

OPINION NO. 76-006**Syllabus:**

The bond requirement of R.C. 4713.15(E) applies to each cosmetology school facility despite common ownership or control by one person, firm or corporation of more than one such facility.

To: James W. Dawson, Exec. Sec., State Board of Cosmetology, Columbus, Ohio
By: William J. Brown, Attorney General, January 30, 1976

I have before me your request for my opinion concerning the bond requirements for cosmetology schools. In your request you state:

"The question arises with respect to corporations which operate more than one school of Cosmetology in the state of Ohio; e.g., XYZ Corporation in Cleveland, Ohio, owns and operates three schools of cosmetology, one in Cleveland, one in Canton, one in Akron. The question, specifically, is whether under Section 4713.15(E), XYZ Corporation would be required to obtain three bonds, one for each of its three schools, or would be required to get only one bond."

R.C. 4713.15 provides in pertinent part:

"Schools of cosmetology shall fulfill the following requirements:

". . . .

"(E) They shall file with the Board, a good and sufficient surety bond executed

by the person, firm or corporation operating such a school of cosmetology as principal and by surety company as surety in the amount of ten thousand dollars (\$10,000)"

I understand, as noted in your request, that your past practice of requiring a bond for each school facility, despite ownership, has been questioned by corporations owning more than one facility. The contention is that the bond requirement of R.C. 4713.15(E) only relates to the "person, firm or corporation" operating a school and that, therefore, it is the intent of R.C. 4713.15(E) only to require a bond of the operating person or entity - regardless of how many school facilities it owns or controls.

Inasmuch as R.C. 4713.15(E) contains a requirement to be fulfilled by "schools of cosmetology," the issue raised is whether a person, firm or corporation which owns several cosmetology training facilities is but one school, or whether each separate training facility is a school.

R.C. 4713.01(F) defines a "school of cosmetology" to mean:

"[A]ny premises, building, or part of a building in which students are instructed in theory and practice of cosmetology."

This definition, because it is structured in terms of "premises" and "buildings" and not in terms of operational control, leaves little room for one to argue that "school of cosmetology" means a controlling person, firm, or corporation. Further, insofar as there could be confusion requiring interpretation of this language, I note from your request that, historically, every school facility, despite ownership or control, has been required to provide a bond for each facility. This past administrative practice bolsters my conclusion that there is to be a bond for each school facility. See, R.C. 1.49(E).

Further, a review of the various provisions in R.C. Chapter 4713 (relating to regulation of cosmetologists) reveals that the legislature employed the phrases "schools of cosmetology" and "persons, firms or corporations operating such a school" for different regulatory purposes. Compare R.C. 4713.13, R.C. 4713.15(E), 4713.17(A) and 4713.20 with R.C. 4713.02, 4713.04, 4713.15(A), (B), (C), (D) and (E), 4713.17(B) and 4713.21.

From the plain import of the language in R.C. 4713.01 (F), from the Board's past practice as a matter of administrative interpretation, and from the distinctive legislative use of the phrase "school of cosmetology" throughout R.C. Chapter 4713, I conclude that the bond requirement of R.C. 4713.15(E) applies to each school facility so that common ownership of several facilities does not reduce the number of bonds required.

In specific response to your question, then, it is my opinion and you are so advised that the bond requirement of R.C. 4713.15(E) applies to each cosmetology school facility despite common ownership or control by one person, firm or corporation of more than one such facility.