other established domestic courier service.

**Authority:** AS 08.01.050 AS 08.01.080

***Editor's note:** For the purposes of 12 AAC 02.920(a), the division of corporations, business and professional licensing office in the Department of Commerce, Community, and Economic Development, in Juneau is located at the State Office Building, 9th Floor, 333 Willoughby Avenue, Juneau, Alaska 99801 and the division office in Anchorage is located at the Atwood Building, 550 W. 7th Avenue, Suite 1500, Anchorage, Alaska 99501.*

**12 AAC 02.930. DATE OF LICENSE LAPSE.** For the purposes of AS 08.01.100, if a person licensed by the department or by one of the boards or commissions under AS 08.01.010 was issued a temporary license under AS 14.43.148 or AS 25.27.244 and the temporary license was not converted to an annual or biennial license under AS 05.10, or AS 08, or AS 46.03.375, the lapsed period begins from the date that the temporary license expired.

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.01.100

**12 AAC 02.935. EFFECTIVE DATE OF LICENSE.** (a) When the Alaska Commission on Postsecondary Education issues a notice of release, on or before the expiration date of the temporary license issued by the division under AS 14.43.148, the division will issue the initial license or renewal under AS 08 or AS 46.03.375. The effective date of the license is the date that the license is issued under AS 08 or AS 46.03.375, except as provided in 12 AAC 02.940(b).

(b) When the child support services agency issues a release, on or before the expiration date of the temporary license issued by the division under AS 25.27.244, the division will issue the initial license or renewal under AS 08 or AS 46.03.375. The effective date of the license is the date that the license is issued under AS 08 or AS 46.03.375, except as provided in 12 AAC 02.940(b).

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.01.100

**12 AAC 02.940. EFFECTIVE DATE OF RENEWED LICENSES.** (a) Except as provided in (b) of this section, the effective date of a renewed license will be the date a complete renewal application is filed with the division as determined by 12 AAC 02.920. A complete application includes

- (1) a completed renewal form;
- (2) any applicable renewal fees required by this chapter; and
- (3) documentation of fulfillment of all applicable prerequisites to license renewal, such as continuing competency, recent experience, insurance coverage, or other requirements.

(b) The division will, in its discretion, show a retroactive effective date on a licensee's renewed license if the licensee

- (1) holds a license that has been lapsed less than 60 days;
- (2) requests in writing that the division issue a renewed license showing an effective date that is earlier than the date the renewed license was issued;
- (3) documents that the licensee was in substantial compliance with the renewal requirements in (a) of this section as of the requested effective date; and
- (4) establishes to the satisfaction of the division that the licensee made a good faith effort to strictly comply with the renewal requirements.

(c) The division will not issue a renewed license with an effective date that is earlier than the postmark date of the licensee's first written attempt to renew the licensee's license. "Written attempt to renew" means an effort by the licensee to submit the proper documentation to comply with the license renewal requirements. A request for a renewal application form alone does not constitute a "written attempt to renew."

**Authority:** AS 08.01.050 AS 08.01.100

**12 AAC 02.950. APPLICATION DEADLINE FOR EXAMINATION FOR AN OPTOMETRY LICENSE.**  
*Repealed 12/16/2001.*

**12 AAC 02.955. COURTESY LICENSE.** (a) If an applicant meets the requirements of this section, the department will issue a courtesy license authorizing the holder to practice one of the following professions for the limited purpose recognized by the division:

- (1) acupuncturist under AS 08.06;
- (2) audiologist under AS 08.11;
- (3) electrical administrator or mechanical administrator under AS 08.40;
- (4) funeral director or embalmer under AS 08.42;
- (5) naturopath under AS 08.45.

(b) A courtesy license issued under (a) of this section authorizes the holder to practice the profession or occupation for which the license is issued for a limited purpose recognized by the division under (f) of this section. A courtesy license does not authorize the holder to practice the profession outside the scope of the limited purpose for which the courtesy license is issued.

(c) An applicant for a courtesy license issued under (a) of this section shall submit to the department

- (1) a completed application on a form provided by the department;
- (2) the fee established in 12 AAC 02.105 for a courtesy license;
- (3) a sworn statement, signed by the applicant before a notary, that the applicant is not a resident of this state;
- (4) verification of a current license in another licensing jurisdiction to practice the profession for which a courtesy license is requested; the license in that jurisdiction must be active, in good standing, and cover the scope of the practice required for the limited purpose of the courtesy license;
- (5) a description of the limited purpose of the courtesy license and the applicant's intended scope of practice under the courtesy license; and
- (6) a sworn statement, signed by the applicant before a notary, that the applicant has not previously been denied a license or had a license revoked in this or another state or other licensing jurisdiction for the profession that the courtesy license is sought.

(d) A courtesy license issued under (a) of this section is valid for no more than 90 consecutive days. The department will not issue more than two courtesy licenses for the profession to an individual within a consecutive eighteen-month period.

(e) The holder of a courtesy license issued under (a) of this section is obligated to uphold the standards of practice identified in AS 08 and in this title for the relevant profession and is subject to the relevant disciplinary provisions in AS 08 and this title.

(f) The department will recognize the following limited purposes for a courtesy license issued under (a) of this section:

- (1) provision of professional services in an emergency situation specifically recognized by the department; the department will, in its discretion, restrict the license to cover only the professional services required to respond to the emergency situation, if the department finds that the courtesy license is only needed for this purpose;
- (2) instruction or provision of professional services at a clinic or seminar focused on a subject in which the applicant for a courtesy license is a specialist.

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.02.030

**12 AAC 02.960. AUDIT OF COMPLIANCE WITH CONTINUING COMPETENCY REQUIREMENTS.**

(a) Except as provided in (b) - (j) of this section, the department will audit compliance of licenses with continuing competency requirements in accordance with this section if

- (1) the licensee is required to meet continuing competency requirements under AS 08 or this title;
- (2) *repealed 9/29/2005*;
- (3) *repealed 9/29/2005*.

(b) A licensee subject to audit under (a) of this section and applying for license renewal shall

- (1) complete and sign a statement of compliance with continuing competency requirements; and
- (2) submit the statement to the department with the application for license renewal.

(c) Except as provided in (d) of this section, the department will select licensees for audit under (a) of this section as follows:

- (1) ten percent of the total number of licensees in that profession if the total number of licensees is less than 3,000; or
- (2) five percent of the total number of licensees in that profession if the total number of licensees is 3,000 or more.

(d) The department will require that a different percent of licensees be selected for audit, if the board that regulates the profession, or the department for a profession not regulated by a board or commission, finds that a different percent to be audited is necessary to protect public health and safety.

(e) A licensee selected for audit under (c) or (d) of this section will be notified by the department. Within 30 days of notification, the licensee shall submit to the department, documentation to verify completion of the continuing competency activities claimed on the statement submitted with the application for license renewal. The documentation must include a valid copy of a certificate or similar verification of satisfactory completion of the continuing competency activities claimed that provides

- (1) the name of the licensee;
- (2) the amount of continuing competency credit awarded;
- (3) a description of the continuing competency activity;
- (4) the dates of actual participation or successful completion; and
- (5) the name, mailing address and signature of the instructor, sponsor, or other verifier.

(f) A licensee subject to audit under (a) of this section is responsible for maintaining adequate and detailed records of all continuing competency activities completed and shall make the records available to the department on request. A licensee shall maintain the records until the later of

- (1) four years from the date of completion of the continuing competency activity; or
- (2) if the licensee was selected for audit, the date that the department notifies the licensee that the audit is completed.

(g) The department will extend the period for providing documentation of completion of continuing competency activities if the department finds that the licensee has good cause for the need for additional time to submit the documentation required in (e) of this section.

(h) The department will notify the respective board of a licensee's failure to comply with the department's request for records under (e) of this section.

(i) For professions licensed by the department, the department will consider the licensee's failure to comply with the department's request for records under (e) of this section as grounds for imposition of disciplinary sanctions to the extent allowed under AS 08 and this title.

(j) In this section, "successful completion" means the date that credit for the continuing competency activity is awarded by the instructor, sponsor, or other verifier for completion of the activity.

**Authority:** AS 08.01.050 AS 08.01.087 AS 08.01.100  
AS 08.01.080

**12 AAC 02.965. FAILURE TO MEET CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL AND REINSTATEMENT OF LICENSE.**

(a) Except as otherwise provided in AS 08 or this title, a license issued under AS 08 will not be renewed or reinstated if the applicant for renewal or reinstatement has not earned the required number of continuing education credits. The applicant may earn the required number of credits after the expiration date of the license. Continuing education credits earned to reinstate or renew an expired license may not be used to satisfy the continuing education requirements for a future renewal or reinstatement. Credits submitted to satisfy the continuing education requirements under this section must be approved under AS 08 and this title by the department or the applicable board.

(b) For the purposes of this section, "continuing education credits" includes continuing competency, contact hours, continuing education units (CEU's), and credit hours.

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.01.100

**12 AAC 02.990. DEFINITIONS.** As used in this chapter

- (1) “department” means the Department of Commerce, Community, and Economic Development;
- (2) “division” means the division assigned occupational licensing functions in the Department of Commerce, Community, and Economic Development;
- (3) “license” means a license, certificate, permit, registration, or similar evidence of authority issued by the division or by one of the boards listed in AS 08.01.010;
- (4) “licensee” means a person who holds a license issued by the division or by one of the boards listed in AS 08.01.010.

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.01.100

## APPENDIX A

**Child Protection.**  
**(Excerpts from AS 47.17)**

**Sec. 47.17.020. Persons required to report.** (a) The following persons who, in the performance of their occupational duties, or with respect to (8) of this subsection, in the performance of their appointed duties, have reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect shall immediately report the harm to the nearest office of the department:

- (1) practitioners of the healing arts;
- (2) school teachers and school administrative staff members, including athletic coaches, of public and private schools;
- (3) peace officers and officers of the Department of Corrections;
- (4) administrative officers of institutions;
- (5) child care providers;
- (6) paid employees of domestic violence and sexual assault programs, and crisis intervention and prevention programs as defined in AS 18.66.990;
- (7) paid employees of an organization that provides counseling or treatment to individuals seeking to control their use of drugs or alcohol;
- (8) members of a child fatality review team established under AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created under AS 47.14.300.

(b) This section does not prohibit the named persons from reporting cases that have come to their attention in their nonoccupational capacities, nor does it prohibit any other person from reporting a child's harm that the person has reasonable cause to suspect is a result of child abuse or neglect. These reports shall be made to the nearest office of the department.

(c) If the person making a report of harm under this section cannot reasonably contact the nearest office of the department and immediate action is necessary for the well-being of the child, the person shall make the report to a peace officer. The peace officer shall immediately take action to protect the child and shall, at the earliest opportunity, notify the nearest office of the department.

(d) This section does not require a religious healing practitioner to report as neglect of a child the failure to provide medical attention to the child if the child is provided treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination.

(e) The department shall immediately notify the nearest law enforcement agency if the department

- (1) concludes that the harm was caused by a person who is not responsible for the child's welfare;
- (2) is unable to determine
  - (A) who caused the harm to the child; or
  - (B) whether the person who is believed to have caused the harm has responsibility for the child's welfare;

or

- (3) concludes that the report involves
  - (A) possible criminal conduct under AS 11.41.410 – 11.41.458; or
  - (B) abuse or neglect that results in the need for medical treatment of the child.

(f) If a law enforcement agency determines that a child has been abused or neglected and that (1) the harm was caused by a teacher or other person employed by the school or school district in which the child is enrolled as a student, (2) the harm occurred during an activity sponsored by the school or school district in which the child is enrolled as a student, or (3) the harm occurred on the premises of the school in which the child is enrolled as a student or on the premises of a school within the district in which the child is enrolled as a student, the law enforcement agency shall notify the chief administrative officer of the school or district in which the child is enrolled immediately after the agency determines that a child has been abused or neglected under the circumstances set out in this section, except that if the person about whom the report has been made is the chief administrative officer or a member of the chief administrative officer's immediate family, the law enforcement agency shall notify the commissioner of education and early development that the child has been abused or neglected under the circumstances set out in this section. The notification must set out the factual basis for the law enforcement agency's determination. If the notification involves a person in the teaching profession, as defined in AS 14.20.370, the law enforcement agency shall send a copy of the notification to the Professional Teaching Practices Commission.

(g) A person required to report child abuse or neglect under (a) of this section who makes the report to the person's job supervisor or to another individual working for the entity that employs the person is not relieved of the obligation to make the report to the department as required under (a) of this section.

(h) This section does not require a person required to report child abuse or neglect under (a)(6) of this section to report mental injury to a child as a result of exposure to domestic violence so long as the person has reasonable cause to believe that the child is in safe and appropriate care and not presently in danger of mental injury as a result of exposure to domestic violence.

(i) This section does not require a person required to report child abuse or neglect under (a)(7) of this section to report the resumption of use of an intoxicant as described in AS 47.10.011(10) so long as the person does not have reasonable cause to suspect that a child has suffered harm as a result of the resumption.

**Sec. 47.17.290. Definitions.** In this chapter,

- (1) "athletic coach" includes a paid leader or assistant of a sports team;
- (2) "child" means a person under 18 years of age;
- (3) "child abuse or neglect" means the physical injury or neglect, mental injury, sexual abuse, sexual exploitation, or maltreatment of a child under the age of 18 by a person under circumstances that indicate that the child's health or welfare is harmed or threatened thereby; in this paragraph, "mental injury" means an injury to the emotional well-being, or intellectual or psychological capacity of a child, as evidenced by an observable and substantial impairment in the child's ability to function;
- (4) "child care provider" means an adult individual, including a foster parent or an employee of an organization, who provides care and supervision to a child for compensation or reimbursement;
- (5) "criminal negligence" has the meaning given in AS 11.81.900;
- (6) "department" means the Department of Health and Social Services;
- (7) "immediately" means as soon as is reasonably possible, and no later than 24 hours;
- (8) "institution" means a private or public hospital or other facility providing medical diagnosis, treatment, or care;
- (9) "maltreatment" means an act or omission that results in circumstances in which there is reasonable cause to suspect that a child may be a child in need of aid, as described in AS 47.10.011, except that, for purposes of this chapter, the act or omission need not have been committed by the child's parent, custodian, or guardian;
- (10) "mental injury" means a serious injury to the child as evidenced by an observable and substantial impairment in the child's ability to function in a developmentally appropriate manner and the existence of that impairment is supported by the opinion of a qualified expert witness;
- (11) "neglect" means the failure by a person responsible for the child's welfare to provide necessary food, care, clothing, shelter, or medical attention for a child;
- (12) "organization" means a group or entity that provides care and supervision for compensation to a child not related to the caregiver, and includes a child care facility, pre-elementary school, head start center, child foster home, residential child care facility, recreation program, children's camp, and children's club;
- (13) "person responsible for the child's welfare" means the child's parent, guardian, foster parent, a person responsible for the child's care at the time of the alleged child abuse or neglect, or a person responsible for the child's welfare in a public or private residential agency or institution;
- (14) "practitioner of the healing arts" includes athletic trainers, chiropractors, mental health counselors, social workers, dental hygienists, dentists, health aides, nurses, nurse practitioners, certified nurse aides, occupational therapists, occupational therapy assistants, optometrists, osteopaths, naturopaths, physical therapists, physical therapy assistants, physicians, physician's assistants, psychiatrists, psychologists, psychological associates, audiologists and speech-language pathologists licensed under AS 08.11, hearing aid dealers licensed under AS 08.55, marital and family therapists licensed under AS 08.63, behavior analysts, assistant behavior analysts, religious healing practitioners, acupuncturists, and surgeons;
- (15) "reasonable cause to suspect" means cause, based on all the facts and circumstances known to the person, that would lead a reasonable person to believe that something might be the case;
- (16) "school district" means a city or borough school district or regional educational attendance area;
- (17) "sexual exploitation" includes
  - (A) allowing, permitting, or encouraging a child to engage in prostitution prohibited by AS 11.66.100 – 11.66.150, by a person responsible for the child's welfare;
  - (B) allowing, permitting, encouraging, or engaging in activity prohibited by AS 11.41.455(a), by a person responsible for the child's welfare.

## APPENDIX B

**Protection of Vulnerable Adults.  
(Excerpts from AS 47.24)**

**Sec. 47.24.010. Persons required to report; reports of harm.** (a) Except as provided in (e) and (f) of this section, the following persons who, in the performance of their professional duties, have reasonable cause to believe that a vulnerable adult suffers from undue influence, abandonment, exploitation, abuse, neglect, or self-neglect shall, not later than 24 hours after first having cause for the belief, report the belief to the department's central information and referral service for vulnerable adults in the office of the department that handles adult protective services:

- (1) a physician or other licensed health care provider;
- (2) a mental health professional as defined in AS 47.30.915(11) and including a marital and family therapist licensed under AS 08.63;
- (3) a pharmacist;
- (4) an administrator or employee of a nursing home, residential care, or health care facility;
- (5) a guardian or conservator;
- (6) a police officer;
- (7) a village public safety officer;
- (8) a village health aide;
- (9) a social worker;
- (10) a member of the clergy;
- (11) a staff employee of a project funded by the Department of Administration for the provision of services to older Alaskans, the Department of Health and Social Services, or the Council on Domestic Violence and Sexual Assault;
- (12) an employee of a personal care or home health aide program;
- (13) an emergency medical technician or a mobile intensive care paramedic;
- (14) a caregiver of the vulnerable adult;
- (15) a certified nurse aide;
- (16) an educator or administrative staff member of a public or private educational institution.

(b) A report made under this section may include the name and address of the reporting person and must include

- (1) the name and contact information of the vulnerable adult;
- (2) information relating to the nature and extent of the undue influence, abandonment, exploitation, abuse, neglect, or self-neglect;

(3) other information that the reporting person believes might be helpful in an investigation of the case or in providing protection for the vulnerable adult.

(c) The department or its designees shall report to the Department of Law any person required by (a) of this section to report who fails to comply with this section. A person listed in (a) of this section who, because of the circumstances, should have had reasonable cause to believe that a vulnerable adult suffers from undue influence, abandonment, exploitation, abuse, neglect, or self-neglect but who knowingly fails to comply with this section is guilty of a class B misdemeanor. If a person convicted under this section is a member of a profession or occupation that is licensed, certified, or regulated by the state, the court shall notify the appropriate licensing, certifying, or regulating entity of the conviction.

(d) This section does not prohibit a person listed in (a) of this section, or any other person, from reporting cases of undue influence, abandonment, exploitation, abuse, neglect, or self-neglect of a vulnerable adult that have come to the person's attention in the person's nonoccupational capacity. This section does not prohibit any other person from reporting a harm under this section.

(e) If a person making a report under this section believes that immediate action is necessary to protect the vulnerable adult from imminent risk of serious physical harm due to undue influence, abandonment, exploitation, abuse, neglect, or self-neglect and the reporting person cannot immediately contact the department's central information and referral service for vulnerable adults, the reporting person shall make the report to a police officer or a village public safety officer. The police officer or village public safety officer shall take immediate action to protect the vulnerable adult and shall, within 24 hours after receiving the report of harm, notify the department. A person may not bring an action for damages against a police officer, a village public safety officer, the state, or a political subdivision of the state based on a decision under this subsection to take or not to take immediate action to protect a vulnerable adult. If a decision is made under this subsection to take immediate action to protect a vulnerable adult, a person may not bring an action for damages based on the protective actions taken unless the protective actions were performed with gross negligence or intentional misconduct; damages awarded in the action may include only direct economic compensatory damages for personal injury.

(f) A person listed in (a) of this section who reports to the long term care ombudsman under AS 47.62.015, or to the Department of Health and Social Services, that a vulnerable adult has been unduly influenced, abandoned, exploited, abused, or neglected in an out-of-home care facility is considered to have met the duty to report under (a) of this section.

(g) *[Repealed, Sec. 14 ch 129 SLA 1994].*

(h) *[Repealed, Sec. 14 ch 129 SLA 1994].*

(i) A person required to report under this section who makes the report to the person's job supervisor or to another individual working for the entity that employs the person is not relieved of the obligation to make the report to the department as required under (a) of this section.

(j) A person who recklessly makes a false report under this section is civilly liable for actual damages suffered by the person who is the subject of the report.