

## Opinion No. 54-6014

September 8, 1954

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mrs. Agnes Martin Secretary-Treasurer State Board of Cosmetologists Post Office Box 130 Santa Fe, New Mexico

{\*477} Receipt is acknowledged of two letters dated August 31, 1954 in which you request an opinion concerning § 51-2006 of the 1941 Compilation relative to a person licensed in the State of Oklahoma who has made application for admission and license on motion to practice cosmetology. According to my understanding, this applicant received the license in Oklahoma without examination under the "grandfather" clause of the statute in that State, and the Board is not entirely satisfied with her qualifications.

The above mentioned section authorizes the Board to grant license to persons licensed in other states under certain circumstances without examination. However, it is specifically provided in this section that the Board, in its discretion, may require an examination of such an applicant, and if the Board feels that the applicant may not be qualified in all respects, the requirement of an examination would not seem to be an arbitrary action on the part of the Board.

In your second letter, you state that a student in a cosmetology school has completed the required number of hours of instruction but has failed to pass the school examination and that the school is withholding the monthly reports of such student, thereby denying the student the right to be issued a junior license until the next State Board examination. You inquire whether the school may withhold such reports.

Under § 51-2003, sub-section D, 1941 Compilation, it is provided as follows:

"Any person shall be qualified to receive a certificate to practice as a junior operator who meets the requirements of subsections (a), (b), (c), (d) and (e) of this section and who has successfully completed a course of study {\*478} in a recognized cosmetology school, . . ."

The subparagraphs referred to in this subsection are as follows:

- (a) Who is at least eighteen years of age.
- (b) Who is of good moral character and temperate habits.
- (c) Who has an education equivalent to the completion of the second year of an approved high school.

(d) Who has completed a course from a cosmetology school approved by the board of cosmetology.

(e) Who has paid the required fees as set forth in § 51-2016.

It is noted that paragraph (d) merely requires the completion of a course from a cosmetology school, however, subsection D requires the successful completion of such a course. It is, therefore, apparent that a student must have successfully completed and passed a course in the cosmetology school before being eligible for a license as a junior operator. In that case, it is immaterial whether the cosmetology school submits the reports or not concerning a student who has failed to successfully complete such a course, since the student would not be eligible anyway.

By: C. C. McCulloh

Assist. Attorney General