

Introduced: 4/5/79
Referred: Finance

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 HOUSE BILL NO. 443

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 Dispensing Opticians on January 1, 1981 and reassigning
8 its responsibilities to the Department of Commerce and
9 Economic Development; and providing for an effective
10 date."

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

12 * Section 1. TERMINATION OF BOARD OF DISPENSING OPTICIANS. Notwithstand-
13 ing the provisions of AS 08.03.010, the Board of Dispensing Opticians will
14 continue in existence until January 1, 1981, and after that date the Depart-
15 ment of Commerce and Economic Development will have jurisdiction over the
16 licensing of dispensing opticians under the provisons of AS 08.71.005 -
17 08.71.240. During the period until January 1, 1981, the members of the board
18 will facilitate the orderly transfer of functions and responsibilities of the
19 board to the department. Nothing in this Act or AS 08.03.010 reduces or
20 limits the authority of the board under AS 08.71.010 - 08.71.240 before
21 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 dispensing opticians (AS 08.71.005).

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 assisting
29 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 08.71.

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 08.71 is amended by adding a new section to read:

11 Sec. 08.71.005. AUTHORITY OF DEPARTMENT. The department has
12 jurisdiction over the licensing and the practice of dispensing opticians
13 under this chapter.

14 * Sec. 7. AS 08.71.050 is amended to read:

15 Sec. 08.71.050. DEPARTMENTAL [BOARD] REGULATIONS. The department
16 [BOARD] may adopt regulations:

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

21 (2) governing the practice of dispensing opticians;

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

24 * Sec. 8. AS 08.71.070 is amended to read:

25 Sec. 08.71.070. APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT.
26 The department [BOARD] shall comply with the Administrative Procedure
27 Act (AS 44.62).

28 * Sec. 9. AS 08.71.080 is amended to read:

29 Sec. 08.71.080. LICENSE REQUIRED. No person may act as a dis-

1 dispensing optician in the state unless he is licensed under this chapter.
2 In order to be licensed under this chapter, a person shall pass an
3 examination given by the department [BOARD], unless he is eligible for
4 licensing without examination under AS 08.71.150. A license shall be
5 issued for (1) the dispensing of contact lenses, or (2) the dispensing
6 of other lenses, eyeglasses, spectacles, artificial eyes, and their
7 appurtenances, or (3) both. The department [BOARD] shall by endorsement
8 on the license designate for which aspect of dispensing opticianry the
9 license is issued. The department [BOARD] shall license successful
10 examinees.

11 * Sec. 10. AS 08.71.090 is amended to read:

12 Sec. 08.71.090. CONTENT OF EXAMINATION. To be licensed as a
13 dispensing optician a person, unless eligible for licensing without
14 examination under AS 08.71.150, shall pass an examination given by the
15 department [BOARD]. At the discretion of the department [BOARD], the
16 examination may test orally, in writing, or otherwise, knowledge and
17 skills in any or all of the following subjects: optics, anatomy,
18 laboratory technology, ophthalmic dispensing, contact lens technology,
19 technical mathematics and physics, and business concepts of optical dis-
20 pensing.

21 * Sec. 11. AS 08.71.100 is amended to read:

22 Sec. 08.71.100. ADMINISTRATION OF EXAMINATION. The department
23 [BOARD] shall offer an examination at least once a year. Examinations
24 shall be administered so that one who grades the written part of the
25 examination does not know whose paper he is grading.

26 * Sec. 12. AS 08.71.130(c) and (d) are amended to read:

27 (c) If the license remains lapsed for more than one year, the
28 department [BOARD] may require the applicant to be examined under AS 08.
29 71.090.

1 (d) Before a license may be renewed the licensee shall submit to
2 the department [BOARD] evidence of 15 hours of continuing competence in
3 optical dispensing as prescribed by regulations of the department
4 [BOARD].

5 * Sec. 13. AS 08.71.150 is amended to read:

6 Sec. 08.71.150. ISSUANCE OF LICENSE BY RECIPROCITY. An applicant
7 who has been licensed and has been practicing as a dispensing optician
8 in a state, territory, district or possession of the United States which
9 has requirements for licensing and gives reciprocal rights equivalent to
10 those of this state, and who otherwise meet the requirements of AS 08.-
11 71.110, shall be licensed by the department [BOARD] without examination.

12 * Sec. 14. AS 08.71.160(a) is amended to read:

13 (a) A person may be employed by a licensed dispensing optician as
14 an apprentice. An apprentice shall be designated as such in the records
15 of the department [BOARD] at the request of a licensed physician,
16 optometrist or dispensing optician and shall be in training and under
17 the direct supervision of a licensed physician, optometrist or dis-
18 pensing optician. No apprentice may be employed under this section for
19 longer than six years unless the department [BOARD] determines that an
20 apprentice is prevented by circumstances beyond his control from obtain-
21 ing a license as a dispensing optician within that time.

22 * Sec. 15. AS 08.71.170 is amended to read:

23 Sec. 08.71.170. GROUNDS FOR REVOCATION, SUSPENSION OR DENIAL OF
24 LICENSE. The department [BOARD], after compliance with the Administra-
25 tive Procedure Act (AS 44.62), may revoke, suspend or deny the license
26 of a person who

- 27 (1) has been convicted of a felony involving moral turpitude;
28 (2) is addicted to the use of alcohol or any other drug;
29 (3) has used advertising, whether printed, radio, display, or

1 of any other nature, which is fraudulent, misleading or inaccurate in
2 any material particular, or misrepresents in any way goods, services or
3 credit terms, values, policies, services or the nature or form of the
4 business conducted;

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

7 (5) has used the word "licensed", "registered", or any of
8 their synonyms publicly, except as provided in AS 08.71.140;

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

13 (7) has participated in the division, assignment, rebate or
14 refund of fees to a physician or optometrist in consideration of patient
15 referrals;

16 (8) has bartered or given away as premiums in any manner
17 either on his own account or as agent or representative for another
18 person, firm or corporation, any eyeglasses, spectacles, lenses or
19 frames;

20 (9) has advertised the "free examinations of eyes", "free
21 consultation", "consultation without obligation", "free advice", or any
22 words or phrases of similar import which convey the impression to the
23 public that eyes are examined free or are of a character tending to
24 deceive or mislead the public, or are in the nature of "bait advertis-
25 ing";

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

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

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

5 (13) has engaged in a group contract for the duplication of
6 eyeglasses or spectacles without a written prescription from an optome-
7 trist or physician; [OR]

8 (14) has advertised the services of any other segment of the
9 healing arts; [.]

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

15 * Sec. 16. AS 08.71.175 is amended to read:

16 Sec. 08.71.175. LIMITS OR CONDITIONS ON LICENSE; DISCIPLINE. (a)
17 In addition to action under AS 08.71.170, upon a finding that by reason
18 of demonstrated problems of competence, experience, education, or health
19 the authority to practice as a dispensing optician under this chapter
20 should be limited or conditioned or the practitioner disciplined, the
21 department [BOARD] may reprimand, censure, place on probation, restrict
22 practice by procedure or facility, require additional education or
23 training, or revoke or suspend a license.

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

26 * Sec. 17. AS 08.71.220(a) and (b) are amended to read:

27 (a) Within 60 days after July 1, 1973, a person who has been
28 engaged in practice in Alaska as a dispensing optician for a period of
29 at least six months immediately preceding July 1, 1973 shall be issued a

1 license without examination upon the payment of a fee of \$50 and a
2 certification to the department [BOARD] under oath that he is of good
3 moral character and that

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

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

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

14 * Sec. 18. REPEALER. AS 08.01.010(19), AS 08.03.010(a)(5), AS 08.71.-
15 010 - 08.71.040, 08.71.060, and 08.71.240(1) are repealed.

16 * Sec. 19. EFFECTIVE DATE. Section 1 of this Act takes effect immedi-
17 ately in accordance with AS 01.10.070(c). Sections 2 - 18 of this Act take
18 effect January 1, 1981.

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