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702

Board of Examiners in Optometry

Current Number of Licensees - 81

FY '83 - Allocated 6.2 (Board Travel and Per Diem)

Revenues (7/1/82 - 7/1/83)	1.4	
Contractual	9.4	
Board Travel and Per Diem		3.1
**Personal Services		5.0
*Contractual		<u>1.3</u>
	Total	9.4

FY '84 - Allocated 3.4 (Board Travel and Per Diem)

Revenues (7/1/83 - 2/1/84)	1.2	
Contractual	5.2	
Board Travel and Per Diem		1.4
**Personal Services (7/1/83 - 2/1/84)		3.1
*Contractual		<u>.7</u>
	Total	5.2

FY '85 - Board Component - Division Budget Total - 95.0  
 Board of Optometry Allocation - 1.9

- \* The above items are funded in the division's budget under the Administrative component.
- \*\* Personal services are 1/5 of one licensing examiner's position.

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: SB 437  
Title: An Act extending the term.  
date of the Board of Examiners in Optometry; ...  
Sponsor: Labor & Commerce Committee  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Dept. of Commerce & Econ. Dev.  
Program Category Affected: Public Protection  
BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Division of Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No additional fiscal impact is expected to incur with this Senate Bill.

Funding to be continued and provided for in the Department's FY '85 budget.

ANALYSIS: Attach a separate page for analysis

Prepared By: Jennifer Strickler, Management Analyst Phone: 465-2144  
Division: Occupational Licensing Date: February 15, 1984

Approved by Commissioner: Richard A. Ivon Date: 3/5/84  
Agency: Dept. of Commerce & Economic Development

Distribution (by Agency preparing fiscal note):

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

12/1/83

HB 702

HB 702 WOULD EXTEND THE EXISTENCE OF THE BOARD OF EXAMINERS IN OPTOMETRY FOR 4 YEARS - UNTIL JUNE 30, 1988. THE BOARD'S ABILITY TO REGULATE AND LICENSE QUALIFIED PROFESSIONALS IS NECESSARY TO PROTECT THE PUBLIC'S HEALTH, SAFETY, AND WELFARE. THE BOARD ESTABLISHES MINIMUM EDUCATIONAL AND EXPERIENCE REQUIREMENTS THAT PROVIDE REASONABLE ASSURANCE THAT THOSE LICENSED ARE QUALIFIED. ALSO, ASSURANCE THAT THOSE LICENSED ACT IN A COMPETENT MANNER IS PROVIDED BY ACTIVE INVESTIGATION OF COMPLAINTS AND REVOCATION OR SUSPENSION OF LICENSES WHERE APPROPRIATE.

THE LEGISLATIVE AUDIT PERFORMED ON THE BOARD OF EXAMINERS IN OPTOMETRY RECOMMEND THAT THIS BOARD BE ALLOWED TO CONTINUE. THIS SENTIMENT IS EXPRESSED ALSO BY THE DEPARTMENT OF COMMERCE. I RECOMMEND PASSAGE OF HB 702.

ADDITIONAL INFORMATION

- 1) THE BOARD IS IN THE PROCESS OF REPEALING REGULATIONS THAT HAVE BEEN DETERMINED AS ANTI-COMPETITIVE AND/OR RESTRICTIVE.
- 2) THE BOARD AGREED NOT TO VIEW A PHOTOGRAPH OF AN APPLICANT UNTIL THAT APPLICANT SUCCESSFULLY MEETS THE REQUIREMENTS FOR LICENSURE.

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:  
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.  
TITLE PAGE ONLY HAS BEEN FILMED.

A PERFORMANCE REPORT  
OF THE BOARD OF  
EXAMINERS IN OPTOMETRY

July 1, 1980 - March 31, 1983

Audit Control Number  
08-1114-52-83-R

Commissioner, Department of  
Commerce and Economic  
Development

Richard A. Lyon

Deputy Commissioners, Department  
of Commerce and Economic  
Development

Vincent O'Reilly  
Terry Elder

Members of the  
Board of Examiners in Optometry

Chairman  
Secretary  
Member  
Member  
Member

Maynard Falconer, O.D.  
John Demske, O.D.  
Robert O'Connell, O.D.  
Vacant  
Vacant

3 In the matter of:

4 PHILLIP W. BACH, O.D.  
5 Optometrist

6 Respondent

7 File: BO 82-049

8 TEMPORARY CEASE AND DESIST ORDER  
9 (AS 08.01.087(b)(1))

10 TO: Phillip W. Bach, O.D.  
11 Professional Center  
12 3401 Denali Street, Suite 204  
13 Anchorage, Alaska 99503

14 1. As a result of an investigation conducted by Richard H. Long, Chief  
15 Investigator, Division of Occupational Licensing, on November 1981 to  
16 December 31, 1981, Anchorage and Juneau, Alaska, it has been determined that  
17 you are engaged in the following activity:

18 Practicing as an optometrist at the above named location in  
19 Alaska without a license for such practice in Optometry.  
20 License Number AA0067, issued to Phillip W. Bach, for Optometry,  
21 expired December 31, 1978. That license was not renewed for the  
22 license period January 1, 1979 to December 31, 1980, and was  
23 not renewed for the license period January 1, 1981 to December 31,  
24 1984, a total of \$270.00 in renewal fees plus penalties are in  
25 arrears. Further, proof of his completing 24 hours of continuing  
26 education for the license period January 1, 1979 to December 31,  
27 1980 has not been submitted as required. Phillip W. Bach has been  
28 advised many times, some by correspondence, by personal discussion  
29 on telephone with the board examiner, by the investigative staff,  
30 by the Chairman of the Board of Examiners in Optometry, and by the  
31 Director of the Division of Occupational Licensing, all during the  
32 recent past several months. He has acknowledged he would respond  
to each contact but has not so responded with any renewal transactions  
for fees or continuing education. Throughout this period, he has  
maintained practice as an Optometrist, examining, fitting, selling  
or receiving or soliciting orders for lenses for the correction of  
optical or visual defects of human eyes, and other functions pertinent  
to being in business as an Optometrist including ongoing advertisements  
for such services.

29 2. This constitutes the practice of Optometry within the meaning of  
30 AS 08.72.110 and AS 08.72.300. Further investigation reveals that you are  
31 practicing without a license. This is in violation of AS 08.72.110 and  
32 AS 08.72.280. Further, failing to renew is a violation of AS 08.72.181 which  
requires payment of the fee and proof of continuing education.

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT  
DIVISION OF OCCUPATIONAL LICENSING  
POUCH D, JUNEAU, ALASKA 99811  
TELEPHONE: (907) 465-2536

3 Temporary Cease and Desist Order and a majority of the board members as the  
4 object to its issuance.

5 4. Issuance of this Temporary Cease and Desist Order is in the public  
6 interest.

7 IT IS THEREFORE ORDERED pursuant to AS 08.01.087(b)(1) that you immediatel  
8 CEASE AND DESIST from further practice as an Optometrist without licensure in  
9 the State of Alaska.

10 Upon your written request within 15 days of receipt of this order, a  
11 hearing will be set and thereafter a further order will be entered; if no such  
12 request is received, this order shall stand as entered.

13 This order is effective on receipt by you.

14 DATED this 31 day of December, 1981 at Juneau, Alaska.

16 BY ORDER OF

17 COMMISSIONER  
18 DEPARTMENT OF COMMERCE AND  
19 ECONOMIC DEVELOPMENT

20 BY: Steve W. Brown, Director  
21 Division of Occupational Licensing  
22 Juneau, Alaska  
23 99801

24 CERTIFICATE OF SERVICE

25 I, \_\_\_\_\_, do hereby certify that I  
26 served a copy of the above order and a Request for Hearing form by (personally  
27 delivering/ mailing) a copy to/with \_\_\_\_\_  
28 \_\_\_\_\_ at \_\_\_\_\_  
29 \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

31 \_\_\_\_\_  
32 Name

\_\_\_\_\_ Title

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
DIVISION OF OCCUPATIONAL LICENSING  
POUCH D, JUNEAU, ALASKA 99811  
TELEPHONE: (907) 465-2530

3 In the Matter of: )

4 PHILLIP W. BACH, O.D. )  
5 Optometrist )

6 Respondent )

7 File: BO 82-049

8 DECISION AND ORDER OF WITHDRAWAL

9 The State of Alaska, Director, Division of Occupational Licensing,  
10 having reviewed the licensing file, renewal documents, the file regarding the  
11 Temporary Cease and Desist Order, and having discussed this entire matter with  
12 the Board of Examiners in Optometry with Respondent Phillip Bach present, and  
13 having heard from Respondent Phillip Bach directly, hereby decides and orders  
14 as follows:

15  
16 STATEMENTS OF FACT

17 1. Respondent Bach was issued a Temporary Cease and Desist Order with  
18 board concurrence on January 4, 1982, for practicing as an Optometrist in  
19 Alaska with no license to do so. His license expired December 31, 1978 but he  
20 continued to practice from that date to present without a valid license in  
21 violation of AS 08.72.110, AS 08.72.181 and AS 08.72.280. He failed to pay  
22 any renewal fees and failed to submit proof of any continuing education despite  
23 numerous attempts by division staff, board members and others.

24 2. Respondent Bach submitted a Request for Hearing dated January 12,  
25 1982, to protest the order.

26 3. On January 15, 1982, the division received a letter dated December 1,  
27 1981 from Jeffrey G. Keene, Secretary-Treasurer of the Alaska Optometric  
28 Association, attempting to certify 70 hours of continuing education. This  
29 submission was rejected as it did not comply with the requirements written  
30 under AS 08.72.181 and 12 AAC 48.020. His fees required to renew, including  
31 delinquent charges, totalling \$270.00 were received this date.

32

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT  
DIVISION OF OCCUPATIONAL LICENSING  
POUCH D, JUNEAU, ALASKA 99811  
TELEPHONE: (907) 465-2536

3 February 8, 1982, Mr. Keene's reverification of Respondent Bach's continuing  
4 education was received, but attested to only 67 hours.

5 5. On February 8, 1982, at 5:05 p.m., a teleconference phone call was  
6 completed with all board members and Respondent Bach. Although the  
7 certification was not notarized, and each credit was not certified by the  
8 instructor as earlier directed and as specified by statute and regulations,  
9 the board considered all of the credits submitted, voted to accept them as  
10 submitted and concurred that he may be renewed.

11  
12 CONCLUSIONS OF LAW

13 6. Respondent now complies with AS 08.72.181 and 12 AAC 48.020 since he  
14 has paid his fees, submitted his required continuing education and the board  
15 has concurred that he may be relicensed by renewal process.

16  
17 ORDER

18 IT IS THEREFORE ORDERED that the Temporary Cease and Desist Order issued  
19 to Phillip W. Bach is withdrawn. A license is to be issued to Respondent Bach  
20 immediately.

21 DATED this 9 day of February 1982 at Juneau, Alaska.

22  
23 BY ORDER OF

24 COMMISSIONER  
25 DEPARTMENT OF COMMERCE AND  
26 ECONOMIC DEVELOPMENT

27 BY:

Harry D. Treager  
28 HARRY D. TREAGER, Director  
29 Division of Occupational Licensing  
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STATE OF ALASKA  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

In the Matter of:

PHILLIP W. BACH, O.D.  
Optometrist

TEMPORARY CEASE AND DESIST ORDER  
(AS 08.01.087)

Respondent

File BO 82-049

REQUEST FOR HEARING

Respondent, pursuant to AS 08.01.087(b)(1), hereby gives notice of  
defense in this proceeding.

A hearing on the matters set forth in the Temporary Cease and Desist  
Order is hereby requested.

DATED this 12th day of January, 1982

Phillip W. Bach  
Respondent's Signature

Address: 3401 Denali St.

Anchorage Alaska  
City State

276 8120 99503  
Telephone Zip

NOTICE

This Request for Hearing must be signed by or on behalf of respondent, set  
forth respondent's mailing address, and must be filed with the Director,  
Division of Occupational Licensing, Department of Commerce and Economic  
Development, Pouch D, Juneau, Alaska 99811, within 15 days of receipt. Upon  
receipt of this or a written request in any form received by the Director  
within 15 days of your receipt of this order, a hearing will be set and  
thereafter a further order will be entered. If no such request is received,  
this order shall stand as entered.

STATE OF ALASKA  
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT  
DIVISION OF OCCUPATIONAL LICENSING  
POUCH D, JUNEAU, ALASKA 99811  
TELEPHONE: 7971468-2333

In the matter of: )  
 PHILLIP BACH )  
 Respondent )  
 \_\_\_\_\_ )

CASE NO. OE 82-049

AFFIDAVIT OF NOTICE PURSUANT TO AS 08.01.087(b)

I hereby certify that all members of the: Optometry Board

were notified of the intent of this department's proposed order/action as follows:  
 To issue a Commissioner's Cease and Desist Order pursuant to AS 08.01.087 to an  
unlicensed Optometrist, Phillip Bach. His license expired December 31, 1978. All  
efforts to bring him into compliance with AS 08.72 have been to no avail. The  
license examiner has contacted him many times in writing and personally to get him  
licensed. The Director has also tried. He knows he is in violation of AS 08.72.110  
yet he continued to practice with no license. He has failed to respond to any contacts

(over)

This notice was communicated to the following members of the above listed Board or

Commission as noted:

NAME (telephone #, city)	METHOD (tp/twx)	DATE	RESULTS
Maynard Falconer/Anchorage	Telephone 272-2557	12-31-81	Approved
John Miko/Fairbanks	Telephone 456-2235	12-30-81	Approved

No objections were received from any member of this Board/Commission regarding the  
 above listed proposed order/action except as noted here:

Phillip Bach/Anchorage			Not notified
------------------------	--	--	--------------

Dated this 6th day of January, 1982 at Juneau, Alaska.

Kevin J. Messing  
 NAME KEVIN J. MESSING  
 ADMINISTRATIVE SUPPORT TECHNICIAN II  
 TITLE

SUBSCRIBED AND SWORN to before me, the date and place above shown.



Angela J. Parker  
 NOTARY  
8-8-84

702 TITLE & SPONSOR SUMMARY

17:17 6/04/84 PAGE 1 OF 3

ENDED TITLE:

ACT EXTENDING THE TERMINATION DATE OF THE BOARD OF EXAMINERS  
OPTOMETRY,  
AND PROVIDING FOR AN EFFECTIVE DATE.

LINE SPONSOR: HOUSE LABOR&COMM COMMITTEE.

SPONSOR:

CURRENT STATUS: 5/15/84 CHAPTER 0050 ILA 04

702 HOUSE ACTION

17:17 6/04/84 PAGE 2 OF 3

DATE SEQ PAGE

LEGISLATIVE ACTION

3/21/84	01	2995	FIRST READING -- COMMITTEE REPORTS
3/21/84	02	2995	LAC MEMORANDUM
3/22/84	03	3014	LAC -- DP06
3/26/84	04	3057	SECOND READING
3/26/84	05	3057	ADVANCED TO 3RD READING BY UNAN CONSENT
3/26/84	06	3057	THIRD READING
3/26/84	07	3057	PASSED BY DIV 37-00-03
3/26/84	08	3057	EFFECTIVE DATE VOTE SAME AS PASSAGE
4/30/84	09	3057	TRANSMITTED TO GOVERNOR
5/15/84	10	3058	SIGNED BY GOVERNOR-CH0050, EFF 5/15/84
XXXX	XX	XX	XXX XXX XXX

702 SENATE ACTION

17:17 6/04/84 PAGE 3 OF 3

DATE SEQ PAGE

LEGISLATIVE ACTION

5/27/84	09	2470	FIRST READING -- COMMITTEE REPORTS
4/10/84	10	273	LAC -- DP04
5/27/84	11	2053	RES -- OTHER04
			TAKEN UP IMMEDIATELY
4/27/84	12	2053	SECOND READING
4/27/84	13	2053	ADVANCED TO 3RD READING BY UNAN CONSENT
4/27/84	14	2053	THIRD READING
4/27/84	15	2053	PASSED BY DIV 17-01-00
4/27/84	16	2053	EFFECTIVE DATE VOTE SAME AS PASSAGE
XXXX	XX	XX	XXX XXX XXX

COMMITTEE REPORT

SENATE

FURTHER:

7/27/84

Date 9/17/84

Mr. President

The Committee on LABOR & CONFERENCE considered SB 101

*regarding the termination of the Board of Directors in...*

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 \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_

\_\_\_\_\_

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Chairman

Chairman recommendation



SUMMARY

A PERFORMANCE REPORT OF THE BOARD OF EXAMINERS IN OPTOMETRY

The Board of Examiners in Optometry is a regulatory board consisting of five persons; four optometrists and one public member. The Board sets the minimum standards to practice optometry by

1. Examining and issuing licenses;
2. Adopting regulations controlling optometry practices;
3. Revoking, annulling or suspending licenses of those who violate optometry statutes of regulations.

The Division of Legislative Audit recommended the following ---

The Board should repeal its anti-competitive and restrictive regulations (12 AAC 48.070(a)-(e)).

The point of view that these regulations are restrictive is supported by a memorandum from the Attorney General's Office dated 10/29/80. That memo states in part that:

... may be construed to limit advertising to print media, and is anticompetitive and violative of antitrust law ...

... impede competition and go beyond what is necessary ...

... restrains competitive opportunity ...

The Division of Legislative Audit feels if no action is taken by the Board, the Legislature should consider repealing those regulations.

\* \* \* \* \*

It is the opinion of Legislative Audit that the Board of Examiners in Optometry should be reestablished. The regulation and licensing of qualified professionals is necessary to protect the public's health, safety, and welfare.



OFFICIAL BUSINESS

# ALASKA STATE LEGISLATURE - SENATE

## COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON  
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811  
(907) 465-3844

March 8, 1984

The Honorable Jalmar Kerttula  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. President:

The Senate Labor and Commerce Committee has had under consideration for "Sunset Review" the Board of Examiners in Optometry pursuant to your referral under AS 44.65.050 and AS 08.03.010.

In accordance with the statutory requirement, a public hearing was held on the review of this Board. The Committee considered the proposed budget of the Board and examined the performance audit of the activities of the Board prepared by the Legislative Audit Division.

Guided, in part, by the report prepared by the Legislative Audit Division, the Committee took into consideration the factors required to be considered under AS 44.65.050(c).

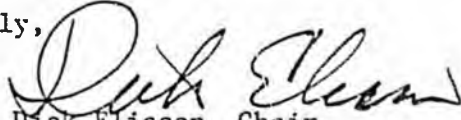
The regulation and licensing of qualified professionals in Optometry is necessary to protect the public's health, safety, and welfare. The Board provides this service by establishing minimum educational and experience requirements that provide reasonable assurance that persons licensed are qualified. Regulations which were anticompetitive and restrictive are in the process of being repealed by the Board.

Assurance that those licensed act in a competent manner is provided by active investigations of complaints and revocation or suspension of licenses where appropriate. The Division of Legislative Audit found no instances where the Board had licensed unqualified practitioners.

At the request of the Senate Labor and Commerce, the Board is reviewing its application procedure to assure its practices conform with Equal Employment Opportunity recommendations.

The Senate Labor and Commerce Committee has introduced legislation that would extend the Board of Examiners in Optometry another four years.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dick Eliason".

Senator Dick Eliason, Chair  
Senate Labor and Commerce Committee

SOLDOTNA OPTOMETRY CLINIC  
JOHN A. DEMSKE, O.D.  
DOCTOR OF OPTOMETRY  
WOODRUEF BLDG. - SUITE 202, 155 SMITH WAY  
SOLDOTNA, AK 99669

TELEPHONE (907) 262-3168

April 11, 1984

Senate Labor and Commerce Committee  
Senator Richard Eliason  
Pouch V  
Juneau, Alaska 99811

Dear Senator Eliason,

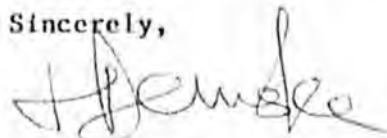
I'm writing in regard to HB 702, concerning the continuation of Board of Examiners in Optometry.

All board members feel that some method of identification should be required with the application to practice optometry in the State of Alaska. We feel that it is our duty to the state to ensure that the applicant who sits for the examination is the same individual who will practice optometry on the people of Alaska.

Since there does not appear to be a foolproof method to ensure identity we are in agreement with the recommendation of the Division of Occupational Licensing. They propose that the application require a photograph which is kept separate by the licensing examiner. After the applicant has finished the examination, the board has graded the exams and reviewed the applications, then the photographs are compared for positive identification. Thereafter, the photograph becomes a permanent part of the applicants record for future use.

I hope that this recommendation will resolve the issue. If you have any further questions, don't hesitate to contact me.

Sincerely,



John A. Demske, O.D.

JAD/bc

cc: Maynard Falconer, O.D., Chairman  
Wanda Fleming, Licensing Examiner

SOLDOTNA OPTOMETRY CLINIC  
JOHN A. DEMSKE, O.D.  
DOCTOR OF OPTOMETRY  
WOODRUEF BLDG. - SUITE 202, 155 SMITH WAY  
SOLDOTNA, AK 99669

TELEPHONE (907) 262-3168

March 6, 1984

The Honorable Richard Eliason  
Alaska State Senate  
Pouch V  
Juneau, Ak. 99811

Dear Senator Eliason,

Per our conversation during the hearing of last week concerning SB 437, Continuation of the Board of Examiners in Optometry, I have discussed the issue of the application photograph with the other members of the board.

Both board members expressed a desire to retain the applicants photograph for proof of identification. The photograph is our only method to ensure that the individual sitting for the exam is indeed the applicant who filed the required documents by mail. The only other alternative that we can think of is to have fingerprints.

If you have an alternative that is more agreeable with the FEO, we would appreciate your recommendations. Thank you for your time in this matter.

Sincerely,



cc: Maynard Falconer, O.D.  
Chairman, Optometry Board

Wanda Fleming, Licensing Examiner



Member

American Optometric Association