

STATE BOARD OF HEALTH - Certificates to practice cosmetology and hairdressing may be signed by any of the well-known methods of impressing a name on paper by another at the direction of the persons required to sign such certificates.

November 24, 1937

Honorable Herman S. Gove, M. D.
Director - Medical Licensure
State Board of Health
Jefferson City, Missouri



Dear Dr. Grove:

This will acknowledge receipt of your request for an opinion reading as follows:

"Please advise us as to whether or not Section 9098 of the Revised Statutes of Missouri 1929, relating to the issuance of a certificate to practice cosmetology and hairdressing, requires the signature of the President and Secretary of the State Board of Health of Missouri."

Your attention is directed to Section 9098, R. S. Mo. 1929, reading in part as follows:

"If an applicant for examination for operator passes such examination to the satisfaction of the examining board and has paid the fee required and complied with the requirements pertaining to instructors provided in this article, the state board of health shall issue a certificate to that effect, signed by the president and secretary and attested by its seal."

The above statute is plain, unambiguous and conveys a meaning which is obvious. When the language of a statute is plain as here, there is no need of resorting to auxiliary rules in the construction of a statute.

While the obvious meaning is apparent, we do, however, invite your attention to the use of the word "signed", as used. Ordinarily, the word "signed" indicates the signing of an instrument with one's own hand, or to affix a signature to; to ratify by hand or seal. See Webster's New International Dictionary. Hansen vs. Owens, 64 S. W. 800, 805.

In the case of Cummings vs. Landes, 117 N. E., 22, 23, the Supreme Court of Iowa considered a statute which required that an original notice be signed by the plaintiff or his attorney, and in passing upon the word as used in the statute said:

"This is to authenticate it as coming from the plaintiff in the action. A written signature is not in terms exacted. To sign, in the primary sense of that expression, means to make a mark, and the signature is the sign thus made. By long usage, however, influenced, no doubt, by the spread of learning, signature has come ordinarily to be understood to mean the name of a person attached to something by himself, and therefore to be nearly synonymous with 'autograph.' This signification is derivative, however, and not inherent in the word itself. In re Walker's Estate, 110 Cal. 387, 42 Pac. 815, 30 L. R. A. 460, 52 Am. St. Rep. 104. Looking at the original meaning of the word, in connection with the usage since the people generally have become able to write their own names, we have no trouble in reaching the conclusion that, as employed in the statute, no more is exacted than that the name of plaintiff or that of his attorney be attached to the notice by any of the known methods of impressing the name on paper, whether this be in writing, printing, or lithographing, provided it is done with the intention of signing or be adopted in issuing the original notice for service."

In the case of *In re Deep River Nat. Bank*, 47 Atl. Rep. 675, 677, the Supreme Court of Connecticut considered a statute, reading in part as follows:

" ** in actions against the representatives of deceased persons no acknowledgment or promise shall be sufficient evidence of a new or continuing contract to take the case out of the statute of limitations, unless the same be contained in some writing made or signed by the party to be charged thereby."

In this case proof was made that letters containing the alleged acknowledgments were dictated by the deceased to a stenographer and were by the latter, at the direction of the deceased, typewritten and signed with the deceased's name by means of a rubber stamp, and in passing upon the typewritten signature of the deceased the court said:

" ** in the absence of any express or implied requirement of law that one shall subscribe a writing with his own hand, he may properly sign it by means of such a stamp used by himself, or by another at his direction."

In the case of *Herrick vs. Morrill*, 33 N. W. 849, 850, the Supreme Court of Minnesota considered a summons in a civil action upon which the written names of the plaintiff's attorneys had been printed rather than affixed by the attorneys themselves. The court, in passing upon the propriety of such printed names on the summons, said:

"In the latter case it was held that a written signature purporting to be that of the plaintiff in the action, but made by his agent in his presence and by his express direction, was sufficient. This does away with the necessity of a signature in the proper handwriting of the party or his attorney, and it logically follows

that there need be no written signature at all; that any signature, whether written, printed, or lithographed, which the party issuing the summons may adopt as his own, will be sufficient."

From these considerations, it will be noticed that where the statute requires a certificate or other writing to be signed by certain individual, it is a sufficient compliance with the statute if the parties who are supposed to sign such written instrument or certificate direct another to do the signing. It will also have been noticed that the names of the parties may be written, printed or lithographed.

From this, it follows that all certificates to practice cosmetology and hairdressing require the signatures of the President and the Secretary of the State Board of Health. It will be observed, however, that the present Commissioner of Health now performs the duties heretofore conferred by law upon the Secretary of the State Board of Health, which office was abolished by the Laws of Mo. 1933, page 269.

CONCLUSION

In view of the above, it is the opinion of this department that all certificates to practice cosmetology and hairdressing shall be signed by the President of the State Board of Health and the Health Commissioner, or that the name of the President of the State Board of Health or Health Commissioner may be attached to the certificate by any of the known methods of impressing the name of such President or Health Commissioner on the certificate by another at their direction.

Yours very truly,

RUSSELL C. STONE
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General