

1973 S.C. Op. Atty. Gen. 275 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3605, 1973 WL 21060

Office of the Attorney General

State of South Carolina

Opinion No. 3605

August 22, 1973

***1 Re: Unauthorized Practice of Optometry**

Clarence L. McEachern, O. D.

President

South Carolina Board of Examiners in Optometry and Opticianry

1824 Washington Street

Box 5631

Columbia, South Carolina 29250

Dear Dr. McEachern:

You have requested that this office advise you as to whether a 'safety supervisor' who is not licensed by the Board of Examiners in optometry and opticianry, may fill out prescription order forms for eyeglasses. The filling out of the form consist of providing the eyeglass specifications, and in many cases requires the making of pupillary measurements, the selection of frame type and size, the determination of the decentration of lenses, including segment type and height and tint of lenses etc.

Section 56–1051 of the Code of Laws of South Carolina, 1962, states

Any person shall be deemed to be practicing optometry within the meaning of this chapter who shall: (1) display sign or in any way advertise as an optometrist; (2) employ any means, other than the use of drugs, for the measurement of the powers of vision or the adaptation of lenses for the aid thereof; (3) in the sale of spectacles, eyeglasses or lense, use lenses in the testing of the eye therefore other than lenses actually sold; (4) examine the human eye by the employment of any subjective or objective physical means, without the use of drugs, to ascertain the presence of defects or abnormal conditions for the purpose of relieving them by the use of lenses, prisms or other physical or mechanical means; or (5) practice orthoptics or prescribe or fit contact lenses.

It thus appears to be clear that the acts of the safety supervisor in examining eyes for the purpose of fitting eyeglasses constitutes the practice of optometry within the meaning of the above-entitled section, and subjects these individuals to a maximum criminal penalty of thirty (30) days imprisonment or a fine of \$100.

You have further requested that this office advise you as to whether a manufacturing optician may (1) fabricate ophthalmic prescriptions for lay persons; (2) sell lay persons fitting and adjusting equipment; (3) encourage lay persons to run eye safety programs; or (4) to accept lay persons as business accounts.

Section 56–1075.1, 1971 Cumulative Supplement to the Code of Laws of South Carolina, 1962, states:

It shall be unlawful for any ophthalmic manufacturer, wholesale supply house, or any of their employees, whether licensed as an optician or unlicensed, to dispense spectacles to the public.

Based upon this statutory section, it is the opinion of this office that the filling of eyeglass prescriptions for lay 'safety supervisors' constitutes the dispensing of spectacles to the public and as such is unlawful. It does not appear to be any statutory prohibition against the activities described in subparagraphs (2), (3), or (4) above.

I trust that this has been sufficient to answer the questions which you pose, and this office will be glad to assist you in any manner necessary to insure that the laws of this State are complied with.

Very truly yours,

*2 Timothy G. Quinn
Senior Assistant Attorney General

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