

**Opinion No. 242.****Beauty Culturists—Cosmetology—  
Licenses.**

HELD: 1. Where a rule is reasonable and a school fails to comply, the state examining board of beauty culturists may refuse, revoke or suspend the license of the person conducting the school.

2. Before anyone may practice or teach cosmetology such person must pass an examination as to fitness to practice or teach cosmetology or any practices thereof.

January 30, 1936.

Montana State Examining Board of  
Beauty Culturists  
Miles City, Montana

In your letter of December 15, 1935, you stated substantially the following questions:

(1) Complaints have been made to you by students of the Townsend School of Beauty Culture to the effect that too many students are enrolled in the school to be properly cared for by the available instructors. You enclosed said complaints, and they are phrased in such general language that it is difficult to be sure of what specific grievance or grievances the students complain. You have called attention to Rule No. 8 of the rules adopted by the Board relating to schools.

(2) You state also substantially that a certain male operator made application for a license in 1929, and was offered a temporary license which he refused for the reason that two men working with him were issued regular licenses, and that he now demands a license without examination upon payment of the regular fee for registration and examination and license. From your statement, I assume that he has never had a license since the law went into effect.

In answer to your first question, I beg to advise that your Board has power to prescribe reasonable rules for "instruction of apprentices and students and the conduct of schools thereof, and generally for the conduct of persons, firms and corporations af-

ected \* \* \*." (Section 6, Chapter 104, Laws of 1929.) Rule 8 of the rules adopted by your Board, pertaining to schools, provides in part: "Each school shall be allowed ten (10) students to one teacher.

Not being versed in the mysteries of the art of cosmetology, we are unable to say whether or not this rule is reasonable as a matter of fact. If it is in fact reasonable, and the school in question is actually failing to comply therewith, the Board may refuse, revoke or suspend the license of the person conducting the school (Section 11, Chapter 104, Laws of 1929).

It has been suggested that if Mr. Townsend is not allowed to continue operating the school, the students who have paid their tuition may lose it; however, we are unable to see wherein this situation differs from the ordinary situation frequently arising in which a person who pays money under contract to an irresponsible person finds himself in an unfortunate position if said irresponsible person thereafter fails to perform the contract.

In answer to your second question, I call your attention to the fact that Section 3 of Chapter 104, Laws 1929, as amended by Chapter 14, Laws 1931, provides that before anyone may practice or teach cosmetology such person shall pass an examination as to fitness to practice or teach cosmetology or any practices thereof. The exception contained in Chapter 104, Laws of 1929, relating to persons holding similar licenses or permits from outside the State, or having practiced or taught outside the State, or practicing in the State preceding July 1, 1929, was repealed by Chapter 14, Laws of 1931.

The law seems to be plain. We fail to see that the fact that persons associated with the male beauty operator in question were issued licenses has anything at all to do with the qualifications of said male beauty operator, or the necessity of his taking an examination. In our opinion, no license should be issued to him unless he first passes the examination.

This opinion, of course, is based entirely upon the statement of facts submitted to this office and does not take into account other facts which may be unknown to us.