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Opinion No. 56-45

REQUESTED BY: Arizona State Board of Optometry

OPINION BY: ROBERT MORRISON, The Attorney General
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QUESTION: 1. Can an optometrist, who is licensed in another state and practicing optometry on a civil service basis in a hospital on a federal reservation within the State of Arizona, furnish glasses to his prescription to a patient eligible for service on the military reservation at a profit?

2. Can this optometrist have his former supply house, in another state where he is registered, mail glasses to his patients and the optometrist collect for same on the reservation?

CONCLUSION: 1. Yes.

2. Yes.

In answering question 1, A. R. S. §26-252 is pertinent. This section states the following:

"Exclusive jurisdiction over any land in the state acquired for any of the purposes set forth in §26-251, and over any public domain in the state reserved or used for military purposes is ceded to the United States, but such jurisdiction shall continue no longer than the United States owns or leases the land or continues to reserve or use such public domain for military purposes."

It is seen that this statute is self-explanatory and grants to the United States Government exclusive jurisdiction over its lands situated in the State of Arizona. Therefore, the laws of the State of Arizona regulating the practice of optometry are not applicable on United States lands used for military purpose. In Lynch v. Hammock, 165 S. W. 2d 369, 204 Ark. 911, it was held that, where the Federal Government purchased land from the State of Arkansas and contracted with a private company for construction of a Japanese Relocation Colony on the land, jurisdiction of the land was by

statute surrendered to the Federal Government, and the company's physician, who engaged exclusively in rendering medical first aid for the company's employees, was not subject to the statute relating to practice of medicine and could not be enjoined from engaging in his activities because he was not licensed to practice in Arkansas. It is concluded that so long as an optometrist is practicing optometry on a military reservation for the benefit of those persons entitled to his services he would be immune to our optometry laws.

In answering question 2, A. R. S. §32-1721 is applicable and it states as follows:

"This chapter shall not apply to physicians licensed to practice in this state, nor prohibit the sale of spectacles and eyeglasses as merchandise from a permanently established place of business." (Emphasis supplied)

It is seen from this statute that anyone may sell spectacles and eyeglasses as merchandise from a permanently established place of business without being affected by the laws regulating optometry. Therefore, there is no restriction on the purchase of such glasses from supply houses within the State of Arizona or without. The optometrist or customer may purchase the eyeglasses from whomever they choose.

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