

The State of South Carolina



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October 16, 1986

Ms. Doris Brantley
Executive Secretary
State Board of Cosmetology
1209 Blanding Street
Columbia, SC 29201

Dear Ms. Brantley:

I refer to your letter of September 11, 1986, and our subsequent telephone conversation. You have asked whether it would be permissible for a school (that is, a privately operated beauty school, licensed by the State Board of Cosmetology) to require students enrolled in the school's manicuring and/or esthetics courses to be contracted for hours in excess of the minimum hours required for licensure.

Qualifications for licensure as an esthetician or manicurist are stated in §40-13-90 of the Code of Laws of South Carolina, 1976, as amended. The language pertinent to the question is found in the following subparagraphs.

(2) A license as an esthetician shall be issued by the Board to any person who:

* * *

(b) has completed at least 450 hours in classes and skin care in a reliable school approved by the board or comparable training approved by the board;

* * *

(3) A license as a manicurist shall be issued by the Board to any person who:

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* * *

(b) has completed at least 300 hours in classes in manicuring in a reliable school approved by the board or comparable training approved by the board; (emphases added).

As is customary in establishing an educational criterion, the Board has mandated a minimum number of class hours, without setting outer limits.

Section 40-13-200 requires the owner or manager of a school to enter into a written contract with each student before permitting the student to attend classes and requires that a copy of the contract be filed with the Board. You have provided me with a copy of the form contract which I understand is the contract used by beauty schools, state-wide. While such a contract is required by statute, the Board is not a party to the contract.

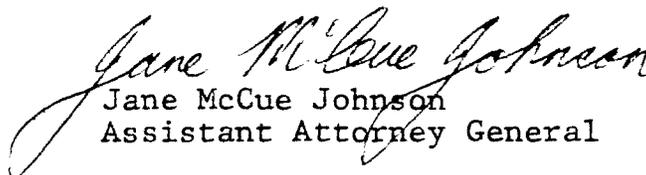
It is my opinion that a school and a prospective student, as private contracting parties, are free to negotiate the terms of the contract, including the number of class hours. It is conceivable that a situation could arise where a student is misled into believing that the total hours contracted (including "excess" hours) are required for licensure. To avoid confusion, I suggest that beauty schools be advised that, if they propose contracting with students for class hours in excess of the minimum needed for licensure, they should bring this fact to the attention of the students. While the law does not require such notice to students, to avoid confusion, students should be so informed.

You have also asked whether, if the school were permitted to contract for "excess" hours, the student would be allowed to take the licensure examination after completing the minimum hours set forth in §40-13-90, and return to the school to complete the remaining contracted hours. From the standpoint of the Board, you should not deny any applicant who has met all the pre-examination licensure requirements the opportunity to take the examination at the "usual" time. Again, from the Board's standpoint, I know of no reason why a student could not return to the school to complete the contracted hours. If a dispute were to arise under the contract, this would be a matter for the contracting parties (that is, the school and the student) and it would be inappropriate for the Board to enter into any such dispute.

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I trust that the foregoing has satisfactorily responded to your inquiry. Please advise if you need additional assistance or clarification.

Sincerely yours,


Jane McCue Johnson
Assistant Attorney General

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REVIEWED AND APPROVED:



ROBERT D. COOK
Executive Assistant for Opinions