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ATTORNEY GENERAL OPINION NO. 90-41

Henri Fournier
Executive Director
Kansas State Board of Cosmetology
717 S. Kansas Ave.
Topeka, Kansas 66603-3811

Re: Public Health -- Secretary of Health and
Environment, Activities; Sanitation Standards,
Barbers and Cosmetologists -- Inspection of
Dual-Licensed Beauty Shops and Barber Shops

Synopsis: An inspector for the board of cosmetology as well
as an inspector for the board of barber examiners
has the authority to inspect the premises of a
dual-licensed beauty and barber shop to assure
compliance with the applicable Kansas
administrative regulations pertaining to that
inspector's duties. Cited herein: K.S.A. 1989
Supp. 65-1,148; K.S.A. 65-1809; K.S.A. 1989
Supp. 65-1820; K.S.A. 65-1824; K.S.A. 1989
Supp. 65-1904; 65-1907; 65-1908; K.S.A. 74-1806.

* * *

Dear Mr. Fournier:

As executive director for the board of cosmetology you request
our opinion regarding the legality of both a beauty salon
inspector and a barber shop inspector entering a dual-licensed
beauty and barber shop for inspection purposes. Specifically
you ask whether both inspectors have the authority to inspect

such premises and all employees for sanitation and cleanliness.

In relation to sanitary standards of barbers and cosmetologists K.S.A. 1989 Supp. 65-1,148(b) provides:

"The secretary of health and environment shall adopt rules and regulations establishing sanitary standards for professions, shops, salons, clinics, schools and colleges regulated by the state board of barber examiners or the state board of cosmetology." (Emphasis added).

The sanitary rules for beauty shops are set forth in K.A.R. 69-7-1 et seq. and address lighting and ventilation, sanitary conditions of booth or space and equipment, proper quarters, sanitation of shop floors, walls, ceilings, furniture and other fixtures and apparatus, toilet and hand washing facilities, hot and cold running water, uniforms, smoking, laundry, containers, sanitation of instruments, wet and dry sterilizer requirements, pets and sleeping facilities, and the requirement that cosmetologists be free from communicable or contagious diseases.

The sanitary rules and regulations governing barber shops are set forth in K.A.R. 61-1-1 et seq. and address ventilation, water, sanitary conditions, disinfection, water supply, lavatory, waste disposal, cuspidors, sterilization of tools and equipment, shaving brushes and mugs, neck strips or towels, cleansing of hands, use of shop for living quarters or business purposes, customers with contagious or infectious diseases, examination of barbers in relation to infectious or contagious diseases, use of tools or instruments on corpses or outside the shop, head rests, pets, discarding and supply of clean towels, lump alum, styptic sticks, pencils, powder puffs, sponges, and finger or towel bowls.

The above sanitary rules and regulations for beauty shops and barber shops primarily address conditions required of the premises, although some of the regulations apply to licensed employees of a beauty shop or a barber shop. Many of the sanitary rules relating to beauty shops are comparable to the sanitary rules and regulations governing barber shops. However, some of the sanitary rules are specific to beauty shops and some are specific to barber shops.

The board of cosmetology is charged with the inspection of equipment and premises of beauty salons and clinics for compliance with the rules and regulations of the secretary of health and environment and the rules and regulations of the board of cosmetology, upon an initial application as well as for annual license renewals. K.S.A. 1989 Supp. 65-1904(a). To accomplish this purpose the chairperson of the board, with the approval of the board, is empowered to employ inspectors to perform all of the inspection duties of the board. K.S.A. 1989 Supp. 65-1907. Failure to comply with the sanitary requirements prescribed by the secretary of health and environment pursuant to K.S.A. 1989 Supp. 65-1,148 may result in the revocation, suspension, non-renewal or refusal of any license provided for by the board of cosmetology. K.S.A. 1989 Supp. 65-1908.

From the foregoing it is clear that the board of cosmetology is empowered, authorized, and required to inspect beauty shops, whether known as salons or clinics, for compliance with board prescribed regulations as well as applicable sanitary standards adopted by the secretary of health and environment pursuant to K.S.A. 1989 Supp. 65-1,148, as set forth in K.A.R. 69-7-1 et seq.

The board of barber examiners is charged with the responsibility of supervising and regulating the barbering industry, K.S.A. 65-1824, and to that end is authorized to employ inspectors to perform all of the inspection duties of the board. K.S.A. 74-1806. Compliance with the sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 1989 Supp. 65-1,148 for regulation of barber shops is required in order to attain and retain a certificate of registration entitling the person to whom such certificate is issued to practice barbering or a barber shop to be operated. K.S.A. 1989 65-1820(b)(10); K.S.A. 65-1809.

From the foregoing it is clear that the board of barber examiners is empowered, authorized and required to ensure compliance with sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 1989 Supp. 65-1,148 for regulation of barber shops as promulgated in K.A.R. 61-1-1.

Both the board of cosmetology and the board of barber examiners are statutorily required to assure compliance by their respective licensees with their respective regulations as promulgated in the Kansas administrative regulations pursuant to K.S.A. 1989 Supp. 65-1,148. Though many of the

regulations pertaining to beauty shops and employees are comparable to those pertaining to barber shops and employees, the similarities in regulations do not relieve either board of their respective inspection duties.

Based on the foregoing analysis, it is our opinion that a dual-licensed beauty and barber shop is subject to inspection for compliance with sanitary standards by both the board of cosmetology through its duly employed inspector and by the board of barber examiners through its duly employed inspector. Each inspector, while ascertaining compliance with regulations which may in large part be comparable to the counterpart regulations, still must fulfill his or her statutory duties on behalf of the employing board.

In conclusion, and in answer to the specific question asked, an inspector for the board of cosmetology as well as an inspector for the board of barber examiners has the authority to inspect the premises of a dual-licensed beauty and barber shop and all employees of such dual-licensed beauty and barber shop to assure compliance with the applicable Kansas administrative regulations pertaining that inspector's duties.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Camille Nohe
Assistant Attorney General