MEMORANDUM

TO: Victoria Caltagirone
Department of Commerce, Community and Economic Development

FROM: Kady Levale, Office of the Lieutenant Governor
465.3509

DATE: July 7, 2022

RE: Filed Emergency Regulations: State Medical Board

State Medical Board Emergency Regulations re: licensure by credentials and temporary permit requirements, to streamline the physician licensure application process (12 AAC 40.010; 12 AAC 40.035)

Attorney General File: Emergency Regulations
Regulation Filed: 7/7/2022
Effective Date: 7/7/2022
Expiration Date: November 3, 2022 unless made permanent by the adopting agency
Print: 243, October 2022

cc with enclosures: Colleen Bailey, Department of Law
Judy Herndon, LexisNexis
Jun Maiquis, Regulations Specialist
Natalie Norberg, Executive Administrator
FINDING OF EMERGENCY

The State Medical Board finds that an emergency exists under AS 44.62.250 requiring an immediate change to the physician licensure process for licensure by credentials and temporary permit requirements, and that an emergency regulation change is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

As a consequence of the COVID-19 pandemic, the State Medical Board is experiencing both a significantly reduced staff and sustained high volume of applicants, resulting in extensive and untenable delays in physician licensure. Staff are working overtime in the evenings and through the weekends, however, licensing at best is taking eight weeks, but more often several months. This is causing hospitals and other healthcare facilities to be short staffed and in dire need of physicians who are ready to work, but not able to because their applications for licensure have not been processed and approved. The resulting physician shortage threatens the public health, safety, and general welfare. The proposed regulation changes will allow a significant number of physicians to receive an expedited temporary license upon initial review of their application and a six-month window to continue working with the State Medical Board to submit remaining documentation for permanent licensure.

ORDER CERTIFYING ADOPTION

I certify that the State Medical Board, under the authority of AS 08.64.100, AS 08.64.180, AS 08.64.200, AS 08.64.205, AS 08.64.210, AS 08.64.225, AS 08.64.240, AS 08.64.250, AS 08.64.255, AS 08.64.270, and AS 08.64.279 adopted at its June 23, 2022 meeting the attached four pages of regulation changes as an emergency regulation to take effect immediately upon filing by the lieutenant governor, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

DATE: July 7, 2022

Natalie Norberg, Executive Administrator
State Medical Board

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on July 7, 2022 at 3:46 p.m., I filed the attached regulation according to the provisions of AS 44.62.

Effective: July 7, 2022
Register: 243, October 2022
Expires November 3, 2022
unless made "permanent" by the adopting agency
FOR DELEGATION OF THE LIEUTENANT GOVERNOR’S AUTHORITY

I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

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

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

KEVIN MEYER
LIEUTENANT GOVERNOR
12 AAC 40.010(b)(1) is amended to read:

12 AAC 40.010. Application for license by credentials.

... 

(b) A complete application must include the following items

(1) submitted by the applicant:

(A) a completed application on a form provided by the department, including a photograph of the applicant;

(B) a completed authorization for release of records on a form provided by the department and signed by the applicant;

(C) repealed 4/2/2004;

(D) a statement listing each hospital at which the applicant has held privileges within the five years immediately before the date that the applicant signs the application form;

(E) all required application and licensing fees;

(F) **repealed 7/7/2022** [A CERTIFIED TRUE COPY OF THE APPLICANT’S MEDICAL, OSTEOPATHY, OR PODIATRY SCHOOL DIPLOMA OR CERTIFICATE];

(G) if applicable, verification of the applicant’s post-graduate training that meets the requirements of (h) of this section;
EMERGENCY REGULATION

Register 243, October 2022  PROFESSIONAL REGULATIONS

(H) attestation [VERIFICATION] of the applicant's completion [OF AT LEAST TWO HOURS] of education in pain management and opioid use and addiction [EARNED IN A CATEGORY I CONTINUING MEDICAL EDUCATION PROGRAM ACCREDITED BY THE AMERICAN MEDICAL ASSOCIATION, OR A CATEGORY I OR II CONTINUING MEDICAL EDUCATION PROGRAM ACCREDITED BY THE AMERICAN OSTEOPATHIC ASSOCIATION, OR A CONTINUING MEDICAL EDUCATION PROGRAM FROM A PROVIDER THAT IS APPROVED BY THE COUNCIL ON PODIATRIC MEDICAL EDUCATION]. For an applicant who does not currently hold a valid federal Drug Enforcement Administration registration number, verification will be waived until the applicant applies for a valid registration number;

... 

(Eff. 12/30/70, Register 36; am 5/18/85, Register 94; am 8/2/86, Register 99; am 4/10/88, Register 106; am 5/1/94, Register 130; am 6/28/97, Register 142; am 8/17/97, Register 143; am 11/7/98, Register 148; am 8/9/2000, Register 155; am 6/15/2001, Register 158; am 4/2/2004, Register 169; am 10/14/2006, Register 180; am 3/4/2007, Register 181; am 12/21/2007, Register 184; am 5/8/2013, Register 206; am 8/17/2018, Register 227; am 3/25/2020, Register 233; em am 4/21/2020 - 8/18/2020, Register 234; am 11/16/2020, Register 236; am 7/7/2022.

Draft 6/13/2022 2
12 AAC 40.035(d)(2) is amended to read:

12 AAC 40.035. Temporary permit application requirements.

...  

(d) A member of the board, the executive secretary, or a person designated by the board to issue temporary permits, may expedite the issuance of a temporary physician permit to an applicant who

(1) meets the requirements of AS 08.64.270; and

(2) has on file with the division

(A) a completed application on a form provided by the department [including a photograph of the applicant];

(B) a completed authorization for release of records on a form provided by the department and signed by the applicant;

(C) payment of all required application and licensing fees;

(D) repealed [A COMPLETE PROFILE AND CREDENTIALS VERIFICATION DOCUMENTS SENT DIRECTLY TO THE DIVISION FROM THE FEDERATION CREDENTIALS VERIFICATION SERVICE OF THE FEDERATION OF STATE MEDICAL BOARDS OF THE UNITED STATES, INC.];

(E) repealed [VERIFICATION OF PASSING THE LICENSING EXAMINATION REQUIRED UNDER 12 AAC 40.010(c)(1) OR 12 AAC 40.020];
EMERGENCY REGULATION

Register 245, October 2022 PROFESSIONAL REGULATIONS

(F) repealed 7/7/2022 [CLEARANCE FROM THE FEDERAL

DRUG ENFORCEMENT ADMINISTRATION (DEA)];

(G) clearance from the Federation of State Medical Boards or the

Federation of Podiatric State Medical Boards; and

(H) clearance from the National Practitioner Data Bank; and

... (Eff. 5/18/85, Register 94; am 8/2/86, Register 99; am 4/10/88, Register 106; am 8/17/97,

Register 143; am 8/9/2000, Register 155; am 10/8/2017, Register 224; am 12/25/2019, Register

232; em am 4/21/2020 - 8/18/2020, Register 234; am 11/16/2020, Register 236; am

7/7/2022, Register 245)

Authority: AS 08.64.100 AS 08.64.270 AS 08.64.279

AS 08.64.180
Excerpt from June 23, 2022 Medical Board Meeting Minutes:

Relating to licensing efficiencies required due to high demand, reduced staff capacity, and AO 335

HEALTHCARE PROGRAM FINDING OF EMERGENCY

On a motion duly made by Lydia Mielke and seconded by Sarah Bigelow Hood the Alaska State Medical Board found by a roll call vote that an emergency exists under AS 44.62.250 requiring an immediate change to the physician licensure process for licensure by credential and temporary permit requirements, and that an emergency regulation change is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

As a consequence of the COVID-19 pandemic, the State Medical Board is experiencing both a significantly reduced staff and sustained high volume of applicants, resulting in extensive and untenable delays in physician and physician assistant licensure. Staff are working overtime in the evenings and through the weekends, however, licensing at best is taking eight weeks, but more often several months. This is causing hospitals and other healthcare facilities to be short staffed and in dire need of physicians who are ready to work, but not able to because their applications for licensure have not been processed and approved. The resulting physician shortage threatens the public health, safety, and general welfare. The proposed regulation changes will allow a significant number of physicians to receive an expedited temporary license upon initial review of their application and a six-month window to continue working with the State Medical Board to submit remaining documentation for permanent licensure.

Roll Call: Yeas, Ms. Bigelow Hood, Dr. Heilala, Ms. Mielke, Dr. Paulson, Dr. Parker, and Dr. Wein
Absent for Vote: Dr. Freeman and David Wilson

REGULATION CHANGES TO EXPEDITE LICENSING

On a motion duly made by Lydia Mielke and Sarah Bigelow Hood the Board approved by roll call vote the changes as presented and adopted to 12 AAC 40.035 and 12 AAC 40.010 during the May 20, 2022 Alaska State Medical Board to be adopted as emergency regulations and that the board approve these changes for public notice as part of a permanent regulations process.

Submitted by:

Natalie Norberg
Executive Administrator
Alaska State Medical Board

06/23/2022

Date
Excerpt from May 20, 2022 Medical Board Meeting Minutes:

Expedited Licensing

The Chair invited Ms. Norberg to provide an explanation for propose strategies to address long delays with current licensing processes

A. Streamline the Temporary Permit process

Existing regulations impose added criteria to the minimum requirements identified in statute to grant temporary licensure. To implement an expedited temporary licensure process there is a need to amend the regulations to mirror the minimum criteria reflected in statute. This is accomplished with the following amendments to 12 AAC 40.035:

12 AAC 40.035. TEMPORARY PERMIT APPLICATION REQUIREMENTS.
(d) A member of the board, the executive secretary, or a person designated by the board to issue temporary permits, may expedite the issuance of a temporary physician permit to an applicant who
(1) meets the requirements of AS 08.64.270; and
(2) has on file with the division
(A) a completed application on a form provided by the department, including a photograph of the applicant;
(B) a completed authorization for release of records on a form provided by the department and signed by the applicant;
(C) payment of all required application and licensing fees;
(D) a complete profile and credentials verification documents sent directly to the division from the Federation Credentials Verification Service of the Federation of State Medical Boards of the United States, Inc.;
(E) verification of passing the licensing examination required under 12 AAC 40.010(e)(1) or 12 AAC 40.030;
(F) clearance from the federal Drug Enforcement Administration (DEA);

On a motion duly made by Dr. Heilala and seconded by Ms. Bigelow Hood, the Board approved by roll call vote to accept the changes to 12 AAC 40.035 as presented above for the purpose of expediting the temporary licensure process for physicians.

Roll Call: Yea, Ms. Bigelow Hood, Dr. Freeman, Dr. Heilala, Ms. Mielke, Dr. Parker, Dr. Wein and Mr. Wilson.
Absent for Vote: Ms. Mielke

B. Streamline the Full Licensure process

Four strategies were identified aimed at addressing redundant and outdated credentialing requirements in regulation:

1. Revise regulations under 12 AAC 40.010 to eliminate the requirement for a "certified copy the applicant’s medical school diploma." This requirement is redundant because direct source verification of medical school education is also required and accomplishes the same purpose. Requiring a copy of the diploma is not necessary to validate medical school education.
2. Revise regulations under 12 AAC 40.010 to eliminate the requirement to verify a specific number and category of opioid education CMEs. These requirements are more stringent than statute and are required at renewal, so should not need to be done at the time of application.

These changes are accomplished with the following amendments to 12 AAC 40.010:
12 AAC 40.010. APPLICATION FOR LICENSE BY CREDENTIALS.
(b) A complete application must include the following items
(1) submitted by the applicant:
(A) a completed application on a form provided by the department, including a photograph of the applicant;
(B) a completed authorization for release of records on a form provided by the department and signed by the applicant;
(C) repealed 4/2/2004;
(D) a statement listing each hospital at which the applicant has held privileges within the five years immediately before the date that the applicant signs the application form;
(E) all required application and licensing fees;
(F) a certified true copy of the applicant’s medical, osteopathy, or podiatry school diploma or certificate;
(G) if applicable, verification of the applicant’s post-graduate training that meets the requirements of (h) of this section;
(H) verification attestation of the applicant’s completion of at least two hours of education in pain management and opioid use and addiction earned in a Category I continuing medical education program accredited by the American Medical Association, or a Category I or II continuing medical education program accredited by the American Osteopathic Association, or a continuing medical education program from a provider that is approved by the Council on Pediatric Medical Education. For an applicant who does not currently hold a valid federal Drug Enforcement Administration registration number, verification will be waived until the applicant applies for a valid registration number;

3. Revise the Application Checklist for Physicians to match the changes identified in Attachment I.

4. Revise the requirement for original letters of verification of hospital privileges from each of the hospitals listed.

Possible alternatives were presented to the Board for how to address this particular requirement that can generate significant delays to application processing while also adding significant workload for staff as the Board sees a trend of more applicants applying to provide telemedicine. One solution involved adding an attestation to the existing language on the application signature page as presented.
PART XVII Notarized Signature

I hereby certify that I am the person herein named and subscribing to this application and that I have read the complete application, and I know the full content thereof. I declare that all of the information contained herein, and evidence or other documents submitted herewith are true and correct.

I agree to inform the Alaska State Medical Board within 30 days of any change in my credentialing or privilege status in any hospital or other health care facility; any disciplinary actions or restrictions, or investigation of a complaint or accusation regarding my practice (except for late medical records).

I understand that any falsification or misrepresentation of any item or response in this application, or any attachment hereto, or falsification or misrepresentation of documents to support this application, is sufficient grounds for denying, revoking, or otherwise disciplining a license or permit to practice in the state of Alaska.

I further understand that it is a Class A misdemeanor under Alaska Statute 11.56.210 to falsify an application and commit the crime of unsworn falsification.

A person who makes a false statement on this application may be subject to civil and criminal penalties, including prosecution for perjury (AS 11.56.200 & AS 11.56.230).

On a motion duly made by Dr. Heilala and seconded by Ms. Bigelow Hood, the board approved by roll call vote to accept changes to 12 AAC 40.010 as presented; add a statement to the Physician Application as presented; and to accept the changes to the Application Checklist for Physicians as presented for the purpose of expediting the licensure process for physicians.

Roll Call: Yea, Ms. Bigelow Hood, Dr. Freeman, Dr. Heilala, Ms. Mielke, Dr. Parker, Dr. Wein and Mr. Wilson.
Absent for Vote: Ms. Mielke

Submitted by:

Natalie Norberg
Executive Administrator
Alaska State Medical Board

06/23/2022 Date
AFFIDAVIT OF BOARD ACTION

I, Natalie Norberg, Executive Administrator for the State Medical Board, being duly sworn, state the following:

The attached motion dealing with licensure by credentials and temporary permit requirements was passed by the State Medical Board during its June 23, 2022 meeting.

Date:       __July 7, 2022______

Signature:  ____________________________

Natalie Norberg, Executive Administrator

SUBSCRIBED AND SWORN TO before me this 7th day of July, 2022.

Signature:  ____________________________

Joanna Herman
Notary Public in and for the State of Alaska
My commission expires: w/office