

HB

225

(FILE 2)

COMMITTEE REPORT

SENATE

FURTHER: LABOR AND COMMERCE

4/3/84

Date May 10, 1984

Mr. President

The Committee on HESS considered CSH 225 (HCS41) on

practice of optometry and authorizing the use of certain drugs by optometrists.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for CSH 225 (HCS41) on
- new title
- same title and recommends do pass
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]

[Signature]
Chairman

DO PASS
Chairman recommendation

SECTIONAL ANALYSIS FOR SENATE CS FOR CSHB 225 (HESS) - AN ACT RELATING TO OPTOMETRY AND AUTHORIZING THE USE OF CERTAIN DRUGS BY OPTOMETRISTS.

- SECTION 1 Amends the DUTIES of the MEDICAL BOARD to include assisting the board of optometry in the development of a list of diagnostic drugs for the use of optometrists with a license validation.
- SECTION 2 Amends the statute limiting those who may practice medicine in the state to include the use of diagnostic drugs by optometrists with a license validation.
- SECTION 3 Places on licensed physician on the Board of Optometry and specifies that the public member shall have no interest in optometry, medicine or opticianry.
- SECTION 4 Amends the optometry statute regarding adoption of regulations to include regulations on diagnostic drugs, and the educational requirements for a license validation to use drugs.
- SECTION 5 Adds to the POWERS AND DUTIES of the optometry board the development of a list of diagnostic drugs and their dosages to be used by optometrists with a license validation, to be done with the state medical board. The board must also provide for continuing education requirements and the development of a test concerning the use of diagnostic drugs.
- SECTION 6 Amends the REGISTRATION part of the optometry chapter to provide that an optometrist may not practice beyond the scope of training, with qualifications to be determined by the board.
- SECTION 7 Adds a new section to the optometry statute to require a medical referral by an optometrist who encounters a pathological condition in a patient.
- SECTION 8 Adds to the GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS for optometrists new subsections relating to practice beyond the scope of the license, use of drugs in violation of the chapter and use of the word Doctor in the title without optometry.
- SECTION 9 Adds a new section relating to DIAGNOSTIC DRUGS to the optometry statute providing that an optometrist desiring to use drugs must be registered and certified in the state, prove educational qualifications, pass a board administered exam, complete continuing education to maintain a validation and that the Board must submit a list of optometrists with license validations to the Board of Pharmacy.
- SECTION 10 Amends definitions of optometry and practicing optometry to include diagnostic drugs, and adds a definition of diagnostic drugs limiting those to cyclopegics and mydriatics approved under this chapter.

* Sec. 17. AS 08.64.360 is amended to read:

Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN VIOLATION OF CHAPTER. Except for a physician assistant, [AND] a physician-trained mobile intensive care paramedic under AS 08.64.170, or a person licensed or authorized under another chapter of this title who engages in practices for which that person is licensed or authorized under that chapter, a person practicing medicine or osteopathy in the state without a valid [OBTAINING AND FILING AN APPROPRIATE] license or permit is guilty of a class A misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE THAN \$100, OR BY IMPRISONMENT FOR NOT LESS THAN 10 DAYS NOR MORE THAN 90 DAYS, OR BY BOTH. EVIDENCE THAT THE DEFENDANT HAS FAILED TO FILE A LICENSE WITH THE CLERK OF THE COURT IS PRIMA FACIE EVIDENCE THAT THE DEFENDANT IS NOT LICENSED]. Each day of illegal practice is a separate offense.

Ch. 48, SLA 1987

Offered: 2/29/84
Referred: Rules

Original sponsor: Martin

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 225 (HESS) am

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 optom-

8

etrists."

9

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

10

* Section 1. AS 08.64.170(a) is amended to read:

11

(a) A person may not practice medicine, podiatry, osteopathy, or

12

acupuncture in the state unless the person is licensed under this

13

chapter, except that

14

(1) a physician assistant may examine, diagnose or treat

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persons under the supervision, control, and responsibility of either a

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physician licensed under this chapter or a physician exempted from

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licensing under AS 08.64.370;

18

(2) a physician-trained mobile intensive care paramedic may

19

render emergency lifesaving service;

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(3) a person licensed under AS 08.36 may perform acupunc-

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ture in the regular practice of dentistry, subject to the regulations

22

of the Board of Dental Examiners; [AND]

23

diagnostic drugs ~~Legend drugs~~ ⁽⁴⁾ a person licensed under AS 08.72 may use and prescribe

24

~~Legend drugs~~ ^{060(C)(3)} as defined in AS 08.72.100, if the person's license is

25

VALIDATED ~~endorsed~~ by the board of examiners in optometry as provided in

26

AS 08.72; and

27

(5) a person who is licensed or authorized under another

28

chapter of this title may engage in a practice that is authorized

29

under

that

chapter.

1 * Sec. 2. / 08.64.360 is amended to read:

2 Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN
3 VIOLATION OF CHAPTER. Except for a physician assistant, an optom-
4 etrlist, and a physician-trained mobile intensive care paramedic under
5 AS 08.64.170, or a person licensed or authorized under another chapter
6 of this title who engages in practices for which that person is li-
7 censed or authorized under that chapter, a person practicing medicine
8 or osteopathy in the state without a valid license or permit is guilty
9 of a class A misdemeanor. Each day of illegal practice is a separate
10 offense.

11 * Sec. 3. AS 08.72.240 is amended to read:

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

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

25 (5) intentionally or negligently engaged in or permitted
26 the performance of patient care by persons under the licensee's super-
27 vision which does not conform to minimum professional standards re-
28 gardless of whether 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 the licensee's ability to practice safely;
- 8 (D) physical or mental disability;
- 9 (8) engaged in lewd or immoral conduct in connection with
- 10 the delivery of professional service to patients;
- 11 (9) failed to refer a patient to the appropriate health
- 12 care practitioner for treatment of conditions beyond the scope of the
- 13 licensee's training; [AFTER ASCERTAINING THE POSSIBLE PRESENCE OF
- 14 OCULAR DISEASE]
- 15 (10) ^{diagnostic} used, dispensed, or prescribed a ~~legend~~ drug except as
- 16 provided in AS 08.72.277, or used, dispensed, or prescribed a drug in
- 17 violation of that section.

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

19 Sec. 08.72.277. USE, DISPENSING, OR PRESCRIPTION OF DRUGS. (a)

20 A licensee may not use, dispense, or prescribe a legend drug under

21 this chapter without a license endorsement issued by the board, certi-

22 fying the licensee's competence to use legend drugs.

23 (b) A licensee may not use, dispense, or prescribe any drug

24 identified by the United States Drug Enforcement Administration as a

25 controlled substance.

26 (c) A licensee may not use, dispense, or prescribe a legend drug

27 that is not prepared and marketed for topical application to the human

28 eye or eyelid. Topical drugs that may be used under this section

29 shall be limited to the following categories:

1 (1) cycloplegics;

2 (2) mydriatics.

3 (d) An applicant for a license endorsement under (a) of this
4 section shall furnish transcript credits or other evidence acceptable
5 to the board, showing that (1) the applicant has completed not less
6 than 200 hours of didactic instruction, practical training and super-
7 vised experience devoted exclusively to the subjects specified in this
8 subsection; (2) the instruction, training, and supervised experience
9 was given by an accredited school or college of optometry or medicine;
10 and (3) the applicant has passed written and practical examinations in
11 these subjects. The required subjects are general and ocular pharma-
12 cology, review of ocular pathology and differential diagnosis, and
13 treatment of pathology of the eye and its adnexa, including the use of
14 legend drugs.

15 (e) An endorsement under (a) of this section shall expire with
16 the license to which it attaches and may be renewed upon evidence of
17 satisfactory completion of a continuing education program specified by
18 regulation of the board for holders of an endorsement.

19 * Sec. 5. AS 08.72.300 is amended to read:

20 Sec. 08.72.300. DEFINITIONS. In [AS USED IN] this chapter

21 (1) "board" means the Board of Examiners in Optometry;

22 (2) [(6)] "department" means the Department of Commerce and
23 Economic Development; [.]

24 (3) "legend drugs" means drugs whose containers must bear a
25 label prohibiting dispensing without a prescription;

26 (4) "lenses" means conventional or contact lenses;

27 (5) [(2)] "optometry" is the examination [, OTHER THAN BY
28 THE USE OF DRUGS,] of the human eyes and the visual system for the
29 purpose of ascertaining a departure from the normal, ascertaining the

1 status of the human visual system, including refractive and functional
2 abilities, or ascertaining the presence of ocular disease and any
3 other departure from the normal that [WHICH] requires referral to
4 other health care practitioners; or the diagnosis of an optical defi-
5 ciency or deformity, visual or muscular anomaly of the human eye; or
6 the diagnosis and treatment, including the use of drugs but excluding
7 the use of surgery, of inflammations, infections, and injuries of the
8 eyes and eyelids; [,] or the prescription or application of lenses,
9 prisms or ocular exercises for the correction or relief of the human
10 eye;

11 (6) [(3)] "practicing optometry" is an examination [, OTHER
12 THAN BY THE USE OF DRUGS,] of the human eyes and visual system for the
13 purpose of ascertaining a departure from the normal, ascertaining the
14 status of the human visual system, including refractive and functional
15 abilities, or ascertaining the presence of ocular disease and any
16 other departure from the normal that [WHICH] requires referral to
17 other health care practitioners; or the diagnosis of an optical defi-
18 ciency or deformity, visual or muscular anomaly of the human eye; or
19 the diagnosis and treatment, including the use of drugs but excluding
20 the use of surgery, of inflammations, infections and injuries of the
21 eyes and eyelids; [,] or the prescription or application of lenses,
22 prisms or ocular exercises for the correction or relief of the human
23 eye; [,] or the holding of oneself out as being able to do so;

24 (7) [(5)] "recognized school or college of optometry" is
25 one which is approved by the American Optometric Association or one of
26 its committees. [;]

Sec 7, AS 08.72.240 is amended to read

(9) failed to refer a patient to the appropriate health care practitioner for treatment of conditions beyond the scope of the licensee's training; [after ascertaining the possible presence of ocular disease]

(10) used, dispensed or prescribed a diagnostic drug except as provided in AS 08.72.060 (c)(3), or used, dispensed or prescribed a drug in violation of that section.

(11) see pg. 2 lines 18-20.

* new section - AS 08.64.170(a) is amended to read:

(4) a person licensed under AS 08.72 may use and prescribe diagnostic drugs as provided in AS 08.72.060 (c)(3), if the person's license is validated by the Board of Examiners in Optometry as provided in AS 08.72; and

(5)

* new section AS 08.64.360 is amended to read:

AS 08.64.360. Penalty for Practicing without a license or in violation of Chapter. Except for a physician assistant or optometrist

and a physician-trained mobile intensive care paramedic, under AS 08.64.170, or a person licensed or authorized under another chapter of this title who engages in practices for which that person is licensed or authorized under that chapter, a person practicing medicine or osteopathy in the state without a valid license or permit is guilty of a Class A misdemeanor. Each day of illegal practice is a separate offense.

NEW SECTION AS 08.64 is amended by adding a
NEW ~~SECTION~~: subsection

~~SECTION~~ ~~SECTION~~

08.64.101. Duties.

WITH THE BOARD OF EXAMINERS OF OPTOMETRY

(6) develop a list of specific diagnostic drugs and their dosages that may be used in the practice of optometry in this state by a person licensed and registered by the board and with a license validation for the use of diagnostic drugs.

NEW SECTION - I would like a section providing the Board of Optometry will provide a list of licensees with diagnostic drug validation to be provided to the Board of Pharmacists.

Nancy
X4907

Josephson
5/10/83.

Original sponsor: Josephson

Need by
Friday morning
5/17/84

1 IN THE SENATE BY THE HEALTH, EDUCATION AND
2 SOCIAL SERVICES COMMITTEE

Senate CS FOR *CS HB 225 (HESS)*
~~SENATE BILL NO. 189 (HESS)~~

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

10 * Section 1. AS 08.72.020 is amended to read:

11 Sec. 08.72.020. MEMBERSHIP OF BOARD AND TERMS OF OFFICE. The
12 board consists of six [FIVE] persons, appointed by the governor.
13 Members serve staggered terms of four years.

14 * Sec. 2. AS 08.72.040 is amended to read:

15 Sec. 08.72.040. QUALIFICATIONS. Four board members shall be
16 licensed, practicing optometrists who have been residents for at least
17 three years. One board member shall be a public member with no inter-
18 est, direct or indirect, in the practices of optometry, opticianry or
19 medicine. One board member shall be a physician licensed in this
20 state. A person who has served two successive complete terms may not
21 be reappointed until four years from the expiration of the second term
22 that the person served.

23 * Sec. 3. AS 08.72.050 is amended by adding a new paragraph to read:

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

26 * Sec. 4. AS 08.72.060(c) is amended by adding new paragraphs to read:

27 (3) with the advice and ^{*CONSENT*} [guidance] of the state medical
28 board, develop a list of specific diagnostic drugs and their dosages
29 that may be used in the practice of optometry in this state by a

1 person licensed and registered by the board and with a license valida-
2 tion for the use of diagnostic drugs; and

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

5 * Sec. 5. AS 08.72.120 is amended by adding a new subsection to read:

6 (b) An optometrist may not be registered or certified to prac-
7 tice optometry in this state beyond the scope of the optometrist's
8 training. The board of optometry shall determine the optometrist's
9 qualifications.

10 * Sec. 6. AS 08.72 is amended by adding a new section to read:

11 Sec. 08.72.235. REFERRAL TO MEDICAL SPECIALIST. An optometrist
12 who determines during the examination of a patient that a pathological
13 condition may exist shall

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

15 (2) refer the patient to an appropriate medical specialist
16 for further evaluation.

17 * Sec. 7. AS 08.72.240 is amended ~~by adding a new paragraph~~ to read:

18 ** See notes attached* (1) has used the prefix "Dr." or "Doctor" before the licen-
19 see's name without using the word "optometrist" as a suffix to the
20 licensee's name or in connection with it.

21 * Sec. 8. AS 08.72 is amended by adding a new section to read:

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

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

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

29 (b) An optometrist seeking to be registered and certified to

(e)

1 practice in this state with a license validation for the use of diag-
2 nostic drugs shall

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

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

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

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

16 ~~(e) An optometrist with a diagnostic drug validation may by~~
17 ~~written order or prescription sell, give away, barter, exchange, or~~
18 ~~distribute diagnostic drugs.~~

19 * Sec. 9. AS 08.72.300(2) is amended to read:

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

1 * Sec. 10. AS 08.72.300(3) is amended to read:

2 (3) "practicing optometry" is an examination, other than by
3 the use of drugs, except diagnostic drugs, ^{SET OUT IN THIS ACT} of the human eyes and
4 visual system for the purpose of ascertaining a departure from the
5 normal, ascertaining the status of the human visual system, including
6 refractive and functional abilities, or ascertaining the presence of
7 ocular disease and any other departure from the normal which requires
8 referral to other health care practitioners; or the diagnosis of an
9 optical deficiency or deformity, visual or muscular anomaly of the
10 human eye, or the prescription of lenses, prisms or ocular exercises
11 for the correction or relief of the human eye, or the holding of
12 oneself out as being able to do so;

13 * Sec. 11. AS 08.72.300 is amended by adding a new paragraph to read:

14 (7) "diagnostic drug" means a cycloplegic, ^{OR} mydriatic ~~or~~
15 ~~topical anesthetic~~ that is listed in the official United States Phar-
16 macopoeia, or official National Formulary, or in a supplement to
17 either of them. AND APPROVED IN ACCORDANCE WITH AS 08.72.
18 OLC (C) (3)

1 * Sec. 10. AS 08.72.300(3) is amended to read:

2 (3) "practicing optometry" is an examination, other than by
3 the use of drugs, except diagnostic drugs, *as limited by this Act.* of the human eyes and
4 visual system for the purpose of ascertaining a departure from the
5 normal, ascertaining the status of the human visual system, including
6 refractive and functional abilities, or ascertaining the presence of
7 ocular disease and any other departure from the normal which requires
8 referral to other health care practitioners; or the diagnosis of an
9 optical deficiency or deformity, visual or muscular anomaly of the
10 human eye, or the prescription of lenses, prisms or ocular exercises
11 for the correction or relief of the human eye, or the holding of
12 oneself out as being able to do so;

13 * Sec. 11. AS 08.72.300 is amended by adding a new paragraph to read:

14 (7) "diagnostic drug" means a cycloplegic, mydriatic or
15 topical anesthetic that is listed in the official United States Phar-
16 macopoeia, or official National Formulary, or in a supplement to
17 either of them, *and approved in accordance with AS 08.72.060 (c) (3)*

18
19 Sec. 9. AS 08.72.290 is repealed and reenacted to read:

20 Sec. 08.72.290. PENALTY FOR PRACTICING WITHOUT A LICENSE
21 OR IN VIOLATION OF CHAPTER. A person practicing
22 optometry in the state without a valid license or permit or
23 who violates this chapter is guilty of a class ~~B~~^A misdemeanor.
24 Each day of illegal practice is a separate offense.

25 Sec. 13. AS 08.64 is amended by adding a new Sec. 08.64.108

26 Sec. 08.64.108. Regulation of diagnostic drugs as used in the
27 practice of optometry. The board shall adopt regulations necessary
28 to carry into effect the provisions of AS 08.72.060 (c) (3).
29

pg 1 guidance to consent

pg 3 sic (e) parties etc

cf. except diagnostic
drugs appeared in
this act.

practising w/o lic. fine

date of Bd. of Med to
include this.

Notify Bd. of Pharm.

Controlled subst. Act.

- ① Should we specify exact drug & dosage or allow board to do?
- ② training course required?
- ③ Exam - testing Committee development of test w/ Medical board?
- ④ mandatory referral language.