

**OPINION NO. 73-107**

**Syllabus:**

R.C. Chapter 4713 permits cosmetologists to perform beauty services for invalids in the homes of the invalids under regulation by the State Board of Cosmetology.

To: J. C. Palcarcel, III, Exec. Dir., State Board of Cosmetology, Columbus, Ohio  
 By: William J. Brown, Attorney General, October 23, 1973

I have before me your request for an opinion which may be stated as follows:

May licensed cosmetologists perform beauty services on those who are invalids and cannot leave their homes?

R.C. 4713.01 provides in pertinent part as follows:

As used in sections 4713.01 to 4713.21, inclusive, of the Revised Code:

(A) The practice of cosmetology includes work done for compensation by any person, which work is usually performed by hairdressers, cosmetologists, cosmeticians, or beauty culturists, however denominated, in beauty salons ordinarily patronized by women; which work is for the embellishment, cleanliness, and beautification of women's hair, such as arranging, dressing, pressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, coloring, or similar work, and the massaging, cleansing, stimulating, manipulating, exercising, or similar work upon the scalp, face, arms, or hands, by the use of mechanical or electrically operated apparatus or appliances, or cosmetics, preparations, tonics, antisepsics, creams, or lotions, and of manicuring the nails, which enumerated practices shall be inclusive of the practice of cosmetology, but not in limitation thereof. Sections 4713.01 to 4713.21, inclusive, of the Revised Code do not permit any of the services or arts described in this section to be used for the treatment or cure of any physical or mental diseases or ailments.

(B) "Cosmetologist," "cosmetician," "beauty culturist," or "hairdresser," means any person who, for compensation, engages in the practice of cosmetology.

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(D) "Beauty salon" means any premises, building, or part of a building, in which any branch of cosmetology or the occupation of a cosmetologist is practiced.

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(Emphasis added.)

Since the work done on invalids would be similar to the work usually done on customers in a beauty salon by a cosmetologist or hairdresser, a licensed cosmetologist who is compensated for work performed on an invalid would be engaged in the practice of cosmetology.

No provision in R.C. Chapter 4713. requires beauty services to be performed exclusively in a licensed beauty salon. R.C. 4713.01(D) defines beauty salon.

In Opinion No. 2431, Opinions of the Attorney General for 1934, page 383, one of my predecessors in analyzing the definition of "beauty salon" stated:

A reading of paragraph (c) of Section 1082-1, [R.C. 4713.01(D)] General Code, which defines "beauty parlor," in conjunction with paragraph (b) [R.C. 4713.01(A)] defining the practice of cosmetology, serves to limit the definition of a "beauty parlor" to an establishment "ordinarily patronized by women," and to show the true legislative intent not to require barber shops, hotel lobbies and drug stores to procure beauty parlor licenses unless such places of business are "ordinarily patronized by women."

It is a matter of common knowledge that the ordinary barber shop wherein manicuring is practiced is not ordinarily patronized by women, and consequently not a "beauty parlor," within the purview of the definatory provisions of Section 1082-1, General Code, supra.

This opinion utilized the rule of statutory construction, that sections and acts be read in pari materia, that is, sections and acts in relation to the same matter, subject, or object should be construed together. *State ex rel. Pratt v. Nevgandt*, 164 Ohio St. 463 (1956). My predecessor recognized that the term, "beauty salon" in R.C. 4713.01(D), refers to an ongoing business establishment patronized by women.

Further support for this interpretation is found in R.C. 4713.21 which provides as follows:

No owner, manager, or person in charge of a beauty salon or school of cosmetology, shall permit any person to sleep in, or use for residential purposes, any room used wholly or in part, as a beauty salon or school for cosmetology; nor shall any person, firm, or corporation maintain as an established place of business for the practice of any one or more of the occupations of a cosmetician, any room used wholly or in part, for sleeping or residential purposes. (Emphasis added.)

Since the purpose of the General Assembly is not expressly stated in R.C. Chapter 4713. and no Ohio case law exists on this point, the interpretation of comparative statutes by courts of other states may be helpful. As stated by courts in other jurisdictions, the purpose of legislation on the practice of cosmetology is twofold: (1) to regulate the occupation of cosmetologists so that the services will not be done in a careless and unsanitary manner, and (2) to regulate the operation of beauty salons so that salons will be maintained in a clear and sanitary manner in order to protect the patrons. *Jantaush v. Verona*, 24 N.J. 326, 131 A.2d 881 (1957); *Illinois v. Macel*, 316 Ill. App. 101, 33 N.E.2d 925, aff'd 378 Ill. 595, 39 N.E.2d 317 (1941).

The General Assembly's intent was not to deny beauty services

to invalids but to protect the patrons of beauty salons and to provide a method of regulation of the practice of cosmetology. Many specific sanitary regulations have been enacted for the protection of patrons of beauty salons. (R.C. 4713.14 and rules enacted by the Board of Cosmetology pursuant to R.C. 4713.02).

Further, invalids desirous of beauty treatments can be protected from unhealthy and unsafe practices of a cosmetologist. R.C. 4713.02 provides in pertinent part as follows:

The board shall adopt rules for carrying out sections 4713.01 to 4713.21, inclusive, of the Revised Code, for conducting examination of applicants for license, and governing the recognition of, and the credits to be given to, the study of cosmetology, or any branch thereof, in a school of cosmetology, licensed under the laws of this or another state or territory of the United States or the District of Columbia. The board shall adopt such sanitary rules as are authorized by the department of health with particular reference to the precautions to be employed to prevent the creating or spreading of infectious or contagious diseases in beauty salons or schools of cosmetology, or in the practice of cosmetology. A copy of all sanitary rules thus adopted, shall be furnished to each person, firm, or corporation, to which a license is issued for the conduct of a beauty salon or school of cosmetology, and to each operator, and manicurist. A copy of all such sanitary rules shall be posted in a conspicuous place in all beauty salons or schools of cosmetology. (Emphasis added.)

Thus, the Board of Cosmetology could, and has, provided that all cosmetological services be performed in a room approved and licensed by the Board (Rule CY 1-01) or the Board could permit cosmetologists to perform beauty treatments on invalids in each invalid's home and provide certain regulations (such as required for beauty salons pursuant to R.C. 4713.14) and provide for a course of action in case of any complaints from invalids who believe unsanitary and unsafe practices are being performed.

In specific answer to your question it is my opinion, and you are so advised, that R.C. Chapter 4713. permits cosmetologists to perform beauty services for invalids in the homes of the invalids under regulation by the State Board of Cosmetology.