

The State of South Carolina

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September 6, 1991

The Honorable W. S. Houck  
Member, House of Representatives  
Post Office Box 4337  
Florence, S. C. 29502-1337

Dear Representative Houck:

Your letter of July 24, 1991 to Attorney General Medlock was referred to me for response. In that letter, you made reference to a hypothetical situation wherein an optician had been suspended from practice for a period of time. Subsequent to the suspension, an optometrist learns that the optician has violated the terms of the suspension by engaging in the practice of opticianry while in the employ of another optometrist. The question you ask is whether the optometrist who learns of the violation has an ethical duty to advise the optometrist who employs the optician, upon inquiry by the employing optometrist, that the optician has been suspended from practice.

The practice of optometry in the State of South Carolina is governed by the provisions of 1976 S. C. Code, Ann., Section 40-37-10, et seq. and Rules of Practice 95-1, et seq. A review of the present statutes and rules does not reveal the existence of any provision that would impose upon an optometrist an ethical obligation such as the one to which you made reference.

Previously, the Rules of Practice contained a provision which prohibited an optometrist from doing "anything inconsistent with the professional standards of the optometric and allied health professions." Arguably, such a provision could have been construed to require an optometrist to report inappropriate or improper conduct on the part of an optician. However, the provision was revoked in 1985.

The Honorable W. S. Houck  
Page Two  
September 6, 1991

The American Optometric Association has promulgated a Code of Ethics which has been adopted, in whole, by the South Carolina Optometric Association. Of course, these Codes of Ethics are effective only upon optometrists who have chosen to become members of these associations. In any event, the AOA Code of Ethics also does not seem to contain any provision which imposes upon a member optometrist the ethical obligation in question.

Therefore, based upon an examination of pertinent sources, it would seem that an optometrist practicing in the State of South Carolina has no duty, imposed by any statute, rule or Code of Ethics, to report or reveal to another optometrist misbehavior or improper conduct by an optician in the other optometrist's employ. Of course, nothing herein should be construed as in any way discouraging such reporting by anyone.

I trust that you will find the foregoing information to be responsive to your inquiry. Please contact me if I can be of further assistance.

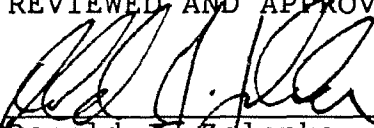

Very truly yours,



Wilbur E. Johnson  
Assistant Attorney General

WEJ/fc

REVIEWED AND APPROVED:

  
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