

professional curriculum is the same four years required for medical, osteopathic, dental, veterinary and podiatry doctors, with an additional two years of pre-optometry training at the collegiate level. You will find that we have as many or more years of actual professional training than any other professional discipline and the curriculum is as difficult if not more difficult than most.

Yet, there are many of those opposing the bill who oppose it on the basis that it recognizes optometry as a profession thereby expanding the scope and definition of the practice of optometry. This is probably the most important question before your committee. Is optometry a profession with all that word implies in terms of responsibility for the public welfare?

LEGAL OPINIONS

Recently the Corporation Counsel for the District of Columbia in the brief for appellee in *Norman Fields v. District of Columbia*, quoting the United States Court of Appeals in *Evers v. Bauwbaum* (1958) 102 U.S. App. D.C. 334, 235 F.2d 356, stated that the primary aim of Congress in enacting the optometry statute " * * * was to insure that the service would be rendered by competent and licensed persons and thereby to protect the public from inexpertness."

We of the American Optometric Association, concur with this statement but believe it is not sufficiently stated. The care of vision requires the use of professional judgment and discretion and should be limited to professional persons whose education has been accredited as that required for members of a health profession by the nationally-recognized accrediting authorities.

We prefer the statement made by Justice Heher, speaking for the New Jersey Supreme Court, in the matter of *Abelsons, Inc. v. N.J. Board of Optometrists*, 5 N.J. 412, 418 (1950), " * * * optometry is not a mere trade or craft; rather it is 'an applied branch of the science of physiological optics, directed to the improvement of visual acuity through the correction of refractive errors.' Thus, the practice of optometry is subject to regulation for the protection of the public against ignorance, incapacity, deception, and fraud, 'equally with the practice of ophthalmology and other learned professions.'" *Id.*, at p. 419.

Of all the arguments set forth before this Committee we are most distressed by the opposition from Walter N. Tobriner, President of the D.C. Board of Commissioners, who must administer and enforce this Act. We believe the arguments Mr. Tobriner makes are based on antiquated and outworn decisions coupled with those he has received from medical and optical friends. To help him and you determine the professional status or lack of it for optometry in the District I would like to refer you to the statements he has made in opposition to this bill and, hopefully, to counter them.

First let me state that the characterization of optometry as a profession serves more than a merely honorific purpose. It carries with it significant legal consequences. Recently the Supreme Court of Georgia handed down a ruling against the commercial employment of optometrists by noting that the legislature had declared optometry to be a learned profession [*Pearle Optical of Monroeville, Inc., et al v. Georgia State Board of Examiners in Optometry*, (1963), Case No. 22109, Docket No. 611.] A case upholding a prohibition of "bait" advertising before the Supreme Court of Michigan turned on the finding that optometry was a profession, despite the lack of any express legislative statement to that effect. (*Seifert v. Buhl Optical Co.*, 275 Mich. 692, 286 N.W. 784.)

Even where the courts have not explicitly referred to optometry as a learned profession, they have shown no hesitance in thrusting upon optometrists the responsibilities and liabilities which are derived from this legal category. The extent of the optometrist's duty to recognize ocular pathology serves as a case in point. A definite responsibility in this area commensurate with the status of medicine, has been created by the rulings in state courts within the past thirty years. (*Hampton v. Brackin's Jewelry and Optical Co.*, 237 Ala. 212 [1939]; *Liebman v. Conn. State Board of Examiners in Optometry*, 130 Conn. 344 [1943]; *State v. Standard Optical Co.*, 182 Oregon 452 [1947]; *Evers v. Bauwbaum*, 102 App. D.C. 334, 235 Fed. 356 [1958].) It is interesting to note that this trend of decisions coincides, with the tendency, originating at the same time, to define optometry as a profession, by legislation.