

STATE BOARD OF OPTOMETRY:  
ADVERTISING:

The advertisement of optometric services on credit is the advertisement of "prices or terms for optometric services" under Section 10121 (g), R. S. Mo., 1939, as amended.

(COPY)

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January 6, 1948



Dr. George A. Winterer  
202 N. 7th Street  
St. Louis, Missouri

Dear Sir:

This is in reply to your request for an opinion of this department, which request is as follows:

"As a member of the State Board of Optometry in Missouri I would appreciate very much your legal opinion as to the meaning of the words 'Terms' and 'Credit'. I am asking this to clarify the differentiation between the two words as far as using them in optometric or optical advertising, It is of some individual's opinion that they mean the same and others say it is a distinct difference. Any help you can give me in this matter will be appreciated by me as well as the other members of the Board."

Section 10121, R. S. Mo. 1939, as amended Laws of 1947, page 415, contains the following provision:

"The State Board of Optometry may either refuse to issue, or may refuse to renew, or may suspend, or may revoke any certificate of registration for any one, or any combination, of the following causes:

\* \* \* \* \*

"(g) Advertising, directly or indirectly, prices or terms for optometric services."

In construing this statute, the words used should be given their meaning in common usage, unless by doing so a result contrary to the intention of The Legislature and to the purpose of the statute would be produced. Artophone Corporation v. Coale, 345 Mo. 344, 133 S. W. (2d) 343.

Dr. George A. Winterer

Webster's New International Dictionary defines the word "terms" as:

"Propositions, limitations, or provisions, stated or offered, as in contracts, for the acceptance of another and determining the nature and scope of the agreement; conditions; as, the terms of a sale; hence, specif., stipulations regarding payment, price, or wages; as, terms cash."

When used in connection with prices or conditions of payment, the courts have held that the word "terms" means the time and manner of payment. *Nakdimen v. Ft. Smith and Van Buren Bridge District*, 115 Ark. 194, 172 S.W. 272; *Carson v. Smith*, 5 Minn. 78. Such definition would seem to carry out the intention of the Legislature in adopting the section in question, the apparent intention being to prevent reference in advertising to either the price or the manner of payment for optometric services.

#### CONCLUSION

The advertisement of optometric services on credit is the advertisement of "prices or terms for optometric services" under Section 10121 (g), R.S. Mo., 1939, as amended.

Respectfully submitted,

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APPROVED:

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