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Official Business

Alaska State Legislature

Senate

file SB 167
MAR 12 1985

Pouch V
State Capitol
Juneau, Alaska 99811

March 8, 1985

Senator Bettye Fahrenkamp, Chairperson
Health, Education & Social Services Committee
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 167 (Relating to
dispensing opticians)

Dear Senator Fahrenkamp:

The above-captioned bill, of which I am prime sponsor, is scheduled for a hearing Wednesday, March 13 in the Senate Labor & Commerce Committee. I do not anticipate any problem with the bill moving out of that committee on the 13th to your committee, which is the next committee of referral.

I would like to respectfully request that the bill be scheduled for a hearing by you as soon as possible in order to assure passage of it by both houses by session's end. There is a great deal of interest in passage of the legislation by opticians, of course, as the Board of Opticians will sunset June 30, 1985, if the bill does not pass this session.

Thank you for your consideration in this matter.

Sincerely,

Bill Ray
Senator Bill Ray

teleconference

Lynne Sloan

INTRODUCTION

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1985 LEGISLATIVE SESSION

ALASKA OPTICIANS ASSOCIATION
BOARD OF DISPENSING OPTICIANS

BACKGROUND INFORMATION

GENERAL

BOARD: Board of Dispensing Opticians - Alaska

ESTABLISHED: 1973

LEGAL CITATION: Dispensing Optician Statutes AS 08.71.010 -
AS 08.71.240

Dispensing Opticians Regulations 12 AAC 30.010 -
12 AAC 30.910

TYPE STATUTE: "A person may not act as a dispensing optician
in the state unless the person is licensed
under this chapter".

LAST MAJOR REWRITE: Consistently amended since 1978

BOARD COMPOSITION: 5 members: 4 licensed opticians and 1 member at
large. Members appointed by Governor from list
of names submitted by Board of Dispensing
Opticians of Alaska.

TERM: Members serve staggered terms of 4 years which
shall be set so that they do not expire at the
same time. Vacancies on the Board are filled
for the unexpired term. A person who has
served 2 successive complete terms may not be
reappointed until 4 years from the expiration
of the second term.

BOARD MEMBERS AND
OFFICERS:

1. Robin Issbel
Optical Dispensers of Alaska
333 West 4th Avenue
Anchorage, Alaska 99501
2. Ed Brochelsby
North Pole Optical
Box 55309
#2 Santa Claus Lane
North Pole, Alaska 99705
3. "Member at Large" - Vacant

4. William Reedy
Frontier Optical
Mile 14, Old Glenn Highway
Eagle River, Alaska 99645

5. Sharla Thomas
Lyon Optical
Anchorage, Alaska 99508

MEETINGS: 2 meetings this calendar year, 3 meetings 1983
calendar year.

REPORTS: Sent by Board to Office of Occupational
Licensing, Department of Commerce and Economic
Development. Annual Reports filed with the
Office of Occupational Licensing, Department of
Commerce and Economic Development.

OVERSIGHT AGENCIES: Legislative oversight agency

LICENSING PROFILE:

A license shall be issued for (1) the dispensing of contact lenses
or (2) the dispensing of other lenses, eyeglasses, spectacles,
artificial eyes, and their purchases or both. The Board shall, by
endorsement on the license designate for which aspect of dispensing
opticianry, the license is issued.

<u>FISCAL YEARS</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>
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QUALIFYING EXAMINATIONS:

Applications for Examinations

Examination Administered

Failure Rate (%)

LICENSES ISSUED BY EXAMINATION:

LICENSES ISSUED BY CREDENTIALS:

LICENSES RENEWED:

TOTAL NUMBER OF LICENSED
PRACTITIONERS:

LICENSURE
QUALIFICATIONS

A person is entitled to take the exam who has either completed at least 6,000 hours of training as an apprentice, or has been engaged at least 6,000 hours as a practicing optician in good standing in the state, territory, district or possession of the United States, and has paid the required examination fee.

Board will attempt to get passed in the 1985 session that formal, fulltime education in the field of optics at a rate of 2,000 hours per college year or a fraction thereof, is to be applied to the 6,000 hours required for examination.

Licensure by credentials - a person with a valid license that is a dispensing optician from another state shall be issued a license without examination for those professional areas in which the person is licensed upon payment of any fee and documentation which the Board may require.

DURATION OF
REGISTRATION:

Renewal is required every four years for each licensed optician. Registered apprentices are registered for a six year period, and must then take the opticians exam.

TYPE AND FREQUENCY
OF THE EXAM:

Exam is held at least once a year, for any number of people; after the exam is held once a year, it is held any number of times a year when there are at least 3 people waiting to take the exam.

There are two parts of the exam:

1. For Contact Lenses

National Contact Lense Registry Exam and Practical Exam prepared by the Board.

2. Spectacles

National Opticianry Competency Exam and Practical Exam prepared by the Board

APPRENTICES:

A person may be employed by a licensed dispensing optician as an apprentice and an apprentice shall be designated as such in the records of the Board at the request of a licensed physician, optometrist or dispensing optician, and shall be in training under the supervision of the physician, optometrist, or dispensing optician. No apprentice may be employed longer than 6 years. No more than 2 apprentices may be under the supervision of one licensed dispensing optician.

CLASSIFICATIONS:

Dispensing opticians (license), apprenticeship registration.

AVENUES:

Exam, licensing by credentials, reciprocity.

RENEWAL
REQUIREMENTS:

Licensed opticians are required to take courses or submit to the Board evidence of 30 hours of continuing competence and optical dispensing for the four year period. (This will be attempted to be increased to 60 hours through statute change in the 1985 legislative session.)

Maximum credit hours allowed are:

1. Six credit hours in a specialty for which a licensee is not presently licensed.
2. Six credit hours of business management.
3. 1/4 hour credit from a college or university course directly related to optics, anatomy, or physiology of the eye, constitutes 10 hours of continuing competency.
4. One semester hour or academic credit from a college or university related to optics, anatomy, or physiology, constitutes 15 hours of continuing competency.

PROHIBITED CONDUCT:

Board may revoke or suspend the license when the Board finds, after hearing that the license has been secured through deceit; the optician has engaged in deceit, fraud, or intentional misrepresentation; the optician has advertised professional services in a false or misleading manner; the optician has been convicted of a crime which affects the licensee's ability to continue to practice competently and safely;

the optician intentionally or negligently engaged or permitted in the performance of patient care by persons under the licensee's supervision which does not conform to minimum professional standards regardless of whether actual injury occurred; the optician continued to practice after becoming unfit due to professional incompetence, addiction or severe dependence on alcohol or other drugs, or physical or mental disability; the optician engaged in lewd or immoral conduct in connection with the delivery of professional service to patients; the optician participated in the division, assignment, rebate, or refund of fees to a physician or optometrist in consideration of patient referrals.

COMPLAINT
PROCEDURE:

If Board receives written complaint, the complaint goes directly to the Office of Occupational Licensing. Some complaints are received directly to the OL. Board has been told that they are not to participate in complaint procedures or in investigation procedures. Investigator from OL makes report to Board after investigation, and decision is reached on what to do with the questioned person.

FINANCIAL:

FEE:

Examination Fee - \$50.00

Initial Dispensing Optician License Fee - \$50.00

Renewal Fee (due every 4 years) - \$200.00

I. DEFINITION ON WHEN LICENSURE IS NECESSARY
REASONS FOR LICENSURE

1. Licensure is necessary when a group of people or profession can pose a serious risk to safety, economic well being, or health. The question that needs to be asked is will the absense of regulation significantly harm or endanger the public health, safety or welfare?
2. Licensure is necessary when potential users cannot pass judgement or evaluate the qualifications of the group involved. The question that needs to be asked is can the public adequately evaluate the competency of people if they are not licensed?
3. Licensure is necessary when the benefits to the public outweigh harmful effects. The question are all facets of the regulatory process designed solely for the purpose, and have as their primary effect, protection of the public?

Opticians can pose a serious risk to safety, health and economic wellbeing through the incorrect fitting of contact lenses or spectacles. The general public cannot evaluate the qualifications of the people involved unless they are licensed. The benefits to the public definitely outweigh the harmful effects of having unlicensed people serve as opticians.

Board establishes minimum educational requirements and assurances that people licensed are qualified. Those assurances are provided by active investigation of complaints and revocation or suspension of licenses (i.e., license just suspended of unqualified individual).

REASONS FOR LICENSURE

1. Statutory recognition at the state level is needed to help insure survival of independent dispensing opticians' competitive element in the nation's eye care delivery system for the long term best interests of the consumer. By openly competing among themselves, as well as with ophthalmologists and optometrists who also dispense eyeglasses and contact lenses, opticians perform an extremely important function in the market place for corrective eyewear. Their presence in the market place adds competitive factors and incentives for both quality and cost control that directly benefit wearers of prescription eyeglasses and contact lenses.
2. Equally important from consumer's point of view is the need for a public recognizable means of insuring that competing providers have necessary qualifications to dispense eyeglasses and/or contact lenses safely and effectively.
3. State licensing serves as a vital function of assuring consumers that providers have prerequisite knowledge and skill and offer additional protection by establishing formal procedures for redress of grievances and resolution of complaints by optical products and dispensing services.
4. Alaskans are entitled to reasonable assurances that dispensing opticians will be qualified by training and/or experience to fill prescriptions for corrective eyewear properly and efficiently.
5. Ophthalmologists and optometrists who release their prescriptions are entitled to assurances that the finished pair of eyeglasses, as well contact lenses dispensed by opticians will obtain the prescribed optical correction.
6. Qualified dispensing opticians will be protected from unwarranted interference from optometry and undue infringement by persons who lack the qualifications needed to dispense safely and effectively.

Sunset Legislation establishes a fixed timetable for abolishing certain boards and commissions unless the legislature specifically authorizes their continued existence. Shortly before the Sunset is scheduled to go down on affected bodies, the Board must demonstrate to the Legislature that a need for the type of regulation they provide continues to exist and that they are operating efficiently, effectively, openly and in the public interests.

Since its inception, the Opticians Association of America and the Opticians Association Board of Alaska have been working to strengthen the qualifications of Ophthalmic dispensers as well as to obtain that measure of legal recognition needed to protect dispensers from unco interference and infringements in states that do not license opticians.

1. The OAA and the Opticians Board of Alaska believes that dispensers of eyeglasses and contact lenses should be required to meet uniform, national standards of competence and that dispensers who do so should be recognized at the National and State levels. OAA has already completed detailed task analysis study designed to identify and describe the specific tasks that together constitute the optical dispensing function.
2. OAA has assembled model licensing to assist state associations that plan to introduce licensing legislation.

II. REVIEW OF 1978 AUDIT AND RESPONSES FROM DISPENSING BOARD OF OPTICIANS

This is a summary of the findings of the 1978 audit, and also what the Board of Dispensing Opticians responses have been and what has been done since 1978, up to the current review to alleviate any problems suggested in the 1978 review.

The Report indicated that the review had been hampered by the following constraints.

1. The Board had not established and reported financial and program plans, nor had it developed or reported performance information.
2. The Office of Licensing had not adequately collected recorded and maintained pertinent files and statistics relating to the Board to effectively and efficiently carry out its administrative responsibilities.
3. Both the Board and the Office of Licensing had "fallen down on the job".

Organization and Function

Board of Dispensing Opticians was established by the 1973 Session Laws of Alaska. 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. Licensing section processes application, maintain licenses files, answers inquiries and provides other administrative help to the Board.

The Board has authority to examine and issue licenses to qualified applicants, establish or amend rules and regulations when necessary and to enforce statutes, hold hearings to revoke, suspend or deny the license of the person violating the Optician statutes and regulations.

Report Conclusion

1. Report concluded that Board had not operated in an effective manner and continuation of the Board and the licensing of the profession was not necessary to protect the public's health, safety and welfare.

THE BOARD HAS, SINCE 1978, HELD REGULAR MEETINGS, AND HAS OPERATED IN AN EFFECTIVE MANNER, BOTH WITH THE TAKING OF MINUTES AND WITH BUDGET REPORTS.

IT IS THE OPINION OF THE OPTICIANS, MANY OPHTHOMOLOGISTS, AND SOME OPTOMETRISTS, THAT THE LICENSING OF THE PROFESSION IS INDEED NECESSARY TO PROTECT THE PUBLIC'S HEALTH, SAFETY AND WELFARE. THERE CAN BE NO DOUBT THAT INCORRECT FITTING OF A CONTACT LENS CAN DAMAGE THE CORNEA AND CONSEQUENTLY A PERSON'S HEALTH. IN ADDITION, THE SPECTACLES, IF INCORRECTLY FITTED, CAN CAUSE NAUSEA, DIZZINESS, FAINTING, AND PERHAPS ACCIDENTS. THE JUSTIFICATION FOR THE OPTICIANS BEING LICENSED IS JUST AS PERTINENT AS THE LICENSING OF BEAUTICIANS AND BARBERS. AND A BOARD IS ESSENTIAL TO REGULATE THE LICENSED OPTICIANS.

2. The finding was that the Board had not enforced the dispensing optician law.

THE BOARD HAS TAKEN AN ACTIVE STAND IN ENFORCING THE DISPENSING OPTICIANS LAW. THEY HAVE TAKEN THE INITIATIVE, SINCE THE 1978 REPORT, ON WORKING TO ESTABLISHING RECIPROCITY WITH OTHER STATES, ON ESTABLISHING AN INCREASED NUMBER OF HOURS NECESSARY FOR CONTINUING EDUCATION, ON EVALUATION AND THE DETERMINATION OF APPRENTICESHIP STATUS, ON DEFINING SUPERVISION, ON PROPOSING AND ACCEPTING NUMEROUS CHANGES IN THE REGULATIONS TO ENHANCE THE PROFESSIONALISM OF THE OPTICIANS ASSOCIATION, HAVE ASKED TO BECOME MORE INVOLVED IN THE INVESTIGATIONS (BUT HAVE BEEN TOLD BY THE OL OFFICE THAT THIS IS NOT ALLOWED), AND HAVE RECOMMENDED THE ADOPTION LEGISLATION ALLOWING TEMPORARY PERMITS, WHERE ONE PERSON HAS BEEN A PRACTICING OPTICIAN IN ANOTHER STATE

3. The report indicated that the Board had no guidance concerning license violations.

THE BOARD FEELS VERY STYMIED IN MANY CASES. THEY WOULD LIKE TO TAKE MORE INITIATIVE IN LICENSE VIOLATIONS AND INVESTIGATIONS AND BE ALLOWED "FROM THE BEGINNING", BUT HAVE BEEN TOLD BY OL THAT THEY ARE NOT ALLOWED. THE BOARD WOULD PROPOSE TO HANDLE THIS WITH CHANGES IN THE STATUTES. (SEE GOALS FOR CONTINUATION OF OPTICIANS ASSOCIATION 1984).

Findings and Recommendations

Recommendation No. 1

In 1978, it was recommended that the Board of Dispensing Opticians should be allowed to terminate on June 30, 1979. The Board agrees that the primary purpose is to protect the public through regulation of licensure, licensure is necessary when:

- a. Unlicensed practice of an occupation poses a serious risk to consumer's life, health, safety, or economic wellbeing.
- b. Potential users of the occupational service can not be expected to possess the knowledge needed to properly evaluate the qualifications of those offering services.
- c. Benefits to the public clearly outweigh any potential harmful effects such as decrease in availability of practitioners or higher costs of goods and services.

THE BOARD RESPONDED TO THE ABOVE IN THE FOLLOWING MANNER:

1. OPTICIANS CAN CAUSE HARM WITH THE IMPROPER FITTING OF CONTACT LENSES.
2. OPTICIANS CAN CAUSE, WITH IMPROPER DISPENSING OF PRESCRIPTIONS, CONDITIONS SUCH AS DOUBLE VISION, DISTORTED VISION, TROUBLE WITH DEPTH PERCEPTION, NAUSEA, ILLNESS.

It was noted that majority of ophthalmologists (9 out of 11 questioned) stated that they felt opticians should be licensed for the following reasons:

1. To protect the public against unethical and unscrupulous opticians and financial loss.
2. To insure proper lense prescription and fitting.
3. Licensure will hopefully provide qualified opticians.

It was the opinion of the audit that the reasons sighted above by ophthalmologists were not essential to protect the public. The Board disagrees with this.

THE BOARD ALSO DISAGREES WITH THE FACT THAT THEY CAN NOT CAUSE ECONOMIC HARM, AS BOTH GLASSES AND CONTACT LENSES COST \$100 - 500.

The results then indicated that, if the Board was not terminated, the following recommendations should be considered. The Board has indeed considered these from 1978 to 1984, and has acted.

Recommendation No. 2

The Board, in conjunction with OL, should study the problem of licensing violations by certain opticians and take appropriate action to enforce the law.

THE BOARD HAS STUDIED THE PROBLEM OF LICENSING VIOLATIONS. THE BOARD HAS WORKED VERY CLOSELY WITH OL IN THE INVESTIGATIVE UNIT. AS YOU CAN TELL FROM A SUMMARY OF THE MINUTES OF 1978 THROUGH 1984, THE BOARD HAS MANY TIMES ASKED TO BECOME MORE INVOLVED IN LICENSING VIOLATIONS. IT HAS BEEN NOT BEEN ALLOWED TO PARTICIPATE AS OL DOES THE INVESTIGATIVE WORK.

THE BOARD HAS WORKED HARD TO REGULATE THE PROFESSION, BY WORKING ON RECIPROCITY, CONTINUING EDUCATION, DEFINITION OF APPRENTICES, AND SUGGESTING TEMPORARY PERMITS. THE BOARD HAS, IN MANY AREAS, INITIATED REGULATORY CHANGES THAT WOULD BENEFIT THE PUBLIC.

Recommendation No. 3

The Board should prescribe and adopt regulations necessary for the enforcement of the laws of the State of Alaska.

THE BOARD HAS, AS A REVIEW OF THE MINUTES OF MEETINGS FROM 1978 TO 1984 SHOWS, PRESCRIBED AND ADOPTED REGULATIONS NECESSARY FOR THE ENFORCEMENT OF THE DISPENSING OPTICIANS STATUTES OF THE STATE OF ALASKA. REGULATIONS HAVE BEEN PASSED BY THE BOARD SINCE 1978. THIS IS, INDEED, AN EFFORT BY THE BOARD TO ADOPT THE REGULATIONS NECESSARY FOR THE ENFORCEMENT OF THE LAWS OF THE STATE OF ALASKA AND TO BENEFIT THE PUBLIC.

The report indicated that regulations were needed in the following areas:

- a. Dispensing optician apprentice
- b. Dispensing of ophthalmic eyewear
- c. Contact lense definition
- d. Standards of contact

THE BOARD HAS, FROM 1978 TO 1984, ADOPTED REGULATIONS ON ALL FOUR OF THE ABOVE AREAS.

Recommendation No. 4

The Board should make changes in their procedures and regulations which would encourage more opticians to provide services throughout Alaska.

THE BOARD HAS, BY REVIEW OF THE MINUTES OF THE MEETINGS FROM 1978 TO 1984, MADE EXTENSIVE EFFORTS TO SOLVE THE PROBLEM OF RECIPROCITY, AND TO INITIATE RECIPROCITY AGREEMENTS WITH MANY STATES.

THE BOARD HAS ALSO, FROM 1978 TO 1984, INCREASED THE NUMBER OF TIMES THAT THE LICENSING EXAMINATION IS GIVEN.

THE BOARD HAS DEVELOPED A POLICY WHEREBY AN APPLICANT WHO HAS FAILED THE PRACTICAL PORTION CAN BE REEXAMINED WITHOUT HAVING TO WAIT ONE YEAR.

The report had recommended that the Board implement regulations or seek statutory change allowing the issuance of temporary permits.

THE BOARD HAS MADE A RECOMMENDATION FOR LEGISLATION TO ALLOW TEMPORARY PERMITS.

IN 1978, THERE WERE 45 OPTICIANS IN THE STATE, THAT HAS INCREASED TO OVER 60.

Recommendation No. 5

The Board should seek legislative approval to:

1. Reduce Board membership from 7 to 5 members, 3 professional and 2 public.
2. No Board member should sit out more than two consecutive three year terms.

THE BOARD HAS GOTTEN LEGISLATIVE APPROVAL TO REDUCE BOARD MEMBERSHIP TO 7 TO 5 MEMBERS. THE BOARD ALSO HAS LEGISLATIVE ACTION TO LIMIT THE BOARD MEMBER SERVICE TO NOT MORE THAN 2 CONSEQUITIVE TERSM.

Recommendation No. 6

The Board should establish formal goals, objectives, and quantifiable measures which should be included in the OL's budget document.

BY EXAMINATION OF THE MINUTES FROM 1978 to 1984, IT CAN BE SEEN THAT THE BOARD HAS WORKED ON THE ESTABLISHMENT OF GOALS AND OBJECTIVES. AFTER THE REVIEW OF THE 1984 AUDIT, THE OPTICIANS BOARD ALSO HAS SET FORTH GOALS FOR 1985 AND CONTINUING YEARS.

Recommendation No. 7

The Division of Occupational Licensing should collect, record and maintain for a five year period files and statistics of licensing and testing applicants and related work load of the licensing examiner.

THE BOARD AGREES WITH THIS FINDING THAT THE OL OFFICE NEEDS TO MAINTAIN ADEQUATE UP TO DATE RECORDS. THE BOARD ALSO INDICATES THAT IN MANY CASES, LACK OF FAST ACTION BY OL OR THE GOVERNOR'S OFFICE, HAS RESULTED IN THEIR EFFICIENCY BEING HAMPERED (I.E., APPOINTMENTS TO THE BOARD).

Analysis of Public Need - the report indicated that the Board had adopted a resolution on April 3, 1976, stated that it should not become involved in consumer complaints against opticians.

THE BOARD DID THIS BASED UPON A REQUEST OF THE OL OFFICE.

1. OL has not maintained updated records and statistics for Board use.
2. OL investigative section has not provided adequate investigative support necessary for enforcement of the law.
3. The Board had encouraged public participation by advertising upcoming board meetings, examinations, and proposed regulations in newspapers from the cities of Juneau, Ketchikan, Anchorage and Fairbanks.
4. No complaints concerning the Board's activities have been filed with the Ombudsmans Office.
5. Applications for licensure require information about age, sex, marital status and inclusion of photographs. These violations are violations of the Equal Employment Opportunity Requirements.

(THE BOARD HAS, AS ITS 1985 GOALS, INDICATION TO WORK TOWARD CHANGING THE APPLICATION FORM.)

III. WHAT THE BOARD OF DISPENSING OPTICIANS HAS ACCOMPLISHED
SINCE THE LAST SUNSET REVIEW IN 1978

(Meeting Minutes Summarized 1980-1984)

<u>Date</u>	<u>Summary of Meeting Minutes</u>
May 22, 1980	<ol style="list-style-type: none">1. Board agreed to recontact those states interested in reciprocity.2. The Board reviewed regulation regarding computation of continuing education or competence hours and Board accepted regulations, to be added to those already in existence regarding continuing competence.3. The Board determined that one of the objectives or goals would be to promulgate regulations to comply with the new Practice Act. The Board resolved to add to the application form for the opticians test that "any exam candidate has 30 days upon receipt of exam scores to register with the Board any discrepancies regarding the scores.
September 22, 1980	<ol style="list-style-type: none">1. Board discussed that they had not received any response from other states to date regarding reciprocity. It was advised that Alaska's reciprocity agreement with Arizona was to become null and void due to a clause in Arizona's Practice Act requiring an optician to be licensed in both contact lens and spectacles due to recent legislation in Arizona.2. Letter was to be written to Optician's Association of America regarding Board and licensing status of Opticians in Alaska, as a result of Sunset. Other states were to be notified that Alaska Board of Dispensing Opticians was still in existence, and recommended that notification be written in the same letter to Optician's Association of America.3. Board approved four year renewal period with recommendation and approval that continuing competency hours be increased to 30 hours. (Because of a foul up last legislative session, this was not accomplished)

4. Board was informed Division was seeking alternatives in speeding litigation process and in considering taking cases before Board for action and/or direction, rather than through attorney general office. Board expressed approval and support for possible alternatives.
5. The Board stated all exam applications should be sent to entire Board for approval prior to being allowed to sit for the exam.
6. Motion was made and carried to establish new Board policy requiring all apprentices in Alaska be registered with the State as of September 22, 1980, and all examination applicants must be registered prior to consideration to approval to sit the exams.

Board requested that application for apprentice registration be designed to all licensed dispensing opticians along with memo advising of apprenticeship regulation policy and copy of new Practice Act.

7. Chairman was to compose three new practical exams for spectacles and another member of the Board was to compose new exam for contact lenses. The exams were to rotate each exam date.

February 9, 1981

1. No new information to report on securing reciprocal rights with other states. Chairman indicated most states interested in establishing reciprocity, but were waiting to see results of amendments to Alaska Practice Act before further consideration of establishing reciprocity.
2. Due to lack of cooperation from Attorney General's office in processing complaints, Chairman asked each Board member to write letters to Harry Treager, Director of Division of Occupational Licensing, to request assistance in seeking Attorney General's cooperation. Through discussion, it was mentioned that the Board was being blamed through Sunset Review for lack of attention in area of investigations, when in fact, problem was lack of cooperation by Attorney General's office. Decided one letter should be written on behalf of the Board and signed by the Chairman.

3. Board reviewed reports regarding advertising written by Federal Trade Commission. Since Alaska Statutes already contained statutory coverage of misleading advertising, no further action needed.
4. Board reviewed list of apprentices registered with the State. On bottom of application form for apprentices, space to be put for signature indicating information contained is true and signature affixed testifies to validity or should be data be false, charges of fraud will be filed.
5. Goals and objectives for FY 82 to be held for discussion at next Board meeting.
6. Discussion held about possibility of holding meetings and exams in other areas of the state.
7. Names to be submitted to Governor's office on behalf of Alaska Dispensing Opticians Association by April 1 for replacements on Board in June.

May 13, 1981

1. Review and executive session for investigators report.
2. New Chairman elected, Larry Harper.
3. Discussion on reciprocity with other states. Was suggested that other states not be contacted until amendments to Alaska Statutes were adopted. All correspondence in researching to establish reciprocity to be sent to licensing examiner for follow up.
4. New Chairman, Larry Harper, advised he would write letter to various periodicals to solicit establishing reciprocity with Alaska.
5. Discussion of goals and objectives -
 - a. Establish reciprocity by seeking reciprocal rights with other states.
 - b. Pass new statutes and regulations changing number of required continuing education hours to accommodate four year renewal. (Introduce and support amendments at next legislative session).

6. Recommendations to Division of Occupational Licensing for FY 83.
 - a. Request funding for at least 3 meetings and examinations.
 - b. One out of state travel for one Board member to attend Optician's Association of America Convention.
7. Board agreed to hold examination of specified national testing date as recommended by Opticians Association of America; however, Board agreed to continue to administer other "special" examinations on different dates, in order to accommodate all people interested in optician profession.
8. Board agreed to accept all seminars offered by Optifair, Inc., as continuing education credits.
9. Board reviewed license renewal forms.
10. Recommendation to be made to Governor's office requesting that new appointee hold a dual license in contacts and spectacles to avoid problem with having to administer contact lens examination, if Larry Harper (only member of Board in contact lens category) not able to attend.
11. Chairman asked licensing examiner when statute changes regarding number of continuing competency hours for renewal were going to be submitted. Also expressed concern about possibility of legislative audit criticizing Board for not establishing reciprocity when other states are waiting the results of amendments before finalizing reciprocal rights.

October 16, 1981

1. Executive session on report from Investigator.
2. Discussion regarding possibility of purchasing equipment to administer state practical exam. Harper to compose itemized list of necessary equipment and costs. It was resolved that formal request be made to Division of Occupational Licensing for purchase of equipment.

3. Discussion on particular case of continuing education, where continuing education was not acceptable.
4. Discussion was held regarding reciprocity. Licensing examiner explained words reciprocal rights prohibited Board from establishing reciprocity with other states, since reciprocal rights implies agreement from both parties involved. It was resolved the discussion on reciprocity be tabled until Board is able to review licensing requirements of all states to see which states require equal or greater requirements than Alaska. Harper made suggestion that Board seek to change reciprocity requirement and replace with licensing by credentials.
5. Board adapted request of licensing examiner - "applicants who make application to sit for exams and state on application that they have completed 6,000 hours as practicing optician or apprentice be allowed to sit upon approval of Board, but also required to submit proof of 6,000 hours before exam results will be released.
6. Board requested licensing examiner evaluate fee structure regarding contacts and spectacles.
7. Concern expressed by Board on not having member replacements on Board. Why isn't Governor appointing people?
8. Board resolved not to schedule examination of less than 3 applicants unless otherwise approved by the Board.

February 19, 1982

1. It was resolved to change part of last meetings minutes, and resolved to hold one exam a year (after licensing examiner brought to the attention of the Board a problem regarding this resolution), even if there is only one applicant, any additional examinations must have three or more applicants in order to be held.
2. Licensing examiner made clear that \$200 renewal fee for licensees with license in either or both categories of spectacle or contact lenses.

3. Licensing examiner made it clear to the Board that if any member receives a complaint, it should be referred to the investigation unit immediately and that the Board member and Board should stay out of any further involvement.
4. Harper suggested that Board should compile an information packet to be distributed to all licensees which should include specific guidelines of acceptable documents for evidence of continuing education. It was resolved to design and provide a continuing education form that would be accepted as documentation for evidence of continuing education. Form should include statements stating information contained is true and is being submitted under penalties of perjury. If the form is not used, only a document that is similar which contains the necessary information will be acceptable.
5. Again there was discussion on reciprocity; licensing examiner shared with Board study compiled from other states on issue of reciprocity.
6. There seemed to be some conflicting statutes regarding "reciprocity" and "credentials". Licensing examiner advised that although no reciprocity had been established with another state, Board should still accept applicants for licensing by credentials.
7. Schooling vs. a total of 6,000 hours, the Board resolved that they would accept formal full time education in the field of optics at a rate of 2,000 hours per college year, or fraction thereof, in lieu of on-the-job training toward fulfilling the requirement of 6,000 hours for the exam.
8. Credentials - licensing examiner suggested applicant for licensure by credentials be required to submit a verification of license form to be completed by the applicant's state of licensure, verification of apprentice hours, or as a practicing optician, and official school transcripts (if applicable). Board agreed with licensing examiner suggestion and asked that she seek proper wording from other Board statutes and submit to be put into regulations.

9. Discussion on investigations presented by Chief Investigator.
10. Apprentices - discussion held regarding establishing of requirements for practice of dispensing optician apprentices. Board to develop guidelines of what an apprentice should know within apprenticeship time frame in preparation for examinations.
11. Board endorsed program of Optifair East granting approval of all courses to be considered continuing education.
12. New exams to be developed - three comprehensive spectacle examinations to be administered on rotating basis and a new contact lens exam.
13. Harper brought book listing equipment available, which opticians had requested from the State. Harper was to compile list of equipment needed with costs of each item and submit to division for approval.
14. Discussion on continuing education courses and number of hours required for relicensure.
15. Changes under continuing education include one college credit equal to one continuing education credit up to a maximum of 7.5 hours directly related to optics or anatomy and/or physiology of the eye. Harper asked changes to be submitted to regulation specialist for redrafting and circulation as soon as possible.
16. Board decided on contents of information package:
 - * Copy of current statute books
 - * Specifics regarding continuing education
 - * Letter regarding apprenticeship
 - * The underneath requirement to be registered by employer
 - * Reminder of lapsed license
 - * Form for reporting continuing education hours

17. Continuing education reporting form, Board agreed that it would contain the following information:
 - a. Name of course
 - b. Time and date of course
 - c. Number of hours
 - d. Sponsor of course and instructor (printed and signed)
 - e. Number of students in attendance
 - f. Name and address of students

June 17, 1982

1. Goals and objectives for FY 83 were reviewed and accepted:
 - a. Establish guidelines for continuing education requirements through regulations.
 - b. Continue ongoing review of statutes and regulations by striving always for clarity and simplicity.
 - c. Seek to get all opticians properly licensed by providing information packet.
 - d. Establish better communication between the Board and the consumer by contributing to the updated news letter and increase public awareness.
2. 1982 Goals and objectives were reviewed and progress discussed.
3. Discussion of annual performance report and budget recommendation section. Report to be compiled in budget recommendation and consist of funding to hold a meeting in Juneau, Fairbanks and Anchorage, funding from newspaper advertisements, and telephone calls.
4. Discussion on information packet and items to be included. Board requested that packet be sent to each currently licensed dispensing optician, optometrist and ophthalmologist (NOTE THAT STATUTES REQUIRE ALL THREE OF THESE TO REGISTER THEIR APPRENTICES.)

13. Board members will be submitting names to Governor's office for consideration.

14. Board also recommended that public member, Mr. Harry Lang, be reappointed.

February 8, 1983

1. The 1983 goals and objectives were reviewed and progress discussed.
2. Applications brought before Board and reviewed and approved.
3. Discussion on license renewal where forged continuing education forms believed existed.
4. Board requested help and comments from regulation specialist in regarding definition of supervision.

May 10, 1983

1. Review of 1983 goals and objectives.
2. Review of applications.
3. Discussion on information package.
4. Some confusion existed in the Board - the 15 hours of continuing competence and optical dispensing had not been changed to the 30 hours. Apparently there was not a statute change.
5. Board resolved that there was a need for tighter control on continuing education forms. There must be an instructor signature. Receipts are not acceptable if they do not have the instructor's signature.
6. Added to definition section of statutes, definition of "direct supervision" means physical presence of licensed supervisor while dispensing optician tasks are being performed.
7. Board resolved to add to statutes that an apprentice must be registered with the state on an approved form at the onset of training. Failure to do so results in forfeiture of any hours acquired prior to registration, any hours acquired outside of State of Alaska must be submitted and verified at onset of registration, and any apprentice change in instructors must notify state of change and the new instructor and license number.

August 5, 1983

8. Resolved by Board that applicant failing either section of test three times must retake entire test.
1. Discussion of 1983 goals and objectives.
2. New goal of seeing continued communication line with other state boards'. Board requested that licensing examiner write different Board requesting copy of laws for their files and easy reference.
3. Review of annual report.
4. Review of budget request.
5. Discussion on new administration's views.
6. Discussion on possibility of reviewing ETS's standardized test. (Educational Testing Service)
7. Board initiated discussion regarding obtaining control with investigating matters. Revocation of license will need hearings and should still be directed to he investigators, that was recommended by licensing person.
8. Goals and objectives discussed for 1984.
 - a. Continued communication lines with other state boards in regards to regulations of dispensing opticians.

Arrange meeting with representatives from educational testing service regarding national exam given.
 - c. Review and compile several state practical tests for dispensing opticians.
 - d. Continue review of regs and statutes.
9. Statistical report from examiner accepted.
10. Board indicated narrative report should include regulation for direct supervision and regulations for apprentices.

11. Board indicated that public should be aware that they can attend meetings to bring forth consumer complaints. Also suggested to send Alaska Dispensing Optician Association public notice of meetings.
12. Review of applications.
13. Temporary permits were discussed. The main reason for looking into this would be that when someone comes in by credentials, they could be issued the permit until further information was received in the state in which they are licensed.
14. Report from Chairman, on Optician's Association of America, 11th annual convention in D.C.
15. Cases discussed in investigation report.
16. Recommended by Harper that National Academy of Opticianary Homestudy be copied for all Board members and copy kept in Juneau office.

COPY IS ATTACHED TO PROPOSE CHANGES IN REGULATIONS OF DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BOARD OF DISPENSING OPTICIANS. SINCE LAST SUNSET, BOARD OF DISPENSING OPTICIANS HAS MADE NUMEROUS CHANGES AND HAS AMENDED AND ADOPTED REGULATIONS TO INSURE CONTINUANCE OF BOARD AND INTEGRITY OF PROFESSIONALISM OF OPTICIANS.

January 20, 1984

1. Reviewed 1984 goals and objectives and progress of goals and objectives.
 - a. Continue communication lines with other state boards in regard to regulations of dispensing opticians.
 - b. Arrange meeting with representatives from ETS regarding national exams.
 - c. Review and compile state practical tests for dispensing opticians. Discussion of categories of areas.
2. Continued review of regulations and statutes.

3. CONCERN WAS EXPRESSED ON LACK OF BOARD APPOINTMENTS. Filling vacancies should be done ASAP and Board has indicated they have indicated so to Governor's office.
4. Review of applicants.
5. Opticfair, Inc. sent list of classes that Alaska Board of Dispensing Opticians reviewed for approval of continuing education courses.
6. Discussions on investigations. Board reminded that Board does not have jurisdiction in unlicensed activity. Board indicated it would like to take more active stand in investigations and unlicensed activity.
7. Board resolved to add to the definition of contact lens prescription.
8. Board resolved to add to regulations for temporary permits - temporary permit shall issued under the following reason and shall not expire until next Board meeting and applicant is issued a license. An individual who applies for licensure by credentials and is awaiting Board approval providing his/her application is complete and in order shall receive a temporary permit.
9. Criteria for instructors to use for teaching apprentice and whether there should be regulation written for this was tabled until next meeting so Board could get feel from Association regarding criteria.
10. Information package was ready to go upon receipt of printing of continuing education forms. Decided not to hold package until new regulations approved.
11. Board resolved to adopt proposed regulations and changes as written from previous meeting.
12. Executive session on investigations.

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 existence. 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, OPTHOMOLOGISTS 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 lense to be impact resistant under specified test conditions), no licensing is necessary.

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

THE BOARD'S ANSWER TO THE SECOND REPORT FILING IS IN DIS. GREEMENT 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.

- d. 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 Ombudsman 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 40 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.

V. GOALS AND PLANS OF THE BOARD OF DISPENSING OPTICIANS

1. Enforce dispensing opticians law and establish continuing guidelines for competency.
2. Adopt regulations and make modifications necessary for the enforcement of the law.
3. Operate in an effective, efficient manner to benefit the public. Take more responsibility for self-audit and improvement or clearly define the function of the Board and take on more responsibility, especially in those areas where Occupational Licensing now takes the majority of the responsibility, but where the Board "gets blamed" - evaluation of test applications, evaluations for licensure, and review of unlicensed activity.

Recommend, as is done in Connecticut, that the Board be authorized to hear and to decide appeals on the suspension, revocation, or denial or licensure.

4. Emphasize accountability and responsiveness to public interests.
5. Establish formal goals semi-annually along with objectives and measures to be included in reports to Occupational Licensing.
6. Begin work on a uniform opticians exam which will "cross" state lines and work for uniformity in licensure in all states.
7. Continue ongoing review of statutes and regulations by striving for clarity and simplicity.
8. Seek to get all opticians properly licensed by providing information packet to all licensees.
9. Establish better communication between the Board and consumers by contributing to newsletter and work to increase the public awareness.
10. Work more closely with Governor's office to get board appointments done expeditiously.
11. Work towards legislation to allow temporary permits where a person qualifies by credentials and all application forms are in order.

12. Encourage more people to consider the profession of opticianry.
13. Opticianry is a profession-work to maintain the integrity of the profession and to uphold the standards.
14. Continue to work for reciprocity.
15. Increase and foster better communication between opticians and the general public.
16. Recommend Board receive and screen complaints and hold hearings and impose disciplinary sanctions.
17. Require at least one member of the Board to be licensed in contact lens.

VI. STATUTE CHANGES NEEDED (TO BE WORKED FOR THE 1985 LEGISLATIVE SESSION)

1. Accept formal fulltime education in the field of optics at a rate of 2,000 hours per college year, or fraction thereof, to be applied to 6,000 hours required for the exam. (Section 08.71.110)
2. Increase education hours to 40 hours for continuing competence in optical dispensing. (Section 08.71.130)
3. Introduce legislation allowing temporary permits when an individual applies for licensure by credentials and is awaiting Board approval, provided his or her application is complete and in order.
4. Repeal ~~anti-trust violations in optometric statutes~~ (See 1983 audit).

Lynn says ignore

terminate 6/30/85. Audit to be considered.

primary purpose of licensing board = protect public

Bd's functions minimal - license examiner (OCED) does review
OCED does disciplinary investigations

5 members to reg. 60 opticians = uneconomical

Fitting of lenses only done under supervision of licensed physician +
law requires return visit to optometrist once fit

some licenses issued w/out proper documentation

A PERFORMANCE REPORT
ON THE BOARD OF
DISPENSING OPTICIANS

July 1, 1981 -- June 30, 1984

Audit Control Number

08-1168-84-R

*performed
6-30-84
response
10-4-84*

- av. revenues \$3,853 / expend \$4,258

OCED response: agree terminate. Also want no licensing by OCED!

Board response:

Commissioner, Department of
Commerce and Economic
Development

Richard A. Lyon

Deputy Commissioners, Department
of Commerce and Economic
Development

Vincer 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.

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.

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:

- A. 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.

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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.

- 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

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.

**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 'RAL', with a long horizontal line extending to the right.

Richard A. Lyon
Commissioner

RAL/1t0668t
100484b

1/24-
SANDRA -
COPY OF DRAFT
BILL. ~~WAS~~ FEES NEED
TO BE CHANGED TO HOUSE -
BE SUP-SUP POINTING.
KOPONEN + GARDEN BUCKS
ARE SUP POINTING. I'll HAVE
ANSWER FROM NAWARAC
NEXT WEEK. THANKS
Jim

1 IN THE SENATE

2 SENATE BILL NO.

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 provid-
7 ing 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) - June 30,
11 1991 [1985].

12 * Sec. 2. AS 08.71.110 is amended to read:

13 Sec. 08.71.110. QUALIFICATIONS OF APPLICANTS FOR EXAMINATION.

14 A person is entitled to take the examination who

15 (1) has [EITHER]

16 (A) completed at least 6,000 hours of training as an
17 apprentice, [OR]

18 (B) been engaged for at least 6,000 hours as a prac-
19 ticing optician in good standing in a state, territory, district
20 or possession of the United States, or [; AND]

21 (C) completed 6,000 hours of formal fulltime education
22 in the field of optics to be credited at a rate of 2,000 hours
23 for each college year or fraction thereof; and

24 (2) has paid the required examination fee.

25 * Sec. 3. AS 08.71.120 is amended to read:

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

28 (1) examination fee ~~\$50~~ ^{\$}150

29 (2) initial dispensing optician license fee ³⁰⁰200

1 [50]

2 (3) renewal fee, due every four years ⁴⁰⁰~~300~~ [200]

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

4 (d) Before a license may be renewed the licensee shall submit to
5 the board evidence of 40 [15] hours of continuing competence in
6 optical dispensing as prescribed by regulations of the board.

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

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

11 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
12 10.070(c).
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