



LAWS OF ALASKA

1980

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Chapter No.

75

AN ACT

Relating to professional licensing and to the regulation of the practice of optometry; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 12, 1980
Actual Effective Date: June 13, 1980

AN ACT

Relating to professional licensing and to the regulation of the practice of optometry; and providing for an effective date.

* Section 1. AS 08.01.100(a) is amended to read:

(a) Except as otherwise provided in this title, [ALL] licenses shall be renewed biennially on the dates set by the department with the approval of the respective board.

* Sec. 2. AS 08.72.010 is amended to read:

Sec. 08.72.010. CREATION AND PURPOSE OF BOARD OF EXAMINERS. There is created the Board of Examiners in Optometry to regulate and control the practice of optometry and to protect and promote the public health, welfare, and safety.

* Sec. 3. AS 08.72.020 is amended to read:

Sec. 08.72.020. MEMBERSHIP OF BOARD AND TERMS OF OFFICE. The board consists of five persons, appointed by the governor. Members serve staggered terms of four [THREE] years. [THE TERMS OF THE PUBLIC MEMBERS OF THE BOARD SHALL BE SET SO THAT THEY DO NOT EXPIRE AT THE SAME TIME.]

* Sec. 4. AS 08.72 is amended by adding a new section to read:

Sec. 08.72.025. REMOVAL OF BOARD MEMBERS. A member of the board may be removed from office by the governor for cause. The board may by regulation provide that unexcused absences from meetings constitute cause for removal.

Chapter 75

* Sec. 5. AS 08.72.040 is amended to read:

Sec. 08.72.040. QUALIFICATIONS. Four [THREE] board members shall be licensed, practicing optometrists who have been residents for at least three years. One board member shall be a public member. A person who has served two successive complete terms may not be reappointed until four years from the expiration of the second term that he served [TWO SHALL BE PERSONS WHO HAVE NO DIRECT FINANCIAL INTEREST IN THE HEALTH CARE INDUSTRY].

* Sec. 6. AS 08.72.050 is amended by adding a new paragraph to read:

(5) prescribing requirements which a person licensed under this chapter must meet to demonstrate continued professional competency.

* Sec. 7. AS 08.72.060(b) is repealed and re-enacted to read:

(b) The board may

(1) adopt a seal;

(2) define professional conduct and adopt rules of professional conduct.

* Sec. 8. AS 08.72.060(c) is repealed and re-enacted to read:

(c) The board shall

(1) elect a president and secretary from among its members;

(2) order a licensee to submit to a reasonable physical examination if his physical capacity to practice safely is at issue.

* Sec. 9. AS 08.72.125(a) is amended to read:

(a) The board shall shall [MAY] issue a branch office certificate of registration to an Alaskan licensee who maintains a full-time practice in the state but who serves other communities in the state on a part-time basis [A BRANCH OFFICE CERTIFICATE OF REGISTRATION].

* Sec. 10. AS 08.72.140(2) is amended to read:

(2) he has [NORMAL COLOR PERCEPTION AND] a visual acuity of a standard of at least 20/40 in at least one eye as corrected;

* Sec. 11. AS 08.72.160(a) is amended to read:

(a) The examination shall be written, practical, and oral in nature. The National Board of Examiners in Optometry Examination, Parts 1 and 2, shall comprise the written portion of the Alaska examination. The oral portion of the examination shall be recorded and retained for two years.

* Sec. 12. AS 08.72.170(a)(2) is amended to read:

(2) holds a current license by examination in another state or a province of Canada [, TERRITORY OR FOREIGN COUNTRY] and has been established in ethical optometric practice for at least three years before the application, or shows satisfactory evidence of having passed the written portion of the examination given by the National Board of Examiners in Optometry; and

* Sec. 13. AS 08.72.181(a) is amended to read:

(a) To remain in force a license must be renewed every four years [BIENNIALLY].

* Sec. 14. AS 08.72.181(d) is amended to read:

(d) Before a license may be renewed the licensee shall submit to the board evidence of 48 [24] hours of postgraduate continuing education instruction as prescribed by regulations of the board. The board may specify by regulation those circumstances under which the requirements of this subsection may be waived.

* Sec. 15. AS 08.72.181 is amended by adding a new subsection to read:

(e) Before a license may be renewed, the licensee shall provide evidence of continued professional competency in accordance with the regulations adopted by the board under AS 08.72.050(5).

* Sec. 16. AS 08.72.191 is amended to read:

Sec. 08.72.191. FEES. The following fees shall be imposed under this chapter when applicable:

Chapter 75

- 1 (1) examination fee..... \$50 [\$35]
- 2 (2) reexamination fee for written portion..... \$50 [50]
- 3 (3) waiver of examination fee..... \$50 [25]
- 4 (4) certificate fee..... \$100 [50]
- 5 (5) [BIENNIAL] renewal fee
- 6 (due every four years)..... \$200 [50]
- 7 (6) branch office [BIENNIAL] registration fee
- 8 (due every four years)..... \$100 [25]

9 * Sec. 17. AS 08.72.240 is repealed and re-enacted to read:

10 Sec. 08.72.240. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.

11 The board may impose disciplinary sanctions when the board finds after a
12 hearing that a licensee

13 (1) secured a license through deceit, fraud, or intentional
14 misrepresentation;

15 (2) engaged in deceit, fraud, or intentional misrepresenta-
16 tion in the course of providing professional services or engaging in
17 professional activities;

18 (3) advertised professional services in a false or misleading
19 manner;

20 (4) has been convicted of a felony or other crime which
21 affects his ability to continue to practice competently and safely;

22 (5) intentionally or negligently engaged in or permitted the
23 performance of patient care by persons under his supervision which does
24 not conform to minimum professional standards regardless of whether
25 actual injury to the patient occurred;

26 (6) failed to comply with this chapter, with a regulation
27 adopted under this chapter, or with an order of the board;

- 28 (7) continued to practice after becoming unfit due to
29 (A) professional incompetence;

Chapter 75

(B) failure to keep informed of or use current professional theories or practices;

(C) addiction or severe dependency on alcohol or other drugs which impairs his ability to practice safely;

(D) physical or mental disability;

(8) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients;

(9) failed to refer a patient to the appropriate health care practitioner after ascertaining the possible presence of ocular disease.

* Sec. 18. AS 08.72.250 is repealed and re-enacted to read:

Sec. 08.72.250. DISCIPLINARY SANCTIONS. (a) When it finds that a licensee is guilty of an offense under AS 08.72.240, the board may impose the following sanctions singly or in combination:

(1) permanently revoke a license to practice;

(2) suspend a license for a determinate period of time;

(3) censure a licensee;

(4) issue a letter of reprimand;

(5) place a licensee on probationary status and require him

to

(A) report regularly to the board upon matters involving the basis of probation;

(B) limit practice to those areas prescribed;

(C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the board to need improvement;

(6) impose limitations or conditions on the practice of a licensee.

(b) The board may withdraw probation status if it finds that the deficiencies which required the sanction have been remedied.

Chapter 75

1 (c) The board may summarily suspend a license before final hearing
2 or during the appeals process if the board finds that the licensee poses
3 a clear and immediate danger to the public health and safety if he
4 continues to practice. A person whose license is suspended under this
5 section shall be entitled to a hearing by the board no later than seven
6 days after the effective date of the order. He may appeal the sus-
7 pension after a hearing to a court of competent jurisdiction.

8 (d) The board may reinstate a license which has been suspended or
9 revoked if the board finds after a hearing that the applicant is able to
10 practice with skill and safety.

11 (e) The board shall seek consistency in the application of dis-
12 ciplinary sanctions, and significant departure from prior decisions
13 involving similar situations shall be explained in findings of fact or
14 orders.

15 * Sec. 19. AS 08.72.270(a) is amended to read:

16 (a) A registered optometrist, who temporarily practices optometry
17 away from his regular place of business, shall display his registration
18 certificate and deliver to each patient or person fitted or supplied
19 with glasses a receipt [WITH HIS SIGNATURE] showing his permanent place
20 of business or post office address [, CERTIFICATE NUMBER,] and the
21 amount charged. [A LICENSEE WHO FAILS TO COMPLY WITH ANY OF THE FORE-
22 GOING PROVISIONS FOR SIX MONTHS AFTER ISSUANCE OF THE CERTIFICATE SHALL
23 FORFEIT HIS CERTIFICATE.]

24 * Sec. 20. AS 08.72.275 is amended by adding a new subsection to read:

25 (d) A licensee may sell, exchange or deliver eyeglasses or sun-
26 glasses which do not meet the requirements of (a) of this section if the
27 sale, exchange or delivery is authorized in a written request signed by
28 the patient.

29 * Sec. 21. AS 08.72.300(2) is amended to read:

(2) "optometry" is the examination, other than by the use of drugs, of the human eyes and the visual system for the purpose of ascertaining a departure from the normal, ascertaining the status of the human visual system, including refractive and functional abilities, or ascertaining the presence of ocular disease and any other departure from the normal which requires referral to other health care practitioners; or [IS THE EMPLOYMENT OF MEANS OR METHODS, OTHER THAN THE USE OF DRUGS, FOR] the diagnosis of an optical deficiency or deformity, visual or muscular anomaly of the human eye, or the prescription or application of lenses, prisms or ocular exercises for the correction or relief of the human eye;

* Sec. 22. AS 08.72.300(3) is amended to read:

(3) "practicing optometry" is an examination, other than by the use of drugs, of the human eyes and visual system for the purpose of ascertaining a departure from the normal, ascertaining the status of the human visual system, including refractive and functional abilities, or ascertaining the presence of ocular disease and any other departure from the normal which requires referral to other health care practitioners; or [MEANS] the diagnosis [, BY MEANS OR METHODS OTHER THAN THE USE OF DRUGS,] of an optical deficiency or deformity, visual or muscular anomaly of the human eye, or the prescription of lenses, prisms or ocular exercises for the correction or relief of the human eye, or the holding of oneself out as being able to do so;

* Sec. 23. AS 08.72.060(e), 08.72.070, 08.72.090, and 08.72.140(6) are repealed.

* Sec. 24. This Act takes effect immediately in accordance with AS 01.10.-070(c).