

**SB**

**270**

HFIN

FILE

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: May 9, 2002

FURTHER REFERRALS:

Date of Committee Action: 5/9/02

The FINANCE Committee considered:

CSSB 270(L&C)

CS FOR SENATE BILL NO. 270(L&C)

DISPENSING OPTICIANS: EXTEND BD/REGULATION

"An Act extending the termination date of the Board of Dispensing Opticians; relating to the regulation of dispensing opticians; and providing for an effective date."

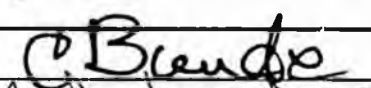
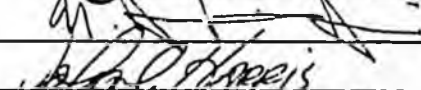
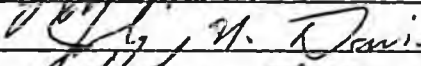
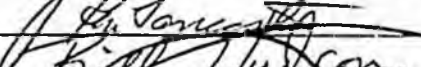


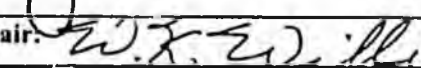
Recommends it be replaced with H CS CSSB 270 (FIN) [ ] Same Title [ ] New Title  
 For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR \_\_\_\_\_

- [ ] attach amendments
- [ ] add new referral to \_\_\_\_\_ Committee
- [ ] Letter of Intent \_\_\_\_\_ Committee

List of Abbrev. for Depts:  
 ADM  
 CED  
 COR  
 CRT  
 EED  
 DEC  
 DFG  
 GOV  
 IIS  
 LAA  
 LAW  
 LWF  
 MVA  
 DNR  
 DPS  
 REV  
 DOT  
 UA

| <u>NEW FISCAL NOTES</u>            |      |        |        |      |
|------------------------------------|------|--------|--------|------|
| *For Chief Clerk's Office Use Only |      |        |        |      |
| List by Dept(s):                   | *FN# | Fiscal | Indet. | Zero |
| HFC / CED                          |      | ✓      |        |      |
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| <u>PREVIOUS FISCAL NOTES</u> |     |        |        |      |
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| <u>Signing with recommendations</u>  | Printed Last Name | DP | DNP | NR | AM |
|--|-------------------|----|-----|----|----|
|         | Bunde             | ✓  |     |    |    |
|         | Whitaker          | ✓  |     |    |    |
|         | DAVIS             | ✓  |     |    |    |
|         | Lancaster         | ✓  |     |    |    |
|         | Hudson            | ✓  |     |    |    |
|         | FOSTER            | X  |     |    |    |
| Chair:  | William           | ✓  |     |    |    |

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HCS CSSB 270 (FIN)  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time \_\_\_\_\_ Dept. Affected: DCED  
 Title An Act extending the termination BRU Occupational Licensing (117)  
date of the Board of Dispensing Opticians Component Occupational Licensing  
 Sponsor Rules by Request  
 Requester \_\_\_\_\_ Component No. 2360

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2003     | FY 2004     | FY 2005    | FY 2006    | FY 2007    | FY 2008    |
|------------------------|-------------|-------------|------------|------------|------------|------------|
| Personal Services      | 14.2        | 14.2        |            |            |            |            |
| Travel                 | 3.5         | 3.5         |            |            |            |            |
| Contractual            | 2.9         | 2.9         |            |            |            |            |
| Supplies               |             |             |            |            |            |            |
| Equipment              |             |             |            |            |            |            |
| Land & Structures      |             |             |            |            |            |            |
| Grants & Claims        |             |             |            |            |            |            |
| Miscellaneous          |             |             |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>20.6</b> | <b>20.6</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
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|                               |             |             |  |  |  |  |
|-------------------------------|-------------|-------------|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> | <b>20.6</b> | <b>20.6</b> |  |  |  |  |
|-------------------------------|-------------|-------------|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|                                       |             |             |            |            |            |            |
|---------------------------------------|-------------|-------------|------------|------------|------------|------------|
| 1002 Federal Receipts                 |             |             |            |            |            |            |
| 1003 GF Match                         |             |             |            |            |            |            |
| 1004 GF                               |             |             |            |            |            |            |
| 1005 GF/Program Receipts              |             |             |            |            |            |            |
| 1037 GF/Mental Health                 |             |             |            |            |            |            |
| Other 1156 receipt supported services | 20.6        | 20.6        |            |            |            |            |
| <b>TOTAL</b>                          | <b>20.6</b> | <b>20.6</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** (Attach a separate page if necessary)

The bill extends the Board of Dispensing Opticians to June 30, 2003, and amends statutes relating to the licensing examinations. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2003 Operating Budget request. New funds are not required to implement changes to the examination statutes.

Prepared by: Eldon Mulder  
 HFC Co-Chair Eldon Mulder

Bill Williams  
 Co-Chair Bill Williams

Phone \_\_\_\_\_  
 Date/Time 5/10/02 9:07 AM

Date 5/10/02

# Alaska State Legislature

SENATOR  
GENE THERRIAULT  
Chair

SESSION ADDRESS  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4797  
Fax: (907) 465-3884

## Legislative Budget and Audit Committee

Senate Bill 270

“An Act extending the termination date of the Board of Dispensing Opticians.”

Sponsor:

Senate Rules Committee by Request of the  
Legislative Budget and Audit Committee

### Sponsor Statement

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Alaska Statute 08.71.010 established the State Board of Dispensing Opticians in 1973 to regulate and control the practice of opticians in Alaska. The Board promotes the competent and safe practice of opticianry. The Board currently oversees 99 licensed opticians and approximately 158 apprentices.

The Board consists of four licensed Opticians and one public member appointed by the governor. It regulates the practice of opticianry in the state by setting training and work experience standards necessary for an individual to be licensed.

An audit was conducted and released by the Legislative Budget and Audit Committee on January 24, 2002. The audit expressed several concerns with the Board, mainly in regards to the Board's examination process and the amount of apprenticeship hours required for licensure. SB 270 reduces the number of hours required and removes the Board's state examination replacing it with successful completion of the national exams. It also allows a candidate who has earned an associate degree from a school of optometry to become licensed in Alaska after passing the national exams, but removes the mandate that the candidate additionally complete 2,000 hours of apprenticeship. The audit report made a case for moving the dispensing optician profession to a registration system, as 27 other states do not regulate opticians at all.

Under AS 08.03.010, Termination of State Boards and Commissions, the State Board of Dispensing Opticians is set to expire June 30, 2002. If the Legislature does not act to extend the Board, it will have one year, until June 30, 2003, to administratively conclude its affairs. Senate Bill 270 will extend the Board for two years and makes changes to its licensure requirements.

Contact: Heather Brakes, Legislative Budget and Audit Committee Aide

### INTERIM ADDRESS

119 N. Cushman Suite 101, Fairbanks, Alaska 99701 • (907) 488-0857 • Fax: (907) 488-0858

# LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY  
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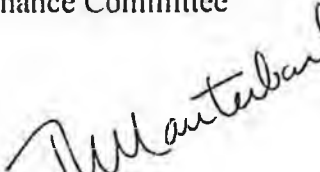
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

May 10, 2002

**SUBJECT:** HCS CSSB 270(FIN) (Dispensing opticians)

**TO:** Representative Eldon Mulder  
Representative Bill Williams  
Co-Chairs, House Finance Committee  
Attn: Louanne

**FROM:** Terri Lauterbach  
Legislative Counsel 

Enclosed is HCS CSSB 270(FIN). Because of the committee's addition of "regular" in several places on page 4, I have added "regularly" on page 5, line 6.

If this is not acceptable, please let me know.

TML:lmb  
02-096.lmb

Enclosure

October 1, 2001

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMUNITY  
AND ECONOMIC DEVELOPMENT  
BOARD OF DISPENSING OPTICIANS  
SUNSET REVIEW

September 20, 2001

Audit Control Number

08-20010-02

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(9), the Board of Dispensing Opticians is scheduled to terminate on June 30, 2002. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the Board of Dispensing Opticians should be extended. The regulation and licensure of opticians contributes to the protection of the public's welfare. We recommend the legislature extend the termination date of the Board of Dispensing Opticians to June 30, 2005.

This sunset review was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are set out on page one of this report.

Pat Davidson, CPA  
Legislative Auditor

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## OBJECTIVES, SCOPE, AND METHODOLOGY

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. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(9) states that the board will terminate on June 30, 2002, and will have one year from that date to conclude its operations.

### Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public interest.
3. To determine if the board has exercised appropriate regulatory oversight of licensed opticians.

The assessment of the operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

### Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

The major areas of our review were licensing, examination, and board proceedings. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Compliance with statutes and regulations related to the licensing of Dispensing Opticians and the registration of optician apprentices.
3. Files and documentation of individuals licensed as opticians and those who are applying to be licensed as opticians.
4. Files related to investigations carried out by the Division of Occupational Licensing involving allegations of violations of statutes and regulations related to opticians.

5. Information related to the requirements of other states related to individuals being licensed as dispensing opticians.
6. Minutes of board meetings and division correspondence files.
7. Annual reports issued by the board.

In addition, we conducted interviews with Division of Occupational Licensing staff.

## ORGANIZATION AND FUNCTION

Alaska Statute 08.71.010 establishes the Board of Dispensing Opticians. The board consists of five members appointed by the governor and is subject to legislative confirmation. Four members must be dispensing opticians while the fifth member is of the general public with no financial interest in opticianry.

The board regulates the practice of opticianry. The board sets the minimum standards to practice in Alaska by:

1. Registering dispensing optician apprentices.
2. Licensing opticians through examination or credentials.
3. Establishing, amending, or eliminating regulations affecting the standards of professional opticianry practice.
4. Instilling disciplinary actions in accordance with the Administrative Procedures Act when a person has violated statutes or regulations related to the practice opticianry.

**Board of Dispensing Opticians  
(As of June 30, 2001)**

James Rothmeyer – Optician, Chair  
Ann M. Bezona – Optician  
Larry Harper - Optician  
Cynde Oleck - Optician  
Roberta Rawcliffe - Public Member

From a commercial perspective, the licensed dispensing optician is, compared to other professional groups, somewhat uniquely situated. The optician provides services that also can be provided by two other licensed professionals: optometrists and ophthalmologists (the latter being a licensed physician specializing in care of the eyes). State law specifies that the rights, privileges, and obligations of dispensing opticians are designed not to "*limit or restrict a licensed physician or optometrist from the practices enumerated*" in the dispensing optician statutes. Additionally, statute provides that "*each licensed physician and optometrist has all the rights and privileges which may accrue under [statute] to a Dispensing Optician licensed [under state law].*"

Opticians provide services to the public that also can be provided by individuals associated with and supervised by optometrists and ophthalmologists. Some opticians work independently while others are employed by, or in some other way affiliated with, optometrists and ophthalmologists.

### Department of Community and Economic Development, Division of Occupational Licensing

The Department of Community and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Dispensing Opticians. Administrative assistance includes budgetary services and functions such as

collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065 mandates the Department of Community and Economic Development, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person is engaged in or is about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

## REPORT CONCLUSIONS

In our opinion, the Board of Dispensing Opticians is operating in manner to promote the practice of opticianry in the state consistent with the interest of public protection. Although we have some reservations about the operations of the board, as reflected in the Findings and Recommendations section of this report, we believe the board is serving the public interest by promoting competence and integrity of individuals holding themselves out to the public as opticians.

The Board of Dispensing Opticians serves a public purpose by promoting the competent and safe practice of opticianry. The board does this through establishing standards for licensed professionals and monitoring the manner in which they practice. The board has carried out these responsibilities in a satisfactory manner. We do have concerns about the criteria used and the process followed by the board in licensing individuals applying to become opticians.

Alaska Statute 08.03.010(c)(9) requires that the Board of Dispensing Opticians be terminated on June 30, 2002. Under AS 08.01.020 the board has a one-year period to administratively conclude its operations. While the standard extension time period for boards suggested in statute is four years, we recommend that the board's termination date be limited to three years (June 30, 2005) in order to provide the legislature an expedited opportunity to consider the actions taken by the board to address the concerns presented in this report.

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## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The Board of Dispensing Opticians should evaluate the reasonableness of the apprenticeship period required for individuals seeking to be licensed.

To become licensed as an optician in the State of Alaska, an individual must pass an examination that is offered at least once a year by the board. To be eligible to sit for this examination, an individual must have graduated from high school and accumulated at least 6,000 hours of training as a registered optician apprentice. This apprenticeship requirement is reduced to 2,000 hours for individuals that have graduated from an associate degree program in opticianry. Most of the individuals licensed by examination in Alaska do so under the 6,000 hour apprenticeship requirement.

Currently, 22 states regulate opticians through the use of a licensing board. The remaining states either utilize a registration system or do not regulate opticians. All of these states provide for a process by which an individual can become licensed through an apprenticeship process.<sup>1</sup> Alaska's apprenticeship requirements are typical of those followed by other states that utilize a board to regulate opticians; however, other states have apprenticeship requirements as low as 2,000 or 3,000 hours.

Over the last three fiscal years, the board has licensed eight people under the experience and examination requirements.<sup>2</sup> By comparison, the board has registered 94 new apprentices over the same period. While there may be commercial reasons for this large difference between the number of individuals seeking licensure as opticians compared to apprentices, the disparity also suggests that the 6,000 hour requirement may unduly prohibit people from getting licensed as an optician.

We suggest the board reconsider the necessity of the 6,000 hour requirement. The board should survey registered apprentices and assess the extent that apprentices aspire to become licensed opticians. If a significant number of apprentices would be interested in becoming opticians if the 6,000 hour requirement was lowered, the board should then reconsider the necessity of requiring what is in essence a three year apprenticeship.

Given that professional competence is promoted by requiring individuals pass national examinations – the question the board should address is: How much more public protection is provided by requiring individuals to apprentice for three years compared to two years, or even one year? In the context of the two-tiered examination process, the additional requirement that an individual serve a three year apprenticeship may be unreasonably restrictive, and not in the overall interests of the public.

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<sup>1</sup> To be licensed through an apprenticeship process, the applicant typically is required to have graduated from high school or attain a graduate equivalent diploma.

<sup>2</sup> While ten opticians have been licensed over the past three fiscal years, two received their license under the credentials procedure rather than through the experience and examination process.

## Recommendation No. 2

The board should reconsider whether to continue requiring applicants pass a state administered practical examination. If it elects to continue requiring a practical examination, the board should take steps to improve the objectivity and consistency with which the examination is scored.

The board requires applicants for licensure to pass a national written examination and a practical examination to demonstrate sufficient ability to dispense optical products. The practical examination is over two hours long and is related to the "mechanics" of the profession – proper use of various devices to measure individuals for fit and comfort of eyewear and contact lenses.

This is a prior audit recommendation. In our 1995 sunset review<sup>3</sup>, we recommended the board improve the objectivity and consistency of the state's practical opticianry examination. We noted at that time that the results of the examination had been challenged five times, and in two instances test scores were changed – once resulting in an applicant moving from failing to a passing score.

The board has administered over 20 examinations in the past three fiscal years. We selected 11 of these practical examinations and reviewed the scores calculated by the board. We found five errors in the calculation of the scores. Since FY 98, four individuals who initially received failing scores in their practical examination protested the procedures and scoring. Upon review, two were licensed by the board.

At this point, we suggest the board give serious consideration to discontinuing the practical examination and require applicants only to pass the nationally recognized examinations offered by the American Board of Opticianry (the National Opticianry Competency Examination) and the National Contact Lens Examiners (the Contact Lens Registry Examination) for licensure within the State. Alternatively, the board could possibly explore efforts being made by other state licensing agencies to develop a regionally-recognized, if not nationally endorsed, practical examination.

We continue to be concerned about the apparent subjectivity or error-prone nature of the current examination. This continuing problem, coupled with what may be unduly high apprenticeship hour requirements discussed in Recommendation No. 1, may be artificially limiting the number of individuals seeking licensure as opticians and contributing to the disparity between the number of registered apprentices and number of applicants.

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<sup>3</sup> Department of Commerce and Economic Development, Board of Dispensing Opticians, September 29, 1995 (Audit Control Number 08-1435-96)

## AUDITOR COMMENTS

Under AS 44.66.050(d)(4) part of a sunset review is to provide "*an assessment of alternative methods of achieving the purposes of the program.*" In this context, we considered the merits of regulating opticians through the use of a titlement law. Such a law would certify qualified practitioners of a given profession utilizing a state registration process without administrative oversight from a licensing board.

### Registering opticians under a titlement statute is a reasonable public policy alternative

Currently, 22 states license opticians through the use of licensing board. The other jurisdictions regulate opticians through the use of a registration program under a titlement law, or have no minimum established requirements related to the practice of opticianry.

This variety in how opticians are regulated involves a concept referred to as "scope of practice." What licensed professions are allowed to do, and conversely, prohibited from doing, by state law and regulation, constitutes what is termed a profession's scope of practice.

The scope of practice for opticians, to a large extent if not completely, falls within the purview and scope of practice of optometrists and ophthalmologists.<sup>4</sup> Given such circumstances, jurisdictions in which opticians are registered under a titlement law, or not licensed at all, the public still receive opticianry services typically from optometrists or opticians who are often affiliated with, or supervised by, optometrists.

Given the nature of the profession's scope of practice, coupled with the limited potential for real adverse harm to the public health and welfare, a registration program for opticians has merit. Such a program administered by the Division of Occupational Licensing could provide for the registration of individuals holding themselves as opticians. If an individual could demonstrate they had passed recognized national examinations and had worked the required apprenticeship, they could be registered as an optician. Such a system could provide adequate, if not optimum, protection to the public.

### Due to current concerns, maintaining a board is the preferable policy alternative at this time

Registration of opticians under a titlement law, rather than licensure through the use of an oversight board of professionals would essentially set in place the status quo. As reflected in the Findings and Recommendations section, there are concerns regarding the reasonableness of the hours required of apprentice opticians prior to being eligible for licensure as opticians.

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<sup>4</sup> This situation is explicitly recognized in state law at AS 08.71.230(1) which states no part of the optician licensing statute is to be construed as limiting or restricting "*a licensed physician or optometrist from the practices enumerated in [the opticianry statutes], and each licensed physician and optometrist has all the rights and privileges which may accrue under [the statutes] to dispensing opticians....*"

As discussed in Recommendation No. 1, the disparity between the number of individuals licensed as opticians compared to the number registered as apprentices in part suggests that perhaps the 6,000 hour work requirement may be unreasonably onerous. The Division of Occupational Licensing would not likely be inclined to evaluate and possibly adjust the apprenticeship time requirements discussed in Recommendation No. 1.

The other concern, as discussed in Recommendation No. 2, is that consistency and applicability of the state practical examination would likely be made irrelevant since registration would involve licensure based only on an applicant passing the nationally recognized examinations. However, we believe the board should continue to work on this issue, possibly investigating the potential for joining other states who are attempting to establish a practical examination, acceptable to a group of participating states, if not on a national level.

Essentially, the board is acting in the interests of the public at large. As required by AS 08.91.065(c), licensing fees charged to opticians are established at a level intended to equal all regulatory costs. Accordingly, the public is benefiting from the board at no expense to the state's general fund.

The public would be better served by having a group of informed, engaged, and practicing professionals involved in resolving the current concerns involved in the licensing of dispensing opticians. Accordingly, our recommendation to extend the board's termination date, as set out in the Report Conclusions section, reflects our judgment of the regulatory alternatives involved. Given the current issues related to the licensure of opticians in Alaska, the board should be continued in order to best address these concerns. During the subsequent sunset review, we believe progress in these areas should be assessed, and licensing alternatives to the current board oversight structure should be given further consideration.

## ANALYSIS OF PUBLIC NEED

The following analyses of the board activities relate to the public need factors defined in the "sunset" law, AS 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

*Determine the extent to which the board, commission, or agency has operated in the public interest.*

To the extent there were applicants for licensure, the board has licensed 10 opticians over the past three fiscal years. Through licensure, the individuals are designated to offer eyeglass fitting and contact lens dispensing services to the public that is in accordance with established professional standards.

*Determine the extent to which the operations of the board 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.*

The limited number of licensed opticians, compared to high number of registered apprentices, suggests that the requirement that apprentices work 6,000 hours prior to being qualified for licensure may be excessive. The number of individuals seeking licensure as opticians may be artificially restrained by this apprenticeship requirement, requiring an individual work three years as a registered apprentice before being eligible to sit for the necessary opticianry examinations.

The board has not resolved the prior sunset audit recommendation related to the state practical examination. The objectivity and consistency of the state practical examination did not improve over the current sunset review period, resulting in successful challenges by applicants who originally were determined to have failed the test.

*Determine the extent to which the board has recommended statutory changes that are generally of benefit to the public interest.*

Since the past sunset audit, the board has reviewed proposed statutes and regulations at each meeting. These changes were in conjunction with the prior sunset audit that made recommendations concerning AS 08.71.150 (which dealt with reciprocity, a process the board was no longer utilizing for licensure) and AS 08.71.145 (which dealt with licensure by credentials). The 1996 legislature passed a measure repealing AS 08.71.150, while the credentials licensing process remains in statute.

*Determine 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 services, economy of service, and availability of services that it has provided.*

The location, date, and time of upcoming meetings and exams were advertised in Alaskan newspapers, as well as on the Board of Dispensing Opticians web page, with adequate time for interested individuals to attend or to submit written comment for review. The board's meeting agenda sets aside suitable time for the board to receive public comment. Minutes from the meetings of the board reflect public participation at various meetings.

*Determine the extent to which the board has encouraged public participation in the making of its regulations and decisions.*

Public notice was given for all proposed regulations in major Alaskan newspapers. The board meeting minutes document that time was allotted for the scheduled public comment period. All proposed regulation changes are submitted to the public participation process.

*Determine 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.*

For the period between July 1, 1998 and June 30, 2001 (FY 99 – FY 01), the Division of Occupational Licensing opened three cases related to dispensing opticians. One was generated by a public complaint regarding the authority of an individual to write prescriptions for eyeglasses. The complaint, received in May 2001, was still in investigative status during August 2001, although it did appear the division had already determined that the individual was acting beyond the scope of their authority.

The two other cases were generated by shop visits conducted by occupational licensing investigators. In one instance, an optician was found to be practicing without a license. The individual had previously been licensed by the state, but had not submitted documentation that he had met the continuing education requirements. This resulted in his unlicensed status. He was fined \$300. The other case involved an individual, working for an optometrist, who was working as an optician without appropriate supervision.

We have reviewed the nature and extent of complaints filed involving dispensing opticians. In our view, the Division of Occupational Licensing, in conjunction with the board, took appropriate investigative actions, prioritized complaints in a reasonable manner, and proceeded in a manner consistent with the potential threat the complaints posed to the public welfare.

*Determine the extent to which the board regulates entry into an occupation or profession and whether it has presented qualified applicants to serve the public.*

| New Licenses Issued | FY 99 | FY 00 | FY 01 | Total | Current Licenses |
|---------------------|-------|-------|-------|-------|------------------|
| Dispensing Optician | 5     | 2     | 3     | 10    | 105              |
| Apprentice          | 24    | 39    | 31    | 94    | 158              |

During the past three years, the Board of Dispensing Opticians has issued two licenses by credentials. Licensure by credentials requires "licensing requirements substantially equivalent to or higher than those of this state." The state of Alaska requirements are among the strictest in the nation, requiring both a state practical exam and 6,000 hours of apprenticeship hours or equivalent experience.

*Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board to its own activities and the area of activity or interest.*

We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action in qualifying applicants. In no instances has the board denied an applicant a license based on personal attributes.

*Determine the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the board to better serve the interest of the public and to comply with the factors enumerated in this subsection.*

The board should reevaluate the requirement that individuals work at least 6,000 hours as a registered optician's apprentice before being eligible to take the examination for licensure. See discussion in Recommendation No. 1.

The board should either eliminate the state practical examination or develop a more objective test that can be consistently administered to prospective applicants for licensure. See discussion in Recommendation No. 2.

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DEC 26 2001

LEGISLATIVE AUDIT

ALASKA STATE LEGISLATURE  
LEGISLATIVE BUDGET AND AUDIT COMMITTEE  
Division of Legislative Audit  
P. O. Box 113300  
Juneau, Ak 99811-3300

Fax: (907)465-2347

E-mail [legaudit@legis.state.ak.us](mailto:legaudit@legis.state.ak.us)

Re: Audit Control #08-20010-02  
Board of Dispensing Opticians

In regards to the December 6, 2001 "CONFIDENTIAL" preliminary audit report, I would like to respond to the Audit Committee's findings and recommendations.

#### Recommendation No 1

The Board has evaluated and reconsidered the 6,000 hour training requirement for apprentices. The minutes of the board's November 21, 2001 teleconference meeting reflects this in it's motion that it be "Resolved that the opticianry statutes be amended so that in order to qualify for a spectacles opticianry license, an individual must have either an associates degree from a C.O.A. - accredited school and pass the national and state exams, or have 3,000 hours of experience, pass the Career Progression Program, and pass the national and state exams, and furthermore, in order to register and work as an apprentice, a person must be enrolled in the Career progression Program."

This should accomplish several objectives regarding apprentice requirements. The 6,000 hour training requirement has been reduced by half. The adoption of the National Academy of Opticianry's Career Progression Program home study course will give all apprentices an equal opportunity to develop and share a common knowledge base, that will make them much more qualified and successful test candidates.

#### Recommendation No 2

The Board is committed to the long overdue overhaul of the State Licensing Examination.

#### Solution No 1

Dr. R. Ferguson's practical test. This test is currently used by the state of North Carolina. It is to my knowledge the only practical exam currently available and qualified to meet our state licensing exam requirements. The Board want's very much to procure this test and use it at the soonest possible date. The challenge is to convince the state's procurement office that this Board is short of both time and money . We see merit in

allowing a one time procurement exemption, so that the Board has a more suitable and objective test for the April 19, 2002 State Licensing Exam. The test and related materials are readily available and could be sent to the State at least a month before the exam, the cost is nominal at \$100.00 per applicant. See attachment 1.

#### Solution No 2

Start the "Request for Proposals" process. The time and cost to complete this process is not known at this time. It is known that it would not be done in time for the April 2002 exam, it is also known it will be expensive. Before proceeding with this the Board will make an enquiry, as to just how much the cost would be. While this may be the best long term solution and will in all likelihood be the course chosen by the Board, it does not address the dilemma of the current test being susceptible to challenge and replacing it in the limited time available.

#### Solution #3

Have the Board rewrite/revise the current exam. While not impossible, it will be difficult to meet the April 29, 2002 test date and have all Board members agree on the new test content. This would not in my opinion offer a long term solution of having a badly needed completely objective. test.

#### Conclusion

As stated the Board has already addressed the 6000 hour requirement for apprentices. The Board has resolved to amend the statutes to 3000 hour training for apprentices with a more well defined education and training requirement. This Board believes that the national written examination alone does not demonstrate the applicants ability to perform common tasks needed to insure the proper safe and accurate dispensing of ophthalmic prescription devices. A suitable practical test can be procured that will eliminate the concerns about objectivity. The recommendation to extend the termination date for the Board of Dispensing Opticians to June 30, 2005 is acceptable, however given the Boards positive action in resolving concerns regarding apprentice training hours, the Board would like to request the full 4 year standard extension time to June 30 2006 in order to address and resolve the concerns regarding the State practical exam.

TO: State of Alaska, Division of Occupational Licensing  
Attn: Nan Lathrop, Licensing Examiner, Board of Dispensing Opticians

FROM: Roy R. Ferguson, Ph.D. (DBA The Learning Curve)  
120 East Bruce Street  
Sevierville, Tennessee 37862

DATE: November 9, 2001

SUBJECT: Practical Examination Development and Administration Services

This bid pertains to examination development and administrative services to the State of Alaska, Division of Occupational Licensing, Board of Dispensing Opticians. The term of the contract is from Spring 2002 to Spring 2007 with a three-year renewal period at the option of the Division. Barring any unforeseen circumstances, the first examination may be scheduled Spring 2002. The Learning Curve must receive all test applications at least one month prior to test administration.

#### DESCRIPTION OF PRACTICAL EXAMINATION

The proposed Opticianry Practical Examination (*supplied by The Learning Curve*) is a forty (40) question, multiple-choice text which objectively measures the applicants ability to perform some of the most common tasks relating to ophthalmic dispensing.

Three different lens types are contained in four identical metal frame styles. All test sets are fabricated and verified as to accuracy by Colts Laboratories, 21915 U.S. Highway 19 North, Clearwater, Florida 33765, which is an A2LA accredited laboratory, then validated using second-year opticianry students. Approximately fourteen questions concern progressive lenses: eleven with standard bifocals, four with single vision, non-prism lenses, and five with single vision lenses containing prism. All remaining questions cover decentration, add power, bi-centric grinding, and knowledge of proper frame alignment and ability to use conventional frame adjustment tools. The test is designed to be completed in a fifty minute period.

The equipment (*supplied by the Board of Dispensing Opticians*) required to administer this examination includes a manual lensmeter, lens measure, flexible millimeter ruler, thickness gauge, fine-tip, water soluble felt tip marker, Optical Laboratories Association Progressive Identifier, and scratch paper. Applicants are required to supply their own lens measure, thickness gauge, scientific calculator (if desired), flexible millimeter ruler, and may supply their own non-automatic lensmeter if they wish. All other equipment will be supplied at the test site. A calibrating gauge such as a "Gaugemaster" will be available for applicants to insure the accuracy of their instruments. Two test proctors should be available: one to confirm applicant identification, sign in test applicants, and provide calibration devices; a second can administer as many as eight (8) examinations per test session.

This practical examination is based on the following reference material.

Brooks, C.W. *Understanding Lens Surfacing*. Butterworth-Heinemann, Boston, 1992.

Brooks, C.W. *Essentials for Ophthalmic Lens Work*. Butterworth-Heinemann, 1983.

Brooks, C.W., and Borish, I.M. *System for Ophthalmic Dispensing*.

Butterworth-Heinemann, Boston, 1996.

Z-80.1-1995 American. *American National Standard for Ophthalmics - Prescription Ophthalmic Lenses - Requirements*. New York: American National Standards Institute, 1995.

Optical Laboratories Association, *Progressive Identifier*.

This practical examination may include but will not be limited to:

- Finding single-vision and multi-focal lens powers using a Crossed-Line-Target Lensmeter;
- Reading lens prescriptions in both plus cylinder and minus cylinder form;
- Determining add power;
- Measuring lens center thickness with lens calipers;
- Checking for horizontal and vertical prism;
- Calculating prismatic effect and bicentric grinding corrections;
- Measuring base curves and seg width;
- Measuring distance between centers, and determining "distance PD," and "near PD" using fabricated eyeglasses;
- Quote and apply ANSI Z80-1995, standards;
- Identify and calculate inset, seg inset, and total inset;
- Measure seg height and determine seg drop;
- Knowledge of proper frame alignment and conventional frame adjustment tools;
- Identify lenses by both product name and manufacturer;
- Progressive addition lenses areas include monocular decentration, distance reference point, prism reference point, fitting cross, near reference point, manufacturer's hidden identifying logo, hidden reference points, hidden add power engraving, recommended minimum height, and prism thinning.

#### QUALIFICATIONS OF CONTRACTOR

Roy R. Ferguson, Ph.D.

##### Education:

- Walden University, Ph.D., Administration/Management
- Tusculum College, Master of Arts, Management
- Tusculum College, Bachelors of Science, Business Management

##### Licensure Application Review Experience:

- Tennessee State Board of Dispensing Opticians  
(Licensing Board), 1988 – 1991
- Testing Contractor, North Carolina State Board of Opticians:
  - Theory of Light;
  - Rx Interpretation;
  - Ophthalmic Lenses Examination;
  - Measurements of the Face;
  - Ophthalmic Lens Surfacing, Finishing;
  - Practical Anatomy of the Face;
  - Eyeglasses Practical Examination.

##### Examination Experience

- Opticianry Program Director, Roane State Community College, 1989 – 1996
- Approved 3 Semester Hour College-Level Courses
  - Charter Oak State College, New Britain, Connecticut
    - Introduction to the Optical Business
    - Organizational Behavior for the Ophthalmic Professional
    - Assessment of the Visual System
    - Introduction to Ophthalmic Optics
  - College-Level Courses Submitted for Approval
    - Charter Oak State College, New Britain, Connecticut
      - Business Ethics – 3 Semester Hours
      - Consumer Behavior – 3 Semester Hours
      - Growing and Managing an Entrepreneurial Business – 3 Semester Hours

January 16, 2002

Pat Davidson, Legislative Auditor  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
PO Box 113300  
Juneau, AK 99811

Dear Ms. Davidson:

Thank you for the opportunity to comment on the Board of Dispensing Opticians preliminary audit.

The chair of the Board of Dispensing Opticians submitted an audit response describing the Board's support for a reduction in apprenticeship hours and for contracting for an improved practical exam for spectacles.

Since the requirements for licensure as an optician are set in statute, the law must be amended to implement the board's recommendations. The board advocates reducing by half the number of apprenticeship hours and replacing those hours with correspondence education. Individuals with an associate degree in opticianry would not be required to serve any apprenticeship and could be licensed after passing the exams. Individuals without opticianry degrees would be required to enroll in a correspondence course called the Career Progression Program at the beginning of their 3,000-hour apprenticeship. They would have to complete the correspondence course and pass the exams to qualify for licensure.

It is my understanding the Career Progression Program costs each student approximately \$800, but it would improve public health and safety as well as prepare apprentices for the exams. Under the current system, there is no guarantee that apprentices receive comprehensive training during their three to six year apprenticeships.

If education is added to the license qualifications, consideration should be given to the licensure by credentials statute to ensure that experienced opticians who received their training exclusively through apprenticeship in other states are not unintentionally barred from Alaska licensure.

Thank you for considering my comments on the preliminary audit.

Sincerely,

Catherine Reardon, director