



STATE OF KANSAS

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May 14, 1980

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ATTORNEY GENERAL OPINION NO. 80-101

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

Re: Public Health--Examination and Registration of
Cosmetologists and Beauty Shops--Definitions

Synopsis: The occupation of cosmetologist, as defined in K.S.A. 1979 Supp. 65-1902, specifically includes the removal of "superfluous hair from the face or any part of the body." Accordingly, electrolysis and electrology may be practiced by licensed cosmetologists; however, such procedures may not be employed by cosmetologist technicians or "estheticians" who are licensed as cosmetologist technicians. Statutes cited or construed herein: K.S.A. 1979 Supp. 65-1901, 65-1902.

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Dear Mr. Fournier:

You request our opinion as to whether a "cosmetology technician" may practice "electrology" and "use the mechanical and electrical appliances needed in that profession." You also request our opinion as to whether an "esthetician" (skin care specialist), licensed as a cosmetology technician, may engage in such practices.

The licensure of "cosmetologists" and "cosmetologist technicians" is governed by K.S.A. 1979 Supp. 65-1901 et seq. Subsection (a) of K.S.A. 1979 Supp. 65-1902 defines the term "cosmetologist" as follows:

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"'Cosmetologist' is a person who, for profit, does or performs any one or more of the following: (1) Arranges, dresses, permanent curls, curls, waves, singes, cleanses, dyes or bobs the hair; (2) massages, cleanses, stimulates, or manipulates, or performs similar work on the scalp, face, neck, arms, hands, bust or upper part of the body with the hands or mechanical or electrical appliances; (3) makes use of cosmetic preparations in performing any one of more of the practices described in clauses (1) and (2) of this subsection; (4) manicures the nails of the hands or removes superfluous hair from the face or any part of the body; or (5) any other beautifying process on any person." (Emphasis added.)

As is apparent from the underscored portion of the above-quoted statutory excerpt, the occupation of cosmetologist (as statutorily defined) specifically includes the removal of "superfluous hair from the face or any part of the body." In our judgment, this is a clear expression of legislative intent to include "electrolysis" and "electrology" within the occupation of cosmetologist.

The occupation of "cosmetologist technician" is also defined in subsection (a) of K.S.A. 1979 Supp. 65-1902, as follows:

"'Cosmetologist technician' is a person who for profit does or performs the following services: Manicuring, pedicuring, hand and arm massage, shampooing, temporary color rinse, scalp treatments, facials, and eye-brow and eyelash services and sanitation." (Emphasis added.)

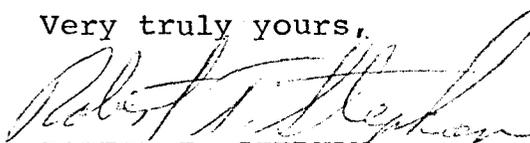
While "eyebrow services" (as used in the above statutory definition) might be construed so broadly as to include the practice of electrolysis in removing hair which is a part of the eyebrow, such a construction would not appear to be in accord with the statutory scheme as a whole. The provisions of a statute must be construed together and in their entirety in determining the intent of the legislature. Natural Gas Pipeline Co. v. State Commission of Revenue and Taxation, 163 Kan. 458, 467 (1947). In our judgment, the express mention of "removal of superfluous hair" in defining the occupation of "cosmetologist," and the failure to mention hair removal in defining the occupation of "cosmetologist technician," indicate a legislative intent to exclude "electrolysis" and "electrology" from the occupation

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of "cosmetologist technician." Such a construction is in accord with the maxim "expressio unius est exclusio alterius (expression of one thing is the exclusion of another). See LeSueur v. LeSueur, 197 Kan. 495, 500 (1966).

Since it is our conclusion that electrolysis and electrology are within the occupation of cosmetologist, but without the occupation of cosmetologist technician, it follows that such procedures may not be employed by a cosmetologist technician. See K.S.A. 1979 Supp. 65-1901. Likewise, electrolysis and electrology may not be practiced by an "esthetician" who is licensed as a cosmetologist technician.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General

RTS:BJS:TRH:jm