

## **Opinion No. 59-211**

December 30, 1959

**BY:** OPINION OF HILTON A. DICKSON, JR., Attorney General

**TO:** Morris Haas, D. S. C. New Mexico State Board of Podiatry 121 Sycamore NE  
Albuquerque, N. M.

### **QUESTION**

#### QUESTION

Is a woman Podiatry assistant exempt from the female eight hour law, same being § 59-5-1, N.M.S.A., 1953 Compilation?

#### CONCLUSION

Yes.

### **OPINION**

#### **{\*325} ANALYSIS**

The pertinent section is § 59-5-1, which reads as follows:

"No female shall be employed in any industrial or mercantile establishment, hotel, restaurant, cafe or eating house; or in any laundry, or in any office as a stenographer, clerk, bookkeeper or in any other clerical position; or in any place of amusement; or in any telephone or telegraph office, within the state more than eight (8) hours in any one (1) day of twenty-four (24) hours, nor more than forty-eight (48) hours in any one (1) week of seven (7) days. The provisions of this act (59-5-1 to 59-5-9) shall not apply to hospitals or sanitariums, or to registered or practical nurses wherever employed; or to midwives while engaged in their duties as such."

The persons specifically regulated under the provisions of this act are enumerated therein.

No regulation is attempted for a female Podiatry assistant.

In § 244 of Volume 50 Am. Jur., under heading of Statutes, is found the following:

"EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS. -- As exceptions in a statute strengthen the force of the law in cases not excepted, so enumerations weaken it in cases not enumerated. Indeed, it is a general principle of interpretation that the mention of one thing implies the exclusion of another; expressio unius estt exclusio alterius."

We, therefore, conclude that since a woman Podiatry assistant is not mentioned in § 59-5-1, N.M.S.A., 1953 Compilation, that they are exempted from the female eight hour law of § 59-5-1, N.M.S.A., 1953 Compilation.

By: Hilario Rubio

Assistant Attorney General