

OPINION NO. 1303**Syllabus:**

The Board of Barber Examiners has no authority to require conditions for qualified apprenticeship in addition to those set forth in Chapter 4709, Revised Code, by the adoption of rules and regulations under Section 4709.05, Revised Code.

To: Walter E. Ink, Secretary of Board of Barber Examiners, Columbus, Ohio
By: William B. Saxbe, Attorney General, August 18, 1964

I have before me your request for my opinion which reads as follows:

"The Barbers State Apprenticeship Committee held a joint meeting * * * on June 24, 1964, concerning the requirements of the registered apprentice barbers and the requirements that must be met before the apprentice will become eligible for a registered barber examination.

"Amended Senate Bill No. 326, which provided for the enactment of Sections 4101.25 to 4101.30, inclusive, of the Revised Code, was discussed. So, therefore, an official written opinion must be obtained before the State Barbers Apprenticeship Committee can continue to progress with their program, which is under the guidance of the Department of Education, U.S. Department of Labor, and the State Barber Board."

The question presented is as follows:

"'May the Barber Board require (by in-

serting in the Rules and Regulations of the Barber Board) that every registered apprentice barber must complete the Apprenticeship Training Program of the adopted Apprenticeship Standards for Barbers before the apprentice may become eligible for his registered barber examination, and be in accord with Section 4709.12 of the Revised Code of Ohio?"

Section 4709.12, Revised Code, provides in pertinent part as follows:

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

"(A) Who is qualified under section 4709.13 of the Revised Code;

"(B) Who is at least eighteen years of age;

"(C) Who has practiced as a registered apprentice for a period of eighteen months under the immediate personal supervision of a registered barber;

"(D) Who has passed an examination conducted by the board of barber examiners to determine his fitness to practice barbering."

It is to be noted that under Section 4709.13, Revised Code, a person to be qualified to receive a certificate of registration as a registered apprentice must, among other things, have graduated from an approved school of barbering and passed an examination under the supervision of the board of barber examiners. Further, that under the Rules and Regulations governing Barber Colleges in the State of Ohio, the course of study and training shall consist of not less than fifteen hundred (1500) clock hours, which is comprised basically of theoretical study, scientific and general barbering practice.

Under Section 4709.05, Revised Code, the Board of Barber Examiners may make reasonable rules and regulations for the administration of the various sections contained in Chapter 4709, Revised Code. The Board may not, however, under this power to make rules to administer the law enacted by the General Assembly, legislate requirements in addition to those provided by statute. It is a principle of law that agencies of the state have only such powers as are necessarily implied from express powers.

The apprenticeship program or agreement to which you refer is, I assume, one formulated by the Ohio State Apprenticeship Council, of the Department of Industrial Relations, under Section 4101.25, et seq., Revised Code. The purpose of these statutes is clearly to protect and augment through adoption of uniform apprenticeship programs the skilled labor force of

the state. Section 4101.30, Revised Code, provides:

"Participation in apprenticeship programs by persons, firms, political subdivisions, corporations, employer associations, or organizations of employees shall be entirely on a voluntary basis and apply only to those who elect to subscribe to the standards and procedure established under sections 4101.25 and 4101.30, inclusive, of the Revised Code."

There is no requirement in Sections 4101.25 to 4101.30, inclusive, Revised Code, or in Chapter 4709, Revised Code, that an applicant for registration as a barber serve his apprenticeship program formulated by the Ohio State Apprenticeship Council, and there is no authority in the Board of Barber Examiners to make this a requirement.

Therefore, it is my opinion and you are advised, that the Board of Barber Examiners has no authority to require conditions for qualified apprenticeship in addition to those set forth in Chapter 4709, Revised Code, by the adoption of rules and regulations under Section 4709.05, Revised Code.