

1979 WL 42983 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 4, 1979

*1 Mr. Jack S. Folline
740 Kilbourne Road
Columbia, South Carolina 29205

Dear Mr. Folline:

You have requested an opinion of this Office as to whether [§ 40-37-140\(3\), 1976 Code of Laws of South Carolina](#), permits a person who has worked for an optometrist or ophthalmologist making eyeglasses for more than three years within this State to apply for an optician's license. The section provides as follows:

A person who is qualified to receive a certificate as a registered optician who:

3. Has received a certificate from a two-year school of opticianry approved by the board or holds a currently valid optician's license in another state, or has been engaged in opticianry as defined herein for a period of not less than three years or has had three years apprenticeship under an active state licensed optician. Provided, however, that any such apprenticeship begun after July 1, 1978, shall be approved by the board in writing before such apprenticeship is begun and provided, further, that any such apprenticeship begun before July 1, 1978, shall not require prior approval by the board and may be approved by the board after completion of such apprenticeship * * *.

The plain meaning of the third alternative set forth in the statute is to permit a person 'engaged in opticianry as defined herein' for three years or more to take the opticianry examination. It is clearly inferable that the statute did not intend to sanction the unauthorized practice of opticianry. This, however, only means that a person should have been legally engaged in opticianry; it does not mean that one must have held himself out to be a practicing optician.

Accordingly, it is the opinion of this Office that in order for a person who has practiced opticianry without a license for three years to qualify under [§ 40-37-140\(3\)](#) to take the examination, he need only have been legally engaged in opticianry for the three year period.

Sincerely yours,

Kenneth P. Woodington
Assistant Attorney General

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