Barbers' Examination Standards 32 MRSA §402 + 405 DM

STATE OF MAINE

Inter-Departmental Memorandum Date November 18, 1977

To H. George Poulin, Exec. Sec. Dept. Board of Barbers

From Kate C. Flora, Assistant Dept. Attorney General

Subject Interpretation of Chapter 398 of the Laws of 1977

Question Presented

You have asked for an opinion as to the effect of the changes by chapter 398 in the number of hours an apprentice must work before becoming eligible to take the barber's licensure examination on those apprentices who were registered prior to October 24, 1977. Specifically you have asked whether someone registered as an apprentice under the old law must fulfill the requirements of the law in effect when they were registered before they become eligible to take the examination or whether the reduced eligibility requirements of the new law would apply.

Summary Conclusion

The standards set by the Legislature in 32 M.R.S.A. §§ 402 and 405 for eligibility to take the examination for a Barber's Certificate became the effective standards for examination eligibility on October 24, 1977, and anyone meeting those requirements subsequent to that time is eligible to take the examination regardless of what the requirements were when they became registered as an apprentice.

Discussion

Prior to the amendments of chapter 398, section 402 provided that to be eligible to obtain a certificate of registration, an apprentice must have at least 3000 hours of experience distributed over a period of at least 24 months. The qualifications a would-be apprentice had to meet before being registered as an apprentice were set out in section 404.

Section 402, as amended by Chapter 398, changed the requirements for eligibility for examination. It now provides that an apprentice must have 2500 hours of experience in barbering distributed over a period of at least 18 months.[1/] The amended statute further provides that a licensed cosmetologist with 900 hours as an apprentice is entitled to take the examination for a certificate of registration as a barber.

1/ These requirements represent a return to the statutory standards in existence prior to 1975.

The issue in question here is not eligibility for apprenticeship registration; rather, it is eligibility for examination to be certified as a barber. For the purpose of determining who is eligible for examination, the relevant inquiry is whether the standards in effect when the apprentice applies to take the examination are met, not whether the standards which were in effect when the applicant for examination became registered as an apprentice are met.

In construing statutes, the legislative intent, if it can be ascertained, is controlling. Finks v. Maine State Highway Comm'n, 328 A.2d 791 (Me., 1974). In determining legislative intent, the language of the statute is looked to first. Reggep v. Lunder Shoe Products Co., 241 A.2d 802 (Me., 1968). If the meaning of the statute is plain and unambiguous, it is not necessary to look further for the meaning of the statute. State v. Granville, 336 A.2d 861 (Me., 1973). In this case, the meaning of the statute is clear on its face. Section 402 clearly states the number of hours of apprenticeship which are required for eligibility to take the examination for a certificate of registration as a barber. The clear meaning of the statute is that the Legislature has made a judgment regarding the amount of training necessary before a person may apply to be registered as a barber, and formalized that judgment by enactment of Section 402.2/

There is nothing in the statute to suggest that the Legislature intended any different standards for examination eligibility for those apprentices registered prior to October 24, 1977. Reading such an intention into the statute would have the absurd result of requiring the apprentice who registered on October 23, 1977, to study 6 months and 500 hours longer than the apprentice who registered on October 25, 1977. This is not what the Legislature intended. Rather, the Legislature enacted standards for examination eligibility, and intended that forward from the effective date of enactment, those standards were to be applied uniformly to all applicants.

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2/ The reasonableness of this judgment is underscored by the fact that the Legislature, after hearings and debate, returned to the earlier, less stringent standard, after experience with the stricter one.