

COSEMTOLOGY: The State Board of Cosmetology may not prohibit the
STATE BOARD OF: employment of both colored and white operators in
the same establishment nor prohibit both white and
colored persons from patronizing such establishment.



July 13, 1955

State Board of Cosmetology
State Capitol Building
Jefferson City, Missouri

Attention: Miss Jakaline McBrayer
Executive Secretary.

Dear Miss McBrayer:

Reference is made to your request for an official opinion of
this office which request reads as follows:

"The Board Members have asked me to write
you for an opinion in regard to a beauty
shop (which hires) both colored and white
operators and who have a clientele of
both. Our Kansas City inspector, Mrs.
Isabelle Allen had felt that it was sort
of dangerous to go into the place to
inspect by herself, and Mrs. Pray had said
that she would go with Mrs. Allen.

"Frankly, I don't see how our Department can
keep them from taking both colored and white
trade and hire both colored and white operators,
if they themselves are willing to patronize
and work in such places, but the Board did want
the opinion."

The powers and duties of the State Board of Cosmetology are
found in Chapter 329, RSMo 1949. Section 329.180 creates a "State
Board of Cosmetology" which Board "shall have control, supervision
and enforcement of the terms and provisions of this chapter."

Section 329.210 prescribes the powers of the Board as follows:

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"The Board shall have power to:

"(1) Prescribe such sanitary rules as it may deem necessary with particular reference to the precaution necessary to be employed to prevent the creating and spreading of infections and contagious diseases, and it shall be unlawful for the owner or manager of any shop or school in any city having a population of more than ten thousand inhabitants to permit any person to sleep in or use for residential purposes any room used wholly or in part as a hairdressing, cosmetological or manicurist's establishment. Licensed operators may practice outside of such establishments under such regulations as the board may provide.

"(2) To conduct examinations of applicants for license to practice, to issue licenses and certificates of registration; and

"(3) To provide for the inspection of shops by licensed cosmetologists as to their sanitary conditions and to appoint the necessary inspectors and, if necessary, examining assistants."

Section 329.140 provides that the Board may revoke or suspend a shop certificate if any shop owner, manager or managers, shall employ any person as a hairdresser, cosmetologist or manicurist who does not have the required license. It follows also that the Board may revoke or suspend a license for violation of sanitary rules promulgated by the Board.

It is of course fundamental that a state officer, board or commission possesses only such powers as are expressly granted or necessarily implied from the express grant of authority. A liberal reading of the provisions of Chapter 329 fails to reveal any power or authority of the board to prohibit colored and white operators from working in the same establishment or to prohibit colored and white persons from patronizing the same establishment. Further, the express grant of control and supervision to the Board over such establishments as noted above would, under the rule, *expressio unius est exclusio alterius*, seem to prohibit

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any other and broader authority or power.

CONCLUSION

Therefore, it is the opinion of this office that the State Board of Cosmetology may not prohibit the employment of both colored and white operators in the same establishment nor prohibit both white and colored persons from patronizing such establishment.

The foregoing opinion, which I hereby approve, was written by my assistant, Mr. Donal D. Guffey.

Yours very truly,

John M. Dalton
Attorney General