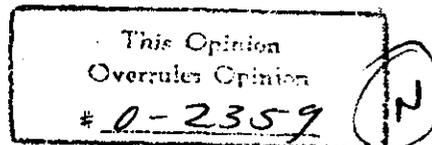




**THE ATTORNEY GENERAL
OF TEXAS
AUSTIN, TEXAS**

**RICE DANIEL
ATTORNEY GENERAL**



December 23, 1948

Mrs. Bess Blackwell
Executive Secretary
Board of Hairdressers
and Cosmetologists
Austin, Texas

Opinion No. V-753

Re: The eligibility of one who
has been convicted of a
federal felony and served
a sentence in the federal
penitentiary to be licensed
to operate a beauty school
in Texas.

Dear Mrs. Blackwell:

Your request for an opinion is in part as follows:

"This Board respectfully requests an opinion of your department as to whether or not under the Texas Beauty Culture Law a person who has served a sentence in the federal penitentiary is eligible to own and operate a beauty school in the State of Texas."

Section 17 of Article 734b, V.P.C., provides in part as follows:

"The Board may either refuse to issue or to renew, or may suspend, or revoke, any certificate of registration or license, . . . for any one or combination of the following causes:

"(a) Conviction of a felony shown by a certified copy of the record of the trial wherein the conviction was held; . . ."

The rule of statutory construction applicable to your request is found in 39 Tex. Jur. 37, which is as follows:

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"On the other hand, 'may' ordinarily connotes discretion or permission; and it will not be treated as a word of command unless there is something in the context or subject-matter of the act to indicate that it was used in that sense."

The language used in Section 17, Article 734b connotes discretion or permission on the part of the Board, and we find nothing in the context of the Act which would indicate that the Legislature intended the Act to be mandatory. Therefore, you are advised that under the plain provisions of Article 734b, in the case of a person who has been convicted of a felony, it is left solely to the discretion of the Board under Section 17 as to whether it will issue or refuse to issue a license because of the conviction. Attorney General's Opinion No. 0-2359 is hereby overruled.

(N)

SUMMARY

Whether the Board of Hairdressers and Cosmetologists will issue or refuse to issue a license to operate a beauty school in Texas to a person convicted of a felony is left to the discretion of the Board. Section 17 of Article 734b, V.P.C.

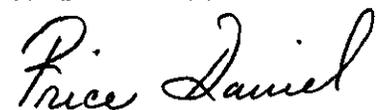
Yours very truly,

ATTORNEY GENERAL OF TEXAS

By 
John Reeves
Assistant

JR:bh:sl

APPROVED:


PRICE DANIEL
ATTORNEY GENERAL