

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 86/2

2704 SLC HB 218 - HB 225 (FILE 2)

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

BILL SHEFFIELD, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE (907) 465 2534

DATE: June 9, 1983

TO: All Licensed Hairdressers:

The division is aware of the extreme time lapse between hairdresser examinations and return of grades. This primarily is due to use of a national examination service. Some dissatisfaction over this delay has been expressed to us. To help evaluate the problem and find a solution, we would like input from licensed professional hairdressers on the following:

1. Is the time delay a serious problem?
2. Should a State examination be developed to replace the national examination?
3. Is a State exam necessary?
4. If a new test should be developed, what areas of hairdressing should it cover?
5. What three (3) questions would you submit for use in writing the examination.

Your answers will be reviewed and shared with the Board of Barbers and Hairdresser Examiners.

Please direct your response to our office at the following address:

State of Alaska
Department of Commerce & Economic Development
Division of Occupational Licensing
Pouch D-LIC
Juneau, Alaska 99811

Thank you for taking the time to respond.


Harry D. Treager, Director

Dick - Re: Bd of Marine Pilots

Harry Traeger said Board was aware of the problem regarding supervise dockings. The problem involves 2 individuals in the Dutch Harbor area. The Board received letter from Dept. of Law regarding this issue as possible "anti-trust" problem.

Harry sees the Board acting on the matter at next meeting - possibly late April or early May.

Do you wish to follow-up with letter of concern to Board?

Yes

Aglietti & Pennington

Attorneys At Law

733 West Fourth Avenue, Suite 206

Anchorage, Alaska 99501

907 279 8657

*Terry C. Aglietti
Richard D. Pennington
John W. Siverson Jr.*

*Ronald A. Offiel
of Counsel*

*Alaska Office
by appt only
Unit 217*

*Brighton Bldg
Gridwood, Alaska 99557*

April 11, 1983

Peter B. Froehlich, Esq.
Assistant Attorney General
Pouch K
Juneau, Alaska 99811

Re: Aleutian Marine Pilots

Dear Mr. Froehlich:

This letter is in furtherance to our phone conversation of February 25, 1983, with regard to Marine Pilot Regulations 12 AAC 56.030 and 12 AAC 56.040.

As you are aware, my client Mr. Gordon Terpening, Jr., has a limited pilots license and has been attempting to upgrade that license to an unlimited license pursuant to the dictates of 12 AAC 56.030. He, of course, qualifies in every way except for executing ten dockings and undockings "under the direct supervision of a pilot holding an unlimited pilots license...upon the water for which applying...No more than five (5) of the required dockings or undockings may have been under the direct supervision of the same approving pilot;..."

As we have previously discussed, Mr. Terpening is applying for what has been referred to as the south-western waters. All unlimited pilots for these waters belong to the Southwestern Pilots Association. Mr. Terpening has asked every unlimited pilot in these waters to supervise his required dockings and undockings. These written requests were made exhibits to the Board of Marine Pilot Public Hearing of December 6, 1982, in Anchorage, Alaska. Only two of the 23 unlimited pilots contacted responded to the request. They both refused to supervise Mr. Terpening's dockings and undockings. In short, the mechanism as set out in the regulation to upgrade a license fails to work, and there is no other way way to upgrade the license.

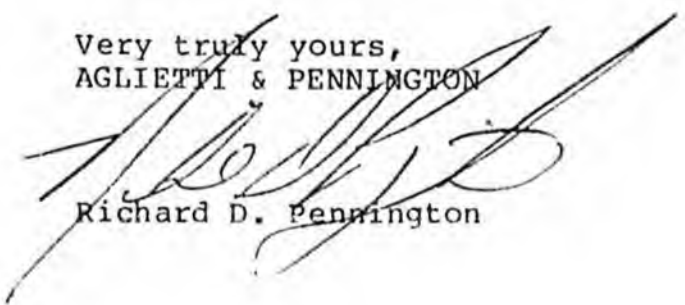
Peter Froehlich, Esq.
April 11, 1983
Page Two

The effect of the regulation is to foster and sanctify a "closed shop" or to give a monopoly to a select group of individuals who assure their longevity and economic success by refusing to allow other pilots entry into these waters. They accomplish this by passively doing nothing and in effect refusing to supervise an applicant's dockings and undockings.

The result of the regulation is anti-competition. As such, it is my belief that, if challenged under the anti-trust laws, the regulation would fail. As you know, I have been retained to bring such an action. However, at the December 6 Hearing of the Marine Pilot Board, my client was assured that a special meeting of the Board would be held this spring in an attempt to cure the anti-competition results of the regulation.

This letter is to advise you that I am still directed to bring that lawsuit against the State of Alaska and the Board if no action is taken to remedy the monopolization and anti-competitive results of the subject regulations. I urge your assistance in attempting to correct this matter.

Very truly yours,
AGLIETTI & PENNINGTON



Richard D. Pennington

RDP:sdn

cc: Mr. Harry Treager
Sen. Richard Eliason
Ms. Mary Levan
Rep. Walt Furnace
Mr. Jefferson Barry
Mr. Terpening
Mr. Hicks

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

May 2, 1983

Mr. Richard D. Pennington
Aglivetti & Pennington
733 W. Fourth Ave., Suite 206
Anchorage, AK 99501

Re: Board of Marine Pilots
License Qualification
Regulations 12 AAC56.030(5)
and 040(7)

Dear Mr. Pennington:

This is a response to your April 11 letter concerning the anticompetitive effect of the supervised docking and undocking requirements of 12 AAC 56.030(5) and 040(7).

As indicated by the enclosed notice, the board is currently proposing to amend or repeal those regulations. Hopefully, any problems will be eliminated by whatever action the board ultimately determines to take. Meanwhile, I urge your continued persistence in making these problems known to the board by submitting a statement and argument in response to the notice.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Peter B. Froehlich
Assistant Attorney General

PBF:eja

Enclosure:

cc: Harry Treager
Senator Richard Eliason
Ms. Mary Levan ✓
Representative Walt Furnace
Mr. Jefferson Barry

STATE OF ALASKA

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF
THE DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
BOARD OF MARINE PILOTS

Notice is hereby given that the Department of Commerce and Economic Development, Board of Marine Pilots, under authority vested by AS 08.62.040(a) and (b), proposes to amend and adopt regulations in Title 12 of the Alaska Administrative Code, dealing with qualifications for licensure (dockings and undockings) for unlimited, limited and channel pilot's licenses and further clarify boundaries for inside Southwestern Alaska waters to implement AS 08.62.030, AS 08.62.040, AS 08.62.050 and AS 08.62.100 as follows:

1. 12 AAC 56.030 is amended to amend or delete the docking and undocking requirements as a qualification for an unlimited pilot's license.
2. 12 AAC 56.040 is amended to amend or delete the docking and undocking requirements as a qualification for a limited pilot's license.
3. 12 AAC 56.050 is amended to amend or delete the docking and undocking restriction imposed on channel pilots.
4. 12 AAC 56.100(b) is amended by adding a new paragraph to clarify what waters are included as inside waters for Southwestern Alaska.

Notice is also given that any person interested may present written or oral statements or arguments relevant to the actions proposed at a public hearing to be held in the Main Conference Room of the Department of Commerce and Economic Development, 9th Floor, State Office Building, Juneau, Alaska, starting at 9:30 a.m., Monday, May 23, 1983.

Notice is also given that any person interested may present written statements or arguments relevant to the actions proposed by mailing or delivering them so they are received by 5:30 p.m., Friday, May 20, 1983 to:

Department of Commerce & Economic Development
Division of Occupational Licensing
Board of Marine Pilots - Regulations
Pouch U-11C
Juneau, Alaska 99811

This action is not expected to require an increased appropriation.

Copies of the proposed regulations may be obtained by writing the above address, or by calling (907)465-2535.

The Department of Commerce & Economic Development, Division of Occupational Licensing, Board of Marine Pilots, upon its own motion or at the instance of any interested person, may thereafter adopt the proposals substantially as described above without further notice or may decide to take no action on them.



Richard A. Lyon, Commissioner

Date: April 14, 1983

STATE OF ALASKA

BOARD OF MARINE PILOTS

NOTICE OF FORTHCOMING MEETING AND EXAMINATION:

The Alaska Board of Marine Pilots will hold a meeting May 23-25, 1983, beginning at 9:30 a.m., each day, at the State Office Building, Department of Commerce and Economic Development, 9th Floor Commissioner's Conference in Juneau, Alaska.

Notice is also given that the board will conduct a marine pilot examination for licensure (temporary permits, and extension of routes) on Tuesday, May 24, 1983. The exam will be at the Alaska Office Building, Health and Social Services Conference Room #5, Juneau, Alaska, beginning at 9:00 a.m.

Anyone desiring further information on the meeting or the examination may contact the Division of Occupational Licensing, Pouch D, Juneau, Alaska 99811-0800, (907) 465-2542.



Richard A. Lyon, Commissioner

Date: 4-15-83

ORDED TITLE: CSNB 218(FIN)

ACT RELATING TO THE BOARD OF MARINE PILOTS, AND PROVIDING
FOR AN EFFECTIVE DATE

GENERAL DOLLARS: 40 (F. NOTE)

PRIME SPONSOR: HOUSE LABOR&COMM. COMMITTEE

OTHER DOLLARS: 50

CO-SPONSORS:

CURRENT STATUS: 4/18/83 CHAPTER 0008 SLA 83

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/21/83	01	0305	FIRST READING -- COMMITTEE REPORTS
02/21/83	02	0305	GOV TRANSMITTAL LETTER
02/25/83	03	0350	DATE REFERRAL CHANGED
03/11/83	04	0452	FIN -- CS11
03/14/83	05	0453	FIN DATE F/NOTE EQUALS ZERO
03/14/83	06	0473	SECOND READING
03/14/83	07	0479	FIN CF ADOPTED BY UNAN CONSENT
03/14/83	08	0479	ADVANCED TO 3RD READING BY UNAN CONSENT
03/14/83	09	0479	THIRD READING
03/14/83	10	0480	PASSED BY DIV 24-90-03
03/14/83	11	0480	EFFECTIVE DATE VOTE SAME AS PASSAGE
04/05/83	20	0758	TRANSMITTED TO GOVERNOR
04/18/83	21	0913	SIGNED BY GOVERNOR-08000, EFF 04/19/83

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/15/83	12	0590	FIRST READING -- COMMITTEE REPORTS
05/25/83	13	0496	L&C -- DP04
05/31/83	14	0550	RLS OTHER03
06/04/83	15	0567	SECOND READING
06/04/83	16	0567	ADVANCED TO 3RD READING BY UNAN CONSENT
06/04/83	17	0567	THIRD READING
06/04/83	18	0567	PASSED BY DIV 17-00-03
06/04/83	19	0568	EFFECTIVE DATE VOTE SAME AS PASSAGE

COMMITTEE REPORT

SENATE

FURTHER:

3/13/53

Date: 3/13/53

Mr. President:

The Committee on Labor & Commerce has had Public Law 176

RELATIVE TO THE SWORD ...

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s) same title
- replace with CS for _____ new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

W. C. Clegg

CHAIRMAN

Name (please print)	Address	Representing	Testify?? (YES or NO)	Phone Number
HARRY TREAGER	DEPT OF COMMERCE	Occupational Lic	YES	2534


DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
POSITION PAPER
SB 145; HB 218
BOARD OF MARINE PILOTS

The department has consistently agreed with the Division of Legislative Audit that the Board of Marine Pilots should continue to regulate and license the marine pilot profession. For the protection of human life and property, shipping and the environment, it is imperative that marine pilots be licensed and regulated and that vessels operating in the inside waters be required to have a licensed pilot in command.

The board has continued to operate in the interest of the public, the licensees and the applicants. It has addressed issues such as the licensing vessel agents and the adoption of regulations to clarify standards and misconduct, held tariff hearings for southeast ports, reviewed and updated examinations and worked toward training for marine pilots through participation in the WICHE program.

There has been no complaint filed against this board.

The Department of Commerce and Economic Development endorses the continuation of the Board of Marine Pilots.



Harry D. Treager, Director
Division of Occupational Licensing
Department of Commerce and
Economic Development
March 3, 1983



3/9/83

Richard A. Lyon, Commissioner
Department of Commerce and
Economic Development

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill No. 145 Date on Bill: February 24, 1983
 Title: "An Act relating to the Board of Marine Pilots."
 Sponsor: Labor and Commerce Committee
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating	-0-	-0-	-0-	
Total				

b. Revenues:

Revenue				
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2. Source of funds to offset fiscal impact of bill:

3. Assumptions: No additional fiscal impact will be incurred with this Senate Bill.

Funding to be continued and provided for in the Department's FY-84 budget.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: *Darrell Miller* Phone: 465-2535
 Division: Occupational Licensing Date: March 2, 1983
 Approved by Commissioner: Richard A. Lyon Date: 3/9/83
 Department: Commerce & Economic Development

5. Distribution:

Original to Legislative Finance
 Copy to OMB
 Copy to Sponsor
 Copy to Requestor

2/15/83

BOARD OF MARINE PILOTS

Current Number of Licensees - Marine Pilots - 56
 Registered Agents - 12

FY '82

Revenues	1.8	
Expenditures	15.1	
**Personal Services		8.3
*Contractual		1.7
*Commodities		0
Board Travel and Per Diem		5.1
	TOTAL	<u>15.1</u>

FY '83 - Allocated (board travel & per diem only) - 7.5

Revenues (7/1/82 to 3/1/83)	13.8	
Expenditures	9.5	
**Personal Services (7/1/82 to 3/1/83)		5.3
*Contractual		.5
*Commodities		-0-
Board Travel and Per Diem		3.7
	TOTAL	<u>9.5</u>

FY '84 - (Board Component - Division Budget) Total 201.5
 Board of Marine Pilots Allocation 7.9

*The above items are funded in the Administration component of the division's budget.

**Personal services are 1/3 of 1 licensing examiner position.

CAPTAIN EDWARD MURPHY
COMMITTEE TESTIMONY ON SUNSET
REVIEW OF THE BOARD OF MARINE PILOTS
FEBRUARY AND MARCH, 1983

Mr. Chairman and ladies and gentlemen of the committee, thank you for this opportunity to testify in favor of retaining the Alaska Board of Marine Pilots. My name is Edward Murphy and I am appearing today as a representative and spokesman from the Southwest Alaska Pilots Association. Southwest Pilots is one of the two associations of state and federally licensed marine pilots in Alaska and provides state pilots to shipping from Cape Spencer north.

I would like to acknowledge the assistance of Captain George Quick and the American Pilots Association in the preparation of this testimony.

I would first like to give an historical overview of pilotage from colonial times to the present to provide a meaningful context for my comments.

All maritime nations since ancient times have offered inducements for mariners to become pilots and maintain pilotage systems for the protection of shipping. We may not be the oldest profession but we are certainly the oldest regulated profession. The colonial legislatures had pilotage laws in effect prior to our becoming a nation. The first congress assembled after the adoption of the Constitution in 1789 realized the federal government's constitutional right to regulate interstate and foreign commerce would interfere with pilotage systems and state regulations and quickly passed an act that left pilotage under state control.

The state laws generally provided for a system of regulated public pilots who conducted ships to and from the sea and whose terms and conditions of service were established by law. Pilotage remained exclusively a public service under state control until 1871 when congress acted to provide for the federal licensing

of pilots on steam vessels engaged in coastwise or interior commerce of the country. At that time steam vessels were considered inherently dangerous and many laws were being passed to protect the public from this new threat created by the industrial revolution. Since many states exempted ships engaged in strictly coastwise or interior commerce from the requirement of taking aboard a public pilot, congress felt that there was a need to insure that these new and dangerous vessels driven by steam employ someone familiar with the waters over which the vessel was navigating.

This new act of congress created a different category of federally licensed pilots who were employees of the ship and who often were actually the master or other officer acting as pilot by virtue of additional endorsement on his license. This new category caused confusion in defining the term pilot and in defining the role and function of a pilot.

The term pilot in the United States today is used to describe two entirely different sets of relationships:

1) It can refer to a federally licensed employee of the ship who is subject to the selection and control of the ship owner and whose terms and conditions of employment are determined by mutual agreement. The relationship is common law one of employer and employee.

2) It can refer to the state licensed publically regulated pilot who is not subject to the control and selection of the ship owner and whose terms and conditions of service are established by statute and not subject to negotiation. The relationship is created by compulsion of law and defined by the state compulsory pilotage statute and decided court cases applying principles of maritime law.

In simple terms, the federally licensed pilot is acting in a private capacity on privately agreed terms and conditions, and the state licensed pilot is exercising a public function on publically regulated terms and conditions.

The legal text writers and the court decisions attempt to avoid confusion by generally referring to the pilot acting in a private capacity as a voluntary pilot and referring to the pilot exercising a public function as a compulsory pilot.

In the voluntary pilot situation the employment contract is by mutual agreement between the ship owner and the employee pilot, even though the ship owner is naturally compelled to select his employee from among a class, i.e., federally licensed pilots. In the compulsory pilot situation the pilot is forced on the ship owner by compulsion of law and under terms and conditions established by law. The concept of compulsory pilotage excludes any right of the ship owner and pilot to mutually agree on the terms of their relationship. The right of selection and control, as well as the terms and conditions of service are not properly the subject of negotiations, they are established by the state to serve the state's superior interests.

There is a vast difference in the training, experience, perceived duties and responsibilities, working relationships, legal relationships and attitudes that separate the federally licensed employee pilot and the state licensed public pilot. An understanding of the differences is necessary.

The state licensed pilot is regulated by state statutes creating compulsory pilotage. His state license is both a certificate of competency and a franchise as a public servant requiring him to assume public obligations in maintaining pilot stations and operating a pilotage system. The rights, duties, and obligations of the owner, the ship, the master and the pilot are created by law and not by mutual agreement between the parties. Common law principles governing the usual employment contract have no application.

The general scheme in effect throughout most of the world is one in which a vessel approaching the coast with the intent of making port has a compulsory

obligation to accept a local pilot skilled in navigating those waters and knowledgeable as to local hazards, place him in charge of the navigation of the ship, and pay the fee for his services prescribed by local law. The purpose is to protect the safety of shipping by assuring a complement of pilots will be available when needed at designated locations (pilot stations) and placing navigational control of the ship in the hands of a qualified local expert when the ship is in a high risk area.

As part of their franchise as a public service it is compulsory for the pilot to maintain pilot boats on established stations known to all mariners, to keep a complement of qualified pilots available to render services at all times, to go to any ship needing his service without discrimination or choice and to provide his services under legally established terms and conditions, and for a fee prescribed by law and published in a tariff.

Compulsory pilotage is a creation of law, not a contract. It is regulated in much the same manner as a public service company and charged with the public responsibility of rendering pilotage services to vessels. The pilot is in no sense the employee or servant of the ship owner or the vessel he pilots. He is required to be accepted by the vessel and placed in charge of her navigation to serve the state's interest in protecting life and property--and in today's world, the environment--from the hazards of navigation. He sees his duty and obligation as being owed to local political authority and to the public, rather than to the ship owner in the role of an employer. The public nature and regulation of the terms and condition of his service protect and insulate him from the demand and pressures that can be placed on an ordinary employee to compromise the margins of safety.

In contract, the federally licensed pilot is a common law employee of the ship owner serving in a private capacity. The ship owner has the right of

selection and the right to exercise control over his employees in the performance of their duties. The terms and conditions of employment are privately agreed to with the ship owner. The prospects of future employment are dependent on how well the employee satisfies the demands placed on him by his employer. The master and the federally licensed pilot work for and are answerable to the same employer and are licensed by the same federal agency, the Coast Guard. In some cases the master and pilot may in fact be the same person serving in a dual capacity. This lack of independence and the absence of checks and balances should give the public cause for concern when they consider that the sea-going coastwise tankers are largely exempt from the protection of state compulsory pilotage laws. Many of them are navigated on our inland waters by company employee pilots or masters serving in the dual capacity of pilot.

So, compulsory state pilotage operating under the authority of the state Board of Marine Pilots functions to protect and insulate independent decision making affecting the safety of ships from commercial pressures by placing navigational control in high risk areas in charge of a compulsory public pilot who does not belong to the ship, i.e., free of the ship owner's interest and control. That independent pilot who is aboard the vessel for one reason, safety, is licensed and regulated by the state board.

In light of this state's continuing need to protect the lives and property of its citizens from the inherent hazards of navigation under high risk conditions in Alaskan waters, it is essential to maintain state licensed public pilots under the control of the Alaska Board of Marine Pilots.

In conclusion, I urge the committee to recommend the retention of the Board in its present form. Qualified independent Alaska licensed pilots are necessary for the safe and efficient flow of commerce in Alaskan waters. Only a properly constituted licensing and regulatory body, such as the Board, is capable of assuring the maintenance of professional standards essential to the piloting profession in a state so dependent on waterborne commerce.

Bill Fact Sheet

Date Received 3/14/83

Bill Number #B218 Title Bd of Marine Pilots

Fiscal Note - Date Requested _____ Date Received _____

- Of Whom same as SB/45

Dept. Position Paper - Date Requested _____ Date Received _____

- Of Whom _____

Resource People

Initial Hearing - Date 3/24/83
People Contacted

Harry Traeger - Bd of Marine Pilots
testified for SB/45

Follow-up Hearing - Date _____

Final Action passed out of cmte Date 3/24/83

HB

224

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill NO. 224 Date on Bill: February 23, 1983
 Title: "An Act relating to the board of nursing."
 Sponsor: Labor and Commerce Committee
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating	-0-	-0-	-0-	
Total				

b. Revenues:

Revenue				

2. Source of funds to offset fiscal impact of bill:

3. Assumptions: No additional fiscal impact will be incurred with this House Bill.

Funding to be continued and provided for in the Department's FY-84 budget.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Darrell Miller Phone: 465-2535
 Division: Occupational Licensing Date: March 2, 1983
 Approved by Commissioner: Richard A. Lyon Date: _____
 Department: Commerce & Economic Development

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
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STATE OF ALASKA

WALT FURNACE, CHAIRMAN
RICK UEHLING, VICE CHAIRMAN
JOHN COWDERY
NIILLO E. KOPONEN
HUGH MALONE
JOHN RINGSTAD
RON WENDTE



POUCH V
JUNEAU, ALASKA 99811
(907) 465-3892

HOUSE LABOR AND COMMERCE COMMITTEE

February 22, 1983

Representative Joe Hayes, Speaker of House
Alaska House of Representatives
Pouch V,
Juneau, Alaska 99811

Re: Board of Nursing

Dear Mr. Speaker:

Pursuant to AS 44.66.050(a) the House Labor and Commerce Committee has held hearings regarding the above referred Board. Under AS 44.66.050(e) the Committee recommends adoption of the attached Committee Bill continuing the Board of Nursing.

Specifically, the findings of the Committee of the public need for the Board as required under AS 44.66.050(c) are as follows:

AS 44.66.050(c) " A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:"

"(1) the extent to which the board, commission or program has operated in the public interest;"

The Committee finds that the Board of Nursing has operated in the public interest by holding public hearings to discuss statute and regulation revisions concerning continuing competency requirements, Board membership, foreign nurse graduate requirements, and the definition of license violations. The Board of Nursing accredits and periodically surveys Alaska nursing education programs to ensure that educational standards are being maintained.

"(2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;"

The usage of the teleconference network by the Board of Nursing has allowed them to communicate throughout the State during subcommittee meetings and public hearings.

"(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;"

The Board of Nursing is currently developing regulations that will maintain a level of competence for practitioners. The Board is in the process of developing formal regulations which define and list examples of license violations.

"(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;"

Applicants who have repeatedly failed the examination are helped through counseling or referred to useful textbooks.

"(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;"

In addition to teleconferencing, the Board of Nursing advertises meeting and examinations in newspapers in Anchorage, Fairbanks and Juneau.

"(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;"

The Committee finds that the Board of Nursing is handling complaints in a timely manner. During the fiscal years 1979 through 1981 two complaints were filed with the Ombudsman. Both were subsequently resolved.

"(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;"

During the fiscal years 1979 through 1981, the Board of Nursing issued approximately 1800 licenses and 1235 temporary permits to practice nursing in Alaska.

"(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and"

The Committee determined that the Board of Nursing is in compliance.

"(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection."

The Board of Nursing needs to adopt formal regulations which define and list examples of license violations. In addition, it would be helpful if the Board of Nursing would continue its efforts towards developing relevant and effective regulations that will maintain a level of competence for practitioners.

Pursuant to AS 44.65.050(d) the Committee recommends the following:

"(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:"

"(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;"

The Board of Nursing was created in 1941 with the primary purpose to protect the public's health, safety, and welfare through the regulation of the nursing practice.

"(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;"

The Board of Nursing determines the minimum allowable quality of nursing care in the State by establishing or amending rules and regulations necessary to ensure compliance with State statutes. They also approve curricula, adopt standards and accredit nursing education programs. The Board of Nursing examines and issues licenses to qualified applicants and the Board of Nursing hold hearings which may revoke, suspend, or take other appropriate action on the license of a person violating the nursing statutes and regulations.

The Board of Nursing has staff support from the Division of Occupational Licensing which employs an Executive Officer of the Board who is statutorily responsible for performing administrative duties and assisting the Board in conducting examinations and educational programs.

"(3) an identification of any other programs having similar, conflicting or duplicate objectives;"

The Committee did not find other programs which had conflicting or duplicate objectives.

"(4) an assessment of alternative methods of achieving the purposes of the program;"

The Committee found no viable alternative method of achieving the purposes administered by the Board of Nursing.

"(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;"

The Committee finds that to eliminate the Board of Nursing or consolidating its activities would denigrate the level of protection to the public's health, safety, and welfare.

"(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and"

The Board of Nursing has recommended changes to statute and regulation in the public interest, helped develop curriculum to enhance the professionalism of nursing, conducted necessary examination of applicants for licensure to protect the health, safety, and welfare of the public.

"(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest."

The Committee commends the dedication, time, and effort on the part of each Board member for their service in a complex and difficult job.

Respectfully submitted:

Representative Walt Furnace, Chairman

Representative Rick Uehling, Vice Chairman

Representative John Cowdery

Representative Niilo Koponen

Representative Hugh Malone

Representative John Ringstad

Representative Ron Wendte

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.

A PERFORMANCE REVIEW OF THE
BOARD OF NURSING

July 7, 1982

Audit Control Number
08-112-0081-R

Commissioner, Department
of Commerce and Economic
Development

Charles R. Webber

Deputy Commissioner,
Department of Commerce and
Economic Development

Edward Eboch

Members of the
Board of Nursing

Chairman
Secretary
Member
Member
Member
Member
Member

Sammye Rink, R.N.
Keith B. Wise
Betty Hodo, R.N.
Marion E. Bayless, R.N.
Jennifer A. Gleason, R.N.
Eileen Montano, R.N.
M. Gopinath

HB 224 TITLE & SPONSOR SUMMARY 17:04 8/04/84 PAGE 1 OF 3
 AMENDED TITLE: HB 224(EFD ADDED)
 AN ACT RELATING TO THE BOARD OF NURSING, AND PROVIDING
 FOR AN EFFECTIVE DATE

PRIME SPONSOR: HOUSE LABOR&COMM COMMITTEE. GENERAL DOLLARS: 00 (F. NOTE)
 OTHER DOLLARS: 00

CO-SPONSORS:
 CURRENT STATUS: 4/20/83 CHAPTER 0009 SLA 32

HB 224 HOUSE ACTION 17:05 8/04/84 PAGE 2 OF 3
 DATE SEQ PAGE LEGISLATIVE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/23/83	01	0323	FIRST READING -- COMMITTEE REPORTS
02/23/83	02	0324	L&C CHTE LETTER OF INTENT
03/07/83	03	0410	FIN -- DP10
03/07/83	04	0410	FIN F/NOTE EQUALS ZERO
03/09/83	05	0436	SECOND READING
03/09/83	06	0437	AM01 ADOPTED BY UNAN CONSENT
03/09/83	07	0437	ADVANCED TO 3RD READING BY UNAN CONSENT
03/09/83	08	0437	THIRD READING
03/09/83	09	0437	PASSED BY DIV 40-00-00
03/09/83	10	0437	EFFECTIVE DATE VOTE SAME AS PASSAGE
03/09/83	11	0437	NOTICE OF RECONSIDERATION GIVEN
03/11/83	12	0437	RECONSIDERATION NOT TAKEN UP
04/05/83	21	0750	TRANSMITTED TO GOVERNOR
04/20/83	22	0750	SIGNED BY GOVERNOR-CH0009, EFF 04/21/83
****	**	**	*** ** *

HB 224 SENATE ACTION 17:05 8/04/84 PAGE 3 OF 3
 DATE SEQ PAGE LEGISLATIVE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/14/83	15	0502	FIRST READING -- COMMITTEE REPORTS
03/25/83	16	0502	L&C -- SP04
03/31/83	17	0502	RLS -- OTHER03
4/04/83	18	0508	SECOND READING
4/04/83	17	0508	ADVANCED TO 3RD READING BY UNAN CONSENT
4/04/83	18	0508	THIRD READING
4/04/83	19	0508	PASSED BY DIV 17-00-03
4/04/83	20	0508	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** ** *

COMMITTEE REPORT

SENATE

FURTHER:

3/14/83

Date: March 24, 1983

Mr. President:

The Committee on Labor & Commerce has had HR 224 (Efd added)
Relating to the board of nursing; eff. date

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Blair

 CHAIRMAN

Name (please print)	Address	Representing	Testify?? (YES or NO)	Phone Number
HARRY TREAGER	DEPT OF COMMERCE	OCCUPATIONAL Lic	YES	2534
Sammie Rint	President, Bd of Nursing	→		

Board of Nursing

STATISTICS
(FY '83)

July 1, 1983 to February 14, 1983 (present)

BOARD OF NURSING:

(Renewals by month)

<u># of Renewals:</u>			<u>RN</u>		<u>LPN</u>
RN = 3506	ANP = 37	July	180	--	162
LPN = 228	RNA = 11	Aug.	2409	--	10
		Sept.	600	--	17
		Oct.	190	--	13
		Nov.	75	--	11
		Dec.	27	--	5
		Jan.	17	--	10
		Feb.	8	--	0
<u># of Initial licenses:</u>					
RN = 329	ANP = 13				
LPN = 113	RNA = 12				
<u># of Current licensees:</u>					
RN = 3963	ANP = 48				
LPN = 1304	RNA = 20				

Money received: \$99,200.50

DAVID T. WALKER
ATTORNEY AT LAW
MENDENHALL BUILDING
326 FOURTH STREET, SUITE B
JUNEAU, ALASKA 99801
(907) 586-3537

March 22, 1983

The Honorable Dick Eliason
Chairman, Senate Labor and
Commerce Committee
Pouch V
Juneau, Alaska 99811

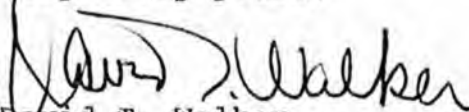
Re: Continuation of the Board of Nursing
(HB 224)

Dear Senator Eliason:

House Bill No. 224 (efd added) continues the existence of the Board of Nursing until June 30, 1987. Speaking on behalf of the Alaska Nurses Association I would like to stress that it is essential to the public interest for the practice of nursing to be regulated in a manner that will insure protection of the public through the maintenance of high standards of nursing practice. The Association strongly supports the continuation of the Board of Nursing. Continuation of this Board is necessary to protect the public's health, safety and welfare. I look forward to meeting with the Committee to support this measure.

If there are any questions that you or any member of the Committee, or Committee staff have regarding the Association's position, or any way I may be of assistance to the Committee, please contact me.

Very truly yours,


David T. Walker

DTW/cah

cc: Senate Labor & Commerce Committee Members
Sammye Rink, R.N.
Gail M. McGuill, R.N.
V. Kay Jahdenpera, R.N.

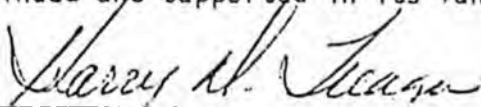
POSITION PAPER
BOARD OF NURSING
HB 224

The Department of Commerce and Economic Development would support continuation of the established Board of Nursing.

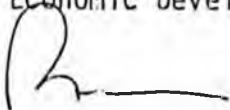
The board has been active in carrying out its mandated functions and operated in the interest of the public. Their function is necessary to protect the public, and insure competent, qualified practitioners are licensed. There presently are 5,335 active licensed nurses in four categories. Of these, 467 were new licensees.

Projects the board has actively been pursuing are: a consumer survey addressing the effectiveness of the profession, the availability of the services professionals offer, and the consumers' attitude regarding educational levels and continued education requirements. They have confronted license violations and have taken appropriate, corrective action.

The Board of Nursing should be continued and supported in its functions.



Harry D. Treager, Director
Division of Occupational Licensing
Department of Commerce and
Economic Development

 3/4/83

Richard A. Lyon, Commissioner
Department of Commerce and
Economic Development

BOARD OF NURSING

CURRENT NUMBER OF LICENSEES 5,267

FY '82

Revenues	51.2
Expenditures	92.7

Personal Services	69.2
Board Travel & Per Diem	15.0
Contractual	8.0
Commodities	.5
TOTAL	<u>92.7</u>

FY '83 Allocated 21.1 (For Board travel and Per diem only)

Revenue (7/1/82 to 2/14/83)	99.2
Expenditures	39.5

Board Travel & Per Diem	5.7
Contractual	7.5
Personal Services (7/82 to 2/83)	26.3
	<u>39.5</u>

FY '84 (Board Component - Division Budget) Total 201.5

Nursing Board Allocation 22.3

- *Personal Services
- Contractual
- Commodities
- Equipment

*The above are supported by the Administration component of the Division's budget.

STATISTICS
(FY '83)

July 1, 1983 to February 14, 1983 (present)

BOARD OF NURSING:

(Renewals by month)

of Renewals:

RN = 3506

ANP = 37

LPN = 228

RNA = 11

of Initial licenses:

RN = 329

ANP = 13

LPN = 113

RNA = 12

of Current licensees:

RN = 3963

ANP = 48

LPN = 1304

PNA = 20

	<u>RN</u>	--	<u>LPN</u>
July	180	--	162
Aug.	2409	--	10
Sept.	600	--	17
Oct.	190	--	13
Nov.	75	--	11
Dec.	27	--	5
Jan.	17	--	10
Feb.	8	--	0

Money received: \$99,200.50

Bill Fact Sheet

Date Received 3/14

Bill Number #B224 Title Bd of Nursing

Fiscal Note - Date Requested _____ Date Received _____

- Of Whom _____

Dept WVA Position Leg. Audit Paper - Date Requested 3/21 Date Received _____

- Of Whom _____

Resource People

Harry Traeger -
Sammy Rink - Chair - Bd of Nursing

Initial Hearing - Date 3/24/83
People Contacted

Harry Traeger - 3/21
Sammy Rink - Chair - Bd of Nursing - (Traeger will call)
H-12C back-up - requested 3/21

Follow-up Hearing - Date _____

Final Action Senate
passed - Labor + Comm Date 3/24/83

H

B

2

2

5

#1

HB 225 TITLE & SPONSOR SUMMARY 16:19 5/22/84 PAGE 1 OF 3

AMENDED TITLE: CSHB 225(HESS)
AN ACT RELATING TO THE PRACTICE OF OPTOMETRY AND AUTHORIZING
THE USE OF CERTAIN DRUGS BY OPTOMETRISTS
PRIME SPONSOR: MARTIN.

CO-SPONSORS:
CURRENT STATUS: 5/12/84 IN (S) LABOR & COM

HB 225 HOUSE ACTION 16:19 5/22/84 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/23/83	01	0327	FIRST READING -- COMMITTEE REPORTS
02/29/84	02	2753	HESS -- CS93, OTHER01
02/29/84	03	2753	HESS F/NOTE EQUALS ZERO
03/30/84	04	3143	SECOND READING
03/30/84	05	3143	HESS CS ADOPTED BY UNAN CONSENT
03/30/84	06	3144	ADVANCED TO 3RD READING BY UNAN CONSENT
03/30/84	07	3144	THIRD READING
03/30/84	08	3144	PASSED BY DIV 26-11-03
03/30/84	09	3144	NOTICE OF RECONSIDERATION GIVEN
04/02/84	10	3171	POSTPONED UNTIL 04/03/84 BY UNAN CONSENT
04/03/84	11	3191	POSTPONED UNTIL 04/04/84 BY UNAN CONSENT
04/04/84	15	3210	PASSED ON RECONSIDERATN BY DIV 26-10-04
04/04/84	12	3208	RETURNED 2ND READING BY DIV 22-14-04
04/04/84	13	3208	AM01 ADOPTED BY DIV 21-15-04
04/04/84	14	3209	FLD RETURN 2ND READING BY DIV 14-24-02
****	**	**	*** ** *

HB 225 SENATE ACTION 16:19 5/22/84 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/05/84	16	2645	FIRST READING -- COMMITTEE REPORTS
05/12/84	17	3061	HESS -- CS92, NR01 LABOR & COMMERCE RULES
****	**	**	*** ** *

SECTIONAL ANALYSIS FOR SENATE CS FOR CSHB 225 (HESS) - AN ACT RELATING TO OPTOMETRY AND AUTHORIZING THE USE OF CERTAIN DRUGS BY OPTOMETRISTS.

- SECTION 1 Amends the DUTIES of the MEDICAL BOARD to include assisting the board of optometry in the development of a list of diagnostic drugs for the use of optometrists with a license validation.
- SECTION 2 Amends the statute limiting those who may practice medicine in the state to include the use of diagnostic drugs by optometrists with a license validation.
- SECTION 3 Places on licensed physician on the Board of Optometry and specifies that the public member shall have no interest in optometry, medicine or opticianry.
- SECTION 4 Amends the optometry statute regarding adoption of regulations to include regulations on diagnostic drugs, and the educational requirements for a license validation to use drugs.
- SECTION 5 Adds to the POWERS AND DUTIES of the optometry board the development of a list of diagnostic drugs and their dosages to be used by optometrists with a license validation, to be done with the state medical board. The board must also provide for continuing education requirements and the development of a test concerning the use of diagnostic drugs.
- SECTION 6 Amends the REGISTRATION part of the optometry chapter to provide that an optometrist may not practice beyond the scope of training, with qualifications to be determined by the board.
- SECTION 7 Adds a new section to the optometry statute to require a medical referral by an optometrist who encounters a pathological condition in a patient.
- SECTION 8 Adds to the GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS for optometrists new subsections relating to practice beyond the scope of the license, use of drugs in violation of the chapter and use of the word Doctor in the title without optometry.
- SECTION 9 Adds a new section relating to DIAGNOSTIC DRUGS to the optometry statute providing that an optometrist desiring to use drugs must be registered and certified in the state, prove educational qualifications, pass a board administered exam, complete continuing education to maintain a validation and that the Board must submit a list of optometrists with license validations to the Board of Pharmacy.
- SECTION 10 Amends definitions of optometry and practicing optometrist to include diagnostic drugs, and adds a definition of diagnostic drugs limiting those to cyclopegics and mydriatics approved under this chapter.

Alaska State Legislature

Representative Milo Fritz
District: 5
P.O. Box 158
Anchor Point, Alaska 99556
(907) 235-8366



While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4833

House of Representatives

MILO FRITZ

MEMORANDUM

TO: Senator Richard I. Eliason
FROM: Representative Milo H. Fritz, M.D. *MHF*
DATE: May 17, 1984
SUBJ: Committee Substitute for House Bill 225

"An Act relating to the practice of optometry and authorizing the use of certain drugs by optometrists."

This bill is an example of the worst kind of special interest legislation. The purpose is not to make things better for the people of Alaska but to allow optometrists to practice medicine.

Up to this time the practice of medicine, which includes the writing of prescriptions and the use of drugs among which of course are eye drops, has been properly restricted by the will of the people, through the Medical Practice Act, to those who have graduated from a class A medical school who have received an M.D. degree and who have passed an examination or been licensed by a reciprocity to practice medicine in the state of Alaska.

By permitting optometrists to use drugs, one is in effect saying that, people who wish to practice medicine including the prescribing of drugs are so dumb that they have to fulfill the above mentioned qualifications to be M.D.'s or optometrists are so smart that they don't need to comply with the regulations of the Medical Practice Act.

Up to the present time optometrists have been able to employ their services for the good of Alaskans all over the state quite satisfactorily without invading the practice of medicine. Therefore, there is no reason at all for them to be using drugs as they wish to without complying with the regulations of the Medical Practice Act.

Optometrists go out into the bush and are able to extend the services for supplying eyeglasses and contact lenses to people in remote areas without the use of drugs. There is no reason why they

To All Physicians
May 17, 1984
Page 2

should be allowed to practice medicine only because they wish to and not because it is going to do any good for the people in the remote areas.

In the Bethel area there are at least two optometrists who do itinerant optometry in the very small villages. When a problem arises, for which drugs might be necessary, the optometrists in question call the M.D. in charge of their activities back at the Bethel Hospital and are then permitted to use certain medications, under the direction of the M.D. supervisor who ultimately is responsible for the good or bad result of what is done.

Allowing optometrists, after a crash course in diseases of the eye, to diagnose and treat disease is like allowing a two hundred hour light plane pilot to assume the command of a 747 jet. It also may be like letting a law clerk who has more or less specialized in one aspect of the law to practice law without passing the bar examinations, graduating from law school, or obtaining a Bachelor of Law degree or one more advanced.

This bill attempts to do by legislation what optometrists should be required to do by education and licensure. Such a subversive effort to circumvent the Medical Practice Act should be thwarted by the overwhelming defeat of this piece of pernicious legislation.

There is no indication that anybody is doing without eyeglasses or contact lenses who requires them under the present system of care either by M.D.'s or by optometrists. Therefore, there is no reason why the sphere of optometrists should be increased by allowing them to practice medicine.

An examination of the bill allows the ignorance of optometrists regarding the practice of medicine to shine through. On page 5 lines 23 through 28 they speak of being denied the use of "of inflammations" which of course is a meaningless phrase since inflammations are not induced for the cure of any eye disease, although, this was once the case 40 years ago under certain circumstances.

In the list of drugs on page 4 lines 1 through 10, line 3 speaks of "anti-infectives", this of course is a meaningless hyphenated word and apparently refers to a drug that would combat infections. If these people not having been to medical school are not in a position to diagnose and treat disease it seems quite obvious that they are in no position to pick out proper drugs for infections, whatever their cause. Without understanding or being skilled in

To All Physicians

May 17, 1984

Page 3

the use of bacterial sensitivity tests and other means of determining what an infectious agent might be it renders any use of anti-inflammatory drugs by optometrists completely meaningless and potentially dangerous.

The use of cycloplegics on line 7 and corticosteroids on line 6 demonstrates a complete ignorance of the dangers that these drugs represent, as do certain mydriatics line 10.

It is my feeling that this bill is completely against the public interest and should be roundly defeated.

Milo H. Fritz, M.D.

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

While in Juneau

POUCH V
JUNEAU, ALASKA 99811

Senate

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE

MEMBER
SENATE JUDICIARY COMMITTEE

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

April 16, 1984

Ed Craig, O.D.
348 Main Street
Ketchikan, Alaska 99901

Re: HB 225

Dear Ed:

You and I have been arguing over the years about the wisdom of allowing optometrists to utilize drugs in the practice of their profession.

I regret to inform you that, notwithstanding the fact you are a long-time friend and an occasional client, I have not changed my opinion.

It would follow that I cannot support the captioned bill in any form whatsoever.

I don't hold any particular torch for the ophthalmologists or the medical doctors, but I believe, on balance, that their arguments are much more persuasive than yours.

You'll probably vote for Bob Garza the next time out!

Incidentally, I have sent copies of this letter to a mixed bag of medical doctors and ophthalmologists.

Regards,

BZ

Robert H. Ziegler, Sr.

cc: Representative Milo Fritz

May 16, 1984

Dear Senator Elias:

It is my understanding that a bill to allow an Optometrist to give Prescription medications to patients is again before your body. Several hearings have already been held and it seems this bill continues to resurface year after year. I see hundreds of children each year in my job and continue to feel that children and adults with eye injury or disease should be referred to a trained medical doctor for evaluation. Not only does the Opthomologist have the training of a physician, he has several years of specialized training in treating and diagnosing diseases and injuries of the eyes. As we all know, eyes are not replaceable. Let us NOT compromise on their care. Please recommend a DO NOT PASS the optometric drug bill.

Thank you,

A handwritten signature in cursive script, reading "Wanda Van Hoomissen R.N.", written in dark ink.

Wanda Van Hoomissen R.N.

Tanana Junior High School Nurse
Coordinator of School Nurses

JAMES H. PATTERSON, M.D.

A Professional Corporation

Subspecialty Pediatric Ophthalmology

3500 LA TOUCHE

ANCHORAGE, ALASKA 99504

April 09, 1984

Dear Senator Eliason:

You will probably be asked to consider and to vote on ammended HB 225, the optometric drug bill which was recently passed by the House. As a medical doctor and an ophthalmologist, I feel that this legislation is not needed nor is it in the best interest of the people of the State of Alaska.

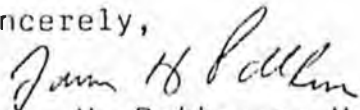
Giving nonmedical practioners the unrestricted use of "legend drugs" for diagnostic purposes would allow the use of such broad categories of drugs such as topical anesthetics (drugs which numb the eye) mydriatics (drugs which dilates the pupil), miotics (drugs which constricts the pupil and also is used to treat glaucoma). This bill would allow optometrists the use of such drugs as cocaine (a mydriatic and a topical anesthetic) and atropine (mydriatic). If atropine is given to certain members of our population it can precipitate narrow angle glaucoma which is an abrupt rise in the internal eye pressure which can cause a severe reduction in vision and eventual blindness. Acute narrow angle glaucoma is an eye emergency and requires surgical intervention and treatment all of which is way beyond the scope of optometry.

HB 225 as written would have the Board of Optometry alone deciding what legend drugs maybe used and by whom. There would be no cross checks by the Board of Pharmacy or Medicine. This could be likened unto one branch of our government, namely the executive, legislation or judical section deciding by themselves alone what policies and laws are best for the people of the State of Alaska!

I have previously sent articles to your HESS and Financial Committee chairpersons showing the vast difference in the number of hours of training between optometrists and ophthalmologists, as well as the ease with which significant eye disorders maybe detected and appropriately referred without the use of topical eye mediciations. Please look at the articles again.

If I can furnish any additional information or clarify any of the points I have attempted to make, please do not hesitate to contact me. Please do not allow HB 225 to pass.

Sincerely,



James H. Patterson M.D.
JHP/ez

Office 562-2969
Home 345-3215

STANLEY N. JONES, M.D.
HAINES, ALASKA 99827

REPLY BY AIR MAIL

April 10, 1984

Honorable Senator Dick Eliason
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

I am writing to you to express my displeasure with HB 225. I am opposed because it is a hazzard to the people of Alaska to receive treatment with medications by people who are not trained in pharmaceutical and drug treatment.

Once a group is granted certain rights, the grandfather clause frequently continues those rights, even if it is discovered that a mistake in judgement was made in granting the rights. Only authorize those people to practice medicine who have been licensed to practice medicine by the State of Alaska.

Would the state license me to captain one of their ferries just because I have operated my own boat? Certainly the liability exposure would be greater then with a trained and certificated vessel captain. Even with such precautions an occasional rock gets scraped. Lets be as careful with medicine as we are with our ferries, planes, courts, schools, and many other public services.

I believe that it is the responsibility of the legislature to look after the proper protection of all of the citizens of the state.

Sincerely yours,

Stanley N. Jones, M.D.

SNJ/da

Alaska State Legislature

Representative Milo Fritz
District 5
P.O. Box 158
Anchor Point, Alaska 99556
(907) 235-8366



While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4833

House of Representatives

MILO FRITZ

MEMORANDUM

TO: All Senators

FROM: Representative Milo H. Fritz *Milo*
Member House Finance

DATE: May 18, 1984

SUBJ: HB 225...Optometry Bill & HB 347...Naturopath Bill

In order to practice medicine in Alaska one needs to graduate from a medical school, receive an M.D. Degree, serve as an intern or resident for a year, and obtain a license to practice following examination or by reciprocal agreement with States that have Medical Practice Acts similar to ours.

That the people of Alaska want diagnosis and treatment carried out by M.D.'s is attested to by the Medical Practice Act AS.08.64.200.

Now in HB 225 optometrists wish to diagnose and treat disease without complying with AS.08.64.200 and quote all sorts of spurious reasons for being allowed to do so. They attempt to gain by legislation what M.D.'s are granted as the result of education and experience.

The eye needs of Alaska are being met quite well with optometrists practicing optometry and M.D.'s practicing medicine as they do right now.

I will call on each of you personally to find out if I can count on your torpedoing this legislation because it is inimical to the people of Alaska.

I seek the same response for the same reason to the Naturopathic bill HB 347.



AMERICAN ACADEMY OF OPHTHALMOLOGY

April 12, 1984

Ms. Nancy Dietrick
c/o Senator Josephson
Pouch V
Juneau, AK 99811

Dear Nancy:

It was a pleasure to speak with you yesterday. I appreciate the time you took to tell me about the status of HB 225.

Attached are two Policy Statements prepared by the Academy that pertain to your efforts: one on the subject of Optometric Use of Drugs for Diagnostic and Therapeutic Purposes, and the other on Appropriate Referral.

The president of the Alaska State Ophthalmological Society is Dr. Peter Cannava, MD, Box 1629, Soldotna, AK 99669. He can be reached at (907) 262-4462, should you be seeking experts to testify on HB 225 on April 18, 1984. I am sure he would welcome an invitation.

I hope this information is of some help.

Sincerely,

Henry L.D. Ebert
Assistant Director
State and Subspecialty Relations

HE:mlp

Enclosures

POLICY STATEMENT

AMERICAN ACADEMY OF
OPHTHALMOLOGY

OPTOMETRIC USE OF DRUGS FOR DIAGNOSTIC AND THERAPEUTIC PURPOSES

Policy:

The American Academy of Ophthalmology believes no need exists for the use of drugs by optometrists for diagnostic and/or therapeutic purposes and therefore opposes legislation permitting such use.

Background:

Optometrists are not and need not be qualified by education, training or experience to diagnose eye disease or systemic disease. The diagnosis of eye disease and systemic disease constitutes the practice of medicine. Optometrists do examine patients with eye complaints, some of whom do not have problems entirely attributed to refractive errors (optical defects) correctable by glasses. Optometrists should be encouraged in the course of their examination to observe certain signs and question certain symptoms and refer such patients to licensed physicians and surgeons for definitive diagnosis and treatment where indicated.

Evaluation:

Drugs are not necessary to measure eye pressure. Technology is widely available for the measurement of eye pressure without the use of anesthetic eye drops. These tests are sufficiently accurate for screening purposes to identify a patient suspected of having glaucoma.

In the absence of visual symptoms, most abnormalities causing changes in the back of the eye can be detected by using examining techniques other than dilatation of the pupil. In those cases where enlargement of the pupil is required, special diagnostic equipment is also required that necessitates training and experience not possessed by optometrists.

Drugs may have very serious side effects including death. Optometrists are not trained to administer emergency medical treatment to patients suffering severe drug reactions nor are they licensed to administer emergency drugs. Some eye drugs can precipitate an attack of acute glaucoma in minutes or hours. This serious vision-threatening emergency

OPTOMETRIC USE OF DRUGS FOR DIAGNOSTIC AND THERAPEUTIC PURPOSES

Page 2

must be recognized immediately and treated medically and/or surgically. Only an ophthalmologist is qualified to administer medical and/or surgical treatment to patients with acute glaucoma.

Developed by: Committee for State Affairs
Secretariat for Governmental Relations

Approved by: Board of Directors, 6/27/81

POLICY STATEMENT

AMERICAN ACADEMY OF
OPHTHALMOLOGY

APPROPRIATE REFERRAL

Policy:

The American Academy of Ophthalmology supports the concept of appropriate referral of patients by non-medical practitioners to licensed physicians and surgeons when certain signs are observed and/or certain symptoms reported of possible eye disease or injury.

Background:

Many eye diseases, and systemic diseases that affect the eyes, have subtle signs and minimal or no symptoms. Optometrists and other non-medical practitioners are not qualified by education, training or experience to diagnose or treat these diseases. Failure to refer individuals with such diseases or to refer them promptly to a physician may result in unnecessary blindness or significantly impaired vision.

Evaluation:

Patients usually seek the advice of ophthalmologists or optometrists for evaluation of eye complaints (although on occasion pediatricians, internists, generalists and other physicians are consulted and treat certain eye conditions). Only ophthalmologists are qualified by education, training and experience to provide total eye care which includes a medical eye examination as well as a vision examination (refraction).

A mechanism must be provided to protect the large number of patients who initially select a non-medical practitioner for evaluation of what turns out to be a medical problem.

Guidelines:

To insure that these patients are referred promptly for definitive diagnosis and treatment when indicated, the following guidelines are recommended:

A non-medical practitioner providing service to any person should refer such a person to a licensed physician and surgeon for definitive diagnosis and treatment at any time a patient requests, when any eye disease or central nervous system disorder is suspected, or when the non-physician notes:

- (a) failure to achieve correctable 20/40 visual acuity in either eye unless the cause of the impairment has been medically confirmed earlier;

APPROPRIATE REFERRAL

Page 2

- (b) complaints of flashes of light, recent onset of floaters, halos, transient dimming or distortion of vision, obscured vision, loss of vision or pain in the eye, lids, or orbits, double vision or excessive tearing of the eye;
- (c) reports of permanent or temporary loss of any part of the visual field or clinical suspicion or documentation of such field loss;
- (d) presence of detected opacities or abnormalities in the normally transparent media of the eye, the ocular fundus, or the optic nerve head;
- (e) presence of a tumor or swelling of the eyelids or orbit or protrusion of one or both eyes;
- (f) presence of inflammation of the lids, conjunctiva or globe, with or without discharge;
- (g) strabismus or crossed eyes.

Developed by: Committee for State Affairs
Secretariat for Governmental Relations

Approved by: Board of Directors, 10/3/81

REF ID: A6648400 PRT 1 07/21/81 11:21-15 ORIG 1304 IN# 0000 DATE 0887
FROM: JUNEAU
TARGET LINE SUBJ: PGM 2
TO: JUNEAU

TO: SENATOR ELIASON

FROM: DR. KEN CHANG
SITKA DENTAL CLINIC
BOX 333
SITKA, AK. 99635 747-3104 (HI) OR 7-3204

I SUPPORT THE DENTISTRY BILL SITTING IN YOUR COMMITTEE. WOULD YOU
PLEASE GET UPON THIS BILL AND PASS IT THROUGH YOUR COMMITTEE.

THANK YOU.

SITKA LTD. 5-27-81 40470

FOR

THE SENATE SHOULD SUPPORT HOUSE BILL 225 BECAUSE IT ALLOWS OPTOMETRISTS TO PROVIDE MODERN TECHNOLOGY AND IT DECREASES THE COST OF EYE CARE.

RE: HB 225 OPTOMETRY

1694 ELWENDORF DRIVE
ANCHORAGE 99504
H 333-3242 W 276-1726

FROM:

TO: ALL MEMBERS OF THE SENATE

TARGET: LUK SUBJ: P O M

FROM: MARIE, AND INFO

HSG 84-00043542 PRTY 1 05/09/84 08:54:57 ORIG. LAGG. IN=0002 OUT=0917
TO: POM, JUNEAU INFO

HSC 84-00045557 PRTY 1 05/15/84 14:31:53 ORIG: LA09 IN= 0006 OUT= 0069
FROM: PAT/ANCH LIO TO: JUNEAU LIO
TARGET: LHR SUCC: POH 6

TO: SENATORS ELIAZON, GULCAHY, PETTYJOHN, RODEY
AND SACKETT

FROM: HAROLD SHOFF, H.O., 7925 SECLUSION DRIVE;
ADLHORGE, GR 92504
PHONE: 353-450010; 531-145300

I WOULD LIKE TO EXPRESS MY OPPOSITION TO HB225 AS
IT IS AN ATTEMPT TO ELEVATE OPTOMETRY FROM A
TECHNICAL SERVICE TO THE PRACTICE OF MEDICINE
BY LEGISLATIVE FIAT.

) MSG 84-00045492 PRTY 1 05/15/84 10:14:30 ORIG: LA18 IN= 0004 OUT= 0030
FROM: GARCIE, AND INFO TO: FGA, JOUVEAU INFO
TARGET: LJKK SUBJ: P O M 6

) TO: SENATORS ELIASON, MULCAHY, PETTYJOHN, RODEY, SACKETT

) FROM: TOM HARRISON
) 4807 MITCHELLS WAY
) ANCHORAGE 99503
) H 333-6046 W 581-1530

) RE: HB 255 OPTOMETRY

) I BELIEVE THAT HB 255 IS AGAINST THE PUBLIC INTEREST AND SHOULD NOT
) BE PASSED BECAUSE IT ALLOWS INADEQUATELY TRAINED NON-PHYSICIANS TO
) CARE FOR EYE DISEASE.

) FGA

MSG 84-00045477 PRTY 1 03/15/84 09:36:15 ORIG: LH17 IN= 0001 OUT= 0025
FROM: KIH / ANCH LIU TO: POH / JNU INFO
TARGET= LJHC SUBJ: P O H

TO: SENATORS ELIASON, GULCANY, PETTYJOHN, ROBEY, AND SACKETT

FROM: JAMES PATTERSON 3500 LATOUCHE, ANCHORAGE 99508
H 345-3215 W 562-2969

SUBJ: HB225, OPTOMETRY, AUTHORIZE DRUGS

PLEASE VOTE NO ON AMENDED HB225 ALLOWING THE USE OF DIAGNOSTIC
MEDICINES BY OPTOMETRISTS. I FEEL THIS LEGISLATION IS NOT NEEDED
OR IN THE BEST INTERESTS OF THE PEOPLE OF THE STATE OF ALASKA.

MSG 84-00005845 PRTY I 05/16/84 09:54:16 ORIG: LA17 IN= 0003 OUT= 0032
FROM: KIH / ANCH LIO TO: POM / JRU INFO
TARGET: LJK SUBJ: P O M

TO: ALL MEMBERS OF THE SENATE

FROM: WICKY BLOWER, 3727 COVENTRY DRIVE, ANCHORAGE 99507
H 349-7430

SUBJ: HB225, OPTOMETRY/AUTHORIZE DRUGS

I URGE YOU TO VOTE YES ON OPTOMETRY BILL, HB225. ITS PASSAGE
WILL ENSURE ALASKANS THE SAME QUALITY, READILY AVAILABLE EYE CARE
EXPERIENCED IN THE LOWER 48 FOR YEARS.

MSG 84-00043510 PRTY 1 05/17/84 11:50:12 ORIG: LF90 IN= 0001 OUT= 0054
FROM: PAULA/FKZ TO: JHU INFO
TARGET: LJKR SUBJ: POH

TO: SENATOR ELIASON

FROM: DOREEN JONES
P.O. BOX 58398
FAIRBANKS, AK, 99711
483-2506-H 479-6549-W

RE: HB 225, OPTOMETRIC PRACTICE

MSG: DO NOT PASS THE OPTOMETRIC DRUG BILL. -----EON

MSG 84-00040010 PPT 1 05/17/04 14:35:22 ORIG: LF00 ID: 0003 OUF: 0086
FROM: TRACIE/FBK TO: JNU INFO
TARGET: LJK SUBJ P00 6

TO: SEAS ELIASON, WULCAHY, PETTYJOHN, SACKETT, RODES

FR: PERRY WEDEN, R/P
705 BENTLEY DR. WEST
CBS, 92701

RE HB225 DETORRETT BILL

MSG: I DO NOT FEEL THAT YOU SHOULD PASS HB225. OPTIMALLY YOU SHOULD
ONLY PASS QUALIFIED DEFENSE BUDGETS.

END

006 31-98646a01 PRTY 1 05/17/84 14:28:52 ORIG: LK60 IHE 0004 OUT: 0085
FROM: BONDIE WETCHIKAN TO: BUREAU INFORMATION
TOGET: LHR SUBJ: FOR §

TO: SENATORS ELIASON, BULGARY, PETTYJOHN, ROBEY, SACETT, AND ZINGLER
REPRESENTATIVE FRITZ

FROM: JAMES A. NELSON, M.D.

P.O. BOX 3573

WETCHIKAN, WASH DC 20501

(202) 335-5225 (HOME) (202) 225-4101 (OFFICE)

RE HOUSE BILL 225, OPTOMETRIZING OF CERTAIN DRUGS BY OPTOMETRISTS

LABELLED VITAMINOL TO OPTOMETRISTS USING AND PRESCRIBING, DEVICES TO TREAT
AND DIAGNOSTIC EYE DISEASES. THIS PROPERLY CONSTITUTES THE PRACTICE OF
MEDICINE FOR WHICH THEY ARE NOT TRAINED.

END PAGE

MSG 84-00046543 PRY 1 05/17/84 12:49:11 ORIG: LA32 IN= 0003 OUT= 0064
FROM: DAVE/AHC LIO TO: PON - JRO LIO
TARGET: LJKK SUBJ PON 6

TO: THE SENATE LABOR & COMMERCE COMMITTEE. SENATORS ELIASON, MULCHAY,
PETTYJOHN, RODEY AND SACKETT.

FROM: DONALD W. DIPPE
2811 DEBARF RD, SUITE 35
ANCHORAGE, AK 99508
W: 264-1405

RE: HB 225

MESSAGE: I BELIEVE HB 225 DOES NOT PROMOTE THE BEST HEALTH INTERESTS OF THE
PEOPLE OF ALASKA. I URGE YOUR SUPPORT TO DEFEATING HB 225.

PON - 5/17/84.....DAVE/AHC LIO.....MSG 46543

TO: THE SENATE LABOR AND COMMERCE COMMITTEE SENATORS ELIASON, MULCHAY,
PETTYJOHN, RODEY AND SACKETT.

FROM: JOE STIEL
2516 NORTH OLYMPIC DR
ANCHORAGE, AK 99503
213 7160

RE: HB 225

MESSAGE: AS A PRACTICING OPTOMETRIST IN ANCHORAGE FOR 10 FEW YEARS, I
RECORDED THAT HB 225 NOT BE PASSED. TOO MUCH CONCUSSION ALREADY EXISTS IN THE
POLITICAL RING AS TO WHO IS QUALIFIED TO PERFORM CONTACT LENSES. TREAT THE CONTACTS
AND DO THE SURGERY. PASSING THIS BILL WILL NOT SERVE THE PUBLIC INTERESTS.

MSG 81-06045453 PRTY : 05/17/84 11:03:48 ORIG: LF01 IN= 0007 OUT= 0042
FROM: PAULA/FRS TO: JHU INFO
TARGET: LJKK SUBJ: POM

TO SENATOR ELIASON

FROM: CAROL SECOR
314 ESTER
FAIRBANKS, AK. 99701
472-6594-H

RE: HB 325, PRACTICE OF OPTOMETRISTS.

MSG: DO NOT PASS OPTOMETRIC DRUG BILL.

-EOM

MSG 34-00048579 PRTY : 05/17/84 13:36:02 ORIG: LA18 IN= 0007 OUT= 0076
FROM: MADDIE, ANO INFO TO: POB, JUNEAU INFO
TARGET: LHM SUBJ: P O M

TO: ALL MEMBERS OF THE SENATE

FROM: PHILLIP E. JONES, M.D.
11500 DOOGIE AVENUE
ANCHORAGE 99516
H 345-3349 W 342-9611

RE: HB 225 OPTOMETRY

AS AN EMERGENCY PHYSICIAN, I PLEAD YOU DEFEAT HB 225. THE USE OF
CYCLOPLEGICS AND HYDRGATED BY OPTOMETRISTS IS DANGEROUS. I HAVE SEEN
THREE PATIENTS HAVE CARDIAC ARREST FROM THESE DRUGS. ONLY MEDICAL
DOCTORS WHO UNDERSTAND THESE DRUGS AND WHO ARE TRAINED TO DEAL WITH THEIR
CONSEQUENCES SHOULD USE THEM.

END

MSG 84-00046931 PRY 1 05/18/84 14:45:22 ORIG: LF20 IN= 0001 OUT= 0001
FROM: PAULA/FKZ TO: JNU INFO
TARGET: LJHK SUBJ: PCH

TO: SENATOR ELLISON

FROM: GOROTHY STELLA
235 TOLLAROD
FOURBARKS. AP, 99701
936-1454-H 372-1265-W

RE: HB 225, PRACTICE OF OPTOMETRISTS

HSC FOR OBVIOUS REASONS I FEEL VERY STRONGLY THAT OPTOMETRISTS SHOULD NOT
PRESCRIBE MEDICATION FOR TREATMENT OF EYE DISEASE WITHOUT FIRST REFERRING THE
PATIENT TO AN OPHTHALMOLOGIST. THANK YOU, GOROTHY STELLA R.D.

-----END-----

MSC 34-99947900 PRTY 1 65/23/84 10:47:09 ORIG: LX00 IN= 0905 OUT= 0041
FROM: SITKA TO: JUREAU
TARGET: LJKK SUBJ: P04

TO: SENATOR ELIASON

FROM: DR. WAYNE HAGERMAN, SITKA VISION CLINIC
BOX 338
SITKA, AK 99855 (907)47-3856 (907)47-6344

RE: HB 325, OPTOMETRY/USE OF CERTAIN DRUGS BY OPTOMETRISTS

I WOULD URGE YOU TO SUPPORT HB 325 IN THE AMENDED FORM TO INCLUDE THE USE OF
OPTICAL INSTRUMENTS. I HAVE PRACTICED IN THE STATE OF ALASKA AND U.S.
OPTOMETRIC SOCIETY AGENTS SINCE FOR THE LAST THREE YEARS.

INVESTIGATIONS - OPTOMETRY

<u>Fiscal Year</u>	<u>Allegation</u>	<u>Filed By</u>	<u>Location</u>	<u>Disposition</u>
1981	Fee Dispute	Citizen	Ketchikan	No Violation No Jurisdiction Referred to Legal Counsel
1982	Expired License Cease & Desist	Investigative Section	Anchorage	Compliance Renewed License Removed from Board
1982	No Branch Office License	Investigative Section	Homer/ Anchorage	Compliance Licensed
1982	Unauthorized Dispensing of Drugs	Citizen	Bethel	Reprimand Compliance
1984	Window Display of Glasses Violation of 12 AAC 48.070(2) Unprofessional Conduct	Optometrist	Anchorage	Normal Window w/ View of Office Interior-Declined to Prosecute Regulation Violates Anti-Trust Laws
1984	Withholding Patient Records	Citizen	Anchorage	No Violation Patient Advised of Rights Under AS 18.23.065

BOARD OF EXAMINERS IN OPTOMETRY
EXAMINATION STATISTICS

EXAMINATION DATE	NUMBER OF APPLICANTS	PASSED	FAILED
<u>JUNE 11, 1979</u>			
Patient Exam	4	3	1
Pathology	4	3	1
Ophthalmic Optics	4	2	2
Oral Exam	4	4	0
<u>JUNE 1980</u>			
Patient Exam	9	9	0
Pathology	9	6	3
Ophthalmic Optics	9	6	3
Oral Examination	8	8	0
<u>JUNE 1981</u>			
Patient Exam	6	6	0
Pathology	7	5	2
Ophthalmic Optics	6	6	0
Oral Examination	6	6	0
<u>JUNE 1982</u>			
Patient Exam	3	3	0
Pathology	3	2	1
Ophthalmic Optics	3	3	0
Oral Examination	3	3	0
<u>DECEMBER 1982</u>			
Patient Exam	4	4	0
Pathology	4	3	1
Ophthalmic Optics	4	4	0
Oral Examination	4	4	0
<u>JUNE 1983</u>			
Patient Exam	6	5	1
Pathology	7	3	4
Ophthalmic Optics	6	6	0
Oral Examination	6	6	0
<u>JANUARY 6, 1984</u>			
Patient Exam	4	4	0
Pathology	6	5	1
Ophthalmic Optics	4	4	0
Oral Examination	4	4	0

STATE OF ALASKA

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 Demember 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 advertisments 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 08.72.280. Further, failing to renew is a violation of AS 08.72.181 which requires payment of the fee and proof of continuing education.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
POUCH D, JUNEAU, ALASKA 99811
TELEPHONE: (907) 465-2536

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 immediatel
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, 1987 at Susitna, Alaska.

16 BY ORDER OF

18 COMMISSIONER
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

19 BY: Shirley M. Logan, Director
20 Name and Title

21 Division of Occupational Licensing
22 Agency Address
23 Juneau, Alaska
24 99811

25 CERTIFICATE OF SERVICE

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

29 _____ at _____
30 _____ on the _____ day of _____, 19____.

31 Name _____

32 Title _____

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
POUCH D. JUNEAU, ALASKA 99811
TELEPHONE: (907) 495-2530

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: BO 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
16 STATEMENTS OF FACT

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 08.72.181 and 12 AAC 48.020. His fees required to renew, including
31 delinquent charges, totalling \$270.00 were received this date.
32

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
POUCH D. JUNEAU, ALASKA 99811
TELEPHONE: (907) 465-2536

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
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STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

In the Matter of:

PHILLIP W. BACH, D.D.
Optometrist
Respondent

TEMPORARY CEASE AND DESIST ORDER
(AS 08.01.097)

File NO 62-049

REQUEST FOR HEARING

Respondent, pursuant to AS 08.01.087(b)(1), 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: 3701 Denali St.

Anchorage Alaska
City State

276-8120 99503
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.

STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
POUCH D, JUNEAU, ALASKA 99811
TELEPHONE (907) 468-2414

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

1111

H B

225

#2

The
ALASKA OPTOMETRIC ASSOCIATION

AFFILIATED WITH
AMERICAN OPTOMETRIC ASSOCIATION

PRESIDENT

May 14, 1984

The Honorable Dick Eliason
Chairman, Labor and Commerce Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

re: Senate CS for CS for HB225

The referenced committee substitute, currently before your Labor and Commerce Committee, contains four provisions which are unacceptable to optometry. These are:

1. Section 7 (mandatory referral)

Mandatory referral appears at first sight to protect the patient. However it would have the effect of denying, through legislation, the diagnostic and treatment capabilities of the profession of optometry, would result in unnecessary referral of many conditions manageable without prescription drugs. Most ominously, it would negate the professional judgment of the optometrist and serve as a first step toward ophthalmology's long held goal of bringing optometry under its control. If this sounds far fetched, consider the attached article from the May 1, 1983 issue of the American Optometric Association News, which makes reference to a law recently enacted in Peru requiring optometrists to work in the employ of ophthalmologists rather than practice independently. While the United States is not Peru, the motivation of ophthalmology in this country is the same: to eliminate a competitor. Ophthalmology has tried for years to pass mandatory referral legislation, and with the possible exception of Arizona and Utah, has not succeeded. The attached paper by Douglas Colton, J.D., details the economic self-interest inherent in such proposals by ophthalmology. The heart of the matter is discussed in pp. 15-18.

2. Section 3 (physician on optometry board)

Substitution of a physician (i.e. an ophthalmologist) for an optometrist on the optometry board would add no useful expertise, particularly for such a limited number of drugs, and would serve only to obstruct implementation. This is a classic case of sending the fox to guard the hen house. Physicians do not occupy dental boards; they should not occupy optometry boards.

Sen. Eliason
May 14, 1984
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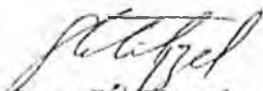
3. Section 12 (definitions) Omits anesthetics, the most widely used drug in optometry.


4. Section 9 (license validation) Board examination for licensed optometrists would effectively force ODs to re-take the course. Many of Alaska's ODs are already certified to use drugs in other states, or have recently passed the course (by examination) in Alaska.


As you may know by now, the large number of public opinion messages received by legislators from physicians throughout the state (opposing this bill) resulted from an urgent memo sent by Dr. Richard Parry, president of the Alaska State Medical Society, to society members urging them to call in POMs opposing the bill. It is easy for a physician, seeing something like this reach his desk, to pick up the phone and call the Legislative Information Office to help his colleagues in ophthalmology. The average physician has relatively little interest in this legislation, but the officers of his association, working with ophthalmology, can make it look like a burning issue in the physician community. This bill, like others opposed by militant minorities, tests the courage of every legislator's convictions.

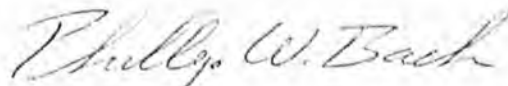
We urge you to pass out the House-passed version, with two changes (marked in red) that will make it acceptable as an interim piece of legislation allowing diagnostic legend drugs and over-the-counter therapeutics. The first change, in section 4, adds anesthetics, which are diagnostic drugs needed for tonometry (measure internal fluid pressure of the eye for possible glaucoma). The second change, also in section 4, reduces the hours requirement from 200 to 100, reflecting the elimination of the therapeutic drug categories by the Milo Fritz amendment on the House floor (House HESS CS enclosed for comparison). Also enclosed is a copy of the Washington State diagnostic drug bill, enacted in 1981. Its provisions would also be acceptable. However we cannot accept a bill more restrictive or difficult to implement than the Washington law and would recommend such a bill be rejected.

Very truly yours,


Gene E. Titzel, O.D.


Steven S. Dobson, O.D.


Jeffrey A. Gonnason, O.D.


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

FOR THE LEGISLATIVE COMMITTEE

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JG/PB/GT/SD:lr

5 Attach

cc: Senator Rodey
Senator Pettyjohn
Senator Mulcahy
Senator Sackett

Waxman to speak at Keyperson breakfast



Congressman Waxman

WASHINGTON, DC — Congressman Henry A. Waxman (D-CA), chairman of the House Energy and Commerce Health Subcommittee, will be the featured speaker at a special Congressional Keyperson breakfast June 27 during the AOA Congress here. Congressman Waxman will discuss health issues in the 98th Congress.

National Keyperson Coordinator Norman Hinkle, O.D., urged all AOA keypersons who will be at Congress to attend the breakfast. "This is an outstanding opportunity for our key legislative people to hear from one of the leading Congressional players in the area of health issues," Dr. Hinkle declared. Congressman Waxman's subcommittee has jurisdiction over a wide range of health programs, including Medicare.

VOSH trip cancelled by MD pressure

ST. LOUIS — Needy people in Peru waited in vain to be examined by optometrists from the United States recently after a Volunteer Optometric Services to Humanity (VOSH) mission to the country was cancelled at the last minute by pressure from ophthalmologists.

According to Ed Tuhy, O.D., of Carrington, ND, 15 volunteers were forced to cancel their trip at the last minute after a Peruvian Lions Club withdrew its support for the mission. That action, contends Dr. Tuhy, came as a result of pressure from Peruvian ophthalmolo-

gists. "It seems," he says, "that ophthalmology was instrumental in causing legislative changes in Peru which effectively reduced the status of optometrists to that of technicians who cannot write prescriptions for lenses, but can only be employed by ophthalmologists."

The VOSH team had been invited to Chimbote, Peru by Father Jack Davis, a missionary who has served the poor in the area for eight years. Father Davis told Dr. Tuhy that none of the people who would have been served by the team could afford the services of an ophthalmologist.

La Industria, a Peruvian newspaper, gave this account: "Several patients spent the night in the street in hopes of being examined by the North American optometrists. But the regional council of the Peru College of Medicine denied authorization to the optometrists to exercise the practice of medicine because they did not have the title of surgeon."

"The eye exam is the domain of

ophthalmology and these gentlemen did not have this title," Otto Cedron Alva, president of the College of Medicine, was quoted as saying.

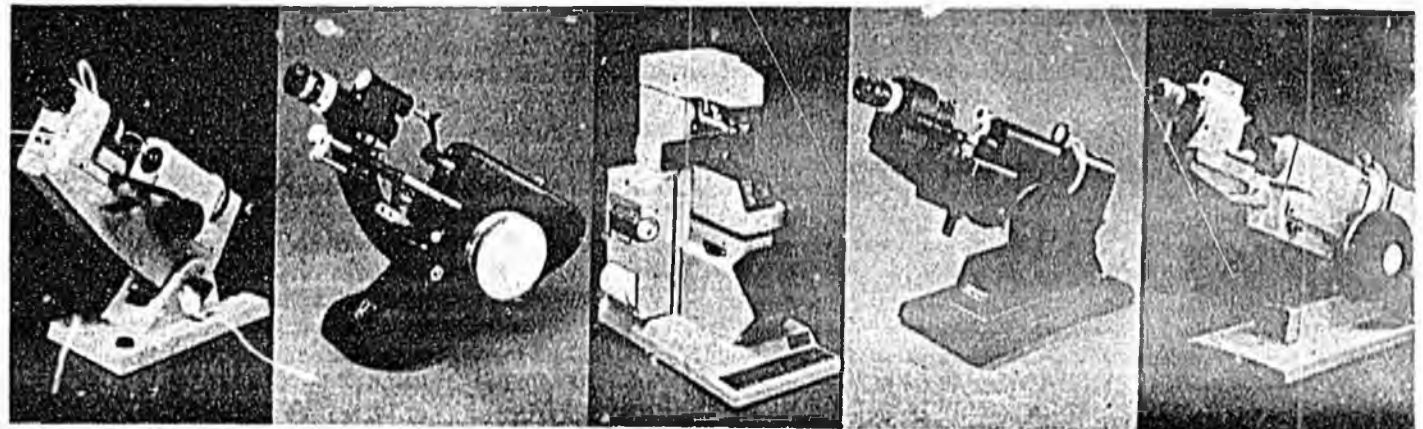
Asked by Peruvian reporters why the College of Medicine did not offer a mass eye exam program, Cedron Alva replied that the initiative for offering that sort of program rests with the Society of Ophthalmology and not with the College.

In related action, three Ferris State College seniors who attempted to set up a VOSH project in Trujillo, Peru were forced to abandon the project as illegal, and were escorted to the border and asked to leave the country.

"One must question the motives of a professional person who would prefer to see his needy countrymen go unserved than to endorse or support the noble efforts of VOSH," commented Dr. Tuhy.

Many of the volunteers from the aborted trip to Peru joined Minnesota VOSH volunteers on a trip to Medellin, Colombia where 3,500 poor people were served.

Register for
the AOA
Congress!



EVOLUTION OF PROFESSIONAL PRACTICE AND LICENSURE
AND THE IMPLICATIONS OF ECONOMIC REGULATORY LAW.

Douglas Colton, J.D.
Washington, DC

Presented at the Seventh Administrative and Legal Forum for State Health
Regulatory Boards. Sponsored by The Federation of Associations of Health
Regulatory Boards, San Diego, California, February 10, 1981.

Late last fall, when I was asked to speak at this meeting, I readily agreed and asked if there was a particular topic within my supposed area of competence--which includes antitrust law as applied to the health care field--to which I should address my remarks. The topic chosen was:

"Evolution of Professional Practice and
Licensure and the Implications of Economic
Regulatory Law"

Although this general title might encompass almost every regulatory problem you now deal with, a little study led me to consider the emerging problems of "mandatory referral." What this involves is something near and dear to every antitrust lawyer's heart: economic trench warfare, also known as dividing the spoils. Antitrust law is to economic trench warfare--that is, to intense, bitter competition--more or less what the Geneva Convention is to real wars. (Unfortunately, also like the Geneva Convention, antitrust law is too often honored in the breach in the heat of battle.)

As a manifestation of competition in health care fields, mandatory referral--by which I mean legal requirements that in specified circumstances health care practitioners refer patients to other practitioners who hold a different kind of license--is a significant development from two perspectives. The first perspective is that of specific practitioners and professionals, whose economic welfare is at stake. The example about which I am best informed is the optometrist-ophthalmologist dispute, which is a paradigm of the issues involved. The same observations should also apply to psychologist-psychiatrist relations, dentist-denturist relations,

chiropractor-physician relations, nurse-practitioner-professional relations, and historically to pharmacist-physician relations, an economic war that apparently was long ago won by the physicians. The second perspective is that of the health care field as a whole, and the economic conditions within it that are causing these mandatory referral issues to be current and significant in a number of areas simultaneously.

With your indulgence, I'd like to discuss first the broader perspective. The topic encompasses the evolution of professional practice, and today centers on economic regulatory law, of which antitrust law is a part. So also are governmental health care financing and regulation, and mandatory referral laws, and such fundamental matters as licensure, which I know is a constant and extremely important part of what each of your constituent boards must deal with day to day.

I do not propose to discuss with you the antitrust problems involved in the licensure and disciplinary processes, although there is a significant body of law, with antitrust overtones, regarding the rights and duties of parties to such proceedings. However, licensure is also pertinent to consideration of economic regulation in the health care field.

Licensure serves a variety of functions. To the general public, and probably to the great majority of practitioners and licensure boards as well, the primary purpose of licensure is protection of the public health and welfare. By and large, this goal has been ably and fairly served, and there are very few amongst even the most fanatic opponents of governmental regulation who would want to "deregulate" this function.

Accepting the need for professional licensure is not the same as ignoring its economic consequences. With this as the point of departure, a few minutes of basic economics may be worthwhile. The economics will be much simplified but, I hope, still reasonably accurate.

Licensure, in health care or any other occupation, is government-sanctioned creation of scarcity of a desired product or service. It is economic axiom that scarcity creates value: that which we have in unlimited abundance is, quite literally, "dirt cheap." That which is rare but which people want will increase in value in proportion to its scarcity, as does gold or petroleum or residential real estate. We refer to this all the time as "supply and demand." It's Economics 1, taught in every college, in some high schools, and relentlessly and profitably by Milton Friedman.

Two rules of Econ. I--really flip sides of the same coin--are especially pertinent to what is going on in the health care marketplace. Let's refer to them as Axioms 1 and 2:

Axiom 1. As noted above, limitations on supply in the face of constant demand will raise price.

Axiom 2. Perhaps not quite as obvious because it is not terribly common, reduction of price will increase demand. As the price of computers has dropped, the demand for computers has exploded. Electronic watches were rare \$400 novelties eight years ago. Now they are sold by the millions at prices as low as \$10 in inflated money.