1983 WL 181773 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
March 1, 1983

***1** Mrs. Doris Brantley
Executive Secretary
South Carolina State Board of Cosmetology
1209 Blanding Street
Columbia, South Carolina 29201

Dear Mrs. Brantley:
You have requested an opinion on behalf of the South Carolina Board of Cosmetology concerning the interpretation of portions of §§ 40-13-15 and 40-13-150, Code of Laws of South Carolina (1982 Cum.Supp.). Those statutes provide in relevant part as follows:
§ 40-13-15. . . . No school shall operate in conjunction with a salon or any other business or have doors which interconnect with such salons or other businesses . . ..

§ 40-13-150. (1) No school shall be affiliated with or located at the same address as a salon operated for profit . . ..

No cases or prior opinions of this Office have interpreted the meaning of these particular statutes, but I have located cases which have attempted to define phrases similar to those used therein. Before discussing the interpretation of these statutes, it should be pointed out that the purpose of statutes such as these is the protection of the public. The obvious intention of these statutes is to insure that schools function only as places of instruction for students and the public is not misled as to the nature of the services to be rendered (i.e. student or licensed cosmetologist).

One of the primary rules of interpretation in construing statutes is that words should be given their ordinary or plain meaning unless there is something in the statute that indicates otherwise or they are unclear or ambiguous. Brewer v. Brewer, 129 S.E.2d 736 (1963); Jones v. South Carolina State Highway Department, 146 S.E.2d 166 (1966). Thus, only where the statutes at issue are unclear or ambiguous have I attempted to provide an interpretation.

The phrase ‘in conjunction with’ used in § 40-13-15 has been interpreted to mean in combination, connection or association with. In Re Clark's Estate, 141 N.E.2d 259 (1957). The word ‘conjunction’ has also been defined as ‘a joining or meeting of individuals or of distant things; a union; a connection; a combination; an association; in union with; cooperating with; combined with; joining together with.’ Bohlen v. Allen, 89 S.E.2d 99, 102 (1955). Applying these definitions to the language of § 40-13-15 which provides that ‘no school shall operate in conjunction with a salon or any other business' it appears that what is being prohibited is a school being operated in association with a salon such that they are not separate and distinct entities. It would appear to me that any overlapping of staff, books and accounts, or facilities would destroy the independence that must be maintained if an owner of a school and salon is not to be found to be operating the two in conjunction with each other. Section 40-13-15 addresses further the requirement of separate facilities when it states that ‘no school shall . . . have doors which interconnect with such salons or other businesses . . ..’ The language used here is self explanatory and serves to emphasize the requirement of physical separateness between a school and a salon or other business.

***2** Section 40-13-150 prohibits a school from being affiliated with or located at the same address as a salon. The phrase ‘affiliated with’ has been interpreted to mean ‘to attach as a member or branch; bring or receive into close connection,’ and ‘requires more than the demonstration of a mere connection or association.’ Fair Employment Practice Commission v. Rush-

Presbyterian-St. Luke's Medical Center, 354 N.E.2d 596 (1976). It would appear then that for a salon and a school to be considered affiliated with each other they would have to be so closely associated that they functioned in a parent/subsidiary relationship. If the purpose behind prohibiting a school and a salon from being located at the same address is to prevent confusion by the public of the two for location or mailing purposes, then there would appear to be no violation of this provision if the addresses are not identical and are prominently displayed.

I hope this opinion has provided some guidance to the Board. In making final determinations of the provisions of its Act, the Board may bring to bear its own expertise and knowledge of the profession as well as any legal advice this Office may provide. The facts and circumstances of each case will have to be carefully considered by the Board in applying these statutes.
Very truly yours,

Helen T. Zeigler
Assistant Attorney General

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