

ACT 21

H.B. NO. 3018

A Bill for an Act Relating to Examination Requirements for Optometry License.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 459-6, Hawaii Revised Statutes, is amended to read as follows:

“§459-6 Examinations, time of. Examinations shall be [held] adminis-
tered by the [board of examiners in optometry] National Board of Examiners in
Optometry (NBEO) at least once a year with additional examinations as the
[board desires to hold.] NBEO deems necessary. The time and place of [any

examination] the examinations shall be [fixed] determined by the [board at least forty-five days prior to the date that it is to be held.] NBEO. If any of the examinations administered by the NBEO are no longer considered appropriate by the board or any of the examinations are no longer administered by the NBEO, the examination shall be administered by the board or a testing agency designated by the board."

SECTION 2. Section 459-7, Hawaii Revised Statutes, is amended to read as follows:

"§459-7 Application; examination; reexamination; appeal; renewal; continuing education; license. (a) Except as otherwise provided in this chapter, every person desiring to begin or to continue the practice of optometry, before beginning or continuing practice, upon presentation of satisfactory evidence, verified by oath, that the applicant is a graduate of an optometric college, school, or university approved by the board of examiners in optometry and accredited by a regional or professional accreditation organization and recognized by the council on post-secondary accreditation or by the United States Department of Education, shall [take an examination before] pass all examinations required by the board [upon complying] and comply with the following requirements:

- (1) [Applications] Complete an application for licensure and the Hawaii optometry laws and rules examination [shall be made out and filed in writing with the executive secretary of the board; and] and submit the applications to the department of commerce and consumer affairs;
- (2) [Each application shall be accompanied by an application fee, which shall be retained by the board, and an examination fee.] Submit a nonrefundable application fee together with the application;

[(b) Each applicant shall file, in writing, with the executive secretary not less than forty-five days, but not more than one hundred eighty days, prior to the date selected by the board for the examination, the following credentials:

- (1) A] (3) Submit a copy of the applicant's diploma or certificate of graduation from an optometric college, school, or university approved in accordance with subsection (a); and
- [(2) An] (4) Submit an unretouched, unmounted, passport sized, recent photograph of the applicant.

[(c) The] (b) Except for the Hawaii optometry laws and rules examination, the applicants for examination shall be given due notice of the date and place of each examination[.] by the NBEO. If an NBEO examination is no longer recognized by the board, applicants shall be notified by the board or testing agency designated by the board of the date and place of examination.

[Any person aggrieved by the denial or refusal of the board to issue a license may submit a request for a contested case hearing pursuant to chapter 91 within sixty days of the date of the refusal or denial. An appeal to the circuit court of the circuit within which the applicant resides may be taken from the board's final order.]

Every candidate who passes [an examination shall be licensed as possessing the qualifications required by this chapter, and] all examinations required by the board and who has met all requirements for licensure shall receive from the board a [proper] license [upon payment of a license fee.] to practice optometry.

[(d)] (c) Each licensee shall pay a biennial license fee to the board on or before December 31 of each odd-numbered year for a renewal of the license for the biennium. The failure of any licensee to pay the biennial license fee and

submit proof of satisfying the continuing education program requirements on or before December 31 of each odd-numbered year shall automatically constitute a forfeiture of the license. Any license which is so forfeited may be restored upon payment of a penalty fee and all delinquent fees as provided in rules adopted by the director pursuant to chapter 91, and upon submission of proof that the person whose license has been forfeited has satisfied all continuing education requirements for the period of time the license has been forfeited.

[(e)] (d) Each licensee, on or before the date designated in each odd-numbered year, shall submit [proof] to the board [of examiners] proof that the licensee [did, on or before December 31 of each odd-numbered year, meet] has met the continuing education requirement [of continuing education in] through programs [as set] recognized and approved by the board. The board shall have the authority to extend the time for compliance of continuing education requirement if good cause is shown. The board shall adopt rules [for the certification of the administration of the continuing education program.] relating to the requirements and standards that continuing education programs shall meet to obtain recognition or approval from the board.

[(f)] Certificates of registration shall be endorsed authorizing licensed optometrists to use pharmaceutical agents for examination purposes. A certificate shall certify that an optometrist has complied with the following requirements:

- (1) Successful completion of instruction in general and clinical pharmacology as it relates to the practice of optometry, with particular emphasis on ocular pharmacology. The systemic effects and reactions to topical pharmaceutical agents used for examinations shall be studied, as well as the emergency management and referral of any adverse reactions that may occur. Instruction shall also include review of systemic and ocular diseases and clinical techniques and instruments used with these pharmaceutical agents for examination purposes. The course of study shall be approved by the board, and shall be offered by an institution which is accredited by a regional or professional accreditation organization and is recognized by the council on post-secondary accreditation or by the United States Department of Education; and
- (2) Successful completion of an examination approved by the board which tests for those subjects outlined in the course of instruction in paragraph (1).]"

SECTION 3. Section 459-8, Hawaii Revised Statutes, is amended to read as follows:

"§459-8 Conduct of examinations. Each [applicant] person whose application is received by the board before January 1, 1987, shall pass [either] the written examination given by the [National Board of Examiners in Optometry or a written examination given by the board.] NBEO.

Each applicant whose application is received by the board on or after January 1, 1987, shall pass the written examination given by the [National Board of Examiners in Optometry.] NBEO. Beginning January 1, 1991, each applicant shall pass the clinical skills examination administered by the NBEO. If a written or practical examination is no longer given by the [National Board of Examiners in Optometry,] NBEO, the applicant shall pass either another national examination selected by the board, or if no other examination is selected by the board, a written examination prepared by the board[.] or a testing agency recognized by the board.

In addition to satisfying the applicable requirement above, the applicant shall also pass [any practical and any written examinations] an examination given by the board.

The board shall [provide] state in its rules [which parts of the National Board of Examiners examination and] the [passing scores that the board will accept.] pass/fail cutoff scores for all required examinations. The board shall not accept the scores of any [National Board of Examiners examination] NBEO examinations if the examination was [taken] passed in its entirety by the applicant more than five years before the date the application is received by the board. [The] If an NBEO examination is no longer recognized by the board, the board shall [also] provide in its rules the [passing] pass/fail cutoff scores for [any] the examination [(practical or written)] given by the board[.] or the testing agency designated by the board."

SECTION 4. Section 459-9, Hawaii Revised Statutes, is amended to read as follows:

"§459-9 Refusal to permit examination or issue license; revocation and suspension of license; grounds for. The board of examiners in optometry may refuse to admit persons to its examinations or to issue a license or may revoke or suspend, for the period of time as may be determined by the board, a license previously issued, or may impose a penalty as shall be established by the board, for any of the following causes:

- (1) Presentation to the board of any certificate or testimony or information which was untrue in any material respect or illegally or fraudulently obtained, or when fraud or deceit has been practiced in obtaining any license under this chapter or in passing an examination;
- (2) Conduct of a character likely to deceive or defraud the public, or habits of intemperance or drug addiction calculated to destroy the accuracy of the work of an optometrist, or professional misconduct, or gross carelessness or negligence, or manifest incapacity in the practice of optometry;
- (3) Advertising by means of false and deceptive statements or by statements which tend to deceive or defraud;
- (4) Directly or indirectly accepting or offering employment to practice optometry from, or to any person not having a valid, unrevoked and unsuspended license or from any company or corporation;
- (5) Soliciting or receiving, directly or indirectly, any price differential, rebate, refund, discount, commission, credit, kickback, or other allowance, whether in the form of money or otherwise, from a dispensing optician for or on account of referring or sending to the dispensing optician of any intended or prospective wearer or user of any article or appliance prepared or furnished by a dispensing optician, or for or on account of any service or article furnished by the dispensing optician to any intended or prospective wearer or user;
- (6) Using any name in connection with the licensee's practice other than the name under which the licensee is licensed to practice, or using any advertising which fails to clearly identify the individual licensee or which is ambiguous or misleading as to the licensee's identity;
- (7) Employing or utilizing any unlicensed individual to perform optometric services in connection with refraction or visual training

without directly and personally supervising the individuals in the performances of the services;

- (8) Violating this chapter or the rules adopted by the board;
- (9) Utilizing pharmaceutical agents [without first being certified as provided in section 459-7 or utilizing pharmaceutical agents] for purposes other than those specified in section 459-1; or
- (10) Failure to refer a patient to an appropriate licensed physician upon discovery, by history or examination, that the patient evidences an ocular abnormality or symptoms of systemic disease requiring further diagnosis and possible treatment by a licensed physician.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 22, 1992.)