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ARIZONA ATTORNEY GENERAL

June 24, 1941.

State Board of Beauty Culturist Examiners,
415-416 Heard Building,
Phoenix, Arizona.

Dear Mesdames:

We have your request for an opinion based upon facts submitted to you by Mr. E. R. Riedell of Phoenix, Arizona.

In substance the facts are: Mr. Riedell on September 9, 1929 applied for a barber's and permanent waver's license under the law approved March 18, 1929. His barber's license was issued on September 18, 1929. The books do not show the application for a permanent wave license, although there are entries showing the receipt of the money therefor.

He was subsequently, on October 1, 1929, advised to present himself for examination. He thought that he was being discriminated by being asked to take the examination, and, as he states, he advised the board "that they just return my application fee and consider the matter closed." The board, however, advised him that it was impossible to return the fee. He returned to Phoenix and again insisted that he was entitled to a license. The present board advised him that there was nothing to be done in the matter unless he goes to school to qualify him to take the examination.

Chapter 76, Laws of 1929, approved March 18, 1929, in section 4 thereof provided, among other matters:

"* * * Every barber or cosmetician who has followed his trade for six months within the state, immediately preceding the effective date of this act, shall apply to the board under like terms for registration and upon payment of the fee prescribed shall receive a license. * * *"

The above chapter was amended by Chapter 39, Laws of 1931. Section 2 of the 1929 law and all laws in conflict with the provisions of chapter 39, laws of 1931 were specifically repealed. We do not at this time express any opinion as to whether the licenses obtained by virtue of the 1929 law were continued in force by the 1931 act, but it is obvious that the 1931 act required an examination of all applicants for a license to practice barbering or cosmetology.

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The law was again amended by Chapter 52, Laws 1935 and the existing licenses were specifically continued in force. We believe that any rights which Mr. Riedell may have had would inure to him under the act of 1929. If we should say that he made timely application to be licensed under the "Grandfather clause" of the 1929 law which is contained in section 4 of Chapter 76, Laws of 1929, we believe he should have exercised his rights at that time, against the then existing board and before the repeal of the 1929 act for the 1931 law did not contain a grandfather clause. We further believe that when Mr. Riedell wrote to the board and asked for a withdrawal of his application he chose to abandon his rights under the grandfather clause. We are, therefore, of the opinion that it is beyond the power of this board to consider Mr. Riedell's case and issue him a license without examination and unless he possesses the qualifications required by the present law.

Yours very truly,

JOE CONWAY,
Attorney General.

ALBERT M. GARCIA,
Assistant Attorney General.

EARL ANDERSON,
Special Assistant
Attorney General.