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OFFICE OF THE
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Wright

September 9, 1977

Ms. Valeria Lockwood
Secretary-Treasurer
Arizona State Board of Cosmetology
1645 West Jefferson
Phoenix, Arizona 85007

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Re: 77-177 (R77-224)

Dear Ms. Lockwood:

By letter dated June 29, 1977, you requested our opinion on the following question:

Is it permissible for the Board of Cosmetology to hire a qualified person (such as a former Board member or a licensed cosmetology instructor) to assist one of the Board members on State Board examinations when two of the three board members are unable to be present at the examination?

For the reasons set forth, the answer to the question is "yes."

A.R.S. § 32-504.A states that the Board of Cosmetology shall "prepare and conduct all examinations for applications for licenses. . . ." To assist in the discharge of this duty, A.R.S. § 32-503 authorizes the Board to "employ inspectors and clerical help." Thus the question presented is whether the Board, in seeking to hire someone to assist during the administration of examinations, is seeking to hire an "inspector" or "clerical help" within the meaning of A.R.S. § 32-503.

In ordinary usage, "clerical help" or a "clerical worker" is one who furnishes services of a routine nature such as filing and tabulating. Clerical help is generally without special executive qualifications. Amyot v. Caron, 88 N.H. 394, 190 A. 134 (1937).

Clearly then, if the Board employs someone merely to assist with the routine aspects of the administration of written examinations, the Board would be employing clerical help permitted under A.R.S. § 32-503.

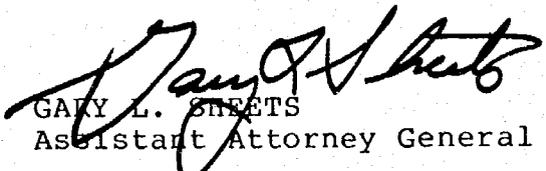
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However, if the Board also calls upon its employee to handle the non-routine aspects of the examinations, such as the grading of the practical portion of the examinations, then such an employee could not be classified as "clerical help." Instead, the employee would be an "inspector." It is well established that an "inspector" is one who examines closely and critically in order to evaluate quality. Pabst Brewing Co. v. Crenshaw, 198 U.S. 17, 25 S.Ct. 552, 49 L.Ed. 925 (1905); Martin v. Reynolds Metals Corp. 297 F.2d 49 (9th Cir. 1961); O'Hare v. Peacock Dairies, 26 Cal.App.2d 345, 79 P.2d 433 (1938). Accordingly, the Board has the authority to employ a qualified "inspector" to assist with the grading and evaluation of the examinations.

Therefore, it is the opinion of this office that the Board of Cosmetology may employ persons to assist with the administration and the evaluation of Board examinations.

Sincerely,

BRUCE E. BABBITT
Attorney General


GARY L. SHEETS
Assistant Attorney General

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