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Referred: Labor and Commerce
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BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 225 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the practice of optometry and
7 authorizing the use of certain drugs by optome-
8 trists."

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

10 * Section 1. AS 08.64.101 is amended to read:

11 Sec. 08.64.101. DUTIES. The board shall

12 (1) examine and issue licenses to applicants;

13 (2) develop written guidelines to insure that licensing
14 requirements are not unreasonably burdensome and the issuance of
15 licenses is not unreasonably withheld or delayed;

16 (3) submit an annual report of its proceedings to the
17 governor, including a statement of money received and disbursed;

18 (4) after a hearing, impose disciplinary sanctions on
19 persons who violate this chapter, or the regulations or orders of the
20 board;

21 (5) adopt regulations insuring that renewal of licenses is
22 contingent upon proof of continued competency on the part of the
23 licensee;

24 (6) assist the board of examiners of optometry in develop-
25 ing a list of specific diagnostic drugs and their dosages that may be
26 used by a person who is registered and certified to practice optometry
27 in this state and whose optometry license has been validated under
28 AS 08.72.257.

29 * Sec. 2. AS 08.64.170(a) is amended to read:

1 (a) A person may not practice medicine, podiatry, osteopathy, or
2 acupuncture in the state unless the person is licensed under this
3 chapter, except that

4 (1) a physician assistant may examine, diagnose or treat
5 persons under the supervision, control, and responsibility of either a
6 physician licensed under this chapter or a physician exempted from
7 licensing under AS 08.64.370;

8 (2) a physician-trained mobile intensive care paramedic may
9 render emergency lifesaving service;

10 (3) a person licensed under AS 08.36 may perform acupunc-
11 ture in the regular practice of dentistry, subject to the regulations
12 of the Board of Dental Examiners; [AND]

13 (4) a person licensed under AS 08.72 may use and prescribe
14 diagnostic drugs, as defined in AS 08.72.300, if the person's license
15 is validated by the board of examiners in optometry under AS 08.72.-
16 257; and

17 (5) a person who is licensed or authorized under another
18 chapter of this title may engage in a practice that is authorized
19 under that chapter.

20 * Sec. 3. AS 08.72.040 is amended to read:

21 Sec. 08.72.040. QUALIFICATIONS. Three [FOUR] board members
22 shall be licensed, practicing optometrists who have been residents for
23 at least three years. One board member shall be a public member with
24 no interest, direct or indirect, in the practices of optometry, opti-
25 cianry, or medicine. One board member shall be a physician licensed
26 in this state. A person who has served two successive complete terms
27 may not be reappointed until four years after [FROM] the expiration of
28 the second term that the person served.

29 * Sec. 4. AS 08.72.050 is amended to read:

1 Sec. 08.72.050. POWER OF BOARD TO ADOPT REGULATIONS. The board
2 shall adopt [RULES AND] regulations

3 (1) necessary for the proper performances of its duties;

4 (2) governing the applicants and applications for licens-
5 ing;

6 (3) for the registration of optometrists;

7 (4) necessary to govern the practice of optometry;

8 (5) prescribing requirements [WHICH] a person licensed
9 under this chapter must meet to demonstrate continued professional
10 competency;

11 (6) concerning the use of diagnostic drugs and the educa-
12 tional requirements for a license validation for their use.

13 * Sec. 5. AS 08.72.060(c) is amended to read:

14 (c) The board shall

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

16 (2) order a licensee to submit to a reasonable physical
17 examination if the licensee's physical capacity to practice safely is
18 at issue;

19 (3) with the advice of the state medical board, develop a
20 list of specific diagnostic drugs and their dosages that may be used
21 in the practice of optometry in this state by a person licensed and
22 registered by the board and with a license validation for the use of
23 diagnostic drugs; and

24 (4) provide for continuing education, including an examina-
25 tion, for optometrists desiring to use diagnostic drugs.

26 * Sec. 6. AS 08.72.120 is amended by adding a new subsection to read:

27 (b) An optometrist may not be registered or certified to prac-
28 tice optometry in this state beyond the scope of the optometrist's
29 training. The board of optometry shall determine the optometrist's

1 qualifications.

2 * Sec. 7. AS 08.72 is amended by adding a new section to read:

3 Sec. 08.72.235. REFERRAL TO MEDICAL SPECIALIST. An optometrist
4 who determines during the examination of a patient that a pathological
5 condition may exist shall

6 (1) advise the patient of the possible condition; and

7 (2) refer the patient to an appropriate medical specialist
8 for further evaluation.

9 * Sec. 8. AS 08.72.240 is amended to read:

10 Sec. 08.72.240. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-
11 TIONS. The board may impose disciplinary sanctions when the board
12 finds after a 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 mislead-
19 ing manner;

20 (4) has been convicted of a felony or other crime which
21 affects the licensee's ability to continue to practice competently and
22 safely;

23 (5) intentionally or negligently engaged in or permitted
24 the performance of patient care by persons under the licensee's super-
25 vision which does not conform to minimum professional standards re-
26 gardless of whether actual injury to the patient occurred;

27 (6) failed to comply with this chapter, with a regulation
28 adopted under this chapter, or with an order of the board;

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

- 1 (A) professional incompetence;
- 2 (B) failure to keep informed of or use current profes-
3 sional theories or practices;
- 4 (C) addiction or severe dependency on alcohol or other
5 drugs which impairs the licensee's ability to practice safely;
- 6 (D) physical or mental disability;
- 7 (8) engaged in lewd or immoral conduct in connection with
8 the delivery of professional service to patients;
- 9 (9) failed to refer a patient to the appropriate health
10 care practitioner for treatment of conditions beyond the scope of the
11 licensee's training; [AFTER ASCERTAINING THE POSSIBLE PRESENCE OF
12 OCULAR DISEASE]
- 13 (10) used, dispensed, or prescribed a drug other than a
14 diagnostic drug, or used, dispensed, or prescribed a diagnostic drug
15 in violation of AS 08.72.257;
- 16 (11) has used the prefix "Dr." or "Doctor" before the licen-
17 see's name without using the word "optometrist" as a suffix to the
18 licensee's name or in connection with it.

19 * Sec. 9. AS 08.72 is amended by adding a new section to read:

20 Sec. 08.72.257. DIAGNOSTIC DRUGS. (a) An optometrist regis-
21 tered and certified to practice in this state who desires to employ
22 the use of diagnostic drugs shall

23 (1) submit to the board evidence of satisfactory completion
24 of the educational requirements of the board for the use of diagnostic
25 drugs; and

26 (2) pass an examination administered by the board.

27 (b) An optometrist seeking to be registered and certified to
28 practice in this state with a license validation for the use of diag-
29 nostic drugs shall

1 (1) submit to the board at the time of the licensing exam-
2 ination evidence of satisfactory completion of the board's educational
3 requirements for the use of diagnostic drugs; and

4 (2) pass an examination administered by the board.

5 (c) Upon a determination that the applicant in (a) or (b) of
6 this section has met the requirements for the use of diagnostic drugs,
7 the board shall validate the license of the optometrist or successful
8 applicant to allow the use of diagnostic drugs.

9 (d) An optometrist with a license validation for the use of
10 diagnostic drugs shall undertake the continuing education requirements
11 established under AS 08.72.060(c)(4). Failure to fulfill the con-
12 tinuing education requirements shall be grounds for revocation of the
13 license validation for the use of diagnostic drugs.

14 (e) The board shall provide to the board of pharmacy a list of
15 persons whose licenses have been validated under this section.

16 * Sec. 10. AS 08.72.300(2) is amended to read:

17 (2) "optometry" is the examination, other than b^y the use
18 of drugs, except diagnostic drugs, of the human eyes and the visual
19 system for the purpose of ascertaining a departure from the normal,
20 ascertaining the status of the human visual system, including refrac-
21 tive and functional abilities, or ascertaining the presence of ocular
22 disease and any other departure from the normal which requires refer-
23 ral to other health care practitioners; or the diagnosis of an optical
24 deficiency or deformity, visual or muscular anomaly of the human eye,
25 or the prescription or application of lenses, prisms or ocular exer-
26 cises for the correction or relief of the human eye;

27 * Sec. 11. AS 08.72.300(3) is amended to read:

28 (3) "practicing optometry" is an examination, other than by
29 the use of drugs, except diagnostic drugs, of the human eyes and

1 visual system for the purpose of ascertaining a departure from the
2 normal, ascertaining the status of the human visual system, including
3 refractive and functional abilities, or ascertaining the presence of
4 ocular disease and any other departure from the normal which requires
5 referral to other health care practitioners; or the diagnosis of an
6 optical deficiency or deformity, visual or muscular anomaly of the
7 human eye, or the prescription of lenses, prisms or ocular exercises
8 for the correction or relief of the human eye, or the holding of
9 oneself out as being able to do so;

10 * Sec. 12. AS 08.72.300 is amended by adding a new paragraph to read:

11 (7) "diagnostic drug" means a cycloplegic or mydriatic that
12 is listed in the official United States Pharmacopoeia, or official
13 National Formulary, or in a supplement to either of them, and that
14 appears on the list of drugs developed under AS 08.72.060(c)(3).