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January 17, 1961

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ARIZONA ATTORNEY GENERAL

State Board of Barber Examiners
1623 W. Adams, Apt. C
Phoenix, Arizona

Attention: Mr. Joseph Ray Mouer, Secretary

Dear Mr. Mouer:

In reference to your letter of October 6, 1960, which requests an opinion as to whether Section 32-307 B of the Arizona Revised Statutes authorizes an inspection of barber schools for the purpose of determining the hours of a student in the school, it is the opinion of this office that the above cited section does not authorize this particular type of inspection.

Provisions of the Arizona Revised Statutes in respect to barbering were primarily adopted from California's West's Annotated Business and Professional Code. There are two California statutes that are pertinent to this discussion. They are quoted as follows:

"6509. Inspection.

"For the purpose of enforcing this chapter, any member of the board or its agents or assistants may enter into and inspect any barber shop or college at any time during business hours or at any time when the practice of barbering or instruction in such practice is carried on."

"6553.5. Inspection.

"Any member of the board, or any employee of the board designated by the board for that purpose, may inspect all books, papers, records or documents in any place within the State, for the purpose of ascertaining facts to enable the board to administer this article."

The pertinent section of A.R.S. §32-307 B states:

"A member of the board, or its agents or assistants, may enter upon and inspect a barber shop or barber school at any time during business hours."

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The Arizona Legislature did not see fit to make a provision for the inspection of books or records as provided in 6553.5 Californis's West's Annotated Business and Professional Code.

Therefore, it is the opinion of this office that the Legislature did not intend that this purpose be granted in A.R.S. §32-3-7 B.

In reference to your letter, Section 32-307 A provides that the Board may make reasonable rules and regulations for the administration of Chapter 3 - Barbering.

This office is of the opinion that, based on that provision, the State Board could adopt regulations and rules for inspecting records of barber schools for the purpose of determining the hours of a student and other qualification of students. It is the gneral rule of law that statutes and regulations of Boards relating to the public health and welfare are constitutionally authorized. This has been stated in 39 CJS, Health, Section 25, Page 847:

"The right to regulate and control persons engaged in any trade or occupation that affects the public health has been affirmed in many decisions and the extent to which an occupation or business may be regualted varies with the different kinds of business, and the nature of the undesirable condition to be overcome."

On Page 848, under the same section relating to health, a case, Jones vs. Bontempo, 32 NE 2d 17, is quoted as follows:

"Those engaged in the occupation of barbering or those desiring to pursue that business may be examined as to their competency and fitness and are subject to supervision and control in the matters of cleanliness, sanitation, conduct, habits, infectious and contagious diseases and things of that kind."

Any reasonable regulation to implement the above purposes would be justified. It is the opinion of this office that a regulation inspecting school records of a student would relate to the student's fitness to be eligible for pursuing the profession of barbering which would be advantageous to the public welfare.

In reference to your question as to whether agents or the Board should sign an affidavit to inspect students' records, this question is not applicable in relation to an interpretation of A.R.S. §32-307 B, which, in the opinion of this office, does not authorize an inspection of students' records.

Very truly yours,

ROBERT W. PICKRELL
The Attorney General