

# MAINE STATE LEGISLATURE

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June 11, 1976

Honorable James K. McMahon  
Box 125  
Kennebunk, Maine 04043

Dear Representative McMahon:

This is in reply to your letter of May 18, 1976, in which you ask whether the Board of Barbers has power to reissue a permit to practice to a person who was unable to take an examination for registration.

The applicable statute is 32 M.R.S.A. § 405, which provides that the Board may issue to an applicant qualified for examination.

"until the results of the applicant's examination have been given, a permit to practice barbering under the supervision of a person registered to practice barbering. The permit shall terminate with the examination following applicant's qualification. If applicant fails first examination following qualification, said applicant may renew permit. . . until the results of the next consecutive examination have been given, at which time said permit expires and shall not be renewable."

This language is ambiguous. A strict interpretation would lead me to the conclusion that the Board's power to reissue the permit is only to an applicant who has failed the examination which has taken place next after the granting of the first permit to the applicant, but not to an applicant who was unable to be present to take the examination. This makes no sense. It is proper to interpret a law

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to avoid an absurd result, even if it may be necessary to disregard the strict letter of the law to do so. Reggep v. Lunder Shoe Products, 241 A.2d 802 (Me., 1968). The language should be interpreted liberally in the applicant's favor to mean that if the applicant fails or is unable to take the first examination, he may renew his permit until the next examination.

In view of the above, my opinion is that the Board does have the power to reissue a permit to the applicant who was unable to be present at the first examination. In view of the ambiguous language in the statute, however, I suggest it would be well to introduce a clarifying amendment when possible to do so.

Sincerely yours,

LEON V. WALKER, JR.  
Assistant Attorney General

LWWJr./ec