STATE OF TENNESSEE
OFFICE OF THE
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Opinion No. 11-51

Regulation of Eyelash Tinting by Board of Cosmetology

QUESTION

Is eyelash tinting permitted under Tennessee law and, if so, is it governed by the Tennessee Board of Cosmetology?

OPINION

This Office is not aware of any Tennessee law prohibiting eyelash tinting. Eyelash tinting is governed by the Board of Cosmetology because it is the coloring of hair.

ANALYSIS

Eyelash tinting is a procedure used to dye a person's eyelashes a darker color. The instant request states that the procedure can cause severe detriment to the eye if the tinting dye comes into contact with it. Nonetheless, this Office is not aware of any Tennessee law that prohibits eyelash tinting. It is possible that a product used to tint eyelashes might be deemed an adulterated cosmetic under the Tennessee Food, Drug, and Cosmetic Act, Tenn. Code Ann. §§ 53-1-101 et seq., which would make it a Class C misdemeanor to manufacture, sell, deliver, hold, or offer to sell. Tenn. Code Ann. § 53-1-103(a)(1) and (b)(1) (2008). However, such a circumstance would merely mean that it is illegal to use that particular product, not that the practice of eyelash tinting is prohibited.

The Tennessee Board of Cosmetology governs "[t]he practice of cosmetology." Tenn. Code Ann. § 62-4-103 (2009). As defined by the Tennessee Cosmetology Act, Tenn. Code Ann. §§ 62-4-101 et seq., "cosmetology" includes the "bleaching, coloring or similar work on the hair of any person by any means." Tenn. Code Ann. § 62-4-102(a)(3) (2009). The terms "hair" and "eyelash" are not defined in the Act. "In seeking to determine the ‚natural and ordinary meaning' of statutory language, the usual and accepted source for such information is a dictionary." English Mtn. Spring Water v. Chumley, 196 S.W.3d 144, 148 (Tenn. Ct. App. 2005). "Hair" is "one of the fine, cylindrical, often pigmented filaments growing from the epidermis of a mammal" and an eyelash is "one of a row of short hairs fringing the edge of the eyelid." The Webster's II New College Dictionary, 399, 499 (2001). Based on these definitions, eyelash tinting falls within the statutory definition of "cosmetology" as the coloring of hair and, thus, comes within the regulatory authority of the Board of Cosmetology.

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