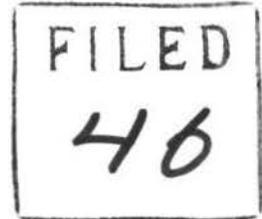


BARBER BOARD:

Person attending approved out-state school entitled to receive credit for education in applying for license to barber.

January 13, 1948



Mr. J. E. Johnston, President
State Board of Barber Examiners
No. 1 West Linwood Boulevard
Kansas City 2, Missouri

Dear Mr. Johnston:

This letter is in reply to your request for an opinion of this department, which request is as follows:

"There is a difference of opinion of members of the Barber Board concerning apprentices and I would like an opinion from your office. The facts are as follows:

"On June 30, 1947 the board unanimously agreed that an apprentice must get his whole training under the supervision of this board, on November 14, 1947 this board had an opinion from your office upholding this action. Prior to this ruling the board has recognized certain schools in other states that have lived up to the standards of our laws, but since the war have disregarded practically all of our laws in regard to apprentic training. Other schools have never been recognized by this board because they have never come up to our standards. We have a school operating in this state owned by the same Company that operated this formally accredited school that started to disregard our laws, rules and regulations the same as they have done in other places. The board stopped issuing permits to this school until such time as it had complied with the law, which it did over a year and a half ago. Some members of the board believe that we should recognize students that entered these formally accredited schools prior to the date of this ruling of June 30 although they have not lived up to our standards at any time this past year.

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"It is my opinion that these schools should not be shown any more preference than any other school not accredited by us from the time they quit living up to the standards of our laws, rules and regulations, which would be prior to January 1, 1947. And it would not be just to make a school that is operating in our own state live up to a certain standard and let a school in another state operated by the same Company be given permission to disregard our law by giving credit to an apprentice that go to these out of state schools that come under no supervision whatsoever of this board."

Section 10133, R.S. Mo. 1939, reenacted Laws of 1947, page 219, sets out the education and training required of applicants for a barber's license. The applicant is required to have:

"* * * either studied the trade for two years as a registered apprentice, under a qualified and practicing barber, or studied the trade for at least 1000 hours over a period of not less than six months in a properly appointed and conducted barber school under the direct supervision of an instructor, who is licensed as such by the State Barber Board of Missouri; and an additional eighteen months as a registered apprentice under a qualified and practicing barber, or practiced the trade in another state for at least two years * * * * *
Provided, that whenever it appears that an applicant has acquired his knowledge of said trade in a barber school or college, the board shall be judges of whether said barber school or college is properly appointed and conducted and under proper instructions to give sufficient training in said trade. * * * *"

Section 10314, R.S. Mo. 1939, reenacted Laws of 1947, page 220, contains the following provision:

"* * * all barbers, or barber schools or colleges, who shall take an apprentice or student, shall immediately file with said board the name and age of each of such apprentices or students, and the said board shall cause the same to be entered in a register kept for that purpose; for which registration a fee of five dollars shall be paid to the treasurer of the

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board by such apprentice or student: Pro-
vided, that any firm, corporation or person,
desiring to conduct a barber school or col-
lege in this state, shall first secure from
said board a permit to do so, and shall keep
the same prominently displayed. For such per-
mit there shall be paid an annual fee of one
hundred dollars to be paid on or before June
30 of each year: Provided further, that said
board shall have the right to pass upon the
qualifications, appointments, and course of
study in said college or barber shops where
apprentices are taught the occupation of bar-
bering; and provided further, that said board
shall have the right and power to revoke the
certificate, permit or license of any such
barber school or college, instructor or teach-
er therein or instructor in any barber shop,
for any violation of the provisions of this
section."

Prior to June 30, 1947, the Board had approved certain bar-
ber schools located outside of the State of Missouri and had per-
mitted applicants for licenses to fulfill the educational require-
ments by attending such schools. On that date, the Board adopted
a rule requiring all educational training to be obtained within
the State of Missouri, and such rule was approved by an opinion of
this department dated November 17, 1947. Now some persons, who had
attended prior to June 30, 1947, the schools which the Board had
approved outside of Missouri, are seeking to receive credit for such
education. In view of the fact that the Board had approved such
schools during the time which the applicants attended them, now to
deny them credit for such training would be most unfair. They acted
in reliance upon the Board's action in approving such schools, and
should not now be penalized because of the subsequent change in the
Board's rules.

To make the rule adopted on June 30, 1947, applicable to per-
sons who had attended approved schools prior to that time would
give retrospective effect to the rule. Section 13, Article I,
Missouri Constitution of 1945, prohibits the enactment of any law
which is retrospective in its operation. That prohibition is ap-
plicable to rules and regulations adopted by an administrative
agency or board. State ex rel. Spriggs v. Robinson, 253 Mo. 271,
161 S.W. 1169.

You state in your letter that since the war some of the out-
state schools that your Board had formerly approved had failed
completely to live up to the Board's standards. Under such cir-
cumstances, the proper procedure would have been to revoke the

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permits of such schools under Section 10134, R.S. Mo. 1939. Having failed to do so, we do not feel that the students who attended such schools in reliance upon your recognition should now be made to suffer.

CONCLUSION

This department is of the opinion that a person who attended a school located outside of the State of Missouri, which had been approved, during the time of his attendance, by the State Board of Barber Examiners, is entitled to receive credit for such education under Section 10133, R.S. Mo. 1939, in applying for a license as a barber.

Respectfully submitted,

ROBERT R. WELBORN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General