

1981 WL 158217 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 2, 1981

**\*1 Re: Advertisement Placed by Pearle Vision Center in The State Newspaper, March 1, 1981**

Mr. Jack S. Folline  
Chairman  
South Carolina Board of Examiners in Opticianry  
P. O. Box 5721  
Columbia, South Carolina 29205

Dear Mr. Folline:

In your letter of March 3, 1981, you forwarded to me a copy of an advertisement placed by Pearle Vision Center which appeared in The State newspaper on March 1, 1981. A copy of that advertisement is attached to this letter. You asked whether this attached advertisement is legal. You highlighted two aspects of the ad which relate to [Section 40-37-240 of the South Carolina Code](#). During our conference of April 1, 1981, you requested that I review this advertisement in relation to [Section 40-37-81 of the South Carolina Code](#) instead of [Section 40-37-240](#).

[Section 40-37-81 of the Code of Laws of South Carolina \(1976\)](#) provides, among other things, that the Board of Examiners in Opticianry shall permit price advertising by opticians in any media provided that certain listed disclosures are components of each such advertisement.

Two of the required disclosures apply only to eyeglass advertisements. One of the required disclosures applies only to contact lenses. That requirement provides that any advertised price for contact lenses refer to either hard or soft contact lenses. The attached advertisement specifically refers to soft lenses.

The remaining two required disclosures refer to ophthalmic materials. One provides that the ad disclose whether the advertised price for ophthalmic materials includes an eye examination. The attached advertisement specifically discloses that an eye examination is not included in the stated price. The final required disclosure provides that an advertisement disclose whether the advertised price for ophthalmic materials includes all dispensing fees. While the attached advertisement does not specifically state that the \$69.00 price does or does not include all dispensing fees, it does state that the total cost of the lenses and a refund plan is \$69.00. This reference to total price is sufficient to meet this disclosure requirement. Of course, if it were to be shown that, in fact, the \$69.00 price shown in the advertisement as a total price does not include all dispensing fees, the advertisement would violate [Section 40-37-250 of the South Carolina Code](#), which provides that it shall be unlawful to advertise prices by the use of any untruthful or misleading statement.

If you have any questions concerning this matter, please do not hesitate to give me a call.

Yours very truly,

Grady L. Patterson, III  
Staff Attorney

1981 WL 158217 (S.C.A.G.)