

power of the State Board of Education to require that the person who teaches hair styling must have a Montana license to teach cosmetology.

(2) In the absence of some affirmative action by the board of education to the contrary, the examining board of beauty culturists does not have jurisdiction over the summer cosmetology course offered at Montana State College.

November 23, 1951.

Mrs. Mary A. Ellis  
 Secretary-Treasurer  
 Montana State Examining Board  
 of Beauty Culturists  
 P. O. Box 207  
 Butte, Montana

Dear Mrs. Ellis:

The Montana State Examining Board of Beauty Culturists has requested my opinion as to whether the course in cosmetology for licensed cosmetologists which has been offered by Montana State College for the past three years comes under its jurisdiction. Montana State College has offered a short summer course for cosmetologists for the past three years. The course included lectures in chemistry, art, bacteriology, dermatology, public speaking and psychology. The college also secured the services of a "hair stylist" who gave lectures and demonstrations on various hair styling techniques, and the regular faculty members lectured on the other subjects. Neither the "hair stylist" nor the other faculty members are licensed teachers of cosmetology in Montana. The summer course in cosmetology was authorized by the State Board of Education.

Section 66-802, Revised Codes of Montana, 1947, defines the practice and teaching of cosmetology as follows:

"The practice and teaching of cosmetology is defined to be and includes any or all work generally and usually included in the term 'hair-dressing' and 'beauty culture' and performed in so-called hairdressing and beauty shops, or by itinerant cosmetologists, which work is done for the embellishment, cleanliness

**Opinion No. 48**

**Cosmetology—Board of Beauty Culturists—Board of Education**

**Held:** (1) The State Board of Education may offer a course in cosmetology at Montana State College and the faculty members who teach the course need not have a license from the State Board of Beauty Culturists, although it is within the

and beautification of the hair, scalp, face, arms or hands.\*\*"

Section 66-801, Revised Codes of Montana, 1947, prohibits any person from practicing or teaching cosmetology without a license. Section 66-803, Revised Codes of Montana, 1947, sets forth the requirements for practicing or teaching cosmetology, and also the standards that must be maintained by schools that teach cosmetology. Section 66-804, Revised Codes of Montana, 1947, provides for the appointment of the state examining board of beauty culturists.

On the other hand, Article XI, Section 11 of the Montana Constitution provides that the general control and supervision of the state university shall be vested in the state board of education. Section 75-301, Revised Codes of Montana, 1947, vests the general control and supervision of Montana State College in the board of education, and Section 75-403, Revised Codes of Montana, 1947, provides that the board of education may prescribe the instruction to be given at the various units of the university system, which includes Montana State College.

Hence, the question arises as to whether the summer course for cosmetologists offered at Montana State College comes under the jurisdiction of the board of education or the board of beauty culturists. It is evident that the cosmetology law, Sections 66-801 to 66-818, Revised Codes of Montana, 1947, was only intended to provide state regulation for schools of cosmetology that are conducted in beauty shops. Montana State College does not offer a regular course or a degree in cosmetology, but rather only offers a short course for cosmetologists in the summer as a public service. The Montana Supreme Court has recognized the right of the board of education to authorize the university to perform wider functions than mere scholastic instruction, and has recognized that the state university may properly be characterized as a development arm of the state, and as such may use its facilities to aid individuals, professions and industries. See *State ex rel. Public Service Commission v. Brannon, et al.*, 86 Mont. 200, 283 Pac. 202.

Therefore, it is my opinion that the state board of education may offer a course in cosmetology at Montana

State College and the faculty members who teach the course need not have a license from the state board of beauty culturists, although it is within the power of the state board of education to require that the person who teaches hair styling must have a Montana license to teach cosmetology.

It is also my opinion that, in the absence of some affirmative action by the board of education to the contrary, the examining board of beauty culturists does not have jurisdiction over the summer cosmetology course offered at Montana State College.

Very truly yours,  
ARNOLD H. OLSEN  
Attorney General