

**HB**

**245**

<target><bill>HB 245</bill><subject>HB  
245</subject><comm>HFIN26</comm></target>



## REPRESENTATIVE BILL THOMAS

ALASKA STATE LEGISLATURE DISTRICT 5

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### **HB 245 Licensure of Optometrists**

#### **Sectional**

##### **Section 1:**

Technical amendments for grammar and removes high school requirement as it is unnecessary. Also outlines educational requirements required for licensure.

Applicant must have completed:

- 1.) Examination on ocular pharmacology
- 2.) 23 hours of course work on ocular disease
- 3.) 7 hours of course work on therapeutic pharmaceutical agent injections.
- 4.) Other course work established in regulation

##### **Section 2:**

Allows an applicant to retake the exam if they fail.

##### **Section 3:**

Requires applicants for licensure by credentials to have a license from a state that has licensure requirements equivalent to Alaska, pass the Alaska state exam, and the National Board of Examiners of Optometry exam.

##### **Section 4:**

Deals with renewal of licenses. Outlines requirements that must be obtained before a license may be renewed. The applicant must have:

- 1.) 8 hours of continuing education concerning the prescription of pharmaceutical agents;
- 2.) 7 hours of continuing education on the injection of nontopical therapeutic pharmaceutical agents;
- 3.) Met other requirements outlined by the Board through regulation

##### **Section 5:**

Deals with retired status licenses. Upon retirement a licensee may apply for a retired license. A retired license does not have to be renewed and the person may not practice optometry in Alaska. However, a person may go from retired status to active status upon application and upon meeting certain educational criteria.

**Section 6:**

Removes reference to certain class of optometry license as the bill creates only one class of license that is allowed to practice in this state.  
Also, outlines the circumstances that an optometrist can prescribe pharmaceuticals (already in statute).

**Section 7:**

Repeals references to different classes of licenses.

**Section 8:**

Transitional Section: Allows a person who is not currently licensed at the highest level to be grandfathered in and get a restricted license. This will allow them to continue to practice but still not exceed their educational level.

**Section 9:**

Revisor Instruction: retitling a section heading

**Section 10:**

Immediate effective date.



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### Sponsor Statement for HB 245 Optometrist Licensure

HB 245 makes some necessary changes to the licensure criteria for optometrists in this state.

Currently, Alaska has three levels of licensure for optometrists:

- 1.) Basic License (no pharmaceuticals)
- 2.) License with Pharmaceutical Endorsement (in-office eye drops)
- 3.) License with Pharmaceutical Prescription and Use Endorsement (prescribing authority).

The Board of Optometry would like to have a standard level of care that everyone receives from optometrists. Therefore, some adjustments need to be made in statute to require the highest level of care.

HB 245 brings Alaska statutes in line with current educational levels. Students graduating from optometry schools within the last five years have already received the level of education necessary to obtain a license at the highest level currently provided in Alaska. Further, most licensed optometrists in Alaska have already obtained the level of education necessary for the highest level of licensure. There are only a handful of people who have not received that education and most of these optometrists are nearing retirement age. These optometrists would be issued a restricted license which would allow them to continue to practice but still not allow them to provide services that go beyond their level of education.

The level of education required in HB 245 has been standard in most optometrist schools across the country and most older optometrists have already obtained this level of education on their own. Many states are currently working on or have already passed similar legislation. Our citizens deserve the most current and highest level of care possible; allowing the licensure of optometrists with less than the standard education levels puts our citizens at risk. HB 245 remedies this problem by standardizing the licensure requirements for optometrists in Alaska.

I urge your support of HB 245.



# FISCAL NOTE

**STATE OF ALASKA**  
**2010 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 245  
 (H) Publish Date: 3/1/10

Identifier (file name): HB245-CED-CBPL-2-21-10 Dept. Affected: DCCED  
 Title: Licensing for Optometry RDU: Corp, Bus, & Prof Licensing (117)  
 Component: Corp, Bus, & Prof Licensing  
 Sponsor: Representative Thomas  
 Requester: House Labor and Commerce Committee Component Number: 2360

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

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
-----------------------------	--	--	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( 1156 )</b>								
------------------------------------	--	--	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other: (1156) RSS								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: 0.0

**POSITIONS**

Full-time								
Part-time								
Temporary								

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

HB 245 amends licensing requirements for Optometrists in AS 08.72 to be commensurate with current Optometry education and training; and provides a restricted license to the few licensees that have not achieved the higher-level training and endorsement. The bill also provides for a retired status license.

New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Division Operations Manager  
 Division: Corporations, Business & Professional Licensing  
 Approved by: Emil Notti, Commissioner  
Commerce, Community, and Economic Development

Phone: (907) 465-2144  
 Date/Time: 2/19/2010 11:15PM  
 Date: 2/21/10

*Annual Report*  
*Fiscal Year 2009*

**BOARD OF EXAMINERS  
IN OPTOMETRY**

*July 2009*



**DIVISION OF CORPORATIONS, BUSINESS  
AND PROFESSIONAL LICENSING**

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STATE OF ALASKA  
DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

Division of Corporations, Business and Professional Licensing

*Sean Parnell, Governor*  
*Emil Notti, Commissioner*  
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August 1, 2009

Ms. Lynne Smith, Director  
Department of Commerce, Community, and Economic Development  
Division of Corporations, Business and Professional Licensing  
P.O. Box 110806  
Juneau, AK 99801-0806

Dear Ms. Smith:

In compliance with AS 37 and AS 08 and on behalf of the Board of Examiners in Optometry, I am submitting the enclosed Annual Report concerning the board's activities and accomplishments for Fiscal Year 2009.

Sincerely,

Jill Geering Matheson, OD, Chair  
Board of Examiners in Optometry

Enclosures

**BOARD OF EXAMINERS IN OPTOMETRY**

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# BOARD OF EXAMINERS IN OPTOMETRY

## BOARD MEMBERS

<u>MEMBER</u>	<u>DATE APPOINTED</u>	<u>REAPPOINTED</u>	<u>TERM EXPIRES</u>
Jeffrey A. Gonnason, OD Optometrist Medical Park Eye Care 2211 East Northern Lights Blvd. #202 Anchorage, AK 99508	04/30/2004	03/01/2007	03/01/2011
James C. Graves, O.D., O.D. Optometrist 3455 Rewak Drive, Ste 102 Fairbanks, AK 99709	04/03/2006		03/01/2010
Jill Geering Matheson, OD Optometrist (Chair) Alaska Vision Center 800 Glacier Avenue Juneau, AK 99801	04/30/2004	01/28/2008	03/01/2012
Timothy M. Sullivan, Jr. Public 11051 Retreat Circle Anchorage, AK 99515	04/03/2006		03/01/2010
Dennis A. Swarner, O.D. Optometrist (Secretary) Kenai Vision Center P.O. Box 1669 Kenai, AK 99611	10/18/2005	03/01/2009	03/01/2013

### Staff:

Connie Petz, Licensing Examiner  
Department of Commerce, Community and Economic Development  
Division of Corporations, Business and Professional Licensing  
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Juneau, AK 99811-0806

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Michele Wall-Rood, Investigator  
Department of Commerce, Community, and Economic Development  
Division of Corporations, Business and Professional Licensing  
550 West 7<sup>th</sup> Avenue, Suite 1500  
Anchorage, AK 99501-3567

# BOARD OF EXAMINERS IN OPTOMETRY

## NARRATIVE STATEMENT

Two board meetings were held during Fiscal Year 2009. A teleconference was held on December 19, 2008 and a face to face meeting was held in Kodiak, Alaska on June 10, 2009.

### Major Issues:

The board has been working with applicants and licensees to ensure they meet new requirements for a TPA endorsement.

The board is in support of HB 245 and SB 193 which were introduced in April 2009. These bills will clean up outdated language and move toward one level of licensure for all licensees.

These desired statute changes are consistent with the board's previously stated goals and objectives.

The Board is in support of the national proposal of Joint Board Certification Project Team (JBCPT). The certification process is about continued competency and professionals keeping current on the quality of care they provide to the public. Certification is not something state boards look at for licensure but health care providers' look at for payment to providers. There is concern that if the board does not join in support of this project, optometrists may not be qualified for payments from Medicare/Medicaid if the Federal Government moves ahead and requires board certification for reimbursement.

# FISCAL YEAR 2009 STATISTICAL OVERVIEW

Program: Board of Examiners in Optometry

AS 08.72

12 AAC 48

Name of Individual Completing Report: Connie Petz

Date: July 1, 2009

CATEGORY	NEW - ISSUED DURING FY 2009	TOTAL AS OF 6/30/09	EXAMINATION/ CREDENTIAL
<b>A. Current Active Licenses, Endorsements, Permits</b> <i>(student, locum tenens, limited, courtesy licenses)</i> <b>List type and if issued by examination or credential, as applicable</b> <i>(Do not list "temporary permits" or "temporary licenses")</i>			
1. Optometrists with TPA Endorsement	11	128	Exam: 10 Credentials: 1
2. Optometrists with DPA Endorsement	4	30	Exam: 3 Credentials: 1
3. Optometrists (No Endorsement)	0	1	N/A
4.			
5.			
6.			
7.			
8.			
9.			
10.			
<b>TOTAL</b>	<b>15</b>	<b>159</b>	

**B. Current Inactive Licenses (not lapsed licenses)**  
*(Only Medical, Chiropractic, CPA, and Real Estate)*

CATEGORY	TOTAL AS OF 6/30/09
1. N/A	
2.	
3.	
4.	
5.	
<b>TOTAL</b>	<b>0</b>



## BOARD OF EXAMINERS IN OPTOMETRY

### REVIEW OF GOALS AND OBJECTIVES FOR 2009

1. Continue regular review of optometry statutes and regulations. This review is necessary to be sure that the laws are adequately protecting the public and properly regulating the modern practice of optometry. Possible examples:  
  
    Consider "standard of care" issues. – **Continuing.**
2. Develop a list of recommended changes to legislative statutes for the audit committee to take note of. Possible examples:
  - a. Licensure by endorsement should be restricted to those coming in at the highest level of license. – **Continuing.**
  - b. All new licenses should be at the highest level. – **Continuing.**
  - c. All current Alaska licenses to be at the highest level of licensure by 2012. – **Continuing**
  - d. Refusal of license: authority for the board to refuse to grant a new license for certain reasons and/or to impose certain stipulations. – **Accomplished SB 255**
3. Make active Alaska licensed optometrists aware of recent amendments to regulation.  
– **Continued Association Board Report and Website.**
4. Show support for pharmaceutical agent amplification legislation. – **Continued**
5. Continue to meet twice per year. – **Continued**
6. If possible send a board member to ARBO. – **Continued**
7. Keep informed of and support legislation on the state and federal level concerning patient protection and access to care.
8. Continue to support provider non-discrimination language in state and federal legislation.

## BOARD OF EXAMINERS IN OPTOMETRY

### GOALS AND OBJECTIVES FOR 2010

1. Continue regular review of optometry statutes and regulations. This review is necessary to be sure that the laws are adequately protecting the public and properly regulating the modern practice of optometry. Possible examples:
  - a. Consider "standard of care" issues.
  - b. Review the approval of alternate and electronic forms of continuing education such as webinars and virtual grand rounds.
  - c. 12 AAC 48.210(a)(1) and (a)(2) could be improved by removing "contact" and just stating 36 hours continuing education.
2. Develop a list of recommended changes to legislative statutes for the audit committee to take note of. Possible examples:
  - a. Licensure by endorsement should be restricted to those coming in at the highest level of license. HB245/SB193 was introduced to accomplish this
  - b. All new licenses should be at the highest level. HB245/SB193 was introduced to accomplish this.
  - c. All current Alaska licenses to be at the highest level of licensure by 2012. HB 245/SB193 was introduced to accomplish this.
  - d. Refusal of license: authority for the board to refuse to grant a new license for certain reasons and/or to impose certain stipulations. **Include in the division's Omnibus statutes for standardizing licensing, if possible.**
3. Make active Alaska licensed optometrists aware of recent amendments to regulation.
4. Continue to meet twice per year.
5. Send a board member to ARBO.
6. Keep informed of and support legislation on the state and federal level concerning patient protection and access to care.
7. Continue to support provider non-discrimination language in state and federal legislation.

## BOARD OF EXAMINERS IN OPTOMETRY

### LEGISLATIVE RECOMMENDATIONS

#### Licensure:

The board reiterates the Legislative recommendations as stated in last year's report and is pleased that HB 245 and SB 193 were introduced in April 2009.

Alaska currently has three levels of optometry licensure: License; License with DPA Endorsement; and License with TPA Endorsement. The board wants legislation to issue all new licenses at the highest level. What is now a license with a TPA Endorsement (Pharmaceutical Agent Prescription and Use Endorsement) would be an Optometry License, and licensees with the two lower levels would either have to meet the requirements to upgrade, or could be grandfathered with restricted licenses. There are currently only 30 licensees with DPA endorsements (Pharmaceutical Agent Use Endorsement) and 1 with no Endorsement. No new restricted licenses will be issued and a full license would not be downgraded to a restricted license.

As optometry education and training has advanced, it is important to the public safety that new licensees are at the highest level. Some other states have required all licensees to upgrade their education and renew at the highest level (after a reasonable period of time), as this best insures the safety of the public with all licensees at the same level. Granting restricted licenses to the few remaining at the lower levels is a practical possibility, but not the ideal recommendation.

The CE requirement for all licensees is 36 hours per biennium as prescribed by the board in regulation (with least 24 hours in Pharmacology and/or Ocular Pathology and 12 hours in other optometry related courses, spectacles, contact lenses, refractive technology).

The board suggests:

1. Repealing Statute AS 08.72.175 without or with a grandfather clause for current DPA and no Endorsement licensees, allowing them the choice to keep their restricted license or to upgrade if they choose.
2. Amending Statute AS 08.72.272(a): Change "a license endorsement" to "a license" or "a license that is not restricted" per (the new) AS 08.72.175. Repeal (b) and (c).
3. Amend licensing law to remove any reference to a specific hourly requirement for continuing education allowing the board to set the number of hours for continuing education in regulation (AS 08.72.175(d)(1)-(2)).
4. Defining minimum educational standards for licensure and other changes as necessary to implement the recommendations.

#### Housekeeping:

Amend AS 08.72.140 to read:

**Sec. 08.72.140. Qualifications for licensing examination.** To be eligible for licensure by the board as an optometrist, an applicant shall ~~The board shall admit to the examination a person who furnishes proof that the person~~

- (1) ~~has had education equivalent to four years attendance at a state high school;~~
- (2) be is a graduate of a recognized school or college of optometry;
- (3) ~~has not~~ have committed an act in any jurisdiction that would have constituted a violation of this chapter or regulations adopted under this chapter at the time the act was committed;

(4) has not have been disciplined by an optometry licensing entity in another jurisdiction and is not the subject of a pending disciplinary proceeding conducted by an optometry licensing entity in another jurisdiction; however, the board may consider the disciplinary action and, in the board's discretion, determine if the person is qualified to be admitted to the examination.

**(5) meet other qualifications for licensure under this chapter and as established in regulations adopted by the board under AS 08.72.050**

**Repeal AS 08.72.150 Application for Examination and issuance of license.** This statute is no longer necessary. Applicants take the national board directly through the national organization (NBEO); the state law examination is addressed under AS 08.72.160 and 12 AAC 48.015 and 12 AAC 48.020.

**Amend AS 08.72.160(c)** to address that an applicant who fails the board's state law examination may retake the examination by submitting the required examination fee.

**Repeal AS 08.72.160(d)** which reads: "An applicant who fails more than one portion of the examination shall retake the entire examination and pay the examination fee." This statute is no longer applicable due to the fact that applicants deal directly with the NBEO for the national examination and there is no longer a state practical examination.

**Amend Sec. 08.72.170 (4)** to require applicants by credentials have a current state license in another state equivalent to Alaska requirements, and **(5)** successfully passed all parts of the National Board required when originally licensed.

**Repeal Sec. 08.72.240 (9)** which reads: "failed to refer a patient to a physician after ascertaining the presence of ocular or systemic conditions requiring management by a physician." This statute is obsolete. Optometrists are defined as "physicians" currently under federal law, and are held to the same standard of care as other medical providers.

Over the years, more and more states are requiring optometrists to hold an optometry license at the highest level. In fact, effective January 2010, optometrists in the state of Oregon must be licensed at the highest level to even practice optometry. The chart below is a survey of states showing the movement among states to require licensees meet the highest educational requirements.

**Initial and Renewal License Requirements to  
Seek/Maintain Highest Level**

*Last Revised January, 2010*

<b>STATE:</b>	Can an <b>applicant for initial licensure</b> (could be a new grad or someone coming from another state) apply for a license other than one at the highest level of prescriptive authority authorized in your state?	Can a <b>licensee within your state holding an active license</b> drop "down" to a lower level license at renewal or other time (i.e., they hold a TPA license, but now only want a basic or DPA-only license)?
Alabama	<b>NO</b>	<b>YES</b> Technically, yes. We hope to tighten up the wording of our law so that this cannot happen. We have had one instance of this with a licensee who was about to retire. He asked to lower his licensure status to non-therapeutic for the few months he planned to practice. We could find nothing in our law that prevented this. He saved \$110!
Alaska	<b>YES</b> 2010 Legislation is aimed at changing this to No.	<b>YES</b> 2010 Legislation is aimed at changing this to No.
Arizona	<b>NO</b>	<b>NO</b>
Arkansas	<b>NO</b>	Yes, under health reasons and maybe has retired, but still wants to keep their basic licenses. The cost difference is \$50
California		
Colorado	<b>NO</b>	<b>NO</b>
Connecticut		
Delaware	<b>NO</b>	<b>NO</b>
D.C.		
Florida	<b>NO</b>	<b>NO</b>
Georgia	<b>NO</b>	<b>NO</b>
Hawaii		
Idaho	<b>NO</b>	<b>NO</b>
Illinois	<b>NO</b> All licensees had to upgrade to the highest level by 2007	<b>NO</b>

For more information contact Tracy Oman, Alaska Optometric Association, at (907) 272-2972 or [akoa@alaska.com](mailto:akoa@alaska.com)

Indiana	<b>YES</b> Our applicants apply for an optometry license and if they are going to be prescribing, administering, or dispensing legend drugs then they can obtain an optometric legend drug certificate. It is not mandatory to obtain the legend drug certificate.	<b>YES</b>
Iowa	<b>NO</b>	<b>NO</b> We have no definite rule but would probably be denied.
Kansas	<b>NO</b> As of May 31, 2010, everyone must come in at the highest level.	<b>NO</b> As of May 31, 2010, everyone must be at the highest level.
Kentucky		
Louisiana	<b>NO</b>	<b>NO</b> Must be TPA to practice in the state.
Maine	<b>NO</b>	<b>NO</b>
Maryland		
Massachusetts	<b>NO</b>	<b>NO</b>
Michigan		
Minnesota		
Mississippi	<b>NO</b>	<b>NO</b>
Missouri	<b>NO</b>	<b>NO</b>
Montana		
Nebraska	<b>NO</b>	<b>NO</b>
Nevada	<b>YES</b> All new licensees come in at a DPA level. Subsequent to licensure, they can apply for TPA certification after they have completed the statutorily required 40 hour preceptorship with an ophthalmologist. They can elect to stay DPA. Most of those who are only DPA are not practicing in the state.	<b>NO</b>
New Hampshire	<b>NO</b>	<b>NO</b>
New Jersey		
New Mexico		
New York		
North Carolina	<b>NO AND YES</b> Beginning with the graduating classes of 2008 from the accredited schools and colleges of optometry applicants will come in at the highest level (includes injectables). Current licensees do not have to move up to the highest level with injectables.	<b>NO</b>
North Dakota	<b>NO</b> As of 2001	<b>NO</b>
Ohio	<b>NO</b>	The Ohio law does not specifically address this issue one way or another. The law does provide that they <u>MAY</u> renew each certificate of licensure and agents certificate. If

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		someone only wanted to renew there license and not a certificate they would drop down to just an optometric license but would not be able to drop from a TPA to a DPA. There have not been any licensees who have dropped to a lower level in the past 5 years. The cost for a TPA or DPA certificate is \$25 above the annual renewal cost of \$110 for just licensure.
Oklahoma	<b>NO</b>	<b>NO</b>
Oregon	<b>NO</b> As of January 2010 applicants must be at highest level, <b>except for</b> injectables authority which will remain optional. NOTE: Over the last five years they have had 159 applicants who have not sought licensure at the highest level.	<b>NO</b> As of January 2010.
Pennsylvania	<b>NO &amp; YES</b> New grads automatically get the highest level of licensure. Older grads coming in from another state may apply for a lower level license, but it is infrequent. The cost is the same.	<b>NO</b> They are not given that option.
Rhode Island		
South Carolina	<b>NO</b>	<b>NO</b>
South Dakota	<b>NO</b>	<b>NO</b>
Tennessee		
Texas	<b>NO &amp; YES</b> An applicant from another state can only come in as a therapeutic OD or higher.	<b>NO</b>
Utah		
Vermont		
Virginia		
Washington	<b>NO</b>	<b>NO</b>
West Virginia	<b>NO</b>	<b>NO</b>
Wisconsin	<b>NO</b> Could until Aug 2006.	<b>NO</b> Could until Aug 2006.
Wyoming	<b>NO</b>	<b>NO</b>

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Please distribute to all members  
of the House Labor & Commerce Cmte

RECEIVED  
FEB 25 2010

2/22/2010

After reading S.B. 193 and H.B. 245 it would seem there is little value in protecting the public's visual well-being.

Reasons:

1. Board Authority to approve schools-  
All 18 U.S. teaching schools of optometry issue a Dr. of Optometry degree and all are accredited.
2. The Board of Optometry may give a restricted license to practice.  
There are 20 licenses that do not hold the highest certification of practice. I am not aware of any demonstrated record that shows a license of these 20 is a threat to the public visual well-being; rather this allows the board to put an existing license out of practice.
3. Putting C.E. course requirements in statute-  
Not a good idea. Technology and practice procedures change rapidly.

What appears to be the intent of these two bills is to get in stature the authority for the Board of Optometry to function in an arbitrary and capricious manner.

*DeWayne Halverson*

DeWayne Halverson, OD

License #61

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