

**Opinion No. 43-4275**

April 26, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mrs. Dorothy W. Miller, Secretary, State Board of Cosmetologists, 209 First National Bank Building, Albuquerque, New Mexico

We are in receipt of your letter of April 22, 1943, in which you inquire whether or not under any conditions, aliens are issued licenses to practice cosmetology in this state.

I have examined with care the Constitution of this state and our general statutes, and find nothing which would prohibit aliens from engaging in business in this state.

Section 51-2003 of the 1941 Compilation, setting forth the qualifications a person must have prior to being issued a license to practice cosmetology, upon examination, does not set up citizenship as one of the qualifications, as does the dentistry law, but includes any person. It is therefore my opinion that any person who meets the other qualifications prescribed in this section may be issued a license, and may practice cosmotology in this state.

Under Section 51-2006, relating to the licensing of persons without examination who have been registered or licensed in another state, it is required that such person be a resident of this state for at least three months. Upon the question as to whether or not a person must be a citizen to be a resident, the Courts differ, depending upon the type of statute in which this term is used.

In this connection, it is my opinion that the terms "resident" and "citizen" are not synonymous, since the section above referred to, dealing with the licensing of cosmetologists, upon examination, does not require residence or citizenship, but that the rule that residence, as used in a statute similar to this, was synonymous with domicile or inhabitant rather than citizenship, which was laid down in *Travis v. Yale and Towne Mfg. Co.* 40 S. Ct. 228, 252 U.S. 60 should be followed.

Trusting that the foregoing sufficiently answers your inquiry, I am

By ROBERT W. WARD,

Asst. Atty. General