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OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

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WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES
ADMINISTRATIVE ASSISTANT

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ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 834-5150

Honorable Alton L. Turner
Attorney for the Alabama
Board of Optometry
P.O. Box 207
Luverne, Alabama 36049

Optometrists - Licenses and
Permits - Optometry

Applicant for license by
reciprocity to practice
optometry in this state
must have secured license
under an examination and
qualifications at least as
high as those for Alabama.
Once applicant has met the
requirements of Code of
Alabama 1975, Section 34-22-21,
Optometry Board has the discre-
tion to determine whether the
applicant will be issued a
license.

Dear Mr. Turner:

Acknowledgement is made of the request by the Alabama Board of Optometry for an opinion from the Attorney General regarding the issuance of a license by reciprocity to practice optometry in this state.

In view of Code of Alabama 1975, Section 34-22-21 you presented the following questions:

1. Does an applicant for licensing by reciprocity holding a certificate or license to practice optometry from a state where, at the time he was issued such certificate or license, the standard or qualifications and examination were not as high as those set out in §34-22-20, qualify for a license by reciprocity under §34-22-21?

2. If question No. 1 is answered in the negative, does the Board have any discretion to waive the requirements set out in §34-22-21?

3. If the Board has such discretion, what are the boundaries of this discretion?

Section 34-22-21 reads:

Any person who has successfully passed a standard examination in optometry in any state of the United States or all parts of the examination given by the national board of examiners in optometry and is the holder of a certificate to that effect, issued by the board of such state, or by said national board, and has conducted an ethical professional practice of optometry for at least one year next prior may, at the discretion of the board, under rules and regulations prescribed by the board and upon application to the board, upon the payment of the amount of the regular examination fee, be issued a license and license certificate without examination and be registered as qualified to practice optometry in this state; provided, that the standard of qualifications and examination

under which he secured such certificate to practice was at least as high as that prevailing in Alabama at the time of his making application to be so registered; and, provided further, that said applicant has not failed in an examination in optometry before the state board of optometry or the Alabama board of optometry and that the state from which such applicant comes grants like privileges to persons who have passed the examination of the board.

Furthermore, as you stated in your letter Code of Alabama 1975, Section 34-22-20 sets out the requirements and qualifications for obtaining a license to practice optometry in this state.

Your first question is to be answered in the negative.

Section 34-22-21 quoted above states that an individual who has passed a standard of qualifications and an examination in optometry in another state and who is a holder of a certificate issued by the Optometry Board of that state or the national board and who meets the other requirements of that Section, may be issued a license to practice optometry in this state. There is also a specific provision in Section 34-22-21 which expressly requires that the standard of qualifications and examinations under which that individual secured a license to practice optometry was at least as high as that prevailing in Alabama at the time he makes his application for licensing. Therefore, because this requirement is specifically set out in the law, an individual who has been issued an optometry license in another state which has an examination and standards of licensing which are not as high as Alabama cannot be issued a license of optometry by reciprocity in Alabama.

Your second question is also to be answered in the negative. The requirements for the issuance of a license by reciprocity to practice optometry in this state are set out by law and cannot be waived. The discretion given the

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Alabama Board of Optometry in Section 34-22-21 is the determination of whether they will issue a license by reciprocity to an individual once the requirements set out therein have been met by the applicant.

Regarding your last question, as stated in the above answer, the Alabama Board of Optometry has the discretion to decide whether they will issue a license by reciprocity to practice optometry in this state when it has been determined that the applicant has met the requirements set out in Section 34-22-21.

I trust that your questions have been sufficiently answered.

If our office can be of further service in the future, please contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By-



LYNDA F. KNIGHT
Assistant Attorney General

LFK/ks