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COSMETOLOGY—WHERE OHIO LICENSEE RETIRED FROM PRACTICE FOR MORE THAN THREE YEARS — PRACTICED UNDER LICENSE ISSUED BY FOREIGN STATE IN SUCH STATE — OHIO BOARD OF COSMETOLOGY MAY ISSUE LICENSE UPON SUCCESSFUL PASSING OF EXAMINATION OR USE DISCRETION TO GRANT LICENSE UNDER SECTION 1082-11 G. C.

SYLLABUS:

A person licensed to practice cosmetology in Ohio who has retired from practice in this state for more than three years and, who during said period of time was engaged in the practice of cosmetology in another state under a license issued by such other state, may have his or her license restored in this state only upon successfully passing an examination, unless the Board of Cosmetology in its discretion grants a license to such person under the authority and in accordance with the terms of section 1082-11 of the General Code.

Columbus, Ohio, October 4, 1940.

Mrs. Lily West, Secretary, State Board of Cosmetology,
Columbus, Ohio.

Dear Madam:

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

“Will you please give us your opinion of Section 1082-13 of the General Code as it applies to the retirement of a licensee.

A, the person in question, was licensed originally in Ohio by exemption in 1934. She permitted her license to lapse since 1936, or one year more than our period of grace.

She holds a current license in Pennsylvania and is desirous of regaining an Ohio license.”

Section 1082-13, General Code, provides in part as follows:

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Any licensed cosmetologist or manicurist who retires from practice may have his or her license restored only upon payment of all lapsed renewal fees; provided, however, that no cosmetologist or

manicurist, who has retired from practice for more than three years, may have his or her license restored, without examination."

The individual to whom you refer retired from practice in Ohio but practiced in another state. The question is, therefore, whether Section 1082-13, General Code, means retirement from practice in Ohio or complete withdrawal from the actual practice.

It is fundamental, of course, that the jurisdiction of the state is coextensive with its territory, and that its legislative power does not extend beyond its territorial limits. Therefore, the statutes enacted by the General Assembly of Ohio can have no extraterritorial operation. On this point it is stated in 37 O. Jur., page 781:

"A statute cannot, by its own force, operate beyond the territorial limits of the state. Since the legislature has no extraterritorial power, it is presumed to intend to confine the operation of a statute within the territorial limits of its jurisdiction. Therefore, in the interpretation of statutes, words, however broad, are generally construed in view of this territorial limit of the powers of the legislature."

See also Lewis' Sutherland Statutory Construction, Volume 2, page 951.

In view of the above, it would therefore follow that the word "practice", as the same appears in the above quoted statute, must be construed to mean "practice in Ohio", and consequently a licensed cosmetologist who has retired from practice in Ohio would be subject to the provisions of said statute, even though he or she was licensed to practice cosmetology in another state.

In connection with your inquiry, consideration must also be given section 1082-11, General Code, which provides:

"Upon application to the board in due form, as provided in Section 6, hereof, accompanied by the required license fee, a person registered as a cosmetologist, or any branch of cosmetology under the laws of another state or territory of the United States, or the District of Columbia, shall without examination (unless the board, in its discretion, sees fit to require examination), be granted a license to practice the occupation or occupations in which such person was so registered upon the following conditions: That the applicant is not less than 18 years of age, of good moral character, and that the requirements for registration or license of cosmetologist, and those engaged in the practice of any branch of cosmetology, in the

particular state, territory, or District of Columbia, were at the date of such previous registration or licensing, substantially equal to the requirements therefor, then enforced in this state.”

Under the provisions of the above section, the Board of Cosmetology, in its discretion, may grant, under the conditions and upon compliance with the requirements set out therein, to any person registered as a cosmetologist under the laws of another state, a license to practice the occupation or occupations in which such person is registered.

Therefore, in specific answer to your question, it is my opinion that a person licensed to practice cosmetology in Ohio who has retired from practice in this state for more than three years and, who during said period of time was engaged in the practice of cosmetology in another state under a license issued by such other state, may have his or her license restored in this state only upon successfully passing an examination, unless the Board of Cosmetology in its discretion grants a license to such person under the authority and in accordance with the terms of section 1082-11 of the General Code.

Respectfully,

THOMAS J. HERBERT,
Attorney General.