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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**M E M O R A N D U M**

**TO:** Sher Zinn  
Department of Commerce, Community and Economic Development

**FROM:** April Simpson, Office of the Lieutenant Governor   
465.4081

**DATE:** January 23, 2019

**RE:** Filed Permanent Regulations: Board of Examiners in Optometry  
  
Board of Optometry Regulations re: 12 AAC 48.011-.360: Board of Examiners in  
Optometry: Continuing Education Requirements (12 AAC 48.011-.360)

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Attorney General File:	2018200668.001
Regulation Filed:	1/22/2019
Effective Date:	2/21/2019
Print:	229, April 2019

cc with enclosures: Linda Miller, Department of Law  
Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF THE BOARD OF EXAMINERS IN OPTOMETRY

The attached ten pages of regulations, dealing with continuing education requirements, licensure requirements, prescription drug monitoring program controlled substance prescription database registration, and use of pharmaceutical agents, are hereby certified to be a correct copy of the regulation changes the Board of Examiners in Optometry adopted at its August 6, 2018 teleconference meeting, under the authority of AS 08.01.100, AS 08.72.050, AS 08.72.060, AS 08.72.110, AS 08.72.140, AS 08.72.150, AS 08.72.160, AS 08.72.170, AS 08.72.181, AS 08.72.272, AS 08.72.278, and AS 17.30.200, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

On the record, in considering public comments, the Board of Examiners in Optometry paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: 10-3-2018  
Anchorage, Alaska

  
\_\_\_\_\_  
Dr. Paul Barney, Chair  
Board of Examiners in Optometry

FILING CERTIFICATION

Kevin Meyer  
I, ~~Byron Mallott~~, Lieutenant Governor for the State of Alaska, certify that on

January 22, 2018 at 10:27 Am., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.

  
\_\_\_\_\_  
~~Byron Mallott~~, Lieutenant Governor  
Kevin Meyer

Effective: February 21, 2019.

Register: 229, April 2019.

### Chapter 48. Board of Examiners in Optometry.

12 AAC 48.011(a) is amended by adding a new paragraph to read:

(9) if the applicant holds a valid federal Drug Enforcement Administration registration number, verification that the applicant has ~~completed no less than two hours of~~ <sup>complied with the requirement for</sup> education in pain management and opioid use and addiction ~~within the two years prior to the date of application.~~ <sup>under AS 08.72.181(d).</sup>

(Eff. 2/26/89, Register 109; am 3/20/93, Register 125; am 4/14/95, Register 134; am 10/11/95, Register 136; am 4/24/97, Register 142; am 7/20/97, Register 143; am 11/2/2002, Register 164; am 9/17/2003, Register 167; am 4/11/2008, Register 186; am 10/16/2011, Register 200; am 12/2/2012, Register 204; am 11/29/2017, Register 224; am 2 / 21 / 2019, Register 229 )

**Authority:** AS 08.72.050      AS 08.72.150      AS 08.72.170  
AS 08.72.110      AS 08.72.160      AS 08.72.272  
AS 08.72.140

12 AAC 48.020(c) is amended by adding a new paragraph to read:

(7) if the applicant holds a valid federal Drug Enforcement Administration registration number, verification that the applicant has ~~completed no less than two hours of~~ <sup>complied with the requirement for</sup> education in pain management and opioid use and addiction ~~within the two years prior to the date of application.~~ <sup>under AS 08.72.181(d)</sup> (Eff. 9/17/2003, Register 167; am 4/11/2008, Register 186; am 7/19/2009, Register 191; am 10/16/2011, Register 200; am 12/2/2012, Register 204; am 2 / 21 / 2019, Register 229 )

**Authority:** AS 08.72.050      AS 08.72.170      AS 08.72.272  
AS 08.72.110

12 AAC 48.200(b)(4) is amended to read:

(4) remote learning, online, and [POSTGRADUATE] correspondence courses, except that no more than 10 [NINE] hours of continuing education credits may be claimed in a single licensing renewal period;

The introductory language of 12 AAC 48.200(c) is amended to read:

(c) Other continuing education courses not listed in (b) of this section, if related to the practice of optometry under this chapter and AS 08.72, may be approved by the board upon written request of the licensee, if request is submitted <sup>not later than</sup> within 30 days following course completion. [IF PRE-APPROVAL IS REQUESTED FOR THE CONTINUING EDUCATION COURSE, THE WRITTEN REQUEST MUST BE RECEIVED BY THE DEPARTMENT AT LEAST 60 DAYS BEFORE COMMENCEMENT OF THE PROGRAM.] The request must include the following information:

...

12 AAC 48.200 is amended by adding a new subsection to read:

(d) If the applicant for renewal holds a valid federal Drug Enforcement Administration registration number, verification that the applicant has met the requirements of AS 08.72.181(d) ~~completed no less than two hours of~~ ~~continuing education in pain management and opioid use and addiction during the concluding~~ ~~licensing period~~. (Eff. 4/24/71, Register 37; am 2/10/83, Register 85; am 2/16/89, Register 109; am 11/2/2002, Register 164; am 12/31/2005, Register 176; am 10/16/2011, Register 200; am 4/30/2015, Register 214; am 2 / 21 / 2019, Register 229)

Authority: AS 08.72.050 AS 08.72.181

12 AAC 48.210(a) is amended to read: February 21, 2019  
(or effective date of regulation))

(a) On or after January 1, 2019, an [AN] applicant for renewal of a biennial optometry license, must document at least 40 [36] contact hours of continuing education credit that meets the requirements of 12 AAC 48.200, and that was completed during the concluding licensing period.

12 AAC 48.210(d) is amended to read:

(d) If the applicant for renewal holds a valid federal Drug Enforcement Administration registration number, document that the applicant  
(1) has completed no less than two hours of continuing education in pain  
management and opioid use and addiction during the concluding licensing period; and

(2) is registered with the Prescription Drug Monitoring Program (PDMP)  
controlled substance prescription database under AS 17.30.200 and 12 AAC 48.360 [AN  
APPLICANT FOR RENEWAL OF AN OPTOMETRY LICENSE MUST DOCUMENT  
SUCCESSFUL COMPLETION, NOT EARLIER THAN THE FOUR YEARS IMMEDIATELY  
BEFORE THE DATE OF APPLICATION FOR RENEWAL

(1) EIGHT HOURS OF CONTINUING EDUCATION IN THE USE AND  
PRESCRIPTION OF PHARMACEUTICAL AGENTS THAT MEETS THE REQUIREMENTS  
OF 12 AAC 48.200(b) OR (c); AND

(2) SEVEN HOURS OF CONTINUING EDUCATION IN THE INJECTION OF  
NONTOPICAL THERAPEUTIC PHARMACEUTICAL AGENTS THAT MEETS THE  
REQUIREMENTS OF 12 AAC 48.200(b) OR (c); AND



229

April

264

~~2018~~

## PROFESSIONAL REGULATIONS

(Eff. 4/24/71, Register 37; am 2/10/83, Register 85; am 2/26/89, Register 109; am 3/20/93, Register 125; am 11/2/2002, Register 164; am 4/11/2008, Register 186; am 10/16/2011, Register 200; am 12/2/2012, Register 204; am 11/29/2017, Register 224; am 2/21/2019, Register 229).

**Authority:** AS 08.72.050

**AS 08.72.140**

AS 08.72.272

**AS 08.72.060**

AS 08.72.181

(a)

## Exemption

(a) - (c)

(a) - (c)

↑ and

(b) To obtain an exemption under this section, an optometrist must submit official documentation satisfactory to the board of active duty military service, in a combat zone, danger pay post, or qualified hazardous duty area.

(c) The board will waive half of the continuing education hours required in 12 AAC 48.210 if the board determines that the applicant was engaged in active duty military service in the armed forces of the United States for at least six consecutive months during the concluding licensing period, in a combat zone, danger pay post, or qualified hazardous duty area

(d) The board will waive all continuing education hours required in 12 AAC 48.210 if the board determines that the applicant was engaged in active duty military service in the armed forces of the United States for 12 or more months during the concluding licensing period, in a combat zone, danger pay post, or qualified hazardous duty area

(e) In this section,

(1) "engaged in active duty military service" means military personnel serving in an active capacity, including

[ (1) ] active duty personnel in the United States Army, Navy, Air Force, Marine Corps, [OR] Coast Guard, National Guard, or reservists; [AND]

(2) [RESERVISTS AND NATIONAL GUARD PERSONNEL IN A COMBAT ZONE FOR A NAMED UNITED STATES MILITARY CONFLICT; IN THIS PARAGRAPH,] "combat zone" means an area that the President of the United States designates by executive order as an area in which the armed forces of the United States are engaging or have engaged in combat;

(3) "danger pay post" means a post so designated by the United States Secretary of State in the Department of State Standardized Regulations for purposes of danger pay under 5 U.S.C. 5828; and

(4) "qualified hazardous duty area" means an area that, during the applicant's deployment, is treated as if it were a combat zone for purposes of a federal tax

exemption under 26 U.S.C. 112 (Internal Revenue Code). (Eff. 7/19/2009, Register 191; am  
2 / 21 / 2019, Register 229)

Authority: AS 08.01.100 AS 08.72.050 AS 08.72.181

~~12 AAC 48 is amended by adding a new section to read:~~

~~((Withdrawn))~~

**12 AAC 48.240. Exemption from continuing education requirements for active duty member of commissioned corps during deployment.** (a) An optometrist who meets the requirements of this section is exempt from the continuing education requirements of 12 AAC 48.200 – 12 AAC 48.220 as specified in this section for renewal of an optometrist license for the biennial licensing period immediately following a period of service by an optometrist during which an optometrist was engaged in active duty commissioned corps service deployed to respond to acute public health emergencies as determined by the Office of Force Readiness and Deployment (OFRD).

(b) To obtain an exemption under this section, an optometrist must submit official documentation satisfactory to the board of active duty Commissioned Corps Service Deployment.

(c) The board will waive half of the continuing education hours required in 12 AAC 48.210 if the board determines that the applicant was engaged in active duty Commission Corps service of the United States for at least six consecutive months during the concluding licensing period while in a qualified deployment area.

(d) The board will waive all continuing education hours required in 12 AAC 48.210 if the board determines that the applicant was engaged in active duty Commissioned Corp Service of the United States for 12 or more months during the concluding licensing period, in a qualified deployment area.



(e) In this section, "engaged in active duty Commission Corps service in a qualified deployment area" means Commission Corps personnel service in an Office of Force Readiness and Deployment (OFRD) designated acute public health emergency area and away from the assigned duty station. (Eff.        /        /       , Register       )

*Withdrawn*

Authority: ~~AS 08.01.100~~ ~~AS 08.72.050~~ ~~AS 08.72.181~~

~~12 AAC 48 is amended by adding new sections to read:~~ *(( Withdrawn to a Part 2 ))*

**12 AAC 48.340. Prescription and use of pharmaceutical agent.** (a) An optometrist desiring to prescribe and use a pharmaceutical agent, including a controlled substance, for the treatment of eye disease shall have satisfactorily completed courses in general and ocular pharmacology at an institution accredited by the Council on Post-Secondary Accreditation of the United States Department of Education and acceptable to the board. The board shall only approve the highest levels of education and training and shall license those qualified by such education and training to prescribe and use such pharmaceutical agents, including controlled substances for the treatment of eye disease. The use of any such pharmaceuticals by an optometrist or the obtaining of same by an optometrist shall require the optometrist to be in possession of a current license as provided in this section. Upon request, such optometrist shall furnish evidence to any pharmacist or other supplier from whom such pharmaceuticals are sought as to the person holding a current license.

(b) An optometrist licensed to prescribe and use pharmaceutical agents, including a controlled substance, for the treatment of eye disease shall be limited within the scope of the licensee's education, training, and experience as found acceptable by the board under (a) of this section.

~~(c) A licensee may only prescribe, order or administer a pharmaceutical agent in the~~ <sup>((Withdrawn to Part 2)))</sup>  
practice of optometry if: the requirements of (a) and (b) of this section are met and the  
pharmaceutical agent is prescribed, ordered or administered for the treatment of ocular disease or  
conditions, ocular adnexal disease or conditions, or emergency anaphylaxis.

~~(d) A licensee may prescribe, order or administer a controlled substance if the  
requirements of (a), (b) and (c) of this section are met and if~~

~~(1) the controlled substance is not a schedule IA, IIA, or VIA controlled  
substance; however, notwithstanding this paragraph, a licensee may prescribe and use a  
pharmaceutical agent containing hydrocodone; and~~

~~(2) the licensee has on file with the department the licensee's current federal Drug  
Enforcement Administration registration number that is valid for the controlled substance  
prescribed, ordered or administered;~~

~~(B) registers and complies with Alaska's Prescription Drug Monitoring  
Program; and~~

~~(C) prescribes in accordance with AS 08.72.276.~~

~~(e) In this section, "controlled substance" has the meaning given in AS 11.71.900.~~

~~(Eff. \_\_\_ / \_\_\_ / \_\_\_, Register \_\_\_)~~

**Authority:** AS 08.72.050 AS 08.72.272 AS 08.72.278

~~**12 AAC 48.350. Use of controlled substances; limitations.** (a) Requisite prior~~ <sup>((Withdrawn to Part 2)))</sup>  
conditions. In utilizing any controlled substances, an optometrist shall comply with the  
following:

~~(1) evaluation of the patient; evaluation of the patient shall initially include a full  
history, including complete medical, pain, alcohol and substance abuse histories;~~

~~(2) medical diagnosis; a medical diagnosis shall be established and fully~~ (11 Withdrawn to Part 2))  
documented in the patient's medical record, which indicates the nature of the underlying disease,  
presence of pain and pain mechanism if such are determinable;

~~(3) treatment of pain; an individual treatment plan shall be formulated and~~  
documented in the patient's medical record, which includes medical justification for controlled  
substance therapy;

~~(4) ensure that any out-patient or guardian is informed both verbally and in~~  
written form of the benefits and risks of controlled substance therapy and be provided any  
reasonable non-opioid alternative.

~~(b) Controlled Substance Therapy. Upon completion and satisfaction of the conditions~~  
prescribed in (a) of this section, and upon an optometrist's judgment that the prescription of a  
controlled substance is medically warranted, an optometrist shall adhere to the following:

~~(1) treatment records; an optometrist shall document and maintain in the patient's~~  
medical record, accurate and complete records of all history, physical and other examinations  
and evaluations, consultations, laboratory and diagnostic reports, treatment plans and objectives,  
controlled substance and other medication therapy, informed consents, periodic assessments and  
reviews;

~~(2) an optometrist qualified to prescribe controlled substances shall maintain~~  
complete records on any controlled substances he or she prescribes, which records shall clearly  
identify the controlled substances prescribed, the individual to whom each controlled substance  
was prescribed, the date of each prescription and the amount of the controlled substance  
prescribed;

~~(3) an optometrist shall not dispense or administer controlled substances in their~~ *((Withdrawn to Part 2))*  
optometry practice and shall not keep an inventory of controlled substances on hand for purposes of dispensation or administration by an optometrist in their optometry practice;

(4) the controlled substances records required by this regulation shall be readily retrievable and available for examination, inspection, copying, and verification of accuracy, currency and completeness by the board or its designated employee or agent, immediately upon the request of the board, its agents, or employees, at any reasonable time, but without the necessity of prior notice by the board. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 08.72.050 AS 08.72.272 AS 08.72.278

#### 12 AAC 48.360. Registration with the prescription drug monitoring program

controlled substance prescription database. A licensed optometrist who has a federal Drug Enforcement Administration (DEA) registration number must register *with the prescription drug monitoring program (PDMP)* and comply with the controlled substance prescription database under AS 17.30.200. (Eff. 2/21/2019,

Register 229.)

Authority: AS 08.72.050 AS 08.72.272 AS 17.30.200  
AS 08.72.060

# MEMORANDUM

## State of Alaska Department of Law

To: The Honorable Kevin Meyer  
Lieutenant Governor

Date: December 31, 2018

File No.: 2018200668.001 \*

Tel. No.: 465-3600

From: Susan R. Pollard *SRP*  
Chief Assistant Attorney General  
and Regulations Attorney  
Legislation and Regulations Section

Re: Board of Optometry Regulation re:  
12 AAC 48.011-.360: Board of  
Examiners in Optometry: Continuing  
Education Requirements

The Department of Law has reviewed the attached regulations of the Board of Examiners in Optometry against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the board after the close of the public comment period and concern requirements for continuing education and exceptions for optometrists during periods of active military service. The board has withdrawn amendments to 12 AAC 48.340 and 12 AAC 48.350 for further consideration by the board, and has withdrawn 12 AAC 48.240. *Please note that the amendment to 12 AAC 48.210(a) requires that the effective date of the regulation be hand-written above "January 1, 2019."*

The June 26, 2018 public notice and the October 3, 2018 certification of adoption both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SRP: srp

cc: Sara Chambers, Division Director  
Division of Corporations, Business and Professional Licensing  
Department of Commerce, Community and Economic Development

Sher Zinn, Regulations Specialist  
Jun Maiquis, Regulations Specialist  
Department of Commerce, Community and Economic Development

Joan Wilson, Assistant Attorney General, Commercial and Fair Business



**Notice of Proposed Changes Relating to Continuing Education and Licensure Requirements, Registration with the Controlled Substance Prescription Database, and Prescription of Pharmaceutical Agents, in the Regulations of the Board of Optometry**

BRIEF DESCRIPTION: The Board of Optometry proposes to update regulations regarding continuing education requirements, licensure, prescription drug monitoring program controlled substance prescription database (PDMP), and prescription of pharmaceutical agents, to implement amendments to AS 08.72 and AS 17.30 enacted under Chapter 25, SLA 2016 (SB 74) and Chapter 2, SSSLA 2017 (HB 159).

The Board of Optometry (Board) proposes to adopt regulation changes in Title 12, Chapter 48 of the Alaska Administrative Code including the following:

1. **12 AAC 48.011. License by examination**, is proposed to be changed to amend the requirements for license by examination to practice optometry.
2. **12 AAC 48.020. License by credentials**, is proposed to be changed to amend the requirements for license by credentials to practice optometry.
3. **12 AAC 48.200. License renewals and continuing education**, is proposed to amend the continuing education requirements for license renewal.
4. **12 AAC 48.210. Hours of continuing education required**, is proposed to amend the continuing education requirements for license renewal.
5. **12 AAC 48.230. Exception from continuing education requirements for active duty military service**, is proposed to amend the active duty military requirements for continuing education for license renewal.
6. **12 AAC 48.240. Exemption from continuing education requirements for active duty member of commissioned corps during deployment**, is a proposed new section for exemption of continuing education for license renewal for members of the Commissioned Corps Service.
7. **12 AAC 48.340. Prescription and use of pharmaceutical agent**, is a proposed new section for prescription and use of a pharmaceutical agent by an optometrist.
8. **12 AAC 48.350. Use of controlled substances; limitations**, is a proposed new section outlining the requirements of utilizing a controlled substance by an optometrist.
9. **12 AAC 48.360. Registration with the prescription drug monitoring program controlled substance prescription database**, is a proposed new section that establishes the requirement for registration with the prescription drug monitoring program's controlled substance prescription database for optometrists.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Sher Zinn, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806. Additionally, the Board will accept comments by facsimile at (907) 465-2974 and by electronic mail at [RegulationsAndPublicComment@alaska.gov](mailto:RegulationsAndPublicComment@alaska.gov). Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system at <http://notice.alaska.gov/190518>, and using the comment link. **The comments must be received not later than 5:00 p.m. on July 31, 2018.** Comments received after this deadline will not be considered by the Board.

You may submit written questions relevant to the proposed action to Sher Zinn, Regulations Specialist, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806 or by e-mail at [RegulationsAndPublicComment@alaska.gov](mailto:RegulationsAndPublicComment@alaska.gov). **The questions must be received at least 10**

**days before the end of the public comment period.** The Board will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and on the Board's website at <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofOptometry.aspx>. The Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Sher Zinn at (907) 465-1049 or [RegulationsAndPublicComment@alaska.gov](mailto:RegulationsAndPublicComment@alaska.gov), not later than July 23, 2018, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Sher Zinn at (907) 465-1049 or [RegulationsAndPublicComment@alaska.gov](mailto:RegulationsAndPublicComment@alaska.gov), or go to <https://www.commerce.alaska.gov/web/portals/5/pub/OPT-0618.pdf>.

After the public comment period ends, the Board will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.** Written comments and questions received are public records and are subject to public inspection.

**Statutory Authority:** AS 08.01.100; AS 08.72.050; AS 08.72.060; AS 08.72.110; AS 08.72.140, AS 08.72.150; AS 08.72.160; AS 08.72.170; AS 08.72.181; AS 08.72.272; AS 08.72.278; AS 17.30.200

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 08.01.100; AS 08.72.050; AS 08.72.060; AS 08.72.110; AS 08.72.140, AS 08.72.150; AS 08.72.160; AS 08.72.170; AS 08.72.181; AS 08.72.272; AS 08.72.278; AS 17.30.200

**Fiscal Information:** The proposed regulation changes are not expected to require an increased appropriation.

DATE: 6/26/18

  
Sher Zinn, Regulations Specialist  
Division of Corporations, Business and  
Professional Licensing

For each occupation regulated under the Division of Corporations, Business and Professional Licensing, the Division keeps a list of individuals or organizations who are interested in the regulations of that occupation. The Division automatically sends a Notice of Proposed Regulations to the parties on the appropriate list each time there is a proposed change in an occupation's regulations in Title 12 of the Alaska Administrative Code. If you would like your address added to or removed from such a list, send your request to the Division at the address above, giving your name, either your e-mail address or mailing address (as you prefer for receiving notices), and the occupational area in which you are interested.

### **ADDITIONAL REGULATION NOTICE INFORMATION (AS 44.62.190(d))**

- 1. Adopting agency:** Board of Optometry – Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
- 2. General subject of regulation:** Continuing education requirements, licensure, prescription drug monitoring program controlled substance (PDMP), and prescription and use of pharmaceutical agents.
- 3. Citation of regulation:** 12 AAC 48.011; 12 AAC 48.020; 12 AAC 48.200; 12 AAC 48.210; 12 AAC 48.230; 12 AAC 48.240; 12 AAC 48.340; 12 AAC 48.350; and 12 AAC 48.360.
- 4. Department of Law file number:** To be assigned.

5. **Reason for the proposed action:** Compliance with new state statutes; update and clarification of current regulations.
6. **Appropriation/Allocation:** Corporations, Business and Professional Licensing – #2360.
7. **Estimated annual cost to comply with the proposed action to:**  
**A private person:** None known.  
**Another state agency:** None known.  
**A municipality:** None known.
8. **Cost of implementation to the state agency and available funding (in thousands of dollars):**  
No costs are expected in FY 2019 or in subsequent years.
9. **The name of the contact person for the regulation:**  
Patricia Lonergan, Licensing Examiner  
Board of Optometry  
Division of Corporations, Business and Professional Licensing  
Telephone: (907) 465-1037  
E-mail: patricia.lonergan@alaska.gov
10. **The origin of the proposed action:** Board of Optometry
11. **Date:** 6/26/18      **Prepared by:** Sher Zinn  
Sher Zinn  
Regulations Specialist

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Sher Zinn, Regulations Specialist, of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 12 AAC 48.011-12 AAC 48.360, dealing with changes to continuing education, license requirements, the prescription drug monitoring program, and pharmaceutical agents has been given before August 1, 2018 by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Labor and Commerce Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

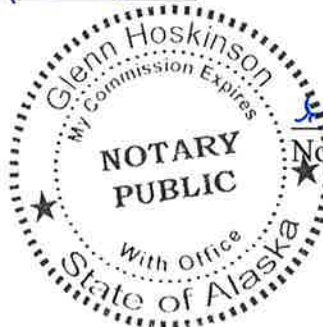
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.


Date: 11/30/2018

  
\_\_\_\_\_  
Sher Zinn, Regulations Specialist

Subscribed and sworn to before me at Juneau, Alaska on  
November 30, 2018

(date)



  
\_\_\_\_\_  
Notary Public in and for the State of Alaska  
*my commission expires 4/1/office*

STATE OF ALASKA                    )  
  ) ss.  
FIRST JUDICIAL DISTRICT    )

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Sher Zinn, Regulations Specialist, of the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, being sworn, state the following:

In compliance with AS 44.62.215, the Board of Examiners in Optometry has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Board of Examiners in Optometry regulations on dealing with continuing education, license requirements, the prescription drug monitoring program, and use of pharmaceutical agents.

Date: 10/4/18

Sher Zinn  
\_\_\_\_\_  
Sher Zinn, Regulations Specialist

SUBSCRIBED AND SWORN TO before me this 4<sup>th</sup> day of October,  
2018.



Rebecca J. Powers  
\_\_\_\_\_  
Notary Public in and for the State of Alaska  
My commission expires: With office



# ANCHORAGE DAILY NEWS

## AFFIDAVIT OF PUBLICATION

Account #: 268972

Order #: 0001423780

Cost: \$587.66

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

Joleesa Stepetin  
being first duly sworn on oath  
deposes and says that she is  
a representative of the  
Anchorage Daily News, a  
daily newspaper. That said  
newspaper has been approved  
by the Third Judicial Court,  
Anchorage, Alaska, and it now  
and has been published in the  
English language continually as a  
daily newspaper in Anchorage,  
Alaska, and it is now and during  
all said time was printed in an  
office maintained at the aforesaid  
place of publication of said  
newspaper. That the annexed is  
a copy of an advertisement as it  
was published in regular issues  
(and not in supplemental form)  
of said newspaper on

June 27, 2018

and that such newspaper was  
regularly distributed to its  
subscribers during all of said  
period. That the full amount of  
the fee charged for the foregoing  
publication is not in excess of  
the rate charged private individuals.

Signed Joleesa Stepetin

Subscribed and sworn to before

me this 4 day of October  
20 18

Britney Thompson

Notary Public in and for  
The State of Alaska.

Third Division  
Anchorage, Alaska

MY COMMISSION EXPIRES Public  
BRITNEY L. THOMPSON  
State of Alaska

My Commission Expires Feb 23, 2019

### Notice of Proposed Changes Relating to Continuing Education and Licensure Requirements, Registration with the Controlled Substance Prescription Database, and Prescription of Pharmaceutical Agents, in the Regulations of the Board of Optometry

The Board of Optometry (Board) proposes to adopt regulation changes in Title 12, Chapter 48 of the Alaska Administrative Code including the following:

1. **12 AAC 48.011. License by examination**, is proposed to be changed to amend the requirements for license by examination to practice optometry.
2. **12 AAC 48.020. License by credentials**, is proposed to be changed to amend the requirements for license by credentials to practice optometry.
3. **12 AAC 48.200. License renewals and continuing education**, is proposed to amend the continuing education requirements for license renewal.
4. **12 AAC 48.210. Hours of continuing education required**, is proposed to amend the continuing education requirements for license renewal.
5. **12 AAC 48.230. Exception from continuing education requirements for active duty military service**, is proposed to amend the active duty military requirements for continuing education for license renewal.
6. **12 AAC 48.240. Exemption from continuing education requirements for active duty member of commissioned corps during deployment**, is a proposed new section for exemption of continuing education for license renewal for members of the Commissioned Corps Service.
7. **12 AAC 48.340. Prescription and use of pharmaceutical agent**, is a proposed new section for prescription and use of a pharmaceutical agent by an optometrist.
8. **12 AAC 48.350. Use of controlled substances; limitations**, is a proposed new section outlining the requirements of utilizing a controlled substance by an optometrist.
9. **12 AAC 48.360. Registration with the prescription drug monitoring program controlled substance prescription database**, is a proposed new section that establishes the requirement for registration with the prescription drug monitoring program's controlled substance prescription database for optometrists.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed

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## AFFIDAVIT OF BOARD ACTION

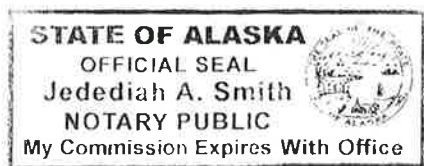
I, Patricia Lonergan, Licensing Examiner for the Board of Examiners in Optometry, being duly sworn, state the following:


The attached motion dealing with continuing education, licensure, prescription drug monitoring program controlled substance prescription database, and use of pharmaceutical agents, was passed by the Board of Examiners in Optometry during its August 6, 2018 meeting.

Date: October 3, 2018  
Juneau, Alaska

  
Patricia Lonergan, Licensing Examiner

SUBSCRIBED AND SWORN TO before me this 3<sup>rd</sup> day of October, 2018.



  
Notary Public in and for the  
State of Alaska  
My commission expires: with office

STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING  
BOARD OF EXAMINERS IN OPTOMETRY

**TELECONFERENCE**  
**August 6, 2018**  
**Juneau, Alaska**

By authority of AS 08.01.070(2) and in compliance with the provision of AS 44.62, Article 6, a scheduled teleconference of the Board of Examiners in Optometry was held on August 6, 2018 at 333 Willoughby Avenue, 9<sup>th</sup> Floor, Juneau, AK

**Agenda Item 1 – Call Meeting to Order**

Dr. Barney called the meeting to order on Monday, August 6, 2018 for the Board of Examiners in Optometry at 12:03 p.m. This meeting was public noticed on July 13, 2018 on the Alaska Online Public Notice system and July 16, 2018 in the Anchorage Daily News.

To comply with the voice roll call vote of the administrative procedures act, Dr. Barney requested a voice roll call asking that each board member state their name.

Voice Roll Call of the board:

Dr. Damien Delzer, Fairbanks: present  
Dr. Pamela Steffes, Sitka: present  
Mr. Eric Lingle, Juneau: present  
Dr. Paul Barney, Anchorage: present  
Dr. Erik Christianson, Ketchikan: joined the teleconference at 12:15 PM

Present from the Division of Corporations, Business and Professional Licensing:

Patricia Lonergan, Licensing Examiner

**Agenda Item 2 - Review Regulations Project**

The board reviewed public comment received for the regulations that went out for public comment on June 26, 2018. 12 AAC 48.011(a), 12 AAC 48.020(c), 12 AAC 48.200(b)(4), 12 AAC 48.200(c), 12 AAC 48.200(d), 12 AAC 48.210(a), 12 AAC 48.210(d), 12 AAC 48.230, 12 AAC 48.240, 12 AAC 48.340, 12 AAC 48.350, 12 AAC 48.360. Although the board is sympathetic to the comments received, the comments do not pertain to the regulations sent out for public comment. The board is not able to address the concerns as they involve issues outside of the boards' jurisdiction.

The board reviewed recommended changes by the regulations specialist to 12 AAC 48.210(a) to include: On or after January 1, 2019 an applicant for renewal of a biennial optometry license, must document at least 40 contact hours of continuing education credit that meets the requirements of 12 AAC 48.200, and that was completed during the concluding licensing period. Without amending this as it is currently written, licensees would need to submit 40 continuing education hours for the 2018 renewal.

On a motion duly made by Dr. Damien Delzer, seconded by Dr. Pam Steffes, and approved, it was:  
**RESOLVED** to approve the recommended changes to 12 AAC 48.210(a) as recommended by the regulations specialist.

**ROLL CALL VOTE:**

Board Member	Approve	Deny	Abstain/Recuse
Dr. Damien Delzer	X		
Mr. Eric Lingle	X		
Dr. Pamela Steffes	X		
Dr. Barney	X		

The board reviewed recommended changes by the regulations specialist to 12 AAC 48.350 (4) to read: Ensure that any out-patient or guardian is informed both verbally and in written form the benefits and risks of controlled substance therapy and be provided any reasonable non-opioid alternative.

On a motion duly made by Dr. Damien Delzer, seconded by Dr. Pam Steffes and approved, it was:  
**RESOLVED** to approve the recommended changes to 12 AAC 48.350(4) as recommended by the regulations specialist.

**ROLL CALL VOTE:**

Board Member	Approve	Deny	Abstain/Recuse
Dr. Damien Delzer	X		
Mr. Eric Lingle	X		
Dr. Pamela Steffes	X		
Dr. Barney	X		

Dr. Erik Christianson joined the conference call at 1:15 PM

The board reviewed the updated HB103 draft regulations submitted by Dr. Barney. This regulation was discussed during the last teleconference and tabled to allow the Board time to contemplate the proposed regulation and determine if additional revisions were needed.

Dr. Barney opened discussion asking if there were any objections to Therapeutic Procedures being used as the name of the expanded procedures. There were no objections. The board reviewed the educational requirements and agreed requiring educational requirements be fulfilled after January 1, 2016 was appropriate. This will provide a three year window, assuming regulations are approved and enacted in 2019. Dr. Barney advised the board that he had contacted Northeastern State University Oklahoma College of Optometry and their advanced procedures surgical course curriculum has not changed since January 1, 2016. The board discussed requiring an affidavit of practicing therapeutic procedures 1040 hours per year in a state that allowed therapeutic procedures since the time of completion of the course and decided to add that to the regulation. The board reviewed and discussed the proposed disqualified procedures and made no changes. The board discussed that while Botox would be a non-laser procedure, this regulation would not limit the approved licensee to do a Botox injection for a Blepharospasm, this regulation would limit an approved licensee from doing any procedures that are not visual or related to the ocular adnexa (the lids, the brows, the tissue around the eye that support the eye) and abnormalities associated with it. The approved