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A PERFORMANCE REPORT
OF THE BOARD OF
EXAMINERS IN OPTOMETRY

July 1, 1980 - March 31, 1983

Audit Control Number
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John Demske, O.D.
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AMENDED TITLE:

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

PRIME SPONSOR: SENATE LABOR&COMM COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 2/09/84 IN (S) LABOR & COM

SB 437 SENATE ACTION

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DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/09/84	01	2011	FIRST READING -- COMMITTEE REPORTS
03/09/84	02	2300	L&C LETTER OF INTENT LABOR & COMMERCE RULES

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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.

(E) ocular motility and neurological integrity;

(F) a far point subjective examination, a static retinoscopy, and a subjective refraction;

(G) a near point subjective examination, a dynamic retinoscopy and a subjective refraction;

(H) tests of accommodation and convergence and binocular coordination at far and near, preferably made with a phoropter; and

(I) confrontation fields and tonometry tests;

(2) if contact lenses are prescribed, a routine vision examination includes, in addition to the requirements of subsection (1)

(A) a slit lamp evaluation;

(B) a fluorescein examination;

(C) a diagnostic evaluation when soft lenses are prescribed; and

(D) evaluation within three months in the case of firm lenses and within six months in the case of soft lenses. (Eff. 2/14/78, Reg. 65; am 4/22/83, Reg. 86)

Authority: AS 08.72.050
AS 08.72.060

12 AAC 48.070. UNPROFESSIONAL CONDUCT. (a) An optometrist may not engage in unprofessional conduct within the meaning of AS 08.72.240(3). Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) except as provided by sec. 63 of this chapter, soliciting patients by advertising of any nature or description regardless of means or media employed; however, upon the opening, reopening or removal of any office for the practice of optometry, an optometrist may publish, in local newspapers, an announcement, which announcement is limited to a statement of his name, title, profession, degrees, specialty, address, telephone number and office hours; the announcement may not be published for more

than 90 days after the opening, reopening, or removal of the office; the announcement may not exceed eight square inches in area;

(2) displaying any spectacle, eyeglasses or eyeglass or spectacle frames or mountings, goggles, lenses, prisms, spectacle or eyeglass cases, ophthalmic material of any kind, optometric instruments or optical tools or machinery, or any merchandise, material or displays of a commercial nature in office windows or reception rooms or display cases outside the office, where the display of the merchandise, material or display would make it visible from outside the office;

(3) using display or boldface type or type that is in any way dissimilar in size, shape or color to that used for others of the healing arts in the same directory;

(4) using any false, deceptive, or misleading representation in connection with any advertising concerning ophthalmic prosthetic products or optometric services;

(5) using "bait" advertising;

(6) using signs whether painted, neon, decalcomania, colored or otherwise, and whether constructed in the form of eyes or structures resembling them, or frames or mountings for any type of lenses or other ophthalmic prosthetic products displayed in any manner or place connected with the practice of optometry;

(7) using publicly, a sign, card, stationery, or other publicity medium which fails to clearly identify the individual optometrist or optometrists engaged in practice in an office or practice location, or using a name other than the name under which the optometrist is licensed including such designations as "optical company," "optical laboratory," or words or phrases of like import which are out of keeping with the use of the title "Doctor of Optometry" and the practice of optometry as a profession;

(8) soliciting, personally or through agents, from house to house for the rendering of optometric services or sale of ophthalmic prosthetic products:

(9) advertising self-styled superiority or the performance of services in a manner presumed to be superior, or the making of untruthful, improbable or impossible claims regarding treatments, cures, or values;

(10) lending, leasing, renting, or in any other manner placing a certificate of registration at the disposal of or in the service of any person not licensed to practice optometry in this state.

(b) An optometrist may not practice the profession on a salary or commission basis for a commercial establishment or business primarily engaged in trade or commerce for profit, or associate with such an establishment or business for the practice of optometry. However, this subsection does not prohibit professional incorporation under the Professional Corporation Act, AS 10.45. The fact that an officer, trustee, director, agent, or employee of a commercial establishment or business is an optometrist does not permit the establishment or business to do the acts prohibited in this subsection, nor is that fact a defense to board action against any of the persons mentioned in this subsection for a violation of this subsection. However, this subsection does not apply to a partnership of two or more registered and licensed optometrists who practice under their own names.

(c) It is unlawful for an optometrist to practice optometry as an employee, lessee, or sublessee of a commercial or mercantile establishment or to practice optometry in connection with one, or to advertise either in person or through a commercial or mercantile establishment that he is a registered practitioner and is practicing or will practice optometry as an employee, lessee, or sublessee of a commercial or mercantile establishment or in connection with one. Nothing in this subsection prohibits the rendering of professional services to the officers and employees of a person, firm, or corporation by an optometrist, whether or not the compensation for the services is paid by the officers and employees or by the employer or jointly by all or any of them.

(d) No optometrist may practice in or on premises where any materials other than those necessary to render his professional services are dispensed to the public.

(e) No optometrist may display a sign containing other than his name, profession, recognized specialty, and office hours, which sign may be used only on office windows or at an entrance to his office. Letters may not be luminous or illuminated.

(f) No optometrist may represent himself or herself as a specialist in an optometric field unless he or she is certified, as a diplomate of the American Academy of Optometry or as a fellow of the College of Vision Development, in a recognized specialty. The board recognizes American Academy certification in contact lenses, binocular vision, geriatric care, and low vision, and College of Vision Development fellowships in vision training and developmental vision. (In effect before 7/28/59; am 9/10/65, Reg. 21; am 4/24/71, Reg. 37; am 2/14/78, Reg. 65; am 7/6/78, Reg. 67; am 6/14/80, Reg. 74)

Authority: AS 08.72.050(4)
AS 08.72.060(e)
AS 08.72.240(3)

12 AAC 48.080. DEFINITIONS. Unless the content in this chapter otherwise states:

(1) "Act," "law," or "statute" refers to AS 08.72.;

(2) "regulations" referred to are those made by the board in keeping with AS 08.72.;

(3) "registration" means registration under AS 08.72.;

(4) "chain exploitation" means establish-