

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

4177 SLAB SB 167 1057



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Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SB 167: Sectional Analysis

- Section 1) Extends the termination date for the Board of Dispensing Opticians from June 30th, 1985 to June 30th, 1989.
- Section 2) Increases the fee schedule for examination, initial license, and renewal fee.
- Section 3) Allows the department to set fees for examination, initial license, and renewals reflecting the actual costs to the department. Fees imposed by the Department would require concurrence of the board. This section has a delayed effective date of July 1, 1988, which occurs in section 6.
- Section 4) Prior to the renewal of a license, the licensee shall submit to the board evidence of 40 hours of continuing competence in the profession as required by the regs of the board.
- Section 5) Adds a new section which would allow the board to issue temporary permits to an applicant who has submitted a completed application for licensure.
- Section 6) July 1, 1988 effective date for section 3
- Section 7) Immediate effective date for sections 1,2,4, and 5. temporary permits

- III. WHAT THE BOARD HAS DONE SINCE THE 1978
RULING - SUMMARY OF MINUTES OF MEETINGS

- IV. 1981 - 1984 LEGISLATIVE AUDIT AND RESPONSE
FROM OPTICIANS TO THAT AUDIT

- V. GOALS AND PLANS OF THE BOARD OF DISPENSING
OPTICIANS

III. WHAT THE BOARD OF DISPENSING OPTICIANS HAS ACCOMPLISHED
SINCE THE LAST SUNSET REVIEW IN 1978

(Meeting Minutes Summarized 1980-1984)

<u>Date</u>	<u>Summary of Meeting Minutes</u>
May 22, 1980	<ol style="list-style-type: none">1. Board agreed to recontact those states interested in reciprocity.2. The Board reviewed regulation regarding computation of continuing education or competence hours and Board accepted regulations, to be added to those already in existence regarding continuing competence.3. The Board determined that one of the objectives or goals would be to promulgate regulations to comply with the new Practice Act. The Board resolved to add to the application form for the opticians test that "any exam candidate has 30 days upon receipt of exam scores to register with the Board any discrepancies regarding the scores.
September 22, 1980	<ol style="list-style-type: none">1. Board discussed that they had not received any response from other states to date regarding reciprocity. It was advised that Alaska's reciprocity agreement with Arizona was to become null and void due to a clause in Arizona's Practice Act requiring an optician to be licensed in both contact lens and spectacles due to recent legislation in Arizona.2. Letter was to be written to Optician's Association of America regarding Board and licensing status of Opticians in Alaska, as a result of Sunset. Other states were to be notified that Alaska Board of Dispensing Opticians was still in existence, and recommended that notification be written in the same letter to Optician's Association of America.3. Board approved a four year renewal period with recommendation and approval that continuing competency hours be increased to 30 hours. (Because of a foul up last legislative session, this was not accomplished)

4. Board was informed Division was seeking alternatives in speeding litigation process and in considering taking cases before Board for action and/or direction, rather than through attorney general office. Board expressed approval and support for possible alternatives.
5. The Board stated all exam applications should be sent to entire Board for approval prior to being allowed to sit for the exam.
6. Motion was made and carried to establish new Board policy requiring all apprentices in Alaska be registered with the State as of September 22, 1980, and all examination applicants must be registered prior to consideration to approval to sit the exams.

Board requested that application for apprentice registration be assigned to all licensed dispensing opticians along with memo advising of apprenticeship regulation policy and copy of new Practice Act.

7. Chairman was to compose three new practical exams for spectacles and another member of the Board was to compose new exam for contact lenses. The exams were to rotate each exam date.

February 9, 1981

1. No new information to report on securing reciprocal rights with other states. Chairman indicated most states interested in establishing reciprocity, but were waiting to see results of amendments to Alaska Practice Act before further consideration of establishing reciprocity.
2. Due to lack of cooperation from Attorney General's office in processing complaints, Chairman asked each Board member to write letters to Harry Treager, Director of Division of Occupational Licensing, to request assistance in seeking Attorney General's cooperation. Through discussion, it was mentioned that the Board was being blamed through Sunset Review for lack of attention in area of investigations, when in fact, problem was lack of cooperation by Attorney General's office. Decided one letter should be written on behalf of the Board and signed by the Chairman.

3. Board reviewed reports regarding advertising written by Federal Trade Commission. Since Alaska Statutes already contained statutory coverage of misleading advertising, no further action needed.
4. Board reviewed list of apprentices registered with the State. On bottom of application form for apprentices, space to be put for signature indicating information contained is true and signature affixed testifies to validity or should be data be false, charges of fraud will be filed.
5. Goals and objectives for FY 82 to be held for discussion at next Board meeting.
6. Discussion held about possibility of holding meetings and exams in other areas of the state.
7. Names to be submitted to Governor's office on behalf of Alaska Dispensing Opticians Association by April 1 for replacements on Board in June.

May 13, 1981

1. Review and executive session for investigators report.
2. New Chairman elected, Larry Harper.
3. Discussion on reciprocity with other states. Was suggested that other states not be contacted until amendments to Alaska Statutes were adopted. All correspondence in researching to establish reciprocity to be sent to licensing examiner for follow up.
4. New Chairman, Larry Harper, advised he would write letter to various periodicals to solicit establishing reciprocity with Alaska.
5. Discussion of goals and objectives -
 - a. Establish reciprocity by seeking reciprocal rights with other states.
 - b. Pass new statutes and regulations changing number of required continuing education hours to accommodate four year renewal. (Introduce and support amendments at next legislative session).

6. Recommendations to Division of Occupational Licensing for FY 83.
 - a. Request funding for at least 3 meetings and examinations.
 - b. One out of state travel for one Board member to attend Optician's Association of America Convention.
7. Board agreed to hold examination of specified national testing date as recommended by Opticians Association of America; however, Board agreed to continue to administer other "special" examinations on different dates, in order to accommodate all people interested in optician profession.
8. Board agreed to accept all seminars offered by Optifair, Inc., as continuing education credits.
9. Board reviewed license renewal forms.
10. Recommendation to be made to Governor's office requesting that new appointee hold a dual license in contacts and spectacles to avoid problem with having to administer contact lens examination, if Larry Harper (only member of Board in contact lens category) not able to attend.
11. Chairman asked licensing examiner when statute changes regarding number of continuing competency hours for renewal were going to be submitted. Also expressed concern about possibility of legislative audit criticizing Board for not establishing reciprocity when other states are waiting the results of amendments before finalizing reciprocal rights.

October 16, 1981

1. Executive session on report from Investigator.
2. Discussion regarding possibility of purchasing equipment to administer state practical exam. Harper to compose itemized list of necessary equipment and costs. It was resolved that formal request be made to Division of Occupational Licensing for purchase of equipment.

3. Discussion on particular case of continuing education, where continuing education was not acceptable.
4. Discussion was held regarding reciprocity. Licensing examiner explained words reciprocal rights prohibited Board from establishing reciprocity with other states, since reciprocal rights implies agreement from both parties involved. It was resolved the discussion on reciprocity be tabled until Board is able to review licensing requirements of all states to see which states require equal or greater requirements than Alaska. Harper made suggestion that Board seek to change reciprocity requirement and replace with licensing by credentials.
5. Board adapted request of licensing examiner - "applicants who make application to sit for exams and state on application that they have completed 6,000 hours as practicing optician or apprentice be allowed to sit upon approval of Board, but also required to submit proof of 6,000 hours before exam results will be released.
6. Board requested licensing examiner evaluate fee structure regarding contacts and spectacles.
7. Concern expressed by Board on not having member replacements on Board. Why isn't Governor appointing people?
8. Board resolved not to schedule examination of less than 3 applicants unless otherwise approved by the Board.

February 19, 1982

1. It was resolved to change part of last meetings minutes, and resolved to hold one exam a year (after licensing examiner brought to the attention of the Board a problem regarding this resolution), even if there is only one applicant, any additional examinations must have three or more applicants in order to be held.
2. Licensing examiner made clear that \$200 renewal fee for licensees with license in either or both categories of spectacle or contact lenses.

3. Licensing examiner made it clear to the Board that if any member receives a complaint, it should be referred to the investigation unit immediately and that the Board member and Board should stay out of any further involvement.
4. Harper suggested that Board should compile an information packet to be distributed to all licensees which should include specific guidelines of acceptable documents for evidence of continuing education. It was resolved to design and provide a continuing education form that would be accepted as documentation for evidence of continuing education. Form should include statements stating information contained is true and is being submitted under penalties of perjury. If the form is not used, only a document that is similar which contains the necessary information will be acceptable.
5. Again there was discussion on reciprocity; licensing examiner shared with Board study compiled from other states on issue of reciprocity.
6. There seemed to be some conflicting statutes regarding "reciprocity" and "credentials". Licensing examiner advised that although no reciprocity had been established with another state, Board should still accept applicants for licensing by credentials.
7. Schooling vs. a total of 6,000 hours, the Board resolved that they would accept formal full time education in the field of optics at a rate of 2,000 hours per college year, or fraction thereof, in lieu of on-the-job training toward fulfilling the requirement of 6,000 hours for the exam.
8. Credentials - licensing examiner suggested applicant for licensure by credentials be required to submit a verification of license form to be completed by the applicant's state of licensure, verification of apprentice hours, or as a practicing optician, and official school transcripts (if applicable). Board agreed with licensing examiner suggestion and asked that she seek proper wording from other Board statutes and submit to be put into regulations.

9. Discussion on investigations presented by Chief Investigator.
10. Apprentices - discussion held regarding establishing of requirements for practice of dispensing optician apprentices. Board to develop guidelines of what an apprentice should know within apprenticeship time frame in preparation for examinations.
11. Board endorsed program of Optifair East granting approval of all courses to be considered continuing education.
12. New exams to be developed - three comprehensive spectacle examinations to be administered on rotating basis and a new contact lens exam.
13. Harper brought book listing equipment available, which opticians had requested from the State. Harper was to compile list of equipment needed with costs of each item and submit to division for approval.
14. Discussion on continuing education courses and number of hours required for relicensure.
15. Changes under continuing education include one college credit equal to one continuing education credit up to a maximum of 7.5 hours directly related to optics or anatomy and/or physiology of the eye. Harper asked changes to be submitted to regulation specialist for redrafting and circulation as soon as possible.
16. Board decided on contents of information package:
 - * Copy of current statute books
 - * Specifics regarding continuing education
 - * Letter regarding apprenticeship
 - * The underneath requirement to be registered by employer
 - * Reminder of lapsed license
 - * Form for reporting continuing education hours

17. Continuing education reporting form, Board agreed that it would contain the following information:

- a. Name of course
- b. Time and date of course
- c. Number of hours
- d. Sponsor of course and instructor (printed and signed)
- e. Number of students in attendance
- f. Name and address of students

June 17, 1982

1. Goals and objectives for FY 83 were reviewed and accepted:
 - a. Establish guidelines for continuing education requirements through regulations.
 - b. Continue ongoing review of statutes and regulations by striving always for clarity and simplicity.
 - c. Seek to get all opticians properly licensed by providing information packet.
 - d. Establish better communication between the Board and the consumer by contributing to the updated news letter and increase public awareness.
2. 1982 Goals and objectives were reviewed and progress discussed.
3. Discussion of annual performance report and budget recommendation section. Report to be compiled in budget recommendation and consist of funding to hold a meeting in Juneau, Fairbanks and Anchorage, funding from newspaper advertisements, and telephone calls.
4. Discussion on information packet and items to be included. Board requested that packet be sent to each currently licensed dispensing optician, optometrist and ophthalmologist (NOTE THAT STATUTES REQUIRE ALL THREE OF THESE TO REGISTER THEIR APPRENTICES.)

5. Board was advised of staff shortage in investigation section at present time. Informed board no complaints of investigation reports to be presented.
6. Harper advised investigator of situation presently in existence in which statutes require that Optical Shop which employes dispensing opticians have license posted; however, optometrists and ophthalmologists are refusing to have these licenses posted.

Board to compile list of the practicing people with lapsed licenses and those people who are not posting their licenses.

7. Discussion held on licensees with lapsed licenses and resolved that if licenses lapse for twelve months or more, applicant must be reexamined before renewed license will be issued.
8. Board requested letter be written to all licensees whose licenses lapsed in 1981 notifying them of Board's resolution. Also request that the statement be made advising licensee cannot revert back to apprentice status on lapsed license.
9. Board was advised that they did not have authority to adopt regulations to accept schooling in lieu of 6,000 hours of apprentice training to qualify for exam. Suggested Board seek a statute change present at next legislative session.
10. Board resolved that Board submit for statute change to accept formal fulltime education in field of optics at rate of 2,000 hours per college year or fraction thereof to be applied to 6,000 hours required for examination.
11. Board also resolved to submit for statute change to change number of continuing education hours required for renewal to 30 hours.
12. Board passed various changes in regulations, including that if license has lapsed, licensee will be required to be reexamined prior to reinstatement.

13. Board members will be submitting names to Governor's office for consideration.
14. Board also recommended that public member, Mr. Harry Lang, be reappointed.

February 8, 1983

1. The 1983 goals and objectives were reviewed and progress discussed.
2. Applications brought before Board and reviewed and approved.
3. Discussion on license renewal where forged continuing education forms believed existed.
4. Board requested help and comments from regulation specialist in regarding definition of supervision.

May 10, 1983

1. Review of 1983 goals and objectives.
2. Review of applications.
3. Discussion on information package.
4. Some confusion existed in the Board - the 15 hours of continuing competence and optical dispensing had not been changed to the 30 hours. Apparently there was not a statute change.
5. Board resolved that there was a need for tighter control on continuing education forms. There must be an instructor signature. Receipts are not acceptable if they do not have the instructors signature.
6. Added to definition section of statutes, definition of "direct supervision" means physical presence of licensed supervisor while dispensing optician tasks are being performed.
7. Board resolved to add to statutes that an apprentice must be registered with the state on an approved form at the onset of training. Failure to do so results in forfeiture of any hours acquired prior to registration, any hours acquired outside of State of Alaska must be submitted and verified at onset of registration, and any apprentice change in instructors must notify state of change and the new instructor and license number.

August 5, 1983

8. Resolved by Board that applicant failing either section of test three times must relake entire test.
1. Discussion of 1983 goals and objectives.
2. New goal of seeing continued communication line with other state boards'. Bcard requested that licensing examiner write different Board requesting copy of laws for their files and easy reference.
3. Review of annual report.
4. Review of budget request.
5. Discussion on new administration's views.
6. Discussion on possibility of reviewing ETS's standardized test. (Educational Testing Service)
7. Board initiated discussion regarding obtaining control with investigating matters. Revocation of license will need hearings and should still be directed to he investigators, that was recommended by licensing person.
8. Goals and objectives discussed for 1984.
 - a. Continued communication lines with other state boards in regards to regulations of dispensing opticians.
 - b. Arrange meeting with representatives from educational testing service regarding national exam given.
 - c. Review and compile several state practical tests for dispensing opticians.
 - d. Continue review of regs and statutes.
9. Statistical report from examiner accepted.
10. Board indicated narrative report should include regulation for direct supervision and regulations for apprentices.

11. Board indicated that public should be aware that they can attend meetings to bring forth consumer complaints. Also suggested to send Alaska Dispensing Optician Association public notice of meetings.
12. Review of applications.
13. Temporary permits were discussed. The main reason for looking into this would be that when someone comes in by credentials, they could be issued the permit until further information was received in the state in which they are licensed.
14. Report from Chairman, on Optician's Association of America, 11th annual convention in D.C.
15. Cases discussed in investigation report.
16. Recommended by Harper that National Academy of Opticianary Homestudy be copied for all Board members and copy kept in Juneau office.

COPY IS ATTACHED TO PROPOSE CHANGES IN REGULATIONS OF DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BOARD OF DISPENSING OPTICIANS. SINCE LAST SUNSET, BOARD OF DISPENSING OPTICIANS HAS MADE NUMEROUS CHANGES AND HAS AMENDED AND ADOPTED REGULATIONS TO INSURE CONTINUANCE OF BOARD AND INTEGRITY OF PROFESSIONALISM OF OPTICIANS.

January 20, 1984

1. Reviewed 1984 goals and objectives and progress of goals and objectives.
 - a. Continue communication lines with other state boards in regard to regulations of dispensing opticians.
 - b. Arrange meeting with representatives from ETS regarding national exams.
 - c. Review and compile state practical tests for dispensing opticians. Discussion of categories of areas.
2. Continued review of regulations and statutes.

3. CONCERN WAS EXPRESSED ON LACK OF BOARD APPOINTMENTS. Filling vacancies should be done ASAP and Board has indicated they have indicated so to Governor's office.
4. Review of applicants.
5. Opticfair, Inc. sent list of classes that Alaska Board of Dispensing Opticians reviewed for approval of continuing education courses.
6. Discussions on investigations. Board reminded that Board does not have jurisdiction in unlicensed activity. Board indicated it would like to take more active stand in investigations and unlicensed activity.
7. Board resolved to add to the definition of contact lens prescription.
8. Board resolved to add to regulations for temporary permits - temporary permit shall issued under the following reason and shall not expire until next Board meeting and applicant is issued a license. An individual who applies for licensure by credentials and is awaiting Board approval providing his/her application is complete and in order shall receive a temporary permit.
9. Criteria for instructors to use for teaching apprentice and whether there should be regulation written for this was tabled until next meeting so Board could get feel from Association regarding criteria.
10. Information package was ready to go upon receipt of printing of continuing education forms. Decided not to hold package until new regulations approved.
11. Board resolved to adopt proposed regulations and changes as written from previous meeting.
12. Executive session on investigations.

IV. EVALUATION OF 1984 PERFORMANCE REPORT
ON THE BOARD OF DISPENSING OPTICIANS
AND OPTICIANS REPLY TO THE AUDIT STATEMENTS

(July 1, 1981 to June 30, 1984)

PURPOSE AND SCOPE OF THE REPORT

Purpose was to review the activities of the Board of Dispensing Opticians for the past three fiscal years to determine if the Board has been operating in an efficient and effective manner.

Major areas of examination were the licensing, examination, administration, complaint and affirmative action functions of the Board.

ORGANIZATION AND FUNCTION

The Board of Dispensing Opticians was established by the 1973 session laws of Alaska.

The Board is organized under the Department of Commerce and Economic Development, the Division of Occupational Licensing (OL). OL, through the statutes, provides the Board with licensing and investigative support.

The Board sets the minimum standards to practice in Alaska by:

1. Examining and issuing licenses to qualified applicants.
2. Establishing, amending, or eliminating regulations necessary and desirable to enforce statutes.
3. Revoking, annulling or suspending licenses in accordance with the Administrative Procedures Act when a person has violated Dispensing Opticians Statutes or regulations.

REPORT CONCLUSION

Primary purpose of a regulatory board with a licensing function is to protect the public. Report first evaluated if licensing was needed:

1. Does the unlicensed practice pose a serious risk to the consumer's life, health, safety, or economic wellbeing?
2. Can the potential users be expected to possess the knowledge needed to properly evaluate the qualifications of those offering services?

3. Do the benefits to the public clearly outweigh any potential harmful effects, such as a decrease in availability of practitioners, higher cost of services, and restriction on optimum utilization of personnel?

The report indicated that they felt the Board performed only minimum functions. Those duties that are executed by the Board include conducting meetings, reviewing applications for licensure, reviewing results of investigations and hearings and determining proper disciplinary actions. The report stated that these duties were not substantial enough to continue the Board.

The report indicated that the bulk of the work on reviewing applications for licensure was done by the licensing examiner. He or she gather the proper information and make sure that it is complete. The applications are then presented to the Board, who votes whether to approve or disapprove licensure.

Report indicates that reviewing results of investigations and determining disciplinary actions tends to be cursory. They indicated this was due to the up front work that was done by investigation units and occupational licensing and the hearing officers.

It was indicated that the only duty requiring the expertise of the Board was the preparation and grading of the state exam. The report even went so far as to say that it was not necessary to give an exam because the potential physical harm caused by an unlicensed dispensing optician is minimal to non-existent and the administration of any exam is not essential.

The report said that there were not enough duties for the Board to justify its existance. The report indicated that the expenses to maintain a board of five members to regulate 60 dispensing opticians is not economical.

DISPENSING OPTICIANS BOARDS REPLY

The Board has the following duties and powers:

To examine and issue licenses to applicants.

To renew licenses.

To hold hearings and order disciplinary sanctions against a person who violates this chapter.

To supply forms for applications licenses and other needed documents.

To keep a record of all proceedings open to the public including the name of each applicant.

To enforce the provisions of the Chapter and adopt or amend regulations necessary to make these provisions effective.

1. THE BOARD DISAGREES WITH THE REPORT'S FINDINGS

DURING THE TIME PERIOD OF THE REPORT, 1981 THROUGH 1984, THE BOARD INDICATED TO OL:

- A. THEY WOULD PREFER TO EXAMINE APPLICATIONS MORE THOROUGHLY THEMSELVES FOR THE SCHEDULED EXAM.
- B. THE BOARD INDICATED THAT THEY WANTED TO BECOME INVOLVED IN INVESTIGATIONS AND COMPLAINT PROCEDURES. BUT THE OL INDICATED TO THEM THAT THIS WAS NOT THEIR FUNCTION.
- C. AS CAN BE SEEN IN THE SUMMARY OF THE MINUTES ATTACHED, THE BOARD HAS WORKED TO MAINTAIN THE INTEGRITY AND PROFESSIONALISM OF OPTICIANKY.

THERE HAS BEEN AN ONGOING REVIEW OF STATE STATUTES AND REGULATIONS AND THE BOARD HAS ACTED TO MODIFY ANY IN CONFLICT AND TO STRIVE FOR CLARITY - INCLUDING INITIATING INCREASED CONTINUING EDUCATION/COMPETENCE HOURS, ENFORCING REGISTRATION OF APPRENTICES FOR BOTH OPTICIANS, BUT ALSO OPTOMETRISTS, OPHTHOMOLOGISTS AND PHYSICIANS. (SEE COPY OF REGULATIONS ADOPTED SINCE 1978 INVOLVING CONTINUING EDUCATION, APPRENTICESHIP REGISTRATION AND DEFINITION)

- D. THE BOARD HAS, BY REVIEW OF ITS MINUTES, WORKED DILIGENTLY TO ESTABLISH RECIPROCITY WITH OTHER STATES.
- E. THE BOARD HAS REVIEWED AND MODIFIED THE STATE PRACTICAL TEST FOR DISPENSING OPTICIANS FOR BOTH THE SPECTACLE AND THE CONTACT LENS AREA.

- F. THE BOARD HAS RESOLVED TO ADD TO THE REGULATIONS A TEMPORARY PERMIT PORTION WHICH WOULD INDICATE THAT A TEMPORARY PERMIT WOULD BE ISSUED UNDER THE FOLLOWING REASON AND NOT EXPIRE UNTIL THE NEXT BOARD MEETING AND A NEW APPLICANT IS THEN ISSUED A LICENSE - AN INDIVIDUAL WHO APPLIES FOR LICENSURE BY CREDENTIALS AND IS AWAITING BOARD APPROVAL PROVIDING HIS OR HER APPLICATION IS COMPLETE AND IN ORDER, SHALL RECEIVE A TEMPORARY PERMIT.
 - G. THE BOARD SOUGHT TO GET ALL OPTICIANS PROPERLY LICENSED BY PROVIDING AN INFORMATION PACKET TO ALL LICENSEES WHICH HAS BEEN DONE.
 - H. THE BOARD HAS WORKED DILIGENTLY WITH THE INVESTIGATIVE UNIT OF OL TO EVALUATE OPTICIANS WHO ARE NOT PRACTICING IN A LAWFUL MANNER. (THE BOARD HAS REVOKED/SUSPENDED A LICENSE IN 12/84) HOWEVER, AGAIN, THE BOARD HAS ASKED TO BECOME MORE INVOLVED IN INVESTIGATIONS AND COMPLAINT PROCEDURES.
2. The report indicated that an optician cannot cause great physical harm to an individual.

It is indicated that improper fitting of contact lenses could result in physical harm, but, the report indicated that (because the patient must go back to the licensed physician or ophthalmologist, or optometrist to "check" the fitting of the contact lenses, and because the public was adequately protected from harm due to improperly hardened lenses because the statutes require each lens to be impact resistant under specified test conditions), no licensing is necessary.

The report indicated that spectacles could cause double vision, distorted vision, and trouble with perception.

THE BOARD'S ANSWER TO THE SECOND REPORT FILING IS IN DISAGREEMENT WITH THAT FINDING.

THE BOARD FEELS THAT THE REASONS FOR INCENSURE ARE BASICALLY THREE:

- A. UNLICENSED OPTICIANS COULD CAUSE HARM AND RISK TO A CONSUMER'S LIFE, HEALTH, SAFETY, OR ECONOMIC WELL BEING.

OBVIOUSLY, AN IMPROPER FITTED CONTACT LENS CAN CAUSE CORNEA ABRASION AND DAMAGE THE VISION. SPECTACLES THAT ARE IMPROPERLY FITTED CAN CAUSE NAUSEA, BLURRING OF VISION, DIZZINESS, AND OTHER SYMPTOMS.

MANY OTHER STATES ALSO FEEL THE SAME WAY - FLORIDA FOUND THAT UNSKILLED AND INCOMPETENT OPTICIANS PRESENT A DANGER TO PUBLIC HEALTH AND SAFETY. THE LEGISLATURE FOUND, IN ADDITION, THAT IT WAS DIFFICULT FOR THE PUBLIC TO MAKE AN INFORMED CHOICE ABOUT OPTICIANS, AND THE CONSEQUENCES OF A WRONG CHOICE COULD ENDANGER HEALTH AND SAFETY.

- B. THE SECOND ARGUMENT FOR CONTINUING LICENSING IS THAT IT WAS DIFFICULT FOR THE PUBLIC TO MAKE AN INFORMED CHOICE.

AS THE CONNECTICUT LEGISLATURE INDICATED AFTER ITS SUNSET REVIEW, FINANCIAL OR PHYSICAL HARM COULD RESULT WITH UNLICENSED OPTICIANS AND IN ORDER TO PROTECT THE PUBLIC, THEY REQUIRE LICENSURE AND REGULATION OF INDIVIDUALS CONNECTICUT ALSO RECOMMENDED THAT THE BOARD BE AUTHORIZED TO HEAR AND TO DECIDE APPEALS ON SUSPENSION, REVOCATION, OR DENIAL OF LICENSURE. THE ALASKA DISPENSING OPTICIANS BOARD ALSO WOULD SUGGEST THIS.

THE BOARD WOULD ALSO RECOMMEND THAT IT SHOULD RECIEVE AND SCREEN COMPLAINTS FOR HEARINGS AND IMPOSE DISCIPLINARY ACTION.

- C. The report indicated that twelve complaints were received by the Division of Occupational Licensing and two complaints by the Consumer Protection Agency. Most of the complaints were instigated by licensed practitioners and not the consumers, and none resulted in physical harm.

THE BOARD'S RESPONSE TO "C" ABOVE - REPORT FINDING - IN MANY CASES, IT IS THE BOARD'S OPINION, THAT COMPLAINTS HAVE NOT COME DIRECTLY TO THEM BECAUSE OF THE WAY THAT THE STATUTES AND REGULATIONS CURRENTLY EXIST. CONSUMERS WOULD CALL AND ARE TOLD TO CALL THE OFFICE OF OCCUPATIONAL LICENSING. WITH THE BOARD'S PROPOSED INVOLVEMENT IN COMPLAINTS AND INVESTIGATIONS, THIS, THE BOARD BELIEVES, WILL CHANGE.

- D. The report indicated cases where individuals were licensed without adeguate documentation of statutory and regulatory requirements. It indicated that these individuals were potentially "unqualified" but, no evidence of physical harm has resulted from their practices.

THE BOARD'S RESPONSE TO FINDING "D" ABOVE WAS THE BOARD IS UNAWARE OF ANY INDIVIDUAL THAT THEY HAD OKAYED THAT HAD BEEN LICENSED WITHOUT ADEQUATE DOCUMENTATION. THE ONLY CASE THE BOARD IS AWARE OF WAS A RE-LICENSURE OKAYED TO AN UNQUALIFIED PERSON DIRECTLY BY THE DEPARTMENT. EVEN THE OLD AUDIT REPORT INDICATES THAT THE BULK OF THE WORK ON REVIEWING APPLICATIONS FOR LICENSURE IS DONE BY THE LICENSING EXAMINER, HE OR SHE GATHERS THE PROPER DOCUMENTATION AND MAKES SURE THAT IT IS COMPLETE. THIS IS THE BOARD'S ARGUMENT THAT THEY SHOULD TAKE MORE ACTION IN REVIEWING THE APPLICATIONS AND VERIFICATION THEREOF.

- E. The report indicated that contact lenses cost approximately \$500, spectacles less. It indicates that the cost to the consumer would not be severe economically.

THE BOARD'S REPLY TO FINDING NUMBER 5 IS THAT \$500 AND EVEN \$100 CAN BE VERY ECONOMICALLY DEVASTATING TO SOME FAMILIES.

THE BOARD TAKES EXCEPTION THAT THE FINDINGS INDICATED THAT THE EXISTENCE WAS "SUPERFLUOUS". MANY STATES RECOGNIZE THAT THE OPTICIAN CAN CAUSE HARM TO A PERSON, AND THAT THE PUBLIC CANNOT BE EXPECTED TO POSSESS THE KNOWLEDGE NEEDED TO PROPERLY EVALUATE THE QUALIFICATIONS WITHOUT LICENSURE. THE BOARD FEELS THAT THE BENEFITS TO THE PUBLIC CLEARLY OUTWEIGH THE POTENTIAL HARMFUL EFFECTS, AND ALSO ACT AS A COMPETITIVE EDGE IN REDUCING HIGHER COSTS.

THE BOARD DISAGREES WITH THE RECOMMENDATION THAT THEY BE ALLOWED TO TERMINATE ON JUNE 1985.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Board of Dispensing Opticians should be allowed to terminate on June 30, 1985.

1. Recommendation No. 1 and the Board's response is covered in the FINDING section of this summary. Under Recommendation No. 1, the audit indicated that if the Board was not terminated and some control is desired, that the dispensing opticians should be combined with the Board of Optometry.

THE BOARD'S RESPONSE TO BEING COMBINED WITH THE BOARD OF OPTOMETRY IS THAT IT IS AN ILLOGICAL STEP. OPTOMETRISTS DO NOT NEED TO PASS THE SAME EXAMS OR DO NOT REQUIRE THE SAME REVIEW AS OPTICIANS, AND "COMBINING THE BOARD OF OPTOMETRY AND THE DISPENSING OPTICIANS" WOULD RESULT IN BASICALLY TWO BOARDS IN EXISTENCE, BUT ONLY BEING CALLED ONE BOARD. THERE IS ADEQUATE AND SUBSTANTIAL PROOF THAT MANY OF THE OPTOMETRISTS WOULD PREFER THAT OPTICIANS NOT BE ALLOWED TO FIT CONTACT LENSES. THE BOARD OF DISPENSING OPTICIANS FEEL THAT BY COMBINING THE BOARD OF DISPENSING OPTICIANS WITH THAT OF THE BOARD OF OPTOMETRISTS, AUTONOMY AND THEIR RIGHT GAINED THROUGH EDUCATION, AND EXPERIENCE TO FIT CONTACT LENSES WILL BE IN JEOPARDY. IN ADDITION, THE OPTICIANS DO NOT FEEL COMFORTABLE COMBINING BOARDS BECAUSE OF SOME ANTI-TRUST "VIOLATIONS" IN THE OPTOMETRY STATUTES, WHICH THE OPTOMETRISTS ARE NOT WORKING TO HAVE REVERSED. THE BOARD STRONGLY FEELS THAT THERE ARE TWO QUESTIONS INVOLVED. (SEE FINDINGS AND RECOMMENDATIONS - OPTOMETRISTS AUDIT 1983.)

- a. SHOULD THE BOARD BE ALLOWED TO CONTINUE TO EXIST. YES, ACCORDING TO ALL OF THE TERMS OF LICENSURE - THEY COULD HARM THE PUBLIC, THE PUBLIC DOES NOT POSSESS KNOWLEDGE TO EVALUATE QUALIFICATIONS OF THOSE OFFERING SERVICE, AND THE BENEFITS TO THE PUBLIC OUTWEIGH THE HARMFUL EFFECTS.

*Also -
won't
publish
as
much*

- b. IF THEY ARE ALLOWED TO EXIST, SHOULD THEY BE COMBINED WITH THE OPTOMETRIC BOARD. THE BOARD FEELS ABSOLUTELY NOT. THEIR AUTONOMY STRENGTHENS THE BENEFITS TO THE PUBLIC, BY ALLOWING THE PUBLIC A CHOICE OF WHO TO GO TO TO HAVE THEIR SPECTACLES OR CONTACT LENSES FIT, AND OPTICIANS OFFER COMPETITIVE ALTERNATIVES TO HAVING PRESCRIPTIONS FILLED BY OPTOMETRISTS OR OPTHOMOLOGISTS.

Recommendation No. 2

The Board of Dispensing Opticians and the Office of the Governor should work together to insure that vacant positions are filled.

The report indicates that there are conflicting stories from the Office of the Governor and the Board Members regarding the lack of recommendations for Board appointments. It indicates that there is some dispute as to whether any recommendations have been made in the past, as there has been no acknowledgement of receipt by the Office of the Governor.

THE BOARD'S RESPONSE IS THAT THEY HAD REQUESTED, INITIALLY IN GOVERNOR SHEFFIELD'S FIRST TERM, TO HAVE BOARD POSITIONS FILLED. THE GOVERNOR'S OFFICE HAD TOLD THEM "GIVE US A YEAR TO GET THINGS IN ORDER AND THEN WE WILL FILL THEM". THIS NEVER HAPPENED, EVEN WITH NUMEROUS RECOMMENDATIONS SENT IN. IT IS INTERESTING TO NOTE THAT NOW TWO NEW APPOINTMENTS HAVE BEEN MADE, THE BOARD INTERPRETS THIS AS AN UNSTATED RECOMMENDATION FOR CONTINUATION OF THE BOARD. RICHARD LYON, FORMER COMMISSIONER OF THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT, INDICATED "WE WOULD NOT ENDORSE APPOINTING A PERSON TO A BOARD WHEN WE ARE SUGGESTING TERMINATION OF THE FUNCTION".

Recommendation No. 3

The Board should review existing statutes and regulations and seek appropriate revision where necessary.

The report indicates that during examination, they reviewed the Board's and regulations and found the following:

- a. Competency requirements were based on bi-annual licensing and since since the profession has changed to quadrannal licensing without a compensating change in the continuing competency requirements.

THE BOARD'S RESPONSE IS THAT THEY HAD TRIED LAST LEGISLATIVE SESSION TO HAVE THE DISCREPANCY CORRECTED. IT WAS NOT DONE BECAUSE OF THE TIME SITUATION, BUT WILL BE ACCOMPLISHED THIS SESSION.

- b. The report indicates that it allows the state to license by reciprocity. None of the other 20 states will grant Alaska these rights. Since licensure by credentials accomplishes the same purpose, the statute is not necessary.

THE BOARD'S REPLY THAT LICENSURE BY CREDENTIAL DOES BASICALLY ACCOMPLISH THE SAME THING AS RECIPROCITY. THE REASON THAT RECIPROCITY HAS NOT BEEN GRANTED TO ALASKA IS BECAUSE, IN MANY INSTANCES, THE REQUIREMENTS ARE DIFFERENT THAN THOSE THAT ALASKA INDICATES THE BOARD STILL FEELS THAT THEY SHOULD WORK FOR RECIPROCITY, WITH THE GOAL BEING TO MAKE UNIFORM THE REQUIREMENTS NATIONWIDE FOR OPTICIANS LICENSURE.

- c. The report indicates that a statute that sets out dispensing optician's constraints for issuing contact lenses, and that the language used was not specific enough and needed to be defined further.

THE BOARD'S RESPONSE TO ITEM "C", IS THAT THE CONTACT LENSES ARE FITTED UNDER THE SUPERVISION OF A LICENSED PHYSICIAN AND OPTOMETRIST SINCE THE PATIENT IS REQUIRED TO GO BACK FOR CHECKUPS TO THE PHYSICIAN OR OPTOMETRIST.

THE BOARD AGREES WITH THE REPORT THAT ANY CHANGES SHOULD NOT BE TO MAKE IT MORE RESTRICTIVE.

- d. The Board still has not received statutory authority, so the report indicates, to issue temporary permits.

THE BOARD'S RESPONSE IS THAT THEY HAVE DILIGENTLY WORKED AS CAN BE VERIFIED BY A REVIEW OF THE MINUTES OF THE MEETINGS, TO ISSUE TEMPORARY PERMITS BY REGULATION. THIS WOULD, HOWEVER, REQUIRE LEGISLATIVE ACTION, AND THE BOARD WILL WORK ON THIS IN THE NEXT LEGISLATIVE SESSION.

Recommendation No. 4

The Board should insure that requirements are being met and adequately documented prior to licensure. Examples of what were found indicated in the report to be inadequate documentation of training hours and in some cases, apprentice hours not listed on some license by credentials, when licensees file did not have any indication of the Board's approval (this is the one that the OL office did without running past the Board), and much of the documentation consisted of photo copies that were not notarized.

THE BOARD'S RESPONSE TO RECOMMENDATION NO. 4 IS THAT VERIFICATION IS EXTREMELY IMPORTANT FOR LICENSURE. AGAIN, THE REPORT INDICATED THAT THE LICENSING EXAMINER GATHERS THE PROPER DOCUMENTATION FOR LICENSURE AND MAKES SURE IT IS COMPLETE. THE BOARD DOES DISAGREE WITH THIS PRACTICE AND WOULD RECOMMEND THAT THE BOARD TAKE MORE RESPONSIBILITY FOR VERIFICATION.

ANALYSIS OF PUBLIC NEED

1. The extent to which the Board, commission or program has operated in the public interest:

THE BOARD HAS HELD MEETINGS AND EXAMS AT LEAST TWO TIMES PER YEAR.

1. THE BOARD HAS PASSED REGULATIONS REGARDING APPRENTICES CONTINUING COMPETENCY AND LICENSURE BY CREDENTIALS.

THE BOARD HAS NOT HAD A PUBLIC MEMBER SINCE JUNE 1982 (THE BOARD'S RESPONSE IS THAT THEY HAVE REQUESTED APPOINTMENTS MANY TIMES. TWO APPOINTMENTS WERE JUST MADE 12/84)

2. 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, in any other matter, including budgetary, resource, and personal matters.

THE BOARD HAS HAD TWO VACANT BOARD POSITIONS FOR TWO YEARS. (THE BOARD'S RESPONSE IS THAT THEY HAVE REQUESTED MANY TIMES FOR BOARD APPOINTMENTS AND HAVE MADE RECOMMENDATIONS.)

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 SUCCEEDED IN HAVING VARIOUS OBSOLETE OR VAGUE STATUTORY REQUIREMENTS REPEALED OR AMENDED.

NO STATUTORY CHANGES HAVE BEEN MADE SINCE 1980. (THE BOARD'S RESPONSES ABOVE ARE THEY HAVE HAD MANY REGULATORY CHANGES, AND STATUTORY CHANGES TO ELIMINATE ANY CONFLICT AND WILL BE WORKED ON IN THE 1985 LEGISLATIVE SESSION. IT ALSO SHOULD BE NOTED THAT THEY HAD ATTEMPTED STATUTORY CHANGE FOR THE CONTINUING EDUCATION REQUIREMENT LAST SESSION, BUT BECAUSE OF THE TIME RESTRAINTS, IT DID NOT MAKE IT THROUGH THE SESSION.)

4. The extent to which the Board, Commission or agency has encouraged interested people 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.

The Board has published public notices of all examinations, meetings, and regulation changes. The Board has not actively solicited comments on its effectiveness.

THE BOARD'S RESPONSE IS THAT IT WILL MORE ACTIVELY SOLICIT COMMENTS FROM BOTH OPTICIANS AND THE GENERAL PUBLIC IN THE FUTURE, AND RECOGNIZES THAT THIS IS AN ESSENTIAL PART OF ITS EXISTENCE.

5. The extent to which the Board, Commission or agency has encouraged public participation in the making of its regulations and decisions.

THE BOARD HAS PUBLISHED NOTICES OF ITS MEETINGS IN ANCHORAGE, FAIRBANKS, AND JUNEAU. NO PUBLIC PARTICIPATION APPEARS TO HAVE RESULTED.

6. The efficiency with public inquiries or complaints regarding the activity of the Board, commission, or agency filed with the department to which a board or commission is administratively assigned, or with the Office of the Omsbudsman have been processed and resolved.

ACCORDING TO THE OL FILES, THERE HAVE BEEN APPROXIMATELY 12 INVESTIGATIONS IN THE PAST FOUR YEARS. TWO COMPLAINTS WERE FILED WITH THE CONSUMER PROTECTION AGENCY, AND NONE WITH THE OFFICE OF THE OMSBUDSMAN.

7. The extent to which a board, commission or agency which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

In the last 6 years the number of currently licensed dispensing opticians has increased from 45 to 63.

The board has not established reciprocal agreements with other states or established statutory authority to issue temporary permits. They have established licensure by credentials which tries to address the same situation.

THE BOARD'S RESPONSE IS THAT THEY HAVE BEEN WORKING TO ESTABLISH RECIPROCAL AGREEMENTS, BUT THE LACK OF UNIFORMITY NATIONWIDE ON REQUIREMENTS FOR LICENSURE HAS MADE THIS DIFFICULT. THE BOARD SETS AS ONE OF ITS MAIN GOALS TO CONTINUE TO WORK FOR RECIPROCITY.

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 activity in the area of activity or interest.

Application for licensure require information and photographs with the Division of Equal Employment Opportunity (EEO) believe may not be necessary to determine the qualifications of the applicant.

BOARD'S RESPONSE IS THAT THEY AGREE WITH THIS DECISION, AND THEY WILL WORK TO CHANGE ANY INEQUITIES WHICH ARE IN EXISTENCE.

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

A. THE BOARD'S RESPONSE - THE BOARD SHOULD BE ALLOWED TO CONTINUE TO EXIST AUTONOMOUSLY, AND NOT AS A SUBSIDIARY OF THE OPTICIANS BOARD. THE AUTONOMY STRENGTHENS THE BENEFITS TO THE PUBLIC, BY ALLOWING THE PUBLIC A CHOICE OF WHO TO GO TO TO HAVE THEIR SPECTACLES OR CONTACT LENSES FIT AND OPTICIANS OFFER COMPETITIVE ALTERNATIVES TO HAVING PRESCRIPTIONS FILLED BY OPTOMETRISTS OR OPTHOMOLOGISTS. IN ADDITION, THE OPTICIANS ARE NOT COMFORTABLE WITH MANY OF THE ANTI-TRUST VIOLATIONS CURRENTLY FOUND IN THE OPTOMETRISTS STATUTES.

B. THE BOARD IS COMMITTED TO MAKING RECOMMENDATIONS FOR BOARD VACANCY APPOINTMENTS AS SOON AS POSSIBLE AND WILL WORK DILIGENTLY WITH THE GOVERNOR'S OFFICE TO MAKE SURE THESE APPOINTMENTS OCCUR.

C. THE BOARD WILL BE WORKING THIS LEGISLATIVE SESSION TO INCREASE THE NUMBER OF CONTINUING EDUCATION HOURS REQUIRED TO 60 HOURS. (THIS WAS A DISCREPANCY AND AN ERROR, NOT CHANGED LAST LEGISLATIVE SESSION)

D. THE BOARD WILL CONTINUE TO WORK FOR RECIPROCITY WITH THE GOAL BEING TO MAKE UNIFORM THE REQUIREMENTS NATIONWIDE FOR OPTICIANS LICENSURE.

E. THE BOARD WILL WORK TOWARDS ISSUING TEMPORARY PERMITS BY LEGISLATIVE ACTION.

THE BOARD WILL TAKE MORE RESPONSIBILITY FOR VERIFICATION OF APPLICATIONS FOR LICENSURE BY CREDENTIALS.

F. THE BOARD HAS SET GOALS AND PLANS FOR THE NEXT YEAR FOR THE BOARD OF DISPENSING OPTICIANS AND WILL WORK TOWARDS THEIR ACCOMPLISHMENTS.

G. THE BOARD HAS INDICATED STATUTE CHANGES WHICH ARE NEEDED DURING THIS LEGISLATIVE SESSION AND WILL WORK TOWARDS CLARIFYING AND SIMPLIFYING THE CURRENT STATUTES, AND INCORPORATING ADDITIONAL NEEDED STATUTES.

APPENDIX A

REVENUES COMPARED WITH EXPENDITURES

The excess of expenditures over revenues was \$405.

The Board would recommend that for any anticipated negatives, the renewal fees should be increased.

NOTE: The negative of (\$27,999) for the optometric Board versus the Opticians Board.

V. GOALS AND PLANS OF THE BOARD OF DISPENSING OPTICIANS

1. Enforce dispensing opticians law and establish continuing guidelines for competency.
2. Adopt regulations and make modifications necessary for the enforcement of the law.
3. Operate in an effective, efficient manner to benefit the public. Take more responsibility for self-audit and improvement or clearly define the function of the Board and take on more responsibility, especially in those areas where Occupational Licensing now takes the majority of the responsibility, but where the Board "gets blamed" - evaluation of test applications, evaluations for licensure, and review of unlicensed activity.

Recommend, as is done in Connecticut, that the Board be authorized to hear and to decide appeals on the suspension, revocation, or denial or licensure.

4. Emphasize accountability and responsiveness to public interests.
5. Establish formal goals semi-annually, along with objectives and measures to be included in reports to Occupational Licensing.
6. Begin work on a uniform opticians exam which will "cross" state lines and work for uniformity in licensure in all states.
7. Continue ongoing review of statutes and regulations by striving for clarity and simplicity.
8. Seek to get all opticians properly licensed by providing information packet to all licensees.
9. Establish better communication between the Board and consumers by contributing to newsletter and work to increase the public awareness.
10. Work more closely with Governor's office to get board appointments done expeditiously.
11. Work towards legislation to allow temporary permits where a person qualifies by credentials and all application forms are in order.

OPTICAL GOODS IN ALASKA: COST COMPARISON

Average retail price (eyeglasses) in Greater Anchorage area:

OPHTHALMOLOGISTS.....\$140-\$170
OPTOMETRISTS.....\$120-\$150
OPTICIANS.....\$60-\$130

Average retail price (contact lenses) in Greater Anchorage area:

OPHTHALMOLOGISTS.....\$250-\$400
OPTOMETRISTS.....\$150-\$300
OPTICIANS.....\$60-\$200

OPTICIANS IN ALASKA - by cities

ANCHORAGE.....45

EAGLE RIVER.....4

WASILLA.....2

PALMER.....1

CHUGIAK.....2

BIRD CREEK.....1

KODIAK.....1

FAIRBANKS.....10

NORTH POLE.....1

KETCHIKAN.....1

JUNEAU.....2

SOLDOTNA.....1

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PUBLIC LAWS 1983
CHAPTER

272

83 -- H 6115 SUBSTITUTE A

DEPARTMENT OF STATE
LAW REVISION OFFICE

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 1983

AN ACT

RELATING TO OPTICIANRY
AND OPTOMETRY

COPY FOR YOUR
INFORMATION

Introduced By: Representatives Begin, Batastini, Henseler,
Brien, Casinelli, et al.

Date Introduced: March 10, 1983

Referred To: House Committee on HEW

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-35-1, 5-35-2.1, 5-35-3, 5-35-15,
2 5-35-23 and 5-35-25 of the General Laws in Chapter 5-35 entitled
3 "Optometrists and Opticians" are hereby amended to read as fol-
4 lows:

5 5-35-1. "Optometry and optician" defined. -- Optometry is
6 defined as the profession whose practitioners are engaged in the
7 art and science of the evaluation of vision and the examination
8 of vision and the examination and refraction of the human eye
9 which includes: the employment of any objective or subjective
10 means for the examination of the human eye or its appendages; the
11 measurement of the powers or range of human vision or the deter-
12 mination of the accommodative and refractive powers of the human
13 eye or the scope of its functions in general and the adaptation
14 of lenses, prisms, and/or frames for the aid thereof; the pre-

1 scribing, directing the use of or administering ocular exercises,
2 visual training, vision training, or orthoptics, and the use of
3 any optical device in connection therewith; the prescribing of
4 contact lenses for, or the fitting or adaptation of contact
5 lenses to the human eye; the examination or diagnosis of the
6 human eye to ascertain the presence of abnormal conditions or
7 functions; and the topical application of drugs to the eye, to
8 wit, mydriatics, miotics, and the use of topical anesthetics,
9 provided, however, that no optometrist, licensed in this state
10 shall treat by the use of these drugs or attempt to perform any
11 surgery and shall be used only for the purpose of detecting any
12 diseased or pathological condition of the eye, or the effects of
13 any disease or pathological condition of the eye, further pro-
14 vided however, that with respect to presently licensed optome-
15 trists, only presently licensed optometrists who (i) have satis-
16 factorily completed a course in pharmacology, as it applies to
17 optometry, at an institution accredited by a regional or profes-
18 sional accreditation organization which is recognized by the
19 national commission on accreditation, with particular emphasis on
20 the topical application of drugs to the eye for the purposes of
21 detecting any diseased or pathological condition of the eye; or
22 the effects of any disease or pathological condition of the eye,
23 approved by the board of examiners in optometry and the chief of
24 pharmacy of the department of health, and (ii) have successfully
25 completed an examination given by the board of examiners in
26 optometry in conjunction with the chief of pharmacy of the
27 department of health, shall be permitted to apply drugs topically
28 to the eye for the purpose of detecting any diseased or patho-
29 logical condition of the eye, or the effects of any disease or
30 pathological condition of the eye. Said chief of pharmacy shall
31 consult and advise the board of examiners in optometry with
32 respect to that portion of the examination dealing with pharma-
33 cology.

1 An optician is hereby defined to be a person who neither
2 practices nor professes to practice optometry but who may grind
3 ophthalmic lenses, fit spectacles and eyeglasses and may sell
4 spectacles and eyeglasses or lenses on prescription from either a
5 licensed physician or licensed optometrist, nor shall an optician
6 fit, sell, replace or dispense contact lenses.

7 5-35-2.1. Advisory committee for opticianry. -- The direc-
8 tor-of-health, with the approval of the governor, shall also
9 appoint an There is hereby created an advisory committee for
10 opticianry, to consist of ~~three (3)~~ five (5) members, four (4) of
11 whom shall be opticians duly licensed as such under the provi-
12 sions of this chapter, who are residents of the state of Rhode
13 Island and have practiced as opticians for a period of at least
14 five (5) years who shall be appointed by the director of health,
15 and one (1) lay person who shall be from the public appointed by
16 the governor. The members of said advisory committee shall be
17 appointed for terms of three (3) years except that the initial
18 committee shall be appointed as follows: On July 1, 1970 one (1)
19 member shall be appointed for a term expiring June 30, 1971; one
20 (1) member shall be appointed for a term expiring June 30, 1973;
21 two (2) members shall be appointed for a term expiring June 30,
22 1986. The sole duty of the advisory committee for opticianry will
23 be to advise the director of health, the administrator of the
24 division of professiona' regulation and the board of examiners in
25 optometry on all matters pertaining to the licensing and regula-
26 tion of opticianry in this state provided, however, that in any
27 matter relating to opticianry alone, the committee shall have
28 exclusive jurisdiction and its ruling shall thereafter be binding
29 upon the board of optometry; and in any matter relating to optom-
30 etry the board of optometry shall have exclusive jurisdiction and
31 its rulings shall thereafter be binding.

1 The--Advisory--Committee--for--Opticianry--and--the-Board-of
2 Optometrists-and-the-Director-of-the-Department-of-Health-or--his
3 designee--shall--on-or-before-January-1, 1981--conduct-a-study-and
4 make-findings-and-recommendations-on-the-1980--Legislative--Over-
5 sight--Commission-Report-pertaining-to-the-Advisory-Committee-for
6 Opticianry-and-shall-make-such-other-recommendations-as-they--may
7 deem--appropriate--and--of--assistance--to-continuing-protections
8 afforded-to-the-public-health, safety-and-welfare-and-to-the-con-
9 sumer-in-areas-related-to-their-work-and-activity.

10 5-35-3. Compensation of examiners. -- Each member of said
11 board of examiners shall receive in full compensation for his
12 services the sum of ten-dollars-~~(\$10.00)~~ thirty dollars (\$30.00)
13 for each day's attendance at meetings of said board, provided
14 tha^t not-more-than-ten-~~(10)~~-meetings no member shall be--held--in
15 any--one--~~(1)~~--year: receive in excess of seven hundred fifty
16 dollars (\$750.00) compensation for any fiscal year.

17 5-35-15. Renewal of licenses. -- Every optometrist so li-
18 censed who desires to continue the practice of optometry shall
19 present satisfactory evidence to the board of examiners and
20 approved by rule or regulation by the board of examiners in
21 optometry that the practitioner has completed a prescribed course
22 of continuing optometric education or related health fields; and
23 shall annually, in the month of January, pay to said division a
24 renewal fee of five--dollars--~~(\$5.00)~~--*~~twenty-five--~~
25 ~~(\$25.00)~~ forty-five dollars (\$45.00) for which he/she shall
26 receive a renewal of his/her certificate of license for one (1)
27 year. In case of neglect or refusal to pay, said division shall
28 revoke or suspend such certificate; provided, however, that no
29 certificate of license shall be so suspended or revoked without
30 first giving sixty (60) days' notice in each such case of neglect
31 or refusal, and within such period any such optometrist shall
32 have the right to receive a renewal of such certificate on pay-

1 ment of the renewal fee, together with an added penalty of five
2 dollars (\$5.00). Retirement from practice in this state for a
3 period not exceeding five (5) years shall not deprive the holder
4 of a certificate of license of the right to renew such certifi-
5 cate upon the payment of all annual renewal fees remaining
6 unpaid, and a further fee of ten dollars (\$10.00) as an added
7 penalty. Any person holding a certificate issued by the director
8 of public health prior to May 2, 1936, authorizing such person to
9 practice optometry in this state, shall be entitled, upon appli-
10 cation to the division of professional regulation and the payment
11 of the renewal fee hereinbefore prescribed, to receive a certifi-
12 cate of license authorizing him to practice optometry in this
13 state.

14 5-35-23. Optician's certificate -- Examination fees. -- No
15 person shall conduct the business of optician until he or she
16 shall have passed an examination conducted by the division of
17 professional regulation, and shall have been registered and shall
18 have received a certificate of registration. Every applicant
19 shall pay to said division a fee of ~~thirty dollars~~ ~~(\$30.00)~~;
20 which shall accompany his application for such examination. Any
21 applicant who fails to satisfactorily pass satisfactory the exam-
22 ination for registration shall be entitled at any subsequent
23 regular examination held by the division to additional examina-
24 tions, and for each subsequent examination a fee of five dollars
25 (\$5.00) shall be paid. to--said-division: Said fees shall be
26 established by the division of professional regulation.

27 5-35-25. Opticians' annual license fee: Opticians' biennial
28 license fee. -- Every registered optician shall, annually; bien-
29 ennial, at such time as may be prescribed by the division of pro-
30 fessional regulation, pay to said division a license fee of
31 twenty-five fiftv dollars ~~(\$25.00)~~ \$50.00 in default of which the
32 division may revoke his certificate and his authority to conduct

1 ~~the-business-of-an-optician: an individual's certificate and his~~
2 ~~or her authority to conduct the business of an optician.~~

3 SECTION 2. Members appointed to the advisory committee for
4 opticianry on the effective date of this act shall continue as
5 members and serve out their respective terms for which they were
6 appointed.

7 SECTION 3. This act shall take effect upon passage.

JP140/SUB A/4

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
AN ACT
RELATING TO OPTICIANRY
AND OPTOMETRY

1 This act adds a lay person, appointed by the Governor, and
2 an optician appointed by the Director of Health, to the Advisory
3 Committee for Opticianry, provides for a resolution of any juris-
4 dictional disputes between the Board of Optometry and the Commit-
5 tee on Opticianry and provides for biennial license fees for
6 opticians.

7 The act also prohibits opticians from selling or dispersing
8 contact lenses, increases license renewal fees to \$45 for optome-
9 trists and increases compensation for examiners from \$10 to \$30
10 with a \$750 ceiling.

11 This act would take effect upon passage.

JP140/SUB A/4

Cole National Corporation

18903 SOUTH MILES ROAD • CLEVELAND, OHIO 44128 • (216) 475-8925

APR 15 1983

ENACTED

EXECUTIVE OFFICE

April 12, 1982

Mr. J. V. O'Neill
Director, Government Relations
Opticians Association of America
1250 Connecticut Avenue, N.W.
Washington, D.C. 20036

Dear Vin,

Thank you for your letter of April 7th enclosing a copy of Rhode Island House Bill 6115.

The only redeeming feature of this proposed legislation is that opticians will finally be freed from control by the optometrists. Regarding the balance of the bill, it is simply awful.

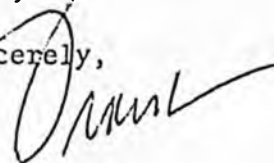
The only reason we are not opposing this measure is because Barry Collins, Manager of Douglas Optical Centers and a member of the NAOO, has asked us to refrain from taking such action. As the primary provider in this jurisdiction, both Stanley Pearle and I respect his wishes and views. It is Barry's view that the inclusion of any other "progressive language" would destroy the tender coalition of opticians which support this bill. Accordingly, I doubt whether any of my comments could influence Mr. Paul Carpentier or any of the other dispensing opticians in Rhode Island.

Respecting the status of licensing legislation in Missouri, it appears that the interested legislator has lost interest in this proposal for the time being.

The Illinois optician licensing bill was recently introduced and is now known as Senate Bill 672. Whenever I receive a copy of this proposal, I will also send a copy to you.

With kindest personal regards and looking forward to seeing you on the 22nd; I am:

Sincerely,



Franklin D. Rozak
Vice President-Government Relations

FDR/1km

cc: S. Pearle

Lens wearers should watch out

The Associated Press

WASHINGTON — Long-wear contact lenses can be a boon to many, but one of the nation's leading optometrists warns that problems may still develop if the lenses aren't removed regularly.

"People get into trouble because they see the ad, or the term 30-day lens, and they say 'Oh, I can wear this lens 30 days,'" said Dr. Harold E. Davis of Chicago, chairman of the American Optometric Association's contact lens section. "I think it's a potential troublemaker, so to speak. I like to call a 30-day lens, an overnight lens."

The extended-wear lenses generally contain water and allow passage of oxygen through the lens to the eye, allowing them to be worn longer than the older-style hard lenses.

But any lens has a tendency to degrade over time, warns Davis, and "the greatest potential for complication, and there is a significant potential for complication, is if

patients ... are not monitored carefully."

Lenses should be checked anywhere from two to four times a year, Davis suggested, particularly with the high-water lenses where tiny bits of debris can damage the surface.

Unfortunately, Davis explained, some people have begun to consider contact lenses as a simple consumer product like cosmetics or jeans. "They're really not. They're a scientific, prosthetic device that should be monitored by a professional."

"It's the old story. I tell my patients, 'Would you wear your underwear 30 days without removing it?' The eye is a dirty place."

In coming years, he said, disposable lenses could even become a viable option.

"A study in Sweden found the complication rate dropped 90 percent when lenses were replaced every six months," Davis said, so disposable lenses replaced every three to six months might be a good idea



Telegram

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SEN FRED ZHAROFF
SENATE LABOR AND COMMERCE COMMITTEE
JUNEAU AK

0259

MAR 11 1985

GENTLEMEN:

THE ISSUES OF COMBINING THE BOARD OF OPTICIANS AND THE BOARD OF OPTOMETRY INTO ONE BOARD RAISES SEVERAL CONCERNS:

- (1) I DO NOT BELIEVE THE COST FACTOR OF OPERATING A BOARD IS A BASIS TO COMBINE THE BOARDS. THESE BOARDS SERVE AND PROTECT ALL THE PEOPLE OF THE STATE.
- (2) I DO NOT BELIEVE THEY COULD BE COMBINED AND SERVE WITHOUT CONFLICT OF INTEREST.
- (3) THE BOARD OF OPTICIANS HAS FUNCTIONED TO PROTECT THE PUBLIC AND INCREASED THEIR PROFESSIONAL ABILITIES WITH CONTINUING EDUCATION AND HAS A HIGH STANDARD FOR AN INDIVIDUAL TO MEET BEFORE BEING GRANTED A LICENSE FOR PRACTICE IN ALASKA.

FOR THESE REASONS I AM OPPOSED TO COMBINING THE BOARDS.

ON THE ISSUE OF OPTICIANS BEING ABLE TO DO HARM OR DAMAGE VISION WITH CONTACT LENSES:

IF THIS SHOULD BE CONSIDERED A FACTOR THE STATE NEEDS TO CORRECT, THEN CORRECT IT BY INCREASING THE EDUCATIONAL REQUIREMENTS BEFORE GRANTING A LICENSE TO AN OPTICIAN TO FIT CONTACT LENSES. I OPPOSE STATUTES THAT WOULD PUT PEOPLE IN THE OPTICAL BUSINESS, OUT OF BUSINESS.

DEWAYNE HALVERSON, OPTOMETRIST
ALASKA LICENSE NO.16

MAR 11 1985

DR. M.C. FALCONER
DR. J.C. FALCONER
DR. T.F. HARBOUR
DR. W.D. FAULKNER
DR. D.L. THANEPOHN
DR. D.R. BRINKERHOFF
OPTOMETRISTS

EYE AND CONTACT LENS CENTER

1345 W. NINTH AVE. PHONE: (907) 272-2557
ANCHORAGE, ALASKA 99501

Concerning House Bill #216
Senate Bill #167

Dear Fred Zharoff

The majority of Alaska's Optometrist and Ophthalmologist will agree that there must be some changes in the dispensing opticians law if it is to remain in force. The audit committee recommended its demise. This recommendation maybe to harsh for it is important for the optometrist and ophthalmologist to know that his prescription is being filled by a skilled technician.

RECOMMENDATION #1

Place the opticians board under the optometry board as the dental hygienists are under the dental board, for optometrists are the most knowledgable in the area in which opticians work. This will reduce costs and force solutions in areas of conflict.

OR RECOMMENDATION #2

Continue the Board of Dispensing Opticians but remove the section allowing them to fit or dispense contact lenses. Although the dispensing opticians law is specific and requires a licensed physician (ophthalmologist) or optometrist to supervise the fitting (AS 08.71.200) this section is being violated. Very few patients fit with contact lenses by opticians ever have follow-up care by an optometrist or ophthalmologist because they do not refer them back. Complaints to the Opticians Board have gone unheeded. (some of the board members were the worst offenders). The increase in eye infections, neo-vascularization of the ^{cornea} and distorted corneas due to improper fit and follow-up care has increased three fold. Opticians are not trained to recognize these problems thus the harm and dis-service to the public.

OPTION

If you are concerned about maintaining competitive cost for contact lense, let the potician sell the contacts per the Doctors Rx, to the public in a vile. The vile will be returned to the optomertrist or ophthalmologist for the fitting instructions and proper follow-up care.

Please help us the public by acting on one of the above reccommendations.

Thank You

M.C. Falconer O.D.
M.C. Falconer O.D.
Chairman-Board of Optometry

Enclosed: Recent news release of National concern

A PERFORMANCE REPORT
ON THE BOARD OF
DISPENSING OPTICIANS

July 1, 1981 -- June 30, 1984

Audit Control Number

08-1163-84-R

Commissioner, Department of
Commerce and Economic
Development

Richard A. Lyon

Deputy Commissioners, Department
of Commerce and Economic
Development

Vincent O'Reilley
Terry Elder

— Performance Report —

Members of the
Board of Dispensing Opticians

Chairman
Secretary
Member
Member
Member

J. Robin Isbell
Leslie E. Brockelsby
Larry E. Harper
George Tresnak
Vacant

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

June 30, 1984

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the
Alaska Statutes (sunset legislation), the attached report is
submitted for your review.

A PERFORMANCE REPORT ON THE BOARD OF DISPENSING OPTICIANS

July 1, 1981 -- June 30, 1984

Audit Control Number

08-1168-84-R



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE AND SCOPE OF THE REPORT

Purpose

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Dispensing Opticians for the past three fiscal years to determine if the Board has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during legislative oversight hearings to determine whether the Board of Dispensing Opticians should be reestablished. The law now specifies that the Board will terminate June 30, 1985, and have one year from that date to conclude its affairs.

Scope

The major areas of our examination were the licensing, examination, administration, complaint, and affirmative action functions of the Board. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Tests of files and documents of licensees.
3. Interviews with the license examiners.
4. Complaints filed with the Division of Occupational Licensing, Human Rights Commission, Equal Employment Opportunity Office, Attorney General's Office, and the Ombudsman's Office.
5. Discussions with Board members.
6. Minutes of Board meetings and Division correspondence files.
7. Attorney General's Opinions applicable to professional boards.

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ORGANIZATION AND FUNCTION

The Board of Dispensing Opticians was established by the 1973 Session Laws of Alaska. This regulatory board consists of five persons; four dispensing opticians and one public member, appointed by the Governor. Board members serve staggered terms of four years.

The Board is organized under the Department of Commerce and Economic Development, Division of Occupational Licensing (OL). OL provides the Board with licensing and investigative support. The licensing section processes applications, maintains license files, answers inquiries, and provides other administrative help to the Board.

The Board sets the minimum standards to practice in Alaska by:

1. Examining and issuing licenses to qualified applicants.
2. Establishing, amending, or eliminating regulations necessary and desirable to enforce statutes.
3. Revoking, annulling, or suspending licenses in accordance with the Administrative Procedures Act when a person has violated dispensing optician statutes or regulations.

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REPORT CONCLUSION

Policy Issues

This report contains policy issues raised as a result of our evaluation of Board practices. The final policy decisions affecting these practices are not within the scope of this report but require legislative consideration. In debating these issues, the oversight committee should take into consideration the Findings and Recommendations presented in this report so the potential impact of policy changes can be evaluated.

Report Conclusion

The primary purpose of a regulatory board with a licensing function is to protect the public. The questions that have to be evaluated to determine if licensing is needed are:

1. Does the unlicensed practice pose a serious risk to the consumers' life, health, safety, or economic well-being?
2. Can the potential users be expected to possess the knowledge needed to properly evaluate the qualifications of those offering services?
3. Do the benefits to the public clearly outweigh any potential harmful effects, such as a decrease in the availability of practitioners, higher costs of services, and restriction on optimum utilization of personnel?

During our review to determine if the Board's licensing function is required and meets the previously mentioned criteria, we examined existing statutes, complaints, and various Board functions. As a result of our examination we found:

1. The Board performs only minimal functions. The majority of their duties, as outlined by AS 08.71.070, are handled by the Division of Occupational Licensing. Those duties that are executed by the Board include conducting meetings, reviewing applications for licensure, reviewing results of investigations and hearings and determining proper disciplinary actions, and preparing and grading the State examination. These duties are not substantial enough to continue the Board. Conducting meetings is only necessary to the extent that it is easier to take care of business at a meeting as opposed to by mail.

The bulk of the work on reviewing applications for licensure is done by the license examiner. He/she gathers the proper documentation and makes sure it is complete. The applications are then presented to the Board, who then votes whether to approve or disapprove licensure. This review tends to be cursory as the majority of it has already been done by the license examiner.

Reviewing results of investigations and hearings and determining proper disciplinary actions also tends to be cursory. This is due to the up-front work that is done by the investigations unit in Occupational Licensing and the hearing officers. The Board is kept informed of the status of complaints but are not involved in the investigations. The determination of proper disciplinary actions has usually been done by the hearing officer. It is then a formality for the Board to approve them.

The only duty requiring the expertise of the Board is the preparation and grading of the State examination. A license examiner does not have the background to formulate those exams. However, it is not necessary to give an exam because the potential physical harm caused by unlicensed dispensing opticians is minimal to non-existent, and the administering of an exam is not essential.

Consequently, there are not enough duties for the Board to justify its existence. The expenses to maintain a Board of 5 members to regulate approximately 60 dispensing opticians is not economical.

2. An optician cannot cause great physical harm to an individual. Spectacles can cause double vision, distorted vision, and trouble with perception. Yet with these types of troubles, most patients will return to their optometrist or ophthalmologist for verification of the prescription. Improper fitting of contact lenses can result in physical harm. However, AS 08.71.200 requires a licensed physician (ophthalmologist) or optometrist to supervise the fitting of contact lenses and requires the patient to return to the prescribing physician or optometrist. In addition, AS 08.72.275 is adequate to protect the public from harm due to improperly hardened lenses because it requires each lens to be impact resistant under specified test conditions.
3. Approximately 12 complaints were received by the Division of Occupational Licensing and 2 complaints were received by Consumer Protection over the last few years.

Most of the complaints were instigated by licensed practitioners, not consumers, and related to unlicensed individuals dispensing. Of these, none resulted in physical harm. In one case, the Attorney General's Office refused to prosecute a violation because there was no evidence of physical harm.

4. In addition, several cases were noted where individuals were licensed without adequate documentation of statutory and regulatory requirements. These individuals were potentially "unqualified," yet no evidence of physical harm has resulted from their practices.
5. Contact lenses cost approximately \$500 and spectacles cost much less. Therefore, if for some reason the consumer received poor quality or useless contacts or spectacles, the loss to the consumer would not be severe. Also, if a consumer is dissatisfied, he/she has recourses available whether a business or individual is licensed or not. The Consumer Protection Unit as well as the court system are there to provide remedies for injured parties.

Thus, we found the Board's existence to be superfluous, especially in light of the scope of the dispensing optician's work. The dispensing optician prepares and dispenses original or duplicate lenses, eyeglasses, contact lenses, and appurtenances to them on written prescription from a licensed physician or optometrist. They also interpret, measure, adapt, and fit the above mentioned. This restricts their scope to a small sphere of duties and limits that amount of harm that could result if they were not licensed.

Therefore, we recommend the Board of Dispensing Opticians be allowed to terminate on June 30, 1985.

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Board of Dispensing Opticians should be allowed to terminate on June 30, 1985.

The primary purpose of a regulatory board with a licensing function is to protect the public. The questions that have to be evaluated to determine if licensing is needed are:

1. Does the unlicensed practice pose a serious risk to the consumers' life, health, safety, or economic well-being?
2. Can the potential users be expected to possess the knowledge needed to properly evaluate the qualifications of those offering services?
3. Do the benefits to the public clearly outweigh the potential harmful effects, such as a decrease in the availability of practitioners, higher costs of services, and restriction on optimum utilization of personnel?

During our review to determine if the Board's licensing function is required and meets the previously mentioned criteria, we examined existing statutes, complaints, and various Board functions. As a result of our examination we found:

- A. The Board performs only minimal functions. The majority of their duties as outlined by AS 08.71.070 are handled by the Division of Occupational Licensing. Those duties that are executed by the Board include conducting meetings, reviewing applications for licensure, reviewing results of investigations and hearings, and determining proper disciplinary actions, and preparing and grading the State examination. These duties are not substantial enough to continue the Board. Conducting meetings is only necessary to the extent that it is easier to take care of business at a meeting as opposed to by mail. The bulk of the work on reviewing applications for licensure is done by the license examiner. He/she gathers the proper documentation and makes sure it is complete. The applications are then presented to the Board, who then votes whether to approve or disapprove licensure. This review tends to be cursory as the majority of it has already been done by the license examiner.

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The only duty requiring the expertise of the Board is the preparation and grading of the State examination. A license examiner does not have the background to formulate those exams. However, it is not necessary to give an exam because the potential physical harm caused by unlicensed dispensing opticians is minimal to non-existent, and the administering of an exam is not essential.

Consequently, there are not enough duties for the Board to justify its existence. The expenses to maintain a Board of 5 members to regulate approximately 60 dispensing opticians is not economical.

- B. An optician cannot cause great physical harm to an individual. Spectacles can cause double vision, distorted vision, and trouble with perception. Yet with these types of troubles, most patients will return to their optometrist or ophthalmologist for verification of the prescription. Improper fitting of contact lenses can result in physical harm. However, AS 08.71.200 requires a licensed physician (ophthalmologist) or optometrist to supervise the fitting of contact lenses and requires the patient to return to the prescribing physician or optometrist. In addition, AS 08.72.275 is adequate to protect the public from harm due to improperly hardened lenses because it requires each lens to be impact resistant under specified test conditions.
- C. Approximately 12 complaints were received by the Division of Occupational Licensing and 2 complaints were received by Consumer Protection over the last few years. Most of the complaints were instigated by licensed practitioners, not consumers, and related to unlicensed individuals dispensing. Of these, none resulted in physical harm. In one case, the Attorney General's Office refused to prosecute a violation because there was no evidence of physical harm.

- D. Several cases were noted where individuals were licensed without adequate documentation of statutory and regulatory requirements (See Recommendation No. 4). These individuals were potentially "unqualified," yet no evidence of physical harm has resulted from their practices.
- E. Only 20 out of the 49 other states deem it necessary to license dispensing opticians. The rest recognize that potential users can evaluate a dispensing optician's qualifications. Free enterprise will take care of those unlicensed practitioners who are not able to provide quality services and competitive prices. Consumers will not continue to patronize a business or individual if they are not satisfied.
- F. Contact lenses cost approximately \$500 and spectacles cost much less. Therefore, if for some reason the consumer received poor quality or useless contacts or spectacles, the loss to the consumer would not be severe. Also, if a consumer is dissatisfied, he/she has recourses available whether a business or individual is licensed or not. The Consumer Protection Unit as well as the court system are there to provide remedies for injured parties.

If the Board is not terminated and some control over the occupation is desired, the dispensing opticians should be combined with the Board of Optometry. The optometrists can and do dispense spectacles and contact lenses like the dispensing opticians as well as refracting eyes and diagnosing eye diseases. Thus, the Board of Optometry has experience in the same areas and is an appropriate Board with which to combine the Board of Dispensing Opticians.

However, in the event that the Board is reestablished, we recommend the following changes be made in their operations.

Recommendation No. 2

The Board of Dispensing Opticians and the Office of the Governor should work together to ensure that vacant Board positions are filled.

The Board is responsible for making recommendations to the Office of the Governor, Special Staff Assistant, Boards and Commissions for vacant Board positions. The Office of the Governor is then responsible for following up on those recommendations as well as those from any other interested parties.

There are conflicting stories from the staff of the Office of the Governor and the Board members regarding the lack of recommendations and follow up. There is some dispute as to whether any recommendations have been made in the past several years as there has been no acknowledgement of receipt by the Office of the Governor, except within the last month. Regardless of who has been at fault, there are still vacant Board positions to be filled.

This is particularly crucial since two of the five positions have members who are serving past the expiration dates of their terms. One member has served two years beyond his original term because no one has been appointed to fill his slot. This extension of terms defeats the purpose in setting a specified term length. In addition, the public member slot has been vacant since June 1982. The public member brings a different perspective. They help keep the purpose in mind which is to protect the public, not the economic interest of an occupational group. Therefore, it is crucial that the Board and the Office of the Governor work together to fill these three slots.

Recommendation No. 3

The Board should review existing statutes and regulations and seek appropriate revision where necessary.

During our examination, we reviewed the Board's statutes and regulations to determine if any were obsolete, vague, or unduly restrictive. Examples of what we found are as follows:

- A. AS 08.71.130(d) and 12 AAC 30.050 set out continuing competency requirements. These requirements were based on biennial licensing. Since then, the profession has changed to quadrennial licensing without a compensating change in the continuing competency requirements.
- B. AS 08.71.150 allows the State to license by reciprocity. However, none of the 20 other states will grant Alaska these rights. And since licensure by credentials accomplishes the same purpose, this Statute is not necessary.
- C. AS 08.71.200 sets out dispensing opticians' constraints for issuing contact lenses. The language used is not specific enough and needs to be further defined as to what is meant by "contact lenses shall be fitted in conjunction with and under the supervision of a licensed physician or an optometrist." The optometrists and dispensing opticians are currently debating changes to this Statute, and a caution should be noted. The Attorney General's Office has found a potential

antitrust issue with regards to where contact lens prescriptions can be filled. Any changes to this Statute should not be to make it more restrictive (i.e., requiring the prescriptions be filled at specified places instead of where the consumer chooses).

- I. The Board still has not received statutory authority to issue temporary permits. These temporary permits would allow a greater influx of qualified individuals to practice while awaiting formal Board approval.

AS 08.71.055 provides that the Board shall exercise general control over dispensing opticians. This cannot be done effectively without clear and concise statutes and regulations. And although the Board has had various obsolete or vague statutory and regulatory requirements repealed or amended, the Board should continue to review them for obsolescence, vagueness, and restrictiveness, and propose appropriate changes where necessary.

Recommendation No. 4

The Board should ensure that requirements are being met and adequately documented prior to licensure.

Statutory and regulatory requirements have been set up to ensure that competent individuals are being licensed. Documentation of these requirements is necessary to show that they have indeed been met.

During our examination, we reviewed several licensing files to determine if statutory and regulatory requirements were being met. Examples of what we found are as follows:

- A. Out of 12 tested, 4 did not have adequate documentation of training hours. Either the hours listed were not signed by the instructor on the application or there weren't enough hours (AS 08.71.110 and 12 AAC 30.070).
- B. For those 2 tested that were licensed by credentials, apprentice hours were not listed at all or those listed were not enough. Also there was no evidence that the applicants had ever taken the national exam either in Alaska or in another state (AS 08.71.145 and 12 AAC 30.100).
- C. One licensee's file did not have any indication of the Board's approval (AS 08.71.055).
- D. Much of the documentation consisted of photocopies and not originals. Photocopies are acceptable but they should be notarized or certified copies and not copies of notarized or certified originals since copies of notarized or certified originals are easy to falsify.

The Board has some flexibility in assuring the requirements are met. They can waive them in order to let a candidate take the exam. However, there should be no exceptions when licensing. All requirements must be met including those that may have been initially waived for the exam. The follow up on those items lacking is the Board's responsibility, and the Board should ensure requirements are being met and adequately documented prior to licensure.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses indicate both positive and negative factors as they relate to the public need as defined in the "sunset" law. These analyses are not intended to be comprehensive, but to address those areas we were able to cover during our examination.

- I. The extent to which the board, commission, or program has operated in the public interest.
 - A. The Board has held meetings and exams at least two times a year.
 - B. The Board has passed regulations regarding apprentices, continuing competency, and licensure by credentials.
 - C. The Board has not had a public member since June 1982 (see Recommendation No. 2).
- II. 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.
 - A. The Board has had two vacant Board positions for two years (see Recommendation No. 2).
- III. The extent to which the board, commission, or agency has recommended statutory changes which are generally of benefit to the public interest.
 - A. The Board succeeded in having various obsolete or vague statutory requirements repealed or amended.
 - B. No statutory changes have been made since 1980.
- IV. 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.
 - A. The Board has published public notices of all examinations, meetings, and regulation changes. The Board has not actively solicited comments on its effectiveness.

- V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.
- A. The Board has published notices of its meetings in Anchorage, Fairbanks, and Juneau. However, no public participation appears to have resulted.
- VI. 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.
- A. According to the Division of Occupational Licensing's files, there have been approximately twelve investigation cases in the past four years. Two complaints have been filed with the Consumer Protection Unit and none with the Office of the Ombudsman.
- VII. The extent to which a board or commission which regulates entry into an occupation or profession has pres uted qualified applicants to serve the public.
- A. In the last six years, the number of currently licensed dispensing opticians has increased from 45 to 63.
- B. The Board has not established reciprocal agreements with other states or established statutory authority to issue temporary permits. They have established licensure by credentials which tries to address the same situation.
- VIII. 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.
- A. Applications for licensure require information and photographs which the Division of Equal Employment Opportunity (EEO) believes may not be necessary to determine the qualifications of the applicant.
- IX. 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.

Please refer to the previous section, Findings and Recommendations.

APPENDIX

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APPENDIX A

BOARD OF DISPENSING OPTICIANS
REVENUES COMPARED WITH EXPENDITURES
For the Fiscal Year Ended 1983
(UNAUDITED)
(Note 1)

Average Revenues (Note 2)	\$ 3,853
Expenditures (Note 3)	<u>4,258</u>
Excess of Expenditures over Revenues	<u>\$ (405)</u>

Schedule 1
Types of Revenues

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>
Examination Fee	\$ 50	With application
Reexamination Fee	\$ 50	With application
Initial License Fee	\$ 50	Before licensure
Renewal Fee	\$ 200	Every four years
Late Renewal Fee	\$ 10	If over 60 days after renewal date

Note 1

This revenue/expenditure comparison was prepared from available records and discussions with Occupational Licensing personnel. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Revenues Compared with Expenditures.

Note 2

The majority of the revenues collected are composed of license renewal fees. These fees are collected by most boards once every two or four years and causes revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average for the revenues collected from 1981 to the present in order to obtain a more accurate representation of collected revenues.

Note 3

Expenditures include those made by board members, such as travel, per diem, and direct administrative expenses of the Division of Occupational Licensing. They do not include indirect administrative expenses of the Division or expenditures for efforts of other departments such as the Department of Law, assisting the boards and the Division.

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

October 4, 1984

OCT 05 1984
LEGISLATIVE
AUDIT

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

We have reviewed your preliminary audit report on the Board of Dispensing Opticians, covering the period July 1, 1981 to June 30, 1984.

The position we expressed in response to your interim letter has not changed. We, at that time, concluded the assessment of allowing the board to terminate was accurate and would not subject the public to harm. We concurred in part to your recommendations.

Having now reviewed your preliminary audit report, we continue to maintain our position. We do not know of any reason to change.

For clarification, we will respond to each of your recommendations.

Recommendation 1

The Board of Dispensing Opticians should be allowed to terminate on June 30, 1985.

We concur with your report and endorse allowing the board to terminate on June 30, 1985. Since establishment (Chapter 45 SLA 1973), the board has licensed 60 practitioners.

We would also suggest the licensing functions by the Division of Occupational Licensing should also terminate. Citizens have other means of redress for harm, and the practitioners would still be required to have a State business license from the Department of Revenue.

Recommendation 2

The Board of Dispensing Opticians and the Office of the Governor should work together to ensure that vacant board positions are filled. Currently, the Office of the Governor is making efforts to increase communication with the boards. The staff has solicited from boards, professional associations and the general public, candidates for board appointments. Vacancy lists are published in the Administrative Journal.

We would not endorse appointing a person to a board when we are suggesting termination of the function. Although the board has not had its full membership, licenses have been issued.

Recommendation 3

The board should review existing statutes and regulations and seek appropriate revisions where necessary.

We concur with your assessment in part. The board has made efforts to change regulations and, in doing so, has developed a better working relationship with the Board of Optometry in subjects of mutual consideration.

We disagree that the board is responsible for statutes that are unnecessary. Their input is necessary, however, they have no control over forcing repeal.

Our position on temporary permits remains unchanged. We disagree that a temporary permit allows for a greater influx of qualified practitioners. Applying for licensure should be a scheduled pursuit, not when an applicant wants immediate licensure by a different set of standards. To protect the public, verification of all documentation should be made. This does take time.

Recommendation 4

The Board should ensure that requirements are being met and adequately documented prior to licensure.

We concur in this recommendation and, if the board is continued, will work with them to ensure your suggestions and the laws are followed. Our position, expressed in response to your interim letter, is still accurate.

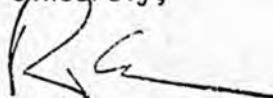
Mr. Gerald L. Wilkerson

-3-

October 4, 1984

Be assured your recommendations will be endorsed to the board pending the determination of the legislative committee. We appreciate your evaluation and thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'RAL', with a long horizontal stroke extending to the right.

Richard A. Lyon
Commissioner

RAL/1t0668t
100484b

CSSB 167: Changes *

- Section 1) Page 1, line 11: Changed the termination date to 1986
- Section 4) Changed the "hours of continuing competence" from 40 to 30
- Section 6) Adds a new section which directs the Governor to appoint a 6 member working group to study and make recommendations on the consolidation of the Boards of Dispensing Opticians and the Optometric Examiners.

Composition of this group to be as follows:

- 1 Member from the Board of Dispensing Opticians
- 1 Member from the Board of Optometric Examiners
- 1 Representative from the DCED
- 1 Representative from the civil division of the Dept of Law
- 1 Licensed optometrist
- 1 Licensed dispensing optician

Working Group to report its recommendations to the legislature by January 15th, 1986.

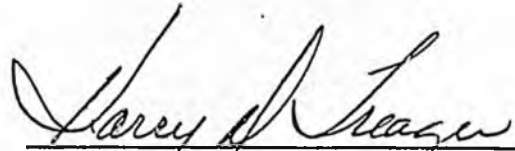
- Section 7) Repeals the authorization for the working group on July 1, 1986 as indicated in section 8
- Section 8) Triggers the new fee section on 1986, rather than the previous 1988 date in the original bill.

* Note: Title Change in CS;

CS SB 167 "An Act relating to dispensing opticians and optometrists, and providing for an effective date."

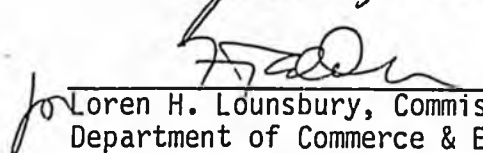
The Department of Commerce and Economic Development and the Division of Occupational Licensing support the efforts in CS for SB 167 to join two boards into one. However, the original position as proposed has not been challenged with sufficient evidence to warrant a change to our recommendation to "sunsetting" the Board of Dispensing Opticians. We maintain the protection of the public will not be increased with retention of the board. We firmly believe the public has other avenues of redress if harmed.

Based on the mandates of the Legislature, we commit our efforts to working within the appointed group to resolve our concerns. We will commit to assisting in a logical and concise report for presentation to the Legislature by January 15, 1986.



Harry D. Treager, Director
Division of Occupational Licensing

Date: April 8, 1985



Loren H. Lounsbury, Commissioner
Department of Commerce & Economic
Development

Date: 4/10/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB 167(L&C)
 Title: Relating to Dispensing Opticians & Optometrists
 Sponsor: Senate Labor & Comm.
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
 Program Category Affected: _____
Consumer Protection
 BRU, Program or Subprogram(s) Affected: _____
Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Although the bill increases licensing fees, no immediate impact on revenues is expected unless the bill becomes effective prior to June 30, 1985 which is the expiration date of all current licenses.

Prepared By: Jennifer Strickler Mgnt Analyst Phone: 465-2144
 Division: Occupational Licensing Date: 4-5-85

Approved by Commissioner: Loren H. Lounsbury Date: 4/10/85
 Agency: Commerce & Economic Development

- Distribution (by Agency preparing fiscal note):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

Original sponsors: Ray, Rodey,
Josephson, et al

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 167 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to dispensing opticians and optome-
7 trists; and providing for an effective date."

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

9 * Section 1. AS 08.03.010(c)(5) is amended to read:

10 (5) Board of Dispensing Opticians (AS 08.71.010) --
11 June 30, 1986 [1985].

12 * Sec. 2. AS 08.71.120 is amended to read:

13 Sec. 08.71.120. FEES. The following fees shall be imposed under
14 this chapter when applicable:

- 15 (1) examination fee \$175 [\$ 50]
16 (2) initial dispensing optician license fee 350 [50]
17 (3) renewal fee, due every four years 500 [200]

18 * Sec. 3. AS 08.71.120 is repealed and reenacted to read:

19 Sec. 08.71.120. FEES. The department shall set fees under
20 AS 08.01.080 for examination, initial license, and license renewal.
21 In setting the amount of the fees the department shall reflect, to the
22 extent possible, the actual costs to the department of the activity
23 for which the fee is charged. The department may not set a fee unless
24 the board concurs.

25 * Sec. 4. AS 08.71.130(d) is amended to read:

26 (d) Before a license may be renewed the licensee shall submit to
27 the board evidence of 30 [15] hours of continuing competence in opti-
28 cal dispensing as prescribed by regulations of the board.

29 * Sec. 5. AS 08.71 is amended by adding a new section to read:

1 Sec. 08.71.147. TEMPORARY PERMIT. The board may issue a tempo-
2 rary permit to an applicant who has submitted a completed application
3 for licensure under AS 08.17.145.

4 * Sec. 6. (a) The governor shall appoint a six-member working group to
5 consider and make recommendations on the consolidation of the Board of
6 Dispensing Opticians and the Board of Optometric Examiners. Membership on
7 the working group includes one representative from the Board of Dispensing
8 Opticians, one representative from the Board of Optometric Examiners, one
9 representative from the Department of Commerce and Economic Development,
10 one representative from the civil division of the Department of Law, one
11 licensed optometrist, and one licensed optician.

12 (b) The working group shall report its recommendations to the legis-
13 lature by January 15, 1986.

14 * Sec. 7. Section 6 of this Act is repealed.

15 * Sec. 8. Sections 3 and 7 of this Act take effect July 1, 1986.

16 * Sec. 9. Sections 1 - 2 and 4 - 6 of this Act take effect immediately
17 in accordance with AS 01.10.070(c).

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

BILL SHEFFIELD, GOVERNOR

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

FY '84 EXPENDITURES

BOARD OF DISPENSING OPTICIANS

ADMINISTRATION

100: \$ 26,400.00

(This includes a percentage of the Licensing Examiner's time, as well as time spent by the entire Division staff attributed to the Board of Dispensing Opticians and its licensing function.)

200: \$ 700.00

300: \$ 1,900.00

BOARD

200: \$ 3,800.00

(This includes travel and per diem for members to attend Board meetings and examinations.)

INVESTIGATIONS

200: \$ 60.00

(Cases worked in FY '84 were in the Anchorage and/or nearby surrounding areas. Since the Investigator assigned to the Dispensing Opticians is located in the Anchorage area, this eliminated the air fare travel expenses.)

300: \$ 400.00

TOTAL: \$ 33,260.00

3/18/85
JS

AS 08.71.120

CHAPTER = 08.71
SECTION = 08.71.120
TITLE = 08
HEADINGS TITLE 8.
Business and Professions.
CHAPTER 71.
Dispensing Opticians.
ARTICLE 2.
Licensing.

CITATION Sec. 08.71.120.

CATCH LINE

FEES.

TEXT The following fees shall be imposed under this chapter when applicable:

- (1) examination fee \$50
- (2) initial dispensing optician license fee 50
- (3) renewal fee, due every four years 200

HISTORY (Sec. 1 ch 45 SLA 1973; am sec. 5 ch 56 SLA 1980)

AS 08.71.130

CHAPTER = 08.71
SECTION = 08.71.130
TITLE = 08
HEADINGS TITLE 8.
Business and Professions.
CHAPTER 71.
Dispensing Opticians.
ARTICLE 2.
Licensing.

CITATION Sec. 08.71.130.

CATCH LINE

RENEWAL OF LICENSE.

TEXT (a) A licensed dispensing optician shall renew a license issued under this chapter every four years with the department on or before the date set by the department under AS 08.01.100.

(b) If the license is not renewed on or before that date, it shall lapse. A penalty of \$100 shall be charged, in addition to all delinquent fees, for the reinstatement of a license which remains lapsed for more than 60 days.

(c) If the license remains lapsed for more than one year, the board may require the applicant to be examined under AS 08.71.090.

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

HISTORY (Sec. 1 ch 45 SLA 1973; am sec. 6 ch 56 SLA 1980)

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 167
 Title: An Act relating to Dispensing Opticians; and providing for an effective date.
 Sponsor: (Several Senators)
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 Program Category Affected: Consumer Protection
 BRU, Program or Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

The Department has recommended that the Board of Dispensing Opticians be terminated.

Prepared By: Jennifer Strickler, Management Analyst Phone: 465-2144
 Division: Occupational Licensing Date: 2-26-85

Approved by Commissioner: Loren H. Lounsbury Date: 2/27/85
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Fiscal Note

7/1/84