

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1324 HESS HB 111

1324

Peninsula Eye Clinic

PETER E. CANNAVA, M.D.
OPHTHALMOLOGY
BOX 1629
SOLDOTNA, ALASKA 99669
TELEPHONE 262-4462

Rep. Terry Martin
House of Rep.
Juneau, Alaska 99801

January 15, 1981

Dear Terry,

I hope you enjoyed the summer despite the rainy weather. Welcome back to the "pits" and I wish you a good session.

I thought I'd start you off early in some ophthalmology propaganda! If there is any doubt left that our "friends", the optometrists, desire to practice medicine the enclosed will eruse it. For economic as well as psychic reasons they feel compelled to enter the medical eye care arena.

Medicine will be introducing "Mandatory Referral" legislation as an attempt to protect "John Q Alaskan" from the harmful affects which we have witnessed the past few years as some optometrist failed to refer sick patients off to a physician.

I look forward to visiting with you when I come down. If I can be of any help please let me know.

Sincerely,

P. E. Cannava, M.D. M.D. P.C.

Peter E. Cannava, M.D.
PEC/dn

E. E. BACH, O.D.
PHILLIP W. BACH, O.D., PH.D.
OPTOMETRY
SUITE 204 DENALI PROFESSIONAL CENTER
3401 DENALI STREET
ANCHORAGE, ALASKA 99503

April 7, 1982

The Honorable Hugh Malone
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Rep. Malone:

Your constituent, Dr. Robert O'Connell, contacted our office in response to your request for information regarding allegations that I had continued to practice in defiance of a cease and desist order. While my father gave him background information, it may be well for you to have the facts from me directly.

As you may know by now, ophthalmologists, aware of my activities in support of optometric drug legislation, took an administrative problem that was in the process of being resolved, made a major issue of it at a Feb. 1 House HESS Committee hearing and in certain channels of the bureaucracy, and succeeded in having me removed from the Board of Examiners in Optometry. I understand they again made an issue of it at the HESS meetings of March 30-April 1.

Here are the facts of the situation:

Optometrists are required to renew their licenses by March 31 of the year in which renewal begins. After that there is a late renewal fee. At renewal time last year, I discovered I could not find copies of my continuing education credits required for renewal. Subsequent search was fruitless and in April or May I requested copies of the credits from the secretary of the Alaska Optometric Association, Dr. Dennis Swarner, of Kenai.

In June, Barbara Branson, an employee of the Division of Occupational Licensing, called to remind me of my overdue renewal, and she also noted that they had no record of my renewal for the 1979-80 biennium, a fact of which I was unaware. Since I had received no CE credits from Dr. Swarner, I requested by phone that he send this information, and also send copies of credits relating to the earlier period. This request was repeated twice during the summer and fall.

In early November, the Association records were transferred to the new secretary, Dr. Jeff Keene, of Eagle River. I requested my CE records from him during the Association meeting of November 21-22. He prepared a letter, dated December 1, summarizing my continuing education credits (copy attached). However his secretary failed to send it to me.

About the same time in November, Harry Treager, director of the Division of Occupational Licensing, called me to express concern about my failure to renew, in view of the fact that I was a board member. I explained the problem and the steps I was taking to have it resolved, and promised to have the material to the Division as soon as possible.

On December 31, 1981, without further communication from the Division, Mr. Treager issued an administrative cease and desist order (copy attached), which was served on me at my office January 4. This was done in the absence of optometry regulations or Board guidelines governing such behavior in such a case. It was also done with the knowledge that I was endangering no one and had fulfilled all requirements for renewal except payment of the fee. Nevertheless, I suspended making further patient appointments until I had obtained the letter from Dr. Keene's secretary. A copy of her letter of apology for the delay is attached.

I sent the letter and renewal fees to the Division January 10. Their date stamp indicates they received it January 15. On January 11, I began scheduling patients again, for I have to make a living.

Sometime before the HESS Committee meeting of Feb. 1, through channels unknown, Dr. Robert Page, ophthalmologist of Juneau, learned of this matter. During my telephone testimony to the committee that day regarding HB 111, he asked me if I was licenced to practice in Alaska and if I was actively practicing. I answered yes to both questions. Without knowing the context of his question I could hardly have answered otherwise. After I was off line, he apparently made an issue to the committee that I was practicing without a license and was defying an outstanding cease and desist order.

The next day (Feb. 2) I was called by Karen Slack, the Governor's Special Assistant for Boards and Commissions. She said that "someone in the Attorney General's Office" had complained to her about my "unlicensed" status as a board member and that if I did not clear up the matter immediately she would have me removed from the Board. She refused to give me the name of the individual so I could discuss the matter with him directly, citing "a promise" not to reveal the name. Later that day, Mr. Pete Froelich, of the Attorney General's office in Juneau and Mr. Richard Monkman, of the A.G. Anchorage office, indicated to me that they had had no previous knowledge of the matter, nor could they suggest anyone who might. I called the Division the same day, to learn, from Barbara Branson, that the letter from Dr. Keene was considered to be insufficiently detailed. She had not told me this earlier, she said, because she had been out of town at another board meeting.

I obtained a more detailed letter from Dr. Keene on Feb. 3 or 4 (undated letter attached) and sent it air mail special delivery to Mr. Treager. He received it Monday Feb. 8 (some delay due to Juneau weather at that time). He set up a conference call that day between

Rep. Hugh Malone
April 7, 1982
Page 3

himself, me and the other board members to obtain the Board's approval of the letter so that a license renewal could be issued. On Feb. 9, Ms. Slack set up a conference call, with Mr. Treager present, to inform me and the other board members that she was going to recommend to the Governor the next day that I be removed from the Board. The timing of Ms. Slack's behavior and the nature of her conversation suggest to me that she was acting under continuing pressure from some source, which I cannot determine.

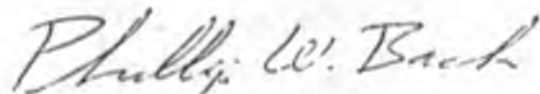
On Feb. 9 and again on Feb. 10, I attempted to reach the Governor through another assistant, Jerry Reinwand, but he simply had Ms. Slack return my call (on Feb. 10, with word that the removal had been effected). I considered going to the State Ombudsman, but the fact remains that board members serve at the pleasure of the Governor, and his first responsibility is to avoid embarrassment to his administration. It was a chance for me to learn first hand how bureaucrats cover for one another and how difficult it is for one person to counter them.

So as a result of this fiasco, I have lost my seat on the board. Worse, it may taint the pending legislation and create doubt in the minds of legislators. One can only wonder where the opposition will take this "issue" next.

I can only hope that responsible legislators will see through the tactics of the opposition and consider the legislation on its own merits.

Thank you for your attention to this lengthy letter.

Very truly yours,



Phillip W. Bach, O.D., Ph.D.

PWB/lr

4 enclosures

cc: Robert O'Connell, O.D.

Dennis Swarner, O.D.

Jeff Keene, O.D.

Members of the House HESS Committee

Members of the Board of Examiners in Optometry

from the office of . . .

JEFFREY G. KEENE, O.D.
DOCTOR OF OPTOMETRY
P.O. BOX 804
REGIONAL PARK PROFESSIONAL BUILDING
EAGLE RIVER, ALASKA 99577



TELEPHONE (907) 694-2511

January 5, 1982

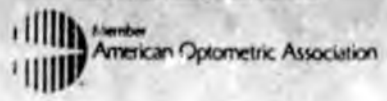
To Whom it May Concern:

I take full responsibility for the lateness
of the enclosed letter, and would hope that it
will in no way reflect upon Dr. Phillip Bach.

Sincerely,

A handwritten signature in cursive script that reads "Joy E. Leedham".

Joy E. Leedham
Office Manager



December 1981

This is to certify that Philip W. Bach, OD received continuing education while attending the following Alaska Optometric Association meetings:

May 27-29, 1978	Glacier Bay, Alaska	12 hours
November 29-December 1, 1978	Anchorage, Alaska	12 hours
June 4-6, 1979	Kodiak, Alaska	12 hours
November 8-10, 1979	Anchorage, Alaska	12 hours
June 18-20, 1980	Kenai, Alaska	12 hours
November 7-9, 1980	Anchorage, Alaska	<u>10 hours</u>
	Total hours	70

Respectfully,

Jeffrey G. Keene
Secretary-Treasurer
Alaska Optometric Association

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

In the Matter of:

PHILLIP W. BACH, O.D.
Optometrist

Respondent

File: BO 82-049

TEMPORARY CEASE AND DESIST ORDER
(AS 08.01.087(b)(1))

TO: Phillip W. Bach, O.D.
Professional Center
3401 Denali Street, Suite 204
Anchorage, Alaska 99503

1. As a result of an investigation conducted by Richard H. Long, Chief Investigator, Division of Occupational Licensing, on November 1981 to December 31, 1981, Anchorage and Juneau, Alaska, it has been determined that you are engaged in the following activity:

Practicing as an optometrist at the above named location in Alaska without a license for such practice in Optometry. License Number AA0067, issued to Phillip W. Bach, for Optometry, expired December 31, 1978. That license was not renewed for the license period January 1, 1979 to December 31, 1980, and was not renewed for the license period January 1, 1981 to December 31, 1984, a total of \$270.00 in renewal fees plus penalties are in arrears. Further, proof of his completing 24 hours of continuing education for the license period January 1, 1979 to December 31, 1980 has not been submitted as required. Phillip W. Bach has been advised many times, some by correspondence, by personal discussion on telephone with the board examiner, by the investigative staff, by the Chairman of the Board of Examiners in Optometry, and by the Director of the Division of Occupational Licensing, all during the recent past several months. He has acknowledged he would respond to each contact but has not so responded with any renewal transactions for fees or continuing education. Throughout this period, he has maintained practice as an Optometrist, examining, fitting, selling or receiving or soliciting orders for lenses for the correction of optical or visual defects of human eyes, and other functions pertinent to being in business as an Optometrist including ongoing advertisements for such services.

2. This constitutes the practice of Optometry within the meaning of AS 08.72.110 and AS 08.72.300. Further investigation reveals that you are practicing without a license. This is in violation of AS 08.72.110 and AS 08.72.200. Further, failing to renew is a violation of AS 08.72.181 which requires payment of the fee and proof of continuing education.

STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
POUCH D, JUNEAU, ALASKA 99811
TELEPHONE (907) 465-2836

STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
POUCH D, JUNEAU, ALASKA 99811
TELEPHONE: (907) 468-2636

1 3. Notification has been made to the members of the Board of Examiners
2 in Optometry by telephone or telegraph of the proposed issuance of this
3 Temporary Cease and Desist Order and a majority of the board members do not
4 object to its issuance.

5 4. Issuance of this Temporary Cease and Desist Order is in the public
6 interest.

7 IT IS THEREFORE ORDERED pursuant to AS 08.01.087(b)(1) that you immediately
8 CEASE AND DESIST from further practice as an Optometrist without licensure in
9 the State of Alaska.

10 Upon your written request within 15 days of receipt of this order, a
11 hearing will be set and thereafter a further order will be entered; if no such
12 request is received, this order shall stand as entered.

13 This order is effective on receipt by you.

14 DATED this 31 day of December, 1981 at Juneau, Alaska.

15
16 BY ORDER OF

17 COMMISSIONER
18 DEPARTMENT OF COMMERCE AND
19 ECONOMIC DEVELOPMENT

20 BY:

Shirley W. Reagan, Director
Name and Title

Division of Occupational Licensing
Agency Address

Pouch D, Juneau, Alaska
99811

21
22
23
24 CERTIFICATE OF SERVICE

25 I, _____, do hereby certify that I
26 served a copy of the above order and a Request for Hearing form by (personally
27 delivering/ mailing) a copy to/with _____

28 _____ at _____

29 _____ on the _____ day of _____, 19____

30
31
32 _____
Name

_____ Title

STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
POUCH D, JUNEAU, ALASKA 99811
TELEPHONE: (907) 465-3838

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STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

In the Matter of:
PHILLIP W. BACH, O.D.
Optometrist
Respondent

TEMPORARY CEASE AND DESIST ORDER
(AS 08.01.087)

File BO 82-049

REQUEST FOR HEARING

Respondent, pursuant to AS 08.01.087(b)(i), hereby gives Notice of Defense in this proceeding.

A hearing on the matters set forth in the Temporary Cease and Desist Order is hereby requested.

DATED this 12th day of January, 1982

Phillip W. Bach
Respondent's Signature

Address: 3401 Denali St.
Anchorage Alaska
City State
276-6120 99505
Telephone Zip

NOTICE

This Request for Hearing must be signed by or on behalf of respondent, set forth respondent's mailing address, and must be filed with the Director, Division of Occupational Licensing, Department of Commerce and Economic Development, Pouch D, Juneau, Alaska 99811, within 15 days of receipt. Upon receipt of this or a written request in any form received by the Director within 15 days of your receipt of this order, a hearing will be set and thereafter a further order will be entered. If no such request is received, this order shall stand as entered.

1 STATE OF ALASKA

2 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

3 In the Matter of:)

4 PHILLIP W. BACH, O.D.)
5 Optometrist)

6 Respondent)

7 File: B) 82-049

8 DECISION AND ORDER OF WITHDRAWAL

9 The State of Alaska, Director, Division of Occupational Licensing,
10 having reviewed the licensing file, renewal documents, the file regarding the
11 Temporary Cease and Desist Order, and having discussed this entire matter with
12 the Board of Examiners in Optometry with Respondent Phillip Bach present, and
13 having heard from Respondent Phillip Bach directly, hereby decides and orders
14 as follows:

15 STATEMENTS OF FACT

16
17 1. Respondent Bach was issued a Temporary Cease and Desist Order with
18 board concurrence on January 4, 1982, for practicing as an Optometrist in
19 Alaska with no license to do so. His license expired December 31, 1978 but he
20 continued to practice from that date to present without a valid license in
21 violation of AS 08.72.110, AS 08.72.181 and AS 08.72.280. He failed to pay
22 any renewal fees and failed to submit proof of any continuing education despite
23 numerous attempts by division staff, board members and others.

24 2. Respondent Bach submitted a Request for Hearing dated January 12,
25 1982, to protest the order.

26 3. On January 15, 1982, the division received a letter dated December 1,
27 1981 from Jeffrey G. Keene, Secretary-Treasurer of the Alaska Optometric
28 Association, attempting to certify 70 hours of continuing education. This
29 submission was rejected as it did not comply with the requirements written
30 under AS 08.72.131 and 12 AAC 48.020. His fees required to renew, including
31 delinquent charges, totalling \$270.00 were received this date.
32

STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
POUCH D. JUNEAU, ALASKA 99811
TELEPHONE: (907) 485-2838

STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
POUCH O, JUNEAU, ALASKA 99811
TELEPHONE: (907) 485-2836

1 4. On February 1, 1982, by letter, Mr. Keene was asked to clarify his
2 certification to meet the requirements of the statute and regulations. On
3 February 8, 1982, Mr. Keene's reverification of Respondent Bach's continuing
4 education was received, but attested to only 67 hours.

5 5. On February 8, 1982, at 5:05 p.m., a teleconference phone call was
6 completed with all board members and Respondent Bach. Although the
7 certification was not notarized, and each credit was not certified by the
8 instructor as earlier directed and as specified by statute and regulations,
9 the board considered all of the credits submitted, voted to accept them as
10 submitted and concurred that he may be renewed.

11
12 CONCLUSIONS OF LAW

13 6. Respondent now complies with AS 08.72.181 and 12 AAC 48.020 since he
14 has paid his fees, submitted his required continuing education and the board
15 has concurred that he may be relicensed by renewal process.

16
17 ORDER

18 IT IS THEREFORE ORDERED that the Temporary Cease and Desist Order issued
19 to Phillip W. Bach is withdrawn. A license is to be issued to Respondent Bach
20 immediately.

21 DATED this 9 day of February 1982 at Juneau, Alaska.

22
23 BY ORDER OF

24 COMMISSIONER
25 DEPARTMENT OF COMMERCE AND
26 ECONOMIC DEVELOPMENT

27 BY: Harry D. Treager

28 HARRY D. TREAGER, Director
29 Division of Occupational Licensing
30
31
32

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
POUCH D JUNEAU, ALASKA 99811

In the matter of:)
)
 PHILLIP BACH)
)
 Respondent)
)
)

CASE NO. OE 82-049

AFFIDAVIT OF NOTICE PURSUANT TO AS 08.01.087(b)

I hereby certify that all members of the: Optometry Board

were notified of the intent of this department's proposed order/action as follows:
To issue a Commissioner's Cease and Desist Order pursuant to AS 08.01.087 to an
unlicensed Optometrist, Phillip Bach. His license expired December 31, 1978. All
efforts to bring him into compliance with AS 08.72 have been to no avail. The
license examiner has contacted him many times in writing and personally to get him
licensed. The Director has also tried. He knows he is in violation of AS 08.72.110
yet he continued to practice with no license. He has failed to respond to any contacts

(over)

This notice was communicated to the following members of the above listed Board or

Commission as noted:

NAME (telephone #, city)	METHOD (tp/twx)	DATE	RESULTS
Maynard Falconer/Anchorage	Telephone 272-2557	12-31-81	Approved
John Miko/Fairbanks	Telephone 456-2235	12-30-81	Approved

No objections were received from any member of this Board/Commission regarding the
above listed proposed order/action except as noted here:

Phillip Bach/Anchorage			Not notified
------------------------	--	--	--------------

Dated this 6th day of January, 1982 at Juneau, Alaska.

Kevin J. Messing
NAME KEVIN J. MESSING
ADMINISTRATIVE SUPPORT TECHNICIAN II
TITLE

SUBSCRIBED AND SWORN to before me, the date and place above shown.

Angela J. Parker
NOTARY
8-8-84



1978. This is issued in the public interest.

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.



GRADUATE EDUCATION VERIFICATION

I certify that Phillip W. Bach, O.D., has completed the following continuing education short courses sponsored by the Alaska Optometric Association. These courses meet the requirements for postgraduate education under 12 AAC 48.020.

Date	Location	Course Title	Instructor	Hours
May 27-8, 1978	Glacier Bay, Ak.	Management of the Red Eye	Lynn Coon, O.D., and Diane Yolton, Ph.D.	12
Dec. 2-3, 1978	Anchorage, Ak.	Hydrophilic Lenses	Clarence McEachern, O.D.	12
June 4-5, 1979	Kodiak, Ak.	Ocular Pathology	Kenneth Polse, O.D.	9
June 5, 1979	Kodiak, Ak.	Professional Corporations, Partnerships and Pension Plans	Lee Fisher, CLU	3
November 8, 1979	Anchorage, Ak.	Pharmacology	William Bock, O.D.	6
Nov. 9, 1979	Anchorage, Ak.	Contact Lenses	Charles Bayshore, O.D.	6
June 21-2, 1980	Kenai, Ak.	Visual Training	Jack Pierce, O.D., Ph.D.	6
June 21-2, 1980	Kenai, Ak.	Contact Lenses	William Lichtman, O.D.	6
Nov. 8, 1980	Anchorage, Ak.	Diagnostic/Pharmaceutical Agents and Contact Lens Solutions	Murray J. Sibley, Ph.D.	4
Nov. 8, 1980	Anchorage, Ak.	Contact Lenses	Ron O'Hara	<u>3</u>
			Total Hours	67

Respectfully,

Jeffrey G. Keene

Jeffrey G. Keene
Secretary-Treasurer
Alaska Optometric Association

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. CSHB 111 (HESS)
 Title Optometry Practice
 Requested by House HESS Committee Date 4/1/82

II. FISCAL DETAIL
 Agency Affected Department of Health and Social Services
 Program Category affected Health/Public Health
 BRU, Program, Or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE 4/1/82 PREPARED BY David J. [Signature] 100
 AGENCY DHSS
 PHONE 465-3101
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

7
PENNSYLVANIA OPTOMETRIC ASSOCIATION, INC.

218 NORTH STREET, P. O. BOX 3312
HARRISBURG, PENNSYLVANIA 17105
TELEPHONE (717) 233-6455

To: Tom Eichhorst, Esq.
DIST: Al Levin, O.D.
From: Donald H. Evans, O.D., Executive Director

Date October 12, 1977

Re: Medical Eye Care Foundation of Pennsylvania

Recent Medical Eye Care Foundation of Pennsylvania proposal and
POA rejection enclosed.

DHE:j

BASKIN, BOHEMAN & TIVE
ATTORNEYS AT LAW

OCT 12 1977

FATNE ENGELMANN BUILDING
24 N THIRD STREET
P O BOX 1150
HARRISBURG, PA 17108
1717 234-6153

PITTSBURGH OFFICE
10TH FLOOR FRICK BUILDING
PITTSBURGH, PA 15210
(412) 562-8500

October 7, 1977

Alan H. Rauzin, Esquire
Assistant Attorney General
Commonwealth of Pennsylvania
Department of Health
Post Office Box 90
Harrisburg, Pennsylvania 17120

RE: MECFP vs. Department of Health et. al.,
No. 954 C.D., 1977

Dear Mr. Rauzin:

Per our agreement, as counsel to the Pennsylvania Optometric Association, I am forwarding written comment in response to the proposal submitted on behalf of MECFP. This letter follows the outline contained in Mr. Reynolds letter.

I. STATUS OF OPTOMETRISTS

Central to the denial of approval of the proposed MECFP plan by the Pennsylvania Departments of Health and Insurance was the determination, stated in their Adjudication and Order, that "Because Applicant's proposed plan primarily covers services, procedures and materials which optometrists are licensed and qualified to render, the proposed plan denies the right of a class of qualified health service doctors to register with the proposed plan in violation of" the governing Act. Therefore, it is totally inappropriate and unacceptable to suggest that the degree of participation by optometrists in the proposed plan with regard to membership, voting rights, compensation, peer review or any other matter should differ in any way from the degree of participation by ophthalmologists.

Reference to the establishment of a panel of "cooperating opticians" is also unacceptable. The governing Act requires that professional health services

HAROLD B. TIVE
JOSEPH M. BOHEMAN
NEWMAN P. BOHEMAN

CLPA

be rendered by health service doctors. Opticians are not health service doctors.

II. SERVICES PROVIDED BY OPHTHALMOLOGISTS AND BY OPTOMETRISTS

The Adjudication and Order also states, in part, "Eligibility to register with a professional health service plan turns upon the nature of the proposed services, procedures and materials and the qualifications of a health service doctor to provide them competently, regardless of the doctor's category of licensure." Therefore, unless MECFP proposes to amend its plan to provide coverage for some or all of the services which are presently specifically excluded, optometrists are clearly entitled to render the services covered and no "specifics" remain to be "worked out at a later date."

The law permits MECFP to set out the classes and kinds of professional health services to be provided. It does not permit the division of professional health services by category of provider. As has been repeatedly stated in this case, the threshold issue is the "classes and kinds" of services to be provided, not the category of the provider.

III. CRITERIA FOR REFERRAL

The criteria for mandatory referral are totally unacceptable. They are antithetical to the best interest of the patient and professionally demeaning to optometrists. Their imposition would result in a serious deterioration in the availability and quality of eye care in the Commonwealth and would contribute to an increase in costs.

A. The proposed list of referral criteria consists of conditions which either a) are already referred by optometrists or b) do not require such referral.

An example of a) is "temporary or permanent loss of any part of the visual field;" which would be immediately referred by any optometrists, but not necessarily to an ophthalmologist. Appropriate referral might rather be to a neurologist.

An example of b) is "opacities of the cornea, lenses or vitreous" which may or may not require referral, depending on the individual circumstances. That determination is within the competency and the professional judgment of optometrists.

B. The imposition of mandatory referrals would increase costs in at least two ways. First, it would require unnecessary referrals. Second, insisting that initial referral, in instances which require it, be to an ophthalmologist could result in a duplication of services. It is possible that the ophthalmologist would then have to refer to whomever the optometrist might have appropriately referred initially. The consequence in either case is increased cost to the patient.

C. It has been demonstrated that the geographical distribution of optometrists in the Commonwealth is such that their services are more readily available than those of ophthalmologists. To require referral to ophthalmologists of conditions that are within the professional competency of optometrists would impose a totally unnecessary burden on the patients by requiring them to travel long distances and/or to wait excessive periods of time to receive care. Once again, the patient incurs increased and unnecessary costs.

IV. PEER REVIEW

As stated in I., supra, Peer Review provisions for optometrists should parallel those for ophthalmologists. Once again, there is the implication of a superior/inferior relationship between the two categories of providers which is absolutely irrelevant to the provisions of the proposed plan.

In the final analysis, the entire contents of the September 9 letter is nothing more nor less than a restatement in different language of precisely the premise which the Departments have already rejected, i.e. that ophthalmologists are somehow more qualified than optometrists to render the services covered by the plan. It in no way represents a bona fide attempt at compromise. Either Applicant didn't read the Adjudication and Order, or it chose to ignore what it said. In either case, their present proposal solves nothing and even serves to exacerbate the situation.

6122

Alan H. Kauzin, Esquire
October 7, 1977
Page 4

Acceptance of the contents of the September 9 letter would not only result in a professional health service plan that is lesser than the law requires but also, and more importantly, it would result in a plan that is less than adequate to meet the needs of its subscribers.

Upon full consideration by P.O.A., its counsel and staff, the proposal submitted by MECFP is rejected by the Pennsylvania Optometric Association.

Sincerely,

Ralph D. T. ve

cc: R. James Reynolds, Jr., Esquire
Donald H. Evans, O.D.

ALBERT P. ROYAL, JR., M.D.
EUGENE J. GORAYEB, M.D.
JOHN B. MAKIN, JR., M.D.
82 MAINE AVENUE
RUMFORD, MAINE 04276

DIAL 364-7601

Members of the Health and Institutional Service Committee
State House
Augusta, Maine

Gentlemen:

We are opposed to LD 679, "AN ACT to Require Optometrists to Refer Patients to Ophthalmologists in Certain Situations".

It is ridiculous to legislate a list of symptoms to take the place of professional judgment.

In addition, this bill encroaches on the general practice of medicine in that it requires optometrists to always bypass family physicians, referring physicians, and other medical specialists qualified to care for patients. For example, Section E requiring referral to ophthalmologists for "the presence of inflammation as manifested by redness of the eye" would force needless long distance travel for patients. Many family physicians adequately treat conjunctivitis and other minor eye infections.

This is self-serving legislation. No other approved medical specialty (such as the obstetrician, pediatrician, orthopedic surgeon, etc.) has such a statute for compulsory referral.

Optometrists concede that they do not treat pathology. By virtue of their educational background, they should be allowed to make professional judgments in channeling patients to the proper physician in the most expedient manner.

Sincerely,

John B. Makin, Jr. M.D.
Eugene J. Gorayeb, M.D.
David L. Phillips, M.D.
Tse Wu Tai, M.D.
D. E. Elsom, M.D.
J. H. Edmond, M.D.
A. K. Ganguli, M.D.

Linwood M. Rowe, M.D.
John B. Makin Jr., M.D.
Eugene J. Gorayeb, M.D.
David L. Phillips, M.D.
Tse Wu Tai, M.D.
Dexter E. Elsom, M.D.
James A. Edmond, M.D.
Adwaita K. Ganguli, M.D.

BELIVEAU & BELIVEAU, P. A.

ATTORNEYS AT LAW

114 STATE STREET

AUGUSTA, MAINE 04330

207-622-3157

ALBERT BELIVEAU, JR.
SEVERIN M. BELIVEAU
MICHAEL J. GENTILE
ANNEE TARA

ALBERT BELIVEAU
1887-1971

150 CONGRESS STREET
RUMFORD, MAINE 04276
207-364-4593

December 3, 1976

Thomas E. Eichhorst, Esquire
General Counsel
American Optometric Association
7000 Chippewa Street
St. Louis, Missouri 63119

Re: LD679 AN ACT to Require Optometrists to Refer Patients
to Ophthalmologists in Certain Situations

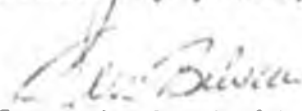
Dear Mr. Eichhorst,

At the request of Dr. David Smith of Portland I am enclosing a copy of LD679 AN ACT to Require Optometrists to Refer Patients to Ophthalmologists in Certain Situations, which was introduced in the Legislature on March 13, 1975 by Representative Harland C. Goodwin, Jr., of South Berwick, Maine. The hearing on the Bill was scheduled for April 24, 1975 on the same date on which the "Topical Anesthetic" Bill was also being heard. We were prepared to vigorously resist LD 679 but to everyone's surprise the sponsor of the Bill requested permission to withdraw the Bill from further legislative consideration.

On May 22, 1975 the House and Senate accepted the Committee's "Leave to Withdraw" Report and the Bill was relegated to history.

If you desire any additional information, please let me know.

Sincerely yours,


Severin M. Beliveau

SMB/jd

Enc:

cc: Dr. David Smith

February 13, 1981

Peninsula Eye Clinic
PETER E. CANNAVA, M.D.
OPHTHALMOLOGY
BOX 1629
SOLDOTNA, ALASKA 99689
TELEPHONE 262-4462

Dear *Terry,*

This letter concerns the House Bill relating to the practice of optometry (House Bill? As of now).

This bill would set a dangerous precedent in our state by allowing non-medical practitioners to use drugs upon the public. Traditionally, the privilege of using drugs on humans has been reserved for those professionals who have completed a course in medicine or dentistry at a recognized school and who have passed the appropriate board exam of Alaska. For non-medical practitioners to request legislation permitting them to practice medicine would be tantamount to physicians requesting legislation permitting them to practice law. For just as an optometrist takes a course in school on drugs, so too can I take a course in school on torts!

The bill itself is terrible in its wording:

Section 1 (2): The word ascertain is used to describe what an optometrist does in deciding if ocular disease is present or not. The word ascertain comes from the French "acertenes" plus the Latin "certus", both meaning to "find out with certainty if a disease is or is not present! The word detection from the Latin "detegere", to uncover, would be more appropriate.

Section 1 (2):
line 10 They are asking for legislation to permit them to perform any procedure taught by schools of optometry! This would give them carte blanche to perform any procedure under the sun so long as it can be shown to be taught at any school of optometry by any instructor!

Section 3
line 10 They are asking legislation to use any drug so long as it has been identified as an ophthalmic drug by the optometry board. This is almost incredible! They want carte blanche to use all drugs, both diagnostic and therapeutic, by eye drop or by mouth or by injection! This means their board (non-physicians) could declare morphine an ophthalmic drug because it is occasionally used to treat eye pain and thus they would be within the law.

Section 3 (3): They must pass an exam given by the optometry board! For those who wish to practice medicine there is already a board exam given and it has withstood the test of time! There are no physicians on the optometry board so this would be legislating the blind to lead the blind. (N. pun intended)

I hope this information proves of help in interpreting this potentially devastating bill.

Sincerely,

P. E. Cannava
Peter E. Cannava, M.D.

PEC:ccg

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH H 01
JUNEAU, ALASKA 99811
PHONE:

March 9, 1981

The Honorable Charles Parr
Chairman
Senate HESS Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Parr:

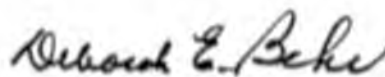
At the recent Senate HESS Committee meeting on SF 136: "An Act Relating to the Practice of Optometry," your Committee requested the following information be provided:

- (1) A list of drugs authorized for use by optometrists in other states;
- (2) A copy of Florida's optometric drug law; and,
- (3) Suggested language to amend SB 136 to protect the public's health if drugs were authorized for use by optometrists, including a list of drugs to be utilized if recommend by the department.

We have attached the material you requested. We would be pleased to discuss this information further with you at the Committee's convenience.

Thank you for the opportunity to comment on this important matter.

Sincerely,



Deborah E. Behr
Special Assistant

IN THE SENATE

BY HEALTH, EDUCATION, AND
SOCIAL SERVICES COMMITTEE

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 136 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the practice of
optometry, and authorizing the use of
ophthalmic drugs by optometrists."

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

* Section 1. AS 08.72.240(3) is amended to read:

(3) advertising professional services in a false
or misleading manner, [;] including false representation to
the public as something other than an optometrist, which
is meant as an optician, eye physician, or by any other
designation which would confuse the nature of his licensed
practice.

* Sec. 2. AS 08.72 is amended by adding a new section to
read:

Sec. 08.72.280. REFERRAL TO OTHER MEDICAL SPECIAL-
ISTS. If, during the course of examining a person, an
optometrist determines the possibility of the existence
of a pathological condition, the optometrist shall so
advise the person and shall refer the person to an
appropriate medical specialist for further evaluation.

* Sec. 3. AS 72.300(2) is repealed and reenacted to read:

(2) "optometry" means the employment of any
means other than the use of drugs, except the administration

of diagnostic pharmaceutical agents as authorized in AS 08.72.277, medicine or surgery to examine the human eye, to determine the visual efficiency of the human eye, or to determine the powers or defects of vision; the prescribing, providing, furnishing, adapting, using or employing lenses, prisms, contact lenses, visual training, orthoptics, ocular exercise or any other means or device other than the use of drugs, except diagnostic pharmaceutical agents as authorized in AS 08.72.277, medicine or surgery for the aid, relief or correction of vision.

* Sec. 4. AS 08.72.300(3) is repealed and reenacted to read:

(3) "practicing of optometry" means employing any means other than the use of drugs, except the administration of diagnostic pharmaceutical agents as authorized in AS 08.72.277, medicine or surgery to examine the human eye, to determine the visual efficiency of the human eye, or to determine the powers or defects of vision; the prescribing, providing, furnishing, adapting, using or employing lenses, prisms, contact lenses, visual training, orthoptics, ocular exercise or any other means or device other than the use of drugs, except diagnostic pharmaceutical agents as authorized in AS 08.72.277, medicine or surgery for the aid, relief or correction of vision.

* Sec. 5. AS 08.72.300 is amended by adding subsections to read:

(7) "commissioner" means the commissioner of the department of Commerce and Economic Development.

(8) "Committee" means the Alaska State Committee on Optometric Drugs established in AS 08.72.277.

* Sec. 6. AS 98.72 is amended by adding a new section to read:

Sec. 08.72.277. USE OF DRUGS. (a) There is created the Alaska State Committee on Optometric Drugs. The Committee shall consist of five members, including one ophthalmologist from a list of nominees recommended by the Alaska State Medical Board, the Director of the State Division of Public Health, one pharmacist recommended by the Alaska Board of Pharmacy, and two optometrists from a list recommended by the Alaska Board of Examiners in Optometry. All members shall be appointed by the commissioner of the department for three year term. The commissioner shall designate the chairperson of the committee who shall remain chairperson throughout his term. All members shall be voting members. If any member shall cease to act for any reason, prior to the termination of his appointed term, the commissioner shall appoint a new member with the same qualifications as the replaced member and to complete the term of the member ceasing to act. The Committee shall meet at the call of the chairperson.

(b) The Committee shall have the following rights and responsibilities:

(1) to approve those diagnostic pharmaceutical agents topically applied to be utilized by optometrists in this state, and the strength thereof. The agents shall be limited to cycloplegics, mydriatics, and topical anesthetics;

(2) to approve those optometrists who shall be authorized to use those diagnostic pharmaceutical agents approved by the committee. No optometrist shall be approved until he has exhibited his qualifications by passing an examination on the pharmacology of ophthalmic drugs prepared or approved by the committee. Such exam shall consist of written questions designed to test knowledge of the proper listed characteristics of the diagnostic pharmaceutical agents approved by the Committee. Approval shall consist of an endorsement by the Committee to his registration certificate authorizing him to use ophthalmic drugs and specifying restrictions on their use, if any;

(3) to approve educational standards to be used as prerequisites to authorization to use those diagnostic pharmaceutical agents. Provided, however, that no course or courses in pharmacology shall be approved by the Committee unless (a) taught by an institution having facilities for both the classroom and clinical instruction in pharmacology and which is accredited by a regional or professional accrediting organization that is recognized and approved by the Council on Postsecondary Accreditation or the United States Office of Education and (b) transcript credit for the course of courses is certified to the Committee by the institution as being equivalent in both hours and content to those courses in pharmacology required by the other licensing boards in this Chapter whose licensees or registrants are permitted the use of pharmaceutical agents in the course of their professional practice. Such

educational standards shall cover instruction in cardiopulmonary resuscitation and other first aid techniques.

(c) Standards approved by the Committee and adopted in regulation by the department shall be enforced by the Board of Examiners in Optometry. If the Committee, after evidence presented to the Board, finds that clear, cogent and convincing evidence was presented to the Board, but the Board failed to recommend that authority to use diagnostic pharmaceutical agents be withdrawn, then the Committee may withdraw the authority to use pharmaceutical agents from that optometrist.

* Sec. 7. AS 17.15.010 is amended by adding a new subsection to read:

(b) Notwithstanding (a) of this section, diagnostic ophthalmic drug identified by regulation of the State Committee on Ophthalmic Drugs may be sold, given away, bartered, exchanged, or distributed upon the written order or prescription of an optometrist who is authorized to use the drug as provided in AS 08.72.277.

* Sec. 8. AS 17.15.030 is amended by adding a new subsection to read:

(b) AS 17.15.010 and 17.15.020 do not apply to the sale at wholesale by drug jobbers, drug wholesalers and drug manufacturers, or at retail in a pharmacy by a pharmacist, of an diagnostic ophthalmic drug identified by regulation of the Board of Examiners in Optometry to an optometrist who is authorized to use the drug as provided in AS 08.72.277.

AS 17.15.010 and 17.15.020 do not apply to the sale of an diagnostic ophthalmic drug identified by regulation of the Alaska State Committee on Optometric Drugs by one optometrist authorized to use the ophthalmic drug to another optometrist authorized to use the drug.

USE OF PHARMACEUTICAL AGENTS BY OPTOMETRISTS
BY STATE, TYPE, AND CLASSIFICATION

State	Optometric Drugs		Classifications of Drugs Used					
	Diagnostic Only	Diagnostic & Therapeutic	Cycloplegics	Mydiatics	Topical Anesthetics	Dyes such as Fluorescein	Miotics	None Specifically Listed In Statute or Regulations
Arizona	X		X	X	X			
Arkansas	X		X	X	X	X		
California	X		X	X	X			
Delaware	X		X	X	X		X	
Florida	X	X						X
Georgia	X							X
Idaho	X							X
Indiana	X							X
Iowa	X		X	X	X			
Kansas	X		X	X	X			
Kentucky	X		X	X	X		XE	
Louisiana	X							X
Maine	X			X	X			
Minnesota	X							X
Montana	X		X	X	X	X	XE	
Nebraska	X		X	X	X			
Nevada	X		X	X	X		X	
New Jersey	X							X
New Mexico	X							X
North Carolina	X	X						X
North Dakota	X							X
Oregon	X		X	X	X	X	XE	
Pennsylvania	X		X	X	X		X	
Rhode Island	X			X	X		X	
South Dakota	X							X
Tennessee	X		X	X	X		X	
Utah	X		X	X	X			
West Virginia	X ^x	X ^x						X
Wisconsin	X		X	X	X	X	XE	
Wyoming	X		X	X	X	X	XE	
TOTAL	30	3	16	18	18	5	10	12

Key

E = In Emergency Use Only

x = Excludes Oral or Injectable Drugs

Source: American Optometric Association (1980)



March 2, 1981



Ms. Deborah Behr
Special Asst./Department of Health
& Social Services
Pouch 801
Juneau, AK 99811

Dear Ms. Behr:

As you requested, here is a copy of the most recent (1980) "List of Pharmaceutical Agents by Name (or type if not named) that State Law or Regulations Specify Optometrists are Permitted to use". As indicated, and as we discussed, virtually all of the lists--any many states do not have a list--are in the Board rules and not in the statute itself. Because of the technical and evolving nature of changes in the pharmaceutical field, it is most appropriate that any listing should be in the Board rules and not in the statute which would require amendment by the legislature as needed.

Also enclosed is a copy of the report from the State of Wisconsin Department of Regulation and Licensing recommending that the July 1, 1982 "sunset" provision be removed and that the authority for optometrists to use topical ocular diagnostic pharmaceutical agents be continued. It should be of great value to you in your study.

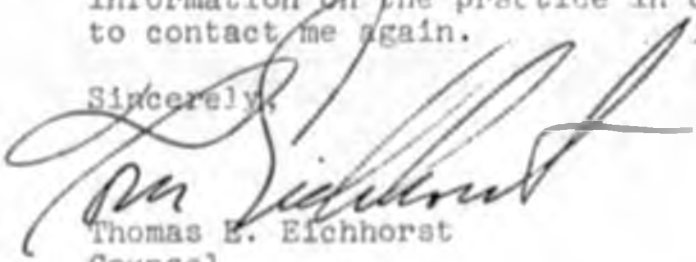
For background information, I am enclosing a listing of the 25 state laws which specifically authorize the use of pharmaceutical agents by optometrists. Another five states do not prohibit such utilization. Thus, 30 states permit such utilization. As you specifically requested, I am also enclosing a copy of the laws of Florida (which does not have a prohibition), North Carolina, Oregon (diagnostic only at this time) and West Virginia.

Ms. Deborah Behr
March 2, 1981
Page -2-

American Optometric Association

Also enclosed is a copy of a monograph providing background information on the profession of optometry in the United States. Of course, for additional information concerning the practice of the profession in Alaska, please contact Dr. George Hall, 1345 West Ninth, Anchorage, AK 99501, President of the Alaska Optometric Association. If I can provide you with further information on the practice in other states, please feel free to contact me again.

Sincerely,



Thomas E. Eichhorst
Counsel

TEE/val
enclosures

cc: George Hall, O.D.
1345 West Ninth
Anchorage, AK 99501
907-272-2558

UTILIZATION OF PHARMACEUTICAL AGENTS BY OPTOMETRISTS

<u>NAME</u>	<u>DATE OF ENACTMENT</u>
Rhode Island	July 16, 1971
Pennsylvania	March 1, 1974
Tennessee	May 8, 1975
Oregon	May 20, 1975
Maine	June 24, 1975
Louisiana	July 6, 1975
Delaware	July 10, 1975
*West Virginia	March 4, 1976
California	July 9, 1976
Wyoming	February 17, 1977
New Mexico	March 4, 1977
Montana	April 12, 1977 (at 10:10 a.m.)
Kansas	April 12, 1977 (at 2:00 p.m.)
*North Carolina	June 3, 1977
Kentucky	March 29, 1978
Wisconsin	April 29, 1978
Nebraska	February 13, 1979
South Dakota	March 15, 1979
Utah	March 21, 1979
North Dakota	March 22, 1979
Arkansas	April 2, 1979
Nevada	May 25, 1979
Iowa	June 8, 1979
Georgia	February 14, 1980
Arizona	April 25, 1980

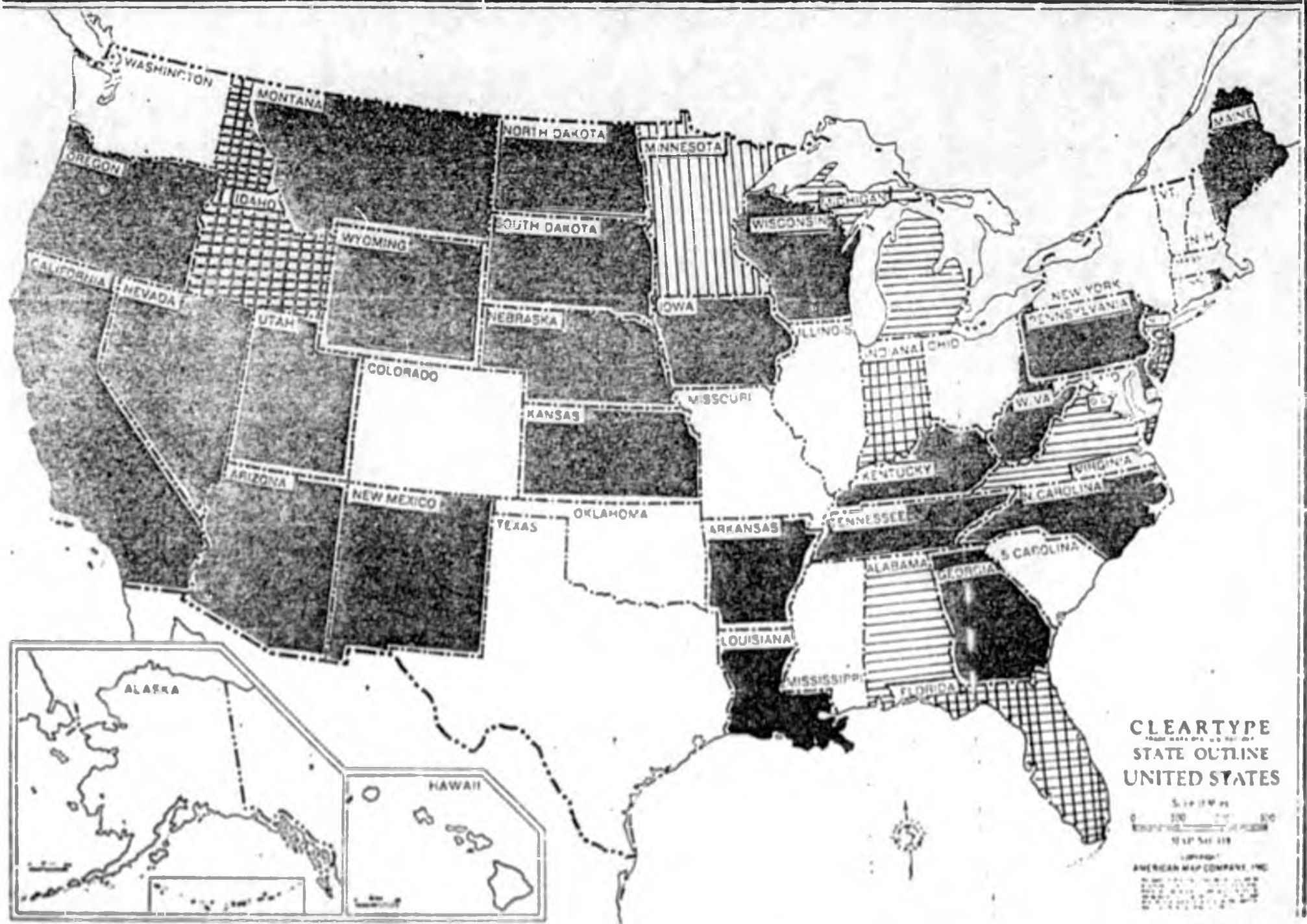
*both diagnostic and therapeutic

[In addition, there are eight (8) other states that do not statutorily prohibit the use of DPAs by optometrists; several of these states have attorney general opinions (+favorable) (-unfavorable) on this point: Alabama (AG-), Florida (AG+), Idaho (State Board Statement +), Indiana (AG+), Michigan (AG-), Minnesota, New Jersey (AG+), Virginia (AG-).]

For your information we are including an updated map showing geographically the utilization of pharmaceutical agents by optometrists.

4/25/80

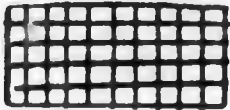
UTILIZATION OF PHARMACEUTICAL AGENTS BY OPTOMETRISTS
APRIL 25, 1980



UTILIZATION OF PHARMACEUTICAL AGENTS BY OPTOMETRISTS



Authorized by Optometrists by Statute



Permitted by Opinion of Attorney General or State Board Examiner



No Statutory Prohibition



No Statutory Prohibition but Negative A.G. Opinion



BULLETIN

'from

COUNSEL

VOLUME XXXIV, BULLETIN NO. 62

March 8, 1976

TO: State Association Presidents, Legal-Legislative Chairmen,
Attorneys, Executives

FROM: Thomas E. Eichhorst, J.D., Counsel; AOA, St. Louis

SUBJECT: West Virginia Legislation

DIST: O, T, Drs. Rhodes, Rush, Division Executive Committee Chair-
men, ED, WOD, GC, C, AA, Division Directors, E, NE,
Administrative Heads of Schools and Colleges

The West Virginia Legislature has enacted Committee Substitute for H.B. 1005 (as amended). The West Virginia House of Delegates (the lower house) on Monday, February 16, 1976 passed the bill by a vote of 58 to 39. On Friday, February 20, 1976 the state Senate passed the bill by a vote of 27 to 4. Governor Arch A. Moore, Jr., vetoed the bill on Saturday, February 28, 1976.

On Tuesday, March 2, 1976 the House considered the measure again. An amendment was proposed to strike therapeutics and treatment from the bill. This amendment was defeated 53 to 44. Then the House voted to override the Governor's veto by a vote of 59 to 39. (In West Virginia, unlike most states, there is no 2/3 vote requirement to override; only a 51% of the elected membership is needed.) On Thursday, March 4, 1976 the Senate defeated by a voice and standing vote the amendment to strike therapeutics and treatment. Then the Senate voted to override the veto by a vote of 27 to 6.

A copy of this new law is attached. The notations (on pages 5 and 10) indicate amendments made by the House of Delegates before the initial passage of the bill.

ENROLLED
COMMITTEE SUBSTITUTE

FOR

H. B. 1005

(By Mr. SOMMERVILLE)

(Originating in the House Committee on the Judiciary.)

[Passed February 20, 1976; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article five, and sections two, four and five, article eight, all of chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the profession of optometry; adding, within the definition of "prescription," optometrist to the licensed professionals who order drugs or medicines or combinations or mixtures thereof in certain cases; providing for the redefinition of the practice of optometry; exempting the practice of osteopathy from the provisions of law regulating the practice of optometry; accreditation of schools and colleges of optometry and the qualifications, education, examination and certification of applicants to practice optometry.

Be it enacted by the Legislature of West Virginia:

That section one, article five, and sections two, four and five, article eight, all of chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 5. PHARMACISTS, ASSISTANT PHARMACISTS AND DRUG-
STORES.**

§30-5-1. Definitions.

1 The following words and phrases as used in this article,
2 shall have the following meanings, unless the context other-
3 wise requires:

4 (1) The term "drug" means (a) articles in the official United
5 States Pharmacopoeia, or official National Formulary, or any
6 other supplement to either of them, which are intended for use
7 in the diagnosis, cure, mitigation, treatment or prevention of
8 disease in man or other animals, and (b) all other articles in-
9 tended for use in the diagnosis, cure, mitigation, treatment, or
10 prevention of disease in man or other animals, and (c) articles,
11 other than food, intended to affect the structure or any func-
12 tion of the body of man or other animals and (d) articles in-
13 tended for use as a component of any articles specified in
14 clause (a), (b), or (c).

15 (2) The term "poisonous drug" means any drug likely to
16 be destructive to adult human life in quantities of five grains
17 or less.

18 (3) The term "deleterious drug" means any drug likely to
19 be destructive to adult human life in quantities of sixty grains
20 or less.

21 (4) The term "habit-forming drug" means any drug which
22 has been or may be designated as habit forming under the
23 regulations promulgated in accordance with Section 502 (d)
24 of the Federal Food, Drug and Cosmetic Act of June twenty-
25 fifth, nineteen hundred and thirty-eight.

26 (5) The term "pharmacy" or "drugstore" or "apothecary"
27 shall be held to mean and include every store or shop or
28 other place (a) where drugs are dispensed, or sold at retail,
29 or displayed for sale at retail, or (b) where physicians'
30 prescriptions are compounded; or (c) which has upon it or
31 displayed within it, or affixed to or used in connection with
32 it, a sign bearing the word or words "pharmacy," "pharma-
33 cists," "apothecary," "drugstore," "drugs," "druggists," "medi-
34 cine," "medicine store," "drug sundries," "remedies," or any

35 word or words of similar or like import; or (d) any store
36 or shop or other place, with respect to which any of the
37 above words are used in any advertisement.

38 (6) The term "prescription" shall be held to mean an
39 order for drugs or medicines or combinations or mixtures
40 thereof, written or signed by a duly licensed physician,
41 dentist, optometrist, as authorized by section two, article
42 eight of this chapter, veterinarian or other medical practi-
43 tioner licensed to write prescriptions intended for the treat-
44 ment or prevention of disease of man or animals. The
45 term "prescription" shall also include orders for drugs or
46 medicines or combinations or mixtures thereof transmitted
47 to the pharmacist by word of mouth, telephone or other means
48 of communication by a duly licensed physician, dentist,
49 optometrist, veterinarian or other medical practitioner licensed
50 to write prescriptions intended for treatment or prevention of
51 disease of man or animals, and such prescriptions received
52 by word of mouth, telephone or other means of communication
53 shall be recorded in writing by the pharmacist and the record
54 so made by the pharmacist shall constitute the original prescrip-
55 tion to be filed by the pharmacist. All such prescriptions shall
56 be preserved on file for a period of five years, subject to in-
57 spection by the proper officer of the law. The above shall apply
58 except for narcotic prescriptions, when all narcotic laws and
59 regulations must be complied with.

60 (7) The term "cosmetic," which shall be held to include
61 "dentifrice" and "toilet article," means (a) articles intended
62 to be rubbed, poured, sprinkled, or sprayed on, introduced
63 into, or otherwise applied to the human body, or any part
64 thereof for cleansing, beautifying, promoting attractiveness, or
65 altering the appearance, and (b) articles intended for use
66 as a component of any such articles, except that such term
67 shall not include soap.

ARTICLE 8. OPTOMETRISTS.

§30-8-2. Practice of optometry defined.

- 1 Any one or any combination of the following practices
- 2 shall constitute the practice of optometry:
- 3 (a) The examination of the human eye, with or without

4 the use of drugs prescribable for the human eye, which drugs
5 may be used for diagnostic or therapeutic purposes for topical
6 application to the anterior segment of the human eye only, and,
7 by any method other than surgery, to diagnose, to treat or to
8 refer for consultation or treatment any abnormal condition of
9 the human eye or its appendages;

10 (b) The employment without the use of surgery of any in-
11 strument, device, method or diagnostic or therapeutic drug
12 for topical application to the anterior segment of the human
13 eye intended for the purpose of investigating, examining, treat-
14 ing, diagnosing, improving or correcting any visual defect or
15 abnormal condition of the human eye or its appendages;

16 (c) The prescribing and application or the replacement or
17 duplication of lenses, prisms, contact lenses, orthoptics, vision
18 training, vision rehabilitation, diagnostic or therapeutic drugs
19 for topical application to the anterior segment of the human
20 eye, or the furnishing or providing of any prosthetic device,
21 or any other method other than surgery necessary to correct
22 or relieve any defects or abnormal conditions of the human
23 eye or its appendages.

24 Nothing in this section shall be construed to permit an
25 optometrist to perform surgery, use drugs by injection or to
26 use or prescribe any drug for other than the specific purposes
27 authorized by this section.

**§30-8-4. Registration prerequisite to practice of optometry; excep-
tions.**

1 No person shall practice or offer to practice optometry in
2 this state without first applying for and obtaining a certificate of
3 registration for such purpose from the West Virginia board of
4 optometry; but the following persons, firms and corporations
5 are exempt from the operation of this article, except as
6 hereinafter provided:

7 (a) Persons who have heretofore been registered as op-
8 tometrists in this state, or who were engaged in the practice
9 of optometry in this state before the passage of any law by
10 this state regulating such practice, and who have heretofore
11 received from the board of examiners certificates of exemption
12 from examination;

13 (b) Persons authorized under the laws of this state to prac-
14 tice medicine and surgery or osteopathy;

15 (c) Persons, firms and corporations who sell eyeglasses
16 or spectacles in a store, shop or other permanently established
17 place of business on prescriptions from persons authorized
18 under the laws of this state to practice either optometry or
19 medicine and surgery;

20 (d) Persons, firms and corporations who manufacture or
21 deal in eyeglasses or spectacles in a store, shop or other
22 permanently established place of business, and who neither
23 practice nor attempt to practice optometry.

§30-8-5. Qualifications of applicant for registration; examination.

1 An applicant for registration shall present satisfactory
2 evidence that he is at least eighteen years of age, of good
3 moral character and temperate habits, and has graduated from
4 a high school or secondary school, or has completed an equiva-
5 lent course of study approved by the West Virginia board of
6 optometry, has satisfactorily completed all preoptometry or
7 premedical college requirements and has graduated from a
8 school or college of optometry approved by said board. No
9 school or college of optometry shall be approved by the West
10 Virginia board of optometry unless at first it has been
11 accredited by a regional or professional accreditation organiza-
12 tion which is recognized by the national commission on ac-
13 creditation or the United States commission of education. Each
14 applicant shall submit to and be examined in all phases of
15 optometry as is provided by the school or college of optometry
16 and shall include, but not be limited to, anatomy and phy-
17 siology of the human eye, the use of instruments such as the
18 ophthalmoscope, retinoscope, tonometer, slit lamp biomicro-
19 scope, the general laws of optics and refraction, general and
20 ocular pharmacology, general and ocular pathology and other
21 such subjects or instrumentation as the board of optometry
22 may deem necessary.

23 The West Virginia board of optometry shall be responsible
24 to determine the educational training received by the applicant
25 from the schools and colleges of optometry, the educational
26 qualifications of each applicant and the administering of the

27 examination and certifications of each applicant commensurate
28 with his education. No optometrist shall be registered or
29 certified to practice optometry in the state of West Virginia
30 in any area that is beyond the scope of his educational train-
31 ing as determined by the West Virginia board of optometry;
32 *Provided*, That any optometrist presently registered in the state
33 of West Virginia and who desires to employ the use of pharma-
34 ceutical agents must submit to the West Virginia board of
35 optometry evidence of satisfactory completion of all necessary
36 educational requirements as made mandatory by the West Vir-
37 ginia board of optometry; *Provided further*, That the West
38 Virginia board of optometry shall provide for continuing edu-
39 cational requirements to be completed from time to time by all
40 optometrists desiring to employ the use of pharmaceutical
41 agents.

7 [Enr. Com. Sub. for H. B. 1005

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within this the
day of , 1976.

Governor





BULLETIN
from
OFFICE OF COUNSEL

VOLUME XXXV, BULLETIN NO. 84

June 6, 1977

TO: O, T, DEC-C, EMS, E, NE, GC, State Association Presidents, Executives, Legal-Legislative Chairmen, Attorneys, Legislative Counsel, Optometric Legislators, IAB-EC, State Board Presidents, Secretaries, Attorneys, Administrative Heads of Schools and Colleges, COE-ES, CCOC-ES, Drs. Rhodes, Rush

FROM: Thomas E. Eichhorst, Counsel

SUBJECT: North Carolina Legislation

The General Assembly of North Carolina has enacted into law Senate Bill 424, as amended. This law permits optometrists to utilize pharmaceutical agents "to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa. Provided, however, in using or prescribing pharmaceutical agents, other than topical pharmaceutical agents within the definition hereinabove set out which are used for the purpose of examining the eye, the optometrist so using or prescribing shall communicate and collaborate with a physician duly licensed to practice medicine in North Carolina designated or agreed to by the patient."

A copy of this bill, as enacted, is enclosed. The bill in its final form passed the Senate on May 24, 1977 by a vote of 46 to 4, and the House of Representatives on June 3, 1977 by a vote of 83 to 4. In North Carolina, the Governor has no veto power, so enactment by both houses of the legislature is final.

North Carolina is the fourteenth state to enact legislation authorizing optometrists to utilize pharmaceutical agents. Twelve other states authorize optometrists to utilize diagnostic pharmaceutical agents; the dates of the enactment of these laws are Rhode Island (July 16, 1971), Pennsylvania (March 1, 1974), Tennessee (May 8, 1975), Oregon (May 20, 1975), Maine (June 24, 1975), Louisiana (July 6, 1975), Delaware (July 10, 1975), California (July 9, 1976), Wyoming (February 17, 1977), New Mexico (March 4, 1977), Montana (April 12, 1977 at 10:10 a.m.), and Kansas (April 12, 1977 at 2:00 p.m.). On March 4, 1976, the West Virginia Legislature authorized the use of drugs for diagnostic or therapeutic purposes by optometrists who meet educational requirements set by the optometry board.

[In addition, there are eight other states that do not statutorily prohibit the use of DPAs by optometrists; several of these states have attorney general opinions (+ favorable) (- unfavorable) on this point: Alabama (AG-), Florida (AG+), Idaho, Indiana (AG+), Minnesota, Nevada (State Board Statement +), New Jersey (AG+), Virginia (AG-).]

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1977



SENATE BILL 424*
Second Edition Engrossed 5/24/77

Short Title: Redefine Optometry.

(Public)

Sponsors: Senators Hardison; Kincaid, Combs, Mathis, Raynor,
Popkin, Lawing, Webster, Scott, Alexander.

Referred to: Judiciary II.

April 6, 1977

1 A BILL TO BE ENTITLED
2 AN ACT TO REDEFINE THE PRACTICE OF OPTOMETRY CONSISTENT WITH
3 MODERN ADVANCES IN SCIENCE AND OPTOMETRY.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 90-114 as the same appears in the 1975
6 Replacement Volume 2C of the General Statutes is hereby amended
7 and rewritten to read as follows:

8 "§ 90-114. Optometry defined.--Any one or any combination of
9 the following practices shall constitute the practice of
10 optometry:

11 (1) the examination of the human eye by any method, other than
12 surgery, to diagnose, to treat, or to refer for consultation or
13 treatment any abnormal condition of the human eye and its adnexa;
14 or

15 (2) the employment of instruments, devices, pharmaceutical
16 agents and procedures, other than surgery, intended for the
17 purposes of investigating, examining, treating, diagnosing or
18 correcting visual defects or abnormal conditions of the human eye
19 or its adnexa; or

20

21

1 (3) the prescribing and application of lenses, devices
2 containing lenses, prisms, contact lenses, orthoptics, vision
3 training, pharmaceutical agents, and prosthetic devices to
4 correct, relieve, or treat defects or abnormal conditions of the
5 human eye or its adnexa.

6 Provided, however, in using or prescribing pharmaceutical
7 agents, other than topical pharmaceutical agents within the
8 definition hereinabove set out which are used for the purpose of
9 examining the eye, the optometrist so using or prescribing shall
10 communicate and collaborate with a physician duly licensed to
11 practice medicine in North Carolina designated or agreed to by
12 the patient. "

13 Sec. 2. G.S. 90-118 as the same appears in the 1975
14 Replacement Volume 2C of the General Statutes and in the 1975
15 Cumulative Supplement thereto is hereby amended by adding at the
16 end thereof a new subsection (e) to read as follows:

17 "(e) The board shall not license any person to practice
18 optometry in the State of North Carolina beyond the scope of the
19 person's educational training as determined by the board. No
20 optometrist presently licensed in this State shall prescribe and
21 use pharmaceutical agents in the practice of optometry unless and
22 until he (i) has submitted to the board evidence of satisfactory
23 completion of all educational requirements established by the
24 board to prescribe and use pharmaceutical agents in the practice
25 of optometry and (ii) has been certified by the board as
26 educationally qualified to prescribe and use pharmaceutical
27 agents.

28 Provided, however, that no course or courses in pharmacology

1 shall be approved by the board unless (i) taught by an
2 institution having facilities for both the didactic and clinical
3 instruction in pharmacology and which is accredited by a regional
4 or professional accrediting organization that is recognized and
5 approved by the Council on Postsecondary Accreditation or the
6 United States Office of Education and (ii) transcript
7 credit for the course or courses is certified to the board by the
8 institution as being equivalent in both hours and content to
9 those courses in pharmacology required by the other licensing
10 boards in this Chapter whose licensees or registrants are
11 permitted the use of pharmaceutical agents in the course of their
12 professional practice."

13 Sec. 3. G.S. 90-118.10 as the same appears in the 1975
14 Replacement Volume 2C of the General Statutes is hereby amended
15 by adding at the end thereof a new paragraph to read as follows:

16 "In issuing a certificate of renewal, the board shall expressly
17 state whether such person, otherwise licensed in the practice of
18 optometry, has been certified to prescribe and use pharmaceutical
19 agents."

20 Sec. 4. G.S. 90-110.11 as the same appears in the 1975
21 Replacement Volume 2C of the General Statutes is hereby amended
22 by inserting in line 8 thereof immediately following the word
23 "refused" and before the semicolon the words:

24 "; or shall practice or attempt to practice optometry by means
25 or methods that the board has determined is beyond the scope of
26 the person's educational training".

27 Sec. 5. Article 6 of Chapter 90 of the General Statutes
28 is hereby amended by inserting therein a new section G.S. 90-

1 |25. | to read as follows:

2 " 90-|25. |. Filling prescriptions.--Legally licensed
3 druggists of this State may fill prescriptions of optometrists
4 duly licensed by the North Carolina State Board of Examiners in
5 Optometry to prescribe, apply or use pharmaceutical agents."

6 Sec. 6. G.S. 90-87(22)(a) as the same appears in the
7 1975 Replacement Volume 2C of the General Statutes is hereby
8 amended by inserting in line | thereof immediately following the
9 word "dentist," and preceding the word "veterinarian" the word
10 "optometrist,".

11 Sec. 7. The provisions of this act are applicable only
12 to those individuals licensed pursuant thereto and

13 shall not] restrict, expand, or otherwise alter
14 those other practices or acts governed by Chapter 90 of the
15 General Statutes.

16 Sec. 8. This act shall become effective on and after
17 July 1

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PROFESSIONS AND VOCATIONS § 463.02

462.20 Repealed by Laws 1978, c. 78-188, § 3, eff. July 1, 1978 [See § 11.81]

Laws 1969, c. 78-188, § 19, 20, provided for change in division of health of the Department of Health and Rehabilitative Services for state board of health. Changes in Fla.S. 1978. [Department of Health and Rehabilitative Services]

substituted by the division of statutory revision for Division of Health of the Department of Health and Rehabilitative Services to reflect the abolition of the division of health by Laws 1978, c. 78-188, § 3.

462.21 Omitted in Fla.S. 1967

Repeal by Laws 1967, c. 87-906, § 1, Part I, chapter 488 was repealed. Section 3 of this act provided that: "This act shall take effect the first day of

the first month following the first regular session of the Florida Legislature held subsequent to July 1, 1967."

CHAPTER 463. OPTOMETRY

See 463.185 Optometric services for certain public agencies [New].

Repeal of Chapter

Laws 1978, c. 78-188, the Regulatory Reform Act of 1978, which provides for legislative review of programs and functions which regulate professions, occupations, business, industry and other endeavors in Florida; provided in section 3 of the law for repeal of this chapter on July 1, 1978. For the provisions directing the regulatory review and a listing of all statutes affected by Laws 1978, c. 78-188, see § 11.81 and notes thereunder.

463.01 "Optometry" and "optometrist" defined [Repealed by Laws 1978, c. 78-188, § 3, eff. July 1, 1978. See § 11.81]

The article of optometry is declared a profession, and, for the purpose of this chapter, is defined as follows, viz: to be the diagnosis of the human eye and its appendages, the employment of any objective or subjective means or methods for the purpose of determining the refractive powers of the human eye, or any visual, muscular, neurological, or anatomic anomalies of the human eye and their appendages, and the prescribing and employment of lenses, prisms, frames, mountings, contact carriers, light sources, and any other means or methods for the correction, remedy, or relief of any insufficiency or abnormal condition of the human eye and their appendages. An optometrist is one who practices optometry in accordance with the provisions of this chapter. Amended by Laws 1973, c. 73-239, § 1, eff. June 27, 1973.

Laws 1976, c. 76-379, amended this section without change. Cross References: Nonprofit optometric service corporations, see § 607.011 et seq.

1. Constitutionality Where this section defining optometry and optometrist, in addition to prohibiting diagnosis of human eye and its ap-

pendages by the employment of any objective or subjective means, detailed and delineated in detail activities prohibited, remedy sought to be reformed and clearly defined and this section was not unconstitutional on ground that it was an exercise and exercise that it deprived defendant of his constitutional rights. Note c. 76-379, § 1 (1976).

463.02 Florida state board of optometry [Repealed by Laws 1978, c. 78-188, § 3, eff. July 1, 1978. See § 11.81]

(1) The practice of optometry and the enforcement of this law shall be under the supervision of an examining and licensing board to be known as the "Florida State Board of Optometry." There is hereby created within the division of professions of the department of professional and occupational regulation the "Florida State Board of Optometry," which board shall be composed of five (5) optometrists, each of whom shall be a resident of the state who has been engaged in the practice of optometry in the state for not less than four (4) years preceding the time of his appointment.

(2) The governor shall appoint the members of the board, with each member being appointed for a term of four (4) years or until the successor is ap-

For such revoca-

tion to the ap- subject to like that any such li- provisions of this e circuit court in a certificate, un- pulled and that me and forthwith

entirely process: Florida's five Procedure Act. 100 (Fall 1944).

978 [See § 11.81]

partment of Profes- sional Regulation.

[Repealed by Laws

de diploma, license,

license, record, or r issued unlawfully

r than his own or

different name;

o connection with m as a profession- authorized to prac-

suspended or re-

o provided in §

c 78-188, § 3, eff.

and program shall

978. See § 11.81(1) functions that only Service of Florida Department of Profes- sional Regulation.

1978 [See § 11.81]

partment of Profes- sional Regulation.

LIST OF PHARMACEUTICAL AGENTS BY NAME (OR TYPE IF NOT NAMED) THAT STATE LAW OR REGULATIONS SPECIFY OPTOMETRISTS ARE PERMITTED TO USE

ARIZONA: No list. Effective 1/1/82, the optometry law authorizes optometrists to utilize those diagnostic pharmaceutical agents known as topical anesthetics, cycloplegics and mydriatics.

ARKANSAS: 5. Approved Pharmaceutical Agents

The following pharmaceutical agents are hereby approved for use in the manner and strengths indicated:

<u>AGENT</u>	<u>MAXIMUM STRENGTH</u>
<u>Topical Anesthetics (For Glaucoma Screening Only)</u>	
Proparacaine Hydrochloride (Ophthaine)	.5%
Benoxinate Hydrochloride (Dorsacaine)	.4%
Fluress	-
<u>Mydriatics</u>	
Phenylephrine Hydrochloride (Neo-Synephrine)	2.5%
Hydroxyamphetamine Hydrobromide (Paredrine)	1%
<u>Cycloplegics</u>	
Tropicamide (Mydriacyl)	1% (.5%)
Cyclopentolate (Cyclogyl)	1% (.5%)
<u>Dyes</u>	
Fluorescein	-
Rose Bengal	1%
Methylene Blue	-

Additional pharmaceutical agents may be added when approved by the committee.

CALIFORNIA: Article 8 of Chapter 15, Title 16, California Administrative Code:

§1560. Definitions. As used in this Article:
(a) "Topical Pharmaceutical Agents" means:

Types of Drugs:

(1) Mydriatics

(a) Phenylephrine Hydrochloride.

(b) Hydroxyamphetamine Hydrobromide:

Maximum Concentration
that may be used:

2.5%

1%

- (2) Cycloplegics
 - (a) Tropicamide: 1%
 - (b) Cyclopentolate: 1%
 - (c) Homatropine Hydrobromide: 5%
 - (d) Atropine Sulfate: 0.5%

- (3) Topical Anesthetics
 - (a) Proparacaine Hydrochloride: 0.5%
 - (b) Benoxinate Hydrochloride: 0.4%
 - (c) Piperocaine Hydrochloride: 2%

DELAWARE:

Section 3. Use of drugs

3.02 Licensees who have been duly authorized by the Board may, for diagnostic purposes only, make use of the following classes of topical ophthalmic drugs; (1) anesthetics, (2) mydriatics, (3) cycloplegics, and (4) myotics; provided, however, that any such authorization by the Board shall not be construed as authorizing any licensee to dispense or issue a prescription for diagnostic drugs.

FLORIDA:

No list. An optometrist may utilize pharmaceutical agents within the limits of his educational background and training.

GEORGIA:

No list. An optometrist may utilize topical pharmaceutical agents within the limits of his educational background and training.

IDAHO:

No list.

INDIANA:

No list. Every licensed O.D. is permitted to utilize any diagnostic pharmaceutical agent

IOHA:

No list. The optometry law authorizes optometrists to utilize cycloplegics, mydriatics and topical anesthetics as diagnostic agents.

KANSAS:

No list. Kansas State Board of Examiners In Optometry Rules and Regulations Sec. 65-6-30 authorizes optometrists to utilize topical pharmacological agents known generically as anesthetics, mydriatics, and cycloplegics.

KENTUCKY:

KY. AD. CODE §320.240 authorizes optometrists to administer diagnostic pharmaceutical agents limited to miotics for emergency use only, mydriatics, cycloplegics, and anesthetics applied topically only, but excluding any drug classified as a controlled substance.

LOUISIANA: No list. Optometry law authorizes optometrists to utilize topical ocular diagnostic pharmaceutical agents.

MAINE: Maine Board of Optometry Rules of Practice §90-382.

AUTHORIZED DIAGNOSTIC PHARMACEUTICAL AGENTS

Topical Anesthetics:

Proparacaine hydrochloride .5% (Ophthaine)
Benocinate hydrochloride .4% (Dorsacaine)

Mydriatics:

Hydroxyamphetamine hydrobromide
1.00% (Paradrine)
Phenylephrine hydrochloride 2.5% (Neo-synephrine)

MINNESOTA: No list.

MONTANA: Administrative Rules of Montana §40-3.70(6)-S70020.

40-3.70(6)-S70020 RULES FOR DIAGNOSTIC PHARMACEUTICAL AGENTS

(5) Upon licensure or certification the permissible drugs and their concentrations are as follows:

- (a) Mydriatics
 - (i) Phenylephrine Hydrochloride 2.5%
 - (ii) Hydroxyamphetamine Hydrobromide 1.0%
- (b) Cycloplegics
 - (i) Tropicamide 1.0%
 - (ii) Cyclopentolate 1.0%
 - (iii) Homatropine Hydrobromide .5%
 - (iv) Atropine Sulfate .5%
- (c) Topical Anesthetics
 - (i) Proparacaine Hydrochloride .5%
 - (ii) Benoxinate Hydrochloride .4%
 - (iii) Piperocaine Hydrochloride 2.0%
- (d) Miotic, only in the event of an emergency...

NEBRASKA: No list. Pharmaceutical agents mean anesthetics, cycloplegics, and mydriatics and may be used for diagnostic purposes by optometrists who are certified to use pharmaceutical agents.

NEVADA: The following topical ophthalmic pharmaceutical agents may be used in the concentrations specified for diagnostic purposes by an optometrist who has been authorized by the board to do so:

- (a) Mydriatics:
 1. Phenylephrine hydrochloride, 2.5 percent.
 2. Hydroxyamphetamine hydrobromide, 1 percent
- (b) Cycloplegics:
 1. Tropicamide, 1 percent.
 2. Cyclopentolate, 1 percent
 3. Homatropine hydrobromide, 5 percent
 4. Atropine sulfate, 0.5 percent
- (c) Topical anesthetics:
 1. Proparacaine hydrochloride, 0.5 percent.
 2. Benoxinate hydrochloride, 0.4 percent.
 3. Piperocaine hydrochloride, 2 percent.
- (d) Miotics:
 1. Pilocarpine, 1 percent in ordinary use.
 2. Pilocarpine, 3 percent for emergency use only.

NEW JERSEY: No list.

NEW MEXICO: No list. Optometry law authorizes optometrists to utilize topical ocular diagnostic pharmaceutical agents.

NORTH CAROLINA: No list. An optometrist may utilize pharmaceutical agents within the limits of his educational background and training.

NORTH DAKOTA: No list. Optometry law authorizes optometrists to utilize ocular diagnostic pharmaceutical agents.

OREGON: OR. AC. RULES 5852-8-010:

Diagnostic Pharmaceutical Agents

852-80-010 Diagnostic pharmaceutical agents for topical use in the practice of optometry:

- (1) Anesthetics:
 - (a) Benoxinate 0.4%
 - (b) Proparacaine HCl 0.5%
- (2) Cycloplegics/Mydriatics:
 - (a) Cyclopentolate, not to exceed 1%
 - (b) Hydroxyamphetamine HBr 1%
 - (c) Phenylephrine HCl, not to exceed 1%
 - (d) Tropicamide, not to exceed 1%
- (3) Dyes:
 - (a) Fluorescein in impregnated paper strips, as commonly used in the practice of optometry for some time; not to be stored in liquid form.
 - (b) Rose bengal 1%
- (4) Miotics (for emergency use only): Pilocarpine, not to exceed 1%; prior to use, consultation with a competent physician shall be held if at all possible. The Board recommends that any patient demonstrating any adverse reaction due to the instillation of any diagnostic pharmaceutical agent be referred to a competent physician as soon as practicable.

On 4/22/80 the Board proposed to amend BAR 852-80-010 by additions as follows (additions underlined):

DIAGNOSTIC PHARMACEUTICAL AGENTS

852-80-010 Diagnostic Pharmaceutical agents for topical use in the practice of optometry:

Anesthetics: Benoxinate 0.4%
Proparacaine HCl 0.5%

Cycloplegics/Mydriatics:

Cyclopentolate, not to exceed 1%
Hydroxyamphetamine HBr 1%
Phenylephrine HCl, not to exceed 10%
Tropicamide, not to exceed 1%

Dyes: Fluorescein Na impregnated paper strips, as commonly used in the practice of optometry for some time; not to be stored in liquid form.
Rose bengal 1%
Fluoresoft (Fluorexon .3%)

Combined agents:

Fluress (Fluorescein, Sodium, 0.25%, and Benoxinate HCl, 1%)

Cyclomydril (Cyclopentolate HCl, 0.2% and Phenylephrine HCl, 1%)

Any other FDA approved combination of two or more agents appearing on this list which may be used for ocular diagnostic purposes.

Miotics: (for emergency use only.)
Pilocarpine, not to exceed 4%; prior to use, consultation with a competent physician shall be held if at all possible.

PENNSYLVANIA:

Optometrists who are appropriately qualified pursuant to the Act of March 1, 1974, (Act No. 29 of 1974), 63 P.S., Section 231 et. seq., shall be permitted to utilize the following drugs in their practice of Optometry, by order of the Secretary of Health, October 12, 1974, finalized April 26, 1975.

A. Local anesthetics:

Benoxinate Hydrochloride - Ophthalmic Solution (0.4%)
Proparacaine Hydrochloride - Ophthalmic Solution (0.5%)

B. Miotics:

Pilocarpine Nitrate Ophthalmic Solution U.S.P. (1%)
Pilocarpine Hydrochloride Ophthalmic Solution U.S.P. (1%)

C. Mydriatics and/or cycloplegics:

- Eucatropine Hydrochloride U.S.P. - Ophthalmic Solution (5%) .
- Homatropine Hydrobromide Ophthalmic Solution U.S.P. (2%)
- Hydroxyamphetamine Hydrobromide Ophthalmic Solution U.S.P. (1/2%)
- Tropicamide Ophthalmic Solution U.S.P. (1%)
- Atropine Sulfate Ophthalmic Solution U.S.P. (1%)
Ophthalmic Ointment (1%)
- Psyclopentolate Hydrochloride - Ophthalmic Solution (1%)
- Scopolamine Hydrobromide U.S.P. - Ophthalmic Solution U.S.P. (.25%)
- Ephedrine Sulfate U.S.P. - Ophthalmic Solution (5%)
- Phenylephrine Hydrochloride - Ophthalmic Solution U.S.P. (10%)

All Potencies listed above are the maximum allowable potencies.

- RHODE ISLAND: No list. Any topical anesthetic, mydriatic and miotic is allowed. Cycloplegics are not specifically mentioned but the rule of mydriatic can be applied. By Board recommendation atropine sulphate in any percentage is discouraged.
- SOUTH DAKOTA: No list. Optometry law authorizes optometrists to utilize topical pharmaceutical agents for diagnostic purposes.
- TENNESSEE: No list. An optometrist may utilize pharmaceutical agents, to wit, miotics, mydriatics, cycloplegics, and anesthetics, within the limits of his educational background and training.
- UTAH: (e) Topically applied diagnostic agents as used herein shall be defined as the following:
- (i) Commercially prepared topical anesthetics as follows: proparacaine HCL 0.5%, benoxinate HCL 0.4%, piperocaine 2%, and tetracaine 0.5%;
 - (ii) Tropicamide in strength of not greater than 1%, cyclopentolate in strength of not greater than 1%, and atropine sulfate in strength of not greater than 0.5%;
 - (iii) Penylephrine HCL in strength of not greater than 2.5%, hydroxyamphetamine in strength of not greater than 1%;
 - (iv) Such others as may be from time to time determined by the Optometric Committee of the Utah State Business Regulations Division in consultation with a licensed physician specializing in diseases and surgery of the eye, appointed by the Utah Medical Association, and a pharmacologist appointed by the Medical Center of the University of Utah. Any

Individual who is not certified to utilize diagnostic pharmaceutical agents hereunder shall post with the Optometry Committee of the Utah State Business Regulations Division an affidavit stating that the person is not now certified nor does the person desire to certify to use diagnostic pharmaceutical agents.

WEST VIRGINIA: Topical agents for the eye and treating the anterior segments only. No oral or injectible pharmaceuticals are permitted in any form whatsoever.

WISCONSIN: (9) "Diagnostic pharmaceutical agent" means any of the topical, ocular, diagnostic, pharmaceutical agents listed below if used in accordance with the following conditions: agents may be used in strengths no greater than the strengths indicated in the list; may be used by the optometrist only and may not be dispensed by the optometrist to patients for self-administration.

(a) Mydriatics

1. Phenylephrine 2.5%
2. Hydroxyamphetamine 1%

(b) Cycloplegics

1. Tropicamide 1%
2. Cyclopentolate 1%

(c) Topical Anesthetics

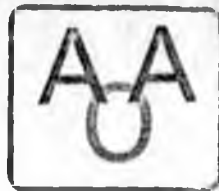
1. Benoxinate 0.4%
2. Proparacaine 0.5%
3. Tetracaine 0.5%
4. Benoxinate 0.4% - Fluorescein 0.25% Combination

(d) Dyes

1. Fluorescein 0.25% - Benoxinate 0.4% Combination

WYOMING: No list. Optometry law authorizes optometrists to use diagnostic agents, topically applied, known generically as cycloplegics, mydriatics, topical anesthetics, dyes and for emergency use only miotics for immediate administration to the ultimate user.

AMERICAN OPTOMETRIC ASSOCIATION



BULLETIN

from the

COMMITTEE ON STATE AGENCIES

COMMUNITY HEALTH DIVISION

VOLUME XXXIII, BULLETIN NO. 36

May 28, 1975

TO: State Association Presidents, Legal-Legislative Chairmen,
Attorneys, Executives

FROM: Virgil L. Phodes, O.D., Chairman

SUBJECT: Oregon Legislation

DIST: O, T, Dr. Pitts, Division Executive Committee Chairmen, CHD-EC,
SAC, ED, WOD, GC, C, AA, Division Directors, E, NE, Drs. Holcombe,
Lind, Rush, Reslock, Administrative Heads of Schools and Colleges

On Tuesday, May 20, 1975, Oregon Governor Robert W. Straub signed into law House Bill No. 2740.

A copy of this bill, as enacted, is attached.

The bill passed the House by a vote of 31 to 27, and the Senate by a vote of 20 to 10.

Oregon is the fourth state to enact legislation authorizing optometrists to utilize diagnostic pharmaceutical agents. The three other states and the dates of their enactment are Rhode Island (July 16, 1971), Pennsylvania (March 1, 1974) and Tennessee (May 8, 1975).

[In addition there are seven other states that do not statutorily prohibit the use of DPAs by optometrists: several of these states have attorney general opinions (+favorable) (-unfavorable) on this point: Florida (old AG-), Idaho, Indiana (AG+), Minnesota, Nevada (AG+), New Jersey (AG+), Virginia (AG-).]

Enrolled
House Bill 2740

Sponsored by Representatives OTTO, GRANNELL, GWINN, WALDEN,
Senators HOWARD, JERNSTEDT

CHAPTER _____

AN ACT

Relating to the practice of optometry; amending ORS 683.010, 683.040,
683.060 and 683.270.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 683.010 is amended to read

683.010. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Oregon Board of Optometry.

(2) "Practice of optometry" means the employment of any means other than the use of drugs, except diagnostic agents, topically applied, known generically as cycloplegics, mydriatics, topical anesthetics, dyes such as fluorescein, and, for emergency use only, miotics, for the measurement or assistance of the powers or range of human vision or the determination of the accommodative and refractive states of the human eye or the scope of its functions in general or the adaptation of lenses or frames for the aid thereof, subject to the limitations of ORS 683.040.

(3) "Trial frames" or "test lenses" means any frame or lens used in testing the eye which is not sold and not for sale.

Section 2. ORS 683.040 is amended to read:

683.040. (1) Every person desiring to commence the practice of optometry in this state must show by satisfactory evidence that he is of good moral character and has graduated from a school of optometry which is recognized and approved by the board and which maintains a standard of four school years of at least nine months each.

(2) Every person desiring to commence the practice of optometry after January 1, 1976, or employ the use of diagnostic agents shall in addition to the requirements of subsection (1) of this section have satisfactorily completed a course in pharmacology, as it applies to optometry, by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the National Commission on Accreditation or the United States Commissioner of Education, with particular emphasis on the topical application of diagnostic agents to the eye for the purpose of examination of the human eye and the analysis of ocular functions, approved by the Oregon Board of Optometry.

Section 3. ORS 683.060 is amended to read:

683.060. (1) Any person who has signified to the board his desire to be examined by it and who has filed proof that he is qualified under this chapter and the rules of the board to take such examination shall appear before the board at such time and place as the board may designate, and before beginning the examination the applicant shall pay \$50 to the secretary of the board. At the examinations the board shall examine applicants in the anatomy of the eye, in the use of diagnostic agents as used topically, in normal and abnormal refractive, accommodative and muscular conditions and coordination of the eye, active and objective

optometry, including the fitting of glasses, the principles of lens grinding and frame adjusting, and in such other subjects as pertain to the science and practice of optometry, such subjects to be enumerated in a publication by the board.

(2) The board may, in its discretion, accept the certificate of successful examination of the National Board of Examiners in Optometry in one or more areas of the examination in lieu of its written examination in such areas.

(3) If an applicant shall fail to pass a second examination, the board may permit additional examinations upon compliance by the applicant with the law and the rules of the board.

Section 4. ORS 683.270 is amended to read:

683.270. The powers and duties of the board are as follows:

(1) To organize and elect from its membership a president and secretary of the board, each of whom shall hold office for one year, or until the election and qualification of a successor.

(2) To adopt and use a common seal.

(3) To employ agents, attorneys and inspectors to secure evidence of, report on, and prosecute all violations of this chapter and to employ other necessary assistance in the carrying out of the provisions of this chapter, and to pay the same from the funds provided in this chapter.

(4) To hold regular meetings at least once a year at which an examination of applicants for certificates of registration shall be held at such places as the board shall from time to time designate, and special meetings upon request of a majority of the members of the board or upon the call of the president.

(5) To keep an accurate record of all proceedings of the board and of all of its meetings, of all prosecutions for violations of this chapter, and of all examinations held for applicants for certificates of registration, with the names and addresses of all persons taking examinations and their success or failure to pass such examinations. All the records of the board shall be public and shall be kept in the office of the board.

(6) To keep an accurate inventory of all property of the board and of the state in the possession of the board and to obtain a receipt therefor from its successor.

(7) To keep a register of optometrists which shall contain the names and addresses of all persons to whom certificates of registration have been issued in the State of Oregon, together with the date of the issuance of such certificate and the place or places of business in which each optometrist is engaged, and all renewals, revocations and suspensions thereof.

(8) To grant or refuse to grant certificates of registration as provided in this chapter and to revoke the certificate of registration of any optometrists for any of the causes specified in ORS 683.140.

(9) To designate diagnostic pharmaceutical agents for topical use in the practice of optometry from among the generic categories enumerated within subsection (2) of ORS 683.010. Said designation shall take place not later than January 1, 1976, and shall be with the advice and guidance of the Board of Medical Examiners for the State of Oregon.

[[9]] (10) To administer oaths and take testimony upon granting and revoking or suspending any certificate of registration.

[[10]] (11) To make rules not inconsistent with the laws of this state as are deemed necessary or proper to carry out the lawful powers and duties of the board, as may be necessary or proper to determine the qualifications of applicants for a certificate to practice optometry in this state, and to establish educational, moral and professional standards for such applicants, subject to the laws of this state. If an applicant fails to pass a second examination the board may adopt rules which may provide the required courses of study before further examination.

Date: January 28, 1981

File Ref:

To: Sen. Thompson

From: Ann J. Haney, Secretary
Department of Regulation and Licensing

Subject: Report on Diagnostic Pharmaceutical Agents

At my request, staff from the Bureau of Health Professions in the Department of Regulation and Licensing have submitted a preliminary report and recommendations concerning the use of DPAs by optometrists. A compilation of the statistics from May, 1979, to November, 1980, reported to the Department by DPA certified optometrists show the following:

280 optometrists are certified to use DPA's
215 certified optometrists have used DPA's on
99,226 patients
65 certified optometrists have not used DPA's
in their practice

Of the 99,226 patients to whom DPA's were administered, 4,359 patients were referred to appropriate medical specialists for a variety of medical problems.

Twelve certified optometrists reported that 20 patients had mild to moderate adverse drug reactions (eye stinging, allergy). Some of these patients were referred to medical specialists and other patients reactions were cleared up within a short period of time (10-15 minutes).

Based on the statistics reported it appears that many patients benefited by the use of DPA's. These patients were referred to appropriate medical specialists for possible medical problems that may otherwise have gone undetermined.

The only problem reported involved the above 20 patients where a reaction occurred. All of these reactions were reported a mild to moderate discomfort lasting no longer than 48 hours. While there were mild physical reactions in less than 1% of the patients, there were no reports of psychological reactions.

On the basis of the above data staff recommended that s. 449.17 (1) and (7), Stats., be repealed effective July 1, 1982.

Staff further recommended that the Department consider further statute and code revisions at a later date.

They are as follows:

1. Fees (to correspond with other-certified or licensed individuals) to cover administrative and examination costs, and the establishment of a renewal date.
2. Deletion of the code provision that requires the optometrist to submit a report to the Department on use of DPA's and any adverse drug reaction. Physicians, dentists and osteopaths are not required to report adverse reactions by patients. In addition, the minimal number of adverse reactions (20) do not justify our reviewing and filing 1,000 pieces of paper over an 18 month period.

AJH:kcb
5136

1 AN ACT to repeal 449.17 (1) and (7) of the statutes, relating to making
2 permanent the authorization for optometrists to use topical ocular
3 diagnostic pharmaceutical agents.

Analysis by the Legislative Reference Bureau

Chapter 280, laws of 1977, authorized optometrists to use topical ocular diagnostic pharmaceutical agents under certain conditions. These conditions include having an approved plan for the referral of patients who experience adverse reactions, successful completion of a pharmacology examination and specific education on the use of such agents.

The enacting law provided that the use of such agents was authorized only until July 1, 1982. On January 1, 1982, the department of regulation and licensing is required to report to the legislature on the use of such agents by optometrists, including the health benefits and problems involved in such use and whether or not any individual is known to have suffered any physical or psychological reaction to such an agent and the severity of the reaction.

Under this bill, the July 1, 1982, "sunset" provision is removed, thus authorizing optometrists to continue to use topical ocular diagnostic pharmaceutical agents subject to the same conditions currently imposed in the statutes and by administrative rules promulgated by the department of regulation and licensing.

The people of the state of Wisconsin, represented in senate and assembly
do enact as follows:

4 SECTION 1. 449.17 (1) and (7) of the statutes are repealed.

5 SECTION 2. EFFECTIVE DATE. This act takes effect on July 1, 1982.

6 (End)

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

James N. Matson, O.D.
Doctor of Optometry
800 Glacier Ave.
Juneau, Alaska 99801

Telephone (907) 586-9864



American Optometric
Association

Dear Mrs. Wilkins ^{3/31/82}

Here is the info that
we discussed on the phone today.

We had our first class
in Anchorage last weekend, &
there were approximately 30-35
O.D.'s enrolled in class.

Please distribute the
info to the H:55 members.

Thank you.
J. N. Matson, M.D.

FACULTY

Jimmy Bartlett, O.D.

Associate Professor, Director of Continuing Education
University of Alabama in Birmingham School of Optometry/
The Medical Center

Theodore Buckner, M.D.

Board Certified Ophthalmologist, Wills Eye Hospital,
Philadelphia, Attending Surgeon, Shore Memorial Hospital,
Somers Point, New Jersey

Linda C. Cassar, O.D.

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Primary Care Module No. 4, The Eye Institute, Pennsylvania
College of Optometry, Philadelphia

Louis J. Catania, O.D.

Director, Center for Continuing and Post-Graduate Education
Pennsylvania College of Optometry, Philadelphia; Past
Director, Primary Care Optometry Residency Program of the
Joseph C. Wilson Health Care Center Medical Group, Rochester,
New York

Philip Gerbino, Pharm.D.

Associate Professor of Clinical Pharmacy, Philadelphia College
of Pharmacy and Science; Former Director of Drug
Information Center of Cornell University

Thomas L. Lewis, O.D., Ph.D.

Doctorate in Anatomy, Jefferson Medical College; Dean of
Academic Affairs and Associate Professor, Pennsylvania
College of Optometry

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Graduate of Harvard Medical School; Board Certified in
Internal Medicine; Assistant Professor of Medicine, University
of Rochester School of Medicine, Rochester, New York

Roland W. Manthei, Ph.D.

Doctorate in Pharmacology, University of Chicago; Professor
of Pharmacology, Jefferson Medical College, Philadelphia

Ronald R. Reed, M.D.

Board Certified from Wills Eye Hospital; Adjunct Assistant
Clinical Professor, University of Rochester, School of Medicine
Strang Memorial Hospital, Department of Ophthalmology

Diane Yolton, Ph.D.

Assistant Professor of Anatomy and Pathology, Pacific
University College of Optometry.

Clinical Faculty will include experienced clinicians including
optometrists and ophthalmologists from various universities and
V.A. medical centers in the United States.

Sponsored by Alaska Optometric Association

in cooperation with...

**PACIFIC UNIVERSITY COLLEGE OF OPTOMETRY,
PENNSYLVANIA COLLEGE OF OPTOMETRY, and
UNIVERSITY OF ALASKA ANCHORAGE**

Pathophysiology & Pharmacology

D. Yolton, Ph.D. • J. Bartlett, O.D. • R. Manthei, Ph.D.
March 27-30-29 April 24-25-26 UAA

Applied Pharmacology & Systemic Disease

P. Gerbino, Pharm.D. • M. Lipkin, M.D.
May 1-3 UAA

CPR & Emergency Care

American Red Cross Instructors
May 3 UAA

Anterior Segment Disease: cornea, uvea, lids conjunctiva, lacrimal system

L. Cassar, O.D. • L. Cassar, O.D.
May 22-23-24 UAA

Glaucoma

T. Lewis, O.D., Ph.D. • R. Reed, M.D. - clinical staff
June 11-12-13 UAA and selected medical facilities

Anterior Segment: Clinical Procedures

T. Buckner, M.D. • L. Catania, O.D. - clinical staff
September 10-11-12 Selected Clinical Facilities

Final Examination

October 16 University of Alaska Campus

Announcing

DIAGNOSIS, MANAGEMENT, AND TREATMENT OF OCULAR DISEASE

... an in-depth multidisciplinary course including 120 hours of instruction with emphasis on diagnosis,
treatment, and ocular therapeutics, and recognition of ocular manifestations of systemic disease...

offered by Pacific University

Diane P. Yelton, Ph.D.

Jimmy Barlett, O.D.

Robert Marzke, Ph.D.

March 27-28-29 UAA

April 24-25-26 UAA

offered by Pennsylvania College

Phillip Gerbino, Pharm.D.

Mark Lipton, Jr., M.D.

May 1-2 UAA

offered by Pennsylvania College

Louis Ostanke, O.D.

Linda Casser, O.D.

May 22-23-24 UAA

offered by Pacific University

Tom Lewis, O.D., Ph.D.

Ronald Reed, M.D.

and clinical staff

June 11-12-13 UAA and clinics

offered by Pennsylvania College

Theodore Buckner, M.D.

and clinical staff

September 10-11-12 clinics

PATHOPHYSIOLOGY AND PHARMACOLOGY: principles of pharmacology, clinical application of ocular pharmacology and ocular toxicology. Pathophysiology of ocular allergy, infection and inflammation. Pharmacologic considerations in ocular steroid therapy, and in glaucoma therapy.

APPLIED PHARMACOLOGY: administration of drugs, Rx writing, patient management.

SYSTEMIC DISEASE: systemic disease related to ocular disease.

Allergic-immunology; cardiovascular-cerebrovascular; endocrine; hematological; infectious and inflammatory; metabolic-chromosomal; musculoskeletal; mucocutaneous-dermatological; neurological nutritional-gastrointestinal

ANTERIOR SEGMENT DISEASE: corneal dystrophies, degenerations, infections, inflammations, irritations, injuries. Differential diagnosis, systemic considerations, treatment/management of anterior uveitis. Eyelid/edema disorders. Disorders of the lacrimal system, conjunctiva, sclera and episclera.

GLAUCOMA: anatomy-pathophysiology review. Epidemiology-risk factors. Examination, differential diagnosis, clinical classification. Medical management, surgical considerations. Concepts and controversies in glaucoma care. Methods of examination and clinical procedures.

ANTERIOR SEGMENT DISEASE CLINIC: examination protocols, techniques in dilation and irrigation, gland expressing, epilation, cyst drainage, swabbing, cultures, cytology. Foreign body removal. Management of lacerations and corneal abrasions. Techniques for diagnosing systemic disease; exophthalmometry, ~~exophthalmometry~~, clinical procedures

REGISTRATION FORM

Advance registration of \$100 is required and due by February 24, 1982. Please complete the form below and return with payment to: Alaskan Optometric Association, 3401 Denali Street, Suite 204, Anchorage, Alaska 99503

Tuition: \$1,550

Payments and Due Dates

\$100	February 24, 1982
400	March 17, 1982
400	April 17, 1982
400	May 17, 1982
250	September 1, 1982

NAME _____

ADDRESS _____

City _____ State/Zip _____

I will need the following required textbooks:

- _____ Goodman and Gilman, The Pharmacological Basis of Therapeutics \$45.00
- _____ Fraunfelder & Roy, Current Ocular Therapy \$43.00
- _____ Deborah Paxon Langston, Manual of Ocular Diagnosis & Therapy \$15.00

YUKON-KUSKOKWIM HEALTH CORPORATION

P.O. Box 528
Bethel, Alaska 99550
(907) 543-3321

Jan 12, 1982

Representative Jack Fuller
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Fuller,

I'm writing to you in regard to House Bill #111. I am an optometrist employed by the YKHC based at the PHS Hospital in Bethel. I frequently travel to the villages in the YKHC service area to hold field clinics.

I use ophthalmic drugs routinely on my patients through the use of medical standing orders by the PHS physicians. The PHS optometrists who travel to your area have similar standing orders. Through the use of drugs, we can detect pathology that would usually remain undetected until it further progresses to a more obvious presentation. I have personally detected diabetes and referred for confirmation of my diagnosis and have diagnosed glaucoma and detached retinas all because I was able to use ophthalmic drugs.

YUKON-KUSKOKWIM HEALTH CORPORATION

P.O. Box 528
Bethel, Alaska 99559
(907) 543-3321

- 2 -

My colleagues in private practice are prevented from using drugs by state law. If I were to enter private practice, I also would be restricted. Many of the people from the Nome area receive their care from private practitioners in the cities. There are also private optometrists who hold field clinics in Nome and out-lying villages. They receive compromised care rather than comprehensive quality care as a result of the current laws.

Passage of House Bill # 111 will allow all optometrists to practice our profession as we've been trained. The people of Alaska, especially rural Alaska, are the ultimate benefactors of this bill.

Sincerely,
John Demuske
JOHN DEMUSKE, OD.

Sectional Analysis of HB 111

Purpose. This bill will broaden the powers of optometrists to allow them to dispense specifically identified ophthalmic drugs. They will also be allowed to use procedures taught at schools and colleges of optometry which are not currently covered in statute.

Sec. 1. The definition of optometry is amended to place less restrictions on optometrists. This bill removes restrictions on the use of specified drugs, makes referral to other health care specialists discretionary, and expands the allowable procedures for the practice of optometry to include the general range of procedures taught in schools or colleges of optometry.

Sec. 2. The "practice of optometry" is re-defined to reflect the definition of optometry described in Section 1. The words "or application" are added to the line pertaining to prescription of lenses.

Sec. 3. AS 08.72 is expanded by the addition of another section on drugs. Drugs used in optometry must have been identified specifically by the regulation board as an ophthalmic drug; the person using them must have passed an examination on their use in school; the optometrist must have passed an examination on the pharmacology of ophthalmic drugs given by the board; and his registration certificate must have been endorsed to authorize use of ophthalmic drugs and must specify restrictions, if any.

Sec. 4. A new section is added to AS 17.15.010 which grants broad discretionary powers to authorized optometrists as regards the distribution of ophthalmic drugs.

Sec. 5. A new section is added to AS 17.15.030 which states that sections 10 and 20 do not apply to wholesale operations, manufacturers, pharmacy retail operations or sale by one optometrist to another.

this title and that covered by this chapter. *Speas v. State*, Sup. Ct. Op. No. 889 (File No. 1555), 511 P.2d 130 (1973).

Quoted in *Fresneda v. State*, Sup. Ct. Op. No. 573 (File No. 1045), 458 P.2d 134 (1969); *John Doe v. State*, Sup. Ct. Op. No.

707 (File No. 1240), 487 P.2d 47 (1971); *Egner v. State*, Sup. Ct. Op. No. 784 (File No. 1443), 495 P.2d 1272 (1972); *Gray v. State*, Sup. Ct. Op. No. 1068 (File No. 2043), 525 P.2d 524 (1974).

Chapter 15. Drugs.

Article

1. Sale or Other Transfer of Certain Drugs (§§ 17.15.010—17.15.060)
2. Seizure of Conveyances Used in Narcotics Violations (§§ 17.15.060—17.15.110)

Article 1. Sale or Other Transfer of Certain Drugs.

Section	Section
10. Written order or prescription required for dispensing of certain drugs	30. Exceptions
20. Authority of prescriber required for refill	40. Penalty for violations
	50. Selling poison without label

Sec. 17.15.010. Written order or prescription required for dispensing of certain drugs. It is unlawful for a person to sell, give away, barter, exchange or distribute

(1) amytal, luminal, veronal, barbital, acid diethylbarbituric, or any of their salts, derivatives, or compounds, or a preparation or compound containing any of these substances, or their salts, derivatives or compounds, or a registered, trademarked or copyrighted preparation or compound registered in the United States Patent Office containing more than one grain to the avoirdupois or fluid ounce of the substances, except upon the written order or prescription of a physician, surgeon, dentist or veterinary surgeon licensed to practice in the state;

(2) chloralhydrate and para-aminobenzene, sulfonamide, sulfanilamid, sulfamidyl, prontylin, prontosil, neo prontosil, neo protylin, edimalin, sulfonamide or a salt, derivative or compound of any of them or a registered, trademarked or copyrighted preparation or compound registered in the United States Patent Office containing these substances, except upon authority, order or prescription of a physician, surgeon, dentist or veterinary surgeon duly licensed to practice in the state. (§ 40-3-31 ACLA 1949; am § 1 ch 85 SLA 1949)

Sec. 17.15.020. Authority of prescriber required for refill. Prescriptions composed of the substances enumerated in § 10 of this chapter shall not be refilled without the authority of the prescriber. (§ 40-3-31 ACLA 1949; am § 1 ch 85 SLA 1949)

Sec. 17.15.030. Exceptions. Sections 10 and 20 of this chapter do not apply to the sale at wholesale by drug jobbers, drug wholesalers and drug manufacturers to pharmacies, hospitals, physicians, dentists or veterinary surgeons, nor to each other, nor to the sale at retail in pharmacies by pharmacists to each other or to physicians, surgeons, dentists or veterinary surgeons licensed to practice in the state. (§ 40-3-31 ACLA 1949; am § 1 ch 85 SLA 1949)

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Sec. 08.72.255. Limits or conditions on license; discipline. (a) In addition to action under §§ 240 and 250 of this chapter, upon a finding that by reason of demonstrated problems of competence, experience, education, or health the authority to practice optometry under this chapter 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. (§ 24 ch 102 SLA 1976)

Sec. 08.72.260. Revocation of license by court. A license may be revoked by the superior court upon proof of violation of law or for a cause for which the board may refuse admittance to its examination. The attorney general shall prosecute appropriate judicial proceedings upon request of a member of the board. (§ 35-3-146 ACLA 1949)

Sec. 08.72.270. Practice not at place of business. (a) A registered optometrist, who temporarily practices optometry away from his regular place of business, shall display his registration certificate and deliver to each patient or person fitted or supplied with glasses a receipt with his signature showing his permanent place of business or post office address, certificate number, and the amount charged. A licensee who fails to comply with any of the foregoing provisions for six months after issuance of the certificate shall forfeit his certificate.

(b) Nothing contained in this section shall be construed as permitting peddling or canvassing by licensed optometrists. (§ 35-3-136 ACLA 1949)

Article 3. Unlawful Acts.

<p>Section 275. Lenses and frames for eyeglasses and sunglasses</p>	<p>Section 276. Violations 276. Penalty</p>
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Sec. 08.72.275. Lenses and frames for eyeglasses and sunglasses. (a) No person may fabricate, distribute, sell, exchange, deliver or have in his possession with intent to distribute, sell, exchange or deliver eyeglasses or sunglasses unless they are fitted with plastic lenses, laminated lenses, heat-treated glass lenses, or glass lenses made impact resistant by other methods. All plastic and heat-treated glass lenses, before they are mounted in frames, shall be capable of withstanding the impact of a five-eighths inch steel ball dropped on the lens from a height of 50 inches. The impact test shall be conducted at room temperature, with the lens supported by a plastic tube one inch inside diameter, one and one-fourth inch outside diameter, with a one-eighth inch by one-eighth inch neoprene gasket on the top edge.

Office of Counsel



American Optometric Association

March 2, 1981



Ms. Deborah Behr
Special Asst./Department of Health
& Social Services
Pouch 801
Juneau, AK 99811

Dear Ms. Behr:

As you requested, here is a copy of the most recent (1980) "List of Pharmaceutical Agents by Name (or type if not named) that State Law or Regulations Specify Optometrists are Permitted to use". As indicated, and as we discussed, virtually all of the lists--any many states do not have a list--are in the Board rules and not in the statute itself. Because of the technical and evolving nature of changes in the pharmaceutical field, it is most appropriate that any listing should be in the Board rules and not in the statute which would require amendment by the legislature as needed.

Also enclosed is a copy of the report from the State of Wisconsin Department of Regulation and Licensing recommending that the July 1, 1982 "sunset" provision be removed and that the authority for optometrists to use topical ocular diagnostic pharmaceutical agents be continued. It should be of great value to you in your study.

For background information, I am enclosing a listing of the 25 state laws which specifically authorize the use of pharmaceutical agents by optometrists. Another five states do not prohibit such utilization. Thus, 30 states permit such utilization. As you specifically requested, I am also enclosing a copy of the laws of Florida (which does not have a prohibition), North Carolina, Oregon (diagnostic only at this time) and West Virginia.

Executive Offices in St. Louis and Washington, DC

American Optometric Association
243 North Lindbergh Blvd
Saint Louis, Missouri 63141
314 991 4100

Ms. Deborah Behr
March 2, 1981
Page -2-

American Optometric Association

Also enclosed is a copy of a monograph providing background information on the profession of optometry in the United States. Of course, for additional information concerning the practice of the profession in Alaska, please contact Dr. George Hall, 1345 West Ninth, Anchorage, AK 99501, President of the Alaska Optometric Association. If I can provide you with further information on the practice in other states, please feel free to contact me again.

Sincerely,



Thomas E. Eichhorst
Counsel

TEE/val
enclosures

cc: George Hall, O.D.
1345 West Ninth
Anchorage, AK 99501
907-272-2558

this title and that covered by this chapter. *Speas v. State*, Sup. Ct. Op. No. 889 (File No. 1555), 511 P.2d 130 (1973).

Quoted in *Fresneda v. State*, Sup. Ct. Op. No. 573 (File No. 1045), 458 P.2d 134 (1969); *John Doe v. State*, Sup. Ct. Op. No.

707 (File No. 1240), 487 P.2d 47 (1971); *Egner v. State*, Sup. Ct. Op. No. 784 (File No. 1443), 495 P.2d 1272 (1972); *Gray v. State*, Sup. Ct. Op. No. 1068 (File No. 2043), 525 P.2d 524 (1974).

Chapter 15. Drugs.

Article

1. Sale or Other Transfer of Certain Drugs (§§ 17.15.010—17.15.060)
2. Seizure of Conveyances Used in Narcotics Violations (§§ 17.15.060—17.15.110)

Article 1. Sale or Other Transfer of Certain Drugs.

Section	Section
10. Written order or prescription required for dispensing of certain drugs	30. Exceptions
20. Authority of prescriber required for refill	40. Penalty for violations
	50. Selling poison without label

Sec. 17.15.010. Written order or prescription required for dispensing of certain drugs. It is unlawful for a person to sell, give away, barter, exchange or distribute

(1) amytal, luminal, veronal, barbital, acid diethylbarbituric, or any of their salts, derivatives, or compounds, or a preparation or compound containing any of these substances, or their salts, derivatives or compounds, or a registered, trademarked or copyrighted preparation or compound registered in the United States Patent Office containing more than one grain to the avoirdupois or fluid ounce of the substances, except upon the written order or prescription of a physician, surgeon, dentist or veterinary surgeon licensed to practice in the state;

(2) chloralhydrate and para-aminobenzene, sulfonamide, sulfanilamid, sulfamidyl, prontylin, prontosil, neo prontosil, neo protylin, edimalin, sulfonamide or a salt, derivative or compound of any of them or a registered, trademarked or copyrighted preparation or compound registered in the United States Patent Office containing these substances, except upon authority, order or prescription of a physician, surgeon, dentist or veterinary surgeon duly licensed to practice in the state. (§ 40-3-31 ACLA 1949; am § 1 ch 85 SLA 1949)

Sec. 17.15.020. Authority of prescriber required for refill. Prescriptions composed of the substances enumerated in § 10 of this chapter shall not be refilled without the authority of the prescriber. (§ 40-3-31 ACLA 1949; am § 1 ch 85 SLA 1949)

Sec. 17.15.030. Exceptions. Sections 10 and 20 of this chapter do not apply to the sale at wholesale by drug jobbers, drug wholesalers and drug manufacturers to pharmacies, hospitals, physicians, dentists or veterinary surgeons, nor to each other, nor to the sale at retail in pharmacies by pharmacists to each other or to physicians, surgeons, dentists or veterinary surgeons licensed to practice in the state. (§ 40-3-31 ACLA 1949; am § 1 ch 85 SLA 1949)

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Sec. 08.72.255. Limits or conditions on license; discipline. (a) In addition to action under §§ 240 and 250 of this chapter, upon a finding that by reason of demonstrated problems of competence, experience, education, or health the authority to practice optometry under this chapter 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 44.32) applies to any action taken by the board under this section. (§ 24 ch 102 SLA 1976)

Sec. 08.72.260. Revocation of license by court. A license may be revoked by the superior court upon proof of violation of law or for a cause for which the board may refuse admittance to its examination. The attorney general shall prosecute appropriate judicial proceedings upon request of a member of the board. (§ 35-3-146 ACLA 1949)

Sec. 08.72.270. Practice not at place of business. (a) A registered optometrist, who temporarily practices optometry away from his regular place of business, shall display his registration certificate and deliver to each patient or person fitted or supplied with glasses a receipt with his signature showing his permanent place of business or post office address, certificate number, and the amount charged. A licensee who fails to comply with any of the foregoing provisions for six months after issuance of the certificate shall forfeit his certificate.

(b) Nothing contained in this section shall be construed as permitting peddling or canvassing by licensed optometrists. (§ 35-3-136 ACLA 1949)

Article 3. Unlawful Acts.

Section	Section
275. Lenses and frames for eyeglasses and sunglasses	290. Violations
	290. Penalty

Sec. 08.72.275. Lenses and frames for eyeglasses and sunglasses. (a) No person may fabricate, distribute, sell, exchange, deliver or have in his possession with intent to distribute, sell, exchange or deliver eyeglasses or sunglasses unless they are fitted with plastic lenses, laminated lenses, heat-treated glass lenses, or glass lenses made impact resistant by other methods. All plastic and heat-treated glass lenses, before they are mounted in frames, shall be capable of withstanding the impact of a five-eighths inch steel ball dropped on the lens from a height of 50 inches. The impact test shall be conducted at room temperature, with the lens supported by a plastic tube one inch inside diameter, one and one-fourth inch outside diameter, with a one-eighth inch by one-eighth inch neoprene gasket on the top edge.

Sectional Analysis of HB 111

Purpose. This bill will broaden the powers of optometrists to allow them to dispense specifically identified ophthalmic drugs. They will also be allowed to use procedures taught at schools and colleges of optometry which are not currently covered in statute.

Sec. 1. The definition of optometry is amended to place less restrictions on optometrists. This bill removes restrictions on the use of specified drugs, makes referral to other health care specialists discretionary, and expands the allowable procedures for the practice of optometry to include the general range of procedures taught in schools or colleges of optometry.

Sec. 2. The "practice of optometry" is re-defined to reflect the definition of optometry described in Section 1. The words "or application" are added to the line pertaining to prescription of lenses.

Sec. 3. AS 08.72 is expanded by the addition of another section on drugs. Drugs used in optometry must have been identified specifically by the regulation board as an ophthalmic drug; the person using them must have passed an examination on their use in school; the optometrist must have passed an examination on the pharmacology of ophthalmic drugs given by the board; and his registration certificate must have been endorsed to authorize use of ophthalmic drugs and must specify restrictions, if any.

Sec. 4. A new section is added to AS 17.15.010 which grants broad discretionary powers to authorized optometrists as regards the distribution of ophthalmic drugs.

Sec. 5. A new section is added to AS 17.15.030 which states that sections 10 and 20 do not apply to wholesale operations, manufacturers, pharmacy retail operations or sale by one optometrist to another.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill Resolution No. House Bill 111 "An Act relating to the practice of optometry,
Title and authorizing the use of ophthalmic drugs by optometrists.
Requested by Rep. Martin Date 2-10-81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Regulation & Licensing of Professions
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 2-10-81 PREPARED BY Therese Island Regulations Specialist
AGENCY Division of Occupational Licensing
PHONE 465-2535
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

The
ALASKA OPTOMETRIC ASSOCIATION

AFFILIATED WITH
AMERICAN OPTOMETRIC ASSOCIATION

*Since
ophthalmologist
bill*

PRESIDENT
George Harlow D.D.

PROFESSIONAL PERSPECTIVES

No. 2

SEC. TREAS.
Dennis Swartz D.D.

LEGISLATIVE COMM.
Maynard Frazier D.D.
Philip Bach D.D. D.D.

OPHTHALMIC DRUG USE REPORT BY WEST VIRGINIA

Since 1976 certified optometrists in West Virginia have administered ophthalmic drugs for diagnostic and therapeutic use. A total of sixty-three (63) different drugs prescribable for the human eye have been employed since H.B. 1005 was enacted. Thirty thousand six hundred forty-nine (30,649) individual patients have been seen by certified optometrists. The distance those patients saved by not having to travel to sparsely located ophthalmologists to whom they formally were referred was over 450,000 aggravated miles.

Forty-six (46) different pathological conditions have been diagnosed and treated by these certified optometrists. IT SHOULD BE ADDITIONALLY NOTED THAT THERE HAS BEEN NO REPORT OF ANY ADVERSE REACTION IN THE DIAGNOSIS AND TREATMENT RENDERED TO PATIENTS INVOLVED BY ANY WEST VIRGINIA CERTIFIED OPTOMETRIST.

Peninsula Eye Clinic
PETER E. CANNAVA, M.D.
OPHTHALMOLOGY
BOX 1629
SOLDOTNA, ALASKA 99669
TELEPHONE 262-4462

Optometrist
For Berry

February 16, 1981

Dear Don,

"In the beginning" God created a creature who travelled around the countryside diagnosing and treating illnesses with the help of medicinals! The schools or "academies" where these creatures learned to wield their trade became known as "medical schools." These schools have withstood the test of time and to this day produce creatures who still attempt to cure people thru the use of medicinals. These creatures are called physicians!

In recent times (circa early 20th. century) creatures evolved who practiced on the public with-out the use of medicinals and called themselves optometrists, psychologists and even chiropractors. These special creatures took pride in the fact that they did not need the aid of medicinals to "cure" people and indeed for many years even chastised physicians for contaminating the public with their medicinals and on occasion even killing the public thru the use of such medicinals!

In very recent times, the later-day non-physician practitioners have reversed their opinion on the use of medicinals for the cure of illnesses and indeed instead of chastising physician creatures for using such drugs, they have adopted the attitude that maybe all creatures who "attend" to the public should use medicinals!

Alas, these non-physician creatures find that complications quickly arise! For not every creature who harbors a whim to do so can be admitted to those schools which have trained physician creatures from the beginning, (i.e. medical schools). The fore the only recourse is to petition the legislative creatures to grant them by decree that which they cannot attain by education! As a result, an entirely new creature is being created by the legislative bodies; one who uses medicinals on the public, yet is quite un-schooled in doing so.

In the end the public suffers! Suffers because the safeguards have been lifted and one can no longer tell who the real medicine man is. The people go to non-medical creatures with medical maladies and receive inappropriate treatment and suffer loss of sight and other vital functions. The public rises up and rebels! Cries are heard demanding an explanation for this social injustice. But by now the legislative creatures are home and nobody is around to explain.

Sincerely,

Peter
Peter E. Cannava M.D.
Ophthalmology

PEC:ccy

1 [25.] to read as follows:

2 "§ 90-125.1. Filling prescriptions.--Legally licensed
3 druggists of this State may fill prescriptions of optometrists
4 duly licensed by the North Carolina State Board of Examiners in
5 Optometry to prescribe, apply or use pharmaceutical agents."

6 Sec. 6. G.S. 90-87(22) (a) as the same appears in the
7 1975 Replacement Volume 2C of the General Statutes is hereby
8 amended by inserting in line 1 thereof immediately following the
9 word "dentist," and preceding the word "veterinarian" the word
10 "optometrist,".

11 Sec. 7. The provisions of this act are applicable only
12 to those individuals licensed pursuant thereto and

13 shall not] restrict, expand, or otherwise alter
14 those other practices or acts governed by Chapter 90 of the
15 General Statutes.

16 Sec. 8. This act shall become effective on and after
17 July 1, 1977.

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