

DEPARTMENT OF HEALTH :) -Qualifications of persons applying for
BEAUTY:) registration to conduct beauty school,
and procedure to be followed to revoke
a license for reasons enumerated in
Section 9102, R. S. Mo. 1929.

August 9, 1935.

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Mr. H. G. Cherry, Director
Division of Cosmetology
& Hairdressing,
State Board of Health,
Jefferson City, Missouri.

Dear Mr. Cherry:

This is to acknowledge your letter dated August 2,
1935, as follows:

"Referring to the conversation that I had with you this morning, I would like to have an opinion from your office in regard to Section 9092, relative to application for a certificate of registration of a school of beauty culture - whether or not our Department can accept or refuse to issue a license, after inspection has been made as to location and equipment of said school and the qualification of the party or parties who are to operate the school.

"I would also like information as to the procedure to be made by this Department to revoke a license under Section 9102."

The Division of Cosmetology and Hairdressing is under the supervision of the State Board of Health. Section 9093, R. S. Mo. 1929, provides as follows:

"The control, supervision and enforcement of the terms and provisions of this article shall be under the state board

of health, or by whatever name said board may hereafter be designated."

Section 9092, R. S. Mo. 1929, provides for the issuing of a certificate by the State Board of Health to any person, firm or corporation desiring to engage as a school in teaching any one or more of the classified occupations provided by Article 5, Chapter 52, R. S. Mo. 1929. Said section provides in part as follows:

"It shall be competent for any person, firm or corporation to apply to the state board of health for a certificate of registration of a school for any one or more of the classified occupations within this article upon the payment of a reasonable annual registration fee as determined annually by the said board but in no case to exceed the sum of one hundred dollars. No such school for hairdressers or cosmetologists within this article shall be granted a certificate of registration unless it shall attach to its staff a regularly licensed physician and employ and maintain a sufficient number of competent instructors, registered as such, but not less than one instructor to each twenty students, and shall require a course of training not less than one thousand hours over a period of six consecutive months for the classified occupation of hairdresser and cosmetologist and not less than one hundred fifty hours for the classified occupation of manicurist, such training to include practical demonstrations, written or oral tests, and practical instructions in sanitation, sterilization and the use of antiseptics, cosmetics and electrical appliances, consistent with the practical and theoretical requirements as applicable to the classified occupations as provided in this article: * * * * *"

It is thus seen that a corporation may be given a certificate of registration. A corporation is defined by Corpus Juris, Vol. 14, page 50, as follows:

"The following definition of a corporation was given by Chief Justice Marshall in the celebrated Dartmouth College case: 'A corporation is an artificial being, invisible, intangible, and existing only in contemplation of law. Being the mere creature of law, it possesses only those properties which the charter of its creation confers upon it, either expressly or as incidental to its very existence. These are such as are supposed best calculated to effect the object for which it was created. Among the most important are immortality, and, if the expression may be allowed, individuality; properties, by which a perpetual succession of many persons are considered as the same, and may act as a single individual. They enable a corporation to manage its own affairs, and to hold property, without the perplexing intricacies, the hazardous and endless necessity, of perpetual conveyances for the purpose of transmitting it from hand to hand. It is chiefly for the purpose of clothing bodies of men, in succession, with these qualities and capacities, that corporations were invented, and are in use. By these means, a perpetual succession of individuals are capable of acting for the promotion of the particular object, like one immortal being.'"

And while a corporation may not be licensed to practice the occupations, such as hairdressing, cosmetology and manicuring, yet, a corporation may be given a license to conduct

a school. The only qualifications that are required for one to conduct a school are those set forth in Section 9092, supra, namely: (1) That the person applying for a certificate of registration must pay an annual registration fee; (2) That the school must have attached to its staff a regular licensed physician; (3) That the school must employ and maintain a sufficient number of competent instructors, registered as such; and (4) must teach certain subjects, giving oral or written tests, and (5) the school must be conducted in a sanitary manner.

It is thus seen that Section 9092, supra, makes it mandatory upon the school to comply with certain conditions in applying for a certificate and if the school complies with said conditions, in our opinion, you cannot refuse to issue to it a license. The qualifications of the party or parties operating the school would not be a factor in determining whether a certificate should be issued, as for example: a corporation does not have the qualifications possessed by a natural person. The qualifications of persons attached to the staff of the school may be inquired into, for example: You may inquire if the physician is a regularly registered one, also if the instructors are regularly registered operators. The statutes provide that registered operators must have certain qualifications in order for such to be licensed.

If a registered operator applies for a certificate of registration for a school, then surely the registered operator's qualifications are sufficient as the statute provides that no license shall be granted to an operator unless "they are of good moral character and have an education equivalent to the completion of an eighth grade and shall have served and completed the required time and studies as determined by the state board of health * * * * ." Section 9095, R. S. Mo. 1929.

It is our opinion, from the foregoing, that any person, firm or corporation applying to the State Board of Health for a certificate of registration of a beauty school for any of the classified occupations enumerated in Article 5, Chapter 52, and meeting all the requirements of Section 9092, supra, are entitled to be granted a certificate of registration. In

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other words, the only facts to be inquired into are whether or not the school has competent instructors (registered operators), a regular licensed physician and that it requires a course of training prescribed by the statute and gives written or oral tests and has practical instruction in sanitation, sterilization etc.

II.

In answer to your question as to the procedure to be followed in order to revoke a license for the reasons named in Section 9102, R. S. Mo. 1929, we refer you to Section 9103, R. S. Mo. 1929. Said section (9103) provides in part as follows:

"At least twenty days prior to the date set for any such hearing before the board for the revocation of any such certificate, the secretary of the board shall cause written notice to be personally served upon the accused in the manner prescribed for the serving of original writs in civil actions. To said notice shall be attached an exact statement of the charges and the date and place set for the hearing before the board. If the party thus notified fails to appear, either in person or by counsel, at the time and place designated in said notice, * * * * *"

Section 9103 also permits the licentiate to appear at the hearing in person or by counsel, and also, if not satisfied by the decision of the Board, to be granted a writ of review in the circuit court.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

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