

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

February 3, 2017

1:30 p.m.

MEMBERS PRESENT

Senator David Wilson, Chair
Senator Natasha von Imhof, Vice Chair
Senator Cathy Giessel
Senator Peter Micciche
Senator Tom Begich

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 36

"An Act relating to the practice of optometry."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 36

SHORT TITLE: OPTOMETRY & OPTOMETRISTS

SPONSOR(S): SENATOR(S) GIESSEL

01/25/17	(S)	READ THE FIRST TIME - REFERRALS
01/25/17	(S)	HSS, FIN
02/03/17	(S)	HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

SENATOR CATHY GIESSEL

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 36, provided an overview.

JANE CONWAY, Staff

Senator Giessel

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Provided a sectional analysis on SB 36.

DR. FORREST MESSERSCHMIDT, optometrist
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 36.

DR. DAVID ZUMBRO, M.D., ophthalmologist
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 36.

DR. RACHEL REINHARDT, M.D., ophthalmologist and advocate
American Academy of Ophthalmology
Mill Creek, Washington

POSITION STATEMENT: Testified in opposition to SB 36.

DR. LADD NOLIN, optometrist and President
Alaska Optometric Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 36.

DR. JEFF GONNASON, optometrist and advocate
Alaska Optometric Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 36.

DR. PAUL BARNEY, optometrist and Chairman
Alaska Board of Optometry
Department of Commerce, Community, and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 36.

DR. KELLY LORENZ, M.D., ophthalmologist
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 36.

DR. JILL MATHESON, optometrist
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 36.

DR. SCOTT LIMSTROM, M.D., ophthalmologist and President
Alaska Association of Eye Physicians
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition of SB 36.

DR. DAVID KARPIK, optometrist
Kenai, Alaska

POSITION STATEMENT: Testified in support of SB 36.

ACTION NARRATIVE

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CHAIR DAVID WILSON called the Senate Health and Social Services Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Begich, Giessel, Micciche, von Imhof, and Chair Wilson.

SB 36-OPTOMETRY & OPTOMETRISTS

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CHAIR WILSON announced the consideration of SB 36.

[1:31:08 PM](#)

SENATOR CATHY GIESSEL, sponsor of SB 36, Alaska State Legislature, Juneau, Alaska, read the sponsor statement for SB 36 as follows:

SB 36 would update the Alaska optometry statutes, aligning it with optometrists' modern day scope of practice and allow the Board of Optometry to regulate that profession as other boards do. The current Alaska statute defining the practice of optometry is 41-years old.

She revealed that she had been on the Alaska Board of Nursing for seven years and explained that a regulation project takes about a year to process. She detailed the board regulation process as follows:

- The board writes regulations with an assistant attorney general who is present and assists with the writing.
- Regulations go out for a public-comment period.
- Alaska Department of Law reviews the regulations and comments.
- Regulations go to the lieutenant governor for signing.

She pointed out that the regulatory process is not rapid and reiterated that the process takes about a year. She specified that the Legislature enacts statutes which are broad statements of authority that a board then defines out the specifics in regulation; all boards go through this same process when regulating a profession.

SENATOR GIESSEL disclosed that the Board of Optometry consists of four professional members and one public member. She noted that including one or two public board members is a common procedure for professional regulatory boards because their purpose is to address the public's safety and concerns. She revealed that board memberships are typically four-year terms with an optional second-term renewal.

She pointed out that while board members may change, the law does not change. She detailed that an assistant attorney general is always present to assist and oversee the regulation writing. She asserted that regulation writing is not done on a whim, the process is highly overseen and board members take their role very seriously.

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She asserted that understanding the health-care industry's prescription "drug schedules" is a nuance that a lot of people don't know. She pointed out that optometrists can prescribe a prescription drug, noted as "controlled substance" in Section 3, page 2, lines 12-15 in SB 36. She said she would talk about controlled substances to illustrate the problem that optometrists face.

She explained that "controlled drugs" are classified by the U.S. Drug Enforcement Administration (DEA) and the state of Alaska; the drugs are controlled due to their potential for abuse or dependency and are ranked in different "schedules." She detailed the five distinct categories or "schedules" as follows:

1. Schedule I

- a) Schedule I drugs, substances, or chemicals are defined as drugs with no currently accepted medical use and a high potential abuse.
- b) Schedule I examples:
 - ◆ Heroin
 - ◆ LSD
 - ◆ Marijuana
 - ◆ Ecstasy
 - ◆ Peyote

2. Schedule II

- a) Schedule II drugs, substances, or chemicals are defined as drugs with a high potential for abuse, with use potentially leading to severe psychological or

physical dependence. These drugs are considered dangerous.

b) Schedule II examples:

- ◆ Cocaine
- ◆ Vicodin (Hydrocodone)
- ◆ Methadone
- ◆ Fentanyl
- ◆ OxyContin

3. Schedule III

a) Schedule III drugs, substances, or chemicals are defined as drugs with a moderate to low potential for physical and psychological dependence. Schedule III drugs abuse potential is less than Schedule I and Schedule II drugs but more than Schedule IV.

b) Schedule III examples:

- ◆ Codeine
- ◆ Ketamine
- ◆ Testosterone

4. Schedule IV

a) Schedule IV drugs, substances, or chemicals are defined as drugs with a low potential for abuse and low risk of dependence.

5. Schedule V

a) Schedule V drugs, substances, or chemical are defined as drugs with lower potential for abuse than Schedule IV.

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SENATOR GIESSEL reiterated that SB 36 calls out "controlled substance." She pointed out that a bill was passed in 2014 in response to a federal government schedule change when hydrocodone was changed from Schedule III to Schedule II, a necessity because optometrists are only permitted to prescribe Schedule III medication. She noted that if the Board of Optometry had its full authority, legislation would not have been required and the board would have simply been able to update their regulations. She set forth that her previous example illustrates why it's so important for the Board of Optometry to have some latitude to update their regulations and their scope of practice as technology changes or drug schedules change.

SENATOR GIESSEL divulged that optometrists cannot prescribe Schedule I, Schedule II, or any drug without authorization from the DEA. She pointed out that health-care providers require federal authorization to receive an identification number to prescribe controlled substances, a highly vetted process that shows the level of care given to optometrists to use controlled substances.

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She emphasized that SB 36 does not expand the scope of practice of optometry. She said a clear majority of Alaskans visit one or more of the state's 150 optometrists that take care of their eye-care needs, vision tests, eyewear prescriptions, and general eye exams. She pointed out that optometrists are spread throughout Alaska; by contrast, there is an access to care issue due to the approximate 20 ophthalmologists in the state.

She set forth that the state's optometrists are credible and safe health-care providers. She asserted that the bill's significant pushback is unwarranted. She reiterated that SB 36 does not expand optometrists' scope of practice and emphasized that optometrists are very safe clinicians with a sound education program that are carefully vetted by their board.

She noted that the previous year's Medicaid reform legislation contained a significant reform that she championed for mental-health therapists to practice more fully in their scope of practice. She detailed that mental-health therapists were restricted due to a high-bar presence requirement for psychiatrists that added to the cost of health care. She referenced a committee meeting that occurred earlier in the day where the high cost of health care was a concern for the teaching staff throughout the state. She summarized that the Legislature has some control over the limitation of health-care professionals.

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She set forth that one of the measures for clinician-safety is their malpractice insurance cost. She pointed out that optometrist malpractice insurance rates are very low and suggest that insurance agencies do not see them as high-risk clinicians.

She affirmed that SB 36 would simply allow optometry to conduct itself just like all the other health-care professions. She pointed out that the three other prescribing professions' statutory board language for nursing, pharmacy and dentistry have a common phrase for practice, "under regulations adopted by

the board," a common practice also seen for chiropractic examiners, dentistry, occupational therapists, and pharmacy. She summarized that it is time for the Board of Optometry to have the same ability to regulate their profession.

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SENATOR BEGICH asked if the lower malpractice insurance rates could be driven by the statutory limitations on less invasive surgeries.

SENATOR GIESSEL replied that Senator Begich's question would be addressed by an insurance agency or optometrist.

SENATOR VON IMHOF asked if a particular Schedule II drug should be specified in SB 36 like hydrocodone was in 2014. She assumed that a Schedule III drug that is changed to a Schedule II is done for a reason and inquired why a doctor that is not allowed to prescribe a Schedule II drug can receive an exemption.

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SENATOR GIESSEL replied that the current statute specifies that an optometrist may use a pharmaceutical agent containing hydrocodone. She added that if a drug used by optometrists was moved up to a Schedule II, then another bill would have passed.

She addressed Senator von Imhof's second question and said the bill allows an optometrist to continue using a drug that is moved into a new schedule. She specified that the bill states, "Including a controlled substance in the practice of optometry if the pharmaceutical agent is used in a manner consistent with standards adopted by the board."

SENATOR VON IMHOF asked how often drugs are reclassified into a new schedule.

SENATOR GIESSEL replied that she could not respond.

CHAIR WILSON asked for a sectional analysis of SB 36.

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JANE CONWAY, Staff, Senator Giessel, Alaska State Legislature, Juneau, Alaska, provided a sectional analysis on SB 36 as follows:

Section 1:

AS 08.72.050 allows the board to continue to adopt its regulations updated to its current practice.

Section 2:

Moves the continuing education requirements back into regulation, something that the Department of Commerce, Community, and Economic Development had desired. Continuing education is still required by current statute; however, it could be noted that the hours and subjects to be determined by the board as with other professions. Our current regulations for continuing education hours and the Board of Optometry regulations are higher than what is actually in statute, so this is a very obsolete section of the bill that we would like to change.

Section 3:

AS 08.72.272(a) clarifies the current statute for the board to determine prescribed drug schedules which Senator Giessel has outlined in detail, including standards and limitations on practice determined by the board.

Section 4:

AS 08.72 sets limitations on practice, ensuring that no licensee may perform any procedure beyond the scope of the licensee's education, training, and experience as established by the regulatory board; this allows for future new and improved diagnostics and therapeutic procedures as determined by the board while not having to return to the Legislature for every new development or technological advance.

Section 5:

AS 08.72.300(3) updates the definition of "optometry" because it is decades old and it was repealed and reenacted and rewritten by the legal department to keep it current with current practice and be more readable.

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SENATOR BEGICH noted that the old definition being eliminated specifically prohibited "Other than by use of laser, x-ray, surgery, or pharmaceutical agents." He asked why the old definition is being eliminated.

MS. CONWAY explained that optometrists currently can order x-rays and use diagnostic lasers. She specified that the new

wording parallels optometrists' current authorities and makes the former definition obsolete.

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At ease.

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CHAIR WILSON opened public testimony on SB 36.

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DR. FORREST MESSERSCHMIDT, optometrist, Juneau, Alaska, revealed that he has been an optometrist in Juneau for 28 years and recently completed a four-year term on the State Board of Optometry. He read a statement in support of SB 36 as follows:

I believe SB 36 is good legislation, it modernizes the statutes, allows details of regulation to be determined by the state board as is the current standard through dentistry, nurse practitioners, and medicine. There's no question that Alaskan optometric physicians should be held to the same high standard of care as other medical professionals, but it is absurd to suggest that other professions can regulate their own and optometry can't, there really is no good reason for that.

Over 28 years of practice, much has changed in eye care, more than half of my practice is medical in nature, routinely diagnosing and managing complex cases that have required referral even a few years ago. Many of these cases require close working relationships with eye surgeons, mutual trust allows me to consult with other medical providers on a daily basis; conditions that used to require travel south, Seattle or Anchorage, are now managed competently and effectively with reduced travel or no travel at all.

Even though much of what we do now was not allowed a few short years ago, state law has been incredibly slow, 41-years slow in recognizing the rapid improvements in skills and training of current optometrists and new graduates. You will hear some concern with regard to surgery and its definition, it's important that you know Alaskan optometrists perform surgery now as defined by the medical community. We routinely do things such as foreign-body removal, incision and drainage of eyelid cysts,

corneal scraping or debridement, lacrimal dilation and irrigation, even things as simple as eyelash removal is considered surgery.

All surgery is not invasive surgery, no optometrist wants to perform procedures that we aren't trained for. We simply want to do what we can do and what we are trained to do, competently. You will hear other "cry wolf" about patient harm that will occur once again if SB 36 is passed, when they know for the past 40 years of optometry law that this has not been the case. Optometry malpractice insurance, as you've heard, are the lowest of all doctoral-level providers for a reason and I urge you to review that Senate document that you should have regarding malpractice insurance. Opponents of this bill miss the point of why it is important, it's about the patient's best interest and it's not about us doctors.

Simple math, no matter how you look at it, there are not enough skilled ophthalmologists to serve our rapidly aging population. As skills and training expand, we need all eye-care physicians onboard to be able to practice for a full level of training and expertise. As a former board member, I can tell you that nothing is more important than protection of the public.

I don't foresee any dramatic change in how optometric physicians practice in Alaska with the passage of this bill, it certainly will not change how I practice. Optometrists will continue to provide quality care protecting our patient's wellbeing as they would their own. I do foresee a streamlining of the legislative process to take on more pressing issues and a tremendous savings in time, effort and money wasted debating issues that should be common sense.

Optometry is a well-trained and highly-skilled profession that provides the majority of first-line eye care in Alaska. As our educational and professional standards evolve, we should be able to practice to the highest level of care consistent with our training and education. Optometry has always been a cautious profession and will continue to be so into the future. I have no doubt that the board is fully

capable of providing oversight and maintaining standards needed to safeguard the public.

SB 36 is good for optometry, it removes a reoccurring burden for precious legislative time and most importantly it is good for Alaskans.

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SENATOR VON IMHOF noted that lasers were previously mentioned as being used for making diagnoses. She asked to verify that optometrists do not use lasers to cut the eye or anything along that line.

DR. MESSERSCHMIDT replied correct. He specified that optometry does not perform any procedures that physically penetrate the eye in a cutting manner; however, there are three states that use lasers in a therapeutic manner that is considered surgery.

SENATOR VON IMHOF asked to confirm that the therapeutic use of lasers does not penetrate the eye.

DR. MESSERSCHMIDT specified that the laser's light penetrates the eye, but a laser does not cut except where it is focused, so it's just like regular daylight coming into your eyes until it is actually focused, so you can cut inside the eye without cutting to penetrate the eye. The procedure is called laser posterior capsulotomy which is done as a secondary procedure after cataract surgery, but there are a few states where the procedure is performed by optometrists.

SENATOR VON IMHOF asked if posterior capsulotomy is performed by optometrists in Alaska.

DR. MESSERSCHMIDT answered no.

SENATOR VON IMHOF pointed out that the same legislation has been forwarded to the Legislature for several years. She noted that Dr. Messerschmidt served on the Board of Optometry and asked what are the opponents' concerns, particularly with lasers, and how can their concerns be mitigated.

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DR. MESSERSCHMIDT replied that mitigating their concerns is something that he is not necessarily concerned about. He pointed out that he has been practicing for 30 years and uses non-focusing lasers every day for diagnostic purposes, but he is not going to be performing posterior capsulotomy on his patients. He

noted that doctors coming out of Oklahoma are fully trained in posterior capsulotomy and if they graduated and are licensed in Oklahoma, then they can do those procedures.

SENATOR VON IMHOF asked if Oklahoma doctors trained in posterior capsulotomy can perform the procedure anywhere in the U.S.

DR. MESSERSCHMIDT replied that as long as the law allows the procedure. He added that there may be some oversight involved. He said everything is changing and a "turf war" has resulted because new abilities to treat disease has changed. He asserted that optometrists with the education, background, training, and can perform a procedure competently, optometrists should be able to perform the procedure. He pointed out that an enucleation (removal) of the eye would obviously would require medical school and medical training that an ophthalmologist has, but that's not what optometrists do. He said pulling eyelashes out is a surgical example of a procedure that optometrists do.

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SENATOR MICCICHE noted that Dr. Messerschmidt referenced Oklahoma's optometric training for posterior capsulotomy and asked if the procedure is a state requirement or out of a certain university.

DR. MESSERSCHMIDT answered certain universities and noted that several states allow for the practice of various procedures under law.

SENATOR MICCICHE asked if there is reciprocity in Alaska for individuals that graduate from a university with a program that Dr. Messerschmidt described.

DR. MESSERSCHMIDT answered that the individual would have to be licensed in the state. He said there is reciprocity, but pointed out that just because an individual comes into the state of Alaska does not mean they can practice more than what the state of Alaska allows, adding that the Board of Optometry also provides oversight through regulation.

SENATOR MICCICHE asked if the university graduates will have an optometrist degree with a separate certification or noted qualification.

DR. MESSERSCHMIDT surmised that graduates are going to have a section of their education and clinical training that specifies their abilities as part of their degree.

SENATOR MICCICHE asked how the board might look at regulations regarding an optometry graduate with the extra certificate.

DR. MESSERSCHMIDT answered that the board would be pretty guarded and there would have to be some sort of oversight, particularly with a new graduate. He said as long as the person passes muster with the attorney general's office and public comment, then yes, as long as the person is trained and can perform competently.

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SENATOR BEGICH noted that Louisiana, Oklahoma and Kentucky allow surgical procedures by optometrists. He set forth that "turf wars" do not matter to him, but public safety does. He said one of his concerns is that surgery in Oklahoma was explicitly not allowed by its board, but by its legislature. He addressed an American Medical Association (AMA) report where out of 1100 eyes that received laser trabeculoplasty (LTP) surgery for glaucoma, 17 percent that were done by ophthalmologists had to be redone, and 36 percent done by optometrists had to be redone. He stated that he is concerned by the AMA report as a public safety issue, but acknowledged the respect that optometrists need to regulate themselves. He revealed that he reviewed curricula for different universities that had high ratings for optometry and ophthalmology and pointed out that there is a radical difference between how an optometrist is educated and how an ophthalmologist is educated.

DR. MESSERSCHMIDT explained that an optometrist goes straight from undergraduate to primarily concentrate on the eye, the rest is secondarily with the body and systemic health. He confirmed that the surgical portion of an ophthalmologist's training is something optometry does not get.

SENATOR BEGICH asked if the legislation's debate is over the surgery component and the removal of the definition of surgery for a tighter and clearer definition.

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DR. MESSERSCHMIDT set forth that the problem with the surgery is optometrists perform surgery now. He asserted that optometrists do not want to lose what they already have and what they do on a daily basis. He said surgery can be very minor in the doctor's eyes, whether an ophthalmologist, brain surgeon or optometrist. He summarized that integrity didn't stop getting doled out with ophthalmology. He said, "We're all professionals, we all need to

be able to practice to where the standard we are trained and almost all of us, there are bad apples everywhere, regard the patient's interests, wellbeing, quality of care as the utmost of what we do every day."

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CHAIR WILSON opined that the committee should invite some experts back to give expert testimony to go further with what Dr. Messerschmidt addressed.

SENATOR GIESSEL revealed that she had served on the Board of Nursing and noted two cases that the board reviewed and provided opinions on. She detailed that the board determined based on individual review that two neonatal-nurse practitioners were qualified to do circumcisions, a surgical procedure; whereas, fluoroscopy performed by advanced nurse practitioners, registered nurses, licensed practical nurses, or nurse assistances was found to be beyond their scope of practice for administering x-rays without additional education. She pointed out that the two cases she referenced were the kinds of things that are done by a regulatory board and asked if the Board of Optometry has ever been able to regulate in a similar manner.

DR. MESSERSCHMIDT answered that during his limited time on the board that he did not see any instances where an individual was approved to perform a task and not another. He recalled that during his career, optometrists were ultimately allowed to use diagnostic and topical drugs.

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SENATOR GIESSEL remarked that the example provided by Dr. Messerschmidt would be the type of thing where training was evaluated, and a slight expansion was approved for qualified individuals to function under their profession.

DR. MESSERSCHMIDT answered yes.

CHAIR WILSON announced that the committee would adhere to a public testimony format and call optometrist and ophthalmologist experts back for future committee testimonials.

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DR. DAVID ZUMBRO, M.D., ophthalmologist, Anchorage, Alaska, testified in opposition to SB 36. He explained that he was not testifying for a "turf war," but rather to educate the differences between ophthalmologists and optometrists regarding eye-care training and experience.

DR. ZUMBRO set forth that SB 36 is not a simple housekeeping bill for the Board of Optometry. He opined that SB 36 would dramatically redefine a profession and allow non-medical doctors, doctors of optometry, to do eye surgery. He explained that optometry does not include surgical training, does not provide the same experience, and does not require a mastery of the entire human body's different systems.

He opined that the term "non-invasive surgery" is misleading and all surgery has risks and complications no matter who performs the surgery or how minimal the surgery may seem. He set forth that patient safety is paramount and the one performing the surgery should have the proper training. He stated that the current eye surgeons and physicians should be part of crafting regulations. He asserted that SB 36 would allow "globe injections" and the ability for licensees to prescribe controlled substances in a manner consistent with standards of the board.

He summarized that he is for the Board of Optometry to regulate the practice of optometry, but asserted that there is a difference between ophthalmology and optometry. He set forth that the pathway already exists for an optometrist to perform surgery by becoming an ophthalmologist via medical school, residency, and board certification.

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DR. RACHEL REINHARDT, M.D., ophthalmologist, advocate for the American Academy of Ophthalmology, Mill Creek, Washington, testified in opposition to SB 36 for the following reasons:

- Optometrists state that there is no increase in claims because they do not have report to a national database like medical doctors have to do.
- Optometrists and ophthalmologists receive the same reimbursement from Medicare and private payers, the cost of care is identical.
- Malpractice insurance increases when surgery is done.
- Lasers are as sharp as a scalpel and are a surgical tool.
- SB 36 would allow optometrists to perform any and all surgeries including scalpels, lasers, and needles.
- SB 36 would have a profound effect on patient safety by making Alaska the only state that allows the Board of

Optometry to have total self-regulation over scope of practice.

- SB 36 would allow non-medical doctors and non-surgeons to completely redefine the practice of optometry into a surgical specialty.
- The glaucoma-laser-surgery study in Oklahoma illustrated a 189 percent increased hazard requiring additional surgeries when performed by an optometrist versus ophthalmologist.
- The ratio of ophthalmologists to the population is similar for the states of Washington and Alaska.
- The state of Washington has a definition of surgery that optometrists helped write and agreed to that is very specific.
- Narcotic deaths are the number one cause of unintended death in the U.S. and legislators should be thinking about how to take away the right to prescribe medications in certain groups.
- A national consumer league showed that 95 percent of those polled want only a medical doctor to operate on the eye.

DR. REINHARDT summarized that optometrists' and ophthalmologists' separate skill sets should be respected for good patient care.

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DR. LADD NOLIN, optometrist, President of the Alaska Optometric Association (AOA), Anchorage, Alaska, testified in support of SB 36. He set forth that AOA believes that authorizing the Board of Optometry, who will work with the Alaska Department of Law, to do its job and regulate its own profession within the scope of its education will better serve the patients of Alaska. He asserted that SB 36 allows the Board of Optometry to do what the boards of the other prescribing professions in Alaska are already doing.

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DR. JEFF GONNASON, optometrist and advocate for the Alaska Optometric Association, Anchorage, Alaska, testified in support of SB 36 and made the following claims:

- Optometry is a professional doctors' degree with four-year undergraduate degree, four-year graduate professional doctor program with available one to two-year residency for advanced education. The first two years at many schools, the medical and optometry students attend the same classes.

- Alaska became the fiftieth and last state in 1988 to authorize optometrists to use drugs in practice. The delay was due to opposition from organized ophthalmology protecting their "turf."
- Medicine, dentistry, optometry, and advanced nurse practitioner nurses are all independent with their own boards and authorization by Alaska law to prescribe drugs, including controlled narcotics with DEA numbers.
- Alaska optometrists have had narcotic drug prescribing authority for the past ten years with no issues and the board will continue to limit narcotic supply.
- Section 3 in SB 36 states that the standards must include limitations on practice.
- Optometrists are defined as physicians under federal Medicare and are held to the same standard of care for Medicare and Medicaid patients.
- Optometrists are on the preferred provider insurance panels in Alaska.
- Optometry's low malpractice insurance rates in Alaska is the same as in states that have broader authority: Kentucky, Oklahoma, and Louisiana.
- Optometrists in Alaska provide the vast majority of eye care, serving over 80-remote locations. The local optometrists are called upon in rural hospitals for their expertise.
- Treatment and travel costs increase greatly when routine care is provided by urban specialists, the cost is often travel and loss of work.
- Alaska needs the best new doctors of optometry and the state's antiquated statutes are a barrier to attracting the best and brightest.
- SB 36 does not authorize any optometrist to do anything.
- SB 36 updates 45-year-old statutes and gives the board authority to regulate with emphasis on protecting the public, the same as dentists and advanced-practice nurses.
- SB 36 allows optometry to not have to return for legislation for every new advance in education or technology.
- Statutes for the boards of dentistry, medicine, and nursing do not have extensive lists of procedures that cannot be done, their boards set the details in regulation.
- The Legislature licenses professionals which includes professional judgement as to when to refer patients to specialists.

- Current optometry statutes still require optometrists to refer to medical doctors when appropriate.
- Optometrists do not perform any of the invasive eye surgeries that ophthalmologists perform that are outside of their scope of education, all cases are referred out, the same as family doctors refer to orthopedic surgeons and dentists refer to oral surgeons.
- Family doctors are not trained the same as a neurosurgeon, but there is nothing in the state law that tells what the family doctor can and cannot do, that's all board regulated.
- The optometry board would never authorize optometrists to perform anything they are not educated, trained and qualified to do as specified in Section 4 of SB 36.

DR. GONNASON summarized that every time optometrists come to any state legislature over the past 45 years, the ophthalmologists and their national academy have testified using outrageous scare tactics that optometrists will cause tragic harm to the public.

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DR. PAUL BARNEY, optometrist and Chairman for the Alaska Board of Examiners in Optometry, Alaska Department of Commerce, Community, and Economic Development, Anchorage, Alaska, testified in support of SB 36. He noted that he is an optometrist at the Pacific Cataract and Laser Institute (PCLI) in Anchorage. He detailed that PCLI is a referral center limited to medical and surgical eye care. He specified that his practice is entirely devoted to medical eye care in pre-and post-surgical eye care. He said he works with an ophthalmic surgeon and a certified registered-nurse anesthetist and together they provide quality, affordable, surgical eye care to Alaskans. He specified that PCLI's approach to eye care is to work collaboratively as a team and optimize each practitioners' training and skills, noting that he performs pre-surgical examinations, pre-operative counseling, and post-operative care. He explained that PCLI's nurse anesthetist administers anesthesia for surgery and PCLI's surgeon performs the cataract surgery.

He pointed out that the committee has heard arguments against SB 36 from both organized optometrists and ophthalmologists; those arguments are exclusionary and state that only an ophthalmologist is trained medically and only an ophthalmologist is capable of performing the very tasks that the he and PCLI's nurse anesthetist have performed on a daily basis for years. He pointed out that modern health care is often delivered collaboratively with team members from multiple professions, an

approach that maintains the quality of care that provides patients with better access to care that is frequently more affordable. He opined that exclusionary attitudes and approaches suggesting that only someone who has attended medical school can deliver medical care are antiquated and do not assure better quality; in fact, they often limit patient access to care.

DR. BARNEY noted that the committee also heard opposition to the bill where optometrists will be allowed to do surgery and perform procedures that they are not trained to do, even though the bill specifically states the board cannot write regulations or procedures that licensees aren't trained and educated to do. The Alaska Department of Law oversees all health-care boards, including optometry, to ensure that regulations written by those boards are within the confines of the statutes. He assured the committee that while he is on the Board of Optometry, the board will not write regulations allowing optometrists to do procedures that they are not trained to do.

He specified that SB 36 does allow the Board of Optometry to determine the details of the practice of optometry, but noted that previous arguments where the board cannot be trusted to establish and enforce regulations. He asserted that as Chairman of the Alaska Board of Optometry, the primary concern of the board is the safety of the public. He revealed that in the six years that he has served on the board, the board has never received a public complaint that was serious enough to even consider disciplinary action, a track record that he is doubtful in many other health-care professions in Alaska can claim.

He set forth that optometrists are conservative and cautious practitioners and the passage of SB 36 would not change their conservative nature. He said SB 36 would be good for the state of Alaska by placing the regulatory details regarding the practice of optometry in the authority of the Board of Optometry. He asserted that the changes from SB 36 are important to allow the profession and practice of optometry to incorporate new technologies and advances in eye care as they occur. He pointed out that current statute requires optometry to come to the Legislature to incorporate changes. He summarized that SB 36 would allow optometry to regulate itself similar to dentistry, advanced-practice nurses, and medicine.

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DR. KELLY LORENZ, M.D., ophthalmologist, Anchorage, Alaska, testified in opposition to SB 36 because the bill is too vague

for any serious consideration. She specified her opposition as follows:

- Section 1, page 1, line 13: there is no definition for what is considered ophthalmic surgery or what a non-invasive procedure is, and the definition is left up to the Board of Optometry at some later date which is irresponsible and should be defined now and not later.
- Section 2, page 2, lines 1-10: specific recommendations for continuing education regarding pharmaceuticals and injections are noted, but no recommendations are given regarding proposed surgical procedures, an omission that is again to be determined at some later date by the Board of Optometry without any input from the Alaska State Medical Board.
- Section 3, page 2, lines 21-23, how will a licensee's education, training and experience be evaluated to determine whether they are fit to perform surgery, and what kind of training would be required.

She disclosed that she has four years of full-time surgical training that is beyond medical school and a surgical internship. She inquired if an optometrist's training will be comparable to what he has received, or will the training be an occasional weekend course. She set forth that the larger question is whether the Board of Optometry can solely make decisions without any oversight from the Alaska State Medical Board. She noted that she practices under both the Board of Ophthalmology and the Alaska State Medical Board. She summarized that in the interest of the public that the issues regarding SB 36 be addressed now to allow for a fully informed decision rather than claiming the bill is a general update that leaves details to be determined later.

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DR. JILL MATHESON, optometrist, Juneau, Alaska, testified in support of SB 36. She asserted that having broad language in SB 36 allows the Board of Optometry to react with the shorter regulatory process to changes in technological advances. She set forth that the public is protected by optometrists who are all called to practice as professionals at the highest level. She pointed out that optometrists are the first line of eye care in nearly every community in the state and can treat Alaskans with the most modern methods without costly referral to specialists. She contended that optometrists know best as to methods and what the education should be to perform the methods.

DR. MATHESON revealed that she has served on the Board of Optometry and asserted that board members in the past, present and future are and will be conservative. She pointed out that the Legislature will not be totally out of the loop and noted their indirect oversight via the board member approval process. She summarized that checks and balances exist in addition to regulations that go through the Alaska Department of Law.

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DR. SCOTT LIMSTROM, M.D., ophthalmologist and President of the Alaska Association of Eye Physicians and Surgeons, Anchorage, Alaska, testified in opposition of SB 36. He said the bill is the most expansive optometric scope of practice legislation in the nation. He said SB 36 would give the optometric board full authority to determine which invasive, diagnostic and surgical procedures optometrists may perform on patients' eyes. He revealed that the optometry board consists of four optometrists and one layperson. He pointed out that the optometry board makes decisions regarding medical treatments and surgeries without having a medical doctor or surgeon as a member. He reiterated previous testimony that optometrists lack the education and training to perform surgeries. He summarized that the care of patient sight is a privilege earned through many years of education and should not be taken lightly. He stated that the protection of the public is paramount.

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DR. DAVID KARPIK, optometrist, Kenai, Alaska, testified in support of SB 36. He disclosed that he owns the largest eye-care facility on the Kenai Peninsula. He detailed that his business receives referrals from medical specialists throughout the region and provides vision care for injuries, infections, and chronic-systemic diseases with eye implications. He added that referrals occur back and forth to various primary-care providers, sub-specialists, and ophthalmologists throughout Alaska, state of Washington and beyond.

He disclosed that he had moved to Alaska 12-years previously despite the state's antiquated optometry law that initially did not allow him to practice to the full scale of his training. He noted that the optometry law was patched and improved in 2007, but times and training has continued to advance in the past decade.

DR. KARPIK specified that his support for SB 36 is due in part to its simplicity as well as replacement of a patched together, rigid and aging optometry law that has needed to be continually

changed to keep up with updates and practice. He said the prescribing professions are typically regulated by their state boards as is the case with dentistry, medicine, and nursing; SB 36 sets up an elegant framework parallel to these boards.

He summarized that education, technology and research continuously change best practices. He set forth that regulation by the Board of Optometry ensures protection of the public alongside timely updates in practice which allow for optimum care for Alaskans.

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CHAIR WILSON closed public testimony and announced he would hold SB 36 in committee for future consideration.

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There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Committee at 2:58 p.m.