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Cosmetology and Hairbraiding

The practice of African haircare has been a growth industry throughout the nation. African hairstyling consists primarily of braiding or "cornrowing" hair. The practice differs from traditional cosmetology in that African or natural haircare eschews the use of chemicals, relaxants, and other trappings of traditional cosmetology.

Despite the significant differences between African hairstyling and traditional cosmetology, many state boards of cosmetology seek to impose the entire regulatory apparatus on those who wish to practice hairbraiding and cornrowing, often with destructive consequences for entrepreneurship. Until recently, hairbraiders in the State of Maryland faced a similar situation. (Regulation of cosmetology in Maryland occurs at the state level by the State Board of Cosmetologists, a division of Maryland's Department of Labor, Licensing and Regulation).

Consider the case of Bikane Diop, an immigrant from Senegal. Noting the growing popularity of braiding and the lack of an established braiding shop in the Baltimore area, Diop in 1994 opened the African Braiding House on Charles Street on the north end of Baltimore. He applied for and received a business owner's license from the City, hired several skilled braiders, trained others, and began what in only a year's time turned into a successful small business.

In August 1995, inspectors from the State Board of Cosmetology visited Diop's shop and discovered that Diop and his braiders did not have cosmetology licenses. He was told that he and the braiders must obtain cosmetology licenses for the braiders to continue and for the shop to remain open. If he did not abide by the cosmetology law, he would face fines and even jail time. A cosmetology license in the State of Maryland requires 1,500 hours of training in an approved school. The examination for a cosmetology license includes demonstrating knowledge of pincurls, fingerwaves, and other hairstyles that have not been popular for close to half a century and are never used in hairbraiding.

Diop and several other braiders from other parts of Maryland were summoned before the State's Cosmetology Board. At the hearing, Diop met Taalib-Din Uqdah, a national advocate for the reform of cosmetology laws and a champion of the rights of hairbraiders. Both Uqdah and Diop spoke at the hearing of the inapplicability of traditional cosmetology laws to the art of African hairbraiding. They urged the Board to either explicitly exempt hairbraiding from the cosmetology laws, or, at a minimum, to create limited licensure for hairbraiding.

Although the Board initially seemed reluctant to accept any changes in the law, the hairbraiders were informed after the hearing that the board supported the concept of a "new limited practice license for hairbraiding."¹¹ Uqdah, working with sympathetic legislators in the Maryland General Assembly, drafted legislation for limited licensure for hairbraiders. The legislation was introduced and a hearing was conducted on February 29, 1996.

Testifying before the Senate Committee on Economic and Environmental Affairs was Harry Loleas, Deputy Commissioner for the Maryland Department of Occupational and Professional Licensing, the umbrella agency of which the cosmetology board is a part. To the surprise of virtually everyone, the Department took a position different from the initial position of the cosmetology board: it now favors exempting hairbraiding entirely from any type of cosmetology regulation. Loleas' testimony before the committee, which reveals a keen understanding of the problems faced by hairbraiders, merits quotation:

[T]he current cosmetology law does in fact cause a significant problem to hairbraiders. They are in fact either illegal or forced to take a cosmetology curriculum that does not reflect their true curriculum and the knowledge they need to practice their profession. But our reaction in how to deal with this has evolved over the last few months or so. Our initial reaction to this was in fact to look at the idea of having a limited license for hairbraiders; but as the department has considered this more fully, we have come to the conclusion that. . .the definition of cosmetology be changed to deregulate; to take out of any regulatory mode, hairbraiding. That the issues of health and safety and other issues which normally drive regulation are not there in a significant extent for this profession to require the intervention of government. . . .

We commend the department's change of heart. Hairbraiding and hairbraiding salons could still be inspected to ensure that health and safety concerns are addressed, but the irrelevant cosmetology regulations need not be applied to this craft to satisfy legitimate governmental objectives.

Although the department's 180-degree turn diminished the need for separate licensure, the Department should still make official its determination that hairbraiding is exempt from cosmetology regulation through the issuance of an opinion letter or a formal rulemaking procedure. Contrary to the Loleas' testimony, the statutory definition of cosmetology need not be changed to exempt hairbraiding, since the practice of braiding and cornrowing is not explicitly included in the current definition of cosmetology under Maryland law. Again, the Department should, at the very least, issue some type of official opinion letter or rule to make its position absolutely clear, so that other braiders will not be subject to harassment or threats simply for practicing their craft.

Moreover, the Department should apply its insights on hairbraiding to the entire cosmetology profession. The Department should re-examine the extensive and antiquated training it requires for cosmetology licensing. It should question whether

the 1,500-hour requirement really protects public health and safety or if it rather serves as an anti-competitive impediment to entry into the cosmetology profession.