

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

2 CS FOR SENATE BILL NO. 551 am H

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:

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 08.72.010 is amended to read:

15 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.

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

20 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.]

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

26 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 a new paragraph to read:

10       (5) prescribing requirements which a person licensed under  
11 this chapter must meet to demonstrate continued professional competency.

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 AS 08.72.060(b) is repealed and re-enacted to read:

13       (b) The board may

14           (1) adopt a seal;

15           (2) define professional conduct and adopt rules of profes-  
16 sional conduct.

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 AS 08.72.060(c) is repealed and re-enacted to read:

18       (c) The board shall

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

20           (2) order a licensee to submit to a reasonable physical  
21 examination if his physical capacity to practice safely is at issue.

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

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

27 \* Sec. 10. AS 08.72.140(2) is amended to read:

28       (2) he has [NORMAL COLOR PERCEPTION AND] a visual acuity of a  
29 standard of at least 20/40 in at least one eye as corrected;

1 \* Sec. 11. AS 08.72.160(a) is amended to read:

2 (a) The examination shall be written, practical, and oral in  
3 nature. The National Board of Examiners in Optometry Examination,  
4 Parts I and 2, shall comprise the written portion of the Alaska examina-  
5 tion. The oral portion of the examination shall be recorded and re-  
6 tained for two years.

7 \* Sec. 12. AS 08.72.170(a)(2) is amended to read:

8 (2) holds a current license by examination in another state  
9 or a province of Canada [ , TERRITORY OR FOREIGN COUNTRY] and has been  
10 established in ethical optometric practice for at least three years  
11 before the application, or shows satisfactory evidence of having passed  
12 the written portion of the examination given by the National Board of  
13 Examiners in Optometry; and

14 \* Sec. 13. AS 08.72.181(a) is amended to read:

15 (a) To remain in force a license must be renewed every four years  
16 [BIENNIALY].

17 \* Sec. 14. AS 08.72.181(d) is amended to read:

18 (d) Before a license may be renewed the licensee shall submit to  
19 the board evidence of 48 [24] hours of post graduate continuing education  
20 instruction as prescribed by regulations of the board. The board may  
21 specify by regulation those circumstances under which the requirements  
22 of this subsection may be waived.

23 \* Sec. 15. AS 08.72.181 is amended by adding a new subsection to read:

24 (e) Before a license may be renewed, the licensee shall provide  
25 evidence of continued professional competency in accordance with the  
26 regulations adopted by the board under AS 08.72.050(6).

27 \* Sec. 16. AS 08.72.191 is amended to read:

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

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

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

10 Sec. 08.72.240. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.

11 The board may impose disciplinary sanctions when the board finds after a  
 12 hearing that a licensee

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

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

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

5 (D) physical or mental disability;

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

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

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

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

14 (1) permanently revoke a license to practice;

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

16 (3) censure a licensee;

17 (4) issue a letter of reprimand;

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

19 to

20 (A) report regularly to the board upon matters involving  
21 the basis of probation;

22 (B) limit practice to those areas prescribed;

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

26 (6) impose limitations or conditions on the practice of a  
27 licensee.

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

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

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

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

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

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

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

25 (d) A licensee may sell, exchange or deliver eyeglasses or sun-  
26 glasses which do not meet the requirements of (a) of this section if the  
27 sale, exchange or delivery is authorized in a written request signed by  
28 the patient.

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

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

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

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

24 \* Sec. 23. AS 08.72.060(e), 08.72.070, 08.72.090, and 08.72.140(6) are  
25 repealed.

26 \* Sec. 24. This Act takes effect immediately in accordance with AS 01.10.-  
27 070(c).  
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