Public Comment Report: Public Hearing on Proposed Amendments to the Rules Pertaining to Body Art Establishments

Date: October 4, 2019

Time: 9:00am

Location: Arkansas Department of Health—Dr. Joseph Bates Auditorium
4815 West Markham St.
Little Rock, AR 72205

Comment #1 (Simon Garcia) –

Mr. Garcia asked if with the addition of criminal background checks, felons would still be allowed to tattoo.

Response #1 –

The language concerning prohibiting offenses are in direct response to the requirements of Act 990 of 2019. An individual will not be eligible to receive or hold a license issued by the Department if that individual has pleaded guilty or nolo contendere or been found guilty of any of the offenses detailed in Ark. Code Ann. § 17-1-108. However, the Department may grant a waiver as authorized by Ark. Code Ann. § 17-2-102 in certain circumstances. Act 990 allows an individual to have the Department render a pre-application opinion regarding criminal convictions.

No changes will be made to sections 5.3.8 or 5.3.9.

Comment #2 (Simon Garcia) –

Mr. Garcia asked for clarification on the changes affecting Military personal and their spouses in regard to licensure.
Response #2 –

The Rule is being changed in response to Act 820 of 2019, which requires automatic or expedited licensure for Military service members and/or their spouses. Military members and their spouses will receive a license upon the Department’s receipt of (1) payment of the initial licensure fee, (2) Evidence that the individual holds a substantially equivalent license in another state, and (3) Evidence that the applicant is a qualified applicant under 5.3.4. of this rule.

No changes will be made to section 5.3.4.

Comment #3 (Jay Little) –

Mr. Little asked if the Department of Health decides how to regulate the Body Art profession, and if this Public Hearing was the time or place for general concerns regarding the Body Art Rules.

Response #3 –

The October 4th Public Hearing was only for receiving comments that related to the changes being made to the Rules Pertaining to Body Art Establishments. General comments concerning the Body Art rules were not appropriate at that time. Attendees were informed at the Public Hearing that the Department intended to organize an additional meeting to interact with those who wished to discuss concerns regarding the Body Art profession outside the scope of the Public Hearing.

On December 9th, 2019, ADH held a meeting to clarify the questions and concerns of the Body Art Schools and Body Artists who attended the public hearing of October 4th, 2019. All Body Art Trainers/School Operators in the State were invited, as well as the Artists who attended the public hearing.

The stated goals of the meeting were to accept any information and questions the regulated community expressed or requested, provide additional explanation of the rule updates required by the Acts of the 2019 General Assembly, and to ask for assistance and input with developing curriculum for Body Art Training Schools as required by Act 910 of 2019.

Twenty-one Artists attend the meeting along with Department Environmental and Legal Staff. The attendee’s concerns that are within the parameters of ADH authority were addressed. Several artists/school trainers were identified to assist with ongoing development of the curriculum for body art schools.

Comment #4 (Jay Little) –

Mr. Little asked if the Rules Pertaining to Body Art Establishments have already changed.
Response #4 –

The Rules Pertaining to Body Art Establishments have not been changed. The 2016 Rules Pertaining to Body Art Establishments are still currently what the Department is enforcing. The Proposed Amendments to the Rule have not completed the promulgation process.

Comment #5 (Micaela Stephens) –

Ms. Stephens stated that she has an issue with the requirement of an “apprentice sponsor” having to be licensed in Arkansas for 5 years.

Response #5 –

ADH took Ms. Stephens comment on October 4th and on December 9th, 2019, further discussed Ms. Stephens’ objections. ADH stated that they would continue to review this requirement among others, but no change would be made to 4.3.7 at this time.

Comment #6 (Jay Little) –

Mr. Little asked if wordage in section 4.7.1 meant that the Department intended to start its own [body art] school.

Response #6 –

The wording in section 4.7.1 comes directly from Ark. Code Ann. § 20-27-1507. It requires that the school an artist in training attends is licensed by the Department – not run by the Department.

Comment #7 (Sherry Atkins) –

Ms. Atkins commented that she has information and copies of the Rules and Regulations from when Body Art was regulated by the Department of Higher Education, and wished to share it with the Department.

Response #7 –

The Department accepted and copied the information Ms. Atkins offered during the December 9th meeting mentioned in Response #3. The Rules given to us by Ms. Atkins are not applicable to ADH as a result of Act 910 of 2019.

Comment #8 (Derek Canessa) –

Mr. Canessa commented that he believed the requirements for a school to be licensed, and the requirements for an artist in training were too vague.

Response #9 –

The Department believes the language meets the text and intent of Ark. Code Ann. § 20-27-1507 and no changes will be made at this time.