

Introduced: 4/5/79
Referred: Finance

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 HOUSE BILL NO. 442

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act terminating the existence of the Board of
7 Examiners in Optometry on January 1, 1981 and reas-
8 signing its responsibilities to the Department of
9 Commerce and Economic Development; and providing for an
10 effective date."

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

12 * Section 1. TERMINATION OF BOARD OF EXAMINERS IN OPTOMETRY. Notwith-
13 standing the provisions of AS 08.03.010, the Board of Examiners in Optometry
14 will continue in existence until January 1, 1981, and after that date the
15 Department of Commerce and Economic Development will have jurisdiction over
16 the licensing of optometrists and the practice of optometry under the provi-
17 sions of AS 08.72.005 - 08.72.300. During the period until January 1, 1981,
18 the members of the board will facilitate the orderly transfer of functions
19 and responsibilities of the board to the department. Nothing in this Act or
20 AS 08.03.010 reduces or limits the authority of the board under AS 08.72.-
21 010 - 08.72.300 before January 1, 1981.

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

23 (b) This chapter applies to the responsibilities of the department
24 over licensing and regulation of optometrists (AS 08.72.005).

25 * Sec. 3. AS 08.01.050(a)(19) is amended to read:

26 (19) provide investigative services to the boards established
27 under AS 08.20, AS 08.32, AS 08.36, AS 08.64, AS 08.68, AS 08.71,
28 [AS 08.72,] AS 08.80, AS 08.84, and AS 08.86, for the purpose of
29 assisting those boards in matters of professional discipline.

- 1 * Sec. 4. AS 08.01.050(a) is amended by adding a new paragraph to read:
2 (20) provide investigative services in matters of professional
3 discipline for the profession established under AS 08.72.
- 4 * Sec. 5. AS 08.01.050(b) is amended to read:
5 (b) The form and content of a license [,] authorized under AS 08
6 [BY A BOARD LISTED IN AS 08.01.010], including any document evidencing
7 renewal of a license, shall be determined by the department after con-
8 sultation with and consideration of the views of any [THE] board con-
9 cerned.
- 10 * Sec. 6. AS 08.72 is amended by adding a new section to read:
11 Sec. 08.72.005. AUTHORITY OF DEPARTMENT. The department has
12 jurisdiction over the practice of optometry and the licensing of optome-
13 trists under this chapter.
- 14 * Sec. 7. AS 08.72.050 is amended to read:
15 Sec. 08.72.050. POWER OF DEPARTMENT [BOARD] TO ADOPT REGULATIONS.
16 The department [BOARD] shall adopt [RULES AND] regulations
17 [(1) NECESSARY FOR THE PROPER PERFORMANCES OF ITS DUTIES;]
18 (2) governing [THE APPLICANTS AND] applications for licensing
19 of optometrists;
20 (3) for the registration of optometrists;
21 (4) necessary to govern the practice of optometry.
- 22 * Sec. 8. AS 08.72.060(e) is amended to read:
23 (e) The department [BOARD] may define professional conduct and
24 adopt regulations governing [RULES OF] professional conduct.
- 25 * Sec. 9. AS 08.72.070 is amended to read:
26 Sec. 08.72.070. APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT.
27 The department [BOARD] shall comply with the Administrative Procedure
28 Act (AS 44.62).
- 29 * Sec. 10. AS 08.72.120 is amended to read:

1 Sec. 08.72.120. REGISTRATION. It is unlawful for a person to
2 practice, or attempt, or offer to practice, optometry without first
3 obtaining a certificate of registration from the department [BOARD], and
4 without filing the certificate with the clerk of the superior court in
5 each judicial district in which he practices.

6 * Sec. 11. AS 08.72.125 is amended to read:

7 Sec. 08.72.125. REGISTRATION OF BRANCH OFFICES. (a) The depart-
8 ment [BOARD] may issue to an Alaskan licensee who maintains a full-time
9 practice in the state but who serves other communities in the state on a
10 part-time basis a branch office certificate of registration.

11 (b) It is unlawful for a person to practice, or to attempt or
12 offer to practice, optometry in communities on a part-time basis without
13 obtaining a branch office certificate of registration from the depart-
14 ment [BOARD], and without filing the certificate with the clerk of the
15 superior court in each judicial district in which he maintains a branch
16 office.

17 (c) The department [BOARD] shall prescribe in the regulations the
18 factors to be considered in issuing a branch office certificate of
19 registration.

20 * Sec. 12. AS 08.72.140 is amended to read:

21 Sec. 08.72.140. QUALIFICATIONS FOR EXAMINATION. The department
22 [BOARD] shall admit to the examination a person who furnishes proof that

23 (1) (repealed)

24 (2) he has normal color perception and a visual acuity of a
25 standard of at least 20/40 in at least one eye as corrected;

26 (3) he is not afflicted with a contagious or infectious
27 disease;

28 (4) he has had education equivalent to four years attendance
29 at a state high school;

1 (5) he is a graduate of a recognized school or college of
2 optometry;

3 (6) he is of good moral character.

4 * Sec. 13. AS 08.72.150 is amended to read:

5 Sec. 08.72.150. APPLICATION FOR EXAMINATION AND ISSUANCE OF
6 CERTIFICATE. An applicant shall apply for the examination by filing an
7 application with the department together with the examination fee at
8 least 15 days before the examination. Upon successful completion of the
9 examination by the applicant and payment of the fee, the department
10 [BOARD] shall issue a certificate of registration as a licensed optome-
11 trist to the applicant. After the applicant has properly filed his
12 certificate of registration he may practice optometry in the state.

13 * Sec. 14. AS 08.72.170 is amended to read:

14 Sec. 08.72.170. ISSUANCE OF CERTIFICATE BY WAIVER OF WRITTEN
15 EXAMINATION. (a) The department [BOARD] may waive the written portion
16 of the examination requirement for an applicant who:

17 (1) meets the qualifications of AS 08.72.140;

18 (2) holds a current license by examination in another state,
19 territory or foreign country and has been established in ethical
20 optometric practice for at least three years before the application, or
21 shows satisfactory evidence of having passed the written portion of the
22 examination given by the National Board of Examiners in Optometry; and

23 (3) has not had a certificate or license revoked for cause in
24 any state, territory or foreign country.

25 * Sec. 15. AS 08.72.181(c) and (d) are amended to read:

26 (c) An application for license renewal shall contain the name,
27 office and post office address, date and license number of the licensee,
28 and other information the department [BOARD] considers necessary.

29 (d) Before a license may be renewed the licensee shall submit to

1 the department [BOARD] evidence of 24 hours post graduate education as
2 prescribed by regulations of the department [BOARD].

3 * Sec. 16. AS 08.72.240 is amended to read:

4 Sec. 08.72.240. REVOCATION OF REGISTRATION CERTIFICATE OR
5 EXEMPTION. The department [BOARD] may revoke a certificate of registra-
6 tion or exemption granted by it if the holder

7 (1) has violated an [A RULE,] order or regulation of the
8 department [BOARD]; or

9 (2) has violated this chapter or is guilty of a crime; or

10 (3) is grossly incompetent, afflicted with a contagious
11 disease, habitually drunk or guilty of unprofessional conduct; [.]

12 (4) denies care or treatment to a patient or person seeking
13 assistance from the optometrist if the sole reason for the denial is the
14 failure or refusal of the patient or person seeking assistance to
15 execute an agreement to arbitrate a dispute, controversy, or issue
16 arising out of the care or treatment, as provided in AS 09.55.535(a).

17 * Sec. 17. AS 08.72.250 is amended to read:

18 Sec. 08.72.250. DEPARTMENTAL [BOARD] ACTION ON REVOCATION AND
19 RENEWAL. In a proceeding for the revocation of a certificate of regis-
20 tration or for the annulment of registration the department [BOARD]
21 shall make a complete written report of its findings, and if the
22 department [BOARD] finds that any of the charges are sustained, the
23 department [BOARD] may revoke the certificate of the accused, or annul
24 his registration, or both. If the department [BOARD] annuls the regis-
25 tration, it shall transmit to the clerk of the judicial district in
26 which the accused is registered as an optometrist, a certificate under
27 its seal, certifying that his registration has been annulled. The clerk
28 shall, upon receipt of the certificate, file it and mark the registra-
29 tion "annulled." The department [BOARD] may, after the expiration of

1 one year, entertain an application for the renewal of a revoked certi-
2 ficate, in the same manner as an original application for a certificate
3 and may exempt the applicant from the examination.

4 * Sec. 18. AS 08.72.255 is amended to read:

5 Sec. 08.72.255. LIMITS OR CONDITIONS ON LICENSE; DISCIPLINE. (a)
6 In addition to action under AS 08.72.240 and 08.72.250, upon a finding
7 that by reason of demonstrated problems of competence, experience,
8 education, or health the authority to practice optometry under this
9 chapter should be limited or conditioned or the practitioner disci-
10 plined, the department [BOARD] may reprimand, censure, place on proba-
11 tion, restrict practice by specialty, procedure or facility, require
12 additional education or training, or revoke or suspend a license.

13 (b) The Administrative Procedure Act (AS 44.62) applies to any
14 action taken by the department [BOARD] under this section.

15 * Sec. 19. AS 08.72.260 is amended to read:

16 Sec. 08.72.260. REVOCATION OF LICENSE BY COURT. A license may be
17 revoked by the superior court upon proof of violation of law or for a
18 cause for which the department [BOARD] may refuse admittance to its
19 examination. The attorney general shall prosecute appropriate judicial
20 proceedings upon request of the department [A MEMBER OF THE BOARD].

21 * Sec. 20. AS 08.72.280 is amended to read:

22 Sec. 08.72.280. VIOLATIONS. No person may falsely personate a
23 registered optometrist, nor buy, sell or fraudulently obtain a certi-
24 ficate of registration issued to another or advertise the practice of
25 optometry in violation of regulations [RULES] of the department [BOARD].
26 Practicing or offering to practice optometry is sufficient evidence of a
27 violation of this chapter.

28 * Sec. 21. REPEALER. AS 08.01.010(11); AS 08.03.010(a)(6); AS 08.72.-
29 010 - 08.72.040; and 08.72.060(a) - (c) are repealed.

1 * Sec. 22. EFFECTIVE DATE. Section 1 of this Act takes effect immedi-
2 ately in accordance with AS 01.10.070(c). Sections 2 - 21 of this Act take
3 effect January 1, 1981.

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