

Original sponsor: Fritz, Warwick,
Randolph and Hackney

Offered: 3/23/73
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 33 *Am*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the licensing of dispensing
7 opticians; and providing for an effective date."

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

9 * Section 1. AS 08 is amended by adding a new chapter to read:

10 CHAPTER 73. DISPENSING OPTICIANS.

11 ARTICLE 1. BOARD OF DISPENSING OPTICIANS.

12 Sec. 08.73.010. CREATION OF BOARD. There is created the Board of
13 Dispensing Opticians.

14 Sec. 08.73.020. MEMBERSHIP OF BOARD; SOURCE OF APPOINTMENTS; TERM
15 OF OFFICE. The board consists of five persons appointed by the gover-
16 nor. The governor shall appoint board members from a list of qualified
17 opticians prepared by the association of opticians in the state and
18 submitted at least 30 days before the effective date of this chapter,
19 at least 30 days before the expiration of a term and not more than 60
20 days after a vacancy occurs in an unexpired term. The list shall
21 contain not less than two recommended candidates for each appointment.
22 The governor shall make appointments within 30 days after receiving the
23 list. The term of office of each member is three years. However, of
24 the first members of the board, one shall be appointed for a one-year
25 term, two for two-year terms, and two for three-year terms. Vacancies
26 on the board shall be filled for the unexpired term in the same manner
27 as original appointment.

28 Sec. 08.73.030. QUALIFICATIONS OF BOARD MEMBERS. A board member
29 shall be a licensed, practicing dispensing optician residing in the

1 state.

2 Sec. 08.73.040. ELECTION OF OFFICERS. The board shall elect a
3 chairman and secretary from among its members. The officers may
4 administer oaths.

5 Sec. 08.73.050. BOARD REGULATIONS. The board may adopt regula-
6 tions:

7 (1) necessary or advisable to carry out the provisions of
8 this chapter and which help to assure the competency of dispensing
9 opticians and prevent conduct on their part which would tend to do
10 harm to the visual health of the public;

11 (2) governing the practice of dispensing opticians;

12 (3) specifying the subject matter to be covered in examina-
13 tions for dispensing opticians.

14 Sec. 08.73.060. RECORD OF PROCEEDINGS. The secretary shall keep
15 a record of all proceedings, including the name of each applicant for
16 examination and licensing. These records shall be open for public
17 inspection.

18 Sec. 08.73.070. APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT.
19 The board shall comply with the Administrative Procedure Act (AS 44.62).

20 ARTICLE 2. LICENSING.

21 Sec. 08.73.080. LICENSE REQUIRED. No person may act as a dispens-
22 ing optician in the state unless he is licensed under this chapter. In
23 order to be licensed under this chapter, a person shall pass an examina-
24 tion given by the board. A license shall be issued for (1) the dis-
25 pensing of contact lenses, or (2) the dispensing of other lenses, eye-
26 glasses, spectacles, artificial eyes, and their appurtenances, or
27 (3) both. The board shall by endorsement on the license designate for
28 which aspect of dispensing opticianry the license is issued. The
29 board shall license successful examinees.

1 Sec. 08.73.090. CONTENT OF EXAMINATION. To be licensed as a
2 dispensing optician a person shall pass an examination given by the
3 board. At the discretion of the board, the examination may test
4 orally, in writing, or otherwise, knowledge and skills in any or all
5 of the following subjects: optics, anatomy laboratory technology,
6 ophthalmic dispensing, contact lens technology, technical mathematics
7 and physics, and business concepts of optical dispensing.

8 Sec. 08.73.100. ADMINISTRATION OF EXAMINATION. The board shall
9 offer an examination at least once a year. Examinations shall be
10 administered so that one who grades the written part of the examination
11 does not know whose paper he is grading.

12 Sec. 08.73.110. QUALIFICATIONS OF APPLICANTS FOR EXAMINATION. A
13 person is entitled to take the examination who

- 14 (1) is at least 18 years of age;
- 15 (2) has graduated from a secondary school approved by the
16 board;
- 17 (3) is of good moral character;
- 18 (4) is a United States citizen or has duly declared his
19 intention of becoming a citizen of the United States;
- 20 (5) has either
 - 21 (A) completed at least 6,000 hours of training as an
22 apprentice, or
 - 23 (B) been engaged for at least 10,000 hours as a prac-
24 ticing optician in good standing in a state, territory, district
25 or possession of the United States; and
- 26 (6) has paid the required examination fee.

27 Sec. 08.73.120. FEES. The following fees shall be imposed under
28 this chapter when applicable:

- 29 (1) examination fee \$50

1 (2) initial dispensing optician license fee 50

2 (3) biennial renewal fee 50

3 Sec. 08.73.130. RENEWAL OF LICENSE. (a) A licensed dispensing
4 optician shall renew his license biennially with the Department of Com-
5 merce on or before the date set by the department under AS 08.01.100.

6 (b) If the license is not renewed on or before that date, it
7 shall lapse. A penalty of \$10 shall be charged, in addition to all
8 delinquent fees, for the reinstatement of a license which remains
9 lapsed for more than 60 days.

10 (c) If the license remains lapsed for more than one year, the
11 board may require the applicant to be examined under sec. 90 of this
12 chapter.

13 (d) Before a license may be renewed the licensee shall submit
14 to the board evidence of 15 hours of continuing competence in optical
15 dispensing as prescribed by regulations of the board.

16 Sec. 08.73.140. DISPLAY OF LICENSE. A licensed dispensing opti-
17 cian shall conspicuously display his license in his place of business.

18 Sec. 08.73.150. ISSUANCE OF LICENSE BY RECIPROCITY. An applicant
19 who has been licensed and has been practicing as a dispensing optician
20 in a state, territory, district or possession of the United States which
21 has requirements for licensing and gives reciprocal rights equivalent
22 to those of this state, and who otherwise meets the requirements of sec.
23 110 of this chapter, shall be licensed by the board without examination.

24 Sec. 08.73.160. DISPENSING OPTICIAN'S APPRENTICE. (a) A person
25 may be employed by a licensed dispensing optician as an apprentice. An
26 apprentice shall be designated as such in the records of the board at
27 the request of a licensed physician, optometrist or dispensing optician
28 and shall be in training and under the direct supervision of a licensed
29 physician, optometrist or dispensing optician. No apprentice may be

1 employed under this section for longer than six years unless the board
2 determines that an apprentice is prevented by circumstances beyond his
3 control from obtaining a license as a dispensing optician within that
4 time.

5 (b) No more than two apprentices may be under the direct super-
6 vision of one licensed dispensing optician at the same time.

7 ARTICLE 3. UNLAWFUL ACTS.

8 Sec. 08.73.170. GROUNDS FOR REVOCATION, SUSPENSION OR DENIAL OF
9 LICENSE. The board, after compliance with the Administrative Procedure
10 Act (AS 44.62), may revoke, suspend or deny the license of a person who

11 (1) has been convicted of a felony involving moral turpitude;

12 (2) is addicted to the use of alcohol or any other drug;

13 (3) has used advertising, whether printed, radio, display,
14 or of any other nature, which is fraudulent, misleading or inaccurate
15 in any material particular, or misrepresents in any way goods, services
16 or credit terms, values, policies, services or the nature or form of the
17 business conducted;

18 (4) has practiced fraud or deception in his application for
19 or in his examination for a license;

20 (5) has used the word "licensed", "registered", or any of
21 their synonyms publicly, except as provided in sec. 140 of this chapter;

22 (6) has displayed or published directly or indirectly by any
23 means, a price, terms of payment, or a discount, or a policy or
24 practice of generally underselling competitors, or any reference to the
25 benefits available to the subscribers to any prepaid health plan;

26 (7) has participated in the division, assignment, rebate or
27 refund of fees to a physician or optometrist in consideration of patient
28 referrals;

29 (8) has bartered or given away as premiums in any manner

1 either on his own account or as agent or representative for another per-
2 son, firm or corporation, any eyeglasses, spectacles, lenses or frames;

3 (9) has advertised the "free examinations of eyes", "free
4 consultation", "consultation without obligation", "free advice", or any
5 words or phrases of similar import which convey the impression to the
6 public that eyes are examined free or are of a character tending to
7 deceive or mislead the public, or are in the nature of "bait advertis-
8 ing";

9 (10) has employed either directly or indirectly, any person
10 commonly known as a "capper" or a "steerer" to obtain business;

11 (11) has solicited or employed any person to solicit from
12 house to house;

13 (12) has used advertising offering a service to the public
14 for which he is not licensed under this chapter; however, nothing in
15 this section prohibits the optician from advertising merchandise for
16 which the license which is the subject of this chapter is not required;

17 (13) has engaged in a group contract for the duplication of
18 eyeglasses or spectacles without a written prescription from an
19 optometrist or physician; or

20 (14) has advertised the services of any other segment of the
21 healing arts.

22 Sec. 08.73.180. PRACTICING WITHOUT A LICENSE. It is unlawful for
23 a person to practice as a dispensing optician without a license issued
24 under this chapter or while his license is suspended or revoked. A
25 person who violates this section is guilty of a misdemeanor.

26 ARTICLE 4. GENERAL PROVISIONS.

27 Sec. 08.73.190. PERSONS PRACTICING AS DISPENSING OPTICIANS BEFORE
28 THE EFFECTIVE DATE OF THIS CHAPTER. (a) Within 60 days after the
29 effective date of this chapter, a person, who has been engaged in

1 practice in Alaska as a dispensing optician for a period of at least
2 six months immediately preceding the effective date of this chapter,
3 shall be issued a license without examination upon the payment of a fee
4 of \$50 and a certification to the board under oath that he is of good
5 moral character and that

6 (1) he has been engaged as a dispensing optician for not
7 less than 3,000 hours; or

8 (2) he has been engaged as a dispensing optician in contact
9 lens fitting for not less than 6,000 hours.

10 (b) If a person qualifies for a license under (a)(1) or (2) of
11 this section, the board shall by endorsement on the license designate
12 for which aspect of dispensing opticianry the license is issued. If
13 a person qualifies for a license under (a)(1) and (2) of this section,
14 the board shall by endorsement on the license so designate.

15 (c) Within eight months after the effective date of this chapter,
16 a person, who has been engaged in practice in Alaska as a dispensing
17 optician for a period of at least six months immediately preceding the
18 effective date of this chapter but who is not otherwise qualified for
19 licensing under (a)(1) or (2) of this section, may take the examination
20 required under sec. 90 of this chapter. A person who has not been
21 engaged in practice in Alaska as a dispensing optician for a period of
22 at least six months immediately preceding the effective date of this
23 chapter must qualify to take the examination under sec. 110 of this
24 chapter.

25 Sec. 08.73.200. EXEMPTIONS FROM AND LIMITATIONS ON THE APPLICATION
26 OF THIS CHAPTER. This chapter may not be construed to

27 (1) limit or restrict a licensed physician or optometrist or
28 employees working under the personal supervision of a licensed physician
29 or optometrist from the practices enumerated in this chapter, and each

1 licensed physician and optometrist shall have all the rights and
2 privileges which may accrue under this chapter to dispensing opticians
3 licensed under it;

4 (2) prohibit an unlicensed person from performing mechanical
5 work upon inert matter in an optical office, laboratory or shop;

6 (3) prohibit an unlicensed person from engaging in the sale
7 of eyeglasses, spectacles, magnifying glasses, goggles, sunglasses,
8 telescopes, binoculars, or any like articles which are completely pre-
9 assembled and sold only as merchandise;

10 (4) authorize or permit a licensee under this chapter to
11 hold himself out as being able to, or to offer to, or to attempt by any
12 means, to refract or exercise eyes, diagnose, treat, correct, relieve,
13 operate or prescribe for any human ailment, deficiency, deformity,
14 disease or injury.

15 Sec. 08.73.210. DEFINITIONS. In this chapter

16 (1) "board" means the Board of Dispensing Opticians;

17 (2) "department" means the Department of Commerce;

18 (3) "dispensing optician" means a person who prepares dupli-
19 cations of or prepares and dispenses lenses, spectacles, eyeglasses,
20 artificial eyes, and their appurtenances, to the intended wearers of
21 them on written prescriptions from physicians or optometrists; and in
22 accordance with those prescriptions, measures, adapts, adjusts and
23 fabricates lenses, spectacles, eyeglasses, artificial eyes, and their
24 appurtenances, to the human face for the aid or correction of visual or
25 ocular anomalies of the human eye; however, contact lenses shall be fitted
26 in conjunction with and under the supervision of a licensed physician
27 or an optometrist and with a written prescription showing that the
28 prescription may be filled for contact lenses and requiring that the
29 patient return to see the prescribing physician or optometrist. In no

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case may contact lenses be prepared by neutralizing a person's eye-glasses or spectacles.

* Sec. 2. AS 08.01.010 is amended by adding a new paragraph to read:

(19) Board of Dispensing Opticians.

* Sec. 3. AS 44.62.330 is amended by adding a new paragraph to read:

(35) Board of Dispensing Opticians.

* Sec. 4. This Act takes effect July 1, 1973.