

SB

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(2 FILES)

OPTOMETRY BOARD

- (1) SYNOPSIS
- (2) POSITION PAPER - ALASKA HEALTH COALITION
- (3) BUDGET & AUDIT COMMITTEE'S SUMMARY

SB 243
Board of Examiners
in Optometry
Extends board -
June 30, 1983

HCSSB 243 - Secs 1, 2 & 6 extends board until
January 1, 1981 and then jurisdiction over
licensing of optometry and practice of
optometry is transferred to Dept Comm &
Econ Dev.

Secs 3 & 4 includes within duties of Dept
the duty of providing investigative service
to the boards for the purpose of assisting
those boards in matters of professional
discipline.

Secs 5 & 7-20 provide for necessary statutory
changes to effect transfer of authority from
the board to Dept.

Sec 21 repeals appropriate sections amended
by this bill.

Sec 22 effective date clause.

POSITION ALASKA HEALTH COALITION: SUNSET FREE CONFERENCE

1. 4 year continuance for major boards: June 30, 1983
medical, dental, pharmacy, nursing, veterinary medicine, optometry
2. 2 year continuance for other boards: June 30, 1981
physical therapy, psychology, dispensing opticians, chiropractic
3. No more than 2 lay persons on each board.
4. Delete Sec. 8 of HCS Sb 240 (medical board regarding discrimination and denial of services.)
5. Delete Sec. 205 from HCS SB 246 or

Amend to read:

The board may waive the examination requirements for an applicant who meets the requirements of AS.36.110, pays the required fee, (and has an) holds an active licence from ~~any~~ has been in active practice for at least 30 hours per week for a period of 5 years in a state with licensing requirements at least equal to this state's in scope, quality, and difficulty and who has no judgements or disciplines assessed against such licence either by another state, professional review board, or state dental board and who has not failed the clinical examination of his state.

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU, ALASKA 99811

November 7 1978

SUMMARY OF: A Performance Review of the Board of Examiners
in Optometry.

PURPOSE OF THE REVIEW

In accordance with the intent of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), a review of the Board of Examiners in Optometry was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient and economical manner. The major areas reviewed were the Board's operation and its licensing, examination, administration, complaint, and affirmative action functions.

REPORT CONCLUSION

In our opinion, the Board of Examiners in Optometry should continue to regulate and license optometrists. The regulation and licensing of this profession is necessary to protect the public's health, safety and welfare.

However, we are making recommendations which should be implemented in order for the Board to more effectively serve the Alaska public.

We have recommended the Board repeal its unduly restrictive regulations on branch offices, working for a corporation and leasing of commercial property. The Attorney General and our legal counsel have found that these regulations may constitute a restraint of competition among optometrists and could violate antitrust laws.

In addition, we recommend the Board enforce existing laws for issuing and renewing licenses and develop policies and procedures for examinations and meetings.

11CS of Examiner, in Optometry on January 1, 1981, and re-
 23 assigning its responsibilities to the Department of
 243 Commerce and Economic Development) recommends that FREE
 CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 243
 (relating to the continuation of regulatory boards and
 continuing the existence of the Board of Examiners in
 Optometry; eff. date) be adopted.

Senator members signing the report: Senator Sturgulewski,
 Chairman, Senators Bennett and Fahrenkamp. House members:
 Representative Malone Chairman, Representatives Osterback
 and Bettsworth.

Senator Colletta moved that the Senate adopt the Free
 Conference Committee report.

The question being: "Shall FREE CONFERENCE COMMITTEE
 SUBSTITUTE FOR SENATE BILL NO. 243 (relating to the
 continuation of regulatory boards and continuing the
 existence of the Board of Examiners in Optometry) pass
 the Senate?" The roll was taken with the following
 result:

PCCS SB 243

Yeas: 17 Bennett, Bradley, Colletta,
 Dankworth, Fahrenkamp, Ferguson,
 Hackney, Mohman, Kelly, Kerttula,
 Meland, Mulcahy, Ray, Sackett,
 Stinson, Sturgulewski, Tillion

Nays: 0

Excused: 3 Rodey, Sumner, Ziegler

PCCS and so, FREE CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE
 SB BILL NO. 243 passed the Senate.
 243

Senator Collette moved and asked unanimous consent that
 the roll call on the passage of the above bill be con-
 sidered the roll call on the effective date clause.
 Without objection, it was so ordered.

The Secretary was requested to notify the House.

Introduced: 4/7/80
Referred: Health, Education
and Social Services

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 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:

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/and the public interest/

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 new paragraphs to read:

10 (5) establishing requirements for licensing in addition to
11 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 [BIENNIALLY].

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

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

15 (1) permanently revoke a license to practice;

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

17 (3) censure a licensee;

18 (4) issue a letter of reprimand;

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

20 to

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

23 (B) limit practice to those areas prescribed;

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

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

29 (b) The board may withdraw probation status if it finds that the

1 deficiencies which required the sanction have been remedied.

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

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

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

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

17 (a) A registered optometrist, who temporarily practices optometry
18 away from his regular place of business, shall display his registration
19 certificate and deliver to each patient or person fitted or supplied
20 with glasses a receipt [WITH HIS SIGNATURE] showing his permanent place
21 of business or post office address [, CERTIFICATE NUMBER,] and the
22 amount charged. A licensee who fails to comply with any of the [FORE-
23 GOING] provisions of this section for six months after issuance of the
24 certificate shall forfeit his certificate.

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

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

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

2 (2) "optometry" is the examination of the human eyes and the
3 visual system for the purpose of ascertaining a departure from the nor-
4 mal, ascertaining the status of the human visual system, including re-
5 fractive and functional abilities, or ascertaining the presence of
6 ocular disease and any other departure from the normal which may require
7 referral to other health care practitioners; or is the employment of
8 means or methods, other than the use of drugs, for the diagnosis of
9 an optical deficiency or deformity, visual or muscular anomaly of the
10 human eye, or the prescription or application of lenses, prisms or
11 ocular exercises for the correction or relief of the human eye;

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

13 (3) "practicing optometry" is an examination of the human
14 eyes and visual system for the purpose of ascertaining a departure from
15 the normal, ascertaining the status of the human visual system, in-
16 cluding refractive and functional abilities, or ascertaining the pre-
17 sence of ocular disease and any other departure from the normal which
18 may require referral to other health care practitioners; or [MEANS] the
19 diagnosis, by means or methods other than the use of drugs, of an
20 optical deficiency or deformity, visual or muscular anomaly of the human
21 eye, or the prescription of lenses, prisms or ocular exercises for the
22 correction or relief of the human eye, or the holding of oneself out as
23 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 w'th AS 01.10.-
27 070(c).
28
29

May 14, 1980

Representative Terry Gardiner
Speaker of the House

Senator Clem Tillion
President of the Senate

Mr. Speaker:
Mr. President:

The Free Conference Committee recommends that in SB 551, page 2, line 22-24 be deleted. Eliminating as a board duty:

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

Senator Arliss Sturgulewski
Chairman, Senate FCC

Representative Hugh Malone
Chairman, House FCC

Senator Don Bennett

Representative Bob Bettisworth

Senator Bettye Fahrenkamp

Representative Alvin Osterback