

1977 S.C. Op. Atty. Gen. 149 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-197, 1977 WL 24539

Office of the Attorney General

State of South Carolina

Opinion No. 77-197

June 28, 1977

\*1 In South Carolina, an individual engaged in the practice of opticianry, either at the dispensing or wholesale level, is required to procure a license in accordance with §§ 40–37–10 et seq., Code of Laws of South Carolina, 1976.

TO: Robert E. Leake  
Director  
State Development Board

AUTHORITIES:

§§ 40–37–10 et seq., Code of Laws of South Carolina, 1976; Rules 95–1 through 95–10, Code of Laws of South Carolina, 1976; [Wagner v. Ezell](#), 249 S.C. 421, 154 S.E.2d 731; South [Carolina Board of Examiners in Optometry v. Cohen](#), 256 S.C. 13, 180 S.E.2d 650.

QUESTION PRESENTED:

If a wholesale optical laboratory is established in South Carolina, is a licensed optician, or optometrist required to be on the premises during operating hours?

DISCUSSION:

In South Carolina the practice of opticianry is regulated by §§ 40–37–10 et seq., Code of Laws of South Carolina, 1976, as amended. Generally, the practice of opticianry is prohibited in South Carolina except by those individuals who have satisfied requisites for licensure and have thereafter procured a license as an optician from the Board of Examiners in Optometry and Opticianry.

It shall be unlawful for any person to engage in the practice of optometry or to work as an optician in this State unless such person shall have obtained a certificate of registration from the South Carolina Board of Examiners in Optometry and Opticianry. § 40–37–20, Code of Laws of South Carolina, 1976, as amended. (Emphasis Added)

The above-quoted Section is inclusive of all persons engaged in the practice of opticianry and accords no distinction to the licensure requirements of a dispensing optician and a wholesale optician. Therefore, all persons engaged in the practice of opticianry in South Carolina must be registered unless exempted from the same elsewhere in the law.

A perusal of the applicable Code Sections portends no per se exemption for individuals operating a wholesale laboratory. See, § 40–37–340 (physicians); § 40–37–350 (optometrists); Rule 95–10(8) (direct physical supervision).

The practice of opticianry is defined by Rule 95–10, Code of Laws of South Carolina, 1976, as amended. Said Rule provides that the performance of certain functions and services constitutes the practice of opticianry. Included, inter alia, in this detailed list are the following:

2. Fill optical prescriptions of optometrists or physicians skilled in the diseases of the eye;

3. Repair or reproduce previously prepared ophthalmic lenses and/or frames;
4. Prepare and deliver work orders to technicians engaged in grinding lenses and fabricating aids to vision;
5. Verify the accuracy of ophthalmic lenses and frames.

If the individual operating the 'wholesale optical laboratory' performs any of the above-mentioned functions or others found in Rule 95–10, then said person would be engaged in the practice of opticianry and, an optician's license would be required.

CONCLUSION:

\*2 An individual who engages in the practice of opticianry, either at the dispensing or wholesale level, is required to procure a license pursuant to license provisions of §§ 40–37–10 et seq., Code of Laws of South Carolina, 1976, as amended.

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