

Opinion No. 42-4136

August 14, 1942

BY: EDWARD P. CHASE, Attorney General

TO: Mrs. Clauda Elliott, Secretary State Board of Cosmetologists Santa Fe, New Mexico

{*229} We acknowledge receipt of your {*230} letter of August 7, 1942, wherein you have requested an opinion as to the interpretation which should be placed upon certain provisions of the cosmetology law.

Section 3, Chapter 221, Laws of 1937, provides in part as follows:

"Section 3. Certificate Without Examination. When.

"* * *

"(d) All residents of this State who, at the time of approval of this Act, have successfully completed a course of study in a recognized Cosmetology School, or who have completed an apprenticeship, and upon presenting a Medical Examiner's Certificate, and the payment of a fee as required in Section 26, may, in the discretion of said Board, be given a temporary license to practice those classified occupations which have been completed, until such time as the said Board shall so determine, but not beyond the date of the next examination conducted by said Board."

After careful study of the above provision, it is my opinion that this section applies:

1. Only to persons who were residents of the State of New Mexico on March 17, 1937.
2. To persons who had completed a course of study in a recognized cosmetological school, or who had completed an apprenticeship in cosmetology before March 17, 1937.
3. To persons who did not apply for temporary licenses immediately after the effective date of this chapter or who have not applied for temporary licenses until recently, or who will apply for temporary licenses in the future, and who meet the requirements of 1 and 2 above.

This latter conclusion is necessary in view of the obvious legislative intent not to compel the immediate filing by an apprentice of an application for a temporary license. See Section 3 (a) and (b), Chapter 221, Laws of 1937, where the legislature required those actually practicing in the cosmetological field to file applications within (60) days from the effective date of the act (March 17, 1937).

I should like to call to your attention one remaining factor. After the Board has issued temporary license, the holder of that license must appear for examination by the Board, at which time a regular license may be issued upon satisfactory completion of the examination. If the holder fails the examination, he or she must refrain from cosmetological practice, but may re-apply for license after complying with the provisions of Section 5, Chapter 221, Laws of 1937.

Trusting that the foregoing sufficiently answers your inquiry, I am

By GEO. H. HUNKER, Jr.

Asst. Atty. General