

No. 185

**OPTOMETRISTS—PUBLIC HEALTH NURSE—NOTICES
TO PARENTS—EYES, Examination of**

Held: Since optometrists are given the right to practice in the state, a public health nurse cannot—by form or advice or suggestion—discriminate between physicians and optometrists, when the examination of the eyes is involved, since that is a matter to be decided by the parents or those in charge of the child.

July 26, 1941.

Dr. F. H. Keller, Secretary
Montana State Board of Examiners
in Optometry
Buffalo Block
Kalispell, Montana

Dear Dr. Keller:

You have requested the opinion of this office whether the Public Health Nurse is acting legally when the "Notice to Parents," sent to the parents of children believed to have a health defect or problem, suggests such child be taken to a "physician" or "dentist" for examination or advice. You particularly are interested in whether limiting such suggestion to a "physician" or "dentist" discriminates against optometrists whose practice is defined by Section 3155 of the Revised Codes of Montana of 1935 as follows:

"The employment of subjective and objective mechanical means, without the use of drugs, to determine the accommodative and refractive states of the eye, and the scope of the functions in general."

The work of "school, county and public health nurses" is carried on under authority of Sections 2503 to 2510 of the Revised Codes of Montana of 1935, especially Section 2507 which provides the superintendent of public instruction and the secretary of the state board of health shall formulate rules and regulations governing the work of such nurses. These rules and regulations, when regularly passed by the board of health, "shall invest the said state board of health with full power of supervision and regulation of said school and county and public health nurses."

It is assumed the forms used by the public health nurses are approved and perhaps furnished by the state board of health. As stated, suggestion of examination of a child is limited to "physicians" and "dentists."

The legislature of Montana, in enacting Section VI of Part II of Chapter 82 of the Laws of 1937, as amended by Section 15 of Chapter 129 of the Laws of 1939, as amended by Section 5 of Chapter 117 of the Laws of 1941, relating to medical services and hospitalization for indigent persons, recognized the value and necessity of services of optometrists as it recognized the value and services of other practitioners.

It is my opinion, under Section 6 of Part II of Chapter 82 of the Laws of 1937, as amended by Section 15 of Chapter 129 of the Laws of 1939, as amended by Section 5 of Chapter 117 of the Laws of 1941, the service of an optometrist may be used in connection with the protection of child health, concerning functions of the eye. It is also my opinion, regardless of the law last cited, since optometrists are given the right to practice in the State, a public health nurse cannot—by form or advice or suggestion—discriminate between physicians and optometrists, when the examination of the eyes is involved, since that is a matter to be decided by the parents or those in charge of the child.

It is my further opinion the present rules and regulations and forms of notices authorized and used thereunder by the State Board of Health and counties are discriminatory as to optometrists and the said rules,

regulations and forms of notices should be so revised that such discrimination be eliminated and worded so that the parents of the child may decide who shall examine the eyes of the child.

Sincerely yours,

JOHN W. BONNER
Attorney General