

## **Opinion No. 57-57**

March 22, 1957

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

**TO:** Dr. James R. Nicholson, O. D., Secretary-Treasurer, State Board of Examiners in Optometry, 227 East Palace, Santa Fe, New Mexico

### **QUESTIONS**

#### QUESTIONS

Would a candidate to practice optometry in New Mexico, who completed three years college training in optometry in 1938, be required to meet our present academic requirements?

#### CONCLUSION

Yes.

### **OPINION**

#### ANALYSIS

The reciprocity statute, § 67-7-10, N.M.S.A., 1953 Compilation, can have no application to the present circumstances. While the applicant in this case has secured a license from the State of Indiana, you have stated to me that Indiana does not grant equal privileges to applicants for certificates from New Mexico, hence the reciprocity statute in any event cannot apply to the case of the present applicant.

The present applicant graduated in 1938 with three years academic training in preparation to practice optometry. At this time, such three year training would have been sufficient academic training insofar as New Mexico practice was then concerned, since what is now § 67-7-6 (e) at that time only required two years training. In 1939, the statute was amended so that it now requires four years college training. Hence, under the statute as it now reads, the Indiana applicant in this case has not met this statutory requirement. Nor does this situation and the statutory application thereto deny the applicant any constitutional right.

The Fourteenth Amendment does not forbid statutes and statutory changes to have a beginning, and thus to discriminate between the rights of an earlier time and a later time. The rule is that statutes which enact qualifications for persons entering a business after a certain time, but which do not impose such obligations on persons previously engaged therein, are not unconstitutional. For example, a provision in a statute for the

licensing of dentists reserving the rights of those licensed at the time of its passage does not affect the constitutional rights of one licensed at the time in another state, who, under the statute of the state in which he seeks to be admitted, must comply with the terms of that statute in order to secure a license to practice in the state after the passage of the statute. 12 Am. Jur., Constitutional Law, 486. In other words, the fact that § 67-7-6 (e) was changed after the time of the applicant's completion of his three years academic work, so as to require more academic training than he had received, denies the applicant no constitutional right. Therefore, he cannot practice optometry in New Mexico without having completed four years academic training in optometry.