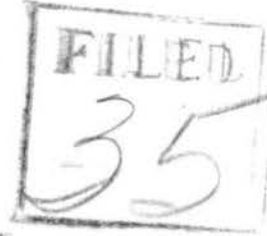


2-6
February 4, 1935.



Dr. F. J. Guilbault, President
Missouri State Board of Optometry
423 North Broadway
St. Louis, Missouri

Dear Dr. Guilbault:

This is to acknowledge your letter of February 2, 1935, as follows:

"My attention has been called to the proposed amendment to the optometry law, Section 13501, paragraph D, to wit:

'With or without prescription, the transferring, replacing, adjusting, changing or duplicating lenses in spectacles or eyeglasses, adjusting lenses in frames, or adjusting frames or spectacles, or dealing in lenses or eyeglasses at retail, all for the purpose of other persons to wear.'

- A. Does this paragraph take in or affect jobbers or wholesalers or manufacturers of eye glasses?
- B. Does it prohibit jobbers or wholesalers dealing in eye glasses from filling prescriptions for oculists or optometrists for eye glasses or spectacles?
- C. Does this proposed amendment to the optometry law prevent licensed physicians or surgeons from testing eyes or treating same?

"D. Is the medical act sufficiently broad to protect physicians and surgeons from the operation of this proposed amendment to the optometry act?

I shall be pleased to have this opinion ready for me for Tuesday morning, February 5, when I will be in Jefferson City, which opinion I would like to have at hand when I discuss this proposed law with the members of the Legislature."

House Bill No. 247 is an act to amend certain provisions in Article 1, Chapter 101, R. S. No. 1929, pertaining to "State Board of Optometry." Section 13501 appearing in House Bill No. 247 defines what constitutes "practice of optometry." It repeals Section 13501, R. S. No. 1929, and enacts in lieu thereof practically the same section and eliminating therefrom provision relative to "registered apprentices" and clarifies a practice now existing under the old law. This section in part provides as follows:

"Section 13501. Any one or any combination of the following practices shall constitute the practice of optometry:

* * * * *

(d) With or Without prescription, the transferring, replacing, adjusting, changing or duplicating lenses in spectacles or eyeglasses, adjusting lenses in frames, or adjusting frames or spectacles, or dealing in lenses or eyeglasses at retail, all for the purpose of other persons to wear."

Your inquiry concerns Paragraph "(d)". We invite your attention to the word "retail" found in the above section. If a jobber or wholesaler or manufacturer of eyeglasses do the things provided for in Paragraph "(d)", then, of course, such would be practicing optometry. However, said paragraph does

not affect jobbers or wholesalers or manufacturers of eye-glasses if such do not deal in same at retail, that is, if such jobbers or wholesalers, as agents for an oculist or optometrist, replace, transfer, adjust, change or duplicate lenses in spectacles or eyeglasses for the optometrist, then such would be, in effect, an agent for the optometrist or oculist and would be without the provisions of Paragraph "(d)", supra.

We answer your question "A", then, in the negative, with limitations as above set out.

In answer to your question "B", in our opinion, the answer is "No."

In answer to your questions "C" and "D", in our opinion this proposed amendment does not prohibit, restrain, or place any restriction upon licensed physicians or surgeons to treat ailments of the eye. The medical doctors now may do, more in treating eyes than an optometrist, and this act would in nowise limit them in their practice.

Trusting the above answers your inquiry, we are

Yours very truly,

James L. HornBostel
Assistant Attorney-General.

APPROVED:

ROY M. Kittrick
Attorney-General.

JLH:EG