

Opinion No. 60

**Cosmetologists—Licenses—
Qualifications of Applicants—
Reciprocity—Examining Board of
Beauty Culturists.**

- Held:** 1. The state board of beauty culturists may accept seventeen years active practice in another State as equivalent to a diploma from an accredited beauty school, and may therefore allow the applicant possessing such qualifications to take an examination given by the board.
2. The State Examining Board of Beauty Culturists may adopt reasonable rules allowing reciprocity between States, and thereby issue licenses without examination to otherwise qualified applicants who have been

licensed in another State for such periods of time as to the Board shall seem reasonable.

January 28, 1952.

Mrs. Mary Ellis, Secretary
Montana State Examining Board of
Beauty Culturists

P. O. Box 207
Butte, Montana

Dear Mrs. Ellis:

You have requested my opinion on the following question:

May the Montana State Examining Board of Beauty Culturists allow a person who has been a licensed operator of a beauty shop in the State of Pennsylvania for seventeen years to take an examination in Montana to practice cosmetology if the applicant does not have a diploma from an accredited beauty school?

You state that a certain woman has requested permission to take the forthcoming examination to be given by your Board. She states that she was a licensed beauty operator in the State of Pennsylvania from 1935 to 1951, but is now making her home in Montana. Act 86, Session Laws of Pennsylvania of 1933, provides for the licensing of beauty culturists in that State. This act requires that before a person is eligible to take an examination there that "such person shall have been registered and served as an apprentice at least two years in a beauty school duly registered by the Department of Public Instruction." However, the Pennsylvania Act also provided that "A person may take an examination without prior apprenticeship if he or she has been an operator in the active practice of beauty culture for at least twenty-four months within the five years next preceding the effective date of this act." In 1945 the Pennsylvania Legislature amended their law by Act 169, Session Laws of Pennsylvania of 1945 to allow a person to take the examination if he or she was engaged in the active practice of beauty culture for at least twenty four months prior to the date of filing an application for admission to an examination. Thus, under Pennsylvania law twenty four months apprenticeship or active prac-

tice is all that is required in order to take the examination. The Pennsylvania law also provides for reciprocity between States, as Section 9 of the 1933 Act provides that "any person who has practiced beauty culture under a license for not less than two years in another state may secure the certificate of registration without examination." The Montana law has no express reciprocity provision unless such power could be implied from the express powers given to the Examining Board.

Section 66-803, Revised Codes of Montana, 1947, provides in part as follows:

"*** Such applicant must have completed a continuous course of study of at least two thousand (2,000) hours in an accredited beauty school, which course of study has been distributed over a period of not less than ten (10) months or more than twelve (12) months and has received a diploma from said beauty school."

The applicant does not have a diploma from an accredited beauty school. The obvious purpose of Section 66-803, supra, is to insure that the applicant will have had a minimum amount of training and the diploma is but evidence that the course has been completed. The underlying purpose of the cosmetology licensing law is to promote public health and safety by insuring that beauty culturists will possess a reasonable amount of skill and competence.

Section 66-806, Revised Codes of Montana, 1947, provides in sub-section 5 that the State Board shall prescribe reasonable rules for the conduct of its business and for the qualification, examination and registration of applicants to practice or teach cosmetology. I believe that in enacting this Section that the Legislature contemplated that exceptional cases would arise and therefore gave the state board power to accept qualifications and equivalent to those set out in Section 66-803, supra. The University of Montana accepts educational training equivalent to its entrance requirements, and other state licensing boards do likewise. Further, I believe that licensing acts generally should be interpreted in the light of the purpose they are intended to serve, that is, to protect the public

from incompetents. These acts should not be interpreted so narrowly as to prohibit otherwise competent persons from pursuing their chosen trades or professions.

Therefore, it is my opinion that the State Board of Beauty Culturists may accept seventeen years active practice in another State as equivalent to a diploma from an accredited beauty school, and may therefore allow the applicant possessing such qualifications to take an examination given by the board.

It is further my opinion that the State Examining Board of Beauty Culturists may adopt reasonable rules allowing reciprocity between States, and thereby issue licenses without examination to otherwise qualified applicants who have been licensed in another State for such periods of time as to the Board may seem reasonable.

Very truly yours,
ARNOLD H. OLSEN
Attorney General