



Arkansas Department of Health

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Governor Asa Hutchinson

Renee Mallory, RN, BSN, Interim Secretary of Health

Jennifer Dillaha, MD, Director

PUBLIC COMMENT REPORT **Proposed Rules for Cosmetology, Body Art,** **Permanent Cosmetics, and Semi-Permanent Cosmetics**

PUBLIC COMMENTS:

Public comment period expired August 1, 2022 at 5:00 pm
Public hearing held on August 1, 2022 from 9:00 am to 10:00 am.

Angela Jackson, Studio Skin
Received written comment July 16, 2022

I oppose the proposed rules and regs for the definition of a semi-permanent cosmetics license holder, and I oppose semi-permanent cosmetic license holders to do eyelash extensions, hair removal (except with a shaver in the area being tattooed), and microneedling.

Angela Neas
Received written comment July 16, 2022

I oppose the proposed rules and regs for the definition of a semi-permanent cosmetics license holder, and I oppose semi-permanent cosmetic license holders to do eyelash extensions, hair removal (except with a shaver in the area being tattooed), and microneedling.

Ricky Wyles
Received written comment July 16, 2022

I oppose the proposed rules and regs for the definition of a semi-permanent cosmetics license holder, and I oppose semi-permanent cosmetic license holders to do eyelash extensions, hair removal (except with a shaver in the area being tattooed), and microneedling.

Jordan Lutz
Received written comment July 17, 2022

I oppose the proposed rules and regs for the definition of a semi-permanent cosmetics license holder, and I oppose semi-permanent cosmetic license holders to do eyelash extensions, hair removal (except with a shaver in the area being tattooed), and microneedling.

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Jolene Baker

Received written comment July 17, 2022

I oppose the proposed rules and regs for the definition of a semi-permanent cosmetics license holder, and I oppose semi-permanent cosmetic license holders to do eyelash extensions, hair removal (except with a shaver in the area being tattooed), and microneedling.

Jamie Thompson

Received written comment July 21, 2022

I oppose the proposed rules and regs for the definition of a semi-permanent cosmetics license holder, and I oppose semi-permanent cosmetic license holders to do eyelash extensions, hair removal (except with a shaver in the area being tattooed), and microneedling.

Brittany Beasley

Received written comment July 22, 2022

I oppose the proposed rules and regs for the definition of a semi-permanent cosmetics license holder, and I oppose semi-permanent cosmetic license holders to do eyelash extensions, hair removal (except with a shaver in the area being tattooed), and microneedling.

AGENCY RESPONSE TO PREVIOUS SUBSTANTIALLY SIMILAR COMMENTS:

The semi-permanent cosmetics license is enacted by Act 900 of 2021, and specifically lists the procedures that fall under that license. Ark. Code Ann. §17-26-701, et seq. The comments above do not state a reason for the objection against semi-permanent cosmetic artists performed eyelash extensions, hair removal (except as related to body art), and microneedling; however, multiple comments received by the Arkansas Department of Health (“ADH”) have included concerns raised by members of the cosmetology community regarding procedures traditionally performed within the cosmetology license, but allowed to semi-permanent cosmetics artists for less required training hours. After receiving these comments during the rule drafting and promulgation process and discussion with the Cosmetology Technical Advisory Committee (“CTAC”), ADH adjusted the minimum required curriculum hours for related subjects under the semi-permanent cosmetics curriculum in an effort to address this concern.

Precious White

Received written comment July 16, 2022

Also appeared at public hearing on August 1, 2022

My name is Precious White and I'm a licensed esthetician in Little Rock Arkansas. I understand a PMU owner has asked for a change of rules. It is completely unfair for Us Estheticians to go to school for 7 months pay between \$7k-13k to learn to Wax, Microneedle, and do lash extensions and now a PMU owner can just say oh let's add that to PMU curriculum. If this happens We should be able to learn to do PMU as an option. It's only right if you will allow PMU to add Esthetician practices. Would you want to work hard for a license and PMU artist be allowed to learn and do what you do at a cheaper way cheaper price?. It's not right.

AGENCY RESPONSE:

The provisions of Act 900 of 2021 have been in effect since July 28, 2021, and not based on any proposals by the Arkansas Department of Health. These proposed Rules are drafted in accordance with

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Act 900, including the provisions for expanded lists of procedures under each of permanent cosmetics and semi-permanent cosmetics. Multiple comments received by the ADH have included concerns raised by members of the cosmetology community regarding procedures traditionally performed within the cosmetology license, but allowed to semi-permanent cosmetics artists for less required training hours. After receiving these comments during the rule drafting and promulgation process and discussion with the CTAC, ADH adjusted the minimum required curriculum hours for related subjects under the semi-permanent cosmetics curriculum in an effort to address this concern.

Jessica Bradshaw

Received written comments July 17, 2022 and July 18, 2022

I hope this e-mail finds you well. I was informed that you are taking public comments on the new proposed laws. Unfortunately, it seems that there are not a lot of permanent makeup artists that have been made aware of this. So I do have a few questions I would like for someone to answer, and I would also like to comment on a few things that are being changed. Questions: Why is not every single person who holds a license in the state being sent about the public hearing and public comments? For some odd reason, i magically had an email show up in my inbox dated Friday, July 15 at 6:45 am, stating that all comments are due by August 1st about the proposed Rules. At the very bottom of the email, it states where the public hearing will be held. Why is Body Art/PMU combined with cosmetologist, estheticians, etc? As I am duly licensed in both Body Art (PMU) and Cosmetology, I know for a fact that these two do NOT go hand in hand. Two completely different worlds. I have to completely disagree with the decision to combine the two. Body art needs a separate board from cosmetology. What is the deal with microblading? No one ever received an official letter to stop microblading. I know some of the schools were notified, but not individual artists. Microblading falls under Permanent makeup, it should not fall under SPMU. There is nothing semi-permanent about microblading. What's the deal with SPMU? That to me, and to a lot of people, sounds like an absolute joke. Nothing can be partially permanent. It is either PERMANENT or NOT PERMANENT. We already have a license in the state that covers waxing, lashes, micro needling. There is no need to add something else, especially if it is another 6 month program. Estheticians already have that program. This seems like a way for these permanent makeup schools to continue making money in an industry THEY HAVE NO CLUE ABOUT. These women and men need to enroll into an esthetician program to properly and SAFELY learn these trades. NO INSURANCE PROGRAM will insure people who are offering these services without a cosmetology or esthetician license. This is basically screwing over people! They will not be able to have insurance covering them for these services under this license. This is an unwanted and unnecessary licensing. What about opening up a new permanent cosmetic school? When I was first licensed several years ago, the rules stated you had to be licensed for 5 years before opening a school. Well, here I am. And there goes my dream and plan of having a school. So now my only option is to go get my instructors license at a school, and I will ONLY be able to instruct there? I will never be able to have my OWN school? I would like for someone to comment about the owner of Arkansas Permanent Cosmetic Institute, Darren Taylor. He was able to open a school, before being LICENSED. He hired a lady to be the instructor out of North Arkansas, who by the way is practicing old school permanent makeup, put himself through his own program that HE designed, and now he TEACHES at his own school. You can ask any student who is enrolled there, and they will ALL look at you confused when you ask if Darren is teaching, because they are thinking "well duh, he owns the school and is teaching our class every day". There were SO many loopholes he found when he opened his school. So many wrongs with the entire scam. He and his graduating students, who DO NOT have 5 years of experience (impossible because they have not been open for 5 years), like A LOT of us do, are teaching that school. Mass producing these artists, and it is like the blind leading the blind. So, what can I do? What can WE do to make this industry better? To make it black and white, no gray areas. To change some of these proposed rules. I know that some stuff needed to be added. I agree, everyone needs continuing education. Whether that's in-person or online training. Most advanced training classes that I have attended were \$4,000 and up. As everyone knows, we are living in a economical crisis. People are barely getting by. A lot of people cannot afford those types of classes. This is exactly why Body Art needs there

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own board, people who have lived and breathed this industry who know the MOST, will know the most and know what changes NEED to be made. Also, let me ask one last question. IF the law for a school is being changed to 3 years, what about all of us who have already put in our 5 years of work? Will that not be grandfathered in?

AGENCY RESPONSE:

Regarding the notice to members of the industries, ADH published notice on July 1, 2022 and published a copy of the proposed Rules for Cosmetology, Body Art, Permanent Cosmetics and Semi-Permanent Cosmetics pursuant to the Administrative Procedure Act. Thereafter, ADH submitted copies to all licensees via e-mail, in addition to those that have been previously notified pursuant to mailing lists that those licensees and interested parties had subscribed to, to ensure that all potentially interested parties would have the opportunity to submit comments during the public comment period. Because substantially most of the proposed changes are related to Act 900 of 2021, ADH encourages members of the industry to review the legislation tracking tools found at <https://www.arkleg.state.ar.us/>. The Arkansas Bureau of Legislative Research in recent years has made changes allowing for even more in-depth research and tracking of legislation.

These proposed Rules are to enact the changes made by Act 900 of 2021, which was not based on any proposals by the Arkansas Department of Health. The changes that placed Body Art, Permanent Cosmetics, and Semi-Permanent Cosmetics are designated under Arkansas law. Combining Body Art, Permanent Cosmetics, and Semi-Permanent Cosmetics along with (not under) Cosmetology provides for greater administrative efficiency for all three licensing programs and industries. The existing Cosmetology Technical Advisory Committee was expanded to include representatives from Body Art and from Permanent Cosmetics and Semi-Permanent Cosmetics. In promulgating these Rules, ADH has attempted to address as many of the concerns under Act 900 of 2021 as possible. During the rule drafting and initial promulgation process, the concern raised most often was that once Act 900 went into effect, the existing permanent cosmetics artists would not be able to practice microblading. Under Act 900 of 2021, microblading is specifically listed as part of the separate semi-permanent cosmetics license, even if it is more closely related to the similar procedures listed for permanent cosmetics. If the law was changed to moved microblading from semi-permanent cosmetics to permanent cosmetics, a large number of the industry concerns with Act 900 would be addressed. However, this will require a change in the law and the Rules cannot effect this change.

As previously stated, Act 900 of 2021 created the semi-permanent cosmetics license and specifically listed the procedures that require that license. ADH received multiple comments regarding the procedures that overlapped with those under cosmetology/aesthetics and the substantially lower required education hours required under the semi-permanent cosmetics. During the rule drafting and promulgation process and subsequent discussions with CTAC, ADH reviewed these concerns and raised the minimum curriculum hours for semi-permanent cosmetics in order to address these concerns.

Regarding the provision restricting an instructor's license to only be valid at the institution in which they are trained, that restriction is directly stated in Act 900 of 2021 and these proposed Rules cannot change the requirements based in the law. Any changes would require a law change to all instructor's to teach at any institution.

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Additionally, the requirements for opening a permanent cosmetics or semi-permanent cosmetics institution are also directly from Act 900 of 2021. ADH has worked with artists and instructors to bring them into compliance with existing law and has drafted the Rules to provide pathways to compliance.

Erin McGinnis

Received written comments July 31, 2022

To whom it may concern,

I would like to submit a few comments about the proposed rule changes with the ADH on cosmetology and body art.

302. (e) Continuing Education

I'm opposed to limiting credit for continuing education to only (presumable in state) institutions licensed by the board. It's my believe that it would severely limit the scope of courses available. Having a sole source or small pool of institutions dictating course content may hinder Arkansans from a broader education as well as a fair or affordable price. There are reputable professional associations and international institutions that offer education in person as well as online. Could a few of these be submitted for approval by the dept?

703. Physical Facilities

(b) Each have a work room:

Hand washing sinks are missing from being mandatory in work rooms. Where is the practitioner going to wash their hands?

808. Documentation and Consent

(b) (2) I would still like to see the language changed from "except when piercing the ear lobe" to "except when piercing the ear".

903. Definitions

(c) Apprentice Means Artist trainer. I think this changes the intent. It should be an Artist Trainee or student. Artist Trainer sounds like the person who teaches rather than the person who is learning.

AGENCY RESPONSE:

The requirement for permanent cosmetic artists and semi-permanent cosmetics artist complete their continuing education only at licensed institutions in the state of Arkansas is directly from Act 900 of 2021. ADH will review the facility requirements for permanent cosmetics to confirm a handwashing sink is available, and the definitions. Documentation requirements for piercing an ear is directly provided under Arkansas law, with the only exception being the earlobe.

Cody Steele

Received written comments August 1, 2022

good evening i hope this email finds you well, I have may concerns with the current proposed law changes. I would also like it addressed that the current forms the department uses for communication and transparency of these changes is extremely lacking. Many owners and operators are never aware of these changes until the law has been pushed through and their are some that are taking advantage of that. I myself only found out about this via a message from another concerned owner which has since attempted to notify everyone else within the industry. There is an email system in place with the department and i would personally appreciate it being used for these purposes. The industry has a strong and rich history in Arkansas and has been operated quite successfully for years without the extreme limitations being placed upon us the last few years. The proposed changes I have read today are and even more extreme reach upon us and I can not believe these things are being considered. The

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limitation of not being able to pay our apprentices will have many negative impacts upon the industry. I myself run the maximum allowed 2 year apprenticeships these new laws would hinder me from being able to do this. I believe in limiting the apprentices amount that they can earn as they are not full fledged practitioners, but they need to be able to earn some sort of income or a second job will need to be worked limiting their teaching. Unfortunately this won't help either as my shops will be force to fast track their apprentices making their teaching go to the minimum of 6 months so they can begin to earn money. A apprentice who has only had 6 months on the job can not under any circumstances perform at the level I believe we should hold this state at. I was unaware of the meeting this weekend again as the email system in place was not used to contact us about these proposed changes I am sure you can see that we are not being equally represented at these meetings. I am aware of the limit of apprentices being proposed to 2 per instructor, please let it be known that I am in favor of this but I hope that it will be also used in the PMU laws as well as no one performing a procedure, (especially on the face in extremely important areas) should be teaching 25 students at once. This is a gross oversight in my eyes as the dangers involved with PMU is far more extreme.

AGENCY RESPONSE:

Regarding the notice to members of the industries, ADH published notice on July 1, 2022 and published a copy of the proposed Rules for Cosmetology, Body Art, Permanent Cosmetics and Semi-Permanent Cosmetics pursuant to the Administrative Procedure Act. Thereafter, ADH submitted copies to all licensees via e-mail, in addition to those that have been previously notified pursuant to mailing lists that those licensees and interested parties had subscribed to, to ensure that all potentially interested parties would have the opportunity to submit comments during the public comment period. Because substantially most of the proposed changes are related to Act 900 of 2021, ADH encourages members of the industry to review the legislation tracking tools found at <https://www.arkleg.state.ar.us/>. The Arkansas Bureau of Legislative Research in recent years has made changes allowing for even more in-depth research and tracking of legislation.

Section 201(e) is a prohibition on individuals that practice any of the fields of cosmetology, body art, permanent cosmetics, or semi-permanent cosmetics is intended to prohibit the practices of these fields without a *practitioner or student* license and is not to prohibit compensation to cosmetology students, body art artists in training, or permanent cosmetics or semi-permanent cosmetics students during their training. ADH will revised the language in Section 201 to clarify this ambiguity.

Venus Ophelia Noir

Received written comments August 1, 2022

My name is Venus Noir, I'm an aspiring tattoo artist, I've worked at Bewitched Body Art in Jonesboro, Arkansas for just under a year now. I'm messaging you today in regards to proposed changes to the Body Art field of our state. We ask that you email artists/shops to let them know of these changes UPON THEM HAPPENING, rather than update by snail mail. This isn't proficient, and causes lag in communication. Secondly, as someone who is an aspiring tattoo artist, I, like many others, face the cost of a tattoo apprenticeship, Upwards of \$5,000, to start off. Even having a part time job, will not help me fully pay off my tattoo apprenticeship if I am not allowed to make money during my apprenticeship. Please take into account, that we are already devoting our time and dedication to our Art by working in shops long enough to experience the chance for an apprenticeship, and as an apprentice, the more practice we get, the better we get, and the faster we become a licensed artist. We should be paid for our tattooing as soon as we are able to tattoo on skin & take clients. In Every other job field, you are paid

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for your training, it should be the same principle that applies in Body Art. Once you reach a certain mastery of tattooing & can take clients, you should be paid for taking said clients.

AGENCY RESPONSE:

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Paula Spencer

Received written comments August 1, 2022

Hello I'm writing to whom it may concern about the new Arkansas law changes to the tattoo and piercing industry. Mainly concerning the ability for apprentices to not be able to make money while being an apprentice. Most of these artist need this to be able to pay for their apprenticeship and maintain an actual living environment. There also needs to be a minimum age in place for any apprentice to be able to apply permanent art work to any living being. If you have to be 16 in the state to be able to get a tattoo or piercing even with parents consent, how in the world can someone under 16 perform these service legally? Makes no sense! I also do not see how anyone that young can even comprehend the importance of cross contamination and the importance of this as it can be life threatening to not only the client, but the artist as well. Any changes should also be made available by email as to reach the artist and industry participants in a timely manor as opposed to regular mail. If piercing is going to be allowed by those licensed in cosmetology, are they required to hold a blood borne pathogen certificate as well? And would this be a separate license and require additional training as it does now separate from tattoo? There are many questions here left unanswered and I presume you will be flooded with emails regarding these. Look forward to hearing back from you.

AGENCY RESPONSE:

Section 201(e) is a prohibition on individuals that practice any of the fields of cosmetology, body art, permanent cosmetics, or semi-permanent cosmetics is intended to prohibit the practices of these fields without a *practitioner or student* license and is not to prohibit compensation to cosmetology students, body art artists in training, or permanent cosmetics or semi-permanent cosmetics students during their training. ADH will revised the language in Section 201 to clarify this ambiguity.

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There is not a minimum age established by Act 900 of 2021, and therefore, concerns or questions for employment of minors are subject to the Department of Labor, their Rules, and applicable laws.

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With regard to piercing licensure, all artists performing piercing must hold a current body art license for piercing. The only exemption allowed is for piercing of the ear lobe with the specified required instruments, per Arkansas law. This was not revised by Act 900 of 2021, and existed under prior law.

Jacob Prima

Received written comments August 1, 2022

I consider it bold, to say the least, to try to vilify us tattoo artists. As someone who transferred from Nevada I find your practices as a regulatory body to be outrageous. It's pretty flagrant misuse of power and I'm pretty sure you have found the disdain of 90% of the license holders in the state. You should be focused on improving the infrastructure of your "organization" to properly test parlors for sanitation practices before you try to take drastic measures to change your already broken and ludicrous system. Apprentice tattoo artists often have to pay money to the people who teach them, and put their jobs aside to invest time into learning this new craft. I assure you financially it is already quite straining. They already make a fraction of what a real licensed artist makes, and they work 2 times as hard in a very stressful new environment to learn. I believe that apprentices should have an opportunity to make some money, because otherwise I would've gone bankrupt during mine and I would never have made it where I am today. You people should be ashamed for reigning over us so tyrannically. I don't think you should be paid for what you do either. You are misinformed and are so far removed from our processes and input it's insane. You have earned a great deal of disapproval from me and I'm sure all of Arkansas' tattoo community.

AGENCY RESPONSE:

These proposed Rules are to enact the changes made by Act 900 of 2021, which was not based on any proposals by the Arkansas Department of Health. The changes that placed Body Art, Permanent Cosmetics, and Semi-Permanent Cosmetics are designated under Arkansas law. Combining Body Art, Permanent Cosmetics, and Semi-Permanent Cosmetics along with (not under) Cosmetology provides for greater administrative efficiency for all three licensing programs and industries.

Section 201(e) is a prohibition on individuals that practice any of the fields of cosmetology, body art, permanent cosmetics, or semi-permanent cosmetics is intended to prohibit the practices of these fields without a *practitioner or student* license and is not to prohibit compensation to cosmetology students,

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body art artists in training, or permanent cosmetics or semi-permanent cosmetics students during their training. ADH will revised the language in Section 201 to clarify this ambiguity.

Courtney Rippy

Received written comments August 1, 2022

I am emailing in regard to the proposed changes in the body art laws and licensure. To start, my situation is directly effected by the lack of communication and announcement of changes. As the department directly responsible for licensure, the record of my current enrollment is your responsibility, yet I have not received any contact from the department regarding changes to my apprenticeship program schedule. Not only has that not been communicated to me but not to my mentor as the owner of the school. Unacceptable. Although this situation could have been avoided for myself with timely responses from the department in March 2022. Since I am now required to restart the program for piercing that I was told I had already been enrolled in during 2020, which laws and procedures will I be evaluated upon? The addition of 225 hours to the piercing apprenticeship does not make sense. Where do these numbers come from? Can you explain why the increase for body piercing has occurred yet body art tattooing is still at 375 hours? If the department is requiring additional hours to be completed, then there should be a proposed curriculum for how these hours are allocated. While it is the school's responsibility to provide curriculum for the specific institution, the state should provide at minimum the expectation for additional proposed hours to be completed. To continue, the proposal that an unpaid apprenticeship for those not enrolled in yet another new program is hindering the chances of success for students. The expectation that students will complete more than 6 months of unpaid work while also providing tuition for the school is not only unrealistic, but does not allow for students to use earnings to focus on their education. Tattoo apprenticeships often require students to work more than one job while also attending school. Please explain why the mentor or instructor may not have the autonomy to allow apprentices to receive compensation for their services provided?

In summery, the dramatic changes in the department that are occurring without due notice does not lend to trust and transparency. The department requires all artists to hold a license or apprenticeship certificate, the list is maintained by the department, notification and communication is the bare minimum requirement with that amount of information exchanged. The mismanagement and lack of communication within the department over the years is not the artist's responsibility, however it is apparent that the situation is only compounding with this last minute notice for public input. While we artists are directly effected, not necessarily those at the department, we are the last to be notified or consulted.

AGENCY RESPONSE:

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The requirement for body piercing curriculum to be raised to 600 hours was based on industry concerns and discussion with CTAC members, and approved by CTAC.

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Sonya Ward

Received written comments August 1, 2022

My name is Sonya and I work for a tattoo shop in Jonesboro, Arkansas. It has been brought to my attention that you are trying to pass a law that apprentices shouldn't be allowed to make money. I hope that you change your mind. I'm an apprentice and this is my only income. It's the only way I can pay off my apprenticeship. Being an artist is a full time job. It consumes my whole life and that's what it takes for an artist to become the best. Every day I work with the public and bring so much happiness to my clients. I've worked very hard to get where I am. Please don't do this to us. Some of us it's all that we have. I'm a veteran with PTSD and I can't make money at another job. Everything else triggers me. The only thing that brings me peace is tattooing. This is my life and I need money to survive. Thank you.

AGENCY RESPONSE:

Section 201(e) is a prohibition on individuals that practice any of the fields of cosmetology, body art, permanent cosmetics, or semi-permanent cosmetics is intended to prohibit the practices of these fields without a *practitioner or student* license and is not to prohibit compensation to cosmetology students, body art artists in training, or permanent cosmetics or semi-permanent cosmetics students during their training. ADH will revised the language in Section 201 to clarify this ambiguity.

Don Kehote

Received written comments August 1, 2022

Now on the topic of apprentices, how do they make money on the proposed changes? It appears they would not which in a concern for utilizing ones employment without paying them, would that not be an employment violation as with other apprenticeship programs? And lastly, it is shocking that out of a CTAC group of 15 it only takes 3 for a disciplinary action to progress and this can be used unfairly when a majority vote has always been the path to progress that one most are familiar and comfortable with. There does not appear to be a minimum age for tattooing and piercing apprenticeship while one has restrictions for age when it comes to actually performing the work on someone which makes no sense to me because if they cannot get consent before hand to have it done, how may one perform the duty when under the age of legal consent and can enter into a contract to begin with? And this drives forward the issue on possible cross contamination issues as children are the worst when it comes to washing hands but I digress. It would be wonderful to have a resource available immediately without digging on the state site periodically and have issues raised and concerns handled in a positive manner. Thank you

AGENCY RESPONSE:

Section 201(e) is a prohibition on individuals that practice any of the fields of cosmetology, body art, permanent cosmetics, or semi-permanent cosmetics is intended to prohibit the practices of these fields without a *practitioner or student* license and is not to prohibit compensation to cosmetology students, body art artists in training, or permanent cosmetics or semi-permanent cosmetics students during their training. ADH will revised the language in Section 201 to clarify this ambiguity.

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Ark. Code Ann. §17-26-208 outlines the minimum for administrative hearings to be heard by the Cosmetology Technical Advisory Committee, including the final order of such hearings must minimally include three members. The Rules reflect the applicable provision under Arkansas law.

With regard to piercing licensure, all artists performing piercing must hold a current body art license for piercing. The only exemption allowed is for piercing of the ear lobe with the specified required instruments, per Arkansas law. This was not revised by Act 900 of 2021, and existed under prior law.

Tabbatha Couch

Received written comments August 1, 2022

To whom it may concern:

These are my comments and concerns to each of the indicated rules.

104(1) body art free should be lowered to cosmo fees of \$60

104(7) lower renewal of establishment fees to \$50

104(9) change fee to \$150 for brand new Establishments only

104(12) renewal \$60

104(16) guest artist fee dropped to \$100

203. Should not be allowing me Establishments to open without being inspected as Kelli Kersey is allowing now

204(c) relocation should not be a new establishment fee but comply with rules and regs

206(a) can't display what they don't give us a copy of.

207(2a) final discipline order should be a majority not just 3 people. Zoom and email make that a moot point on everyone being able to vote on someone's livelihood

302(a-c) doesn't specify if an apprentice can tattoo on a person until they are finished with apprenticeship

304-308 makes no sense needs to be rewritten and clarified

315 financial obligation to the department before they can test sounds right but I couldn't get the person who tested or Kelli Kersey to take the check for a final practical at time of test

To whom it may concern: I think the health department should contact all artists when laws are being changed or trying to be changed. They used to send out mail to us regarding up and coming meetings and changes. We got moved into cosmetology because they couldn't keep up with us and now with all the resources under cosmo it suitor not be an issue.

403 plan and zoning seems a bit redundant except I know a shop operating out of home that has been passed but some cities do not have guidelines for it.

403(b) there is not enough curriculum to have 600 hours for piercing in my opinion

404 accreditation only needs to be required for schools that want to get funding from state or national. Shouldn't be required for private institutes.

404(3) good standing with state of Arkansas needs to be clarified. Is that for sale taxes etc. Which in that case most of the cosmo departments don't have to collect sales tax on their services. Just products. Tattooing and piercing should be under this as well. We shouldn't have to collect if hair dressers don't

404(7.9) if you pay to be a sponsor educator you should be allowed to teach anywhere because you paid for that education. If they want to keep it you can only teach where you are taught there shouldn't be a fee for it

404(9.a) the number of procedures required for Pmu should be upped. 9 total procedures is not enough to prove they can tattoo on a human especially near the eye

And why is semi permanent hours higher than permanent. Even stating permanent cosmetic and semi permanent cosmetics should make that clear to an uneducated person

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406(b) one instructor is not enough to teach 25 students period. Especially if tattooing/ piercing is required to have 5 years experience before we teach. It should be the same with PMU 5 years. 1 instructor with only 1 year experience should not be allowed to teach. Just doesn't make sense

603. Online tracking of hours. How is that possible if they are reading a book online etc. Doesn't seem possible to track online hours unless you pay a lot of money to build a program and website

606. Time clock should be required for schools with 25 or more students but not private schools

700(c) does not include the PMU INSTITUTES with 25 or more students. They should comply with all requirements others should have to

AGENCY RESPONSE:

In general, these proposed Rules are to enact the changes made by Act 900 of 2021, which was not based on any proposals by the Arkansas Department of Health. The changes that placed Body Art, Permanent Cosmetics, and Semi-Permanent Cosmetics are designated under Arkansas law. Combining Body Art, Permanent Cosmetics, and Semi-Permanent Cosmetics along with (not under) Cosmetology provides for greater administrative efficiency for all three licensing programs and industries. ADH is obligated to promulgate the changes enacted by Act 900 of 2021, including the provisions for each of: "Semi-Permanent Cosmetics", accreditation requirements for permanent cosmetic and semi-permanent cosmetic institutions, "Sponsor Educator", restrictions for sponsor educators and where they may instruct students, requirements for continuing education for permanent cosmetics and semi-permanent cosmetics.

No fees were changed in these proposed rules, and the noted fees are the same as they were previously under the separate Rules for Body Art Establishments as established by Arkansas law.

The procedure for new establishments to operate pending inspection is standard to avoid delays in establishment meets the requirements under the Rules.

Relocations of establishments are currently administered as new establishment applications as they require substantially all of the new information as required for new establishment, including the required inspection. The proposed provisions separate the requirements to simplify part of the process. The applicable fee does not change.

Ark. Code Ann. §17-26-208 outlines the minimum for administrative hearings to be heard by the Cosmetology Technical Advisory Committee, including the final order of such hearings must minimally include three members. The Rules reflect the applicable provision under Arkansas law.

Section 302 is a prohibition on individuals that practice any of the fields of body art, permanent cosmetics, or semi-permanent cosmetics is intended to prohibit the practices of these fields without a *practitioner or student* license. ADH will revised the language in Section 302 to clarify this ambiguity.

ADH will review the Reciprocity Sections 304-308 to clarify any ambiguities.

Comment on Section 315 is not directed at the Rules and therefore no response is required.

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ADH will review requirements to provide correspondence from Planning and Zoning Board, however, requirements are intended to ensure body art training facilities are located in a building appropriate for the training facility and meet local city or county requirements.

The requirement for body piercing curriculum to be raised to 600 hours was based on industry concerns and discussion with CTAC members, and approved by CTAC.

The requirement for proof of registration and good standing with the Arkansas Secretary of State is unambiguous and directly from Act 900 of 2021, and is not related to the collection of sales taxes.

ADH will review the requirement for a minimum of nine (9) procedures for permanent cosmetics.

ADH will review the student-instructor ratios to ensure they address any public health and safety concerns.

The authorization for online classroom hours is in compliance with Act 724 of 2021.

There is not a public health and safety reason to provide an exemption for private schools to not employ a timeclock to record classroom attendance, and each avenue of education must be treated substantially the same.

Lena Gabrahana and Brandy Birge

Received oral/written comments at Public Comment Hearing August 1, 2022

We represent the Arkansas Association of Permanent Cosmetics Association (AAPCA), and we appreciate your allowing us to submit a few comments regarding the proposed rules for Act 900 of 2021. The AAPCA is a newly created association whose mission is to promote the permanent cosmetic industry. We are made up of board members representing large and small towns all over Arkansas. There are a number of changes we would like to see made to these rules, but we will only address the most important points that we, as experienced permanent cosmetics artists, would like to share with you. The most important change we would like to see is the elimination of the phrase "Semi-Permanent Cosmetics" and the new licensure under the same name. In our industry of permanent cosmetics there is no such thing as Semi-Permanent Cosmetics. Permanent Cosmetics is a permanent procedure when pigments are being implanted into the skin using needles. Mixing the two industries of permanent cosmetics and esthetics is confusing to both industries and dangerous to our sanitation guidelines. We would suggest this license and category be put back under Permanent Cosmetics. Secondly, I'd like to address Section 404(a)(2), rule requiring Permanent Cosmetic Institutions be accredited. No other similarly situated institution or school has such a requirement, and there is no real public policy as to why our institutions should be singled out. We respectfully submit this requirement be removed, as well.

Third, the phrase "Sponsor Educator" is vague and has already caused confusion. We recommend this licensure be referred to as "Permanent Cosmetics Instructor." This will put it in line with Cosmo instructors, Esthetics Instructors, and body art Instructors. Section 404(a)(7)(A), the requirement that "Sponsor Educators shall only be licensed to teach at the institution in which the

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Sponsor Educator received their training and licensure" severely restricts any artist that has the desire to advance their career by becoming an Educator. With the current rules, an artist would not be able to have their own institutions or choose an institution they would like to instruct at. In short, these rules prohibit career advancement.

And finally, Section 302(e), the requirement that Perm Cosmetic Artists must get all their CE "at an institution licensed by the Board," should be revisited. To limit Arkansas artists' opportunities to truly continue their education, they should be allowed to attend seminars that further and improve their skills.

The goal of this rule should be to help inspire and advance Arkansas artists in the highest quality of standards and skill available.

Thank you again for your time, and please let us know if we can ever be of assistance.

AGENCY RESPONSE:

These proposed Rules are to enact the changes made by Act 900 of 2021, which was not based on any proposals by the Arkansas Department of Health. The changes that placed Body Art, Permanent Cosmetics, and Semi-Permanent Cosmetics are designated under Arkansas law. Combining Body Art, Permanent Cosmetics, and Semi-Permanent Cosmetics along with (not under) Cosmetology provides for greater administrative efficiency for all three licensing programs and industries. ADH is obligated to promulgate the changes enacted by Act 900 of 2021, including the provisions for each of: "Semi-Permanent Cosmetics", accreditation requirements for permanent cosmetic and semi-permanent cosmetic institutions, "Sponsor Educator", restrictions for sponsor educators and where they may instruct students, requirements for continuing education for permanent cosmetics and semi-permanent cosmetics.

Miriam Alvarez

Received oral comment at Public Comment Hearing August 1, 2022

I'm a current student for Beauty, Inc. I would just like to see fairness all the way throughout for the entire community, so we continue to grow as artists and so the industry doesn't go downhill.

AGENCY RESPONSE:

The Arkansas Department of Health is committed to uniform application of the proposed Rules to all licensees and fulfilling our duties to address public health and safety concerns.

Brandy Farmer Birge

Received oral comment at Public Comment Hearing August 1, 2022

Good afternoon. So, I'm not a public speaker. But I'm going to speak loud and clear because this is important to me. I've got some notes, so --good morning. Thank you for having me here. I am the vice-president of Arkansas Association of Permanent Cosmetic Artists. I would like to address a couple of things regarding the sponsor educator rules. The first -- first, the phrase 'sponsor educator' is a bit vague. And it already has caused some confusion. We recommend that this licensure be referred to as 'permanent cosmetic instructors'. This will put this in line with cosmo

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instructors, aesthetics instructors, and with body art instructors. So, in Section 404a7a, the requirements that sponsor educators shall only be licensed to teach at the institution in which the sponsor educator received their training and licensure severely restricts any artist that has the desire to advance their career in becoming an educator. With the current rules, an artist would not be able to have their own institution or choose an institution that they would like to instruct at. In short, these rules truly prohibit career advancement for many of us. Furthermore, and going to Section 302e, the requirement that permanent cosmetic artists must get their continued education at an institution that is licensed by the board should be revised. To limit Arkansas artists the opportunities to truly continue their education, they should be allowed to seminars that further and improve their skills. The goal of this rule should be to help inspire, help advance Arkansas artists in the highest quality of standards and skill available, not just in Arkansas, but nationwide.

AGENCY RESPONSE:

These proposed Rules are to enact the changes made by Act 900 of 2021, which was not based on any proposals by the Arkansas Department of Health. The changes that placed Body Art, Permanent Cosmetics, and Semi-Permanent Cosmetics are designated under Arkansas law. Combining Body Art, Permanent Cosmetics, and Semi-Permanent Cosmetics along with (not under) Cosmetology provides for greater administrative efficiency for all three licensing programs and industries. ADH is obligated to promulgate the changes enacted by Act 900 of 2021, including the provisions for each of: "Semi-Permanent Cosmetics", accreditation requirements for permanent cosmetic and semi-permanent cosmetic institutions, "Sponsor Educator", restrictions for sponsor educators and where they may instruct students, requirements for continuing education for permanent cosmetics and semi-permanent cosmetics.

Ebony Kimbrough

Received oral comment at Public Comment Hearing August 1, 2022

I am the owner of EK Professionals Permanent Cosmetics and Tattoo Institute. I have a few things that I would like to have placed on the public comment. First and foremost, being under the Cosmetology Board tends to cause issues. When inspections are done, they -- we're inspected as if we are cosmetologists or aestheticians. And those two different -- those different -- it's different industries, different way that we label things, different ways that we handle things. The cosmetology board is over massage therapy, cosmetologists, aestheticians, all of the cosmetology schools. Now they're over barber -- now they're over body art, permanent cosmetics, all of the permanent cosmetics schools. And I feel as if the Permanent Cosmetics and the Body Art needs to have their own board. We need to have a board of people who truly understand our industry. And it's my request that it's removed from under cosmetology all together. The second thing in Act 900 is the complete removal of SPMU. There's no breakdown in it. There's actually no need for it. We have aestheticians already. And in permanent cosmetics, all the other things that deals with permanent cosmetics can fall under a permanent cosmetic license. So -- complete removal of the SPMU is -- it's something that I would like to place in the public comments. It's all the same thing. In the actual law now, if I was an instructor and I asked this question to the health department -- so if this law pass, as an instructor who's never taught chemical peels, as an instructor who's never taught anything facial, micro dermabrasion, I don't have to have any training. I can go on YouTube basically and teach my students something that I'm not even familiar with that I don't have

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experience with. So that's the language that's in the SPMU now. Paramedical tattooing, microblading -- all of that should fall under either permanent cosmetics or body art. SPMU, again, completely remove. As far as the opening of the institutions, Act 900, at least 1-9 [sic] of what's required. One of the first things it says is that you have to have accreditation six months prior to opening an institution. As we all know, no one will accredit an institution without them being open. This law was created to create a monopoly that Darren Taylor added in, to create a monopoly so no one was able to open more schools. You will not be able to find an accreditation place that will open a school. There's nothing to accredit if the school is not open. Okay -- so these laws actually need to be asponded [phonetic spelling] upon and this one actually needs to be completely removed. Also, in order for a sponsor educator to obtain an instructor license -- I'm still kind of confused on the language of that. But if a person has to work in a school for the rest of their lives, basically, because there's no -- it doesn't give a -- it's very vague. Again, a monopoly that was created. So, I can come to your school, I can get my instructor training license, but I cannot work anywhere else. This seems unconstitutional, actually. A standard curriculum -- I believe that a standard curriculum developed by experienced artists should be something that we should take into consideration. Because in the laws it has -- it talks about the transfer of hours. If I'm teaching something different than School B down the street, how can we transfer those hours if it's not the same thing? So typically, how transfer of hours works, as we all know, it's something that's similar in education. If we don't have standard in our education, how are we -transferring hours, how are we making sure that everyone is being taught at least the basic fundamentals? And lastly, on microblading. I currently have 47 students who is out of work, and unable to offer microblading services. Microblading should also be placed under Permanent Cosmetics. So microblading currently is illegal, and that law needs to be just completely x'ed out. All right, and that is all that I have for you all.

AGENCY RESPONSE:

These proposed Rules are to enact the changes made by Act 900 of 2021, which was not based on any proposals by the Arkansas Department of Health. The changes that placed Body Art, Permanent Cosmetics, and Semi-Permanent Cosmetics are designated under Arkansas law. Combining Body Art, Permanent Cosmetics, and Semi-Permanent Cosmetics along with (not under) Cosmetology provides for greater administrative efficiency for all three licensing programs and industries. ADH is obligated to promulgate the changes enacted by Act 900 of 2021.

Wilma Young

Received oral comment at Public Comment Hearing August 1, 2022

Good morning. I didn't come with any prepared notes. But I decided I wanted to come in and talk to the board about things that I'd like to address about -- I haven't got a chance to completely read the new law. But my main concern is I attended a permanent cosmetic school, and I want to see -- my concern was we -- it was a paid service -- I mean, it's educational. But transferring our hours to another institution that's -- I don't know if it's legally required that the school itself, the institute, or the school itself is liable for transferring the hours when we feel that we didn't get the total education that we paid for, or the instructions that we had -- that we need to know how to go out and publicly render that service of permanent cosmetics. And during the process of -- it's a broken dream when you're not able to carry on your dream to go out to have your spent many hours at a particular school and you're not able to transfer those hours to another school. It is -- my concern is how do we have a fair hearing about it, or how do

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we -- well, with the state, how do we file a grievance against that school, and how do we apply -- how do we serve that person to make sure that they meet their standards of what the institution supposed to offer the public as schooling. That's my biggest -- that's what I was questioning of --like I said, I didn't read all of the new law yet.

AGENCY RESPONSE:

ADH will review the provisions regarding transferability of training hours between permanent cosmetics institutions, to the extent allowed by Act 900 of 2021.

Princess Gupton

Received oral comment at Public Comment Hearing August 1, 2022

I am a licensed aesthetician of seven years, a PMU artist of almost eight months. One of the things that I wanted to address was the tax on permanent cosmetic service, if there is -- that I feel there shouldn't be a tax. When we looked it up in the system, I think the -- I mean, in the past of the records -- one of the few things -- one of the reasons we saw for it being taxed was so that it wouldn't be -- basically it wouldn't be something that people wanted to do. I can't remember the exact wording of it, but in the industry, we are providing a service. So as an aesthetician, I can do a facial, charge \$50 flatness of service. But if I do a PMU service, I have to charge a tax on it. So, I want that addressed. And I pretty much agree with what the other ladies -- some of the other ladies said as well. When it comes to transferring my -- say I go here three months, and I want to switch to School C for the last three months, how do we know if I learned at School B what I needed to learn to pick up at the next school, creating some form of like Ebony said -- that is standard. It doesn't exist. And also, just remembering that aestheticians are aestheticians because they're aestheticians and PMU artists are PMU artists because they are PMU artists. They study working with needles. Aestheticians, we study skin. When you start crossing things, then that creates a problem, and it also creates blurred lines -- my personal opinion. And really the tax thing was something that I didn't hear addressed that I wanted addressed today.

AGENCY RESPONSE:

ADH will review the provisions regarding transferability of training hours between permanent cosmetics institutions, to the extent allowed by Act 900 of 2021. Taxation rules are under the Arkansas Department of Finance and Administration.

Darren Taylor

Received oral comment at Public Comment Hearing August 1, 2022

My name is Darren Taylor. I'm the owner of Arkansas Permanent Cosmetics Institutes. And I think it's noteworthy that anybody that's listening to this meeting or any of the notes that are made, that a lot of people are unfamiliar with the process of how law becomes law and how rules are drafted after law. And many, if not all, of the concerns that have been brought up by the individuals today are all valid and they have all been addressed. Again, there's already another group that spent almost four months of time invested into going over detail by detail. Each one of these individual steps -- in order to be able to give everybody an opportunity as far as having a voice. Our group, as well as any group, ought to be able to collectively come together for a congenial group of thoughts of everybody. But the -- I do think it's

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noteworthy that there's been unfortunately some people pitted against each other because of false information or inaccurate information. And sometimes it's just individuals who don't understand the process. So, if the process is followed, I believe everybody should be able to have a good representation in what we're seeing reflective in the next law that will apparently come out in the spring of next year. That's what I got.

AGENCY RESPONSE:

No comments requiring response.

Katrina Weir

Received written comments August 2, 2022

As an individual who has benefited from the artistic talents of several tattooists, I am concerned of the proposed upcoming changes to proposed by the AR Department of Health. I appreciate the high standards and the protection to the consumer the standards and the AR DoH aim to provide but I have some concerns of the issues these may raise for not only the tattooists but the consumers as well.

Should changes in laws or regulations occur regarding the services of tattooing and/or piercings occur, the business should be notified immediately by email since this is a quicker method of notification as opposed to the mail service. This not only allows the business to receive the information more quickly but increases protection of the consumer. For example, if the AR DoH learns a particular dye causes a skin reaction, an email gets the information out faster than paper mail. I am not a tattooist (I just enjoy their talent) so this may not be a good example, but hopefully, the point is made.

Next, the topic of apprenticeship. As a seasoned Speech Pathologist, it is crucial we mentor the professionals being birthed into the profession. The profession of tattooing is no different. We cannot live without earning money and neither can they. They should be able to learn a living, while under the supervision of a seasoned tattooist.

Learning that there is no age limit on obtaining a tattoo apprentice license is alarming. An individual cannot get his/her ears pierced under the age of 16 and yet can be an apprentice and permanently etch something into someone's skin. That is an extreme amount of liability for someone that young. This needs to be addressed. I have friends who are tattoo artists and enjoy the stories my tattoos express so this is something dear to my heart. Thank you for your time.

Have a blessed day!

AGENCY RESPONSE:

Regarding the notice to members of the industries, ADH published notice on July 1, 2022 and published a copy of the proposed Rules for Cosmetology, Body Art, Permanent Cosmetics and Semi-Permanent Cosmetics pursuant to the Administrative Procedure Act. Thereafter, ADH submitted copies to all licensees via e-mail, in addition to those that have been previously notified pursuant to mailing lists that those licensees and interested parties had subscribed to, to ensure that all potentially interested parties would have the opportunity to submit comments during the public comment period. Because substantially most of the proposed changes are related to Act 900 of 2021, ADH encourages members of the industry to review the legislation tracking tools found at <https://www.arkleg.state.ar.us/>. The Arkansas Bureau of Legislative Research in recent years has made changes allowing for even more in-depth research and tracking of legislation.

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There is not a minimum age established by Act 900 of 2021, and therefore, concerns or questions for employment of minors are subject to the Department of Labor, their Rules, and applicable laws.

Section 201(e) is a prohibition on individuals that practice any of the fields of cosmetology, body art, permanent cosmetics, or semi-permanent cosmetics is intended to prohibit the practices of these fields without a *practitioner or student* license and is not to prohibit compensation to cosmetology students, body art artists in training, or permanent cosmetics or semi-permanent cosmetics students during their training. ADH will revised the language in Section 201 to clarify this ambiguity.