

CS FOR SENATE BILL NO. 175(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/22/05

Referred: Finance

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

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

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

5 * **Section 1.** AS 08.01.010(16) is repealed and reenacted to read:

6 (16) regulation of dispensing opticians under AS 08.71;

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

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

10 (1) to issue licenses to applicants;

11 (2) to renew licenses;

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

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

1 documents;

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

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

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

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

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

15 **Sec. 08.71.090. Examination requirement.** To be licensed to **act as a**
16 **dispensing optician for** [DISPENSE] contact lenses, a person, unless eligible for
17 licensing under AS 08.71.145, shall **provide documentation** [DOCUMENT] to the
18 **department** [BOARD] that the person has passed the contact lens registry
19 examination **that the department requires by regulation** [OFFERED BY THE
20 NATIONAL CONTACT LENS EXAMINERS] with a score acceptable to the
21 **department. For this purpose, the department may adopt an examination**
22 **established by a nationally recognized professional organization for contact lens**
23 **examiners. To** [BOARD. IN ORDER TO] be licensed to **act as a dispensing**
24 **optician for** [DISPENSE] other lenses, eyeglasses, [SPECTACLES, ARTIFICIAL
25 EYES,] and their appurtenances, a person, unless eligible for licensing under
26 AS 08.71.145, shall **provide documentation** [DOCUMENT] to the **department**
27 [BOARD] that the person has passed the national opticianry competency examination
28 **that the department requires by regulation** [OFFERED BY THE AMERICAN
29 BOARD OF OPTICIANRY] with a score acceptable to the **department** [BOARD].
30 **For this purpose, the department may adopt the examination established by a**
31 **nationally recognized professional organization for dispensing opticians**

1 **examiners.** An applicant for licensure in both areas shall **provide documentation**
 2 [DOCUMENT] having received a score acceptable to the **department** [BOARD] on
 3 both examinations. The **department** [BOARD] shall, by regulation, establish the
 4 scores that will be acceptable for the examinations described in this section.

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

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

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

9 (2) has [EITHER]

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

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

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

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

22 (5) has paid the required license fee.

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

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

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

28 (d) Before a license may be renewed, the licensee shall submit to the
 29 **department** [BOARD] evidence of continuing competence in optical dispensing as
 30 prescribed by regulations of the **department** [BOARD].

31 * **Sec. 8.** AS 08.71.145 is amended to read:

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

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

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

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

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

25 **Sec. 08.71.160. Dispensing optician's apprentice.** (a) **To satisfy**
 26 **apprenticeship training required by AS 08.71.110(a), a** [A] person may be
 27 employed by [OR SERVE UNDER] a licensed physician, optometrist, or dispensing
 28 optician as an apprentice for dispensing optician tasks. An apprentice shall register
 29 with the **United States Department of Labor** [DEPARTMENT] before beginning
 30 employment [OR SERVICE] as an apprentice **under this subsection** [, SHALL BE
 31 DESIGNATED AS SUCH IN THE RECORDS OF THE BOARD,] and shall be in

1 training under the regular supervision of the [A] licensed physician, optometrist, or
 2 dispensing optician. An [NOTWITHSTANDING AS 08.71.180, A REGISTERED]
 3 apprentice **registered with the United States Department of Labor** may perform
 4 dispensing optician tasks that are delegated by and performed under the regular
 5 supervision of the licensed physician, optometrist, or dispensing optician and may use
 6 the title "dispensing optician apprentice."

7 (b) Not [NO] more than four [TWO] apprentices may be under the direct
 8 supervision of one licensed dispensing optician at the same time.

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

10 **Sec. 08.71.170. Prohibited conduct.** The department [BOARD] may
 11 revoke or suspend the license of a dispensing optician, or the licensee may be
 12 reprimanded or otherwise disciplined when the department [BOARD] finds, after a
 13 hearing, that the licensee

14 (1) secured a license through deceit, fraud, or intentional
 15 misrepresentation;

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

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

19 (4) has been convicted of a crime that [WHICH] affects the licensee's
 20 ability to continue to practice competently and safely;

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

25 (6) continued to practice after becoming unfit due to

26 (A) professional incompetence;

27 (B) addiction or severe dependency on alcohol or other drugs

28 that [WHICH] impairs the licensee's ability to practice safely;

29 (C) physical or mental disability;

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

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

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

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

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

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

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

28 * **Sec. 14.** AS 08.01.050(d)(3); AS 08.03.010(c)(9); AS 08.71.010, 08.71.020, 08.71.040,
 29 08.71.240(1); and AS 44.62.330(a)(22) are repealed.

30 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
 31 read:

1 TRANSITION PROVISIONS: GENERAL. The department shall carry out the
2 functions of the board on and after July 1, 2005. Litigation, hearings, investigations, and
3 other proceedings pending on July 1, 2005, continue in effect and may be continued or
4 completed by the department. Licenses, certificates, orders, and regulations issued or adopted
5 by the board and in effect on July 1, 2005, remain in effect for the term issued or until
6 revoked, amended, vacated, or repealed by the department. In this section, "board" and
7 "department" have the meanings given in AS 08.71.240.

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

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

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