

Opinion No. 45-4740

June 28, 1945

BY: C. C. McCULLOH, Attorney General

TO: Dr. Howard McDonald, Secretary State Board of Examiners in Optometry Portales, New Mexico

{*93} We are in receipt of your letter of June 15, 1945, in which you state that certain osteopaths are doing refraction of the eyes and prescribing of glasses. You ask our opinion as to whether osteopaths may legally do such work.

Chapter 51, Article 7 of the 1941 Compilation governs the profession of optometry. Section 51-714 of this Article provides in part as follows:

"Nothing in this act shall be construed as applying to physicians and surgeons duly authorized to practice medicine in the State of New Mexico. * * *"

Chapter 79, Laws of 1945 is a new Act governing the practice of osteopathy. Section 4 of this Act provides in part as follows:

"Osteopathic physicians and surgeons licensed hereunder shall have the same general rights as physicians or surgeons of other schools of medicine with respect to the handling of cases. * * *

"It is the intent and purpose of this act to grant osteopathic physicians and surgeons the right to practice as taught and practiced in the standard colleges of osteopathy."

Section 3 of Chapter 79 of the Laws of 1945 sets out the treatment of eye, ear, nose and throat as one of the subjects taught and practiced by the standard colleges of osteopathy.

I am in receipt of a letter from one of the members of the osteopathic board who states that one of the courses prescribed in the treatment of eyes by standard colleges of osteopathy is that of refraction, and the prescribing of lenses.

It is noted that physicians and surgeons are specifically given the right to practice optometry. As osteopathic physicians are given the same general rights as physicians and surgeons of other schools of medicine with respect to the handling of cases, it appears that they have been granted the right to practice optometry. This conclusion is {*94} further born out by the fact that the legislature specifically grants osteopaths the right to practice as taught in standard colleges of osteopathy, and since standard colleges of osteopathy teach optometry, at least insofar as it covers the refraction of eyes and the prescribing of lenses.

In view of the foregoing, it is my opinion that osteopaths may legally refract eyes and prescribe glasses.

Insofar as Opinion No. 644, dated September 5, 1933 which was rendered under a previous statute is in conflict herewith, the same is hereby overruled.

Trusting the foregoing sufficiently answers your inquiry, I am

By ROBERT W. WARD,

Asst. Atty. General