



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

STEVE CLARK
ATTORNEY GENERAL

(501) 371-2007

OPINION NO. 85-165

July 24, 1985

Debra Norton, Director
State Board of Cosmetology
1515 West 7th Street, Rm. 400
Little Rock, Arkansas 72201

Dear Ms. Norton:

This letter is in response to your recent request for an opinion regarding Ark. Stat. Ann. Sec. 71-816. You posed the following question:

We are requesting this opinion to determine whether the aforementioned statute allows more than two school owner representatives to serve on the Board. Further, whether the said statute will allow a school owner member to also satisfy the electrologist membership requirement.

The pertinent portion of §71-816 is as follows:

Two (2) members of the Board shall be licensed instructors who own a school of cosmetology. No less than two (2) shall be licensed electrologists.

In addition, each member except the consumer and senior citizen representatives must be actively engaged in conducting either a cosmetological establishment or school or actively practicing cosmetology.

The cardinal rule of statutory construction is to ascertain and to give effect to the intent of the legislature. Hice v. State, 268 Ark. 57 593 2d 169 (1980). The apparent intent of the legislature in specifying that specific members of the Board of Cosmetology shall be from certain segments of the regulated industry, is to assure that the interests of those segments are represented on the Board.

From the language used in the Act, "two members shall be licensed instructors" and "no less than two members shall be

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licensed electrologists," it appears the legislature intended that only two members of the Board be licensed instructors who own a school of cosmetology. If the legislature had intended that more than two members could be licensed instructors it would have used the same language as it did regarding electrologists. However, the Act simply states that two members shall be licensed instructors who own a school of cosmetology, and therefore, it appears that no more than two members of the Board shall be such licensed instructors.

Because of the apparent intent to require representation of various segments of the industry, it would appear that the legislature intended the electrologist representatives to serve and represent the interests of that segment without conflict of interest with other segments of the industry. Therefore, it would appear that the representatives representing the electrologists should not also own schools of cosmetology and therefore be subject to a conflict of interest between these two areas.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Thomas S. Gay.

Sincerely,


STEVE CLARK
Attorney General

JSC:TSG:jk