

December 21, 2000
OPINION 00-121B

Louisiana State Board of Cosmetology
11622 Sunbelt Court
Baton Rouge, LA 70809

63-A Licensing for professions

R.S. 37:513, R.S. 37:514

Reviews statutes governing licensure pertaining to the Louisiana State Board of Cosmetology. Issues involving the sufficiency of qualifications for licensure involve technical matters subject to the Board's expertise.

Gentlemen:

We requote your questions as presented in your opinion request, as follows:

If the Board has issued licenses to persons pursuant to LAC 46:XXXI.505 who did not meet the statutory requirements for licensure, 1) are these licenses valid; 2) does the Board have authority to revoke such licenses, and if so what procedures must be followed; 3) is the Board required to renew these licenses when they expire?

In response to your first question, it is the opinion of this office that an individual who holds a license issued by the Board is presumed to hold a valid license until such time as the license is withdrawn by the state Board.

In response to your second question, it is within the power and authority of the Board to revoke a license for the causes enumerated in R.S. 37:513.¹ Although the causes for

¹ R.S. 37:513 provides:

§ 513. Grounds for refusal, suspension, or revocation of certificate

The Board may refuse to issue or renew or may suspend or revoke any certificate of registration for any of the following causes:

- 1) Conviction of a felony by the certificate holder, shown by a certified copy of the record;
- 2) The obtaining of, or an attempt to obtain, a certificate of registration for money, or for any other thing of value or by fraudulent misrepresentations;
- 3) Gross incompetence in the practice of cosmetology;
- 4) Continued practice by a person knowingly having an infectious or contagious disease; or mental illness as certified by a competent physician;
- 5) Advertising by means of known false or deceptive statements;
- 6) Advertising, practicing or attempting to practice under a name other than one's own;
- 7) Habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit-forming drugs;
- 8) Immoral conduct;
- 9) Violation of any provision of Part II of this Chapter; or
- 10) Failure to pay lawful and proper fees and charges of the Board.
- 11) Failure to report all business receipts and income to the appropriate state and federal government agencies, including but not limited to the United States Internal Revenue Service, The Louisiana Department of Revenue, and the Department of Labor.

revocation do not explicitly include a situation where a license has been issued to any person who did not possess the necessary qualifications for licensure, we believe that the Board should initiate an inquiry into the circumstances surrounding issuance. Whether the issuance was the product of oversight, error, or perhaps fraud, if the Board finds that the license was not properly issued it would be incumbent upon the Board to recall or revoke the license. Continuing to allow an improperly licensed person to practice cosmetology could expose the Board to liability should the licensee cause some injury to his/her client. Specifically, issues involving the sufficiency of educational qualifications for licensure involve technical matters subject to the Board's expertise. The procedure for revocation is set forth by R.S. 37:514² and should be used as a guide to provide for the recall or revocation of an improperly issued license.

In view of the foregoing answers, we believe there is no need to specifically answer the third question.

Should you have further questions, please contact this office.

Very truly yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL

BY: _____
KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

KLK:ams

cc: Ms. Sherri Morris

² R.S. 37:514 provides:

§ 514. Notice of charge; hearing, witnesses and evidence

A. The Board may neither refuse to issue, refuse to renew, suspend or revoke any certificate of registration for any cause unless the person accused has been given at least twenty days' notice in writing of the charge against him and has been accorded a public hearing by the Board. At this hearing, the Board may administer oaths, subpoena witnesses and require the production of relevant books and papers.

B. The Board may immediately suspend the certificate of registration whenever the cause upon which a hearing is held involves:

- 1) Conviction of a felony, shown by a certified copy of the records, or
- 2) Continued practice by a person having an infectious or contagious disease, as shown by the records of any licensed physician or surgeon in the State of Louisiana.

#00-121B

63-A Licensing for professions

R.S. 37:513, R.S. 37:514

Reviews statutes governing licensure pertaining to the Louisiana State Board of Cosmetology. Issues involving the sufficiency of qualifications for licensure involve technical matters subject to the Board's expertise.

Louisiana State Board of Cosmetology
11622 Sunbelt Court
Baton Rouge, LA 70809

Date Received:

Date Released: December 21, 2000

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL