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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Sara Chambers, Department of Commerce, Community and Economic Development

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

**DATE:** October 16, 2023

**RE:** Filed Permanent Regulations: Board of Optometry  
  
Board of Examiners in Optometry - Licensing, Continuing Education, Telehealth  
Standards (12 AAC 48)

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Attorney General File:	2023200067
Regulation Filed:	10/16/2023
Effective Date:	11/15/2023
Print:	248, January 2024

cc with enclosures: Colleen Bailey, Department of Law  
Judy Herndon, LexisNexis  
Sylvan Robb, Division Director  
Alison Osborne, Regulations Specialist  
Stefanie Davis, Regulations Specialist



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Law**

CIVIL DIVISION

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October 13, 2023

The Honorable Nancy Dahlstrom  
Lieutenant Governor  
State of Alaska  
P.O. Box 110015  
Juneau, AK 99811-0015

Re: *12 AAC 48: Board of Examiners in Optometry - Licensing, Continuing Education, Telehealth Standards*  
Our file: 2023200067

Dear Lieutenant Governor Dahlstrom:

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 letter 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 of Examiners in Optometry after the close of the public comment period.

The regulations primarily concern the creation of a new section to set standards for an optometrist's conduct of a patient visit through telehealth. The regulations also make updates under 12 AAC 48 to remove federal agency employment records from license application requirements, add a nontopical therapeutic pharmaceutical agent injection course to the requirements for an application for licensure by credentials, and create a "good cause" exemption for licensees who cannot meet continuing education requirements due to personal injury or illness, a family emergency, or another exigent circumstance acceptable to the board.

The January 31, 2023 public notice and the October 12, 2023 order certifying the changes to regulations both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.060. The corrections are incorporated into the attached copy of the regulations.

Sincerely,

TREG TAYLOR  
ATTORNEY GENERAL

By: Rebecca C. Polizzotto  
Rebecca C. Polizzotto  
Chief Assistant Attorney General  
Legislation, Regulations, and  
Legislative Research Section

Digitally signed by  
Rebecca C. Polizzotto  
Date: 2023.10.13  
13:47:23 -08'00'

RCP/bws

CC w/enclosure: Alison Osborne, Regulations Specialist  
Department of Commerce, Community and Economic Development

Harriet D. Milks, Assistant Attorney General  
Department of Law

Brad Sharp, Assistant Attorney General  
Department of Law

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

The attached four pages of regulations, dealing with applications for initial licenses, retired status licenses, and reinstatement of lapsed licenses; also continuing education requirements on renewals and establishing new telehealth standards of practice, are certified to be a correct copy of the regulation changes that the Board of Examiners in Optometry adopted at its October 2, 2023 meeting, under the authority of AS 08.01.085, AS 08.01.100, AS 08 72.050, 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 72.185, AS 08 72.272, and AS 08 72.278, 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: 10/12/2023

Bradley Cross O.D.

Dr Bradley Cross, Chair  
Board of Examiners in Optometry

Travis Simpson for

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on October  
16, 2023 at 3:21 p.m., I filed the attached regulations according to the provisions of  
AS 44.62.040 – 44.62.120.

Nancy Dahlstrom

Nancy Dahlstrom, Lieutenant Governor

Effective: November 15, 2023.

Register: 248, January 2024.

**FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY**

**I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:**

**April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.**



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM  
LIEUTENANT GOVERNOR**

**Chapter 72. Board of Examiners in Optometry.**

12 AAC 48.011(a)(7) is repealed:

(7) repealed 11 / 15 / 2023 ;

(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; am 11 / 15 / 2023 , Register 248 )

**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)(5) is repealed:

(5) repealed 11 / 15 / 2023 ;

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

(8) verification that the applicant has completed a nontopical therapeutic pharmaceutical agent injection course of at least seven hours approved by the board, or equivalent training acceptable to the board, taken after graduating from optometry school.

(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; am 11 / 15 / 2023 , Register 248 )

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

AS 08.72.110

((Publisher: Please replace the period following 12 AAC 48.020(c)(7) with a semicolon.))

12 AAC 48.026(c)(7) is repealed:

(7) repealed 11 / 15 / 2023 ;

(Eff. 10/16/2011, Register 200; am 12/2/2012, Register 204; am 11 / 15 / 2023, Register 248)

<b>Authority:</b>	AS 08.72.050	AS 08.72.170	AS 08.72.185
	AS 08.72.110	AS 08.72.181	AS 08.72.272
	AS 08.72.150		

12 AAC 48.200 is amended by adding new subsections to read:

(e) A licensee who, for good cause, is unable to complete the continuing education courses for renewal of a license may request an exemption by submitting to the board a written statement explaining the good cause for the exemption. If the exemption is granted, the board will prescribe an alternative method for the licensee to complete the continuing education requirements.

(f) In this section, "good cause" may include

- (1) serious illness;
- (2) a family emergency; and
- (3) other extenuating circumstances, as found by the board. (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; am 8/7/2021, Register 239; am 11 / 15 / 2023, Register 248)

**Authority:** AS 08.72.050 AS 08.72.181

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

**12 AAC 48.370. Telehealth.** (a) A person in or outside the state may not practice, attempt to practice, or offer to practice optometry in the state through telehealth without first obtaining a license from the board.

(b) An optometrist conducting a patient visit through telehealth

(1) shall, before treating the patient, establish an optometrist-patient relationship verbally, in writing, or by conducting an in-person exam;

(2) shall verify the patient's identity;

(3) shall maintain confidentiality of patient records as required by state and federal law;

(4) shall provide patient services through telehealth at the same quality as would be provided in person; if a patient service through telehealth cannot be provided at the same quality as it would be in person, the optometrist shall advise the patient in accordance with AS 08.02.130(c);

(5) shall make or identify a diagnosis at the time of the patient visit;

(6) may not determine an ophthalmic prescription used to correct a refractive error based solely on an examination conducted through telehealth;

(7) shall provide complete patient records of a patient visit conducted through telehealth in a timely manner in accordance with state and federal law. (Eff. 11 / 15 / 2023,

Register 248)

**Authority:** AS 08.02.130 AS 08.72.110 AS 08.72.278

AS 08.72.050



Register 248, January 2024 PROFESSIONAL REGULATIONS

12 AAC 48.900(c)(6) is repealed:

(6) repealed 11 / 15 / 2023.

(Eff. 2/10/83, Register 85; am 2/26/89, Register 109; am 4/11/2008, Register 186; am 8/7/2021,

Register 239; am 11 / 15 / 2023, Register 248 )

**Authority:** AS 08.01.100 AS 08.72.050 AS 08.72.181