

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: S3/30/23

A Bill

SENATE BILL 392

5 By: Senator B. Davis
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING BODY ART; TO AMEND
9 THE LAW CONCERNING THE COSMETOLOGY TECHNICAL ADVISORY
10 COMMITTEE; AND FOR OTHER PURPOSES.
11

Subtitle

12
13
14 AN ACT TO AMEND THE LAW CONCERNING BODY
15 ART; AND TO AMEND THE LAW CONCERNING THE
16 COSMETOLOGY TECHNICAL ADVISORY COMMITTEE.
17

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 17-3-102(h)(4), concerning licensing
22 *restrictions based on criminal records, is amended to read as follows:*

23 (4) *Of body artists under § 17-26-601 et seq. who hold a valid*
24 *license on or before July 1, 2024.*
25

26 SECTION 2. *Arkansas Code § 17-26-201(b)(1), concerning the creation*
27 *and members of the Cosmetology Technical Advisory Committee, is amended to*
28 *read as follows:*

29 (b)(1) *The committee shall consist of ~~nine (9)~~ eleven (11) members*
30 *appointed by the State Board of Health to two-year terms.*
31

32 SECTION 3. *Arkansas Code § 17-26-201(c), concerning the creation and*
33 *members of the Cosmetology Technical Advisory Committee, is amended to read*
34 *as follows:*

35 (c) *The committee shall be composed of the following representatives*
36 *from within the cosmetology industry who are at least twenty-five (25) years*



1 of age:

2 (1) One (1) member shall be a licensed cosmetologist actively
3 engaged in practicing the art of cosmetology for at least five (5) years at
4 the time of appointment;

5 (2) One (1) member shall be a licensed nail technician;

6 (3) One (1) member shall be an owner of a licensed school of
7 cosmetology or shall be a director of cosmetology at a state-supported
8 school;

9 (4) One (1) member shall be a licensed aesthetician;

10 (5) *Three (3) members shall represent the cosmetology industry*
11 *at large or a related field;*

12 (6) One (1) member shall ~~represent the permanent and~~
13 ~~semipermanent cosmetic industry~~ be a licensed permanent cosmetic artist
14 actively engaged in the practice of permanent cosmetics for a minimum of five
15 (5) years in the State of Arkansas at the time of the appointment; and

16 (7) One (1) member shall represent the body art industry;

17 (8) One (1) member shall be a licensed tattoo artist actively
18 engaged in the practice of tattooing for a minimum of five (5) years in the
19 State of Arkansas at the time of the appointment;

20 (9) One (1) member shall be a licensed piercing artist actively
21 engaged in the practice of piercing for a minimum of five (5) years in the
22 State of Arkansas at the time of the appointment.

23

24 SECTION 4. Arkansas Code § 17-26-601(1)-(3), concerning the
25 definitions in relation to body art, are amended to read as follows:

26 (1) "Artist" means any person other than a licensed physician
27 who performs body art on a human and is licensed in this state;

28 (2) "~~Artist in training~~ Student artist" means a person who:

29 (A) Is in training under the supervision of an artist
30 ~~trainer instructor or a physician;~~ and

31 (B) Shall not perform body art ~~independently~~ without the
32 supervision of an artist instructor;

33 (3) "Artist ~~trainer instructor~~" means an artist who:

34 (A) Has been licensed by the Department of Health as an
35 artist for at least five (5) years in the specified field of body art in
36 which he or she will offer training;

1 (B) Has worked in a body art establishment licensed by the
2 department for at least five (5) years and been in compliance with department
3 rules governing body artists;

4 (C) Has completed the course required under § 17-26-606;
5 ~~and~~

6 (D) Is a registered instructor for the specified field of
7 body art with the department;

8 (E) Has completed a course in safety and sanitation
9 guidelines and requirements by the department;

10 (F) Shall not exceed a ratio of one (1) instructor to
11 eight (8) students per instruction hour;

12 (G) Is at least twenty-one (21) years of age; and

13 (H) Has completed two hundred and fifty (250)
14 instructional hours from a state approved instructor program if the artist
15 instructor is a permanent cosmetics artist instructor.

16
17 SECTION 5. Arkansas Code § 17-26-601(4), concerning definitions in
18 relation to body art, is amended to read as follows:

19 (4) "Body art" means procedures that include:

20 (A) Tattooing;

21 (B) Permanent cosmetics;

22 (C) Body piercing;

23 ~~(G)~~(D) Branding; or

24 ~~(D)~~(E) Scarification;

25
26 SECTION 6. Arkansas Code § 17-26-601, concerning definitions in
27 relation to body art, is amended to add additional subdivisions to read as
28 follows:

29 (15) "Host" means an individual or business entity, including an
30 event coordinator or manager, responsible for the organization of a
31 convention, tradeshow, or other temporary event that includes a body art
32 demonstration booth;

33 (16) "Institution" means an establishment that is licensed by
34 the department to offer postsecondary education to student artists in
35 training through artist instructors in the field of body art;

36 (17)(A) "Permanent cosmetics" means the application of pigment

1 placed in the skin by a needle or other instrument to beautify the body,
2 including without limitation for the purposes of:

- 3 (A) Scar camouflaging;
- 4 (B) Scalp micropigmentation;
- 5 (C) Pigment lightening;
- 6 (D) Applying permanent eyebrows, including without

7 limitation:

- 8 (i) Microblading; and
- 9 (ii) Manual methods;
- 10 (E) Applying permanent eyeliner;
- 11 (F) Applying permanent lip liner or lip color; and
- 12 (G) Applying three-dimensional nipples and areola.

13 (B) "Permanent cosmetics" does not include tattooing or a
14 tattooing procedure.

15
16 SECTION 7. Arkansas Code § 17-26-602(c), concerning documentation and
17 consent to perform body art on person under eighteen years of age, *is amended*
18 *to read as follows:*

19 *(c) It is unlawful for a person to perform body art on the ~~nipple~~*
20 *areola or genitalia of a person under eighteen (18) years of age regardless*
21 *of parental consent.*

22
23 SECTION 8. Arkansas Code § 17-26-602, concerning documentation and
24 consent to perform body art on persons under eighteen years of age, *is*
25 *amended to add an additional subsection to read as follows:*

26 *(j) A person under eighteen (18) years of age may undergo a permanent*
27 *cosmetics procedure due to a medical necessity if he or she is given medical*
28 *consent from a physician in addition to parental consent.*

29
30 SECTION 9. Arkansas Code § 17-26-603(a)(2), concerning the authority
31 of the Department of Health to license, regulate, and inspect for health
32 hazards of body art establishments, *is amended to read as follows:*

33 *(2) ~~A body art training facility~~ An institution shall be*
34 *licensed by the department as an establishment and as an approved body art*
35 *training ~~facility~~ institution.*

1 SECTION 10. Arkansas Code § 17-26-603(a)(4), concerning the authority
2 of the Department of Health to license, regulate, and inspect for health
3 hazards of body art establishments, is amended to read as follows:

4 (4) The business premises, equipment, procedures, ~~techniques,~~
5 and conditions of those businesses shall be subject to at least one (1)
6 inspection by the department annually.

7
8 SECTION 11. Arkansas Code § 17-26-603(b)(1), concerning the authority
9 of the Department of Health to license, regulate, and inspect for health
10 hazards of body art establishments, is amended to read as follows:

11 (b)(1) The department may adopt appropriate rules regarding the
12 artists, premises, equipment, procedures, ~~techniques,~~ and conditions of
13 establishments which perform procedures subject to this subchapter to assure
14 that the premises, equipment, procedures, ~~techniques,~~ and conditions are
15 aseptic and do not constitute a health hazard.

16
17 SECTION 12. Arkansas Code § 17-26-603(e)(2)(A), concerning the
18 authority of the Department of Health to license, regulate, and inspect for
19 health hazards of body art establishments, is amended to read as follows:

20 (2)(A) The department shall collect a one-time fee of ~~five~~
21 ~~hundred dollars (\$500)~~ two hundred dollars (\$200) per artist licensed in a
22 state other than Arkansas or a country other than the United States who
23 applies for qualifications review by the department.

24
25 SECTION 13. Arkansas Code § 17-26-606 is amended to read as follows:
26 17-26-606. Blood-borne pathogens course.

27 (a)(1) Each artist, artist ~~trainer~~ instructor, and student artist ~~in~~
28 ~~training~~ shall complete United States Occupational Safety and Health
29 Administration blood-borne pathogens training approved by the Department of
30 Health.

31 (2) An approved online course may be used to satisfy the
32 requirement under subdivision (a)(1) of this section.

33 (b) Each artist ~~trainer~~ instructor shall complete the course before
34 training any student artist ~~in training~~.

35 (c) Each student artist ~~in training~~ shall complete the course before
36 applying for the examination required under § 17-26-608.

1 (d)(1) After completion of a first United States Occupational Safety
 2 and Health Administration blood-borne pathogens training approved by the
 3 department, an artist, an artist ~~trainer~~ instructor, and ~~an a student~~ artist
 4 ~~in training~~ shall renew the training annually.

5 (2) A copy of each annual certification under subdivision (d)(1)
 6 of this section shall be submitted to the department with the license
 7 renewal.

8
 9 SECTION 14. Arkansas Code § 17-26-607 is amended to read as follows:
 10 17-26-607. Education of student artist ~~in training~~.

11 (a) An artist ~~trainer~~ instructor shall be a registered instructor in a
 12 ~~school~~ institution licensed by the Department of Health.

13 (b) ~~The department shall develop standards to determine:~~

14 ~~(1) The maximum number of student artists in training in a~~
 15 ~~training facility at any time shall be at a ratio of no more than eight (8)~~
 16 ~~students to one (1) artist instructor per instruction hour; and~~

17 ~~(2) The length of the program in hours and across a range of~~
 18 ~~months.~~

19 (c)(1)(A)(i) During the student artist ~~in~~ training in the fields of
 20 ~~tattooing, body piercing, or permanent cosmetics~~ body art, each student
 21 ~~artist in training~~ shall complete not less than ~~three hundred seventy-five~~
 22 ~~(375)~~ four hundred (400) clock hours of supervised body art work and
 23 classroom instruction in a period not less than six (6) months or more than
 24 twenty-four (24) months in an establishment licensed under § 17-26-603 and §
 25 6-51-601 et seq.

26 (ii) The hours required under subdivision
 27 (c)(1)(A)(i) shall include no more than twenty percent (20%) to be
 28 unsupervised online instruction hours and eighty percent (80%) in person
 29 practical instruction hours.

30 (B) During the student artist training in the field of
 31 branding, each student artist ~~in training~~ shall complete not less than three
 32 hundred seventy-five (375) clock hours of supervised body art work and
 33 classroom instruction in a period not less than six (6) months or more than
 34 twenty-four (24) months in an establishment licensed under § 17-26-603 and §
 35 6-51-601 et seq.

36 (C) ~~Additional~~ A licensed artist wanting to study

1 additional fields of body art training may be added by completing not less
2 than two hundred fifty (250) clock hours of technical and procedural training
3 in each of the other fields of body art in which ~~an a student~~ artist ~~in~~
4 ~~training~~ is to be licensed in no less than an additional four (4) months
5 after completion and licensure for the initial field of study.

6 (D)(i) ~~An A student~~ artist ~~in training~~ studying multiple
7 fields of body art at the same time shall complete the total clock hours ~~of~~
8 all fields in each specific field in not less than ten (10) months for two
9 fields of study and not less than twelve (12) months for three or more fields
10 of study than twenty four (24) months.

11 (ii) A student artist may receive the initial
12 licensure for the first field of study after the first six (6) months,
13 provided the student artist has completed the required hours of supervised
14 body art work and classroom instruction, and the remaining licensure of the
15 additional fields of study upon completion of the requirements in this
16 section.

17 (2)(A) The artist ~~trainer~~ instructor shall maintain a training
18 log of the clock hours completed by the student artist ~~in training~~ on forms
19 approved by the department.

20 (B) The training log shall include without limitation a
21 record of:

- 22 (i) Hours of both theory and practical education;
- 23 (ii) The procedures observed and completed; and
- 24 (iii) A list of resources used for training.

25 (C) The student artist ~~in training~~ shall keep available
26 for inspection a bound record book that is separate from the record book of
27 another artist or student artist ~~in training~~.

28 (D) The completed training log shall be submitted to the
29 department at the time of the practical examination under § 17-26-608.

30 (d) An artist ~~trainer~~ instructor may offer training only in the area
31 in which the artist ~~trainer~~ instructor holds a current license from the
32 department.

33 (e) The department shall adopt a minimum curriculum for each area of
34 body art training that shall be followed by all artist ~~trainers~~ instructors,
35 student artists ~~in training~~, and body art training facilities.

36

1 SECTION 15. Arkansas Code § 17-26-608(a)(1)(A), concerning the
2 examination and fee for an artist in training, is amended to read as follows:

3 (a)(1)(A) Each artist in training seeking licensure as an artist under
4 the rules of the Department of Health shall take a written examination
5 prepared or approved by the department ~~before beginning~~ upon completion of
6 training.

7
8 SECTION 16. Arkansas Code § 17-26-609(c), concerning temporary
9 demonstration licenses, is amended to read as follows:

10 (c)(1) The ~~sponsor~~ host of a body art event for an educational
11 purpose, a trade show, a demonstration, or a combination of an educational
12 purpose, a trade show, and a demonstration of body art procedures where body
13 art is performed shall obtain the necessary permits to conduct business in
14 the jurisdiction in which the event will be held, including without
15 limitation a permit issued by the department.

16 (2) The department shall collect a nonrefundable ~~sponsor~~ host
17 fee of fifty dollars (\$50.00) per artist who performs body art at an event,
18 not to exceed two thousand dollars (\$2,000) per event.

19 (3) In addition to the penalties under § 17-26-602, a ~~sponsor~~
20 host who violates this subsection is subject to closure of the temporary body
21 art event and a penalty not to exceed three (3) times the cost of the permit.
22

23 SECTION 17. Arkansas Code § 17-26-611(a)(5), concerning the
24 prohibitions of the practice of body art, is amended to read as follows:

25 (5) In a procedure area that is not physically and permanently
26 separated from beauty ~~facilities~~ areas with a wall and a door, such as ~~hair~~
27 cosmetology, aesthetics, and nail services; and

28
29 SECTION 18. Arkansas Code Title 17, Chapter 26, Subchapter 7, is
30 repealed.

31
32 ~~Subchapter 7~~

33 ~~—Permanent Cosmetics and Semipermanent Cosmetics~~

34
35 ~~17-26-701. Definitions.~~

36 ~~As used in this subchapter:~~

1 ~~(1) “Artist” means any person other than a licensed physician~~
2 ~~who performs permanent cosmetics or semipermanent cosmetics on a human and is~~
3 ~~licensed in this state;~~

4 ~~(2) “Critical item” means an aspect of operation or condition of~~
5 ~~a facility or equipment that constitutes the greatest hazard to health and~~
6 ~~safety, including imminent health hazards;~~

7 ~~(3) “Establishment” means any place or facility:~~

8 ~~(A) Where permanent cosmetics or semipermanent cosmetics~~
9 ~~is performed; and~~

10 ~~(B) That has an artist licensed in Arkansas on staff;~~

11 ~~(4) “Guest artist” means an artist from a state other than~~
12 ~~Arkansas or a country other than the United States who:~~

13 ~~(A) Holds a license from the permanent cosmetics or~~
14 ~~semipermanent cosmetics regulatory board or agency, if in existence, in that~~
15 ~~state or country; or~~

16 ~~(B) If an artist license is not available in the guest~~
17 ~~artist’s state or country, can submit to the Department of Health evidence of~~
18 ~~professional experience, employment, and education including:~~

19 ~~(i) Proof of blood-borne pathogen certification; and~~

20 ~~(ii) Proof of employment in an establishment for at~~
21 ~~least two (2) years;~~

22 ~~(5) “Institution” means an establishment that is owned by an~~
23 ~~artist and licensed by the department to offer postsecondary education to~~
24 ~~students in the field of permanent cosmetics and semipermanent cosmetics;~~

25 ~~(6) “Paramedical tattooing” means procedures that involve~~
26 ~~repigmentation, including without limitation:~~

27 ~~(A) 3D nipple and areola;~~

28 ~~(B) Scar camouflaging;~~

29 ~~(C) Scalp micropigmentation;~~

30 ~~(D) Microblading;~~

31 ~~(E) Makeup application; and~~

32 ~~(F) Pigment lightening;~~

33 ~~(7) “Permanent cosmetics” means the application of pigment~~
34 ~~placed in the skin by needle or other instruments to beautify the body~~
35 ~~including without limitation:~~

36 ~~(A) Permanent eyebrows;~~

- 1 ~~(B) Permanent eyeliner; and~~
2 ~~(C) Permanent lip liner or color;~~
3 ~~(8) "Repigmentation" means recoloration of the skin, including~~
4 ~~through the use of dermabrasion or chemical peels, sought due to:~~
5 ~~(A) Birthmarks, vitiligo, or other skin conditions that~~
6 ~~result in the loss of melanin to the skin;~~
7 ~~(B) Scarring caused by surgical procedures, including~~
8 ~~without limitation face lifts, mole or wart removal, cauterization, and other~~
9 ~~similar procedures;~~
10 ~~(C) Mastectomy, including recreation of an areola or~~
11 ~~nipple; or~~
12 ~~(D) Blotchy pigmentation;~~
13 ~~(9) "Semipermanent cosmetics" means the application of cosmetic~~
14 ~~products in or on the body to beautify the body, including without~~
15 ~~limitation:~~
16 ~~(A) Repigmentation;~~
17 ~~(B) Microneedling;~~
18 ~~(C) Eyelash extensions;~~
19 ~~(D) Makeup application; and~~
20 ~~(E) Removal of hair through products or instruments which~~
21 ~~do not include waves, rays, or lasers;~~
22 ~~(10) "Sponsor" means an individual or business entity, including~~
23 ~~an event coordinator or manager, responsible for the organization of a~~
24 ~~convention, trade show, or other temporary event that includes a permanent~~
25 ~~cosmetics or semipermanent cosmetics demonstration booth;~~
26 ~~(11) "Sponsor educator" means an individual who:~~
27 ~~(A) Has been certified by the department as an instructor~~
28 ~~of permanent cosmetics and semipermanent cosmetics on or before July 28,~~
29 ~~2021; or~~
30 ~~(B) On and after July 28, 2021, meets the following~~
31 ~~requirements:~~
32 ~~(i) Has completed the education required under § 17-~~
33 ~~26-707; and~~
34 ~~(ii) Is a registered instructor for permanent~~
35 ~~cosmetics or semipermanent cosmetics with the department; and~~
36 ~~(12) "Student" means any person who is enrolled and engaged in~~

1 ~~learning or acquiring knowledge of permanent cosmetics and semipermanent~~
2 ~~cosmetics in an institution under a sponsor educator.~~

3
4 ~~17-26-702. Unlawful to perform permanent cosmetics or semipermanent~~
5 ~~cosmetics on person under 18 years of age — Documentation and consent.~~

6 ~~(a)(1) A person under eighteen (18) years of age shall not undergo~~
7 ~~permanent cosmetics or semipermanent cosmetics unless:~~

8 ~~(A) Written consent is given by the person's parent or~~
9 ~~legal guardian;~~

10 ~~(B) The parent or legal guardian is present during the~~
11 ~~procedure;~~

12 ~~(C) The person to undergo permanent cosmetics and~~
13 ~~semipermanent cosmetics and the parent or legal guardian each provide a valid~~
14 ~~government-issued form of identification that includes a name, date of birth,~~
15 ~~and photo; and~~

16 ~~(D) The parent or legal guardian presents proof of~~
17 ~~guardianship that matches the identification given, including without~~
18 ~~limitation a birth certificate or a court or state record for adoption, legal~~
19 ~~guardianship, emancipation, or a marriage license.~~

20 ~~(2) The artist shall retain for at least two (2) years a copy of~~
21 ~~a photo identification and a proof of guardianship presented under~~
22 ~~subdivision (a)(1) of this section.~~

23 ~~(b) A person shall not perform permanent cosmetics and paramedical~~
24 ~~tattooing on a person under thirteen (13) years of age, regardless of~~
25 ~~parental consent, except when authorized or prescribed by a physician's~~
26 ~~statement.~~

27 ~~(c) Regardless of age, the person receiving the permanent cosmetics~~
28 ~~and semipermanent cosmetics shall attest to the fact that he or she is not~~
29 ~~under the influence of drugs or alcohol.~~

30 ~~(d) Printed and verbal instructions on the care of the skin and the~~
31 ~~permanent cosmetics and semipermanent cosmetics shall be given to each person~~
32 ~~after the procedure, and a copy of the instructions shall be posted in a~~
33 ~~conspicuous place in the establishment.~~

34 ~~(e)(1)(A) In addition to the attestations required in subsections (a)~~
35 ~~and (c) of this section, records shall be kept of all persons receiving~~
36 ~~permanent cosmetics and semipermanent cosmetics and of the parents or legal~~

1 ~~guardians giving consent under the rules promulgated by the Department of~~
2 ~~Health to implement this subchapter.~~

3 ~~(B) If the person to undergo permanent cosmetics and~~
4 ~~semipermanent cosmetics is under eighteen (18) years of age, the record shall~~
5 ~~include the printed legal name and signature of the parent or legal guardian.~~

6 ~~(2) All records shall be retained for at least two (2) years~~
7 ~~from the last date recorded in the bound book.~~

8 ~~(3) All required signatures shall be in ink or digital form, and~~
9 ~~required records shall be available at a reasonable time for examination by~~
10 ~~the department and by local health officials.~~

11 ~~(f)(1) Except as provided in subsections (a)-(e) of this section, it~~
12 ~~is unlawful to perform permanent cosmetics and semipermanent cosmetics on a~~
13 ~~person under eighteen (18) years of age, and any person who pleads guilty or~~
14 ~~nolo contendere to or is found guilty of a violation of this subdivision~~
15 ~~(f)(1) is guilty of a Class A misdemeanor.~~

16 ~~(2) Any person who falsely claims to be the minor's parent or~~
17 ~~legal guardian for the purpose of obtaining permanent cosmetics and~~
18 ~~semipermanent cosmetics for a person under eighteen (18) years of age shall~~
19 ~~be guilty of a Class D felony.~~

20 ~~(3) It is not a defense to a criminal prosecution under~~
21 ~~subdivision (f)(1) of this section that at the time of the offense the person~~
22 ~~who received the permanent cosmetics or semipermanent cosmetics possessed a~~
23 ~~letter of consent from the person's parent or legal guardian if the letter~~
24 ~~was forged or if a person falsely assumed the identity of the minor's parent~~
25 ~~or legal guardian.~~

26 ~~(g)(1) It is unlawful to perform permanent cosmetics or semipermanent~~
27 ~~cosmetics in any unlicensed establishment.~~

28 ~~(2) A person who pleads guilty or nolo contendere to or is found~~
29 ~~guilty of a violation of subdivision (g)(1) of this section is guilty of a~~
30 ~~Class D felony.~~

31 ~~(3) A fine collected under this section, less court fees, shall~~
32 ~~be allocated as follows:~~

33 ~~(A) Fifty percent (50%) to the State of Arkansas;~~

34 ~~(B) Twenty five percent (25%) to the city or county that~~
35 ~~levied and collected the fine; and~~

36 ~~(C) Twenty five percent (25%) to be deposited into the~~

1 ~~State Treasury, credited to the Public Health Fund, and used exclusively for~~
2 ~~permanent cosmetics and semipermanent cosmetics.~~

3
4 ~~17-26-703. Licensure, regulation, and inspection for health hazards.~~

5 ~~(a)(1) An artist who performs permanent cosmetics or semipermanent~~
6 ~~cosmetics shall be licensed by the Department of Health.~~

7 ~~(2) An establishment where artists perform permanent cosmetics~~
8 ~~or semipermanent cosmetics shall be licensed by the department.~~

9 ~~(3) An institution shall be licensed by the department as an~~
10 ~~establishment.~~

11 ~~(4) An artist from a state other than Arkansas or a country~~
12 ~~outside of the United States who holds a license from the permanent cosmetics~~
13 ~~and semipermanent cosmetics regulatory board or agency in that state or~~
14 ~~country may submit an application for qualifications review by the department~~
15 ~~to determine eligibility for a permanent cosmetics and semipermanent~~
16 ~~cosmetics license based upon criteria established by the department.~~

17 ~~(5) The business premises, equipment, procedures, techniques,~~
18 ~~and conditions of those businesses shall be subject to at least one (1)~~
19 ~~inspection by the department.~~

20 ~~(b)(1) The department may adopt appropriate rules regarding the~~
21 ~~artists, premises, equipment, procedures, techniques, and conditions of~~
22 ~~establishments which perform procedures subject to this subchapter to assure~~
23 ~~that the premises, equipment, procedures, techniques, and conditions are~~
24 ~~aseptic and do not constitute a health hazard.~~

25 ~~(2) Any rule affecting establishments in effect on January 1,~~
26 ~~2021, shall remain in effect until the department adopts rules under this~~
27 ~~subchapter.~~

28 ~~(c) Applicants for a license shall file applications upon forms~~
29 ~~prescribed by the department.~~

30 ~~(d) A license shall be issued only for the premises and persons in the~~
31 ~~application and shall not be transferable.~~

32 ~~(e)(1) The department shall levy and collect an annual fee of:~~

33 ~~(A) One hundred fifty dollars (\$150) per facility for~~
34 ~~issuance of a license to an establishment; and~~

35 ~~(B) One hundred dollars (\$100) per artist for issuance of~~
36 ~~a license to an artist.~~

1 ~~(2)(A) The department shall collect a one-time fee of five~~
2 ~~hundred dollars (\$500) per artist licensed in a state other than Arkansas or~~
3 ~~a country other than the United States who applies for qualifications review~~
4 ~~by the department.~~

5 ~~(B) The fee for written and practical exams under § 17-26-~~
6 ~~709 is not required for an applicant under subdivision (e)(2)(A) of this~~
7 ~~section for exams taken to complete requirements established by the~~
8 ~~department.~~

9 ~~(C) Upon satisfactory completion of the requirements by~~
10 ~~the applicant and approval of qualifications established by the department, a~~
11 ~~license for an artist shall be issued to an applicant under subdivision~~
12 ~~(e)(2)(A) of this section.~~

13 ~~(D) The department shall collect the annual artist fee of~~
14 ~~one hundred dollars (\$100) after the issuance of a license under subdivision~~
15 ~~(e)(2)(C) of this section.~~

16 ~~(3) The annual fee for an artist or for an establishment shall~~
17 ~~be based upon the calendar year, January 1 through December 31, with fees for~~
18 ~~any given year due by December 31 of the previous year.~~

19 ~~(4) If the annual fee for an establishment has not been paid by~~
20 ~~March 1 of the calendar year, the establishment shall be closed until a new~~
21 ~~license has been issued by the department and the annual fee has been paid.~~

22 ~~(5)(A) If the annual fee for an artist has not been paid by~~
23 ~~March 1 of the calendar year, the artist shall have his or her license~~
24 ~~suspended for ninety (90) days.~~

25 ~~(B) If an artist has his or her license suspended, he or~~
26 ~~she shall before a license may be reissued within ninety (90) days after the~~
27 ~~suspension.~~

28 ~~(i) Pay a reinstatement fee of one hundred dollars~~
29 ~~(\$100) and pay all overdue licensing fees;~~

30 ~~(ii) Complete a written exam with the department and~~
31 ~~a practical exam in the establishment in which the artist is licensed; and~~

32 ~~(iii) Meet current requirements established by the~~
33 ~~department for artists.~~

34 ~~(C) If an artist whose license is suspended has not met~~
35 ~~the requirements under subdivision (e)(5)(B) of this section within ninety~~
36 ~~(90) days after the suspension, the artist may apply for qualification~~

1 ~~review.~~

2 ~~(6) In addition to the penalty provisions found in this~~
3 ~~subsection, any owner of an establishment or institution operating without a~~
4 ~~current license commits a Class D felony.~~

5 ~~(f) An artist shall complete not less than eight (8) clock hours of~~
6 ~~continuing education at an institution licensed by the State Board of Health~~
7 ~~in order to renew his or her license each year.~~

8 ~~(g) All fees levied and collected under this subchapter are declared~~
9 ~~to be special revenues and shall be deposited into the State Treasury, and be~~
10 ~~used exclusively for permanent cosmetics and semipermanent cosmetics.~~

11 ~~(h) Subject to any rules as may be implemented by the Chief Fiscal~~
12 ~~Officer of the State, the disbursing officer for the department may transfer~~
13 ~~all unexpended funds that pertain to fees collected under this subchapter, as~~
14 ~~certified by the Chief Fiscal Officer of the State, to be carried forward and~~
15 ~~made available for expenditures for the same purpose for any following fiscal~~
16 ~~year.~~

17
18 ~~17-26-704. Local health officials.~~

19 ~~(a) Any city or county department of health may periodically inspect~~
20 ~~establishments on the basis of compliance with state, city, or county~~
21 ~~sanitary regulations.~~

22 ~~(b) The governing body of any municipality or county may adopt by~~
23 ~~ordinance local sanitary regulations of establishments.~~

24
25 ~~17-26-705. No criminal liability.~~

26 ~~This subchapter does not create any liability, criminal or otherwise,~~
27 ~~for a person under eighteen (18) years of age for undergoing permanent~~
28 ~~cosmetics or semipermanent cosmetics.~~

29
30 ~~17-26-706. Blood-borne pathogens course.~~

31 ~~(a)(1) Each artist, instructor, and student shall complete United~~
32 ~~States Occupational Safety and Health Administration blood-borne pathogens~~
33 ~~training approved by the Department of Health on or before December 1, 2022.~~

34 ~~(2) An approved online course may be used to satisfy the~~
35 ~~requirement under subdivision (a)(1) of this section.~~

36 ~~(b) Each instructor shall complete the course before training any~~

1 ~~student.~~

2 ~~(c) Each student shall complete the course before applying for the~~
3 ~~examination required under § 17-26-709.~~

4 ~~(d)(1) After completion of a first United States Occupational Safety~~
5 ~~and Health Administration blood borne pathogens training approved by the~~
6 ~~department, an artist, instructor, and student shall renew the training~~
7 ~~annually.~~

8 ~~(2) A copy of each annual certification under subdivision (d)(1)~~
9 ~~of this section shall be submitted to the department with the license~~
10 ~~renewal.~~

11
12 ~~17-26-707.—Education of student.~~

13 ~~(a) A sponsor educator shall be a registered sponsor educator at an~~
14 ~~institution licensed by the Department of Health.~~

15 ~~(b) The department shall develop standards to determine:~~

16 ~~(1) The maximum number of students in an institution at one (1)~~
17 ~~time; and~~

18 ~~(2) The length of the program in hours and across a range of~~
19 ~~months.~~

20 ~~(c)(1)(A) During the education of the student in permanent cosmetics,~~
21 ~~each student shall complete not less than four hundred (400) clock hours of~~
22 ~~supervised permanent cosmetics education, including not less than one hundred~~
23 ~~fifty (150) hours of supervised on-site work and not less than two hundred~~
24 ~~(200) hours of classroom instruction, in a period not less than six (6)~~
25 ~~months or more than twenty four (24) months in an establishment licensed~~
26 ~~under § 17-26-703.~~

27 ~~(B) During the education of a student in semipermanent~~
28 ~~cosmetics, each student shall complete not less than two hundred (200) clock~~
29 ~~hours of supervised semipermanent cosmetics, including not less than one~~
30 ~~hundred (100) hours of supervised on-site work and not less than fifty (50)~~
31 ~~hours of classroom instruction, in a period not less than six (6) months or~~
32 ~~more than twenty four (24) months in an establishment licensed under § 17-26-~~
33 ~~703.~~

34 ~~(C) Additional modalities of paramedical tattooing may be~~
35 ~~added by completing not less than sixteen (16) clock hours of technical and~~
36 ~~procedural training in each of the fields of paramedical tattooing in which~~

1 ~~the student is to be licensed.~~

2 ~~(D) A student studying multiple fields of permanent~~
3 ~~cosmetics and semipermanent cosmetics at the same time shall complete a total~~
4 ~~of six hundred (600) clock hours of all fields in not less than six (6)~~
5 ~~months or more than twenty four (24) months.~~

6 ~~(2)(A) The sponsor educator shall maintain a training log of the~~
7 ~~clock hours completed by the student on forms approved by the State Board of~~
8 ~~Health.~~

9 ~~(B) The training log shall include without limitation a~~
10 ~~record of:~~

11 ~~(i) Hours of both theory and practical education;~~

12 ~~(ii) The procedures observed and completed;~~

13 ~~(iii) A list of resources used for training;~~

14 ~~(iv) The name, address, phone number, email address,~~
15 ~~and date of birth of the client on whom the procedure is performed;~~

16 ~~(v) The date of the procedure;~~

17 ~~(vi) The name, phone number, and signature of the~~
18 ~~student; and~~

19 ~~(vii) The name and signature of the sponsor educator~~
20 ~~and one (1) administrative member of the institution.~~

21 ~~(C) The student shall keep available for inspection a~~
22 ~~bound record book that is separate from the record book of another artist or~~
23 ~~artist in training.~~

24 ~~(D) The completed training log shall be submitted to the~~
25 ~~board at the time of the practical examination under § 17-26-709.~~

26 ~~(3) In order to graduate from an institution, a student shall~~
27 ~~complete three (3) procedures in each area of the face by using the~~
28 ~~equipment.~~

29 ~~(d)(1) During the education of an artist to become a sponsor educator,~~
30 ~~each artist shall complete not less than six hundred (600) clock hours of a~~
31 ~~supervised instructor program, including not less than one hundred (100)~~
32 ~~hours of teaching observation, two hundred (200) hours of theory, one hundred~~
33 ~~fifty (150) hours of procedure observation, and one hundred fifty (150) hours~~
34 ~~of practice teaching.~~

35 ~~(2) A person shall not identify as a sponsor educator until~~
36 ~~licensed or certified under this subchapter.~~

1 ~~(3) A licensure or certification of a sponsor educator is only~~
2 ~~valid at the institution in which the licensure or certification is received.~~

3 ~~(4) A sponsor educator may offer training only in the area in~~
4 ~~which the sponsor educator holds a current license from the department.~~

5 ~~(e) The department shall adopt a minimum curriculum for each area of~~
6 ~~permanent cosmetics and semipermanent cosmetics training that shall be~~
7 ~~followed by all sponsor educators, students, and institutions.~~

8
9 ~~17-26-708. Institutions.~~

10 ~~(a) The Department of Health may grant licensure to an institution if~~
11 ~~the owner of the institution submits:~~

12 ~~(1) The address and phone number of the institution;~~

13 ~~(2) Proof of accreditation within the previous six (6) months;~~

14 ~~(3) The floor plan of the institution to ensure adequate space~~
15 ~~for fundamental teaching and hands-on laboratory instruction;~~

16 ~~(4) The name, contact information, work experience, and license~~
17 ~~information for all sponsor educators teaching at the institution;~~

18 ~~(5) The background and resume of the owner;~~

19 ~~(6) Proof of registration and good standing with the Secretary~~
20 ~~of State under the name of the institution;~~

21 ~~(7) Proof of malpractice or liability insurance;~~

22 ~~(8) A detailed curriculum to be approved by the department; and~~

23 ~~(9) A licensure fee of eight hundred fifty dollars (\$850).~~

24 ~~(b) Once licensed by the department, the institution shall:~~

25 ~~(1) Maintain daily records of the student's time which shall be~~
26 ~~accessible by the student and the department;~~

27 ~~(2) Ensure that hours on the transcript are transferable with~~
28 ~~all institutions within this state;~~

29 ~~(3) Provide:~~

30 ~~(A)(i) A certified transcript to a student or the~~
31 ~~department upon request.~~

32 ~~(ii) The institution may charge a student no more~~
33 ~~than twenty five dollars (\$25.00) per copy and shall provide the copy within~~
34 ~~two (2) business days; and~~

35 ~~(B)(i) A copy of the enrollment agreement between the~~
36 ~~institution and the student to the department.~~

1 ~~(ii) The enrollment agreement may be adjusted at any~~
2 ~~time with a thirty-day written notice and supporting documentation submitted~~
3 ~~to the department; and~~

4 ~~(4) Submit a renewal fee of one hundred dollars (\$100).~~

5 ~~(e) An institution that does not comply with this section is subject~~
6 ~~to:~~

7 ~~(1) A fine not to exceed one thousand dollars (\$1,000) per~~
8 ~~violation;~~

9 ~~(2) Reimbursement or refund to a student of no less than fifty~~
10 ~~percent (50%) of tuition per student; or~~

11 ~~(3) Permanent closure of the institution.~~

12 ~~(d) An institution that does not comply with or breaches the~~
13 ~~enrollment agreement between the institution and the student is subject to:~~

14 ~~(1) A fine not to exceed five hundred dollars (\$500) per~~
15 ~~violation;~~

16 ~~(2) Reimbursement or refund to a student of no less than fifty~~
17 ~~percent (50%) of tuition per student; or~~

18 ~~(3) Permanent closure of the institution.~~

19 ~~(e)(1) An institution that proposes to offer distance learning shall~~
20 ~~provide a detailed curriculum of the course of study with supporting~~
21 ~~materials and digital testing methods.~~

22 ~~(2) The department shall not license an institution for distance~~
23 ~~learning if the institution is unable to administratively support off-campus~~
24 ~~education.~~

25 ~~(3) A student may take a permanent cosmetics and semipermanent~~
26 ~~cosmetics kit or machine, or both, home to be able to practice remotely~~
27 ~~through institutions approved for distance learning.~~

28 ~~(f)(1) An institution may utilize guest artists and guest educators~~
29 ~~for courses.~~

30 ~~(2) A guest artist shall:~~

31 ~~(A) Pay a fee of five hundred dollars (\$500) to perform~~
32 ~~billable services in this state; and~~

33 ~~(B) Apply for a license in this state that has to be valid~~
34 ~~for no more than fourteen (14) consecutive days.~~

35 ~~(3) A guest educator shall not perform billable services and~~
36 ~~shall be regulated under the authority of the institution.~~

1 ~~(g)(1) An institution in operation on July 28, 2021, shall submit all~~
2 ~~documentation indicated in this section to the department and comply with all~~
3 ~~laws and rules within ninety (90) days to remain in operation.~~

4 ~~(2) An institution that does not become compliant within ninety~~
5 ~~(90) days is subject to immediate closure until the institution comes into~~
6 ~~compliance.~~

7
8 ~~17-26-709. Examination—Fee.~~

9 ~~(a)(1)(A) Each student seeking licensure as an artist under the rules~~
10 ~~of the Department of Health shall take a written and practical examination~~
11 ~~prepared or approved by the department after completion of education~~
12 ~~requirements.~~

13 ~~(B) Upon completion of the hours required under § 17-26-~~
14 ~~707, a practical examination shall be conducted by the department in each~~
15 ~~field of training for which the student is seeking licensure.~~

16 ~~(2) Until a student receives a passing grade on the written and~~
17 ~~practical examination, a student shall not:~~

18 ~~(A) Be licensed as an artist;~~

19 ~~(B) Hold himself or herself out as a licensed artist; or~~

20 ~~(C) Independently perform a permanent cosmetics or~~
21 ~~semipermanent cosmetics procedure without the supervision of a sponsor~~
22 ~~educator.~~

23 ~~(b) The department shall levy and collect a nonrefundable fee of fifty~~
24 ~~dollars (\$50.00) from each student who applies to take the written and~~
25 ~~practical examinations required under this section for licensure as an~~
26 ~~artist.~~

27 ~~(c) A fee collected under this section shall be deposited into the~~
28 ~~State Treasury, credited to the Public Health Fund, and used exclusively for~~
29 ~~permanent cosmetics and semipermanent cosmetics.~~

30
31 ~~17-26-710. Temporary demonstration license.~~

32 ~~(a) The Department of Health may issue a temporary demonstration~~
33 ~~license to an artist or establishment or to a supplier of materials for~~
34 ~~permanent cosmetics and semipermanent cosmetics for:~~

35 ~~(1) Educational purposes where permanent cosmetics and~~
36 ~~semipermanent cosmetics are performed;~~

1 ~~(2) Trade shows where permanent cosmetics and semipermanent~~
2 ~~cosmetics are performed;~~

3 ~~(3) Demonstrations of permanent cosmetics and semipermanent~~
4 ~~cosmetics products or procedures; and~~

5 ~~(4) An appearance as a guest artist.~~

6 ~~(b) A temporary demonstration license shall be valid for no more than~~
7 ~~fourteen (14) consecutive calendar days.~~

8 ~~(c)(1) The sponsor of a permanent cosmetics and semipermanent~~
9 ~~cosmetics event for an educational purpose, a trade show, a demonstration, or~~
10 ~~a combination of an educational purpose, a trade show, and a demonstration of~~
11 ~~permanent cosmetics or semipermanent cosmetics procedures where permanent~~
12 ~~cosmetics and semipermanent cosmetics are performed shall obtain the~~
13 ~~necessary permits to conduct business in the jurisdiction in which the event~~
14 ~~will be held, including without limitation a permit issued by the department.~~

15 ~~(2) The department shall collect a nonrefundable fee of fifty~~
16 ~~dollars (\$50.00) per artist who performs permanent cosmetics and~~
17 ~~semipermanent cosmetics at an event, not to exceed two thousand dollars~~
18 ~~(\$2,000) per event.~~

19 ~~(3) In addition to the penalties under § 17-26-702, a sponsor~~
20 ~~who violates this subsection is subject to closure of the temporary permanent~~
21 ~~cosmetics and semipermanent cosmetics event and a penalty not to exceed three~~
22 ~~(3) times the cost of the permit.~~

23 ~~(d) The department shall levy and collect a nonrefundable fee of fifty~~
24 ~~dollars (\$50.00) from a guest artist for a temporary demonstration license.~~

25 ~~(e)(1) An application for a temporary demonstration license shall be~~
26 ~~submitted to the department not less than forty-five (45) days before the~~
27 ~~event for educational purposes, trade show, or demonstration of permanent~~
28 ~~cosmetics and semipermanent cosmetics products and procedures where permanent~~
29 ~~cosmetics and semipermanent cosmetics are performed.~~

30 ~~(2) An application for a temporary demonstration license shall~~
31 ~~be submitted to the department not less than seven (7) days before the~~
32 ~~appearance of a guest artist.~~

33 ~~(3) An artist shall provide evidence of completion of United~~
34 ~~States Occupational Safety and Health Administration blood-borne pathogens~~
35 ~~training with the application.~~

36 ~~(f)(1) A person applying for a temporary demonstration license to~~

1 ~~appear as a guest artist shall provide documentation of licensure as an~~
2 ~~artist in another state or country or employment history in an establishment~~
3 ~~licensed by the regulatory board or agency in another state or country before~~
4 ~~the temporary demonstration license may be granted.~~

5 ~~(2) The establishment where the guest artist is appearing shall~~
6 ~~have a licensed artist on its staff.~~

7 ~~(3) A guest artist may be issued a temporary demonstration~~
8 ~~license to appear as a guest artist no more than one (1) time every three (3)~~
9 ~~months.~~

10 ~~(g) A fee levied and collected under this section is special revenue~~
11 ~~and shall be deposited into the State Treasury, to be credited to the Public~~
12 ~~Health Fund to be used exclusively for permanent cosmetics and semipermanent~~
13 ~~cosmetics.~~

14
15 ~~17-26-711. Critical items for closure of establishment.~~

16 ~~(a) The Department of Health shall create and publish a list of~~
17 ~~critical items for closure of an establishment.~~

18 ~~(b)(1) An establishment that violates a critical item from the list~~
19 ~~established under subsection (a) of this section is subject to immediate~~
20 ~~closure by the department.~~

21 ~~(2) An establishment closed under subdivision (b)(1) of this~~
22 ~~section shall remain closed until:~~

23 ~~(A) Fines or penalties, or both, assessed under this~~
24 ~~subchapter have been paid; and~~

25 ~~(B) Upon inspection by the department, the establishment~~
26 ~~is no longer in violation of a critical item.~~

27
28 ~~17-26-712. Prohibitions.~~

29 ~~(a) Permanent cosmetics and semipermanent cosmetics are prohibited:~~

30 ~~(1) On a person who is inebriated or appears to be incapacitated~~
31 ~~by the use of alcohol or drugs;~~

32 ~~(2) On a person who shows signs of recent intravenous drug use;~~

33 ~~(3) On an area with sunburn, open lesions, rashes, or wounds;~~

34 ~~(4) With the use of a product or ink banned or restricted by the~~
35 ~~United States Food and Drug Administration; and~~

36 ~~(5) On an animal in a facility licensed for the application of~~

~~permanent cosmetics or semipermanent cosmetics on human beings.~~

~~(b)(1) A person shall not sell an instrument of permanent cosmetics or semipermanent cosmetics to a person within this state who is not licensed as an artist by the Department of Health.~~

~~(2)(A) A violation of subdivision (b)(1) of this section is a Class A misdemeanor.~~

~~(B) Each violation of subdivision (b)(1) of this section is a separate offense.~~

~~(c)(1) Possession of an instrument of permanent cosmetics or semipermanent cosmetics by a person within this state who is not licensed as an artist or registered student by the department is prohibited.~~

~~(2)(A) A violation of subdivision (c)(1) of this section is a Class A misdemeanor.~~

~~(B) Each violation of subdivision (c)(1) of this section is a separate offense.~~

~~(d) A fine collected under this section, less court fees, shall be allocated as follows:~~

~~(1) Fifty percent (50%) to the State of Arkansas;~~

~~(2) Twenty five percent (25%) to the city or county that levied and collected the fine; and~~

~~(3) Twenty five percent (25%) to be deposited into the State Treasury, credited to the Public Health Fund, and used exclusively for permanent cosmetics and semipermanent cosmetics.~~

~~17-26-713. Penalties.~~

~~(a) An artist who violates this subchapter or rules adopted by the Department of Health pertaining to permanent cosmetics or semipermanent cosmetics commits a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) for each offense.~~

~~(b) After notice of a violation has been given, each violation of this subchapter constitutes a separate offense unless another penalty is specifically provided in this subchapter.~~

/s/B. Davis

APPROVED: 4/11/23