

Opinion No. 39-3077

March 31, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mrs. Bertha Bailey, Secretary, State Board of Cosmetology, Albuquerque, New Mexico.

{*30} In your letter of March 29 you ask for an interpretation of Section 12 of Chapter 229 of the Session Laws of 1937 relating to the control of the cosmetology and beauty culture industry.

You inquire whether seventy-five percent of the shop owners and operators in any Judicial District may vacate an order of the State Board of Cosmetology establishing minimum prices for cosmetology and beauty culture work in such district.

Once the Cosmetology Board has approved a price agreement in any district, establishing minimum prices for cosmetology and beauty culture work theretofore submitted to the Board by any organized group of at least seventy-five percent of the cosmetologists and beauty culturists in that district, it is my opinion that such price agreement stands as approved by the board and cannot be vacated by further action on the part of the cosmetologists or beauty culturalists in the district affected. In other words, a price agreement among cosmetologists and beauty culturists in any district does not become effective until approved by the Board of Cosmetology, and the order of the Board approving the price agreement may be vacated only by action of the Board.

If a representative group of cosmetologists {*31} and beauty culturists in any district desire to change any price agreement heretofore adopted and approved by the Board, their recourse is to make proper complaint to the Board and after investigation the Board may or may not vacate its order theretofore entered approving the former price agreement. If the Board refuses to vacate its former order, the remedy of the cosmetologists and beauty culturists affected is to have the decision of the Board reviewed by the District Court. If the Board, on the other hand, does decide to vacate its former order, then the Board may require the submission of new agreements for its approval, and then and only then may the cosmetologists and beauty culturists involved re-submit a new price agreement for the approval of the Board.

Trusting the foregoing sufficiently answers your inquiry, I am,

By: FRED J. FEDERICI,

Asst. Atty. Gen.