

**Opinion No. 37-1730**

August 5, 1937

**BY:** FRANK H. PATTON, Attorney General,

**TO:** Neland Gray, Opt. D. Secretary-Treasurer State Board of Examiners in Optometry  
Clayton, New Mexico

{\*145} After some delay on account of urgent business in the office, we shall attempt to answer your letter of July 22nd. In that letter you re-stated a question asked of you by the Institute of Distribution. The writer of that letter apparently concluded that under some law passed by the last legislature that in the case of a duly licensed optometrist employed to conduct an optometrical department in a general merchandise store or retail establishment, such as a jewelry store, the name of the optometrist so employed must be used in all of the advertisements of that department and that he must assume the responsibility for the {\*146} character of this advertising.

The only law I have been able to find that was passed by the last legislature dealing with optometry is Chapter 99 of the Laws of 1937. Chapter 99 does not go as far as concluded by the writer of the letter written to you. However, Section 1 thereof does provide for the suspension or revocation of the certificate of registration of any optometrist who should attempt to advertise under a name other than his own. From this I gather that any advertisement made by the optometrist must be in his own name and I presume that notwithstanding the fact that the department store or jewelry store wherein he is employed may advertise on an extensive scale with reference to articles of merchandise, nevertheless, if the optometry phase of the establishment is advertised, that should be done under the name of the optometrist although it undoubtedly could appear in the same general ad.

You also inquire whether it is legal for an optometrist to be employed by a general merchandise store or other retail establishment, such as a jewelry store. As far as I am able to ascertain, the New Mexico statutes are silent on that specific matter. That being so, it would appear that if the practitioner is in fact qualified under the law to act as an optometrist, it becomes immaterial whether he practices his profession in a private office, in a jewelry store or anywhere else.

Trusting the foregoing sufficiently answers your inquiry, I am

By: FRED J. FEDERICI,

Asst. Atty. Gen.