



Subject

*State Boards
Cosmetology*

Copy to

STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

September 30, 1974

Opinion No. 74- 330

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

Dear Mr. Fournier:

In regard to your letter of September 19, 1974, your office requested an opinion on the piercing of ears by cosmetologists.

In our opinion, the piercing of ears by a licensed cosmetologist does not violate any of the pertinent statutes relating to the practice of cosmetology.

K.S.A. 65-1902(a) provides in part:

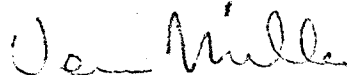
"'Cosmetologist' is a person who, for profit, does or performs any one or more of the following: (1) Arranges, dresses, permanent curls, curls, waves, singes, cleanses, dyes or bobs the hair; (2) massages, cleanses, stimulates, or manipulates, or performs similar work on, the scalp, face, neck, arms,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

It is our opinion that piercing of ears by cosmetologists is not prohibited by K.S.A. 65-1902(a) or any other known statute. In the absence of specific legislation prohibiting the piercing of ears by particular parties or limiting it to specific parties, we can only conclude that there was no intent on the part of the legislature to exclude anyone from piercing the ears for some cosmetic purpose.

Mr. Henri Fournier
September 30, 1974
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This opinion is consistent with the August 30, 1972, opinion in which this office addressed the subject of ear piercing. A copy of that opinion is attached hereto for your reference.

Very truly yours,



VERN MILLER
Attorney General

VM:LO:tp
Enclosures
cc: Mr. Showalter
Board of Healing Arts



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

August 30, 1972

Robert D. Loughbom, Attorney
Board of Healing Arts
765 New Brotherhood Building
Kansas City, Kansas 66101

Dear Mr. Loughbom:

In your letter of July 5, 1972, you ask whether the practice of piercing ears by persons not licensed by the Board constitutes an infringement on the practice of medicine.

In our opinion, it does not.

K.S.A. 65-2868 provides thusly:

"For the purpose of this act the following classes or persons shall be deemed to be engaged in the practice of the healing arts: Persons who hold themselves out to the public as being engaged in or who maintain an office for the practice of the healing arts as defined in section 2 [65-2802] of this act."

K.S.A. 65-2802 provides in part as follows:

"For the purpose of this act the following definitions shall apply:

(a) The healing arts include any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, or injury, and includes specifically but not by way of limitation the practice of medicine and surgery; . . ." [Emphasis supplied.]

In order to see who is deemed to be in the practice of surgery one must go to K.S.A. 1971 Supp. 65-2869 which provides in pertinent part thus:

"For the purpose of this act the following classes
or persons shall be deemed to be engaged in the
practice of . . . surgery:

* * *

(b) Persons who prescribe, recommend or furnish
medicine or drugs, or perform any surgical opera-
tion of whatever nature by the use of any surgical
instrument, procedure, equipment, or medical
device for the diagnosis, cure or relief of any
wounds, fractures, bodily injury, infirmity,
disease or physical or mental illness, of human
beings. [Emphasis supplied.]

The piercing of ears in order to facilitate the wearing of
certain jewelry is not a procedure "for the diagnosis, cure
or relief of any wounds, fractures, bodily injury, infirmity,
disease or physical or mental illness, of human beings." It
is not, accordingly, a surgical procedure, and the practice
is not a healing art within the licensing province of the
Board.

Yours very truly,

VERN MILLER
Attorney General

VH:jsm