

1979 WL 43434 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 21, 1979

***1 Re: Trade Name Opinion**

Dr. Henry V. Sawyer
Secretary
Board of Examiners In Optometry
P.O. Box 994
Marion, South Carolina 29571

Dear Dr. Sawyer:

Enclosed please find the letter previously issued by a staff attorney in our Office which reaches the conclusion that there is no legislative prohibition of the use of trade names by optometrists in South Carolina. The use of any name other than the name under which the optometrist was licensed was previously prohibited by [§ 40-37-260 Code of Laws of South Carolina](#), 1976. However, pursuant to § 11 of Act No. 570 of 1978, Acts and Joint Resolutions of the State of South Carolina, [§ 40-37-260](#) was completely rewritten. The amended version omits any prohibition or restriction with regards to an optometrist practicing under a trade name. Section 8 of Act No. 570 of 1978, specifically permits dispensing opticians to practice under a trade name, and the failure therein to mention optometrists could lend support to the position that optometrists are not permitted to practice under trade names. However, in the absence of any statutory prohibition, it does not appear that the Legislature intended to prohibit practice under a trade name by optometrists in that such cannot be inferred elsewhere within the Act.

It is clear from the Supreme Court's holding in *Freidman v. Rogers*, --- U.S. ---, 47 L.W. 4151 (1979), that a State is free to prohibit or otherwise regulate the use of trade names by optometrists. However, as heretofore mentioned, the South Carolina General Assembly has not seen fit to prohibit the practice of optometry under a trade name. R95-1(B) of the Rules of Practice of Optometry prohibits a licensed optometrist from qualifying the title "doctor" other than by the use of the word optometrist. This regulation remains in full force and effect. In addition, R95-1(O) of the Rules permits an optometrist to use the phrase "successor to Doctor ..." for one year, but no longer. This regulation remains in full force and effect as well.

If I can be of further assistance, please feel free to call on me. I remain

Very truly yours,

Edwin E. Evans
Assistant Attorney General

1979 WL 43434 (S.C.A.G.)