

Introduced: 4/3/80
Referred: Health, Education &
Social Services

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 SENATE BILL NO. 541

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

10 * Section 1. AS 08.01.100(a) is amended to read:

11 (a) Except as otherwise provided in this title, [ALL] licenses
12 shall be renewed biennially on the dates set by the department with the
13 approval of the respective board.

14 * Sec. 2. AS 08.71.020 is amended to read:

15 Sec. 08.71.020. MEMBERSHIP [OF BOARD; SOURCE OF APPOINTMENT;] AND
16 TERM OF OFFICE. The board consists of four opticians licensed under
17 AS 08.71.080 and one public member [SEVEN PERSONS] appointed by the
18 governor. Members serve staggered terms of four [THREE] years which [.
19 THE TERMS OF THE PUBLIC MEMBERS OF THE BOARD] shall be set so that they
20 do not expire at the same time. Vacancies on the board shall be filled
21 for the unexpired term. A person who has served two successive complete
22 terms may not be reappointed until four years from the expiration of the
23 second term.

24 * Sec. 3. AS 08.71 is amended by adding new sections to read:

25 Sec. 08.71.045. REMOVAL OF BOARD MEMBERS. A member of the board
26 may be removed from office by the governor for cause. The board may by
27 regulation provide that unexcused absences from meetings constitute
28 cause for removal.

29 Sec. 08.71.055. POWERS AND DUTIES. The board shall have the

1 following powers and duties:

2 (1) to examine and issue licenses to applicants;

3 (2) to renew licenses;

4 (3) to hold hearings and order disciplinary sanctions against
5 a person who violates this chapter or the regulations of the board;

6 (4) to supply forms for applications, licenses, and other
7 needed documents;

8 (5) to keep a record of all proceedings open to the public,
9 including the ~~name~~ of each applicant for examination and each licensee;

10 (6) to enforce the provisions of this chapter and adopt or
11 amend regulations necessary to make these provisions effective.

12 * Sec. 4. AS 08.71.110(1)(B) is amended to read:

13 (B) ~~been~~ engaged for at least 6,000 [10,000] hours as a
14 practicing optician in good standing in a state, territory,
15 district or possession of the United States; and

16 * Sec. 5. AS 08.71.120(3) is amended to read:

17 (3) [BIENNIAL] renewal fee,
18 due every four years 200 [50]

19 * Sec. 6. AS 08.71.130(a) is amended to read:

20 (a) A licensed dispensing optician shall renew his license every
21 four years [BIENNIAL] with the department [DEPARTMENT OF COMMERCE] on
22 or before the date set by the department under AS 08.01.100.

23 * Sec. 7. AS 08.71 is amended by adding a new section to read:

24 Sec. 08.71.145. LICENSURE BY CREDENTIALS. A person with a valid
25 license as a dispensing optician from another state, territory, district
26 or possession of the United States shall be issued a license without
27 examination for those professional areas in which he is licensed upon
28 payment of any fee and documentation which the board may require by
29 regulation.

1 * Sec. 8. AS 08.71.160 is amended to read:

2 Sec. 08.71.160. DISPENSING OPTICIAN'S APPRENTICE. (a) A person
3 may be employed by a licensed dispensing optician as an apprentice. An
4 apprentice shall be designated as such in the records of the board at
5 the request of a licensed physician, optometrist or dispensing optician
6 and shall be in training and under the [DIRECT] supervision of a
7 licensed physician, optometrist or dispensing optician. No apprentice
8 may be employed under this section for longer than six years unless the
9 board determines that an apprentice is prevented by circumstances beyond
10 his control from obtaining a license as a dispensing optician within
11 that time.

12 (b) No more than two apprentices may be under the [DIRECT] super-
13 vision of one licensed dispensing optician at the same time.

14 * Sec. 9. AS 08.71.170 is repealed and re-enacted to read:

15 Sec. 08.71.170. IMPOSITION OF DISCIPLINARY SANCTIONS. The board
16 may revoke or suspend the license of a dispensing optician, or the
17 licensee may be reprimanded or otherwise disciplined when the board
18 finds after a hearing that he

19 (1) secured a license through deceit, fraud, or intentional
20 misrepresentation;

21 (2) engaged in deceit, fraud, or intentional misrepresent-
22 ation in the course of providing professional services or engaging in
23 professional activities;

24 (3) advertised professional services in a false or misleading
25 manner;

26 (4) has been convicted of a crime which affects his ability
27 to continue to practice competently and safely;

28 (5) intentionally or negligently engaged in or permitted the
29 performance of patient care by persons under his supervision which does

1 not conform to minimum professional standards regardless of whether
2 actual injury to the patient occurred;

3 (6) continued to practice after becoming unfit due to

4 (A) professional incompetence;

5 (B) failure to keep informed of or use current profes-
6 sional theories or practices;

7 (C) addiction or severe dependency on alcohol or other
8 drugs which impairs his ability to practice safely;

9 (D) physical or mental disability;

10 (7) engaged in lewd or immoral conduct in connection with the
11 delivery of professional service to patients;

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

15 (9) advertised the services of any other segment of the
16 healing arts.

17 * Sec. 10. AS 08.71.175 is repealed and re-enacted to read:

18 Sec. 08.71.175. DISCIPLINARY SANCTIONS. (a) When it finds that a
19 dispensing optician is guilty of an offense under AS 08.71.170, the
20 board may impose the following sanctions singly or in combination:

21 (1) permanently revoke a dispensing optician's license to
22 practice;

23 (2) suspend a dispensing optician's license for a determinate
24 period of time;

25 (3) censure a dispensing optician;

26 (4) issue a letter of reprimand;

27 (5) place a dispensing optician on probationary status and
28 require him to

29 (A) report regularly to the board upon matters involving

1 the basis of probation;

2 (B) limit practice to those areas prescribed;

3 (C) continue professional education until a satisfactory
4 degree of skill has been attained in those areas determined by the
5 board to need improvement;

6 (6) impose limitations or conditions on the practice of a
7 dispensing optician.

8 (b) The board may withdraw probation status of a dispensing
9 optician if it finds that the deficiencies which required the sanction
10 have been remedied.

11 (c) The board may summarily suspend a dispensing optician's
12 license before final hearing or during the appeals process if the board
13 finds that he poses a clear and immediate danger to the public health
14 and safety if he continues to practice. A dispensing optician whose
15 license is suspended under this section shall be entitled to a hearing
16 by the board no later than seven days after the effective date of the
17 order. The dispensing optician may appeal the suspension after a
18 hearing to a court of competent jurisdiction.

19 (d) The board may reinstate a license which has been suspended or
20 revoked if the board finds after a hearing that the applicant is able to
21 practice with skill and safety.

22 (e) The board shall seek consistency in the application of dis-
23 ciplinary sanctions, and significant departure from prior decisions
24 involving similar situations shall be explained in findings of fact or
25 orders.

26 * Sec. 11. AS 08.71.180 is amended to read:

27 Sec. 08.71.180. PRACTICING WITHOUT A LICENSE. It is unlawful for
28 a person to practice as a dispensing optician without a license issued
29 under this chapter or while his license is suspended or revoked. A

1 person who violates this section is guilty of a class B misdemeanor.

2 * Sec. 12. AS 08.71 is amended by adding a new section to read:

3 Sec. 08.71.190. CONTACT LENSES. (a) Contact lenses may be dis-
4 pensed only upon the written contact lens prescription of a licensed
5 physician or optometrist, except duplicate contact lenses may be dis-
6 pensed under an original prescription.

7 (b) The dispensing optician shall instruct a patient to return to
8 the prescribing physician or optometrist for inspection of the fit of
9 contact lenses.

10 * Sec. 13. AS 08.71.230(1) is amended to read:

11 (1) limit or restrict a licensed physician or optometrist [OR
12 EMPLOYEES WORKING UNDER THE PERSONAL SUPERVISION OF A LICENSED PHYSICIAN
13 OR OPTOMETRIST] from the practices enumerated in this chapter, and each
14 licensed physician and optometrist has all the rights and privileges
15 which may accrue under this chapter to dispensing opticians licensed
16 under it;

17 * Sec. 14. AS 08.71.240 is amended by adding new paragraphs to read:

18 (4) "dispensing optician" means a person who, on written
19 prescription from a licensed physician or optometrist, prepares and
20 dispenses to the intended wearer or person who writes the prescription,
21 original or duplicate lenses, eyeglasses, contact lenses, and appurte-
22 nances to them, and interprets, measures, adapts, fits, and adjusts
23 lenses, eyeglasses, contact lenses, and appurtenances to them, to the
24 face for the aid or correction of visual or ocular anomalies of the
25 human eye;

26 (5) "supervision" means the provision of any needed direc-
27 tion, control, consultation, instruction, evaluation, and personal
28 inspection of work being performed.

29 * Sec. 15. AS 08.71.030, 08.71.050, 08.71.060, 08.71.070, 08.71.200, and

1 08.71.240(3) are repealed.

2 * Sec. 16. This Act takes effect immediately in accordance with AS 01.10.-
3 070(c).

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