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BARBER EXAMINERS, STATE BOARD OF—MAY NOT ACCEPT APPLICATION FOR BARBER EXAMINATION FROM APPLICANT WHO NEVER HELD BARBER'S LICENSE IN OHIO OR ANY OTHER STATE—NO EXCEPTION WHERE APPLICANT CAN PRODUCE EVIDENCE OF TWO YEARS OF BARBERING EXPERIENCE PRIOR TO ENFORCEMENT OF OHIO BARBER LAW, SEPTEMBER, 1933.

SYLLABUS:

The State Board of Barber Examiners may not accept an application for a barber examination from one who has never held a barbers' license in Ohio, or any other state but who can produce satisfactory evidence of at least two years barbering experience which he had before the Ohio Barber Law became effective, in September 1933.

Columbus, Ohio, April 11, 1949

Mr. W. C. Robinson, Secretary, State Board of Barber Examiners
Columbus, Ohio

Dear Sir:

This will acknowledge receipt of your request for my opinion which reads as follows:

“Our State Board of Barber Examiners is requesting an opinion from you on the following subject:

Should our State Board of Barber Examiners accept an application for a barber examination from one who has never held a barber license in Ohio or any other state, but can produce satisfactory evidence of at least two years of barber experience that he had before the Ohio Barber Law became effective in September, 1933?"

For the purposes of this opinion I shall assume that the only qualification the applicant presents is that of evidence of two years of barber experience had before the Ohio Barber Law became effective, in September, 1933.

Section 1081-8, General Code, reads in part:

"On and after the taking effect of this act no person shall engage in or attempt to engage in the practice of barbering, either as a barber or as an apprentice barber, without a certificate of registration as a registered barber or registered apprentice issued pursuant to the provisions of this act; * * *

This provision, therefore, has classified into two groups, those who practice or may practice barbering as (1) a registered barber and (2) a registered apprentice barber. To be entitled to practice in either classification a person must have been issued a certificate of registration in the appropriate group. The duty of issuing the certificate of registration and the qualifications which must be met in order to be eligible therefor, are set forth in Section 1081-14, General Code, which reads:

"If the board of barber examiners is satisfied that *the applicant for examination is of the required age, is of good moral character, possessed of the practical experience and educational qualifications required, and passes a satisfactory examination*, it shall issue to him the necessary certificate authorizing him to practice as a registered barber or registered apprentice. * * *

(Emphasis added.)

That part of Section 1081-14 above emphasized is further defined by Sections 1081-13 and 1081-12, General Code. Section 1081-13 reads in part:

"Any person shall be qualified to receive a certificate of registration as a registered apprentice:

"(1) *Who has a diploma showing graduation from an eighth grade grammar school or an equivalent education as determined by an examination conducted under the supervision of the board, and*

“(2) Who is at least sixteen and one-half years of age,

“(3) *Who has graduated from an approved school of barbering, and*

“(4) Who passes a satisfactory examination conducted by the board to determine his fitness to practice as a registered apprentice.”
(Emphasis added.)

Section 1081-12 reads in part:

“Any person shall be qualified to receive a certificate of registration to practice as a registered barber:

“(1) *Who is qualified under the provisions of section 13 (G. C. Sec. 1081-13) of this act.*

“(2) Who is at least eighteen years of age.

“(3) Who has practiced as a registered apprentice for a period of eighteen months under the immediate personal supervision of a registered barber, and

“(4) Who has passed a satisfactory examination conducted by the board to determine his fitness to practice barbering.”
(Emphasis added.)

The time and place of holding the examinations above referred to are governed by the provisions of Section 1081-11, which reads:

“The board shall conduct examinations for applicants for certificates of registration to practice as registered barbers and as registered apprentices at least four times each year at such times and places as the board shall determine.

“Such examinations shall include both a practical demonstration and a written and oral test, and shall embrace the subjects usually taught in schools of barbering approved by the board.”

The age and educational requirements of the applicant are mandatory and may not be waived unless there is a showing of compliance with the exception permitted under Section 1081-10, which reads:

“Upon the taking effect of this act any person, resident of this state, who has been, in good faith, engaged in the practice of barbering at one or more established places of business in this state or any person who was engaged in the practice of barbering as an apprentice of a person eligible under this section to a certificate of registration as a barber without examination, shall be granted a certificate of registration either as a barber or as an apprentice *upon his making application to the board on or before September 1, 1933.*

“Any person who at the time of the taking effect of this act was a student in a school of barbering shall be qualified, upon graduation from such school, to take the examination for a certificate of registration to practice as an apprentice.”

(Emphasis added.)

Inasmuch as September 1, 1933, has passed, applications can no longer be permitted under this clause.

A further exception is provided by Section 1081-19, General Code, which reads in part:

“(1) A person who is at least eighteen years of age and has a diploma showing graduation from an eighth grade grammar school, or an equivalent education as determined by an examination conducted under the supervision of the board, and either has a license or certificate of registration as a practicing barber *from another state or country*, which has substantially the same requirements for licensing or registering barbers as required by this act, or who can prove by sworn affidavits that he has practiced as a barber *in another state or country* for at least two years immediately prior to making application in this state, shall upon payment of the required fee be issued a permit to practice as a journeyman barber until he is called by the board for examination to determine his fitness to receive a certificate of registration to practice barbering. * * *

“(2) A person who is at least sixteen and one-half years of age, who has a diploma showing graduation from an eighth grade grammar school or an equivalent education as determined by an examination conducted under the supervision of the board, and has a certificate of registration as an apprentice in a state or country which has substantially the same requirements for registration as an apprentice as is provided by this act, shall upon payment of the required fee be issued a permit to work as an apprentice until called by the board for examination to determine his fitness to receive a certificate of registration as an apprentice. * * *

“(3) A person who has practiced as an apprentice *in another state or country* which does not have substantially the same requirements for registration as an apprentice as required by this act, and who has the qualifications required in section 6 (G. C. Sec. 1081-6) of this act, shall be credited with the time so spent as an apprentice in such other state or country upon the period of apprenticeship required by this act as a qualification to take the examination to determine his fitness to receive a certificate of registration as a registered barber.”

(Emphasis added.)

As noted by the parts above emphasized, this section applies only to those who acquired the necessary experience while registered in another state or country and are not applicable to those who acquired that experience while practicing in Ohio.

I am therefore of the opinion that the State Board of Barber Examiners should not accept an application for a barber examination from one who has never held a barber license in Ohio or any other state, but can produce satisfactory evidence of at least two years of barber experience that he had before the Ohio Barber Law became effective, in September, 1933.

Respectfully,

HERBERT S. DUFFY,
Attorney General.