

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

April 11, 2007

3:07 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mark Neuman, Vice Chair
Representative Carl Gatto
Representative Gabrielle LeDoux
Representative Jay Ramras
Representative Robert L. "Bob" Buch
Representative Berta Gardner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 113

"An Act relating to the prescription and use of pharmaceutical agents, including controlled substances, by optometrists."

- MOVED CSHB 113(HES) OUT OF COMMITTEE

HOUSE BILL NO. 162

"An Act relating to mortgage lenders, mortgage brokers, mortgage originators, state agents who collect program administration fees, and other persons who engage in activities relating to mortgage lending; relating to mortgage loan activities; relating to an originator fund; relating to fees for mortgage loan transactions; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 195

"An Act relating to limited liability companies."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 113

SHORT TITLE: OPTOMETRISTS' USE OF PHARMACEUTICALS

SPONSOR(S): REPRESENTATIVE(S) SAMUELS

01/30/07 (H) READ THE FIRST TIME - REFERRALS
01/30/07 (H) HES, L&C
03/20/07 (H) HES AT 3:00 PM CAPITOL 106
03/20/07 (H) Heard & Held
03/20/07 (H) MINUTE(HES)
03/31/07 (H) HES AT 12:30 AM CAPITOL 106
03/31/07 (H) Moved CSHB 113(HES) Out of Committee
03/31/07 (H) MINUTE(HES)
04/02/07 (H) HES RPT CS(HES) 4DP 1NR 2AM
04/02/07 (H) DP: CISSNA, SEATON, NEUMAN, FAIRCLOUGH
04/02/07 (H) NR: GARDNER
04/02/07 (H) AM: ROSES, WILSON
04/11/07 (H) L&C AT 3:00 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE RALPH SAMUELS
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented HB 113.

REPRESENTATIVE BILL THOMAS
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Spoke as a joint prime sponsor of HB 113.

CYNTHIA BRADFORD, M.D.
American Academy of Ophthalmology (AAO)
Edmond, Oklahoma
POSITION STATEMENT: Testified during hearing on HB 113.

ERIC COULTER, M.D.
Anchorage, Alaska
POSITION STATEMENT: Testified during hearing on HB 113.

CARL E. ROSEN, M.D., President
Alaska State Ophthalmological Society
Anchorage, Alaska
POSITION STATEMENT: Testified during hearing on HB 113.

DANIEL BRICELAND, M.D.
American Academy of Ophthalmology (AAO)
Sun City West, Arizona
POSITION STATEMENT: Testified during hearing on HB 113.

MICHAEL BENNETT, O.D., President

Alaska Optometric Association (AKOA)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 113.

ACTION NARRATIVE

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at [3:07:46 PM](#). Representatives Buch, Gardner, Neuman, and Olson were present at the call to order. Representatives Gatto, LeDoux, and Ramras arrived as the meeting was in progress.

HB 113-OPTOMETRISTS' USE OF PHARMACEUTICALS

CHAIR OLSON announced that the only order of business would be HOUSE BILL NO. 113, "An Act relating to the prescription and use of pharmaceutical agents, including controlled substances, by optometrists."

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REPRESENTATIVE RALPH SAMUELS, Alaska State Legislature, stated that in 45 other states, optometrists are allowed to perform more functions than those in Alaska. He said that Alaska has many remote communities, and the legislature should strive for anything that will increase access to healthcare. He stated that allowing optometrists to have a larger scope of practice has not caused problems in the aforementioned states. He noted that there would be testimony both for and against the bill. He then gave a detailed comparison of the education requirements for optometrists, dentists, physician's assistants, and nurse practitioners. He pointed out that while the education requirements are similar, only optometrists are limited to prescribing topical agents. He opined that because Alaska has many rural areas, the legislature needs to do what it can to provide better access to healthcare. He shared his belief that this is "extremely reasonable."

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The committee took an at-ease from 3:12 PM to 3:24 PM.

[3:23:46 PM](#)

REPRESENTATIVE BILL THOMAS, Alaska State Legislature, joint prime sponsor, pointed out that during a hearing in the House Health, Education and Social Services Standing Committee (HHES),

the ophthalmologists admitted that Haines is the only community in his district that is visited. He shared his belief that it is important to allow optometrists to provide treatment for certain eye diseases. He stated that some communities have Southeast Alaska Regional Health Consortium (SEARHC) clinics, although the cost to transport a patient to a clinic can be high. He said that if an optometrist could work with the nurse practitioner or a physicians assistant, this would be beneficial to remote communities.

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CINDY BRADFORD, M.D., American Academy of Ophthalmology (AAO), said that she is a practicing Ophthalmologist. She stated that she is not opposed to optometry, and works with optometrists. She expressed concern that the bill allows optometrists to use medications that effect the entire body. She opined that the committee needs to consider what measuring stick is being used to decide whether the education of an optometrist is adequate to prescribe systemic medications. She questioned whether the hours of education are enough to do this, or whether other authorities have been examined. She opined that the question of whether the hours of education are enough has yet to be answered, noting that the training given to optometrists is different than medical school. She questioned whether the 45 states actually allow this scope of practice. She suggested that members take a closer look at what these states actually allow. She understands that Alaska has remote areas, and said "We certainly want everybody to be ... taken care of." However, she stated that "the eye is not the tooth," and is one of the most complex organs of the body. She opined that vision is "the most precious sense that the body has," and said that the diagnosis and treatment of an eye disease is not simple. She said that if a patient needs specialty care he or she will need to see an ophthalmologist, regardless of location. She stated that the training cannot be replaced simply because of location. She said that this might result in a delayed diagnosis.

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REPRESENTATIVE RAMRAS asked when Dr. Bradford visited Alaska.

DR. BRADFORD replied that she has never been to Alaska. She said that she was raised in Texas, and is aware that there are significant differences. She said "I do know that people deserve treatment that allows them to be cared for." She shared

her belief that allowing someone without the training to treat patients "is not getting us anywhere."

REPRESENTATIVE RAMRAS asked whether Dr. Bradford feels that Oklahoma and Texas have extensively developed road systems.

DR. BRADFORD replied that while many people complain about the roads, there are no mountains. She acknowledged that this makes travel easier. In response to an additional question, she said that in Oklahoma, most places can be reached by road.

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REPRESENTATIVE LEDOUX noted Dr. Bradford's concern with regard to the statement that 45 states give optometrists a broader scope of practice. She asked which states allow this and which states do not.

DR. BRADFORD said that this information was previously made available. She said that the statutes differ from state to state, and there are not 45 states that allow this currently. She offered to provide this information.

REPRESENTATIVE LEDOUX replied that she would like to see this information. She asked whether Dr. Bradford is aware of any states that have similar legislation.

DR. BRADFORD replied that Oklahoma has the most liberal practice act for optometry.

REPRESENTATIVE LEDOUX questioned whether there is evidence that the quality of eye care has diminished as a result of this.

DR. BRADFORD shared her belief that the majority of optometrists do not do this, as it is not needed. She shared a story in which a patient almost went blind as a result of being treated with the wrong medication. She said that she has seen a delay in treatment because the optometrist thought he or she had the ability to manage the condition, adding that some of the cases were "a block away from an ophthalmologist."

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REPRESENTATIVE NEUMAN, in regard to the "measuring stick" that is being used, referred to the sponsor statement and shared his belief that the measurement is clearly stated.

DR. BRADFORD replied that the wording is "very impressive," however, this simply says that what is being taught in optometry school is adequate to allow an optometrist to prescribe systemic medications. She questioned what the "gold standard" is, and shared her belief that the "gold standard" is attending medical school to learn how different medications affect the different systems of the body. She questioned how, if a person does not take care of patients and learn the lessons taught in medical school, he or she would know that the education provided by optometry school is adequate.

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REPRESENTATIVE NEUMAN asked if optometrist school is considered a medical school.

DR. BRADFORD replied that optometrist school is not a medical school.

CHAIR OLSON stated that New York, Rhode Island, New Jersey, and Florida do not currently allow an extended scope of practice. He opined that the aforementioned states have a different level of expertise than Alaska.

DR. BRADFORD replied that this is the "easy list." She shared her belief that the remaining 45 states do not allow the same scope of practice that is allowed by HB 113.

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REPRESENTATIVE GARDNER noted that there is a lot of variation with respect to what is allowed. She said that the handout in members' packets is "a little inaccurate," as it suggests that all 45 states allow everything [that is allowed by HB 133]. She pointed out that the lists shows, state by state, what is allowed.

CHAIR OLSON shared his understanding that the handout says that "some level" is allowed.

REPRESENTATIVE LEDOUX, with regard to the "gold standard," questioned whether the same argument could be made for different medical schools. She commented that the credential should provide a certain amount of comfort, as the human anatomy does not change.

DR. BRADFORD replied that optometry schools have a different system for accreditation than medical schools. Graduates of medical school must pass a national board exam. Additionally, medical school faculty must have certain credentials. The process for medical school is different from the process for optometry school. The education received at a medical school is the same across the board, as is the testing.

REPRESENTATIVE LEDOUX shared her understanding that doctors with medical degrees from other countries are allowed to practice medicine in the United States, although the education received may not be up to the same standards.

DR. BRADFORD explained that these individuals take a separate test, which many foreign graduates do not pass. She said that a person is not board certified in ophthalmology unless an American residency in ophthalmology is completed.

REPRESENTATIVE LEDOUX shared her understanding that an ophthalmologist can administer the same drugs and treatments, regardless of whether or not he or she is board certified.

DR. BRADFORD said that ophthalmologists must take a test to ensure that he or she is able to prescribe the medication and provide treatments.

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ERIC COULTER, M.D., began by stating that he is a board certified ophthalmologist, and a member of the American Academy of Ophthalmology. He stated that there are differences between an optometrist and an ophthalmologist. He said that throughout the 50 states, ophthalmologists are considered surgical subspecialists, adding that ophthalmologists receive a medical license, while optometrists do not. Ophthalmologists attend allopathic medical schools, and optometrists attend optometry school. He said that the Alaska State Medical Board does not offer a medical license to optometrists, and hospitals do not allow optometrists on staff. He said that there are seven ophthalmologists who take call for the entire state. If a person is admitted to the emergency room with an eye injury, the on-call ophthalmologist handles this. He stated that he has received the same training as an orthopedic surgeon.

DR. COULTER stated that he does not have any problem with optometrists, and feels that they provide a "wonderful service." However, he shared his belief that this is similar to comparing

an orthopedic surgeon to a paramedical profession such as chiropractic care. He questioned the point at which the prescribing authority is limited for [chiropractic care and optometry]. He opined that it is inappropriate to legislate laws that determine medical competency. He shared his belief that this is a task that reaches farther than the legislative process. He expressed concern that these issues have not been discussed with the Alaska State Medical Board or medical schools. He stated that if he had a crisis on his hands, he would not call an optometrist for assistance, and would contact the Alaska State Medical Board if he was overwhelmed or overburdened with call duties. However, this is not the case. He shared his belief that if optometrists wish to have the ability to dispense medications, they should be responsible for tracking down the cause of an eye disease. He said that this brings up other concerns, and "seems like an oxy-moron." He opined that a more appropriate course of action would be for the optometrists to present concerns regarding limitations of practice to the State Medical Board. He said that the State Medical Board is really in tune with the pulse of medical care in Alaska. He shared his belief that it is not possible to legislate medical competency. In closure, he expressed his hope that members would understand what the ophthalmologists do for the state and the rigors gone through to reach their level of responsibility. He said that this is not a "turf battle," but an interest in promoting what is best for the patient. He stated that he is not aware of any ophthalmologists that are "screaming for assistance." If the Alaska State Medical Board decides to present optometrists with a medical license as a result of presentations made by the optometrists, he feels this is fine. However, he feels that to "open the door a little bit" is irresponsible.

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REPRESENTATIVE NEUMAN referred to a handout in members' packets from the Alaska Optometric Association titled "Frequently Asked Questions," and pointed out that the Alaska State Medical Board surveyed other medical boards throughout the nation to find out if there were problems in states that passed similar legislation. He noted that no problems were reported. He asked if Dr. Coulter is aware of any problems that the Alaska State Medical Board is not.

DR. COULTER shared his belief that in Alaska, the optometric community "does a great job" of caring for patients. He said that the Alaska State Medical Board does not have much authority

over the optometric profession in Alaska. He questioned whether the medical board is sponsoring the bill, and shared his understanding that the Alaska State Medical Board, along with the Alaska State Medical Association, is not interested in promoting the expansion of a paraprofessionals' scope of practice.

REPRESENTATIVE NEUMAN reiterated that the Alaska Medical Board surveyed medical boards across the nation and did not find any problems.

DR. COULTER said that he can appreciate this, and is not suggesting that cataclysmic problems have occurred. He stated that he is simply pointing out the difference between the two professions, and sharing his belief regarding the legislation.

[4:00:09 PM](#)

REPRESENTATIVE LEDOUX asked if general practitioners are allowed to address eye-related problems or concerns.

DR. COULTER replied that general practitioners are able to practice based on the standard of care in the community. He explained that general practitioners can treat and prescribe medication. For a general practitioner to operate on the eye depends on the availability of ophthalmologic care. He stated that when a general practitioner is not seeing results from efforts to improve a condition, the patient is sent to an ophthalmologist.

REPRESENTATIVE LEDOUX asked if an optometrist would also send a patient to an ophthalmologist if the condition was not improving.

DR. COULTER replied that this happens often. He said that the difference is that one is a medical doctor and the other is not. He reiterated that he does not have a problem with optometrists. He questioned whether the medical knowledge of a general practitioner is equitable with that of an optometrist. He said that if it was, optometrists would be given a medical license. He pointed out that this is not true in any state.

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CARL E. ROSEN, M.D., President, Alaska State Ophthalmological Society, began by giving a brief explanation of his work, and stated that he is not in favor of HB 113. He said that

clarification is needed with regard to the number of ophthalmologists versus optometrists in the state. He stated that there are around 40 ophthalmologists and 87 optometrists. Additionally, there are two ophthalmologists that serve nine communities. This is a larger number of communities than was stated by Representative Samuels during a previous committee hearing. He stated that there is no public outcry for the passage of HB 113.

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DR. ROSEN went on to say that it is difficult to submit complaints to the Alaska Optometric Board. He stated that claims that no complications have occurred are untrue, pointing out that two letters from patients experiencing problems are in members' packets. He stated that injecting medication around the eye can be very complex, and said that steroids are the most common injection. He said that steroids can cause systemic complications, adding that he does not do this often. He questioned why this would be done by someone who does not do it frequently. He then shared a story involving an experienced physician that accidentally penetrated a patient's eye, and said that errors can still occur. With regard to access, he explained that photo screening and telemedicine are being adopted by more medical practitioners, and will result in better access to care. He said that there is no concern with optometrists giving anaphylactic injections, adding that in fifteen years, he has not had to do this. Finally, he pointed out that many states, including California, require that the optometrist work with an ophthalmologist, prior to working independently. He stated that oftentimes, optometrists do not reach the level of experience needed to work independently. He then shared his personal residency experience, pointing out that he was required to perform 150 supervised injections prior to graduating from the program.

REPRESENTATIVE GARDNER asked whether there is a shortage of care, absent the photo screening and telemedicine technology.

DR. ROSEN replied that this depends on the perspective. While there are more optometrists than ophthalmologists, the Medical Board is not being called with concerns or requests for additional ophthalmologists. He said that more ophthalmologists are being recruited, although he does not feel that there is a shortage.

DR. DANIEL BRICELAND, American Academy of Ophthalmology (AAO), shared his understanding that the Board of Examiners in Optometry did a survey and said that there were no complaints in other states where a broader scope of practice is allowed. He expressed concern with this, and stated that Arizona has had two cases go to trial based on complaints from the optometric board. He opined that it is unfair that unrealistic information has been given. He then said that the education received by an ophthalmologist and the education received by an optometrist is not comparable, and detailed the education required before an individual can practice ophthalmology.

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MICHAEL BENNETT, O.D., President, Alaska Optometric Association (AKOA), stated that HB 113 is "a very narrow bill." He pointed out that it does not allow prescription of the most abused substances, and specifically prohibits injections inside the eye. It does not grant surgical privileges, and mandates continuing education and competency testing. While he agrees that ophthalmologists are different than optometrists, he pointed out that optometry is a "doctor level" profession. He detailed the education received by an optometrist, which requires four years of coursework beyond a bachelor's degree. This includes 200 hours in pharmacology course work, and over 2,000 hours of supervised patient care. He stated that a medical case history is taken every time a patient is seen, and drug interactions are considered. He pointed out that for many years optometrists have been licensed to prescribe beta-blockers for the treatment of glaucoma, which can run into many systemic problems. These problems are always considered, and this is part of the optometric training. He said that all medications can be absorbed and may have systemic side-effects, whether topical or in the form of an eye drop. He commented that the majority of patients seen are middle aged or older, and may be on multiple medications, adding that part of his training included clinical rotations in a Veterans Affairs (VA) hospital.

DR. BENNETT went on to say that the entrance requirements and course load for both optometric and ophthalmology schools are similar. With regard to entrance difficulty, he stated that the school he attended was second in the state of Michigan. He said "The notion that we are bringing in second-rate people who can't get into medical school is just simply not accurate." He stated that the scope of practice is a very difficult issue. While the optometrists would like to have uniform licensure, it is a legislated profession. He referred to a handout in members'

packets titled "Prohibitions and Restrictions on the Practice of Optometry Checklist," and explained that Alaska would fall into the second group, which is not a "leap."

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DR. BENNETT explained that graduates of optometry school must complete a series of exams, much like graduates of medical school. The exams are not widely different from one school to another, with strict credentials for the minimum number of hours and required coursework. Additionally, optometrists must take a series of national board exams prior to receiving licensure. He said that when he moved to Alaska, the Alaska Board of Examiners in Optometry required that he have all current portions of the national board exam, and he took the entire exam over again. He said "I'm not ... here to tell you that no optometrist ... has ever made a wrong clinical judgment and had an unfortunate outcome." He stated that optometrists are very conservative, and have a "great track record." He pointed out that an optometrist pays \$511 per year, for \$1 million worth of malpractice insurance coverage, while an ophthalmologist pays 38 times this amount. The major optometric malpractice insurance carrier conducted a study that examined states that have a limited scope versus those that have allowed a more expansive scope. This study found that there was no correlation between the scope of practice and the number of malpractice cases. He reiterated that optometrists are not "angling to be surgeons."

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REPRESENTATIVE RAMRAS expressed concern regarding the amount of time spent discussing this issue, and stated that he is in support of this legislation.

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REPRESENTATIVE NEUMAN referred to a letter from the Alaska State Medical Association (ASMA), which states that "No parameters are provided concerning the educational or post graduate training criteria that the Board of Optometry would apply." He asked Dr. Bennett to describe the education and post graduate training criteria that the [Board of Examiners in Optometry] would apply.

DR. BENNETT replied that this is addressed in the most recent version of the bill. He surmised, then, that this letter may refer to the original version of bill.

4:49:05 PM

DR. BENNETT, in response to a question from Representative Gardner, said that Oklahoma has the "most liberal" scope of practice, while North Carolina has the "longest standing" extended scope of practice. He stated that both are among the states which allow the broadest scope of practice.

REPRESENTATIVE GARDNER, referring to the handout titled "Prohibitions and Restrictions on the Practice of Optometry Checklist," pointed out that North Carolina is among the states that prohibit all drug injections.

DR. BENNETT replied that this information is incorrect. He offered to contact the board, and shared his understanding that North Carolina is among the seven states that have very little, if any restrictions. Injections into the eyeball may be restricted. He shared his understanding that the information included in the handout was taken from the internet, and stated that the information offered by the AOA was gathered from the various state boards.

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REPRESENTATIVE NEUMAN shared his understanding that the House Health, Education and Social Services Standing Committee added language regarding the parameters for education and post graduate training.

DR. BENNETT agreed that this is correct, and reiterated that the aforementioned concerned individuals must not have seen the committee substitute that added this language. He then stated that the survey of state medical boards was done by the Alaska State Medical Board. Although the ophthalmologists in some states did not like the expanded scope of practice, no problems were reported. He commented that the State Medical Board has nothing to do with optometry.

REPRESENTATIVE GARDNER, referring to Section 3 of the bill, asked Dr. Bennett to discuss the "physician-patient relationship."

DR. BENNETT replied that he is "a little puzzled" as to this language. He surmised that this might be an attempt to restrict optometrists from selling medication over the internet. He said that whenever a patient is seen in the office or spoken to over the phone, this type of a relationship exists.

CHAIR OLSON closed public testimony.

4:54:20 PM

REPRESENTATIVE NEUMAN moved to report CSHB 113(HES) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 133(HES) was reported from the House Labor and Commerce Standing Committee.

4:54:57 PM

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:55 PM.