

and *Bro. et al.* 72 App. D.C. 77, 111 F. 2d 518 (1940). In this case, involving the practice of optometry in commercial premises by persons affiliated with a corporation, the court said:

"Appellants are licensed and registered optometrists. They brought this suit in behalf of themselves and others similarly situated against appellees, Lansburgh & Bro., a corporation conducting a large department store in Washington City, and Buhl Optical Company, a District corporation organized to operate and own optical and optometrical stores, to restrain them from directly or indirectly engaging in the practice of optometry in the District of Columbia. The right to bring the suit is not challenged. Cf. *Ezell v. Ritholz*, 188 S.C. 39, 198 S.E. 419, 423, and cases cited there.

"Appellants, in the main, base their claim for injunctive relief upon the ground that optometry is a learned profession, the very nature of which, they say, prohibits the practitioner thereof from any affiliation or connection with a corporation or non-optometrist. . . .

"The [trial] court found that optometry is a mechanical art which requires skill and a knowledge of the use of certain mechanical instruments and appliances designed to measure and record the errors and deviations from the normal found in the human eye, but is not a learned profession comparable to law, medicine, and theology, and that, though certain standards of education are prescribed by the statute and by rules of the board created under it, optometry is not a part of medicine. The court was, therefore, of opinion that neither defendant is engaged in the practice of optometry contrary to the statute. In the recent case of *United States v. American Medical Association* (decided March 4, 1940), [72] App. D.C. [12], 110 F. 2d 703, we pointed out that the practice of medicine in the District of Columbia is subject to licensing and regulation, and we stated that, in our opinion, it might not lawfully be subjected to commercialization and exploitation. We cited many authorities holding that a corporation engages unlawfully in the practice of medicine when it employs licensed physicians to treat patients, itself receives the fee, and the profit object is its main purpose, the arrangement being such as to divide the physician's loyalty and destroy the well recognized confidential relation of doctor and patient. This brings us, then, to consider whether this rule applies to the practice of optometry. (Bracketed language added.)

"... Many states have similar or nearly similar statutes, but their courts have disagreed on whether optometry is a learned profession. We have considered the cases, and are of opinion the best considered adopt the view that optometry is not 'one of the learned professions'.

"Optometry is said by a well known writer on the subject not to be a part of medicine, 'either by inheritance, basic principles, development or practice'. It is 'an applied arm of optical science resting upon the work and discoveries of physicists and opticians through the ages down to modern times. It does not treat the eye, whether in health or disease, but adapts the light waves which enter the eye, in accordance with optical principles so as to produce focused and single vision with the least abnormal exertion on the part of the eye'. Arrington's *History of Optometry*, p. 24 (1929).

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"... There is no more reason to prohibit a corporation, organized for the purpose, from employing licensed optometrists, than there is to prohibit similar employment of accountants, architects, or engineers. We know of no instance in which the right in any of those cases has ever been challenged, though universally all are deemed professions.

"We find nothing in the statute to indicate that Congress intended to prohibit corporations from employing licensed optometrists. Its primary purpose was to insure that the service would be rendered by competent and licensed persons and thereby to protect the public from inexpertness. That purpose may be fully accomplished, though the person rendering the service is employed by a corporation.

"We think the lower court was correct in denying injunctive relief, and the decree is, therefore, affirmed with costs."

In the light of the foregoing, the Commissioners believe that some of the causes for the suspension or revocation of a license, or for which they may refuse to issue, renew or restore any such license, are not in the best interests of the public.

The proposed section 7(b) sets out procedures for suspension or revocation, while the proposed section 7(c) provides for reinstatement after a year of revocation of a license.