

5. Physicians and Surgeons ⇨10

Evidence that one optometrist operated 71 offices in Texas under 11 trade names and from time to time added, dropped or changed trade name at particular office and that optometrist's advertising represented to public that certain offices were in competition supported adoption of professional responsibility rule by board of examiners in optometry prohibiting practice of optometry under assumed or trade names. Vernon's Ann.Civ.St. art. 4563.

6. Administrative Law and Procedure ⇨383

Practice of profession under trade name may be regulated and prohibited by rules.

**7. Administrative Law and Procedure ⇨390
Physicians and Surgeons ⇨10**

Rule promulgated by board of examiners in optometry requiring presence of optometrist at office with which his name is identified and at which he holds himself out as practitioner was not inconsistent with Optometry Act and was valid. Vernon's Ann.Civ.St. arts. 4556, 4561-4563; Vernon's Ann.P.C. arts. 735, 736.

8. Physicians and Surgeons ⇨10

Fact that general public has means by which to discover and identify persons practicing optometry under trade name does not render such practice consistent with public interest; disapproving Southwestern Bell Tel. Co. v. Texas State Optical, 253 S.W.2d 877. Vernon's Ann.Civ. St. art. 4563.

**9. Administrative Law and Procedure ⇨386
Statutes ⇨217.4**

Any implication that legislature did not intend to prohibit trade name practice of optometry and fee splitting arising from fact that before passage of optometry act sections prohibiting trade name practice and fee splitting were deleted from bill was overcome by legislature's express grant of broad rule making powers to board of examiners in optometry empowering board to

make appropriate rules grounded upon substantial evidence of evils against which public should be protected. Vernon's Ann. Civ.St. art. 4563.

Crawford C. Martin, Atty. Gen., Hawthorne Phillips and John Reeves, Asst. Attys. Gen., Will Garwood and Tom Gee, Sp. Asst. Attys. Gen., Niemann & Babb, Charles N. Babb, Austin, Strasburger, Price, Kelton, Miller & Martin, Mark Martin, Dallas, for petitioners.

Price Daniel, Austin, Douglas E. Bergman, Dallas, Keith, Mehaffy & Weber, Quentin Keith, Beaumont, for respondents.

POPE, Justice.

Doctors Ellis Carp, S. J. Rogers, and N. Jay Rogers sued The Texas State Board of Examiners in Optometry and sought a declaratory judgment that the Professional Responsibility Rule adopted on December 21, 1959 by the Board was void. They also asked for a permanent injunction against the Board's enforcement of the rule. The trial court denied the relief prayed for and sustained the validity of the rule. The court of civil appeals held that although there was substantial evidence which supported the rule, the Board exceeded its delegated powers in promulgating it and therefore, the rule was invalid. 401 S.W. 2d 639. In our opinion the Board did not exceed its statutory powers in promulgating the rule. We reverse the judgment of the intermediate court and affirm that of the trial court.

The court of civil appeals held that the rule was not arbitrary or capricious and that there was substantial evidence of the relationship between the rule and the general welfare of the citizens of Texas. We too find that the rule is grounded upon substantial evidence. The necessity for such a rule was demonstrated by the general support it received from the members of the optometry profession and professional so-