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**OFFICE OF THE LIEUTENANT GOVERNOR
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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)

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~~ ^{complied with the requirement for} education in pain management and opioid use and addiction ~~within the two years prior to the date of application.~~ ^{under AS 08.72.181(d).}

(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~~ ^{complied with the requirement for} education in pain management and opioid use and addiction ~~within the two years prior to the date of application.~~ ^{under AS 08.72.181(d)} (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 ^{not later than} 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
⁹ ^{complied with the requirements of AS 08.72.181(d) and}
^{SMR} (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

(3) MAY INCLUDE CONTINUING EDUCATION HOURS USED TO SATISFY THE REQUIREMENTS OF THIS PARAGRAPH IN THE TOTAL CONTINUING EDUCATION HOURS REQUIRED UNDER (a) AND (b) OF THIS SECTION FOR RENEWAL OF A LICENSE].

(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

12 AAC 48.230^(a) is amended to read:

12 AAC 48.230. Exception from continuing education requirements for active duty military service in a combat zone, danger pay post, or qualified hazardous duty area. (a) An optometrist who meets the requirements of ~~this~~ [THE] section is exempt from the continuing education requirements of 12 AAC 48.200 ^{(a)-(c)} ~~and~~ 12 AAC 48.220 ^{(a)-(c)} 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 military service in the armed forces of the United States, in a combat zone, danger pay post, or qualified hazardous duty area.

12 AAC 48.230(b) is amended to read:

(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)

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~~ ^{((Withdrawn to Part 2)))}
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~~ ^{((Withdrawn to Part 2)))}
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~~ (1 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