

COMMITTEE REPORT  
HOUSE

(11)

FURTHER:

4/8/85

Date:

4-27-85

The Committee on FINANCE has had HOUSE BILL (S)

"An Act relating to discontinue positions and appointments; and providing for an effective date."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for SB 107 (L.C.)  same title  
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

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CHAIRMAN

Offered: 3/19/85  
Referred: Finance

Original sponsors: Ray, Rodey,  
Josephson, et al

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

2

CS FOR SENATE BILL NO. 167 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to dispensing opticians and optometrists; and providing for an effective date."

7

8

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

9

\* Section 1. AS 08.03.010(c)(5) is amended to read:

10

(5) Board of Dispensing Opticians (AS 08.71.010) --

11

June 30, 1986 [1985].

12

\* Sec. 2. AS 08.71.120 is amended to read:

13

Sec. 08.71.120. FEES. The following fees shall be imposed under

14

this chapter when applicable:

15

(1) examination fee ..... \$175 [\$ 50]

16

(2) initial dispensing optician license fee .... 350 [ 50]

17

(3) renewal fee, due every four years ..... 500 [ 200]

18

\* Sec. 3. AS 08.71.120 is repealed and reenacted to read:

19

Sec. 08.71.120. FEES. The department shall set fees under

20

AS 08.01.080 for examination, initial license, and license renewal.

21

In setting the amount of the fees the department shall reflect, to the

22

extent possible, the actual costs to the department of the activity

23

for which the fee is charged. The department may not set a fee unless

24

the board concurs.

25

\* Sec. 4. AS 08.71.130(d) is amended to read:

26

(d) Before a license may be renewed the licensee shall submit to

27

the board evidence of 30 [15] hours of continuing competence in opti-

28

cal dispensing as prescribed by regulations of the board.

29

\* Sec. 5. AS 08.71 is amended by adding a new section to read:

1           Sec. 08.71.147. TEMPORARY PERMIT. The board may issue a tempo-  
2           rary permit to an applicant who has submitted a completed application  
3           for licensure under AS 08.71.145.

4       \* Sec. 6. (a) The governor shall appoint a six-member working group to  
5       consider and make recommendations on the consolidation of the Board of  
6       Dispensing Opticians and the Board of Optometric Examiners. Membership on  
7       the working group includes one representative from the Board of Dispensing  
8       Opticians, one representative from the Board of Optometric Examiners, one  
9       representative from the Department of Commerce and Economic Development,  
10       one representative from the civil division of the Department of Law, one  
11       licensed optometrist, and one licensed optician.

12       (b) The working group shall report its recommendations to the legis-  
13       lature by January 15, 1986.

14       \* Sec. 7. Section 6 of this Act is repealed.

15       \* Sec. 8. Sections 3 and 7 of this Act take effect July 1, 1986.

16       \* Sec. 9. Sections 1 - 2 and 4 - 6 of this Act take effect immediately  
17       in accordance with AS 01.10.070(c).

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: CSSB 167 (L&C)  
 Title: Relating to Dispensing  
Opticians & Optometrists  
 Sponsor: Senate Labor & Comm.  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS		-0-	-0-	-0-	-0-	-0-
OTHER						
<b>TOTAL</b>		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Although the bill increases licensing fees, no immediate impact on revenues is expected unless the bill becomes effective prior to June 30, 1985 which is the expiration date of all current licenses.

Prepared By: Jennifer Strickler, Mgnt Analyst Phone: 465-2144  
 Division: Occupational Licensing Date: 7/1/84

Approved by Commissioner: Loren H. Lounsbury Date: 7/1/84  
 Agency: Commerce & Economic Development

- Distribution (by Agency preparing fiscal note):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)

OPTICAL GOODS IN ALASKA: COST COMPARISON

Average retail price (eyeglasses) in Greater Anchorage area:

OPHTHALMOLOGISTS.....\$140-\$170  
OPTOMETRISTS.....\$120-\$150  
OPTICIANS.....\$80-\$130

Average retail price (contact lenses) in Greater Anchorage area:

OPHTHALMOLOGISTS.....\$250-\$400  
OPTOMETRISTS.....\$150-\$300  
OPTICIANS.....\$60-\$200

OPTICIANS IN ALASKA - by cities

ANCHORAGE.....45

EAGLE RIVER.....4

WASILLA.....2

PALMER.....1

CHUGIAK.....2

BIRD CREEK.....1

KODIAK.....1

FAIRBANKS.....10

NORTH POLE.....1

KETCHIKAN.....1

JUNEAU.....2

SOLDOTNA.....1

*Ref: 22*

A PERFORMANCE REPORT  
ON THE BOARD OF  
DISPENSING OPTICIANS

July 1, 1981 -- June 30, 1984

Audit Control Number

08-1168-84-R

Commissioner, Department of  
Commerce and Economic  
Development

Richard A. Lyon

Deputy Commissioners, Department  
of Commerce and Economic  
Development

Vincent O'Reilley  
Terry Elder

Members of the  
Board of Dispensing Opticians

Chairman  
Secretary  
Member  
Member  
Member

J. Robin Isbell  
Leslie E. Brockelsby  
Larry E. Harper  
George Tresnak  
Vacant

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

June 30, 1984

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the  
Alaska Statutes (sunset legislation), the attached report is  
submitted for your review.

### A PERFORMANCE REPORT ON THE BOARD OF DISPENSING OPTICIANS

July 1, 1981 -- June 30, 1984

Audit Control Number

08-1168-84-R



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit



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## PURPOSE AND SCOPE OF THE REPORT

### Purpose

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Dispensing Opticians for the past three fiscal years to determine if the Board has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during legislative oversight hearings to determine whether the Board of Dispensing Opticians should be reestablished. The law now specifies that the Board will terminate June 30, 1985, and have one year from that date to conclude its affairs.

### Scope

The major areas of our examination were the licensing, examination, administration, complaint, and affirmative action functions of the Board. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Tests of files and documents of licensees.
3. Interviews with the license examiners.
4. Complaints filed with the Division of Occupational Licensing, Human Rights Commission, Equal Employment Opportunity Office, Attorney General's Office, and the Ombudsman's Office.
5. Discussions with Board members.
6. Minutes of Board meetings and Division correspondence files.
7. Attorney General's Opinions applicable to professional boards.

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## ORGANIZATION AND FUNCTION

The Board of Dispensing Opticians was established by the 1973 Session Laws of Alaska. This regulatory board consists of five persons; four dispensing opticians and one public member, appointed by the Governor. Board members serve staggered terms of four years.

The Board is organized under the Department of Commerce and Economic Development, Division of Occupational Licensing (OL). OL provides the Board with licensing and investigative support. The licensing section processes applications, maintains license files, answers inquiries, and provides other administrative help to the Board.

The Board sets the minimum standards to practice in Alaska by:

1. Examining and issuing licenses to qualified applicants.
2. Establishing, amending, or eliminating regulations necessary and desirable to enforce statutes.
3. Revoking, annulling, or suspending licenses in accordance with the Administrative Procedures Act when a person has violated dispensing optician statutes or regulations.

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## REPORT CONCLUSION

### Policy Issues

This report contains policy issues raised as a result of our evaluation of Board practices. The final policy decisions affecting these practices are not within the scope of this report but require legislative consideration. In debating these issues, the oversight committee should take into consideration the Findings and Recommendations presented in this report so the potential impact of policy changes can be evaluated.

### Report Conclusion

The primary purpose of a regulatory board with a licensing function is to protect the public. The questions that have to be evaluated to determine if licensing is needed are:

1. Does the unlicensed practice pose a serious risk to the consumers' life, health, safety, or economic well-being?
2. Can the potential users be expected to possess the knowledge needed to properly evaluate the qualifications of those offering services?
3. Do the benefits to the public clearly outweigh any potential harmful effects, such as a decrease in the availability of practitioners, higher costs of services, and restriction on optimum utilization of personnel?

During our review to determine if the Board's licensing function is required and meets the previously mentioned criteria, we examined existing statutes, complaints, and various Board functions. As a result of our examination we found:

1. The Board performs only minimal functions. The majority of their duties, as outlined by AS 08.71.070, are handled by the Division of Occupational Licensing. Those duties that are executed by the Board include conducting meetings, reviewing applications for licensure, reviewing results of investigations and hearings and determining proper disciplinary actions, and preparing and grading the State examination. These duties are not substantial enough to continue the Board. Conducting meetings is only necessary to the extent that it is easier to take care of business at a meeting as opposed to by mail.

The bulk of the work on reviewing applications for licensure is done by the license examiner. He/she gathers the proper documentation and makes sure it is complete. The applications are then presented to the Board, who then votes whether to approve or disapprove licensure. This review tends to be cursory as the majority of it has already been done by the license examiner.

Reviewing results of investigations and hearings and determining proper disciplinary actions also tends to be cursory. This is due to the up-front work that is done by the investigations unit in Occupational Licensing and the hearing officers. The Board is kept informed of the status of complaints but are not involved in the investigations. The determination of proper disciplinary actions has usually been done by the hearing officer. It is then a formality for the Board to approve them.

The only duty requiring the expertise of the Board is the preparation and grading of the State examination. A license examiner does not have the background to formulate those exams. However, it is not necessary to give an exam because the potential physical harm caused by unlicensed dispensing opticians is minimal to non-existent, and the administering of an exam is not essential.

Consequently, there are not enough duties for the Board to justify its existence. The expenses to maintain a Board of 5 members to regulate approximately 60 dispensing opticians is not economical.

2. An optician cannot cause great physical harm to an individual. Spectacles can cause double vision, distorted vision, and trouble with perception. Yet with these types of troubles, most patients will return to their optometrist or ophthalmologist for verification of the prescription. Improper fitting of contact lenses can result in physical harm. However, AS 08.71.200 requires a licensed physician (ophthalmologist) or optometrist to supervise the fitting of contact lenses and requires the patient to return to the prescribing physician or optometrist. In addition, AS 08.72.275 is adequate to protect the public from harm due to improperly hardened lenses because it requires each lens to be impact resistant under specified test conditions.
3. Approximately 12 complaints were received by the Division of Occupational Licensing and 2 complaints were received by Consumer Protection over the last few years.

Most of the complaints were instigated by licensed practitioners, not consumers, and related to unlicensed individuals dispensing. Of these, none resulted in physical harm. In one case, the Attorney General's Office refused to prosecute a violation because there was no evidence of physical harm.

4. In addition, several cases were noted where individuals were licensed without adequate documentation of statutory and regulatory requirements. These individuals were potentially "unqualified," yet no evidence of physical harm has resulted from their practices.
5. Contact lenses cost approximately \$500 and spectacles cost much less. Therefore, if for some reason the consumer received poor quality or useless contacts or spectacles, the loss to the consumer would not be severe. Also, if a consumer is dissatisfied, he/she has recourses available whether a business or individual is licensed or not. The Consumer Protection Unit as well as the court system are there to provide remedies for injured parties.

Thus, we found the Board's existence to be superfluous, especially in light of the scope of the dispensing optician's work. The dispensing optician prepares and dispenses original or duplicate lenses, eyeglasses, contact lenses, and appurtenances to them on written prescription from a licensed physician or optometrist. They also interpret, measure, adapt, and fit the above mentioned. This restricts their scope to a small sphere of duties and limits that amount of harm that could result if they were not licensed.

Therefore, we recommend the Board of Dispensing Opticians be allowed to terminate on June 30, 1985.

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## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The Board of Dispensing Opticians should be allowed to terminate on June 30, 1985.

The primary purpose of a regulatory board with a licensing function is to protect the public. The questions that have to be evaluated to determine if licensing is needed are:

1. Does the unlicensed practice pose a serious risk to the consumers' life, health, safety, or economic well-being?
2. Can the potential users be expected to possess the knowledge needed to properly evaluate the qualifications of those offering services?
3. Do the benefits to the public clearly outweigh the potential harmful effects, such as a decrease in the availability of practitioners, higher costs of services, and restriction on optimum utilization of personnel?

During our review to determine if the Board's licensing function is required and meets the previously mentioned criteria, we examined existing statutes, complaints, and various Board functions. As a result of our examination we found:

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Consequently, there are not enough duties for the Board to justify its existence. The expenses to maintain a Board of 5 members to regulate approximately 60 dispensing opticians is not economical.

- B. An optician cannot cause great physical harm to an individual. Spectacles can cause double vision, distorted vision, and trouble with perception. Yet with these types of troubles, most patients will return to their optometrist or ophthalmologist for verification of the prescription. Improper fitting of contact lenses can result in physical harm. However, AS 08.71.200 requires a licensed physician (ophthalmologist) or optometrist to supervise the fitting of contact lenses and requires the patient to return to the prescribing physician or optometrist. In addition, AS 08.72.275 is adequate to protect the public from harm due to improperly hardened lenses because it requires each lens to be impact resistant under specified test conditions.
- C. Approximately 12 complaints were received by the Division of Occupational Licensing and 2 complaints were received by Consumer Protection over the last few years. Most of the complaints were instigated by licensed practitioners, not consumers, and related to unlicensed individuals dispensing. Of these, none resulted in physical harm. In one case, the Attorney General's Office refused to prosecute a violation because there was no evidence of physical harm.

- D. Several cases were noted where individuals were licensed without adequate documentation of statutory and regulatory requirements (See Recommendation No. 4). These individuals were potentially "unqualified," yet no evidence of physical harm has resulted from their practices.
- E. Only 20 out of the 49 other states deem it necessary to license dispensing opticians. The rest recognize that potential users can evaluate a dispensing optician's qualifications. Free enterprise will take care of those unlicensed practitioners who are not able to provide quality services and competitive prices. Consumers will not continue to patronize a business or individual if they are not satisfied.
- F. Contact lenses cost approximately \$500 and spectacles cost much less. Therefore, if for some reason the consumer received poor quality or useless contacts or spectacles, the loss to the consumer would not be severe. Also, if a consumer is dissatisfied, he/she has recourses available whether a business or individual is licensed or not. The Consumer Protection Unit as well as the court system are there to provide remedies for injured parties.

If the Board is not terminated and some control over the occupation is desired, the dispensing opticians should be combined with the Board of Optometry. The optometrists can and do dispense spectacles and contact lenses like the dispensing opticians as well as refracting eyes and diagnosing eye diseases. Thus, the Board of Optometry has experience in the same areas and is an appropriate Board with which to combine the Board of Dispensing Opticians.

However, in the event that the Board is reestablished, we recommend the following changes be made in their operations.

#### Recommendation No. 2

The Board of Dispensing Opticians and the Office of the Governor should work together to ensure that vacant Board positions are filled.

The Board is responsible for making recommendations to the Office of the Governor, Special Staff Assistant, Boards and Commissions for vacant Board positions. The Office of the Governor is then responsible for following up on those recommendations as well as those from any other interested parties.

There are conflicting stories from the staff of the Office of the Governor and the Board members regarding the lack of recommendations and follow up. There is some dispute as to whether any recommendations have been made in the past several years as there has been no acknowledgement of receipt by the Office of the Governor, except within the last month. Regardless of who has been at fault, there are still vacant Board positions to be filled.

This is particularly crucial since two of the five positions have members who are serving past the expiration dates of their terms. One member has served two years beyond his original term because no one has been appointed to fill his slot. This extension of terms defeats the purpose in setting a specified term length. In addition, the public member slot has been vacant since June 1982. The public member brings a different perspective. They help keep the purpose in mind which is to protect the public, not the economic interest of an occupational group. Therefore, it is crucial that the Board and the Office of the Governor work together to fill these three slots.

#### Recommendation No. 3

The Board should review existing statutes and regulations and seek appropriate revision where necessary.

During our examination, we reviewed the Board's statutes and regulations to determine if any were obsolete, vague, or unduly restrictive. Examples of what we found are as follows:

- A. AS 08.71.130(d) and 12 AAC 30.050 set out continuing competency requirements. These requirements were based on biennial licensing. Since then, the profession has changed to quadrennial licensing without a compensating change in the continuing competency requirements.
- B. AS 08.71.150 allows the State to license by reciprocity. However, none of the 20 other states will grant Alaska these rights. And since licensure by credentials accomplishes the same purpose, this Statute is not necessary.
- C. AS 08.71.200 sets out dispensing opticians' constraints for issuing contact lenses. The language used is not specific enough and needs to be further defined as to what is meant by "contact lenses shall be fitted in conjunction with and under the supervision of a licensed physician or an optometrist." The optometrists and dispensing opticians are currently debating changes to this Statute, and a caution should be noted. The Attorney General's Office has found a potential

antitrust issue with regards to where contact lens prescriptions can be filled. Any changes to this Statute should not be to make it more restrictive (i.e., requiring the prescriptions be filled at specified places instead of where the consumer chooses).

- D. The Board still has not received statutory authority to issue temporary permits. These temporary permits would allow a greater influx of qualified individuals to practice while awaiting formal Board approval.

AS 08.71.055 provides that the Board shall exercise general control over dispensing opticians. This cannot be done effectively without clear and concise statutes and regulations. And although the Board has had various obsolete or vague statutory and regulatory requirements repealed or amended, the Board should continue to review them for obsolescence, vagueness, and restrictiveness, and propose appropriate changes where necessary.

Recommendation No. 4

The Board should ensure that requirements are being met and adequately documented prior to licensure.

Statutory and regulatory requirements have been set up to ensure that competent individuals are being licensed. Documentation of these requirements is necessary to show that they have indeed been met.

During our examination, we reviewed several licensing files to determine if statutory and regulatory requirements were being met. Examples of what we found are as follows:

- A. Out of 12 tested, 4 did not have adequate documentation of training hours. Either the hours listed were not signed by the instructor on the application or there weren't enough hours (AS 08.71.110 and 12 AAC 30.070).
- B. For those 2 tested that were licensed by credentials, apprentice hours were not listed at all or those listed were not enough. Also there was no evidence that the applicants had ever taken the national exam either in Alaska or in another state (AS 08.71.145 and 12 AAC 30.100).
- C. One licensee's file did not have any indication of the Board's approval (AS 08.71.055).
- D. Much of the documentation consisted of photocopies and not originals. Photocopies are acceptable but they should be notarized or certified copies and not copies of notarized or certified originals since copies of notarized or certified originals are easy to falsify.

The Board has some flexibility in assuring the requirements are met. They can waive them in order to let a candidate take the exam. However, there should be no exceptions when licensing. All requirements must be met including those that may have been initially waived for the exam. The follow up on those items lacking is the Board's responsibility, and the Board should ensure requirements are being met and adequately documented prior to licensure.

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analyses indicate both positive and negative factors as they relate to the public need as defined in the "sunset" law. These analyses are not intended to be comprehensive, but to address those areas we were able to cover during our examination.

- I. The extent to which the board, commission, or program has operated in the public interest.
  - A. The Board has held meetings and exams at least two times a year.
  - B. The Board has passed regulations regarding apprentices, continuing competency, and licensure by credentials.
  - C. The Board has not had a public member since June 1982 (see Recommendation No. 2).
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.
  - A. The Board has had two vacant Board positions for two years (see Recommendation No. 2).
- III. The extent to which the board, commission, or agency has recommended statutory changes which are generally of benefit to the public interest.
  - A. The Board succeeded in having various obsolete or vague statutory requirements repealed or amended.
  - B. No statutory changes have been made since 1980.
- IV. The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.
  - A. The Board has published public notices of all examinations, meetings, and regulation changes. The Board has not actively solicited comments on its effectiveness.

- V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.
- A. The Board has published notices of its meetings in Anchorage, Fairbanks, and Juneau. However, no public participation appears to have resulted.
- VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.
- A. According to the Division of Occupational Licensing's files, there have been approximately twelve investigation cases in the past four years. Two complaints have been filed with the Consumer Protection Unit and none with the Office of the Ombudsman.
- VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.
- A. In the last six years, the number of currently licensed dispensing opticians has increased from 45 to 63.
- B. The Board has not established reciprocal agreements with other states or established statutory authority to issue temporary permits. They have established licensure by credentials which tries to address the same situation.
- VIII. The extent to which State personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.
- A. Applications for licensure require information and photographs which the Division of Equal Employment Opportunity (EEO) believes may not be necessary to determine the qualifications of the applicant.
- IX. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous section, Findings and Recommendations.

APPENDIX

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APPENDIX A

BOARD OF DISPENSING OPTICIANS  
REVENUES COMPARED WITH EXPENDITURES  
For the Fiscal Year Ended 1983  
(UNAUDITED)  
(Note 1)

Average Revenues (Note 2)	\$ 3,853
Expenditures (Note 3)	<u>4,258</u>
Excess of Expenditures over Revenues	<u>\$ (405)</u>

Schedule 1  
Types of Revenues

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>
Examination Fee	\$ 50	With application
Reexamination Fee	\$ 50	With application
Initial License Fee	\$ 50	Before licensure
Renewal Fee	\$ 200	Every four years
Late Renewal Fee	\$ 10	If over 60 days after renewal date

Note 1

This revenue/expenditure comparison was prepared from available records and discussions with Occupational Licensing personnel. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Revenues Compared with Expenditures.

Note 2

The majority of the revenues collected are composed of license renewal fees. These fees are collected by most boards once every two or four years and causes revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average for the revenues collected from 1981 to the present in order to obtain a more accurate representation of collected revenues.

Note 3

Expenditures include those made by board members, such as travel, per diem, and direct administrative expenses of the Division of Occupational Licensing. They do not include indirect administrative expenses of the Division or expenditures for efforts of other departments such as the Department of Law, assisting the boards and the Division.

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

October 4, 1984

OCT 05 1984

**LEGISLATIVE  
AUDIT**

Mr. Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit  
Pouch W  
Juneau, Alaska 99811

Dear Mr. Wilkerson:

We have reviewed your preliminary audit report on the Board of Dispensing Opticians, covering the period July 1, 1981 to June 30, 1984.

The position we expressed in response to your interim letter has not changed. We, at that time, concluded the assessment of allowing the board to terminate was accurate and would not subject the public to harm. We concurred in part to your recommendations.

Having now reviewed your preliminary audit report, we continue to maintain our position. We do not know of any reason to change.

For clarification, we will respond to each of your recommendations.

Recommendation 1

The Board of Dispensing Opticians should be allowed to terminate on June 30, 1985.

We concur with your report and endorse allowing the board to terminate on June 30, 1985. Since establishment (Chapter 45 SLA 1973), the board has licensed 60 practitioners.

We would also suggest the licensing functions by the Division of Occupational Licensing should also terminate. Citizens have other means of redress for harm, and the practitioners would still be required to have a State business license from the Department of Revenue.

Recommendation 2

The Board of Dispensing Opticians and the Office of the Governor should work together to ensure that vacant board positions are filled. Currently, the Office of the Governor is making efforts to increase communication with the boards. The staff has solicited from boards, professional associations and the general public, candidates for board appointments. Vacancy lists are published in the Administrative Journal.

We would not endorse appointing a person to a board when we are suggesting termination of the function. Although the board has not had its full membership, licenses have been issued.

Recommendation 3

The board should review existing statutes and regulations and seek appropriate revisions where necessary.

We concur with your assessment in part. The board has made efforts to change regulations and, in doing so, has developed a better working relationship with the Board of Optometry in subjects of mutual consideration.

We disagree that the board is responsible for statutes that are unnecessary. Their input is necessary, however, they have no control over forcing repeal.

Our position on temporary permits remains unchanged. We disagree that a temporary permit allows for a greater influx of qualified practitioners. Applying for licensure should be a scheduled pursuit, not when an applicant wants immediate licensure by a different set of standards. To protect the public, verification of all documentation should be made. This does take time.

Recommendation 4

The Board should ensure that requirements are being met and adequately documented prior to licensure.

We concur in this recommendation and, if the board is continued, will work with them to ensure your suggestions and the laws are followed. Our position, expressed in response to your interim letter, is still accurate.

Mr. Gerald L. Wilkerson

-3-

October 4, 1984

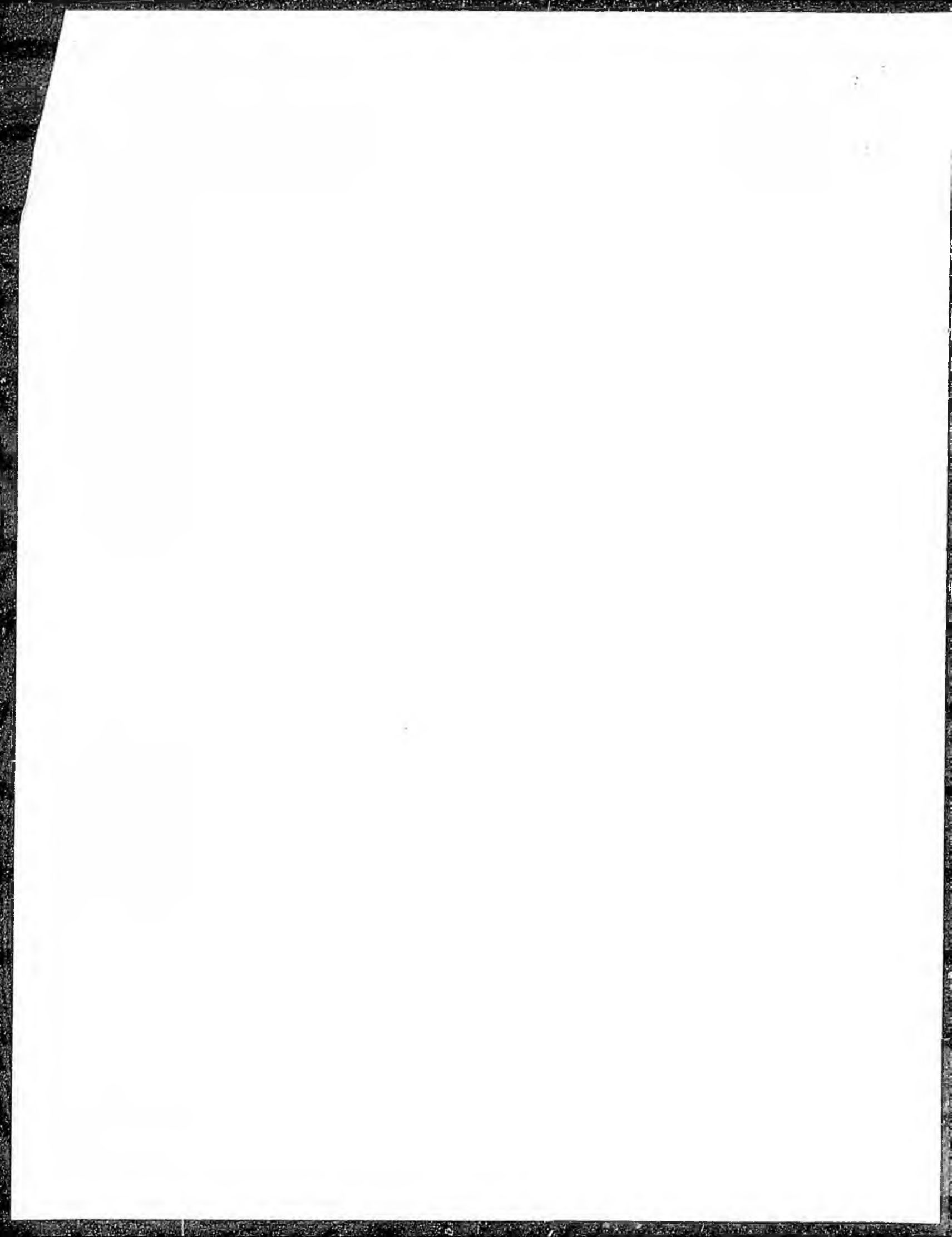
Be assured your recommendations will be endorsed to the board pending the determination of the legislative committee. We appreciate your evaluation and thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard A. Lyon', with a long horizontal stroke extending to the right.

Richard A. Lyon  
Commissioner

RAL/1t0668t  
100484b



IV. EVALUATION OF 1984 PERFORMANCE REPORT  
ON THE BOARD OF DISPENSING OPTICIANS  
AND OPTICIANS REPLY TO THE AUDIT STATEMENTS

(July 1, 1981 to June 30, 1984)

PURPOSE AND SCOPE OF THE REPORT

Purpose was to review the activities of the Board of Dispensing Opticians for the past three fiscal years to determine if the Board has been operating in an efficient and effective manner.

Major areas of examination were the licensing, examination, administration, complaint and affirmative action functions of the Board.

ORGANIZATION AND FUNCTION

The Board of Dispensing Opticians was established by the 1973 session laws of Alaska.

The Board is organized under the Department of Commerce and Economic Development, the Division of Occupational Licensing (OL). OL, through the statutes, provides the Board with licensing and investigative support.

The Board sets the minimum standards to practice in Alaska by:

1. Examining and issuing licenses to qualified applicants.
2. Establishing, amending, or eliminating regulations necessary and desirable to enforce statutes.
3. Revoking, annulling or suspending licenses in accordance with the Administrative Procedures Act when a person has violated Dispensing Opticians Statutes or regulations.

REPORT CONCLUSION

Primary purpose of a regulatory board with a licensing function is to protect the public. Report first evaluated if licensing was needed:

1. Does the unlicensed practice pose a serious risk to the consumer's life, health, safety, or economic wellbeing?
2. Can the potential users be expected to possess the knowledge needed to properly evaluate the qualifications of those offering services?

3. Do the benefits to the public clearly outweigh any potential harmful effects, such as a decrease in availability of practitioners, higher cost of services, and restriction on optimum utilization of personnel?

The report indicated that they felt the Board performed only minimum functions. Those duties that are executed by the Board include conducting meetings, reviewing applications for licensure, reviewing results of investigations and hearings and determining proper disciplinary actions. The report stated that these duties were not substantial enough to continue the Board.

The report indicated that the bulk of the work on reviewing applications for licensure was done by the licensing examiner. He or she gather the proper information and make sure that it is complete. The applications are then presented to the Board, who votes whether to approve or disapprove licensure.

Report indicates that reviewing results of investigations and determining disciplinary actions tends to be cursory. They indicated this was due to the up front work that was done by investigation units and occupational licensing and the hearing officers.

It was indicated that the only duty requiring the expertise of the Board was the preparation and grading of the state exam. The report even went so far as to say that it was not necessary to give an exam because the potential physical harm caused by an unlicensed dispensing optician is minimal to non-existent and the administration of any exam is not essential.

The report said that there were not enough duties for the Board to justify its existance. The report indicated that the expenses to maintain a board of five members to regulate 60 dispensing opticians is not economical.

DISPENSING OPTICIANS BOARDS REPLY

The Board has the following duties and powers:

To examine and issue licenses to applicants.

To renew licenses.

To hold hearings and order disciplinary sanctions against a person who violates this chapter.

To supply forms for applications licenses and other needed documents.

To keep a record of all proceedings open to the public including the name of each applicant.

To enforce the provisions of the Chapter and adopt or amend regulations necessary to make these provisions effective.

1. THE BOARD DISAGREES WITH THE REPORT'S FINDINGS

DURING THE TIME PERIOD OF THE REPORT, 1981 THROUGH 1984, THE BOARD INDICATED TO OL:

- A. THEY WOULD PREFER TO EXAMINE APPLICATIONS MORE THOROUGHLY THEMSELVES FOR THE SCHEDULED EXAM.
- B. THE BOARD INDICATED THAT THEY WANTED TO BECOME INVOLVED IN INVESTIGATIONS AND COMPLAINT PROCEDURES. BUT THE OL INDICATED TO THEM THAT THIS WAS NOT THEIR FUNCTION.
- C. AS CAN BE SEEN IN THE SUMMARY OF THE MINUTES ATTACHED, THE BOARD HAS WORKED TO MAINTAIN THE INTEGRITY AND PROFESSIONALISM OF OPTICIANRY.

THERE HAS BEEN AN ONGOING REVIEW OF STATE STATUTES AND REGULATIONS AND THE BOARD HAS ACTED TO MODIFY ANY IN CONFLICT AND TO STRIVE FOR CLARITY - INCLUDING INITIATING INCREASED CONTINUING EDUCATION/COMPETENCE HOURS, ENFORCING REGISTRATION OF APPRENTICES FOR BOTH OPTICIANS, BUT ALSO OPTOMETRISTS, OPHTHOMOLOGISTS AND PHYSICIANS. (SEE COPY OF REGULATIONS ADOPTED SINCE 1978 INVOLVING CONTINUING EDUCATION, APPRENTICESHIP REGISTRATION AND DEFINITION)

- D. THE BOARD HAS, BY REVIEW OF ITS MINUTES, WORKED DILIGENTLY TO ESTABLISH RECIPROCITY WITH OTHER STATES.
- E. THE BOARD HAS REVIEWED AND MODIFIED THE STATE PRACTICAL TEST FOR DISPENSING OPTICIANS FOR BOTH THE SPECTACLE AND THE CONTACT LENS AREA.

- F. THE BOARD HAS RESOLVED TO ADD TO THE REGULATIONS A TEMPORARY PERMIT PORTION WHICH WOULD INDICATE THAT A TEMPORARY PERMIT WOULD BE ISSUED UNDER THE FOLLOWING REASON AND NOT EXPIRE UNTIL THE NEXT BOARD MEETING AND A NEW APPLICANT IS THEN ISSUED A LICENSE - AN INDIVIDUAL WHO APPLIES FOR LICENSURE BY CREDENTIALS AND IS AWAITING BOARD APPROVAL PROVIDING HIS OR HER APPLICATION IS COMPLETE AND IN ORDER, SHALL RECEIVE A TEMPORARY PERMIT.
  - G. THE BOARD SOUGHT TO GET ALL OPTICIANS PROPERLY LICENSED BY PROVIDING AN INFORMATION PACKET TO ALL LICENSEES WHICH HAS BEEN DONE.
  - H. THE BOARD HAS WORKED DILIGENTLY WITH THE INVESTIGATIVE UNIT OF OL TO EVALUATE OPTICIANS WHO ARE NOT PRACTICING IN A LAWFUL MANNER. (THE BOARD HAS REVOKED/SUSPENDED A LICENSE IN 12/84) HOWEVER, AGAIN, THE BOARD HAS ASKED TO BECOME MORE INVOLVED IN INVESTIGATIONS AND COMPLAINT PROCEDURES.
2. The report indicated that an optician cannot cause great physical harm to an individual.

It is indicated that improper fitting of contact lenses could result in physical harm, but, the report indicated that (because the patient must go back to the licensed physician or ophthalmologist, or optometrist to "check" the fitting of the contact lenses, and because the public was adequately protected from harm due to improperly hardened lenses because the statutes require each lens to be impact resistant under specific test conditions), no licensing is necessary.

The report indicated that spectacles could cause double vision, distorted vision, and trouble with perception.

THE BOARD'S ANSWER TO THE SECOND REPORT FILING IS IN DISAGREEMENT WITH THAT FINDING.

THE BOARD FEELS THAT THE REASONS FOR INCENSURE ARE BASICALLY THREE:

- A. UNLICENSED OPTICIANS COULD CAUSE HARM AND RISK TO A CONSUMER'S LIFE, HEALTH, SAFETY, OR ECONOMIC WELL BEING.

OBVIOUSLY, AN IMPROPER FITTED CONTACT LENS CAN CAUSE CORNEA ABRASION AND DAMAGE THE VISION. SPECTACLES THAT ARE IMPROPERLY FITTED CAN CAUSE NAUSEA, BLURRING OF VISION, DIZZINESS, AND OTHER SYMPTOMS.

MANY OTHER STATES ALSO FEEL THE SAME WAY - FLORIDA FOUND THAT UNSKILLED AND INCOMPETENT OPTICIANS PRESENT A DANGER TO PUBLIC HEALTH AND SAFETY. THE LEGISLATURE FOUND, IN ADDITION, THAT IT WAS DIFFICULT FOR THE PUBLIC TO MAKE AN INFORMED CHOICE ABOUT OPTICIANS, AND THE CONSEQUENCES OF A WRONG CHOICE COULD ENDANGER HEALTH AND SAFETY.

- B. THE SECOND ARGUMENT FOR CONTINUING LICENSING IS THAT IT WAS DIFFICULT FOR THE PUBLIC TO MAKE AN INFORMED CHOICE.

AS THE CONNECTICUT LEGISLATURE INDICATED AFTER ITS SUNSET REVIEW, FINANCIAL OR PHYSICAL HARM COULD RESULT WITH UNLICENSED OPTICIANS AND IN ORDER TO PROTECT THE PUBLIC, THEY REQUIRE LICENSURE AND REGULATION OF INDIVIDUALS. CONNECTICUT ALSO RECOMMENDED THAT THE BOARD BE AUTHORIZED TO HEAR AND TO DECIDE APPEALS ON SUSPENSION, REVOCATION, OR DENIAL OF LICENSURE. THE ALASKA DISPENSING OPTICIANS BOARD ALSO WOULD SUGGEST THIS.

THE BOARD WOULD ALSO RECOMMEND THAT IT SHOULD RECEIVE AND SCREEN COMPLAINTS FOR HEARINGS AND IMPOSE DISCIPLINARY ACTION.

- C. The report indicated that twelve complaints were received by the Division of Occupational Licensing and two complaints by the Consumer Protection Agency. Most of the complaints were instigated by licensed practitioners and not the consumers, and none resulted in physical harm.

THE BOARD'S RESPONSE TO "C" ABOVE - REPORT FINDING - IN MANY CASES, IT IS THE BOARD'S OPINION, THAT COMPLAINTS HAVE NOT COME DIRECTLY TO THEM BECAUSE OF THE WAY THAT THE STATUTES AND REGULATIONS CURRENTLY EXIST. CONSUMERS WOULD CALL AND ARE TOLD TO CALL THE OFFICE OF OCCUPATIONAL LICENSING. WITH THE BOARD'S PROPOSED INVOLVEMENT IN COMPLAINTS AND INVESTIGATIONS, THIS, THE BOARD BELIEVES, WILL CHANGE.

- D. The report indicated cases where individuals were licensed without adequate documentation of statutory and regulatory requirements. It indicated that these individuals were potentially "unqualified" but, no evidence of physical harm has resulted from their practices.

THE BOARD'S RESPONSE TO FINDING "D" ABOVE WAS THE BOARD IS UNAWARE OF ANY INDIVIDUAL THAT THEY HAD OKAYED THAT HAD BEEN LICENSED WITHOUT ADEQUATE DOCUMENTATION. THE ONLY CASE THE BOARD IS AWARE OF WAS A RE-LICENSURE OKAYED TO AN UNQUALIFIED PERSON DIRECTLY BY THE DEPARTMENT. EVEN THE OLD AUDIT REPORT INDICATES THAT THE BULK OF THE WORK ON REVIEWING APPLICATIONS FOR LICENSURE IS DONE BY THE LICENSING EXAMINER, HE OR SHE GATHERS THE PROPER DOCUMENTATION AND MAKES SURE THAT IT IS COMPLETE. THIS IS THE BOARD'S ARGUMENT THAT THEY SHOULD TAKE MORE ACTION IN REVIEWING THE APPLICATIONS AND VERIFICATION THEREOF.

- E. The report indicated that contact lenses cost approximately \$500, spectacles less. It indicates that the cost to the consumer would not be severe economically.

THE BOARD'S REPLY TO FINDING NUMBER 5 IS THAT \$500 AND EVEN \$100 CAN BE VERY ECONOMICALLY DEVASTATING TO SOME FAMILIES.

THE BOARD TAKES EXCEPTION THAT THE FINDINGS INDICATED THAT THE EXISTENCE WAS "SUPERFLUOUS". MANY STATES RECOGNIZE THAT THE OPTICIAN CAN CAUSE HARM TO A PERSON, AND THAT THE PUBLIC CANNOT BE EXPECTED TO POSSESS THE KNOWLEDGE NEEDED TO PROPERLY EVALUATE THE QUALIFICATIONS WITHOUT LICENSURE. THE BOARD FEELS THAT THE BENEFITS TO THE PUBLIC CLEARLY OUTWEIGH THE POTENTIAL HARMFUL EFFECTS, AND ALSO ACT AS A COMPETITIVE EDGE IN REDUCING HIGHER COSTS.

THE BOARD DISAGREES WITH THE RECOMMENDATION THAT THEY BE ALLOWED TO TERMINATE ON JUNE 1985.

#### FINDINGS AND RECOMMENDATIONS

##### Recommendation No. 1

The Board of Dispensing Opticians should be allowed to terminate on June 30, 1985.

1. Recommendation No. 1 and the Board's response is covered in the FINDING section of this summary. Under Recommendation No. 1, the audit indicated that if the Board was not terminated and some control is desired, that the dispensing opticians should be combined with the Board of Optometry.

THE BOARD'S RESPONSE TO BEING COMBINED WITH THE BOARD OF OPTOMETRY IS THAT IT IS AN ILLOGICAL STEP. OPTOMETRISTS DO NOT NEED TO PASS THE SAME EXAMS OR DO NOT REQUIRE THE SAME REVIEW AS OPTICIANS. AND "COMBINING THE BOARD OF OPTOMETRY AND THE DISPENSING OPTICIANS" WOULD RESULT IN BASICALLY TWO BOARDS IN EXISTENCE, BUT ONLY BEING CALLED ONE BOARD. THERE IS ADEQUATE AND SUBSTANTIAL PROOF THAT MANY OF THE OPTOMETRISTS WOULD PREFER THAT OPTICIANS NOT BE ALLOWED TO FIT CONTACT LENSES. THE BOARD OF DISPENSING OPTICIANS FEEL THAT BY COMBINING THE BOARD OF DISPENSING OPTICIANS WITH THAT OF THE BOARD OF OPTOMETRISTS, AUTONOMY AND THEIR RIGHT GAINED THROUGH EDUCATION, AND EXPERIENCE TO FIT CONTACT LENSES WILL BE IN JEOPARDY. IN ADDITION, THE OPTICIANS DO NOT FEEL COMFORTABLE COMBINING BOARDS BECAUSE OF SOME ANTI-TRUST "VIOLATIONS" IN THE OPTOMETRY STATUTES, WHICH THE OPTOMETRISTS ARE NOT WORKING TO HAVE REVERSED. THE BOARD STRONGLY FEELS THAT THERE ARE TWO QUESTIONS INVOLVED. (SEE FINDINGS AND RECOMMENDATIONS - OPTOMETRISTS AUDIT 1983.)

- a. SHOULD THE BOARD BE ALLOWED TO CONTINUE TO EXIST. YES, ACCORDING TO ALL OF THE TERMS OF LICENSURE - THEY COULD HARM THE PUBLIC, THE PUBLIC DOES NOT POSSESS KNOWLEDGE TO EVALUATE QUALIFICATIONS OF THOSE OFFERING SERVICE, AND THE BENEFITS TO THE PUBLIC OUTWEIGH THE HARMFUL EFFECTS.

- b. IF THEY ARE ALLOWED TO EXIST, SHOULD THEY BE COMBINED WITH THE OPTOMETRIC BOARD. THE BOARD FEELS ABSOLUTELY NOT. THEIR AUTONOMY STRENGTHENS THE BENEFITS TO THE PUBLIC, BY ALLOWING THE PUBLIC A CHOICE OF WHO TO GO TO TO HAVE THEIR SPECTACLES OR CONTACT LENSES FIT, AND OPTICIANS OFFER COMPETITIVE ALTERNATIVES TO HAVING PRESCRIPTIONS FILLED BY OPTOMETRISTS OR OPTHOMOLOGISTS.

Recommendation No. 2

The Board of Dispensing Opticians and the Office of the Governor should work together to insure that vacant positions are filled.

The report indicates that there are conflicting stories from the Office of the Governor and the Board Members regarding the lack of recommendations for Board appointments. It indicates that there is some dispute as to whether any recommendations have been made in the past, as there has been no acknowledgement of receipt by the Office of the Governor.

THE BOARD'S RESPONSE IS THAT THEY HAD REQUESTED, INITIALLY IN GOVERNOR SHEFFIELD'S FIRST TERM, TO HAVE BOARD POSITIONS FILLED. THE GOVERNOR'S OFFICE HAD TOLD THEM "GIVE US A YEAR TO GET THINGS IN ORDER AND THEN WE WILL FILL THEM". THIS NEVER HAPPENED, EVEN WITH NUMEROUS RECOMMENDATIONS SENT IN. IT IS INTERESTING TO NOTE THAT NOW TWO NEW APPOINTMENTS HAVE BEEN MADE, THE BOARD INTERPRETS THIS AS AN UNSTATED RECOMMENDATION FOR CONTINUATION OF THE BOARD. RICHARD LYON, FORMER COMMISSIONER OF THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT, INDICATED "WE WOULD NOT ENDORSE APPOINTING A PERSON TO A BOARD WHEN WE ARE SUGGESTING TERMINATION OF THE FUNCTION".

Recommendation No. 3

The Board should review existing statutes and regulations and seek appropriate revision where necessary.

The report indicates that during examination, they reviewed the Board's and regulations and found the following:

- a. Competency requirements were based on bi-annual licensing and since since the profession has changed to quadrannal licensing without a compensating change in the continuing competency requirements.

THE BOARD'S RESPONSE IS THAT THEY HAD TRIED LAST LEGISLATIVE SESSION TO HAVE THE DISCREPANCY CORRECTED. IT WAS NOT DONE BECAUSE OF THE TIME SITUATION, BUT WILL BE ACCOMPLISHED THIS SESSION.

- b. The report indicates that it allows the state to license by reciprocity. None of the other 20 states will grant Alaska these rights. Since licensure by credentials accomplishes the same purpose, the statute is not necessary.

THE BOARD'S REPLY THAT LICENSURE BY CREDENTIAL DOES BASICALLY ACCOMPLISH THE SAME THING AS RECIPROCITY. THE REASON THAT RECIPROCITY HAS NOT BEEN GRANTED TO ALASKA IS BECAUSE, IN MANY INSTANCES, THE REQUIREMENTS ARE DIFFERENT THAN THOSE THAT ALASKA INDICATES THE BOARD STILL FEELS THAT THEY SHOULD WORK FOR RECIPROCITY, WITH THE GOAL BEING TO MAKE UNIFORM THE REQUIREMENTS NATIONWIDE FOR OPTICIANS LICENSURE.

- c. The report indicates that a statute that sets out dispensing optician's constraints for issuing contact lenses, and that the language used was not specific enough and needed to be defined further.

THE BOARD'S RESPONSE TO ITEM "C", IS THAT THE CONTACT LENSES ARE FITTED UNDER THE SUPERVISION OF A LICENSED PHYSICIAN AND OPTOMETRIST SINCE THE PATIENT IS REQUIRED TO GO BACK FOR CHECKUPS TO THE PHYSICIAN OR OPTOMETRIST.

THE BOARD AGREES WITH THE REPORT THAT ANY CHANGES SHOULD NOT BE TO MAKE IT MORE RESTRICTIVE.

- a. The Board still has not received statutory authority, so the report indicates, to issue temporary permits.

THE BOARD'S RESPONSE IS THAT THEY HAVE DILIGENTLY WORKED AS CAN BE VERIFIED BY A REVIEW OF THE MINUTES OF THE MEETINGS, TO ISSUE TEMPORARY PERMITS BY REGULATION. THIS WOULD, HOWEVER, REQUIRE LEGISLATIVE ACTION, AND THE BOARD WILL WORK ON THIS IN THE NEXT LEGISLATIVE SESSION.

#### Recommendation No. 4

The Board should insure that requirements are being met and adequately documented prior to licensure. Examples of what were found indicated in the report to be inadequate documentation of training hours and in some cases, apprentice hours not listed on some license by credentials, when licensees file did not have any indication of the Board's approval (this is the one that the OL office did without running past the Board), and much of the documentation consisted of photo copies that were not notarized.

THE BOARD'S RESPONSE TO RECOMMENDATION NO. 4 IS THAT VERIFICATION IS EXTREMELY IMPORTANT FOR LICENSURE. AGAIN, THE REPORT INDICATED THAT THE LICENSING EXAMINER GATHERS THE PROPER DOCUMENTATION FOR LICENSURE AND MAKES SURE IT IS COMPLETE. THE BOARD DOES DISAGREE WITH THIS PRACTICE AND WOULD RECOMMEND THAT THE BOARD TAKE MORE RESPONSIBILITY FOR VERIFICATION.

## ANALYSIS OF PUBLIC NEED

1. The extent to which the Board, commission or program has operated in the public interest:

THE BOARD HAS HELD MEETINGS AND EXAMS AT LEAST TWO TIMES PER YEAR.

THE BOARD HAS PASSED REGULATIONS REGARDING APPRENTICES CONTINUING COMPETENCY AND LICENSURE BY CREDENTIALS.

THE BOARD HAS NOT HAD A PUBLIC MEMBER SINCE JUNE 1982 (THE BOARD'S RESPONSE IS THAT THEY HAVE REQUESTED APPOINTMENTS MANY TIMES. TWO APPOINTMENTS WERE JUST MADE 12/84)

2. Extent to which the operation of the Board, Commission or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, in any other matter, including budgetary, resource, and personal matters.

THE BOARD HAS HAD TWO VACANT BOARD POSITIONS FOR TWO YEARS. (THE BOARD'S RESPONSE IS THAT THEY HAVE REQUESTED MANY TIMES FOR BOARD APPOINTMENTS AND HAVE MADE RECOMMENDATIONS.)

3. The extent to which the Board, Commission or agency has recommended statutory changes which are generally of benefit to the public interest.

THE BOARD SUCCEEDED IN HAVING VARIOUS OBSOLETE OR VAGUE STATUTORY REQUIREMENTS REPEALED OR AMENDED.

NO STATUTORY CHANGES HAVE BEEN MADE SINCE 1980. (THE BOARD'S RESPONSES ABOVE ARE THEY HAVE HAD MANY REGULATORY CHANGES, AND STATUTORY CHANGES TO ELIMINATE ANY CONFLICT AND WILL BE WORKED ON IN THE 1985 LEGISLATIVE SESSION. IT ALSO SHOULD BE NOTED THAT THEY HAD ATTEMPTED STATUTORY CHANGE FOR THE CONTINUING EDUCATION REQUIREMENT LAST SESSION, BUT BECAUSE OF THE TIME RESTRAINTS, IT DID NOT MAKE IT THROUGH THE SESSION.)

4. The extent to which the Board, Commission or agency has encouraged interested people to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

The Board has published public notices of all examinations, meetings, and regulation changes. The Board has not actively solicited comments on its effectiveness.

THE BOARD'S RESPONSE IS THAT IT WILL MORE ACTIVELY SOLICIT COMMENTS FROM BOTH OPTICIANS AND THE GENERAL PUBLIC IN THE FUTURE, AND RECOGNIZES THAT THIS IS AN ESSENTIAL PART OF ITS EXISTENCE.

5. The extent to which the Board, Commission or agency has encouraged public participation in the making of its regulations and decisions.

THE BOARD HAS PUBLISHED NOTICES OF ITS MEETINGS IN ANCHORAGE, FAIRBANKS, AND JUNEAU. NO PUBLIC PARTICIPATION APPEARS TO HAVE RESULTED.

6. The efficiency with public inquiries or complaints regarding the activity of the Board, commission, or agency filed with the department to which a board or commission is administratively assigned, or with the Office of the Omsbudsman have been processed and resolved.

ACCORDING TO THE OL FILES, THERE HAVE BEEN APPROXIMATELY 12 INVESTIGATIONS IN THE PAST FOUR YEARS. TWO COMPLAINTS WERE FILED WITH THE CONSUMER PROTECTION AGENCY, AND NONE WITH THE OFFICE OF THE OMSBUDSMAN.

7. The extent to which a board, commission or agency which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

In the last 6 years the number of currently licensed dispensing opticians has increased from 45 to 63.

The board has not established reciprocal agreements with other states or established statutory authority to issue temporary permits. They have established licensure by credentials which tries to address the same situation.

THE BOARD'S RESPONSE IS THAT THEY HAVE BEEN WORKING TO ESTABLISH RECIPROCAL AGREEMENTS, BUT THE LACK OF UNIFORMITY NATIONWIDE ON REQUIREMENTS FOR LICENSURE HAS MADE THIS DIFFICULT. THE BOARD SETS AS ONE OF ITS MAIN GOALS TO CONTINUE TO WORK FOR RECIPROCITY.

8. The extent to which State personnel practices, including affirmative action, requirements have been complied with by the Board, commission or agency, to its own activity in the area of activity or interest.

Application for licensure require information and photographs with the Division of Equal Employment Opportunity (EEO) believe may not be necessary to determine the qualifications of the applicant.

BOARD'S RESPONSE IS THAT THEY AGREE WITH THIS DECISION, AND THEY WILL WORK TO CHANGE ANY INEQUITIES WHICH ARE IN EXISTENCE.

9. The extent to which a statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and comply with the factors enumerated in this subsection.

- A. THE BOARD'S RESPONSE - THE BOARD SHOULD BE ALLOWED TO CONTINUE TO EXIST AUTONOMOUSLY, AND NOT AS A SUBSIDIARY OF THE OPTICIANS BOARD. THE AUTONOMY STRENGTHENS THE BENEFITS TO THE PUBLIC, BY ALLOWING THE PUBLIC A CHOICE OF WHO TO GO TO TO HAVE THEIR SPECTACLES OR CONTACT LENSES FIT AND OPTICIANS OFFER COMPETITIVE ALTERNATIVES TO HAVING PRESCRIPTIONS FILLED BY OPTOMETRISTS OR OPHTHOMOLOGISTS. IN ADDITION, THE OPTICIANS ARE NOT COMFORTABLE WITH MANY OF THE ANTI-TRUST VIOLATIONS CURRENTLY FOUND IN THE OPTOMETRISTS STATUTES.
- B. THE BOARD IS COMMITTED TO MAKING RECOMMENDATIONS FOR BOARD VACANCY APPOINTMENTS AS SOON AS POSSIBLE AND WILL WORK DILIGENTLY WITH THE GOVERNOR'S OFFICE TO MAKE SURE THESE APPOINTMENTS OCCUR.
- C. THE BOARD WILL BE WORKING THIS LEGISLATIVE SESSION TO INCREASE THE NUMBER OF CONTINUING EDUCATION HOURS REQUIRED TO 60 HOURS. (THIS WAS A DISCREPANCY AND AN ERROR, NOT CHANGED LAST LEGISLATIVE SESSION)
- D. THE BOARD WILL CONTINUE TO WORK FOR RECIPROCITY WITH THE GOAL BEING TO MAKE UNIFORM THE REQUIREMENTS NATIONWIDE FOR OPTICIANS LICENSURE.
- E. THE BOARD WILL WORK TOWARDS ISSUING TEMPORARY PERMITS BY LEGISLATIVE ACTION.  
  
THE BOARD WILL TAKE MORE RESPONSIBILITY FOR VERIFICATION OF APPLICATIONS FOR LICENSURE BY CREDENTIALS.
- F. THE BOARD HAS SET GOALS AND PLANS FOR THE NEXT YEAR FOR THE BOARD OF DISPENSING OPTICIANS AND WILL WORK TOWARDS THEIR ACCOMPLISHMENTS.
- G. THE BOARD HAS INDICATED STATUTE CHANGES WHICH ARE NEEDED DURING THIS LEGISLATIVE SESSION AND WILL WORK TOWARDS CLARIFYING AND SIMPLIFYING THE CURRENT STATUTES, AND INCORPORATING ADDITIONAL NEEDED STATUTES.

APPENDIX A

REVENUES COMPARED WITH EXPENDITURES

The excess of expenditures over revenues was \$405.

The Board would recommend that for any anticipated negatives, the renewal fees should be increased.

\*  
NOTE: The negative of (\$27,999) for the optometric Board versus the Opticians Board.

Offered: 3/19/85  
Referred: Finance

Original sponsors: Ray, Rodey,  
Josephson, et al

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

2

CS FOR SENATE BILL NO. 167 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to dispensing opticians and optome-  
7 trists; and providing for an effective date."

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

9 \* Section 1. AS 08.03.010(c)(5) is amended to read:

10 (5) Board of Dispensing Opticians (AS 08.71.010) --  
11 June 30, 1986 [1985].

12 \* Sec. 2. AS 08.71.120 is amended to read:

13 Sec. 08.71.120. FEES. The following fees shall be imposed under  
14 this chapter when applicable:

15 (1) examination fee ..... \$175 [\$ 50]

16 (2) initial dispensing optician license fee .... 350 [ 50]

17 (3) renewal fee, due every four years ..... 500 [ 200]

18 \* Sec. 3. AS 08.71.120 is repealed and reenacted to read:

19 Sec. 08.71.120. FEES. The department shall set fees under  
20 AS 08.01.080 for examination, initial license, and license renewal.  
21 In setting the amount of the fees the department shall reflect, to the  
22 extent possible, the actual costs to the department of the activity  
23 for which the fee is charged. The department may not set a fee unless  
24 the board concurs.

25 \* Sec. 4. AS 08.71.130(d) is amended to read:

26 (d) Before a license may be renewed the licensee shall submit to  
27 the board evidence of 30 [15] hours of continuing competence in opti-  
28 cal dispensing as prescribed by regulations of the board.

29 \* Sec. 5. AS 08.71 is amended by adding a new section to read:

1           Sec. 08.71.147. TEMPORARY PERMIT. The board may issue a tempo-  
2           rary permit to an applicant who has submitted a completed application  
3           for licensure under AS 08.71.145.

4       \* Sec. 6. (a) The governor shall appoint a six-member working group to  
5 consider and make recommendations on the consolidation of the Board of  
6 Dispensing Opticians and the Board of Optometric Examiners. Membership on  
7 the working group includes one representative from the Board of Dispensing  
8 Opticians, one representative from the Board of Optometric Examiners, one  
9 representative from the Department of Commerce and Economic Development,  
10 one representative from the civil division of the Department of Law, one  
11 licensed optometrist, and one licensed optician.

12       (b) The working group shall report its recommendations to the legis-  
13 lature by January 15, 1986.

14       \* Sec. 7. Section 6 of this Act is repealed.

15       \* Sec. 8. Sections 3 and 7 of this Act take effect July 1, 1986.

16       \* Sec. 9. Sections 1 - 2 and 4 - 6 of this Act take effect immediately  
17 in accordance with AS 01.10.070(c).