STATE AFFAIRS COMMITTEE
April 4, 1967

The meeting was called to order by the Chairman with all members present except Mr. Andrews, who was excused.

The chairman stated that he had a proposed resolution asking for a Legislative Council study and report in 1968 on the proposed police training academy as proposed by H.B. 1137. Mr. Ford moved that it be introduced, which was seconded by Mr. Turner and carried unanimously.

The Chairman stated that the next order of business was Senate Bills 82 and 83; that Senator VanSickle was to explain the bills but wasn't present; and introduced Mr. Jim Clark, Administrative Director of the Optometric Association to discuss the bills.

He in turn introduced Dr. Gordon Summers and Dr. J. H. French, Board Members of the Association. He stated that these proposals had grown out of the pre-paid trend. He testified that 12 states presently have legislation of this kind. He discussed Blue Cross-Blue Shield, and other insurance companies that furnish pre-paid services, and stated that in particular since the implementation of Title 19 that Optometrists feared that these concerns would demand the services of medical doctors rather than optometrists, and that they would soon be out of business. He stated that this legislation would give the insured a free choice of who performed the services; that it appears that Blue Cross-Blue Shield will be the intermediary for Title 19 and that they certainly wanted an opportunity to participate in this. He stated that there are states in which there is no choice, and cited Boeing of Seattle, and expressed concern that Boeing of Wichita might place themselves in the same category to where optometrists were not permitted to perform services, which would deflate the economy of optometrists in Sedgwick County. He stated if people have paid for a service they are going to use it, and if they have no choice, it is not fair.

Mr. McCray stated that he was interested in what Mr. Clark had to say about Boeing; and then asked if there were any negro optometrists in Kansas. Mr. Clark replied that there are none, for which he was sorry; that he had personally tried to attract negros into the profession; that the schools are quite a distance away and rather expensive. Mr. McCray inquired if the examination was extremely difficult or if the Board was impossible to pass, and Mr. Clark replied that he didn't believe the Board had ever failed anyone; that the problem is getting students.

Mr. Mikesic inquired about the provisions on page 2, line 8, and Mr. Clark explained that he believes it is superfluous but that Mr. Corrick who drafted the bill felt it should be in there.

Mr. Rogers inquired what generally, 65-1501 says? and Mr. Clark stated that this is the optometry law and states that "it is the examination of the human eye without drugs".

The Chairman announced that the opponents to these proposals would be heard on the 5th; that also, Senate Bills 347, 397 and 400 would be considered.

The meeting was adjourned.

MARGARET GENTRY, Secretary

NEW YORK STATE OPTOMETRIC ASSOCIATION, Inc.
250 WEST 57TH STREET NEW YORK, N. Y. 10019
AREA CODE 212: CIRCLE 5-4123; CIRCLE 5-4190

March 8, 1966

Dr. Eugene McCrary, President
American Optometric Association
4500 Beechwood Road,
College Park, Maryland 20740

Dear Gene:

I would like to advise you of a situation pertaining to legislation that has arisen in New York State at this time, and that will undoubtedly be of concern to all other state associations.

In 1962 we were successful in amending our state insurance law with respect to [redacted] health expense indemnity corporations so that subscribers to such plans would have freedom of choice between optometrists and physicians whenever the plan itself provided coverage for services that fell within the scope of optometric licensure.

However, the amendment failed to make the provision binding upon contracts written out of New York State by carriers not licensed to do business in New York State. This did not greatly concern us until this year, because cases involving such carriers were few and far between. But with the passage of Medicare we felt it of prime importance to close what had hitherto been a very minor loophole in our law. Accordingly we sought to amend our New York State Insurance Law and correct the situation so that if, say, a Medicare contract is written in Illinois, by Illinois Blue Shield, and a subscriber to such a contract is living in New York State, such subscriber shall be free to consult either an optometrist or an ophthalmologist - whichever he chooses - whenever optometric services are covered under his plan.

We have been informed that there is no chance whatsoever of obtaining such an amendment unless we agree to the following additional amendment: "provided however that a corporation subject to the provisions of this article shall not be required to permit such freedom of choice to subscribers without this state who have coverage under a contract made or delivered within this state, when such services are rendered in those states where freedom of choice does not exist".

New York Blue Shield is behind this amendment. New York Blue Shield does not object to freedom of choice, as between optometrists and physicians, for those states which have amended their insurance laws to provide such freedom of choice. But it does object to the 1962 amendment to the New York State Insurance Law being made applicable to all other states in the union. As a matter of fact, the objection is reasonable because, naturally, there is no way in which New York State could pass legislation that would be binding upon other states. We have therefore agreed to the above amendment. By so doing, and assuming that the bill passes and is signed into law, we have not only ensured freedom of choice as between optometrists and physicians here in New York State, but also in <u>all other states that have amended their insurance laws</u>.

However, the point of this letter is simply to impress that those states that have not yet amended their insurance laws will be out in the cold. Of course they will not be one whit worse than they are had we not submitted our bill. If New York State Blue Shield should write a contract for, say, a national chain of supermarkets, then freedom of choice under the plan will vary from state to state, depending upon whether or not the optometric association of the state has amended its insurance law.

Our amendment, if successfully passed, (and we now think that it will go through) will not, <u>by itself</u>, ensure freedom of choice in other states. It must be complemented by amendments in each state law. It is important that all other states who have not yet amended their Insurance Law understand this situation. As a final thought, it seems not improbable to me that similar legislation may be passed in other states.

Very sincerely yours,

Ashley King, O. D.,
Administrative Director

AK:rk
Distribution: Mr. J. Harold Bailey, Harold Kohn Esq.,
Members of AOA Social & Health Care Trends Comm.
P, VP, VP, VP, VP, SEC, TR, IPP, MLK

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UNITED STATES CIVIL SERVICE COMMISSION
Bureau of Retirement and Insurance
Washington, D. C. 20415

March 30, 1965

Mr. H. E. "Tony" Mahlman
Assistant Director
American Optometric Association
1025 Connecticut Avenue, N.W.
Washington, D. C.

Dear Mr. Mahlman:

The purpose of this letter, which is being sent to all carriers in the Federal Employees Health Benefits Program, is to inform you of the Civil Service Commission's position with respect to the laws of some States which require insurers to recognize certain practitioners for services under our contract.

For example, some carriers have sought to avoid payment to claimants in New York (which has a State law on the point) for services by optometrists which would have been covered if rendered by a medical doctor. These carriers have based their denial of benefits on the ground that the plan's contract definition of "doctor" excludes optometrists and have maintained, in effect, that because of this contract definition, they are precluded from paying optometrists and hence from complying with the New York laws. This is not correct.

Our position is that our contract should be construed in the light of applicable State law with respect to practitioners. Therefore, carriers should not rely on our contract to avoid the law. Carriers are advised that benefit payments made to comply with State laws governing recognition of certain practitioners will, on audit by us, be allowed as a valid charge to our contract even though the contract does not require such payment.

It should be noted that this Commission does not interpret and does not enforce State laws. A carrier is free to pursue whatever steps are available to him to test the applicability of a State law in a given situation.

Sincerely yours,

(Signed)

Andrew E. Ruccock
Director