A BILL

FOR AN ACT ENTITLED

"An Act relating to dispensing opticians, to dispensing optician apprentices, to the Board of Dispensing Opticians, and to the practice of dispensing opticianry; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 08.01.010(16) is repealed and reenacted to read:

(16) regulation of dispensing opticians under AS 08.71;

* Sec. 2. AS 08.71.055 is amended to read:

Sec. 08.71.055. Powers and duties. The department [BOARD] shall have the following powers and duties:

(1) to issue licenses to applicants;

(2) to renew licenses;

(3) to hold hearings and order disciplinary sanctions against a person who violates this chapter or the regulations of the department [BOARD];

(4) to supply forms for applications, licenses, and other needed
documents;

(5) to keep a record of all proceedings open to the public, including the name of each license applicant and each licensee;

(6) to enforce the provisions of this chapter and adopt or amend regulations necessary to make these provisions effective.

* Sec. 3. AS 08.71.080 is amended to read:

Sec. 08.71.080. License required. A person may not act as a dispensing optician in the state unless the person is licensed under this chapter. A license shall be issued for (1) a [THE] dispensing optician for [OF] contact lenses, [OR] (2) a [THE] dispensing optician for [OF] other lenses, eyeglasses, [SPECTACLES, ARTIFICIAL EYES,] and their appurtenances, or (3) both. The department [BOARD] shall by endorsement on the license designate for which aspect of dispensing opticianry the license is issued.

* Sec. 4. AS 08.71.090 is amended to read:

Sec. 08.71.090. Examination requirement. To be licensed to act as a dispensing optician for [DISPENSE] contact lenses, a person, unless eligible for licensing under AS 08.71.145, shall provide documentation [DOCUMENT] to the department [BOARD] that the person has passed an [THE CONTACT LENS REGISTRY] examination that the department requires by regulation [OFFERED BY THE NATIONAL CONTACT LENS EXAMINERS] with a score acceptable to the department. For this purpose, the department shall adopt an examination established by a nationally recognized professional organization for contact lens examiners. To [BOARD. IN ORDER TO] be licensed to act as a dispensing optician for [DISPENSE] other lenses, eyeglasses, [SPECTACLES, ARTIFICIAL EYES,] and their appurtenances, a person, unless eligible for licensing under AS 08.71.145, shall provide documentation [DOCUMENT] to the department [BOARD] that the person has passed an [THE NATIONAL OPTICIANRY COMPETENCY] examination that the department requires by regulation [OFFERED BY THE AMERICAN BOARD OF OPTICIANRY] with a score acceptable to the department [BOARD]. For this purpose, the department shall adopt the examination established by a nationally recognized professional
organization for dispensing opticians examiners. An applicant for licensure in both areas shall provide documentation of having received a score acceptable to the department [BOARD] on both examinations. The department [BOARD] shall, by regulation, establish the scores that will be acceptable for the examinations described in this section.

* Sec. 5. AS 08.71.110(a) is amended to read:

(a) The department [BOARD] may issue a license to a person who

(1) has [HAD EDUCATION EQUIVALENT TO FOUR YEARS ATTENDANCE AT] a high school diploma or its equivalent;

(2) has [EITHER]

(A) completed at least 2,000 [1,800] hours of training for eyeglasses or at least 2,000 hours of training for contact lenses as an apprentice after registering with the United States Department of Labor [DEPARTMENT] as an apprentice; or

(B) been engaged for at least 2,000 [1,800] hours as a dispensing [PRACTICING] optician in eyeglasses or at least 2,000 hours as a dispensing optician in contact lenses in good standing in a state, territory, district, or possession of the United States;

(3) has passed the applicable examination required under AS 08.71.090 with a score acceptable to the department [BOARD];

(4) has passed a course designated in the department's [BOARD'S] regulations as being acceptable; and

(5) has paid the required license fee.

* Sec. 6. AS 08.71.130(c) is amended to read:

(c) If a [THE] license remains lapsed for more than one year, the department [BOARD] may require the applicant to retake and successfully pass again the applicable examination or examinations required under AS 08.71.090.

* Sec. 7. AS 08.71.130(d) is amended to read:

(d) Before a license may be renewed, the licensee shall submit to the department [BOARD] evidence of continuing competence in optical dispensing as prescribed by regulations of the department [BOARD].
* Sec. 8. AS 08.71.145 is amended to read:

Sec. 08.71.145. Licensure by credentials. A person with a valid license as a dispensing optician from another state, territory, district, or possession of the United States with licensing requirements substantially equivalent to or higher than those of this state shall be issued a license under this chapter for those professional areas in which the person is licensed in the other jurisdiction upon payment of any fee and documentation that the department [BOARD] may require by regulation.

* Sec. 9. AS 08.71.145 is amended by adding new subsections to read:

(b) In addition to licensing under (a) of this section, the department may issue a license to a person to act as a dispensing optician with respect to eyeglasses and lenses, other than contact lenses, and their appurtenances, if the person satisfies the requirements that the department establishes by regulation to protect the public interest and if the person pays the appropriate fee and submits the documentation that the department may require by regulation. For the purposes of this subsection, the department may adopt the designations of a nationally recognized professional organization for dispensing opticians examiners.

(c) In addition to licensing under (a) of this section, the department may issue a license to a person to act as a dispensing optician with respect to contact lenses and their appurtenances if the person satisfies the requirements that the department establishes by regulation to protect the public interest and if the person pays the appropriate fee and submits the documentation that the department may require by regulation. For the purposes of this subsection, the department may adopt the designations of a nationally recognized professional organization for contact lens examiners.

* Sec. 10. AS 08.71.160 is amended to read:

Sec. 08.71.160. Dispensing optician's apprentice. (a) To satisfy apprenticeship training required by AS 08.71.110(a), a person may be employed by [OR SERVE UNDER] a licensed physician, optometrist, or dispensing optician as an apprentice for dispensing optician tasks. An apprentice shall register with the United States Department of Labor [DEPARTMENT] before beginning employment [OR SERVICE] as an apprentice under this subsection [, SHALL BE
DESIGNATED AS SUCH IN THE RECORDS OF THE BOARD, and shall be in training under the regular supervision of the licensed physician, optometrist, or dispensing optician. An [NOTWITHSTANDING AS 08.71.180, A REGISTERED] apprentice registered with the United States Department of Labor may perform dispensing optician tasks that are delegated by and performed under the regular supervision of the licensed physician, optometrist, or dispensing optician and may use the title "dispensing optician apprentice."

(b) Not more than four apprentices may be under the direct supervision of one licensed dispensing optician at the same time.

* Sec. 11. AS 08.71.170 is amended to read:

Sec. 08.71.170. Prohibited conduct. The department may revoke or suspend the license of a dispensing optician, or the licensee may be reprimanded or otherwise disciplined when the department finds, after a hearing, that the licensee

(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 crime affects the licensee's ability to continue to practice competently and safely;

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

(6) continued to practice after becoming unfit due to

   (A) professional incompetence;

   (B) addiction or severe dependency on alcohol or other drugs that impairs the licensee's ability to practice safely;

   (C) physical or mental disability;

(7) engaged in lewd or immoral conduct in connection with the
delivery of professional service to patients;

(8) participated in the division, assignment, rebate, or refund of fees to a physician or optometrist in consideration of patient referrals; or

(9) advertised the services of any other segment of the healing arts.

* Sec. 12. AS 08.71.180 is amended to read:

Sec. 08.71.180. Practicing without a license. A person may not practice as a dispensing optician without a license issued under this chapter or while the person's license is suspended or revoked. A person who knowingly violates this section is guilty of a class b misdemeanor. In this section, "knowingly" has the meaning given in AS 11.81.900.

* Sec. 13. AS 08.71.200 is amended to read:

Sec. 08.71.200. Contact lenses. Contact lenses shall be fitted in conjunction with and under the supervision of a licensed physician or an optometrist using [AND WITH] a written contact-lens fitting authorization that (1) shows the powers of the sphere and the cylinder and axis location; (2) includes an authorization to fit; and (3) states a requirement that the patient must return to the person who prescribed the contact lenses for a final evaluation after the fitting has been completed [PRESCRIPTION SHOWING THAT THE PRESCRIPTION MAY BE FILLED FOR CONTACT LENSES AND REQUIRING THAT THE PATIENT RETURN TO SEE THE PRESCRIBING PHYSICIAN OR OPTOMETRIST]. In no case may contact lenses be prepared by neutralizing a person's eyeglasses. Duplicate contact lenses may be dispensed, mailed to, or otherwise delivered to a patient from a written contact lens prescription that shows the exact specifications and parameters needed to exactly duplicate the patient's previous contact lenses. Notwithstanding other provisions of this section, contact lenses may not be provided to a patient at a time that is after the expiration of the most recent prescription for the patient unless authorized in writing or orally by the person who issued the prescription [OR SPECTACLES].

* Sec. 14. AS 08.01.050(d)(3); AS 08.03.010(c)(9); AS 08.71.010, 08.71.020, 08.71.040, 08.71.240(1); and AS 44.62.330(a)(22) are repealed.

* Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to
TRANSITION PROVISIONS: GENERAL. The department shall carry out the functions of the board on and after July 1, 2005. Litigation, hearings, investigations, and other proceedings pending on July 1, 2005, 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 on July 1, 2005, remain in effect for the term issued or until revoked, amended, vacated, or repealed by the department. In this section, "board" and "department" have the meanings given in AS 08.71.240.

* Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION PROVISIONS: EFFECT ON CURRENT APPRENTICES. Notwithstanding AS 08.71.110(a), as amended by sec. 5 of this Act, a person who is in an apprentice program under AS 08.71.160, as that section exists before the effective date of this Act, may satisfy the requirements of AS 08.71.110(a), as that section exists before the effective date of this Act, instead of AS 08.71.110(a), as amended by sec. 5 of this Act, in order to become a dispensing optician licensed under AS 08.71, as that chapter is amended by this Act, in this state. In this section, "dispensing optician" has the meaning given in AS 08.71.240.

* Sec. 17. This Act takes effect July 1, 2005.