

SB

551

COMMITTEE REPORT

SENATE

FURTHER:

4/7/80

Date: 5-9-80

Mr. President:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had SB 551

professional licensing and regulation of the practice of optometry

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
 - do pass with attached amendments(s) same title
 - replace with CS for SB 551 new title
- and recommends _____

- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

John H. ...
CHAIRMAN

SB551
S. HESS

An Act relating to ~~the~~ ^{S. HESS 79-80} licensing and ~~the~~ ^{the} regulation of the practice of optometry & ophthalmology

Introduced 4-7-50

Logged 4-7-50

Referred HESS

Comm. Meeting

" action

4-9-50 - held, 59-80 passed CS
Taken Senate Secy, 4:30 p.m.

HSS notified "LAS"

OPTOMETRY -- CSSB 551

Sec. 12, page 3, line 12 -- insert "or a province of Canada"

Sec. 17, page 4, line 11 -- insert "(9) failed to refer a patient to the appropriate health care practitioner after ascertaining the possible presence of ocular disease."

Sec. 21, and Sec. 22, page 7 -- provide definition of optometry/
practicing optometry

OPTOMETRISTS

PROVIDES "EXCEPTION" TO CURRENT STATUTE WHICH RENEWS LICENSES BIENNIALY AND ALLOWS OUR "HEALTH BOARDS" TO RENEW LICENSES EVERY FOUR YEARS.

Sec. 1 -- ~~Provisions of this chapter will not affect other boards and commissions under Title 8.~~

Sec. 2 -- Gives board provision to regulate and control their profession

✓ Sec. 3 -- Changes board membership terms from three to four years.

Sec. 4 -- Provides for board members removal

✓ Sec. 5 -- changes board composition 4 optm / public
✓ -- limits board membership to two consecutive four year terms

Sec. 6 -- Broadens boards authority to establish license requirements

Sec. 7 -- Allows board to define professional conduct and adopt rules of professional conduct

Sec. 8 -- Broadens boards powers to "order a licensee TO submit to a reasonable physical or mental examination if his physical or mental capacity to practice safely is at issue"

Sec. 9 -- Removes "may" and states the board "shall" issue a branch office certificate of registration

Sec. 10 - Eliminates "normal color perception" requirement to be qualified for optometrist exam.

✓ Sec. 11 - Parts 1 & 2 of the National Optometry Exam will comprise the written part of the Alaska examination

Sec. 12 - Removes a person currently licensed in a territory or foreign country from being eligible for waiver of written examination

✓ Sec. 13 - Provides for license renewal to occur every four years

Sec. 14 - License renewal continuing education requirement

Sec. 15 - Continued competency requirement attached to license renewal

Sec. 16 - Fee revision -- **GO TO SEC 17 ON NEXT PAGE**

CHANGES MADE TO SB 551 / OPTOMETRY -- CSSB 551

Sec. 12, page 3, line 12 -- insert "or a province of Canada"

UNDER "DISCIPLINARY SANCTIONS"

Sec. 17, page 4, line 11 -- insert "(9) failed to refer a patient to the appropriate health care practitioner after ascertaining the possible presence of ocular disease."

Sec 21 and Sec 22 -- DEFINITION OF "OPTOMETRY" AND "PRACTICING OPTOMETRY" TO INCLUDE LANGUAGE "OTHER THAN THE USE OF DRUGS."

CHANGES MADE TO SB 551

Sec. 17 - Imposition of disciplinary sanction provision

✓ Sec. 18 - Disciplinary sanctions enumerated

Sec. 19 - Removing the requirement that an optometrist temporarily practicing in a place other than his normal place of business, SIGN the receipt for a person supplied with glasses

✓ Sec. 20 - This provision provides for an individual that does not want glasses "impact resistant" that he must sign a waiver stating so

Sec. 21 - Repeal

Sec. 22 - Effective date clause

5/1/80 Met with
Sen. Colletta +
Bob Page, M.D.

Preliminary Agreement between the Alaskan Association of Optometry represented by Roy Box, O. D. and James N. Matson, O. D. with the Alaska Association of Ophthalmology represented by Peter Canava, M. D., Samuel A. McConkey, M. D., Robert Page, M. D., Ron Tokar, M. D.

Others attending the meeting were: Rick Urion, lobbyist for the State Optometric Association; Jerf Landry, lobbyist for the Alaska State Medical Association.

RE: House Bill 79 and Senate Bill 75 - concerning the use of medications in the eye by Optometry

It is agreed by both parties that if a solution in this endeavor is to be reached that a compromise position has to be made. That compromise is as follows:

1. Optometry would be allowed to use proparacaine 0.5% as a topical anesthetic for diagnostic purposes, 1% tropicamide or phenylephrine hydrochloride 2.5% - 5% for dilatation of the pupil for diagnostic purposes.
2. Any changes in this list of medications will be by the combined concurrence of the State Board of Optometry and the State Board of Medical Examiners.
3. A training course will be completed by each optometrist desiring to use drugs prior to any examination. The course shall consist of the following minimum subject matter:
 - A. Clinical pharmacology and drug organ interactions.
 - B. Cardiopulmonary resuscitation and emergency training.
 - C. Techniques of clinical examination.
 - D. Thorough review of clinical signs of fundus, anterior segment, and external disease as well as referral guidelines.

4. Optometrists will take a written exam on the above given by a special test committee comprised of two Optometrists and two Ophthalmologists chosen by each respective professional organization to prove competence in the above subjects. *The point of a clinical proficiency demonstration is unsettled by both parties at this time. Any course taken by an Optometrist desiring to use medications in the eye for diagnostic purposes will have to be approved by a committee of two Optometrists and two Ophthalmologists chosen by each respective professional organization.
5. In the current State Statutes regarding Optometry, the word "diagnosis" wherever it appears will be changed to "detection".
6. Mandatory referral guidelines will be followed by all Optometrists. Referral guidelines will be clearly delineated in the Bill and adhered to by all Optometrists whether or not they wish to use drugs in the exam. Those referral guidelines are as follows:

When an Optometrist examines any person, he shall inform that person, parent, guardian, or other responsible party, prior to prescribing or providing eyeglasses or other services that examination by a licensed physician specializing in diseases of the eye (or if no such licensed physician is available then by a duly licensed physician) is indicated whenever one or more of the following conditions is present. These conditions fall generally into four categories where there is:

1. An abnormality of vision.
2. An abnormality of tissue.
3. An abnormality of motor function.
4. Other.

1. Abnormality of Vision:

- A. Failure on the part of an individual to obtain 20/30 vision in each eye, 20/30 in children under 8 years of age by refractive correction by lenses. unless the cause has been medically determined by a physician and is stable or unless there is improvement within two weeks with visual therapy.
- B. A complaint by the individual of a sudden appearance of spots or flashing lights, scintillating images, transient dimming or loss of vision, or distortion in the shape of objects.
- C. A complaint by the individual of temporary or permanent loss of any part of the visual field.
- D. A history of rainbow halos around lights in the absence of contact lens causes.
- E. Diplopia (double vision) of sudden onset.

2. Tissue Abnormalities:

- A. Presence of redness, swelling, mass or ulceration of the eye or its surrounding tissues in the absence of contact lens causes.
- B. Opacities of the cornea, lens or vitreous.
- C. Changes in the appearance of the optic discs.
 - 1. Cupping greater than 0.5 cup-disc ratio (C-D).
 - 2. Difference greater than 0.2 C-D ratio between the two eyes, that is .2 C-D one eye and .5 C-D the other eye.
 - 3. Difference in appearance between the optic discs of each eye.
 - 4. Change in appearance of the optic discs from a previous exam.
 - 5. Suspicion of elevation of the optic nerve head.
- D. Observation of a deviation from the normal appearance of the retina or its vessels.

3. Abnormalities of Motor Function:

- A. Strabismus. A deviation of the eyes from their normal parallel position in straight ahead gaze or gaze in any direction. *This needs to be further defined and refined for Optometry to accept.
- B. A difference in the size of the pupils or failure to constrict with illumination or with near vision.
- C. Ptosis or lag ophthalmus (drooping of the eyelids) with onset within one week of examination.
- D. Nystagmus (rapidly oscillating eye movements).

4. C ER:

- A. Continuous tearing of longer than 24 hours duration or complaints of watering eyes not associated with visual tasks.
- B. Intraocular tension of 22 or more on any occasion or a family history of glaucoma.
- C. Any other observation or deviation from the usual appearance of the eye and related tissues or any complaint which is not attributable to the refractive state or muscle balance, or which is not amenable to lenses, prisms, or visual training.

Exception to any of the preceding conditions would be previous evaluation by a physician and discharge from medical treatment and followup for that condition.

Failure to comply with the provisions of the Act shall subject the offender to revocation or suspension of his licenses to practice Optometry and this Act shall take effect immediately.

It is completely understood at the outset that there is to be no Grandfather Clause attached to any of the above.

WORKSHOP RECOMMENDED CHANGES

SE 541 - Dispensing Opticians

- 1) Delete "reasonable" in Sec. 10 (AS 08.71.175(6)(d))

P5, L21

SB 549 - Nursing Home Administrators

- 1) Make board's composition comply with federal regulations - suggest reducing to three member board

P1, L22

SB 550 - Pharmacy

- 1) Rationale for wholesale licenses

SB 551 - Optometry

- 1) Include Canada
2) Remove "certificate number"
3) Include definition of optometry/practicing optometry

P3, L12

P6, L21

P7, L1

OPTOMETRISTS

- Sec. 1 -- Provisions of this chapter will not affect other boards and commissions under Title 8
- Sec. 2 -- Gives board provision to regulate and control their profession
- Sec. 3 -- Changes boards membership terms from three to four years.
- Sec. 4 -- Provides for board members removal
- Sec. 5 -- changes board composition
 - limits board membership to two consecutive four year terms
- Sec. 6 -- Broadens boards authority to establish license requirements
- Sec. 7 -- Allows board to define professional conduct and adopt rules of professional conduct
- Sec. 8 -- Broadens boards powers to "order a licensee TO submit to a reasonable physical or mental examination if his physical or mental capacity to practice safely is at issue"
- Sec. 9 -- Removes "may" and states the board "shall" issue a branch office certificate of registration
- Sec. 10 - Eliminates "normal color perception" requirement to be qualified for optometrist exam.
- Sec. 11 - Parts 1 & 2 of the National Optometry Exam will comprise the written part of the Alaska examination
- Sec. 12 - Removes a person currently licensed in a territory or fireign country from being eligible for waiver of written examination
- Sec. 13 - Provides for license renewal to occur every four years
- Sec. 14 - License renewal continuing education requirement
- Sec. 15 - Continued competency requirement attached to license renewal
- Sec. 16 - Fee revision

CANADA

Sec. 17 - Imposition of disciplinary sanction provision

Sec. 18 - Disciplinary sanctions enumerated

Sec. 19 - Removing the requirement that an optometrist temporarily practicing in a place other than his normal place of business, SIGN the receipt for a person supplied with glasses

Sec. 20 - This provision provides for an individual that does not want glasses "impact resistant" that he must sign a waiver stating so

Sec. 21 - Repeal

Sec. 22 - Effective date clause

OPTOMETRIST

The following changes are to be incorporated into the practice act revisions re: the following health boards - Dental, Dispensing Opticians, Veterinarians, Physical Therapists, Optometrists, Psychologists, Chiropractors, Pharmacy, Nursing Home Administrators, Medical.

OPTOMETRIST -

P2,L4 #1 - Board members and composition, 4 optometrist/1 public member

P2,L4 - Limit board membership to two consecutive four year terms.

P4,L1 #2 - Revise fee schedule.

Allow for license renewal to occur every four years

P4,L29 #3 - Eliminate re: to "good character," "professional conduct," etc., unless behavior defined.

P2,L10 #4 - Consider giving boards responsibility of determining licensing standards through regulations.

* #5 - Out-of-state licensees credentialed through a process/by standards equivalent to ours - should be licensed by endorsement.

#6 - Eliminate standards protecting economic interest of occupational groups, reducing information flow or restricting competition.

P3,L17 #7 - License renewal provisions have been revised which allow for renewal to occur every four years.

MAKE license renewal contingent upon proof of continued competency with BOARDS DETERMINING BY REGULATION how continued competency will be demonstrated.

PS,LZ #8 - Licensing violations: make sure that each board may revoke, suspend or take any other disciplinary action necessary to correct incompetency.

#9 - Establish section providing for removal of board members.

PI,26 unexcused absences, (2) license violation, (3) anything detrimental to public interest served by board.

* OPTOMETRISTS ALREADY PROVIDE FOR CREDENTIALING AS 08.72.170

Shown to Dr. Page 5/1/80
D.H.

Definition of Optometry

as listed in _____

"Optometry" is the examination, other than by the use of drugs, of the human eyes and the visual system for the purpose of ascertaining a departure from the normal, ascertaining the status of the human visual system, including refractive and functional abilities, or ascertaining the presence of ocular disease and any other departure from the normal, which (MAY) require referral to other health care practitioners, or (IS THE EMPLOYMENT OF MEANS OR METHODS, OTHER THAN THE USE OF DRUGS, FOR) the diagnosis of an optical deficiency or deformity, visual or muscular anomaly of the human eye, or the prescription or application of lenses, prisms or ocular exercises for the correction of relief of the human eye;

Under Grounds For Imposition of Disciplinary Sanctions. The board may impose disciplinary sanctions when the board finds after a hearing that a licensee.....

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

WHAT THIS DOES

- 1) Bars optometrists from using drugs "other than by the use of drugs,"
- 2) Statutorily authorizes the optometrists to examine the eye for the purpose of ascertaining the presence of ocular disease
- 3) Imposes disciplinary sanctions on the optometrists if they fail to refer the patient to the appropriate practitioner after ascertaining the presence of ocular disease.

WO 8318
Cook

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 SENATE BILL NO.

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 [, TERRITORY OR FOREIGN COUNTRY] and has been established in ethical
13 optometric practice for at least three years before the application, or
14 shows satisfactory evidence of having passed the written portion of the
15 examination given by the National Board of Examiners in Optometry; and

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

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

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

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

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

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

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

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

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

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

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

13 The board may impose disciplinary sanctions when the board finds after a
14 hearing that a licensee

15 (1) secured a license through deceit, fraud, or intentional
16 misrepresentation;

17 (2) engaged in deceit, fraud, or intentional misrepresenta-
18 tion in the course of providing professional services or engaging in
19 professional activities;

20 (3) advertised professional services in a false or misleading
21 manner;

22 (4) has been convicted of a felony or other crime which
23 affects his ability to continue to practice competently and safely;

24 (5) intentionally or negligently engaged in or permitted the
25 performance of patient care by persons under his supervision which does
26 not conform to minimum professional standards regardless of whether
27 actual injury to the patient occurred;

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

- 1 (7) continued to practice after becoming unfit due to
2 (A) professional incompetence;
3 (B) failure to keep informed of or use current profes-
4 sional theories or practices;
5 (C) addiction or severe dependency on alcohol or other
6 drugs which impairs his ability to practice safely;
7 (D) physical or mental disability;
8 (8) engaged in lewd or immoral conduct in connection with the
9 delivery of professional service to patients.

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 reasonable skill and safety.

11 (e) The board shall seek consistency in the application of dis-
12 ciplinary 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 amount
21 charged. A licensee who fails to comply with any of the [FOREGOING]
22 provisions of this section for six months after issuance of the certi-
23 ficate shall 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 08.72.060(e), 08.72.070, 08.72.090, and 08.72.140(6) are

1 repealed.

2 * Sec. 22. This Act takes effect immediately in accordance with AS 01.10.-
3 070(c).

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