

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

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) has either

15 (A) completed at least 6,000 hours of training as an
16 apprentice, or

17 (B) been engaged for at least 10,000 hours as a prac-
18 ticing optician in good standing in a state, territory, district
19 or possession of the United States; and

20 (2) has paid the required examination fee.

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

23 (1) examination fee \$50

24 (2) initial dispensing optician license fee 50

25 (3) biennial renewal fee 50

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

29 (b) If the license is not renewed on or before that date, it

1 shall lapse. A penalty of \$10 shall be charged, in addition to all
2 delinquent fees, for the reinstatement of a license which remains
3 lapsed for more than 60 days.

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

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

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

12 Sec. 08.73.150. ISSUANCE OF LICENSE BY RECIPROCITY. An applicant
13 who has been licensed and has been practicing as a dispensing optician
14 in a state, territory, district or possession of the United States which
15 has requirements for licensing and gives reciprocal rights equivalent
16 to those of this state, and who otherwise meets the requirements of sec.
17 110 of this chapter, shall be licensed by the board without examination.

18 Sec. 08.73.160. DISPENSING OPTICIAN'S APPRENTICE. (a) A person
19 may be employed by a licensed dispensing optician as an apprentice. An
20 apprentice shall be designated as such in the records of the board at
21 the request of a licensed physician, optometrist or dispensing optician
22 and shall be in training and under the direct supervision of a licensed
23 physician, optometrist or dispensing optician. No apprentice may be
24 employed under this section for longer than six years unless the board
25 determines that an apprentice is prevented by circumstances beyond his
26 control from obtaining a license as a dispensing optician within that
27 time.

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

ARTICLE 3. UNLAWFUL ACTS.

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

- (1) has been convicted of a felony involving moral turpitude;
- (2) is addicted to the use of alcohol or any other drug;
- (3) has used advertising, whether printed, radio, display, or of any other nature, which is fraudulent, misleading or inaccurate in any material particular, or misrepresents in any way goods, services or credit terms, values, policies, services or the nature or form of the business conducted;
- (4) has practiced fraud or deception in his application for or in his examination for a license;
- (5) has used the word "licensed", "registered", or any of their synonyms publicly, except as provided in sec. 140 of this chapter;
- (6) has displayed or published directly or indirectly by any means, a price, terms of payment, or a discount, or a policy or practice of generally underselling competitors, or any reference to the benefits available to the subscribers to any prepaid health plan;
- (7) has participated in the division, assignment, rebate or refund of fees to a physician or optometrist in consideration of patient referrals;
- (8) has bartered or given away as premiums in any manner either on his own account or as agent or representative for another person, firm or corporation, any eyeglasses, spectacles, lenses or frames;
- (9) has advertised the "free examinations of eyes", "free consultation", "consultation without obligation", "free advice", or any words or phrases of similar import which convey the impression to the public that eyes are examined free or are of a character tending to

1 deceive or mislead the public, or are in the nature of "bait advertis-
2 ing";

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

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

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

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

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

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

20 ARTICLE 4. GENERAL PROVISIONS.

21 Sec. 08.73.190. PERSONS PRACTICING AS DISPENSING OPTICIANS BEFORE
22 THE EFFECTIVE DATE OF THIS CHAPTER. (a) Within 60 days after the
23 effective date of this chapter, a person, who has been engaged in
24 practice in Alaska as a dispensing optician for a period of at least
25 six months immediately preceding the effective date of this chapter,
26 shall be issued a license without examination upon the payment of a fee
27 of \$50 and a certification to the board under oath that he is of good
28 moral character and that

29 (1) he has been engaged as a dispensing optician for not

1 less than 3,000 hours; or

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

4 (b) If a person qualifies for a license under (a)(1) or (2) of
5 this section, the board shall by endorsement on the license designate
6 for which aspect of dispensing opticianry the license is issued. If
7 a person qualifies for a license under (a)(1) and (2) of this section,
8 the board shall by endorsement on the license so designate.

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

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

21 (1) limit or restrict a licensed physician or optometrist or
22 employees working under the personal supervision of a licensed physician
23 or optometrist from the practices enumerated in this chapter, and each
24 licensed physician and optometrist shall have all the rights and
25 privileges which may accrue under this chapter to dispensing opticians
26 licensed under it;

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

29 (3) prohibit an unlicensed person from engaging in the sale

1 of eyeglasses, spectacles, magnifying glasses, goggles, sunglasses,
2 telescopes, binoculars, or any like articles which are completely pre-
3 assembled and sold only as merchandise;

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

9 Sec. 08.73.210. DEFINITIONS. In this chapter

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

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

12 (3) "dispensing optician" means a person who prepares dupli-
13 cations of or prepares and dispenses lenses, spectacles, eyeglasses,
14 artificial eyes, and their appurtenances, to the intended wearers of
15 them on written prescriptions from physicians or optometrists; and in
16 accordance with those prescriptions, measures, adapts, adjusts and fabri-
17 cates lenses, spectacles, eyeglasses, artificial eyes, and their appur-
18 tenances, to the human face for the aid or correction of visual or ocular
19 anomalies of the human eye; however, contact lenses shall be fitted in
20 conjunction with and under the supervision of a licensed physician or an
21 optometrist and with a written contact lens prescription showing that the
22 prescription may be filled for contact lenses and requiring that the
23 patient return to see the prescribing physician or optometrist. In no
24 case may contact lenses be prepared by neutralizing a person's eye-
25 glasses or spectacles.

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

27 (19) Board of Dispensing Opticians.

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

29 (35) Board of Dispensing Opticians

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