

Original sponsor: Health, Education and
Social Services Committee

Offered: 5/12/80
Referred: Rules

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

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CS FOR SENATE BILL NO. 551

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 optometry; and providing
8 for an effective date."

9

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

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

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(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.

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* Sec. 2. AS 08.72.010 is amended to read:

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Sec. 08.72.010. CREATION AND PURPOSE OF BOARD OF EXAMINERS. There
16 is created the Board of Examiners in Optometry to regulate and control
17 the practice of optometry and to protect and promote the public health,
18 welfare, and safety and the public interest.

19

* Sec. 3. AS 08.72.020 is amended to read:

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Sec. 08.72.020. MEMBERSHIP OF BOARD AND TERMS OF OFFICE. The
21 board consists of five persons, appointed by the governor. Members
22 serve staggered terms of four [THREE] years. [THE TERMS OF THE PUBLIC
23 MEMBERS OF THE BOARD SHALL BE SET SO THAT THEY DO NOT EXPIRE AT THE SAME
24 TIME.]

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* Sec. 4. AS 08.72 is amended by adding a new section to read:

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Sec. 08.72.025. REMOVAL OF BOARD MEMBERS. A member of the board
27 may be removed from office by the governor for cause. The board may by
28 regulation provide that unexcused absences from meetings constitute
29 cause for removal.

1 * Sec. 5. AS 08.72.040 is amended to read:

2 Sec. 08.72.040. QUALIFICATIONS. Four [THREE] board members shall
3 be licensed, practicing optometrists who have been residents for at
4 least three years. One board member shall be a public member. A person
5 who has served two successive complete terms may not be reappointed until
6 four years from the expiration of the second term that he served [TWO
7 SHALL BE PERSONS WHO HAVE NO DIRECT FINANCIAL INTEREST IN THE HEALTH
8 CARE INDUSTRY].

9 * Sec. 6. AS 08.72.050 is amended by adding new paragraphs to read:

10 (5) establishing any requirements for licensing which are in
11 addition to those established in this chapter;

12 (6) prescribing requirements which a person licensed under
13 this chapter must meet to demonstrate continued professional competency.

14 * Sec. 7. AS 08.72.060(b) is repealed and re-enacted to read:

15 (b) The board may

16 (1) adopt a seal;

17 (2) define professional conduct and adopt rules of profes-
18 sional conduct.

19 * Sec. 8. AS 08.72.060(c) is repealed and re-enacted to read:

20 (c) The board shall

21 (1) elect a president and secretary from among its members;

22 (2) order a licensee to submit to a reasonable physical or
23 mental examination if his physical or mental capacity to practice safely
24 is at issue.

25 * Sec. 9. AS 08.72.125(a) is amended to read:

26 (a) The board shall [MAY] issue a branch office certificate of
27 registration to an Alaskan licensee who maintains a full-time practice
28 in the state but who serves other communities in the state on a part-
29 time basis [A BRANCH OFFICE CERTIFICATE OF REGISTRATION].

- 1 Sec. 10. AS 08.72.140(2) is amended to read:
2 (2) he has [NORMAL COLOR PERCEPTION AND] a visual acuity of a
3 standard of at least 20/40 in at least one eye as corrected;
- 4 * Sec. 11. AS 08.72.160(a) is amended to read:
5 (a) The examination shall be written, practical, and oral in
6 nature. The National Board of Examiners in Optometry Examination,
7 Parts I and 2, shall comprise the written portion of the Alaska examina-
8 tion. The oral portion of the examination shall be recorded and re-
9 tained for two years.
- 10 * Sec. 12. AS 08.72.170(a)(2) is amended to read:
11 (2) holds a current license by examination in another state
12 or a province of Canada [, TERRITORY OR FOREIGN COUNTRY] and has been
13 established in ethical optometric practice for at least three years
14 before the application, or shows satisfactory evidence of having passed
15 the written portion of the examination given by the National Board of
16 Examiners in Optometry; and
- 17 * Sec. 13. AS 08.72.181(a) is amended to read:
18 (a) To remain in force a license must be renewed every four years
19 [BIENNIALY].
- 20 * Sec. 14. AS 08.72.181(d) is amended to read:
21 (d) Before a license may be renewed the licensee shall submit to
22 the board evidence of 48 [24] hours of post graduate continuing education
23 instruction as prescribed by regulations of the board. The board may
24 specify by regulation those circumstances under which the requirements
25 of this subsection may be waived.
- 26 * Sec. 15. AS 08.72.181 is amended by adding a new subsection to read:
27 (e) Before a license may be renewed, the licensee shall provide
28 evidence of continued professional competency in accordance with the
29 regulations adopted by the board under AS 08.72.050(6).

1 * Sec. 16. AS 08.72.191 is amended to read:

2 Sec. 08.72.191. FEES. The following fees shall be imposed under
3 this chapter when applicable:

- 4 (1) examination fee..... \$50 [\$35]
- 5 (2) re-examination fee for written portion..... \$50 [50]
- 6 (3) waiver of examination fee..... \$50 [25]
- 7 (4) certificate fee..... \$100 [50]
- 8 (5) [BIENNIAL] renewal fee
9 (due every four years)..... \$200 [50]
- 10 (6) branch office [BIENNIAL] registration fee
11 (due every four years)..... \$100 [25]

12 * Sec. 17. AS 08.72.240 is repealed and re-enacted to read:

13 Sec. 08.72.240. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.
14 The board may impose disciplinary sanctions when the board finds after a
15 hearing that a licensee

- 16 (1) secured a license through deceit, fraud, or intentional
17 misrepresentation;
- 18 (2) engaged in deceit, fraud, or intentional misrepresenta-
19 tion in the course of providing professional services or engaging in
20 professional activities;
- 21 (3) advertised professional services in a false or misleading
22 manner;
- 23 (4) has been convicted of a felony or other crime which
24 affects his ability to continue to practice competently and safely;
- 25 (5) intentionally or negligently engaged in or permitted the
26 performance of patient care by persons under his supervision which does
27 not conform to minimum professional standards regardless of whether
28 actual injury to the patient occurred;
- 29 (6) failed to comply with this chapter, with a regulation

1 adopted under this chapter, or with an order of the board;

2 (7) continued to practice after becoming unfit due to

3 (A) professional incompetence;

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

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

8 (D) physical or mental disability;

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

11 (9) failed to refer a patient to the appropriate health care
12 practitioner after ascertaining the possible presence of ocular disease.

13 * Sec. 18. AS 08.72.250 is repealed and re-enacted to read:

14 Sec. 08.72.250. DISCIPLINARY SANCTIONS. (a) When it finds that a
15 licensee is guilty of an offense under AS 08.72.240, the board may
16 impose the following sanctions singly or in combination:

17 (1) permanently revoke a license to practice;

18 (2) suspend a license for a determinate period of time;

19 (3) censure a licensee;

20 (4) issue a letter of reprimand;

21 (5) place a licensee on probationary status and require him

22 to

23 (A) report regularly to the board upon matters involving
24 the basis of probation;

25 (B) limit practice to those areas prescribed;

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

29 (6) impose limitations or conditions on the practice of a

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licensee.

(b) The board may withdraw probation status if it finds that the deficiencies which required the sanction have been remedied.

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

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

(e) The board shall seek consistency in the application of disciplinary sanctions, and significant departure from prior decisions involving similar situations shall be explained in findings of fact or orders.

* Sec. 19. AS 08.72.270(a) is amended to read:

(a) A registered optometrist, who temporarily practices optometry away from his regular place of business, shall display his registration certificate and deliver to each patient or person fitted or supplied with glasses a receipt [WITH HIS SIGNATURE] showing his permanent place of business or post office address [, CERTIFICATE NUMBER,] and the amount charged. [A LICENSEE WHO FAILS TO COMPLY WITH ANY OF THE FOREGOING PROVISIONS FOR SIX MONTHS AFTER ISSUANCE OF THE CERTIFICATE SHALL FORFEIT HIS CERTIFICATE.]

* Sec. 20. AS 08.72.275 is amended by adding a new subsection to read:

(d) A licensee may sell, exchange or deliver eyeglasses or sunglasses which do not meet the requirements of (a) of this section if the

1 sale, exchange or delivery is authorized in a written request signed by
2 the patient.

3 * Sec. 21. AS 08.72.300(2) is amended to read:

4 (2) "optometry" is the examination, other than by the use of
5 drugs, of the human eyes and the visual system for the purpose of ascer-
6 taining a departure from the normal, ascertaining the status of the hu-
7 man visual system, including refractive and functional abilities, or
8 ascertaining the presence of ocular disease and any other departure from
9 the normal which requires referral to other health care practitioners;
10 or [IS THE EMPLOYMENT OF MEANS OR METHODS, OTHER THAN THE USE OF DRUGS,
11 FOR] the diagnosis of an optical deficiency or deformity, visual or
12 muscular anomaly of the human eye, or the prescription or application of
13 lenses, prisms or ocular exercises for the correction or relief of the
14 human eye;

15 * Sec. 22. AS 08.72.300(3) is amended to read:

16 (3) "practicing optometry" is an examination, other than by
17 the use of drugs, of the human eyes and visual system for the purpose of
18 ascertaining a departure from the normal, ascertaining the status of the
19 human visual system, including refractive and functional abilities, or
20 ascertaining the presence of ocular disease and any other departure from
21 the normal which requires referral to other health care practitioners;
22 or [MEANS] the diagnosis [, BY MEANS OR METHODS OTHER THAN THE USE OF
23 DRUGS,] of an optical deficiency or deformity, visual or muscular anomaly
24 of the human eye, or the prescription of lenses, prisms or ocular exer-
25 cises for the correction or relief of the human eye, or the holding of
26 oneself out as being able to do so;

27 * Sec. 23. AS 08.72.060(e), 08.72.070, 08.72.090, and 08.72.140(6) are
28 repealed.

29 * Sec. 24. This Act takes effect immediately in accordance with AS 01.10.-

1 070(c).

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