

1983 WL 181970 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 10, 1983

*1 Dr. Alva S. Pack, III
399 E. Henry Street
Post Office Box 851
Spartanburg, South Carolina 29304

Dear Dr. Pack:

The law requires that all investigations and proceedings involving complaints to the Board against optometrists shall be confidential. Section 40-37-210, CODE OF LAWS OF SOUTH CAROLINA, 1976. For this reason, the Board goes into executive session to consider and discuss such complaints. If the Board decides to take formal or informal action on a complaint, the optometrist against whom the complaint was made is notified and given an opportunity to participate. This does not lift the requirement of confidentiality imposed by law. The South Carolina Freedom of Information Act allows the Board to refuse to provide documents concerning these confidential matters. Section 30-4-70(5)(b), CODE. Therefore, by copy of this letter, I am advising the Board to deny your request of July 27, 1983, for copies of materials pertaining to their executive sessions, regardless of whether you were the topic of their discussions.

In your letter of July 30, 1983, you request all Attorney General Opinions relating to Optometry and Opticianry within the last five years. By copy of this letter, I am requesting our librarian to furnish these to you.

The Board has requested my advice and counsel as to the meaning of Section 40-37-190, CODE, which deals with discounts on eye examinations. My advice to them on this matter is not subject to release under the Freedom of Information Act. Section 30-4-40(7). The Board has at no time requested a formal opinion on this matter from this Office. This Office issues opinions to State agencies and officials, but cannot attempt to give legal advice to the general public. I would recommend that if you have any questions on the interpretation of the optometry laws, you seek an opinion from a private attorney.

I do advise you that any written offer of discounts off of your regular prices for eye examinations made directly by you, would be a clear violation of the law. Contracting to give a discount to certain groups, without any direct advertisements of the discount, is a different situation. The fact that the law is not clear as to this latter situation, does not mean the law will not be enforced in cases of clear violations.

You raise several questions concerning the propriety of various acts or omissions by the Board. By copy of this letter, I am referring that matter to the Attorney General for whatever action he may deem appropriate. Obviously, as counsel to the Board, I can do no more than advise them when requested.

I would state that I am not aware of any complaints concerning VSP members being turned over to me for action. I would remind you again that any complaints filed with the Board must be kept confidential by all persons involved.

I have reviewed the materials you sent on June 28, 1983. If we need further information, we will contact you. Otherwise, we will inform you of the outcome.

Sincerely,

*2 C. Richard Kelly

Assistant Attorney General

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