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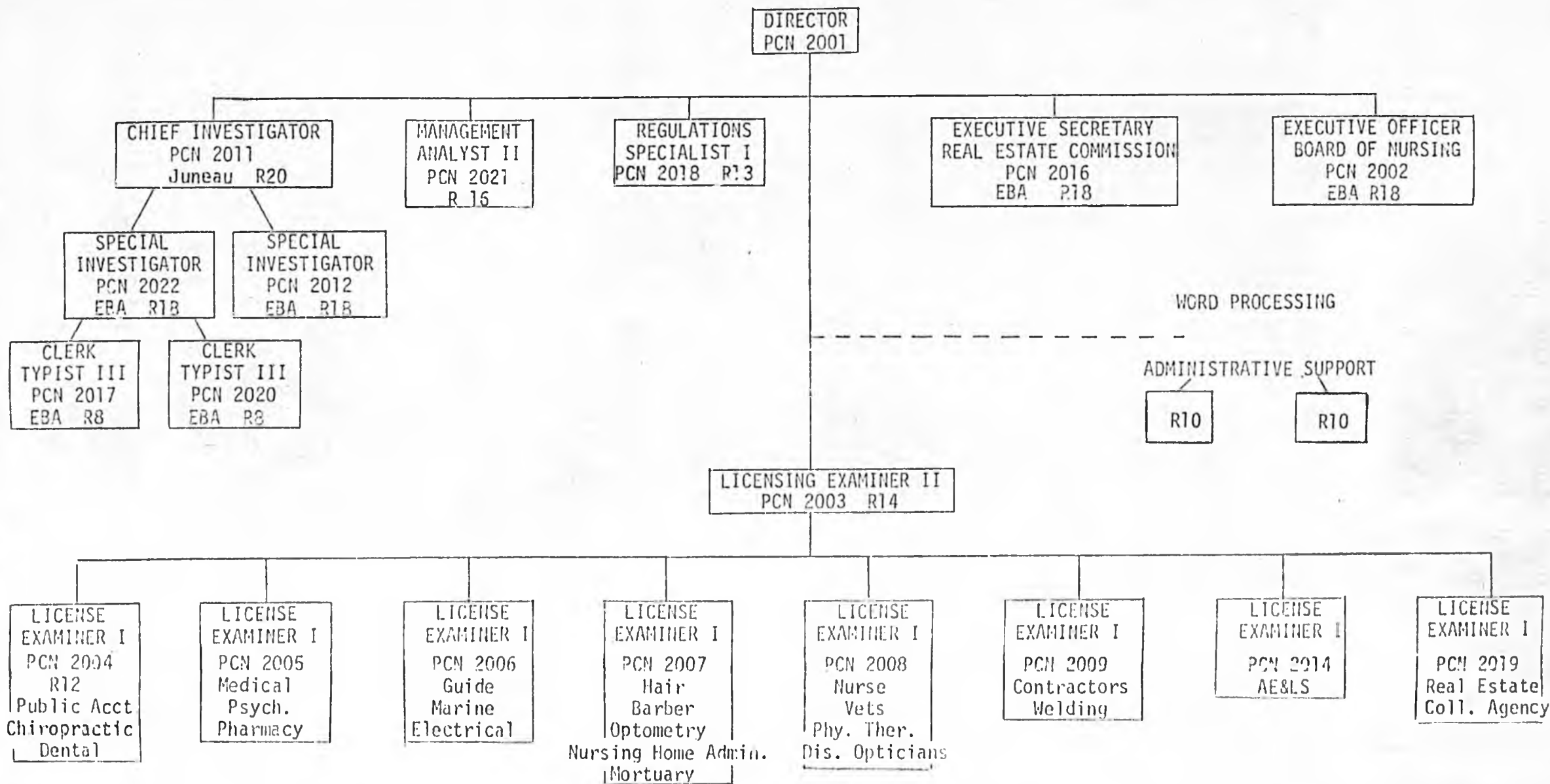
VOLUME, SUNSET REVIEWS (HEALTH CARE)

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Senate
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Senator Bradley



- Optometry Board
- Chiropractic Board

Pat Connolly
~~Conn~~
Connolly
(789-7956)

SUNSET REVIEW
Prepared by

The Department of Commerce &
Economic Development
Division of Occupational Licensing

A SUNSET REVIEW OF THE
STATE HEALTH CARE RELATED BOARDS

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
Division of Occupational Licensing

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and Economic Development

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STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D

JUNEAU, ALASKA 99811

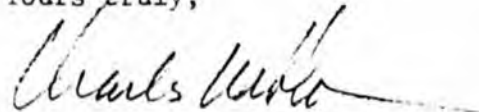
January 15, 1979

The Alaska State Legislature:

Transmitted herewith, pursuant to AS 44.66.050, are the reports of the Alaska State Board of Dental Examiners, Board of Nursing, Board of Dispensing Opticians, Board of Examiners in Optometry, Board of Pharmacy, Board of Veterinary Examiners, Board of Psychologist and Psychological Associate Examiners, Board of Nursing Home Administrators, Physical Therapy Board, Board of Chiropractic Examiners and State Medical Board.

This evaluation, supplemental to my oral testimony before the Legislature, serves to focus attention upon the question of whether or not the boards are best serving the interests of the public. Data as provided by the Division of Occupational Licensing, the board members, licensees and members of the public has been received, reviewed and evaluated. Specific proposals are made on the basis of this data achieving increased effectiveness and protection to the consuming public.

Yours truly,



Charles Webber,
Commissioner

Philosophy of Evaluation

This review and evaluation has been undertaken to determine whether continued regulation of an industry or occupation under State auspices can be justified in terms of protection of public health, safety and welfare. State boards and regulatory agencies should be continually cognizant of the public's right to a government acting responsibly in licensing competent practitioners and doing so only in the best interests of the people. Evidence must clearly indicate that the primary goal of regulation is to promote the public good rather than that of the industry or profession. The absence of such evidence indicates cessation of State regulation. Where public benefit or a potential for benefit can be shown to exist, recommendations are made with respect to possible alternatives in the regulatory process which will serve to enhance public health, safety, welfare and accountability.

TABLE OF CONTENTS

	Page
BOARD OF DENTAL EXAMINERS.....	I
BOARD OF DISPENSING OPTICIANS.....	II
BOARD OF VETERINARY EXAMINERS.....	III
PHYSICAL THERAPY BOARD.....	IV
BOARD OF EXAMINERS IN OPTOMETRY.....	V
BOARD OF PSYCHOLOGIST AND PSYCHOLOGICAL ASSOCIATE EXAMINERS.....	VI
BOARD OF CHIROPRACTIC EXAMINERS.....	VII
BOARD OF PHARMACY.....	VIII
BOARD OF NURSING HOME ADMINISTRATORS.....	IX
BOARD OF NURSING.....	X
STATE MEDICAL BOARD.....	XI
APPENDICES.....	XII

I

STATE OF ALASKA
Board of Dental Examiners
(July, 1978)

Findings

Dissolution of the Board of Dental Examiners and subsequent governmental deregulation of the dentistry profession would subject the public to the possibility of persons practicing dentistry who are not compelled to meet requisite minimum standards of proficiency. Lack of control could result in financial loss, physical injury or death among members of the general public. With the abrogation of governmental regulation and investigative follow-up on complaints of alleged dental malpractice, unqualified practitioners would be unhindered in their practices on an unaware public, even though previous violations such as overcharging or physical harm had occurred. Therefore, it is recommended that the Board of Dental Examiners be reestablished for an additional four-year period.

I. General Information

A. Regulated Parties

1. Dentists
2. Dental Hygienists

B. Statutory Definition of Regulated Profession

"A person engages in the practice of dentistry who

- (1) performs or holds himself out to the public as being able to perform dental operations;
- (2) diagnoses, treats, operates on, corrects or attempts to correct, or prescribes for, a disease, lesion, pain, injury, deficiency, deformity, or physical condition, malocclusion or malposition of the human teeth, alveolar process, gums or jaws and adjacent tissues;
- (3) performs or attempts to perform an operation incident to the replacement of teeth;
- (4) furnishes, supplies, constructs, reproduces, or repairs prosthetic dentures, bridges, appliances or other structures to be used and worn as substitutes for natural teeth, except on prescription of a duly licensed and registered dentist and by the use of impressions or casts made by a duly licensed and registered dentist;
- (5) uses the word 'dentist' or 'dental surgeon' or the letters D.D.S. or D.M.D. or other letter or title which represents him as engaging in the practice of dentistry;

- (6) extracts or attempts to extract human teeth;
- (7) owns, manages or operates a place where the acts and things described in this section are performed or done."
(AS 08.36.360)

C. Purpose of Regulation

"The practice of dentistry in the state is hereby declared to affect the public health, safety and welfare and to be subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the dental profession merit and receive the confidence of the public and that only qualified dentists be permitted to practice dentistry in the state. All provisions of this chapter relating to the practice of dentistry and dental hygiene and to the registration of dental laboratories shall be liberally construed to carry out these objects and purposes." (Section 1, Chapter 155, SLA 1968)

D. Nature and Composition of Board

1. Board members and terms:

Five-year term (no restrictions regarding consecutive terms or number of terms).

Arthur Hansen, DDS (Chairman)	ends February 1, 1982
Wayne Putman, DMD	ends February 1, 1983
Leonard Yuknis, DDS	ends February 1, 1979
Claude Rick, DDS	ends February 1, 1981
John Kobylarz, DMD (Secretary)	ends February 1, 1980
Jana Varrati, RDH	ends February 1, 1981
John R. Beard, Attorney	ends February 1, 1981

2. Representation:

Profession = 6 (includes one dental hygienist)
Public = 1

3. Qualifications:

"Five members shall be qualified resident dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment, one member shall be a dental hygienist licensed under AS 08.32, and one member with no direct financial interest in the health care industry." (AS 08.36.010)

E. Licensing Data

DENTISTS

By Examination

Year	<u># of Candidates</u>	<u># Passed</u>	<u># Failed</u>	<u>% Passed</u>	<u>% Failed</u>
1974	26	15	11	58	42
1975	33	16	17	48	52
1976	31	25	6	81	19
1977	28	23	5	82	18
1978	25	12	13	48	52

Currently licensed:

in-State = 203 (through June 1978)
out-of-State = 172 (through June 1978)
Total 375

(includes 23 specialist licenses)

DENTAL HYGIENISTS

By Examination

<u>Year</u>	<u># of Candidates</u>	<u># Passed</u>	<u># Failed</u>	<u>% Passed</u>	<u>% Failed</u>
1974	7	6	1	86	14
1975	9	8	1	89	11
1976	11	11	-	100	-
1977	28	28	-	100	-
1978	15	15	-	100	-

Currently licensed: 142 (issued through July 13, 1978)

F. Fees

DENTISTS

1.	original license	\$30.00
2.	examination	50.00
3.	reexamination	50.00
4.	biennial registration	40.00
5.	branch office	
	biennial registration	40.00
6.	temporary permit	25.00
7.	reinstatement	10.00
8.	specialty license	30.00
9.	duplicate license	10.00

DENTAL HYGIENISTS

1.	application	\$25.00
2.	initial registration	20.00
3.	biennial registration	20.00
4.	reinstatement	25.00

G. Board Revenues and Expenditures

	<u>FY '75</u>	<u>FY '76</u>	<u>FY '77</u>	<u>FY '78</u>
Receipts	\$11,040.00	\$11,524.40	\$14,707.00	\$6,040.24
-Refunds	100.00	755.00	270.00	70.00
Total	10,940.00	10,769.40	14,437.00	5,970.24
Expenditures				
Per Diem	-	3,998.75	3,471.16	3,202.50
Transportation	130.40	2,480.75	1,493.10	3,371.97
Phone	209.30	638.04	588.88	741.07
Printing, Adver. & Postage	172.30	939.46	657.30	394.74
Fees & Services	-	476.50	50.00	914.20
Rents, Leases & Other	50.00	120.69	140.35	151.40
Total	\$ 562.00	\$ 8,654.19	\$ 6,400.79	\$ 8,775.88
Surplus	\$10,378.00	\$ 2,115.21	\$ 8,036.21	-
Deficit	-	-	-	\$ 2,805.64

(EXCLUDES DIVISION OF OCCUPATIONAL LICENSING ADMINISTRATIVE OVERHEAD)

H. Complaints

	<u>Received</u>	<u>Closed</u>	<u>To Litigation</u>
1975	5	4	0
1976	7	2	2
1977	12	2	1
1978	1	0	0
(through June 30)			

Pending: 16

I. Qualifications

1. Dentists:

Applicants applying for licensure by examination are required to be of good moral character and to have graduated from an approved dental college. College requirements may vary, however, six to eight years of post high school education is obligatory. Examination is required by every state prior to initial licensure.

2. Dental Hygienists:

Applicants must be at least 18 years of age, of good moral character, a graduate from both high school and an approved training school with at least a two-year program and must pass an examination prior to initial licensure.

II. Criteria and Analysis

A. To what extent has the Board of Dental Examiners operated in the public interest?

A major function of the Board is to examine and license qualified applicants to practice dentistry and dental hygiene throughout the State. While some qualifications are provided by statute (i.e., graduation from an approved dental college), the Board is given wide latitude in setting standards by which professional competence is judged.

One method of judging competency of applicants is through an examination, now given once each year, consisting of either written testing, clinical testing, or a combination of both at the discretion of the Board. Applicants who have completed the National Board written examination may or may not be required to successfully complete an additional written examination for Alaska. The Board has consistently required clinical examination of applicants, however, written examination requirements have been inconsistent. The 1975 dental examination included a written test, no longer in use, composed by the Board of Dental Examiners. In 1976 and 1977 no written examination was administered. In 1978, applicants were required to successfully complete the American Association of Dental Examiners' written test. The Board recently resolved to implement the June, 1978 requirements cited through adoption as regulations. This lack of continuity obviously contributed to the litigations instituted against the Board by unsuccessful candidates during this period.

Applicants who do not exhibit the prescribed level of knowledge and proficiency remain unlicensed until reexamination is successfully completed. It should be noted that an applicant who has failed to pass the examination on two separate occasions must submit proof of further study before reexamination.

Public interests are protected by requiring that applicants demonstrate professional proficiency. Incompetence could result in financial loss, physical harm and perhaps death. By licensing and registering dentists in the State, the Board is certifying to the public that the practitioner is at least minimally competent by its standards.

In contrast to other health care board statutes (i.e. State Medical Board, Board of Pharmacy, Board of Nursing), those of the Board of Dental Examiners do not specifically provide that an applicant for licensure shall meet specific requirements or substitutes. Rather, applicants may follow alternative procedures which the Board may designate at its discretion. It is, therefore, recommended that a separate, short term task force be created with the specific directive and goal of reviewing, revising and recommending concise and definitive statutory language. This task force should be represented by members of the dental profession, the legal profession, and knowledgeable lay persons, and should be dissolved immediately upon completion of this single directive.

Continued competency is not assured by initial testing procedures. No review or reexamination procedures exist. Valid arguments may be made against mandatory continuing education. One is the fact that if ongoing education is required, provisions must be made to allow compliance. The practicality of implementation in a rural state or of requiring professionals to go out of state to obtain education must be weighed against

whatever assurance there may be that incompetency will be significantly reduced or avoided by this method. Pending further study of this issue, one opinion¹ seems to indicate that vigorous investigation and enforcement programs may be an effective course of action.

It must be recognized that there is a widespread trend toward continuing education requirements as a condition of license renewal. Alaska is one of only 12 states not presently considering mandatory implementation of such requirements.² The American Dental Association supports continuing education. Continuing dental education requirements in the State of Minnesota have resulted in voluntary termination of licensure by out-of-state, semi-retired, and retired dentists and in suspension of 1.2% of all licenses for failure to meet reassessment requirements.³ The recommended statutory review task force could appropriately address this subject as it relates to dental and other health care related boards.

¹Shimberg, B., Improving Occupational Regulation, "Officials from 30 states discuss common problems and search for solutions," Educational Testing Service, Princeton, N.J. 1976, p. 35.

²Dunn, R. and Porter, D., A Performance Audit of Dental Licensing in Utah. Office of Legislative Auditor General, Salt Lake City, Utah, June, 1978, p. 7.

³Ibid.

In the event that reassessment advantages are determined to outweigh the disadvantages, alternatives are:

1. certification of completion of approved courses to provide a basis for public selection of practitioners;
2. periodic in-office review of client records, dental practices and procedures;
3. mandatory reexamination by methods such as written tests, records and x-ray review;
4. routine periodic oral interviews before the Board, a member, or a selected committee;
5. review and analysis of quantity, type and disposition of complaints;
6. well developed and effective peer review mechanisms; and/or
7. programs that may be offered by the Alaska branch of the National Dentistry Association.

The problem of providing dental care to outlying communities is a very real one within the State. Permits for isolated areas may be issued upon recommendation by the Department of Health and Social Services and a "pool" of licensed dentists exists in some areas to provide periodic dental care to remote communities under contract. The Board has discontinued, as a matter of policy, the issuance of temporary permits prior to successful completion of the dental examination.

Formal licensure is not necessarily a guarantee against malpractice. Safeguards exist which can be utilized as measurements of ability, and as bases for revocation or limitation of temporary permits. Graduation from dental college should be indicative of ability and knowledge sufficient to have completed stringent academic and practical curricula. Additionally statutory provisions for issuance of a temporary permit require: That the permittee practice in a city or rural village where there is no actively practicing resident dentist; that the applicant have a license in good standing in a state, district, territory or possession of the U.S.; that the Board may issue one year permits only for a maximum of two years by which time the applicant must pass a Board examination; and that the Board may revoke, suspend or annul the license or take disciplinary action if necessary during that period.

The Board of Dental Examiners, at its discretion, also does not license by waiver or reciprocity, nor does it permit out-of-state proctoring, nor does it allow for examination in out-of-state dental colleges. Regional examinations in which several states may participate and which provide reciprocity among those states are not accepted or being considered as alternatives by the Board at this time.

The current practice of the Board in examining candidates annually, in conjunction with restrictive policies against reciprocity and the issuance of temporary permits, is not conducive to opportunity for entry into dentistry in the State. A review of reciprocity provisions indicates that such requirements restrict interstate entry into professions. Only applicants from states with which agreements have been established may be admitted without examination regardless of their qualifications. Endorsement allows licensure of those individuals licensed elsewhere whose qualifications are substantially similar to those in Alaska at a given time, independently of formal interstate concurrence. Endorsement provisions are felt to be more in keeping with the principle of licensing

qualified applicants and with providing services of practitioners. It is recommended that statutory changes be made to allow for licensure by endorsement and that the Board take positive steps toward implementation of all methods which would allow additional availability of services to the public.

- B. To what extent has the operation of the Board of Dental Examiners been impeded or enhanced by existing statutes, procedures and practices which it has adopted, or any other matter, including budgetary, resource and personnel matters?

The functions of the Board have been limited and impeded by the lack of specific criteria and guidelines relevant to its operation. Much Board time is consumed with clarification and refinement of regulations. Recent revisions in Board regulations and policies have largely evolved out of court cases in which unsuccessful applicants allege nonuniformity of standards and failure of the Board to establish specific guidelines.

In an attempt to clarify its functions and requirements and to provide specific guidelines, the Board approved updated regulations delineating examination procedures, content, criteria for grading, and notification procedures (which were subsequently invalidated because formal adoption procedures were faulty). This continual refinement process has also contributed to confusion in interpretation and some conflict with statutes. Those regulations (12 AAC 28.100) stated: "Before each clinical examination the board will appoint three to five persons (who may be but are not required to be members of the board) as examiners for that examination." AS 08.36.130 states in part: "At least once each year the board shall appoint from its membership an examination committee of at least three persons." There also existed some ambiguity in the regulations covering examination procedures as to what constitutes a testing "section," a "subject" and a "part" as they pertain to reexamination provisions.

A general review of the statutes applicable to dentists and dental hygienists indicates a need to reexamine statutory language and continuity. Statutory consistency and standardization covering the functions and operations applicable to all health care boards could be expected to produce the following results:

1. a reduction in time expended in attempting to clarify Board functions and requirements;
2. a reduction in litigation, costs and time;
3. a reduction in time expended by the administrative agency in research, documentation and interpretation,
4. formalization of the Board's relationship with the public and with the administrative agency; and
5. formalization of the Board's scope of authority and support for its subsequent activities.

As previously noted, it is recommended that a separate, short-term task force be created with the specific directive and goal of reviewing, revising, and recommending concise and definitive statutory language. The task force would be dissolved immediately upon completion of this single task.

The Board of Dental Examiners has experienced little difficulty in its administrative operations with respect to personnel or budgetary restrictions, with the exception of investigative services. Support staff is provided by the Division of Occupational Licensing and is presently adequate to serve Board needs. All fees and revenues are collected through the Division and are deposited into a general fund. Monies deposited and withdrawn are identified by codes so that direct Board revenues and expenses may be determined for budgetary purposes.

Improved procedures are being developed within the administrative agency pertaining to organization of records, forms and examination information which will better enable the Board to perform its functions.

The Board of Dental Examiners has experienced the same difficulties as other boards and commissions with respect to investigative services coming under the jurisdiction of the administrative agency. During the past year two investigator positions remained unfilled. As a result one of these positions was abolished by the Legislature. One position was recently filled in Anchorage. Moreover, procedural constraints of the Administrative Adjudication Article of the Administrative Procedure Act (AS 44.62.330 - 630), while necessary, restrict timely disposition of litigation. Prioritization based on time, staffing and nature of alleged offense results in pursuit of only the most flagrant and potentially injurious licensing complaints.

It is undeniably in the public interest to enforce the laws promulgated for the protection of public health and welfare and to take expeditious action upon receipt of potentially serious complaints. The administrative agency will continue to address the need for initial assessment and follow through on complaints with emphasis on magnitude of offense as it relates to public safety.

C. To what extent has the Board of Dental Examiners recommended statutory changes which are generally of benefit to the public interest?

Health care legislation enacted in 1976 provided several amendments and additions to existing statutes relating to Dental Hygienists and the Board of Dental Examiners:

AS 08.32.165 and 08.36.325 expand on previous sections which provide for revocation or suspension of licenses. The additions enumerate less severe disciplinary measures that may be enforced to limit or place conditions on a practitioner (i.e., reprimand, censure, probation, practice restrictions, or requirements for additional education or training).

AS 08.01.050(a)(19) was added to "provide investigative services" to boards for assistance in "matters of professional discipline." The Enforcement and Investigation Section of the Division of Occupational Licensing handles complaints received in which licensing violations are alleged. Complaints which are determined not to be this type of violation are referred to appropriate agencies while cases within Division jurisdiction are investigated and processed. Two investigators (including the chief investigator) currently are responsible to twenty-four (24) boards, commissions and interest groups.

AS 08.02.020 provided immunity from personal liability for licensing board members acting within their scope of authority.

AS 08.36.010 amended Board membership from five (5) to seven (7) members adding one dental hygienist and one member with no direct financial interest in the health care industry to the then existing five qualified resident dentist members.

AS 08.36.020 deleted the requirement that nominations for appointment to the Board be made by, and restricted to, the Alaska Dental Society.

1978 amendments relating to the practice of dental hygiene consisted for the most part of "housekeeping items," clarification and updating of existing statutes.

No statutory recommendations have been made by the Board of Dental Examiners that would be of specific benefit to the public.

D. To what extent has the Board of Dental Examiners encouraged interested persons to participate in and report to it concerning the making and effect of its regulations and decisions, or to report to it concerning the effectiveness, economy, and availability of service which it has provided?

The Board is generally sensitive to public concern and to aspects of public health and welfare. However, very little public interest in the activities of the Board has been shown in the form of attendance at Board meetings, hearings, or as written comment. Most public concern is expressed as a result of controversial issues arousing publicity or by individuals with particular problems directly approaching Board members. Notices of pending meetings and new or changing regulations are published in major newspapers in the State. It can be assumed that members of the public are somewhat reluctant to involve themselves in areas of a technical or scientific nature which may be considered too complex for anything but minimal scrutinization by a layperson. A technical and professional "barrier" of sorts exists, due to the nature of the occupation involved, which probably tends to deter public knowledgeability and participation.

The Board has not taken any overt action to solicit general public response to the quality and availability of service. Positive steps could be taken to solicit interest and make the public aware of the existence and functions of the Board, such as public service radio announcements. Wider dissemination of general information regarding the Board may help to mitigate public disinterest.

Public interests are furthered by the existence of public members on professional boards. The State of California, which provides for a one-third public membership on health care boards and a public majority on other boards, has indicated that its experience with public members has been highly rewarding.⁴

⁴Shimberg, B. and Roederer, D., Occupational Licensing: Questions a Legislator Should Ask, The Council of State Governments, Lexington, Kentucky, March, 1978, p. 20.

E. How efficiently are public inquiries or complaints regarding the activities of the Board of Dental Examiners processed and resolved?

No complaints were received which were specifically directed at individual members of the Board of Dental Examiners. Current and recent litigations have charged that the Board as a whole has been arbitrary and capricious in its examination requirements and grading standards. Two such cases were resolved through determination by a hearing officer that a special examination be held eight months later to accommodate the candidates (both passed and were subsequently licensed). In another instance, the hearing officer determined that the candidate should be reexamined on the failed portion of the test and that all costs of this procedure be borne by the Board.

Over the past three years only one complaint was received by the Office of the Ombudsman relating to Board activities. This complaint involved a delay in the receipt of a hygiene certificate and was resolved satisfactorily.

F. To what extent does the Board of Dental Examiners present qualified applicants to serve the public?

Applicants for licensure are not sponsored by the Board of Dental Examiners. Individuals wishing to practice within the State must submit fees and application to the administrative agency with documentation of qualifications. One examination each year is currently conducted, monitored and graded by the Board. Applicants who demonstrate the required level of knowledge and proficiency are issued a license.

Because examinations are given only once each year, it may be of some public benefit to increase examination schedules. Applicants who have failed the examination or a portion, or who apply too late to be scheduled for an examination, would not be required to wait as long as a

year. A second examination could be scheduled providing that a minimum number of applications are received 30 days prior to the examination date. This increase in scheduling, once established, could be expected to increase the availability of licensed practitioners within the State. It should be noted that an applicant who has failed to pass the examination on two separate occasions must submit proof of further study before being reexamined (AS 08.36.180).

The current practice of the Board in examining candidates once each year, in conjunction with restrictive policies against reciprocity and the issuance of temporary permits, is not conducive to encouraging entry into the profession. It is again recommended that the Board review its regulatory alternatives, including the possibility of endorsement, and that it make every effort in providing opportunities for availability of dental services to the public.

- G. To what extent have State personnel practices, including affirmative action requirements, been complied with by the Board of Dental Examiners in its own activities, and its area of activity or interest?

Board staff consists of the support services of a licensing examiner employed by the Division of Occupational Licensing (responsible for two other boards) who is hired through the State Personnel System and, therefore, subject to affirmative action requirements.

The Board of Dental Examiners issues licenses on the basis of specific education and performance criteria. Affirmative action requirements are not applicable to licensure qualifications.

- H. To what extent are statutory, regulatory, budgetary, or other changes necessary to enable the Board of Dental Examiners to better serve the interests of the public?

Recent litigation and interpretation difficulties have led to attempts at refining Board regulations. The Board is cognizant of the need for standardization and specificity within its regulations and is continually reviewing and revising them to provide more definite guidelines. Board policies with respect to examination criteria and uniformity in grading are also subject to continual scrutiny.

Changes in statutory language need to be enacted upon which the Board, the applicants, and the public may rely. While Board discretion may be advantageous in some functional aspects, it also exposes Board judgment and decisions to challenge. This latitude results in lengthy discussions and time-consuming attention to interpretation, primarily concerning matters of qualifications for licensure. More Board time could be provided addressing matters such as examinations, temporary permits and reciprocity or endorsement provisions if its functions and standards were more clearly defined by statute.

Board and administrative expenses outweigh the revenues collected through regulation of this profession. Fees collected are simply not adequate to cover transportation and per diem for meetings and examinations, and the Division of Occupational Licensing administrative overhead such as staff salary, examination expenses, investigative services and litigation.

The Board presently consists of seven members, five qualified resident dentists who have practiced in the State for the five years preceding appointment, one licensed hygienist, and one public member with no interest in the health care industry. Because of recent concern regarding the need for occupational licensing, the questions raised concerning public welfare versus professional interests and concern regarding proliferation of regulated and licensed groups, appointment of knowledgeable laymembers is a widely advocated step. "There has been a growing movement to place public members on regulatory boards to ensure

that there will be input from groups other than those representing the regulated occupation."⁵ Shimberg and Roederer further indicate that, "... if impact is the major criterion, one public member is probably too few, two would be the minimum, and three or four would increase the likelihood that the impact of public members would be felt, particularly if the board had from seven to ten members." It is recommended that public Board membership be increased to three with three qualified resident dentists and one dental hygienist and that number of terms or of consecutive terms be limited for all members.

III. Conclusion

The Board of Dental Examiners and regulation of this profession does function to protect the public health, safety and welfare.

IV. Summary of Recommendations

The Board of Dental Examiners should be reauthorized for another four-year period. The following recommendations are made:

1. It is recommended that a short term task force be created with the specific direction and goal of reviewing, revising and recommending concise and definitive statutory language, such task force to be represented by members of the dental profession, the legal profession, and knowledgeable lay persons, and to be dissolved immediately upon completion of this single task. This task force should also review the area of continuing education requirements upon which license renewal would be contingent. (See discussion on p. 9)

⁵Ibid, Shimberg & Roderer, p. 9.

2. The Board should request statutory changes or adopt regulations requiring continuing education as a condition of relicensure. Acceptable compliance methods should be outlined and adopted through Board regulations. (See discussion on p. 9)
3. The Board should not take a blanket position against the issuance of any and all temporary permits. Board policy should allow for consideration of temporary permits on an individual basis. The statutory provision requiring that temporary permits be only in areas where there is no licensed resident dentist should be deleted. (See discussion on p. 11)
4. Statutory changes should be made which allow for licensure by endorsement rather than reciprocity. If this is not done, the Board should take positive steps to establish reciprocal agreements with other states wherever possible. If qualifications in Alaska are substantially dissimilar to those of other states, they should be carefully reviewed for validity and appropriate recommendations made. (See discussion on p. 12)
5. The Board and the administrative agency should take positive steps to inform the public of Board and profession activities. (See discussion on p. 17)
6. The Board should schedule two examinations each year provided that a minimum number of applications are received 30 days prior to the second examination date. This would eliminate the year-long waiting period if enough candidates are available and would allow more frequent opportunity for entry into practice. (See discussion on p. 18)
7. Board membership should be changed to consist of three licensed resident dentists, one dental hygienist and three public members. (See discussion on p. 20)

Jurisdictions with Mandatory Continuing Education

1. Alabama				
2. Alaska				
3. Arizona	XXXXXXXXXX			
4. Arkansas				
5. California	XXXXXXXXXX			
6. Colorado				
7. Connecticut				
8. Delaware				
9. District of Columbia				
10. Florida	XXXXXXXXXX	(For Dental Hygienists only)		
11. Georgia				
12. Hawaii				
13. Idaho				
14. Illinois				
15. Indiana				
16. Iowa	XXXXXXXXXX			
17. Kansas	XXXXXXXXXX			
18. Kentucky	XXXXXXXXXX			
19. Louisiana				
20. Maine				
21. Maryland				
22. Massachusetts				
23. Michigan				
24. Minnesota	XXXXXXXXXX			
25. Mississippi				
26. Missouri				
27. Montana				
28. Nebraska				
29. Nevada				
30. New Hampshire				
31. New Jersey				
32. New Mexico	XXXXXXXXXX			
33. New York				
34. North Carolina				
35. North Dakota	XXXXXXXXXX			
36. Ohio				
37. Oklahoma	XXXXXXXXXX			
38. Oregon	XXXXXXXXXX			
39. Pennsylvania				
40. Rhode Island				
41. South Carolina				
42. South Dakota	XXXXXXXXXX			
43. Tennessee				
44. Texas	XXXXXXXXXX			
45. Utah	XXXXXXXXXX			
46. Vermont				
47. Virginia				
48. Washington				
49. West Virginia				
50. Wisconsin				
51. Wyoming				
52. Guam				
53. Puerto Rico	XXXXXXXXXX			
54. Virgin Islands				

Member Jurisdictions in Regional Testing Agencies

	NERB East	SRTA South	CRDTS Central	WREB West	
1. Alabama					
2. Alaska					
3. Arizona				XXXXXXXXXX	
4. Arkansas		XXXXXXXXXX			
5. California					
6. Colorado			XXXXXXXXXX		
7. Connecticut	XXXXXXXXXX				
8. Delaware					
9. District of Columbia	XXXXXXXXXX				
10. Florida					
11. Georgia					
12. Hawaii					
13. Idaho					
14. Illinois	XXXXXXXXXX				
15. Indiana					
16. Iowa			XXXXXXXXXX		
17. Kansas			XXXXXXXXXX		
18. Kentucky		XXXXXXXXXX			
19. Louisiana					
20. Maine	XXXXXXXXXX				
21. Maryland	XXXXXXXXXX				
22. Massachusetts	XXXXXXXXXX				
23. Michigan	XXXXXXXXXX				
24. Minnesota			XXXXXXXXXX		
25. Mississippi					
26. Missouri			XXXXXXXXXX		
27. Montana					
28. Nebraska			XXXXXXXXXX		
29. Nevada					
30. New Hampshire	XXXXXXXXXX				
31. New Jersey	XXXXXXXXXX				
32. New Mexico					
33. New York	XXXXXXXXXX				
34. North Carolina					
35. North Dakota			XXXXXXXXXX		
36. Ohio	XXXXXXXXXX				
37. Oklahoma			XXXXXXXXXX		
38. Oregon				XXXXXXXXXX	
39. Pennsylvania	XXXXXXXXXX				
40. Rhode Island	XXXXXXXXXX				
41. South Carolina					
42. South Dakota			XXXXXXXXXX		
43. Tennessee		XXXXXXXXXX			
44. Texas					
45. Utah				XXXXXXXXXX	
46. Vermont	XXXXXXXXXX				
47. Virginia		XXXXXXXXXX			
48. Washington					
49. West Virginia	XXXXXXXXXX				
50. Wisconsin			XXXXXXXXXX		
51. Wyoming			XXXXXXXXXX		
52. Guam					
53. Puerto Rico					
54. Virgin Islands					

Chapter 32. Dental Hygienists.

Article

1. Examination and Licensing (§§ 08.32.010 — 08.32.090)
2. Regulation of Dental Hygienists (§§ 08.32.100 — 08.32.180)
3. General Provisions (§ 08.32.190)

Article 1. Examination and Licensing.

Section

10. License required
15. Malpractice insurance
20. Examination required
30. Examination waived
40. Application and fee
50. Disposition of fees

Section

60. Frequency and content of examination
70. Registration and licensing of dental hygienists
80. [Repealed]
81. Lapse and reinstatement of license
90. Temporary license

Sec. 08.32.010. License required. No person may practice, offer or attempt to practice, or advertise or announce himself as prepared or qualified to practice dental hygiene without a license. (§ 1 ch 78 SLA 1953)

Sec. 08.32.015. Malpractice insurance. If medical malpractice insurance for dental hygienists becomes unavailable on the voluntary market and the director of insurance finds, after public hearing, that the unavailability is impairing the delivery of dental hygiene services to the public, the director of insurance may require all persons licensed under this chapter to carry medical malpractice insurance and to purchase their insurance from the Medical Indemnity Corporation of Alaska established under AS 21.88. If a finding of unavailability of insurance on the voluntary market and impairment of services has been made under this section, purchase of medical malpractice insurance from the Medical Indemnity Corporation of Alaska is a condition of licensure under this chapter. The provisions of this section are satisfied if the licensee's employer maintains insurance for him from the Medical Indemnity Corporation of Alaska. (§ 7 ch 102 SLA 1976)

Sec. 08.32.020. Examination required. (a) An applicant for examination shall be

- (1) of good moral character;
- (2) at least 18 years of age;
- (3) a graduate of an accredited high school;
- (4) a graduate of an American training school for dental hygienists which requires at least a two-year course and is accredited and recognized by the board; and

(5) an examinee who has successfully completed the National Board Examination or the written examination given by the board.

(b) An applicant for examination shall apply in writing to the secretary of the board at least 30 days before the date selected by the board for the examination. (§ 1 ch 78 SLA 1953; am § 1 ch 36 SLA 1969; am § 1 ch 99 SLA 1970)

Sec. 08.32.030. Examination waived. A dental hygienist who holds a certificate from a school accredited by the American Dental Association and who has had two years of practical experience is qualified to practice in the state without examination upon registering with the board. (§ 1 ch 78 SLA 1953)

Sec. 08.32.040. Application and fee. An application for qualification shall be accompanied by the applicant's certificate of graduation, and a fee of \$25. (§ 1 ch 78 SLA 1953; am § 2 ch 36 SLA 1969)

Sec. 08.32.050. Disposition of fees. All fees and charges shall be deposited in the general fund of the state. (§ 1 ch. 78 SLA 1953)

Sec. 08.32.060. Frequency and content of examination. The examination shall be held once each year at the same time as the examination of dentists. The examination shall cover subjects considered essential by the board for a dental hygienist, including a practical examination on the removal of deposits or stains from the exposed surfaces of the teeth. (§ 1 ch. 78 SLA 1953)

Sec. 08.32.070. Registration and licensing of dental hygienists. If the applicant passes the examination, the board shall register him and issue a certificate. The fee for registration is \$20. Before May 1 of every other year after the year of registration, every registered dental hygienist shall pay a registration fee of \$20. (§ 1 ch. 78 SLA 1953; am § 3 ch. 36 SLA 1969)

Sec. 08.32.080. Lapse and reinstatement of license.
Repealed by § 7 ch. 94 SLA 1968.

Sec. 08.32.081. Lapse and reinstatement of license. The failure, neglect, or refusal of a licensed dental hygienist to pay the biennial registration fee constitutes a forfeiture of the license. The board may reinstate the license within three years upon written application and payment of \$25. (§ 4 ch 36 SLA 1969)

Revisor's note (1969). — "Annual" was changed to "biennial" in this section in order to make it consistent with the change in sec. 70 of this chapter. In ch. 36, SLA 1969, this section was numbered AS 08.32.080.

Sec. 08.32.090. Temporary license. The board may issue a temporary license, without examination, to a person qualified to take the examination who has a license to practice in another state. The temporary license granted to a hygienist in the employ of a privately practicing dentist terminates at the time of notification of the results of the next board examination. The board may revoke a temporary license at any time. Time spent on a temporary license does not count toward license by reciprocity. (§ 2 ch. 75 SLA 1953; am § 5 ch 36 SLA 1969)

Article 2. Regulation of Dental Hygienists.

Section	Section
100. Employment of dental hygienists	160. Suspension or revocation of license
110. Scope of work of dental hygienists	165. Limits or conditions on license; discipline
120. Place of employment	170. Procedure followed
130. Information required	180. Violation
140. Supervision required	
150. Revocation of dentist's license	

Sec. 08.32.100. Employment of dental hygienists. A licensed dentist, incorporated eleemosynary dental dispensary or infirmary, private school or welfare center, the United States of America or the state may employ a licensed dental hygienist. (§ 3 ch 78 SLA 1953)

Sec. 08.32.110. Scope of work of dental hygienists. The role of the dental hygienist is to assist members of the dental profession in providing oral health care to the public. He may not perform any of the following functions dealing with dentistry:

- (1) diagnosis, treatment planning, or prescription;
- (2) operative or surgical procedures on hard or soft tissues;
- (3) restorative, prosthetic, orthodontic or other procedures which require the knowledge and skill of a dentist and constitute the practice of dentistry;
- (4) prescription for drugs, medicament or work authorization. (§ 3 ch 78 SLA 1953; am § 6 ch 36 SLA 1969)

Sec. 08.32.120. Place of employment. A dental hygienist may operate in the office of a licensed dentist, or legally incorporated eleemosynary dental dispensary or infirmary, private school or welfare center, or in a building owned or occupied by the state and under the direct or general supervision of a licensed dentist. (§ 3 ch 78 SLA 1953)

Sec. 08.32.130. Information required. Every dental hygienist shall furnish the board with the name and address of his employer. (§ 1 ch 78 SLA 1953)

Sec. 08.32.140. Supervision required. A dental hygienist may not practice except under the supervision of a licensed dentist. (§ 1 ch 78 SLA 1953)

Sec. 08.32.150. Revocation of dentist's license. The board may revoke the license of a dentist who permits a dental hygienist, employed by him or working under his supervision, to perform a dental operation other than that permitted under this chapter. (§ 4 ch 78 SLA 1953)

Sec. 08.32.160. Suspension or revocation of license. The board may suspend or revoke, with power to reinstate, the license of a dental hygienist who violates this chapter or who is guilty of professional misbehavior, or is not of good moral character. (§ 6 ch 78 SLA 1953)

Sec. 08.32.165. Limits or conditions on license; discipline. (a) In addition to action under § 160 of this chapter, upon a finding that by reason of demonstrated problems of competence, experience, education or health the authority to practice dental hygiene should be limited or conditioned or the practitioner disciplined, the board may reprimand, censure, place on probation, restrict practice by specialty, procedure or facility, require additional education or training, or revoke or suspend a license.

(b) The Administrative Procedure Act (AS 44.62) applies to any action taken by the board under this section. (§ 7 ch 102 SLA 1976)

Sec. 08.32.170. Procedure followed. Procedures for the revocation or suspension of a license under §§ 150 and 160 of this chapter shall comply with the Administrative Procedure Act (AS 44.62). (§ 4 ch 78 SLA 1953)

Sec. 08.32.180. Violation. A person who violates this chapter or who fails to comply with the requirements of this chapter, a penalty for which is not otherwise provided, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100. (§ 5 ch. 78 SLA 1953)

Article 3. General Provisions.

Section

190. "Board" defined

Sec. 08.32.190. "Board" defined. Board means the Board of Dental Examiners.

Chapter 36. Dentistry.

Article

1. Board of Dental Examiners (§§ 08.36.010—08.36.091)
2. Examination and Licensing (§§ 08.36.100—08.36.300)
3. Unlawful Acts (§§ 08.36.310—08.36.340)
4. General Provisions (§§ 08.36.350—08.36.360)

Article 1. Board of Dental Examiners.

Section

10. Creation and membership of board
20. Appointment and term of service of members
30. Election of officers
40. Meetings
50. Quorum

Section

60. [Repealed]
70. General powers
80. Applicability of Administrative Procedure Act
90. [Repealed]
91. Records and reports

Sec. 08.36.010. Creation and membership of board. There is created the Board of Dental Examiners, referred to in this chapter as the board, consisting of seven members. Five members shall be qualified resident dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment, one member shall be a dental hygienist licensed under AS 08.32, and one member with no direct financial interest in the health care industry. (§ 1 art II ch 186 SLA 1955; am § 2 ch 155 SLA 1968; am § 8 ch 102 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "seven members" for "five members" at the end of the first sentence and rewrote the second sentence.

Editor's note. — Section 1, ch. 155, SLA 1968, provides: "**Purposes.** The practice of dentistry in the state is hereby declared to affect the public health, safety and welfare and to be subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the dental profession merit and receive the confidence of the public and that only qualified dentists be permitted to

practice dentistry in the state. All provisions of this chapter relating to the practice of dentistry and dental hygiene and to the registration of dental laboratories shall be liberally construed to carry out these objects and purposes."

Am. Jur., ALR and C.J.S. references. — 41 Am. Jur., Physicians and Surgeons, §§ 13, 23.

Dentist as within statutes pertaining to physician or surgeon, 115 ALR 261.

70 C.J.S. Physicians and Surgeons §§ 1 to 5.

Sec. 08.36.020. Appointment and term of service of members. Members of the board are appointed by the governor, subject to confirmation by the legislature in joint session. Each board member serves for a term of five years, and until his successor is appointed and qualified. The term begins on February 1. An appointment to a vacancy

is for the unexpired term. (§ 2 art II ch 186 SLA 1955; am § 1 ch 59 SLA 1964; am § 9 ch 102 SLA 1976)

Effect of amendment. — The 1976 amendment deleted "assembled" from the end of the first sentence and deleted the former fifth through eighth sentences, which related to a list of names from which appointments were to be made.

Sec. 08.36.030. Election of officers. The board shall elect a president and a secretary from among its members, each to serve for a term not to exceed two years. (§ 3 art II ch 186 SLA 1955; am § 1 ch 121 SLA 1972)

Sec. 08.36.040. Meetings. The board shall meet as often as, and at the times and places, necessary to conduct its business. (§ 3 art II ch 186 SLA 1955)

Sec. 08.36.050. Quorum. A majority of the board constitutes a quorum for the transaction of business. (§ 4 art II ch 186 SLA 1955)

Sec. 08.36.060. Expenses and salary.

Repealed by § 3 ch 59 SLA 1966.

Sec. 08.36.070. General powers. The board shall have, but not by way of limitation, the following powers and duties:

- (1) to examine and issue licenses to applicants;
- (2) to register licensed dentists in good standing;
- (3) to submit an annual report of its proceedings to the governor and to members of the Alaska Dental Society, containing a statement of money received and disbursed;
- (4) to affiliate with the American Association of Dental Examiners, and pay annual dues to the association;
- (5) to hold hearings, revoke, annul, or suspend the license of a person who violates this chapter or the rules and regulations of the board;
- (6) to supply forms for applications, licenses, permits, certificates, and other papers and records;
- (7) to enforce the provisions of this chapter and make, alter, or amend the rules and regulations necessary or desirable to make the provisions of this chapter effective. (§ 5 art II ch 186 SLA 1955; am § 6 ch 69 SLA 1970)

Legislative committee report. — For 1970 House Journal Supplement No. 2, p. report on ch. 69, SLA 1970 (HB 564), see 7.

Sec. 08.36.080. Applicability of Administrative Procedure Act. The board shall comply with the Administrative Procedure Act (AS 44.62).

Sec. 08.36.090. Records and reports.

Repealed by § 3 ch 59 SLA 1966.

Sec. 08.36.091. Records and reports. The board shall maintain

- (1) a record of its proceedings;
- (2) a register containing the name, office and home addresses, and other information considered necessary by the board, of each person licensed as a dentist or dental hygienist, and a register of the licenses revoked by the board, and information on the status of each licensee. (§ 3 ch 155 SLA 1968)

Article 2. Examination and Licensing.

Section	Section
100. License required	240. Issuance of license; recordation; display
110. Qualifications of applicants	244. License to practice as specialist required
115. Malpractice insurance	246. Qualification for a specialist license
120. Photograph and filing date of application	247. Limitation of special practice
130. Examination	248. Suspension or revocation of specialty licenses
140. Out-of-state examination	250. Biennial registration
150. Examination in out-of-state dental schools	260. Branch office registration
160. Contents of examination	270. [Repealed]
170. Partial examination	271. Permits for isolated areas.
180. Re-examination	280. Temporary permit
190. Grading of examination	285. [Repealed]
200. Waiver of written examination	290. Fees and penalties
210. Waiver of examination by reciprocity	300. [Repealed]
220. Issuance of license by reciprocity	
230. Practice outside the state	

Sec. 08.36.100. License required. No person, except those specifically exempted from the application of this chapter, may practice, or attempt to practice, dentistry without a license or permit, and a current certificate of registration. (§ 1 art III ch 186 SLA 1955; am § 4 ch 155 SLA 1968)

ALR and C.J.S. references. — Unlicensed dentist's right to recover for services, 30 ALR 860; 118 ALR 661.

Right of corporation or individual not himself licensed, to practice dentistry through licensed employees, 103 ALR 1240.

Constitutionality and construction of statutes or regulations prohibiting one who

has no license to practice dentistry from owning, maintaining, or operating an office therefor, 20 ALR2d 808.

70 C.J.S. Physicians and Surgeons §§ 6 to 23.

Sec. 08.36.110. Qualifications of applicants. An applicant for a license to practice dentistry may apply to the board for an examination and license by submitting information that he is

- (1) Repealed by § 25 ch 245 SLA 1970.
- (2) of good moral character;
- (3) Repealed by § 10 ch 127 SLA 1974.
- (4) a graduate of a dental college approved by the Council on Dental Education of the American Dental Association at the time of graduation, and holds a D.D.S. or D.M.D. degree or the equivalent;

(5) Repealed by § 1 ch 36 SLA 1970. (§ 2 art III ch 186 SLA 1955; am § 1 ch 26 SLA 1965; am § 1 ch 36 SLA 1970; am § 7 ch 69 SLA 1970; am § 25 ch 245 SLA 1970; am § 10 ch 127 SLA 1974)

Effect of amendment. — The 1974 amendment repealed paragraph (3).

Legislative committee reports. — For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7. Chapter 245, SLA 1970 (HCSSB 399 am

H), was identical to CSHB 406 (Jud.). For report on CSHB 406 (Jud.), see 1970 House Journal Supplement No. 6.

For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Sec. 08.36.115. Malpractice insurance. If medical malpractice insurance for dentists becomes unavailable on the voluntary market and the director of insurance finds, after public hearing, that the unavailability is impairing the delivery of dental services to the public, the director of insurance may require all persons licensed under this chapter to carry medical malpractice insurance and to purchase their insurance from the Medical Indemnity Corporation of Alaska established under AS 21.88. If a finding of unavailability of insurance on the voluntary market and impairment of services has been made under this section, purchase of medical malpractice insurance from the Medical Indemnity Corporation of Alaska is a condition of licensure under this chapter. The provisions of this section are satisfied if the licensee's employer maintains insurance for him from the Medical Indemnity Corporation of Alaska. (§ 10 ch 102 SLA 1976)

Sec. 08.36.120. Photograph and filing date of application. Each applicant shall submit a recent unmounted, autographed photograph of himself. Applications shall be filed at least 30 days before the date scheduled for an examination. (§ 2 art III ch 186 SLA 1955)

Sec. 08.36.130. Examination. An examination shall be given at times and places determined by the board to be convenient and economical for the applicants and the state. At least once each year the board shall appoint from its membership an examination committee of at least three persons. The examination committee shall conduct an examination at least once a year and report the results to the board for official action. (§ 3 art III ch 186 SLA 1955; am § 5 ch 155 SLA 1968)

Sec. 08.36.140. Out-of-state examination. If an applicant requests the board to hold an examination outside the state, the board may require the applicant to pay the transportation costs to the members of the committee conducting the examination. (§ 3 art III ch 186 SLA 1955)

Sec. 08.36.150. Examination in out-of-state dental schools. The examination committee, with the approval of the board, may conduct an examination in the clinic of an approved dental school within the continental limits of the United States and admit to the examination a dental student in his last year of school who would otherwise be eligible

for admission to examination and licensing in the state upon completion of his education. (§ 3 art III ch 186 SLA 1955)

Sec. 08.36.160. Contents of examination. The examination shall be clinical and written and of such a character as to test in a satisfactory manner the qualifications of the applicant to practice dentistry. The examination shall consist of the following:

(1) The subjects of the written examination shall be selected in accordance with the trend of dental education as determined by the Council of Dental Education of the American Dental Association.

(2) The applicant shall give demonstration of his skill in operative and the prosthetic dentistry or any procedures as recommended by the American Association of Dental Examiners. (§ 4 art III ch 186 SLA 1955; am § 6 ch 155 SLA 1968)

Sec. 08.36.170. Partial examination. A student at least 19 years of age who has satisfactorily completed regular courses of instruction in dentistry in at least two different school years at an approved dental school, and who is certified by the dean of the college as having satisfactorily completed the subjects included in section I of the examination may take section I of the examination. If the student passes section I and subsequently takes the full examination, the requirements of section I are waived. (§ 5 art III ch 186 SLA 1955)

Sec. 08.36.180. Re-examination. An applicant shall pass each subject of each section of the examination with a score of at least 75 per cent. If an applicant fails in one subject in each section, he may be re-examined in that subject. If an applicant fails in more than one subject in any section, he shall be re-examined in the whole section. If an applicant fails the examination or any section of it on two separate occasions, the board shall refuse to examine him further until he produces evidence satisfactory to the board that he has pursued further study in preparation for the examination. (§ 6 art III ch 186 SLA 1955)

Sec. 08.36.190. Grading of examination. Upon the conclusion of the written examination and as soon as practicable, the papers shall be rated by an examiner. The examiner shall prepare a report in duplicate on each written examination and a report in duplicate on each practical examination. The examiner shall forward one copy of each report on each candidate to the secretary of the board and one copy to the division of occupational licensing. The secretary shall prepare a composite report on each applicant and file one copy of his report with the division of occupational licensing. As soon as practicable the division of occupational licensing shall notify each candidate of the results of the examination. (§ 7 art III ch 186 SLA 1955; am § 2 ch 121 SLA 1972)

Sec. 08.36.200. Waiver of written examination. The board may waive the requirement for written examination for an applicant who holds a certificate from the National Board of Dental Examiners that

he has passed the theoretical or written examination given by the national board. (§ 8(a) art III ch 186 SLA 1955)

Sec. 08.36.210. Waiver of examination by reciprocity. The board may waive the requirement for written examination for a graduate of an approved dental school who has been licensed, and has been in legal and reputable practice of dentistry in a state, territory, district or possession of the United States which has requirements for licensing, and give reciprocal rights, equivalent to those of this state, if the applicant meets the requirements of § 110 of this chapter. (§ 8(b) art III ch 186 SLA 1955; am § 3 ch 121 SLA 1972)

Sec. 08.36.220. Issuance of license by reciprocity. If an applicant having the qualifications contained in §§ 110 and 210 of this chapter has been engaged in the practice of dentistry for a period of five years in the state, territory, district or possession of the United States, immediately preceding his application to practice in the state, the board may license the applicant without examination. (§ 9 art III ch 186 SLA 1955; am § 2 ch 26 SLA 1965; am § 7 ch 155 SLA 1968; am § 4 ch 121 SLA 1972)

Sec. 08.36.230. Practice outside the state. A dentist licensed to practice in this state and residing and practicing dentistry outside of this state, may maintain his eligibility to practice in this state by biennially registering his name and place of residence with the division of occupational licensing. If the dentist fails to register, the board may reinstate his license without examination upon payment of a penalty of \$25, payment of all delinquent registration fees, and presentation of proof of active practice at his place of residence, certified by the dental board having jurisdiction at his place of residence, or, if there is no board, by evidence satisfactory to the board. (§ 10 art III ch 186 SLA 1955; am § 5 ch 121 SLA 1972)

Sec. 08.36.240. Issuance of license; recordation; display. The board shall issue a license to each successful applicant who has paid the required fees. The holder of a license shall register it in the office of the clerk of the superior court in the judicial district of his place of residence. The licensee shall display the license in a conspicuous place where he practices. (§ 11 art III ch 186 SLA 1955; am § 6 ch 121 SLA 1972)

Sec. 08.36.244. License to practice as specialist required. No licensed dentist may hold himself out to the public as being especially qualified in a branch of dentistry by announcing through the press, sign, card, letterhead or printed matter, or any means of public advertising, using such terms as "specialist," or inserting the name of the specialty, or using other phrases customarily used by qualified specialists that would imply to the public that he is so qualified, without first securing a specialist's license as provided in this chapter. (§ 8 ch 155 SLA 1968)

Sec. 08.36.246. Qualification for a specialist license. (a) An applicant for a specialty license must

- (1) possess a license to practice dentistry in the state, and
- (2) have completed two or more academic years of advanced education in the specialty.

(b) The provision of (a) (2) of this section does not apply to dentists who have limited their practice exclusively and who ethically announced limitation of practice in accordance with American Dental Association policy before July 23, 1968. (§ 8 ch 155 SLA 1968)

Sec. 08.36.247. Limitation of special practice. (a) No specialty license may be issued unless the applicant presents proof satisfactory to the board that he is qualified to practice that specialty.

(b) This section may not be construed as limiting or preventing a licensed and qualified dentist from performing, without a specialty license, dental acts or services to the public in any of the branches of dentistry, except that no dentist may administer a general anesthetic to a patient without a valid permit as required by regulations of the dental examiners board. (§ 8 ch 155 SLA 1968)

Sec. 08.36.248. Suspension or revocation of specialty licenses. The board may suspend or revoke a specialty license upon any grounds set out in § 310 of this chapter, and the procedure for suspensions and revocations shall be the same as for the revocation or suspension of a regular license to practice dentistry. (§ 8 ch 155 SLA 1968)

Sec. 08.36.250. Biennial registration. At least 60 days before January 1 of every other year, the division of occupational licensing shall mail a form for biennial registration to each licensed dentist. Each licensee shall complete the form and return it together with the registration fee. The division of occupational licensing shall, as soon as practicable, issue a registration certificate valid for the years for which issued. Each licensee shall keep the registration certificate beside or attached to his license. Failure to receive the registration form does not exempt a dentist from biennial registration. (§ 12 art III ch 186 SLA 1955; am § 9 ch 155 SLA 1968; am § 7 ch 121 SLA 1972)

Sec. 08.36.260. Branch office registration. A licensee who practices in an established office with an address other than that address for which his biennial registration certificate is issued shall obtain a branch office registration certificate for each office. (§ 13 art III ch 186 SLA 1955; am § 10 ch 155 SLA 1968)

Sec. 08.36.270. Permits for isolated areas.

Repealed by § 3 ch 26 SLA 1965; § 5 ch 93 SLA 1965.

Sec. 08.36.271. Permits for isolated areas. (a) The Department of Health and Social Services shall designate as isolated areas those specific places and regions remote from major population centers which

are not served by dentists licensed under this chapter and which have a geographical location which works financial hardship, extended loss of time, or arduous and costly travel upon residents needing dental care.

(b) The board shall, upon recommendation of the Department of Health and Social Services, issue an annual permit authorizing the treatment of residents in an area designated under (a) of this section, who are not entitled to dental care by the state or federal government, by a dentist employed by the United States Public Health Service or qualified member of the armed services who serves in that area. (§ 1 ch 93 SLA 1965; am § 11 ch 155 SLA 1968; am § 6 ch 104 SLA 1971)

Sec. 08.36.280. Temporary permit. (a) The board may issue a one year temporary permit without examination to an applicant to practice dentistry in a locality requested by the applicant if the locality is of the type specified in (2) of this subsection and the applicant

(1) meets the requirements of § 110 of this chapter;

(2) desires to practice dentistry in a city or rural village which does not have a resident licensed dentist in active general practice;

(3) has a license in good standing to practice dentistry in a state, territory, district or possession of the United States;

(4) tenders and pays the fee prescribed in § 290 (6) of this chapter.

(b) The board may authorize a temporary permittee to practice dentistry in more than one city or rural village of the type specified in (a) (2) of this section.

(c) The board may annually renew a temporary permit upon written application of an applicant and upon payment of the prescribed fee if the applicant has not committed an act which is a ground for revocation in § 310 of this chapter, but in any case, within two years from issuance of his first temporary permit, the applicant must pass a board exam.

(d) A temporary permit may be revoked, suspended or annulled, or the permittee may be reprimanded, censured or disciplined by the board in the same manner and for the same cause as a licensed dentist under § 310 of this chapter.

(e) The board shall grant or deny an application for a temporary permit within 60 days after it is received. (§ 15 art III ch 186 SLA 1955; am § 4 ch 26 SLA 1965; am §§ 8, 9 ch 121 SLA 1972)

Sec. 08.36.285. Licensing a permittee.

Repealed by § 10 ch 121 SLA 1972.

Editor's note. — The repealed section derived from § 5, ch. 26, SLA 1965.

Sec. 08.36.290. Fees and penalties. The board shall impose and collect the following fees and penalties:

(1) for the issuance of an original license, \$30;

(2) for the examination of an applicant, \$50;

(3) for re-examination of an applicant, \$50;

- (4) for biennial registration, \$40;
- (5) for each branch office biennial registration, \$40;
- (6) for a temporary permit, \$25;
- (7) Repealed by § 7 ch 94 SLA 1968.
- (8) for re-instatement as provided in § 230 of this chapter a penalty of \$10;
- (9) for a specialty license, \$30;
- (10) for a duplicate license, \$10. (§ 16 art III ch 186 SLA 1955; am § 7 ch 94 SLA 1968; am § 12 ch 155 SLA 1968)

For history of taxation of profession of dentistry, see United States v. Dasher, 9 Alaska 719 (1940).

C.J.S. references. — 53 C.J.S. Licenses § 34; 70 C.J.S. Physicians and Surgeons §§ 2 to 4, 6 to 8.

Sec. 08.36.300. Deposit of fees and payment of expenses.
 Repealed by § 3 ch 59 SLA 1966.

Article 3. Unlawful Acts.

Section	Section
310. Grounds for revocation of license	330. Injunction
320. Order of reprimand, suspension and revocation	340. Penalties
325. Limits or conditions on license; discipline	

Sec. 08.36.310. Grounds for revocation of license. A license and registration may be revoked, suspended, or annulled, or the licensee may be reprimanded, censured, or disciplined by the board after hearing when he

- (1) secures a license through deceit, fraud, or wilful misrepresentation of a material fact;
- (2) is convicted of a crime involving moral turpitude;
- (3) has a chronic or persistent inebriety or addiction to habit-forming drugs which renders him incompetent to continue the practice of dentistry;
- (4) commits wilful or gross malpractice or wilful or gross neglect in the practice of dentistry;
- (5) hires, supervises, permits or aids unlicensed persons to practice dentistry;
- (6) is insane or has a contagious or infectious disease making him an improper person to continue in the practice of dentistry;
- (7) practices or offers to practice dentistry under a name other than the name in which the license is issued;
- (8) uses the name of a company, association, corporation, trade name, dental clinic, or business name in connection with the practice of dentistry;
- (9) knowingly practices in the employment of or in association with a person who is practicing in an unlawful manner;

- (10) uses an advertising solicitor or free-publicity press agent;
- (11) wilfully deceives or attempts to deceive the board with reference to any matter under investigation by it;
- (12) advertises professional superiority;
- (13) advertises free dental work or free examination;
- (14) advertises prices for professional service;
- (15) advertises to perform any dental operation painlessly;
- (16) advertises by means of a large display, glaring light sign, or sign containing as a part of it the representation of a tooth, bridgework, or any portion of the human head;
- (17) advertises by a medium other than the carrying or publishing of a modest professional card or the display of a modest window or street sign at the licensee's office containing the name, address, profession, office hours, telephone number and specialty;
- (18) permits the use of his name as a dentist by others in the sale or advertisement of products;
- (19) violates a provision of this chapter or a regulation of the board promulgated under authority of this chapter;
- (20) advertises as a specialist in any branch of dentistry, unless he devotes a major portion of his practice to that branch;
- (21) engages in the practice of fee-splitting;
- (22) engages in unprofessional conduct;
- (23) obtains a fee by fraud;
- (24) directly or indirectly advertises or solicits for dental hygiene business;
- (25) advertises as a specialist in a branch of dentistry without first obtaining a specialty license;
- (26) fails to report a death that occurred on premises used for the practice of dentistry to the office of the secretary-treasurer of the board within 72 hours;
- (27) administers a general anesthetic without a valid permit required by regulations of the dental board. (§ 1 art IV ch 186 SLA 1955; am §§ 13—15 ch 155 SLA 1968)

Cross reference. — As to malpractice actions, see AS 09.55.530—09.55.560.

ALR references. — Ground for revocation, 54 ALR 1504; 82 ALR 1184.

What amounts to conviction within statute making conviction ground for cancelling license, 113 ALR 1179.

Revocability of license for fraud or other misconduct before or at the time of its issuance, 165 ALR 1138.

Admissibility and necessity of expert evidence in proceeding for revocation of license, 6 ALR2d 675.

Sec. 08.36.320. Order of reprimand, suspension and revocation. The board may, by a majority vote, evidenced by the signatures of the members on the order, reprimand a licensee or revoke or suspend a license. (§ 5 art IV ch 186 SLA 1955)

Sec. 08.36.325. Limits or conditions on license; discipline. (a) In addition to actions under §§ 310 and 320 of this chapter, upon a finding that by reason of demonstrated problems of competence, experience, education, or health, the authority to practice dentistry should be limited or conditioned or the practitioner disciplined, the board may censure, place on probation, restrict practice by specialty, procedure or facility, require additional education or training, or revoke or suspend a license.

(b) The Administrative Procedure Act (AS 44.62) applies to any action take by the board under this section. (§ 10 ch 102 SLA 1976)

Sec. 08.36.330. Injunction. The board may sue in its own name in a competent court to enjoin any person from doing an act constituting a violation of this chapter. (§ 7 art IV ch 186 SLA 1955)

Sec. 08.36.340. Penalties. A person who violates any provision of this chapter for which no specific penalty is provided, is guilty of a misdemeanor and is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both. (§ 8 art IV ch 186 SLA 1955)

Article 4. General Provisions.

Section

350. Application of chapter

360. Practice of dentistry defined

Sec. 08.36.350. Application of chapter. This chapter applies to a person who practices, offers or attempts to practice dentistry in the state except

(1) dental surgeons or dentists in the military service in the discharge of official duties;

(2) licensed dental hygienists in the performance of duties authorized by law;

(3) dentists in the employ of the United States Public Health Service, United States Veterans' Administration, Alaska Native Service, or Department of Health and Social Services, in the discharge of official duties;

(4) clinicians demonstrating at meetings of dentists approved by the board;

(5) physicians and surgeons;

(6) dentists in the employ of the United States Public Health Service providing care by authority of a permit issued under § 271 of this chapter. (§ 2 art I ch 186 SLA 1955; am § 2 ch 93 SLA 1965; am § 6 ch 104 SLA 1971)

Sec. 08.36.360. Practice of dentistry defined. A person engages in the practice of dentistry who

(1) performs or holds himself out to the public as being able to perform dental operations;

(2) diagnoses, treats, operates on, corrects or attempts to correct, or prescribes for, a disease, lesion, pain, injury, deficiency, deformity, or physical condition, malocclusion or malposition of the human teeth, alveolar process, gums or jaws and adjacent tissues;

(3) performs or attempts to perform an operation incident to the replacement of teeth;

(4) furnishes, supplies, constructs, reproduces, or repairs prosthetic dentures, bridges, appliances or other structures to be used and worn as substitutes for natural teeth, except on prescription of a duly licensed and registered dentist and by the use of impressions or casts made by a duly licensed and registered dentist;

(5) uses the word "dentist" or "dental surgeon" or the letters D.D.S. or D.M.D. or other letter or title which represents him as engaging in the practice of dentistry;

(6) extracts or attempts to extract human teeth;

(7) owns, manages or operates a place where the acts and things described in this section are performed or done. (§ 1 art I ch 186 SLA 1955)

CHAPTER 28.
BOARD OF DENTAL EXAMINERS

Article

1. Administering of Anesthetic Agent
2. Clinical Examination for Licensure

ARTICLE 1.
ADMINISTERING OF
ANESTHETIC AGENT

Section

10. Permit requirements
20. Operative procedure
30. Other than permit holders
40. Written consent
50. Medical history
60. Requirements for administering general anesthetic
70. Suspension or revocation of permit
80. Filing report
90. Definition

12 AAC 28.010. PERMIT REQUIREMENTS. The Alaska Board of Dental Examiners shall issue a permit to a dentist licensed in Alaska for the administration of an anesthetic agent or agents for the purpose of inducing general anesthetic if the applicant offers certified proof that he

(1) is a diplomate of the American Board of Oral Surgery; or

(2) is a member of the American Society of Oral Surgery; or

(3) has fulfilled not less than 36 months of oral surgery advanced education approved by the Council on Dental Education of the American Dental Association; or

(4) is a certified member of an American Dental Association Specialty Board and meets the minimum requirement in anesthesiology as recommended by the American Board of Oral Surgery; or

(5) has completed a minimum of one year of advanced training in anesthesiology in an accredited program beyond the undergraduate dental school level. (Eff. 4/10/70, Reg. 34)

Authority: AS 08.36.070(7)
AS 08.36.247(b)

12 AAC 28.020. OPERATIVE PROCEDURE. A dentist administering a general anesthetic may not perform any operative procedures for the duration of the anesthesia. "Operative procedure" means surgical or restorative manipulations in or about the oral cavity. (Eff. 4/10/70, Reg. 34)

Authority: AS 08.36.070(7)

12 AAC 28.030. OTHER THAN PERMIT HOLDERS. In addition to a dentist holding a valid permit for the administration of an anesthetic agent or agents for the purpose of inducing general anesthesia, as provided in sec. 10 of this chapter, the following persons may administer an anesthetic agent:

(1) a registered nurse certified by the Association of Nurse Anesthetists who while in a dental office administers the anesthetic agent under the direct supervision of a dentist holding a valid permit under sec. 10 of this chapter;

(2) a board-eligible anesthesiologist who while in a dental office administers the anesthetic agent while under the direct supervision of a dentist holding a valid permit under sec. 10 of this chapter;

(3) a dentist who administers an anesthetic agent under the direct supervision of a medical doctor in a licensed hospital even though the dentist does not have a valid permit to do so under sec. 10 of this chapter. (Eff. 4/10/70, Reg. 34)

Authority: AS 08.36.070(7)
AS 08.36.247(b)

12 AAC 28.040. WRITTEN CONSENT. Written consent of the patient shall be obtained prior to the administration of a general anesthetic. In the case of a minor, the consent shall be obtained from his parent or legal guardian. (Eff. 4/10/70, Reg. 34)

Authority: AS 08.36.070(7)

12 AAC 28.050. MEDICAL HISTORY. (a) A medical history shall be taken before the administration of a general anesthetic. Patients should be asked to describe any current treatments, including drugs, impending operations, and pregnancies and to give other information that may be helpful to the person administering the anesthetic agent. The dentist is

not required to make a medical examination of the patient and draw medical diagnostic conclusions; therefore, if the dentist suspects a problem and calls in a physician for an examination and evaluation, he may then rely upon that conclusion and the diagnosis.

(b) Questions asked of and answers received from the patient shall be permanently recorded and signed by the patient before the administration of any general anesthetic and this record shall become a permanent part of the patient's treatment record. (Eff. 4/10/70, Reg. 34)

Authority: AS 08.36.070(7)

12 AAC 28.060. REQUIREMENTS FOR ADMINISTERING GENERAL ANESTHETIC. A holder of a permit to administer a general anesthetic for the purpose of inducing surgical anesthesia shall

(1) obtain and maintain an adequate airway for the patient;

(2) use an oxygen machine and have it available for maintaining the ventilation of the lungs;

(3) have the knowledge of and be able to skillfully place needles into veins for the administration of drugs; and

(4) maintain in his office at all times appropriate drugs and medicines for emergencies. (Eff. 4/10/70, Reg. 34)

Authority: AS 08.36.070(7)
AS 08.36.247(b)

12 AAC 28.070. SUSPENSION OR REVOCATION OF PERMIT. A permit to administer a general anesthetic for the purpose of inducing surgical anesthesia shall automatically become revoked upon the suspension or revocation of the holder's license to practice dentistry in the state. (Eff. 4/10/70, Reg. 34)

Authority: AS 08.36.070(7)
AS 08.36.320

12 AAC 28.080. FILING REPORT. In reporting a death as required under AS 08.36.310(26), each member of the anesthesia team that administered the anesthetic agent or

agents, shall file an individual report which includes his individual findings. Within two weeks of the receipt of these reports by the board, the board will review them and make a determination in writing as to whether further investigation by the board should be made. (Eff. 4/10/70, Reg. 34)

Authority: AS 08.36.070(7)
AS 08.36.310(26)

12 AAC 28.090. DEFINITION. "General anesthesia" means surgical or the third stage of anesthesia. The use of an anesthetic agent for introduction of analgesia (first state) or amnesia is not to be construed as the practice or use of general anesthesia. (Eff. 4/10/70, Reg. 34)

Authority: AS 08.36.070(7)

II

STATE OF ALASKA
Board of Dispensing Opticians
(August, 1978)

Findings

Dissolution of the Board of Dispensing Opticians and subsequent governmental deregulation of this profession would have little if any adverse impact on the physical health of the general public. Information obtained in the process of this review indicated that the potential for visual damage to the consumer by a licensed or unlicensed practitioner is minimal to non-existent except under the most extreme and ungovernable circumstances. Additionally, Board and regulatory control which results in endorsement of monopolistic practices only serves to promote the profession by restricting services that have assumed the sanction of government licensing. In accordance with the Sunset criteria, it is recommended that the Board of Dispensing Opticians and State support in regulation and licensing of this profession be allowed to terminate on June 30, 1979.

I. General Information

A. Regulated Parties

1. Dispensing opticians
2. Apprentice dispensing opticians

B. Statutory Definition of Regulated Profession

"(3) 'dispensing optician' means a person who prepares duplications of or prepares and dispenses lenses, spectacles, eyeglasses, artificial eyes, and their appurtenances, to the intended wearers of them on written prescriptions from physicians or optometrists; and in accordance with those prescriptions, measures, adapts, adjusts and fabricates lenses, spectacles, eyeglasses, artificial eyes, and their appurtenances, to the human face for the aid or correction of visual or ocular anomalies of the human eye." (AS 08.71.240)

A dispensing optician's apprentice shall be in training and under direct supervision for a period not to exceed six years (unless mitigating circumstances occur). A licensed dispensing optician may have no more than two apprentices under his/her supervision at the same time.

C. Nature and Composition of Board

1. Board members and terms:

Three-year term (no restrictions regarding consecutive terms or number of terms).

Philip A. Lampert (Chairman)	Ends June 14, 1979
George Tresnak	Ends June 14, 1979
Dick Kleinkopf	Ends June 14, 1978
Edna M. Lyon	Ends June 14, 1978
John W. Greiff	Ends June 14, 1977
Robert Sherwood	Ends June 14, 1980
Harry J. Lang	Ends June 14, 1979

2. Representation:

Profession	=	5
Public	=	2

3. Qualifications:

"Five board members shall be licensed, practicing dispensing opticians residing in the state. Two shall be persons with no direct financial interest in the health care industry." (AS 08.71.030)

D. Licensing Data

By Examination

<u>Year</u>	<u># of Candidates</u>	<u># Passed</u>	<u># Failed</u>	<u>% Passed</u>	<u>% Failed</u>
1975	n/a	n/a	n/a	n/a	n/a
1976	7	3	4	43	57
1977	8	6	2	75	25
1978	(not given until 10-30-78)				

Currently licensed:

in-State =	40	(through June, 1978)
out-of-State =	<u>5</u>	(through June, 1978)
Total	45	

E. Fees

1. examination fee	\$50.00
2. initial license	50.00
3. biennial renewal	50.00
4. penalty-failure to renew	10.00

F. Board Revenues and Expenditures

	FY '75	FY '76	FY '77	FY '78
Receipts	\$ 750.00	\$2,720.00	\$1,060.00	\$2,190.00
- refunds	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total	\$ 750.00	\$2,720.00	\$1,060.00	\$2,190.00
Expenditures				
Per Diem	892.25	846.25	745.00	751.25
Transportation	1,108.48	494.23	712.16	517.10
Phone	332.50	95.53	91.00	60.55
Printing, Advert.,				
Postage	100.22	212.88	543.16	284.51
Fees & Services	-	63.70	-	297.00
Rents, Leases,				
Other	<u>9.75</u>	<u>15.75</u>	<u>-</u>	<u>-</u>
Total	<u>\$2,443.20</u>	<u>\$1,728.34</u>	<u>\$2,091.32</u>	<u>\$1,910.81</u>
Surplus	-	\$ 991.66	-	\$ 279.19
Deficit	\$1,693.20	-	\$1,031.32	-

(EXCLUDES DIVISION OF OCCUPATIONAL LICENSING ADMINISTRATIVE OVERHEAD)

G. Complaints

	<u>Received</u>	<u>Closed</u>	<u>To Litigation</u>
1975	0	1	0
1976	7	3	0
1977	6	0	0
1978	1	10	0
(through August 31)			

Pending: 1

Most complaints involving dispensing opticians related to nondisplay of licenses and charges by the public of defective workmanship. Five complaints were received from the public at large. None were found to be statutory violations and all but one has been closed as of this writing. None alleged physical harm or danger to the consumer.

H. Qualifications

Training for this profession usually consists of "on-the-job" or apprenticeship training, which lasts for approximately four to five years depending on experience gained and on individual ability. Formal institutional training is becoming more common and programs are offered through several vocational schools. High school graduation is usually a prerequisite for apprenticeship.

II. Criteria and Analysis

A. To what extent has the Board of Dispensing Opticians operated in the public interest?

The stated functions of the Board include assuring professional competency, governing the practice of opticianry and preventing conduct which would tend to harm the public's "visual health." Information obtained through discussions with several optometrists and dispensing opticians indicated that while visual damage to an individual by a dispensing optician may be possible in some extreme cases, it is highly unlikely. The consumer may become nauseated or perhaps have a headache but will usually be able to recognize that something is wrong. Further by statutory safeguard, a prescription calling for fitting of contact lenses must also require that the patient return to see the prescribing physician or optometrist as a check on the work done. Optometrists and ophthalmologists may also dispense, and may employ any person under their supervision, without State regulation or licensure, to dispense. It was noted that 39 out of

the 40 licensed in-State dispensing opticians practice in, or in the immediate vicinity of, Anchorage and Fairbanks. One individual licentiate is located in Homer. (See Figure 1) It must be assumed that the remainder of the State is serviced by an ophthalmologist, an optometrist, a traveling clinic or by mail. This type of geographic concentration must be questioned in analyzing "public" interest in relation to regulation by an agency funded Statewide.

Through regulations and by statutory directive the Board has established continuing education requirements designed to help assure continuing competency. Biennial relicensure is contingent on compliance with those requirements. If, however, it is improbable that incompetence could result in visual damage to the public, these regulations may be considered superfluous. Concurrently, examinations which test competency of candidates for licensure would not be valid measurements of public protection.

Other factors exist which contributed to the recommendation for termination of regulation and the Board. Less than half of the states regulate and license dispensing opticians; Alaska does not have a reciprocal agreement with any although this is provided by statute. There are more members of the Board than there were individuals licensed to practice in any one of the last three years. Six licenses were issued in 1975 and in 1977, four in 1976 and none through August of 1978. Additionally, none of the complaints received regarding this profession were determined to be statutory violations and none involved physical harm or damage to a member of the public.

All of the preceding factors indicate that State regulation and licensing of this profession is inappropriate and does not serve to protect the public interest in terms of health, safety or welfare. There can be no justification for regulation in the absence of potential harm or danger to public health, safety, or welfare.

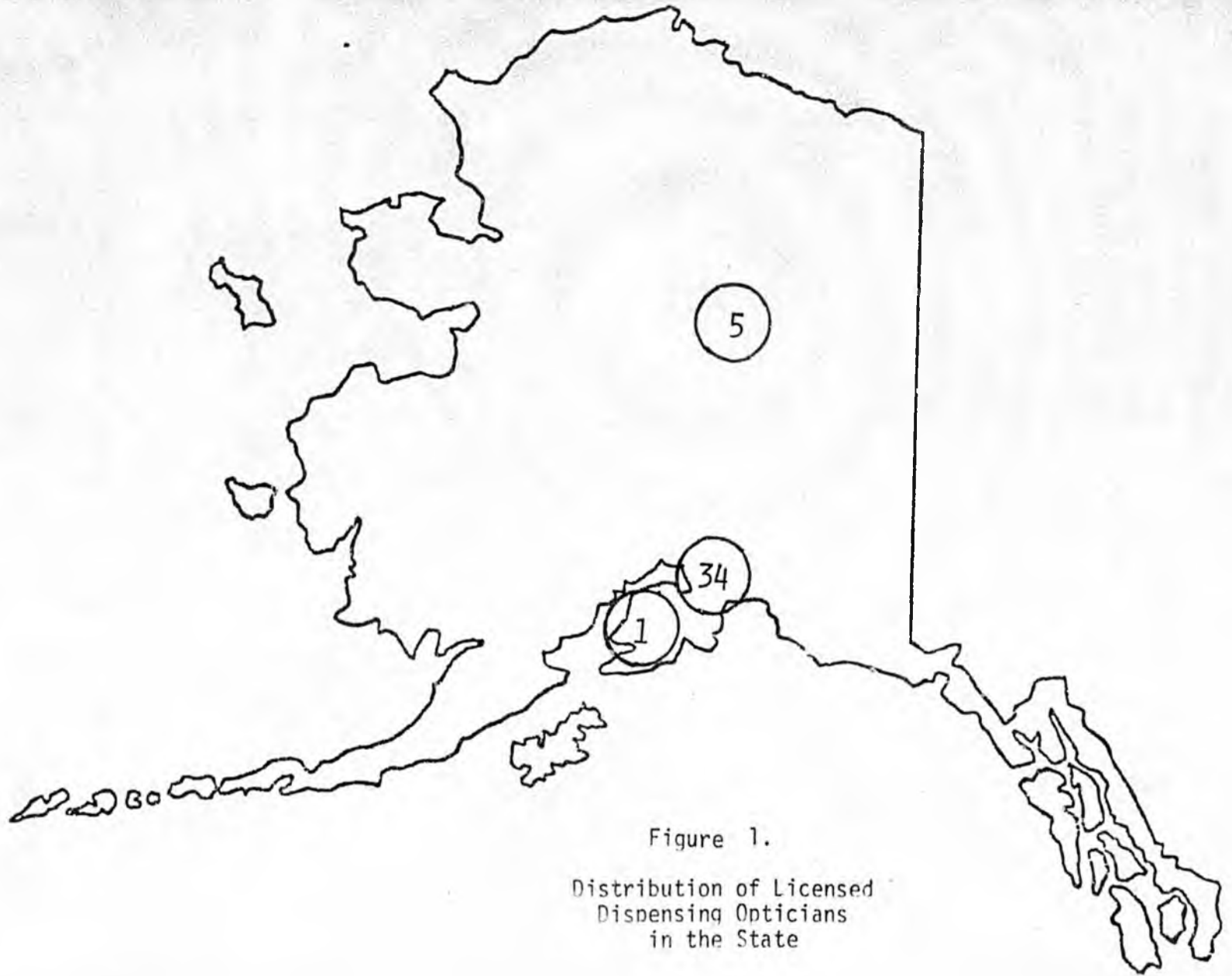


Figure 1.
Distribution of Licensed
Dispensing Opticians
in the State

The Opticians Association of Alaska is headquartered in Anchorage and claims most licensed dispensing opticians in its membership. Association membership also includes unlicensed dispensers who are supervised by an ophthalmologist or optometrist. The major function of the Association is educational, to disseminate updated professional information. The Association may receive complaints regarding the profession for referral to the Board of Dispensing Opticians and encompasses a type of peer review process. In the event of governmental deregulation, the association membership could certainly expand its scope to accomplish self-regulation consistent with desirable professional standards as determined by a broader base of practitioners.

If continued regulation and licensing of this profession is determined to be beneficial and in the public interest, it is recommended that these functions be vested with the administrative agency. Practical examinations, now given once each year, may be proctored by licensed dispensing opticians selected specifically for that purpose or may be eliminated. All support services including administration of a written examination may be provided by the administrative agency and licenses issued by it as authorized by exam results and compliance with statutory qualifications. Should the Board of Dispensing Opticians be reestablished, recommendations are made throughout the body of this report that are based on that premise.

- B. To what extent has the operation of the Board of Dispensing Opticians been impeded or enhanced by existing statutes, procedures and practices which it has adopted, or any other matter, including budgetary, resource and personnel matters?

This Board has no statutory or regulatory provisions which would allow issuance of a temporary permit to an otherwise qualified applicant pending examination. It may also happen that an applicant has failed only the practical portion of the examination and must wait another year

before being reexamined. If this Board is reestablished, it should be given the authority to promulgate and adopt regulations by which it may issue a temporary permit pending examination or reexamination of the practical portion, one time only. It should also consider provisions for practical reexamination of a candidate, within a prescribed period of time, by two licensed Board members, at the discretion of the Board. Temporary permits thus issued would become invalid at the time of examination or reexamination and would not be renewed if an applicant failed a specially scheduled practical portion a second time. Due to the low number of candidates for examinations, an increase in routine scheduling is not recommended.

AS 08.71.150 allows reciprocity between states with equivalent requirements. Only two states were reviewed to this end in 1974 and 1975, prior to utilization of a national written examination. Alaska does not have reciprocity in this profession with any other state and no overtures have been made by the Board since 1975 to open this avenue of entry into practice. A review of reciprocity provisions indicates that such requirements restrict interstate entry into professions. Only applicants from states with which agreements have been established may be admitted without examination regardless of their qualifications. Endorsement allows licensure of those individuals licensed elsewhere whose qualifications are substantially similar to those in Alaska at a given time, independently of formal interstate concurrence. Endorsement provisions are felt to be more in keeping with the principle of licensing qualified applicants and with providing services of practitioners. It is recommended that statutory changes be made to allow for licensure by endorsement rather than reciprocity. If this is not done, the question of reciprocity should be thoroughly addressed by the Board. In that a national written examination is now being utilized, other states may be more receptive to such an agreement. If they are not, qualifications and policies may need to be reviewed or revised for validity and to facilitate entry into the profession in this manner.

The Board also should adopt specific regulations for practice and supervision of apprentice dispensing opticians. Much concern has been expressed by members of the profession and the Board regarding "adequate supervision" but this concept has not been defined as a regulation or policy.

The statutes provide for seven Board members; it is noted that there are more members of this Board than there were individuals initially licensed to practice with or without examination in any of the last three years. If the Board of Dispensing Opticians is continued, it is recommended that membership be reduced from seven to five individuals, three of whom should be licensed practicing dispensing opticians and two of whom should be lay persons. This membership could adequately regulate the profession with the support services provided by the administrative agency. Members should not serve consecutive terms unless appointed initially to an unexpired term, but may be reappointed following a term of absence.

The Board of Dispensing Opticians has experienced little difficulty in its administrative operations with respect to personnel or budgetary restrictions. Support staff is provided by the Division of Occupational Licensing and is presently adequate to serve Board needs. All fees and revenues are collected through the Division and are deposited into the general fund. Monies deposited and withdrawn are identified by codes so that direct Board revenues and expenses may be determined for budgetary purposes.

Improved procedures are being developed within the administrative agency pertaining to organization of records, forms and examination information which will better enable the Board to perform its functions.

The Board of Dispensing Opticians has experienced the same difficulties as have all other boards and commissions with respect to investigative services coming under the jurisdiction of the administrative agency.

During the past year, two investigator positions remained unfilled. As a result, one of these positions was abolished by the Legislature. One position was recently filled in Anchorage. Moreover, procedural constraints of the Administrative Adjudication Article of the Administrative Procedure Act (AS 44.62.330 - 630), while necessary, restrict timely disposition of litigation. Prioritization based on time and nature of alleged offense mandates that only the most flagrant and potentially injurious licensing complaints are pursued.

- C. To what extent has the Board of Dispensing Opticians recommended statutory changes which are generally of benefit to the public interest?

Recent statutory changes with respect to the Board of Dispensing Opticians concerned: (1) Board membership, appointment and term of office; (2) addition of lay persons to membership; (3) Medical Indemnity requirements; (4) disciplinary matters, and (5) applicability of the Administrative Procedure Act to the Board and the licentiates.

The Board itself has recommended no statutory changes since its creation in 1973 that would be of direct benefit to the public.

- D. To what extent has the Board of Dispensing Opticians encouraged interested persons to participate in and report to it concerning the making and effect of its regulations and decisions or to report to it concerning the effectiveness, economy, and availability of service which it has provided?

Very little public interest in the activities of the Board has been shown in the form of attendance at Board meetings, hearings, or as written input. Public concern, if any, is probably expressed by individuals with particular problems directly approaching Board members. Notices of pending meetings and new or changing regulations are published in major newspapers in the State.

The Board has not taken any overt action to solicit general public response to its quality and availability of service. Positive steps could be taken to solicit interest and make the public aware of the existence and functions of the Board, such as public service radio announcements. Public interests are furthered by the existence of public members in professional boards. The State of California, which provides for a one-third public membership on health care boards and a public majority on other boards, has indicated that its experience with public members has been highly rewarding.¹

E. How efficiently are public inquiries or complaints regarding the activities of the Board of Dispensing Opticians processed and resolved?

No complaints were received which were specifically directed at individual members of the Board. No complaints were received by the Office of the Ombudsman against the Board or members of this profession.

For the period from January, 1975 through August, 1978 fourteen complaints were logged by the administrative agency which concerned this profession. None of these were found to be statutory violations and none alleged physical damage or danger to an individual. Until recently, there has been a considerable time lag between receipt of a complaint and its resolution, however, due to lack of validity or jurisdiction, ten cases were closed within the month of August, 1978. Investigative services to all boards and commissions under the jurisdiction of the administrative agency are expected to improve.

¹Shimberg, B. and Roederer, D., Occupational Licensing: Questions a Legislator Should Ask, The Council of State Governments, Lexington, Kentucky, March, 1978, p. 20.

F. To what extent does the Board of Dispensing Opticians present qualified applicants to serve the public?

Applicants for licensure are not sponsored by the Board of Dispensing Opticians but apprentices preparing for licensure may very well be serving under and trained by a Board member. Preparation for a career in dispensing opticianry, unlike in other health related fields, can be accomplished within the State of Alaska by serving a specific apprenticeship. Individuals wishing to practice within the State must submit fees and application to the administrative agency with documentation of qualifications. One examination each year is currently given. Applicants who demonstrate the required level of knowledge and proficiency are issued a license.

Board policies which would allow issuance of temporary permits and which would allow for special reexamination of the practical portion of the test as previously cited, and overt efforts to establish endorsement provisions or reciprocal agreements wherever possible, would increase the opportunity for licensure of practitioners within the State.

G. To what extent have State personnel practices, including affirmative action requirements, been complied with by the Board of Dispensing Opticians in its own activities, and its area of activity or interest?

Board staff consists of the support services of a licensing examiner employed by the Division of Occupational Licensing (responsible for three other boards), who is hired through the State Personnel System and, therefore, subject to affirmative action requirements.

The Board of Dispensing Opticians issues licenses on the basis of specific education and performance criteria. Affirmative action requirements are not applicable to licensure qualifications.

H. To what extent are statutory, regulatory, budgetary, or other changes necessary to enable the Board of Dispensing Opticians to better serve the interests of the public.

In view of the functions of this Board and the relatively few professional members that are regulated (45), it is felt that present statutes are generally adequate with the exception of the number of members that serve on the Board. If the Board of Dispensing Opticians is continued, membership should be reduced to three professional members and two lay members.

Regulations need to be adopted which specifically outline supervision and practice of the dispensing optician's apprentice. Provisions for the issuance of temporary permits on an individual basis and at Board discretion should be authorized, formulated and adopted.

The Board should introduce legislation which would allow for licensure by endorsement. If unsuccessful, it should take positive and overt steps toward establishing reciprocal relationships with other states wherever possible.

Board and administrative expenses outweigh the revenues collected through regulation of this profession. Fees collected are simply not adequate to cover transportation and per diem for meetings and examinations, and the Division of Occupational Licensing administrative overhead, such as staff salary, examination expenses and investigative services.

III. Conclusion

The regulatory functions of the Board of Dispensing Opticians and administration of those functions by the Department of Commerce and Economic Development are not determined to be justified in terms of protection of public health, safety and welfare.

IV. Summary of Recommendations

- A. The Board of Dispensing Opticians, and State regulation of the profession, should be allowed to terminate on June 30, 1979.

- B. In the event that State regulation is determined to be justified, the Board should terminate and the functions of examining and licensing members of this profession should be vested within the administrative agency. Two dispensing opticians may be selected to proctor a practical examination, if necessary, and support services (including administration of the written national examination) could be provided by the administrative agency.

- C. If the Board of Dispensing Opticians is continued, the following recommendations are made:
 1. The Board should adopt regulations which would allow for the issuance of temporary permits on an individual basis and at the discretion of the Board. This would allow an otherwise qualified person to practice pending examination and should be invalidated at the time the next scheduled examination results are final. (See discussion on p. 8)

 2. The Board should consider regulations which would allow for reexamination of a candidate who has failed only the practical portion of the test, within a prescribed time period, by two or three licensed Board members, at the discretion of the Board. There is no requirement that all Board members be present at an examination. The practical portion is generally not more than 1/2 hour in length and private facilities may be available within the

profession. An applicant who has failed only the practical portion of the examination need not wait another full year under this system. (See discussion on p. 8)

3. The Board should adopt regulations which specifically outline grading and scoring procedures for the practical examination. While this has been agreed on in the past among Board members, written procedures would help to eliminate potential inconsistencies or allegations of arbitrary grading.
4. Statutory changes should be made which allow for licensure by endorsement rather than reciprocity. If this is not done, the Board should explore the possibility of reciprocal agreements with other states. If Alaska's qualifications are substantially different from those of other states (less than half licensed dispensing opticians), they should then be reviewed for validity and appropriate recommendations made. (See discussion on p. 9)
5. The Board should adopt regulations governing the practice of apprentice dispensing opticians and defining the scope of supervision desirable and necessary for apprenticeship. (See discussion on p. 10)
6. Board composition should be reduced to three professional members and two lay members. Members should not serve consecutive terms unless appointed initially to an unexpired term, but may be reappointed following a three-year term of absence. (See discussion on p. 10)

Chapter 71. Dispensing Opticians.

Article

1. Board of Dispensing Opticians (§§ 08.71.010 — 08.71.070)
2. Licensing (§§ 08.71.080 — 08.71.160)
3. Unlawful Acts (§§ 08.71.170 — 08.71.180)
4. Miscellaneous Provisions (§ 08.71.200)
5. General Provisions (§§ 08.71.220 — 08.71.240)

Article 1. Board of Dispensing Opticians.

Section

10. Creation of board
20. Membership of board; source of appointments; term of office
30. Qualifications of board members
40. Election of officers

Section

50. Board regulations
60. Record of proceedings
70. Applicability of Administrative Procedure Act

Sec. 08.71.010. Creation of board. There is created the Board of Dispensing Opticians. (§ 1 ch 45 SLA 1973)

Sec. 08.71.020. Membership of board; source of appointments; term of office. The board consists of seven persons appointed by the governor. Members serve staggered terms of three years. The terms of the public members of the board shall be set so that they do not expire at the same time. Vacancies on the board shall be filled for the unexpired term. (§ 1 ch 45 SLA 1973; am § 19 ch 102 SLA 1976)

Effect of amendment. — The 1976 amendment rewrote this section.

Sec. 08.71.030. Qualifications of board members. Five board members shall be licensed, practicing dispensing opticians residing in the state. Two shall be persons with no direct financial interest in the health care industry. (§ 1 ch 45 SLA 1973; am § 20 ch 102 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "Five board members" for "A board member" at the beginning of the first sentence, and deleted "a" preceding "licensed" and substituted "opticians" for "optician" in that sentence, and added the second sentence.

Sec. 08.71.040. Election of officers. The board shall elect a chairman and secretary from among its members. The officers may administer oaths. (§ 1 ch 45 SLA 1973)

Sec. 08.71.050. Board regulations. The board may adopt regulations:

- (1) necessary or advisable to carry out the provisions of this chapter and which help to assure the competency of dispensing opticians and prevent conduct on their part which would tend to do harm to the visual health of the public;
- (2) governing the practice of dispensing opticians;
- (3) specifying the subject matter to be covered in examinations for dispensing opticians. (§ 1 ch 45 SLA 1973)

Sec. 08.71.060. Record of proceedings. The secretary shall keep a record of all proceedings, including the name of each applicant for examination and licensing. These records shall be open for public inspection. (§ 1 ch 45 SLA 1973)

Sec. 08.71.070. Applicability of Administrative Procedure Act. The board shall comply with the Administrative Procedure Act (AS 44.62). (§ 1 ch 45 SLA 1973)

Article 2. Licensing.

Section	Section
80. License required	120. Fees
85. Malpractice insurance	130. Renewal of license
90. Content of examination	140. Display of license
100. Administration of examination	150. Issuance of license by reciprocity
110. Qualifications of applicants for examination	160. Dispensing optician's apprentice

Sec. 08.71.080. License required. No person may act as a dispensing optician in the state unless he is licensed under this chapter. In order to be licensed under this chapter, a person shall pass an examination given by the board, unless he is eligible for licensing without examination under § 150 of this chapter. 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 appurtenances, or (3) both. The board shall by endorsement on the license designate for which aspect of dispensing opticianry the license is issued. The board shall license successful examinees. (§ 1 ch 45 SLA 1973; am § 14 ch 127 SLA 1974)

Effect of amendment. — The 1974 amendment added "unless he is eligible for licensing without examination under § 150 of this chapter" to the end of the first sentence.

Legislative committee report. — For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Sec. 08.71.085. Malpractice insurance. If medical malpractice insurance for opticians becomes unavailable on the voluntary market and the director of insurance finds, after public hearing, that the unavailability is impairing the delivery of optician services to the public, the director of insurance may require all persons licensed under this chapter to carry medical malpractice insurance and to purchase their insurance from the Medical Indemnity Corporation of Alaska established under AS 21.88. If a finding of unavailability of insurance on the voluntary market and impairment of services has been made under this section, purchase of medical malpractice insurance from the Medical Indemnity Corporation of Alaska is a condition of licensure under this chapter. The provisions of this section are satisfied if the licensee's employer maintains insurance for him from the Medical Indemnity Corporation of Alaska. (§ 21 ch 102 SLA 1976)

Sec. 08.71.090. Content of examination. To be licensed as a dispensing optician a person, unless eligible for licensing without examination under § 150 of this chapter, shall pass an examination given by the board. At the discretion of the board, the examination may test orally, in writing, or otherwise, knowledge and skills in any or all of the following subjects: optics, anatomy, laboratory technology, ophthalmic dispensing, contact lens technology, technical mathematics and physics, and business concepts of optical dispensing. (§ 1 ch 45 SLA 1973; am § 15 ch 127 SLA 1974)

Effect of amendment. — The 1974 amendment inserted "unless eligible for licensing without examination under § 150 of this chapter" in the first sentence.

Legislative committee report. — For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Sec. 08.71.100. Administration of examination. The board shall offer an examination at least once a year. Examinations shall be administered so that one who grades the written part of the examination does not know whose paper he is grading. (§ 1 ch 45 SLA 1973)

Sec. 08.71.110. Qualifications of applicants for examination. A person is entitled to take the examination who

- (1) has either
 - (A) completed at least 6,000 hours of training as an apprentice, or
 - (B) been engaged for at least 10,000 hours as a practicing optician in good standing in a state, territory, district or possession of the United States; and
- (2) has paid the required examination fee. (§ 1 ch 45 SLA 1973)

Sec. 08.71.120. Fees. The following fees shall be imposed under this chapter when applicable:

- (1) examination fee \$50
 - (2) initial dispensing optician license fee 50
 - (3) biennial renewal fee 50
- (§ 1 ch 45 SLA 1973)

Sec. 08.71.130. Renewal of license. (a) A licensed dispensing optician shall renew his license biennially with the Department of Commerce on or before the date set by the department under AS 08.01.100.

(b) If the license is not renewed on or before that date, it shall lapse. A penalty of \$10 shall be charged, in addition to all delinquent fees, for the reinstatement of a license which remains lapsed for more than 60 days.

(c) If the license remains lapsed for more than one year, the board may require the applicant to be examined under § 90 of this chapter.

(d) Before a license may be renewed the licensee shall submit to the board evidence of 15 hours of continuing competence in optical dispensing as prescribed by regulations of the board. (§ 1 ch 45 SLA 1973)

Sec. 08.71.140. Display of license. A licensed dispensing optician shall conspicuously display his license in his place of business. (§ 1 ch 45 SLA 1973)

Sec. 08.71.150. Issuance of license by reciprocity. An applicant who has been licensed and has been practicing as a dispensing optician in a state, territory, district or possession of the United States which has requirements for licensing and gives reciprocal rights equivalent to those of this state, and who otherwise meets the requirements of § 110 of this chapter, shall be licensed by the board without examination. (§ 1 ch 45 SLA 1973)

Sec. 08.71.160. Dispensing optician's apprentice. (a) A person may be employed by a licensed dispensing optician as an apprentice. 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 and under the direct supervision of a licensed physician, optometrist or dispensing optician. No apprentice may be employed under this section for longer than six years unless the board determines that an apprentice is prevented by circumstances beyond his control from obtaining a license as a dispensing optician within that time.

(b) No more than two apprentices may be under the direct supervision of one licensed dispensing optician at the same time. (§ 1 ch 45 SLA 1973)

Article 3. Unlawful Acts.

Section

- 170. Grounds for revocation, suspension or denial of license
- 175. Limits or conditions on license; discipline
- 180. Practicing without a license

Sec. 08.71.170. Grounds for revocation, suspension or denial of license. The board, after compliance with the Administrative Procedure Act (AS 44.62), may revoke, suspend or deny the license of a person who

- (1) has been convicted of a felony involving moral turpitude;
- (2) is addicted to the use of alcohol or any other drug;
- (3) has used advertising, whether printed, radio, display, or of any other nature, which is fraudulent, misleading or inaccurate in any material particular, or misrepresents in any way goods, services or credit terms, values, policies, services or the nature or form of the business conducted;
- (4) has practiced fraud or deception in his application for or in his examination for a license;
- (5) has used the word "licensed", "registered", or any of their synonyms publicly, except as provided in § 140 of this chapter;
- (6) has displayed or published directly or indirectly by any means, a price, terms of payment, or a discount, or a policy or practice of generally underselling competitors, or any reference to the benefits available to the subscribers to any prepaid health plan;
- (7) has participated in the division, assignment, rebate or refund of fees to a physician or optometrist in consideration of patient referrals;
- (8) has bartered or given away as premiums in any manner either on his own account or as agent or representative for another person, firm or corporation, any eyeglasses, spectacles, lenses or frames;
- (9) has advertised the "free examinations of eyes", "free consultation", "consultation without obligation", "free advice", or any words or phrases of similar import which convey the impression to the public that eyes are examined free or are of a character tending to deceive or mislead the public, or are in the nature of "bait advertising";
- (10) has employed either directly or indirectly any person commonly known as a "capper" or a "steerer" to obtain business;
- (11) has solicited or employed any person to solicit from house to house;
- (12) has used advertising offering a service to the public for which he is not licensed under this chapter; however, nothing in this section prohibits the optician from advertising merchandise for which the license which is the subject of this chapter is not required;

(13) has engaged in a group contract for the duplication of eyeglasses or spectacles without a written prescription from an optometrist or physician; or

(14) has advertised the services of any other segment of the healing arts. (§ 1 ch 45 SLA 1973)

Sec. 08.71.175. Limits or conditions on license; discipline. (a) In addition to action under § 170 of this chapter, upon a finding that by reason of demonstrated problems of competence, experience, education, or health the authority to practice as a dispensing optician under this chapter should be limited or conditioned or the practitioner disciplined, the board may reprimand, censure, place on probation, restrict practice by procedure or facility, require additional education or training, or revoke or suspend a license.

(b) The Administrative Procedure Act (AS 44.62) applies to any action taken by the board under this section. (§ 21 ch 102 SLA 1976)

Sec. 08.71.180. Practicing without a license. It is unlawful for a person to practice as a dispensing optician without a license issued under this chapter or while his license is suspended or revoked. A person who violates this section is guilty of a misdemeanor. (§ 1 ch 45 SLA 1973)

Article 4. Miscellaneous Provisions.

Section

200. Contact lenses

Sec. 08.71.200. Contact lenses. Contact lenses shall be fitted in conjunction with and under the supervision of a licensed physician or an optometrist and with a written contact-lens prescription showing that the prescription may be filled for contact lenses and requiring that the patient return to see the prescribing physician or optometrist. In no case may contact lenses be prepared by neutralizing a person's eyeglasses or spectacles. (§ 1 ch 45 SLA 1973)

Revisor's note (1973).—In ch. 45, SLA 1973, this section appeared as part of what was designated there as AS 08.71.210(3) (now AS 08.71.240(3)).

Article 5. General Provisions.

Section

220. Persons practicing as dispensing opticians before July 1, 1973
230. Exemptions from and limitations on the application of this chapter

Section

240. Definitions

Revisor's note (1973).—In ch. 45, SLA 1973, this article appeared as Article 4, and AS 08.71.220—08.71.240 appeared as AS 08.71.190—08.71.210.

Sec. 08.71.220. Persons practicing as dispensing opticians before July 1, 1973. (a) Within 60 days after July 1, 1973, a person who has been engaged in practice in Alaska as a dispensing optician for a period of at least six months immediately preceding July 1, 1973 shall be issued a license without examination upon the payment of a fee of \$50 and a certification to the board under oath that he is of good moral character and that

(1) he has been engaged as a dispensing optician for not less than 3,000 hours; or

(2) he has been engaged as a dispensing optician in contact lens fitting for not less than 6 000 hours.

(b) If a person qualifies for a license under (a) (1) or (2) of this section, the board shall by endorsement on the license designate for which aspect of dispensing opticianry the license is issued. If a person qualifies for a license under (a) (1) and (2) of this section, the board shall by endorsement on the license so designate.

(c) Within eight months after July 1, 1973, a person who has been engaged in practice in Alaska as a dispensing optician for a period of at least six months immediately preceding July 1, 1973 but who is not otherwise qualified for licensing under (a) (1) or (2) of this section may take the examination required under § 90 of this chapter. A person who has not been engaged in practice in Alaska as a dispensing optician for a period of at least six months immediately preceding July 1, 1973 must qualify to take the examination under § 110 of this chapter. (§ 1 ch 45 SLA 1973)

Sec. 08.71.230. Exemptions from and limitations on the application of this chapter. This chapter may not be construed to

(1) limit or restrict a licensed physician or optometrist or employees working under the personal supervision of a licensed physician or optometrist from the practices enumerated in this chapter, and each licensed physician and optometrist has all the rights and privileges which may accrue under this chapter to dispensing opticians licensed under it;

(2) prohibit an unlicensed person from performing mechanical work upon inert matter in an optical office, laboratory or shop;

(3) prohibit an unlicensed person from engaging in the sale of eyeglasses, spectacles, magnifying glasses, goggles, sunglasses, telescopes, binoculars, or any like articles which are completely preassembled and sold only as merchandise;

(4) authorize or permit a licensee under this chapter to hold himself out as being able to, or to offer to, or to attempt by any means, to refract or exercise eyes, diagnose, treat, correct, relieve, operate or prescribe for any human ailment, deficiency, deformity, disease or injury. (§ 1 ch 45 SLA 1973)

Sec. 08.71.240. Definitions. In this chapter

(1) "board" means the Board of Dispensing Opticians;

(2) "department" means the Department of Commerce and Economic Development;

(3) "dispensing optician" means a person who prepares duplications of or prepares and dispenses lenses, spectacles, eyeglasses, artificial eyes, and their appurtenances, to the intended wearers of them on written prescriptions from physicians or optometrists; and in accordance with those prescriptions, measures, adapts, adjusts and fabricates lenses, spectacles, eyeglasses, artificial eyes, and their appurtenances, to the human face for the aid or correction of visual or ocular anomalies of the human eye. (§ 1 ch 45 SLA 1973; am § 52 ch 218 SLA 1976)

Revisor's note (1973).—In ch. 45, SLA 1973, paragraph (3) of this section included what is now AS C8.71.200.

Commerce and Economic Development" for "Department of Commerce" in paragraph (2).

Effect of amendment. — The 1976 amendment substituted "Department of

CHAPTER 30.
BOARD OF DISPENSING OPTICIANS

Article

1. Continuing Competence

ARTICLE 1.
CONTINUING COMPETENCE

Section

10. Definition of "continuing competence"
20. Evidence of continuing competence
30. Date of continuing competence
40. Field in which continuing competence is obtained
50. Continuing competence required for renewal of initial license

12 AAC 30.010. DEFINITION OF "CONTINUING COMPETENCE." For the purpose of AS 08.71.130(d) and this chapter, "continuing competence" means

(1) attendance at a seminar or course conducted by

(A) the Opticians Association of America;

(B) the Contact Lens Society;

(C) the American Optometric Association;

(D) the Academy of Ophthalmology;

(E) the Optical Wholesalers Association;

(F) the Opticians Association of Alaska, Incorporated; or

(G) other recognized professional organizations in the field of opticianry;

(2) satisfactory completion of a course conducted by a recognized school of opticianry;

(3) attendance at an exhibit conducted for the optical public; or

(4) individual instruction by a licensed ophthalmologist, optometrist, dispensing optician or optical manufacturer outside of the

normal work situation. (Eff. 6/23/78, Reg. 66)

Authority: AS 08.71.050(1)

AS 08.71.130(d)

12 AAC 30.020. EVIDENCE OF CONTINUING COMPETENCE. (a) Evidence of continuing competence is

(1) a seminar or course program indicating the sponsor and signed by the instructor;

(2) the original or a copy of a certificate of completion of a seminar or course;

(3) the original or a copy of a diploma;

(4) the original or a copy of a receipt for payment of a seminar or course registration fee;

(5) a sworn affidavit from an instructor attesting to the instruction given; or

(6) a form provided by the department validated by the instructor.

(b) Evidence of continuing competence must state the number of hours spent.

(c) A copy of a document must be certified by a notary public to be a true copy of the original document. (Eff. 6/23/78, Reg. 66)

Authority: AS 08.71.050(1)

AS 08.71.130(d)

12 AAC 30.030. DATE OF CONTINUING COMPETENCE. Continuing competence must be obtained within two years preceding the date of application for license renewal or since the date of initial licensure, whichever is sooner. (Eff. 6/23/78, Reg. 66)

Authority: AS 08.01.100

AS 08.71.050(1) and (2)

AS 08.71.130(d)

12 AAC 30.040. FIELD IN WHICH CONTINUING COMPETENCE IS OBTAINED. Continuing competence shall be in the aspect of dispensing opticianry for which the licensee is licensed. A person licensed to dispense both spectacles and contact lenses shall meet the requirement of AS 08.71.130(d) for each of those aspects of opticianry. (Eff. 6/23/78, Reg. 66)

Authority: AS 08.71.050(1) and (2)

AS 08.71.080

AS 08.71.130(d)

12 AAC 30.050. CONTINUING
COMPETENCE REQUIRED FOR RENEWAL
OF INITIAL LICENSE. A person receiving his
or her initial license under AS 08.71

(1) within six months of that date by which
it must be renewed need not comply with the
continuing competence requirement of AS
08.71.130(d) until the second and subsequent
renewal dates:

(2) within 14 months of but more than six
months before the date by which it must be
renewed need obtain only eight of the 15 hours
of continuing competence required by AS
08.71.130(d) for the first renewal period; or

(3) more than 14 months before the date by
which it must be renewed must comply with the
continuing competence requirement of AS
08.71.130(d). (Eff. 6/23/78, Reg. 66)

Authority: AS 08.01.100
AS 08.71.050(i) and (2)
AS 08.71.130(d)