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Judy A. Vickery, Clerk Steno. 2

Board of Hairdressers

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Attorney General

Temporary Permits for Applicants for Registration

SYLLABUS:

(1) 32 M.R.S.A. § 1653 does not allow the Board of Hairdressers to issue a permit to practice hairdressing pending examination for registration where the applicant has failed the two consecutive previous examinations.

(2) An applicant may not be issued a renewal of a permit to practice hairdressing pending examination for registration when applicant did not take the first examination following qualification, although issued a permit pending the results of such first examination.

FACTS:

(1) An applicant qualified for examination for registration and was issued her first permit to practice hairdressing and beauty culture, as provided in 32 M.R.S.A. § 1653. She failed the examination and was notified that this permit was no longer valid. An application for a second permit was sent to this applicant with the information that she could be issued one for the period until the next examination. The applicant did not submit this application. She failed to pass the second examination and has now applied for a second work permit pending a third examination.

(2) A person qualifies for examination and is issued a first work permit but does not take the next examination following such qualification. Applicant then asks the Board to issue a second work permit pending the next examination.

QUESTIONS:

(1) In the first situation, does the Board have the right to issue a second work permit pending a third examination?

(2) In the second situation, does the Board have the right to refuse a second work permit since the applicant did not appear for the examination following the issuance of the first permit?

ANSWERS:

- (1) No.
- (2) Yes.

REASONS:

(1) In this factual situation, the applicant's first permit terminated "with the examination following applicant's qualification" as provided by 32 M.R.S.A. § 1653, which then provides:

"If applicant fails first examination following qualification, said applicant may renew permit to practice hairdressing . . . until the results of the next consecutive examination have been given, at which time said permit expires and shall not be renewable."

At the time of application for a second work permit, the applicant had already failed "the first examination following qualification" and "the results of the next consecutive examination" had been given. The legislative intent seems clear, that at this time the work permit "shall not be renewable." The fact that the applicant failed to apply for a second work permit, following failure of her first examination, is immaterial, since by statute she was entitled to do so and was so informed by the Board.

In an opinion dated November 28, 1962, dealing with the identical provisions for temporary permits found in the statutes pertaining to barbers, the Attorney General stated that that statute "does not permit the renewal of a permit to practice barbering after the second consecutive failure of the examination." 1961-62 Op. Atty. Gen. P. 191.

(2) In the second situation, the applicant did not take the first examination following qualification and, therefore, does not meet the requirements of 32 M.R.S.A. § 1653, which states:

"If applicant fails first examination following qualification, said applicant may renew permit to practice hairdressing"

A second permit, therefore, may not be issued.