



STATE OF KANSAS

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Attorney General

July 14, 1978

ATTORNEY GENERAL OPINION NO. 78-231

Mr. Henri Fournier  
Executive Director  
State Board of Cosmetology  
630 Kansas Avenue  
Topeka, Kansas 66603

Re: Cosmetologists--Examination and Registration--  
Cosmetology schools

Synopsis: K.S.A. 65-1905 sets out the conditions that an applicant must meet to take an examination for cosmetologist, cosmetologist technician or manicurist. The applicant is required to demonstrate to the Board that he or she meets such conditions including, where applicable, requisite training in a licensed school of cosmetology. An applicant properly demonstrating that he or she meets the conditions set out in K.S.A. 65-1905 may not be denied an examination because tuition due a school of cosmetology remains unpaid. The withholding of a student's record by a school of cosmetology because of non-payment of tuition is a private matter between the school and the applicant and the Board is without authority to be involved in collecting such tuition.

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Dear Mr. Fournier:

You inquire whether the State Board of Cosmetology would be required to examine an applicant, otherwise, qualified, knowing that tuition due a school of cosmetology remains unpaid.

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You further inquire whether a school may withhold a students record until tuition is paid in full.

Examinations for cosmetologists, cosmetologists technicians and manicurists are governed by K.S.A. 65-1904(b) and 1905. K.S.A. 65-1904(b) provides as follows:

"Any applicant for a license other than a renewal license shall make application to the Kansas state board of cosmetology, duly verified on such forms as the board may require, and upon payment of the examination fee shall be examined by the board and shall be issued a license, if found to be duly qualified to practice the profession of cosmetologist or manicurist." [Emphasis supplied]

And K.S.A. 65-1905 provides as follows:

"All examinations held or conducted by said board shall be under such rules and regulations as the board may adopt, and shall include practical demonstrations, written and oral tests; and such applicant applying therefor shall: (1) Have attained the age of seventeen (17) years and be a graduate of an accredited high school, or equivalent thereof, or has completed the cosmetology course at the state industrial school for girls at Beloit or at the Kansas correctional institution for women at Lansing, or have attained the age of twenty-five (25) years and have such education as is required for completion of the eighth grade in the public schools of this state; (2) be of good moral character; (3) be free from contagious and infectious diseases; and (4) have either (a) served as a student in such profession for which he or she

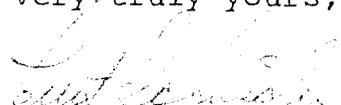
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desires a license for a period of twenty-four (24) months or more, under a qualified cosmetologist, if the application is for license of cosmetologist, (b) application for cosmetology technician, his or her apprenticeship shall be for a period of six (6) months or more in a licensed school of cosmetology, (c) if application is made for manicurist only, his or her apprenticeship shall be a period of two (2) months or more, under a qualified cosmetologist, or (d) must have received such training in a licensed school approved by the board. Any person making application who apparently possesses the necessary qualifications to take examination provided herein, may be issued a temporary permit by the board to practice cosmetology until the next regular examination conducted by the board." [Emphasis supplied]

Under these statutory provisions the Board is required to examine any applicant who meets the conditions set out in K.S.A. 65-1905. It is the responsibility of the applicant to demonstrate to the Board that he or she meets such conditions including the certification of completion of requisite training requirements in a licensed school of cosmetology. In our view, to deny an applicant, who has demonstrated compliance with 65-1905, an examination would violate the Equal Protection Clause of the United States and Kansas Constitutions and is therefore impermissible.

With respect to your second question, in our view, a school's withholding of a student's record until tuition is paid in full is a private matter between the school and the student; and the Board is without authority to become involved in any collection activities respecting such tuition.

Very truly yours,

  
CURT T. SCHNEIDER  
Attorney General

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