

Opinion No. 43-4403

November 1, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Miss Dorothy W. Miller, Secretary, State Board of Cosmetologists, 209 First National Bank Bldg., Albuquerque, New Mexico

I have your letter of October 30, 1943, wherein you state that:

"Several of the beauty shops in this state are owned and operated by partners, in which event the shop owners license is issued in the names of the joint owners."

In view of the above you ask what action the board should take with regard to the collection of fees and issuance of license when one of the original partners sells his half interest to a new partner. I call your attention to Section 51-2012 of the New Mexico 1941 Compilation, which provides:

"Each license issued by authority of this act by said board shall be issued in the name of the owner and/or manager of each separate cosmetological establishment. Said license may not be the subject of a sale, transfer, assignment, conveyance, lease, bequest, gift or other means of transfer. The sale, transfer, assignment, conveyance, lease, bequest or gift of **any part or all** of any such establishment will not include any license issued by said board. It shall be the duty of any owner and/or manager who wishes to sell, transfer, assign, convey, lease or give as a gift any such establishment, to point out and explain this section to the one desiring to take over said establishment."

I further call your attention to the fact that there is no provision in the Cosmetology Act wherein a license can be "split", which would enable the new partner to pay half of the original license fee and not compel the partner who had already paid a license fee to have to pay again. The establishment license issued by the Board of Cosmetologists merely covers the particular owner or owners named in the license. If the ownership is changed the license would no longer cover such establishment, even though one of the persons who had formerly owned a part interest in the establishment might still be a partner. It is specifically provided, as you will note above, that the sale, transfer, assignment, conveyance, lease, bequest or gift of any part or all of such establishment will not include **any** license issued by said board. In view of this specific provision, it is my opinion that whenever a joint owner sells his interest an entirely new license must be acquired by the establishment.

Hoping that the above fully answers your question, I remain,

By HARRY L. BIGBEE,

Assistant Attorney General