

**Opinion No. 56-6480**

June 26, 1956

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Miss Clarice Perkinson, Assistant Superintendent, Girls' Welfare Home, P. O. Box 6038, Station B, Albuquerque, New Mexico

In reply to your letter of July 22, 1956, requesting our opinion on certain matters, the following is submitted for your consideration.

In reply to your first question as to whether funds can be used to open and operate a beauty shop in order to enable the girls to meet the public, Section 45-5-2, N.M.S.A., 1953 Compilation, provides, among other things, that the Board shall have the power to educate the girls who are there. It would appear that the shop would be a part of their education in cosmetology and thus a valid exercise of board power and a proper expenditure of Welfare Home Funds.

In reply to your second question as to whether or not the State Board of Cosmetology can waive the examination fee, a check of Section 67-17-19, N.M.S.A., 1953 Compilation, which lists exemptions as to fees and regulations, indicates that your institution or persons therein would not be entitled to the exemptions enumerated, and the Board of Cosmetology could not waive the payment of fees.

In reply to the third implied question - Can the Welfare Home pay the fee for the girls taking the examination, attention is directed to the principle laid down in the case of Vermejo Club vs. French, 43 N.M. 45, which points out that an administrative body has such authority and only such authority as is given by law. In this connection attention is further directed to 42 Am. Jur., paragraph 26, previously referred to in Attorney General's Opinion No. 5755, dated May 15, 1953, which provides:

"Administrative boards, commissions and offices have no common law powers. Their powers are limited by the statutes creating them to those conferred expressly or by necessity or fair implication. General language describing the powers and functions of an administrative body may be construed to extend no further than the specific duties and powers conferred in the statute."

We feel that the payment of examination fees would not be a proper part of any of the Board's granted powers and specifically would not be a part of its educational function and hence Welfare Home Funds may not be expended for this purpose.

We sincerely hope that this fully answers your inquiries.

By: Harry E. Stowers, Jr.

Assistant Attorney General