

EXHIBIT D

JULY 27, 1966.

In re: Licensing of opticians in the District of Columbia. (CCO: 3.C5.1—Opticians, Licensing of.)

Commissioners of the District of Columbia.

GENTLEMEN: You referred to me the question of whether, in the light of a recent court decision, legislation is necessary to authorize the District of Columbia to license and regulate the practice of opticians.

Judge Harold H. Greene of the District of Columbia Court of General Sessions on May 9, 1966, in the case of *District of Columbia v. Norman Fields*, Criminal Action No. D.C. 3628-66, found Fields, an optician, guilty of practicing optometry without a license. In his decision, Judge Greene made the following statement:

"Unlike many other jurisdictions, the District of Columbia has no law regulating the practice of opticianry or providing for the licensing of opticians. The result is that anyone has the legal right to call himself an optician and perform the tasks normally associated with that trade. The prosecution argues from this that opticians must be barred from all phases of the contact lens practice (except the grinding of lenses) whether or not their operations are supervised by a professional.

"Lack of governmental supervision and licensing of opticians and any resulting deficiencies in performance are not cured by attaching the label of optometry to functions which a properly trained optician may legitimately perform; the remedy for the lack of qualification of some opticians is the licensing of opticians generally, in order that this craft may be restricted to those who are properly trained.

"It so happens that this defendant appears to be fully qualified and well capable of measuring eye curvatures and fitting contact lenses⁸ under supervision; his future activities in that regard, if supervised in accordance with the standards set forth under V below, will be consistent with the statute and with the public interest. The same may well be true of most opticians operating in the District of Columbia today. But unless opticians are licensed and regulated the public has no assurance that even those functions which opticians may legitimately exercise will be carried out responsibly and without danger to the community."

"Upon inquiry by the Court, the Corporation Counsel stated that the District of Columbia Commissioners lack power on their own to provide for the regulation and licensing of opticians and their adherence to proper standards. Congressional enactment of a statute inaugurating such licensing and supervision would eliminate a potential hazard to the citizens of this community.

While the last sentence in the body of the foregoing quotation from Judge Greene's opinion expresses the desirability of Congressional enactment of a statute for the licensing and supervising of opticians, the immediately preceding sentence indicates that the Court, in so concluding, was relying on an alleged statement by a representative of this office that the "Commissioners lack power on their own to provide for the regulation and licensing of opticians and their adherence to proper standards."

After a review of the provisions of the Optometry Act approved May 28, 1924 (43 Stat. 177; D.C. Code, title 2, chapter 5) and the License Act (section 7 of the Act approved July 1, 1902, as amended; 47 Stat. 550; D.C. Code, title 47, chapter 23), I do not concur in the view allegedly expressed that the Commissioners lack authority to license opticians under existing law. The Optometry Act contains no provisions which would preclude licensing of opticians. Indeed, there are no references at all in the Optometry Act to the occupation of "optician". Although an optometrist may perform functions which are also performed by an optician, such as grinding lenses to fit a prescription, the practice of optometry is defined (D.C. Code, section 2-501) to be "the application of optical principles through technical methods and devices in the examination of the human eye for the purpose of determining visual defects, and the adaptation of lenses for the aid and relief thereof."

On the other hand, "Optician" is defined by Stedman's Medical Dictionary, Unabridged Lawyer's Edition, 1961, as "A maker of optical instruments; one who

⁸He has had contact lens instruction by three optometrists for a period of six to eight months."

⁹According to the testimony, one can be an optician in the District of Columbia simply by opening an optical shop in a vacant store."