



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Mrs. Ella Mae Murphy, President  
State Board of Hairdressers and Cosmetologists  
Austin, Texas

Dear Madam:

Opinion No. O-4090

Re: Does the State Board of Hairdressers and Cosmetologists have authority to enforce its ruling requiring all regulations to be met in a new location before license can be transferred or issued to a beauty shop or school?

Your letter of October 6, 1941, requesting the opinion of this department on the above stated question reads in part as follows:

"We respectfully request that you refer to your opinion # O-536, dated March 24, 1939.

"Many beauty shops and schools were licensed at the time the law was passed which do not meet the requirements of the Board or come within the law as interpreted at present. If one of such schools or shops close their present licensed location and move to a new location, it has been the practice of the Board to require the owner to make the new location meet all requirements, set out by the Board, and approved by either the Board or representative, before license will be transferred or issued to cover the new location.

"This requirement has been made to prevent shops or schools from moving into unsanitary locations, or in connection with living quarters and to raise the standard of schools by requiring them to meet all rules as to equipment, minimum space, etc.

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"Kindly advise if the Board has authority to enforce its ruling requiring all regulations to be met in its new location before license can be transferred or issued; or if your opinion # 0-536 would prevent the Board from this practice.

". . ."

Section 10 of Article 734b, Vernon's Annotated Penal Code, among other things, provides that the State Board of Hairdressers and Cosmetologists,

". . . shall, with the approval of the State Board of Health, prescribe such sanitary rules as it may determine necessary with particular reference to the precautions necessary to be employed to prevent the spread of infectious and contagious diseases, and it shall be unlawful for the owner or manager of any hairdressing or cosmetological shop or any school of beauty culture to permit any person to sleep in or use for residential purposes any room used wholly or in part as a hairdressing or cosmetological establishment or school of beauty culture, and it shall be unlawful for any person, firm or corporation to practice as a hairdresser or cosmetologist, except in the homes of customers or in a bona fide established beauty shop wherein the requirements of the Board as to proper sanitary rules are complied with. Provided an operator may have a beauty shop in her home where the sanitary rules are complied with.

". . . The said Board, or any duly appointed agent, shall have authority to inspect any beauty shop, beauty parlor, or school, at any time during business hours."

Section 18 of the above mentioned act provides:

"The first certificate of registration and license shall be valid until August 31, 1936. Thereafter no certificate or license shall be issued for a longer period than one (1) year and shall expire on the 31st day of August, of the year for which they are issued unless renewed

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prior to that date. The holder of an expired certificate or license may have his certificate or license restored within one (1) year after the date of expiration, upon the payment of the required renewal fee and satisfactory proof of his or her qualifications to resume practice. . . ."

Subsection c of Section 18 of the same Article provides:

"The establishment of itinerant shops is hereby expressly prohibited, and it shall be unlawful for any person, firm or corporation to operate a beauty shop as defined in this act, unless the same is a bona fide establishment with a permanent and definite location. Any license granted under the terms of this act shall permit the licensee to practice in only such bona fide established beauty shop; provided, however, that nothing in this act shall prohibit the removal or change of location of the beauty shop, provided such move or change is made in good faith with the intention of definitely and permanently locating elsewhere; and provided that nothing contained herein shall in anywise prevent a licensee from practicing in the homes of customers if said licensee works in a bona fide established shop as defined in this act. Provided further, that nothing in this act shall prohibit the establishment of chain beauty shops which have a definite and permanent location and have complied with all the other terms of this law."

It will be noted that Section 18, supra, expressly provides that an expired certificate or license may be renewed within one (1) year after the date of expiration upon the payment of the required renewal fee and satisfactory proof of his or her qualification to resume practice. There is nothing in the Article 734b, that requires any approval of the license or certificate upon the removal of a shop or school from one location to another. We find no authority for making any different requirement because of the fact that the owner of a shop or school may have changed the location of the shop or school or expects to change the location of the shop or school upon securing a renewal license or

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certificate. Therefore, we respectfully answer the above stated question in the negative. It is our further opinion that our opinion No. O-536 would prevent the Board from carrying on the above mentioned practice.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

APPROVED OCT 27, 1941

ATTORNEY GENERAL OF TEXAS

*Howell Allen*

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By

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