

STATEMENT OF SCOPE

Department of Health Services (DHS)

Rule No.: Chapters DHS 173 and 140

Relating to: Tattooing and Body Piercing

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

2015 Wisconsin Act 55 transferred responsibility for regulating tattoo and body piercing practitioners and establishments from the Department of Health Services (DHS) to the Department of Safety and Professional Services (DSPS), effective January 1, 2016. The department proposes modifying DHS 173, Tattooing and Body Piercing, to align the rule with DSPS's licensing and other administrative processes and establish procedures for contracting with local health agents to inspect tattoo and body piercing establishments. The proposed revision will also modernize the rule, as needed, to reflect current practice for protecting public health in tattoo and body piercing establishments.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

DHS 173 establishes licensing and enforcement provisions for tattoo and body piercing establishments, including preinspection, routine inspection and reinspection requirements. The rule includes standards of practice for tattooists and body piercers, hygienic practices, equipment sanitation and facility requirements for tattoo and body-piercing establishments. Wisconsin state law (s.252.245, Stats.) also allows the department to contract with local health agents to inspect tattoo and body-piercing establishments. The department is required to conduct an annual evaluation of the licensing, investigation, and inspection practices of any local health agent under contract with the department to inspect tattoo and body piercing establishments. DHS 173 has remained substantially unchanged since it was first adopted in 1998.

2015 Wisconsin Act 55 transfers responsibility for administering the tattooing and body piercing program from DHS to DSPS effective January 1, 2016. It also authorized DSPS to contract with local health agents to inspect tattoo and body-piercing establishments. Approval of this scope statement will allow DHS and DSPS, working in consultation with industry representatives and public health officials, to begin to review and revise DHS 173, along with sections of DHS 140 that relate to contracting with local health agents to inspect tattoo and body piercing establishments, prior to the program's transfer.

If the rule is not updated, it will contain references that are inconsistent with DSPS administrative processes, potentially causing confusion for Wisconsin's tattooing and body piercing industry and for

local health agents who currently contract with DHS to inspect tattoo and body piercing establishments. Without revision, the rule also may not reflect current practice for protecting public health and safety in tattoo and body piercing facilities.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language): The department has authority for promulgating rules related to tattoo and body piercing establishments under ss. 252.23 (4) and 252.24 (4), Stats., as follows:

252.23 (4)- Regulation of tattooists.

252.23 (4) RULE MAKING. The department shall promulgate all of the following as rules:

(a) Except as provided in ss. 250.041 and 252.241 and subject to sub. (4m), standards and procedures, including fee payment to offset the cost of licensing tattooists and tattoo establishments, for the annual issuance of licenses as tattooists or as tattoo establishments to applicants under this section. The department may not promulgate a rule that imposes a fee for a license under sub. (3) on an individual who is eligible for the veterans fee waiver program under s. 45.44.

(b) Standards for the performance of tattoos by a licensed tattooist and for the maintenance of a licensed tattoo establishment, which will promote safe and adequate care and treatment for individuals who receive tattoos and eliminate or greatly reduce the danger of exposure by these individuals to communicable disease or infection.

252.24 (4) Regulation of body piercing and body-piercing establishments.

252.24 (4) RULE MAKING. The department shall promulgate all of the following as rules:

(a) Except as provided in ss. 250.041 and 252.241 and subject to sub. (4m), standards and procedures, including fee payment to offset the cost of licensing body piercers and body-piercing establishments, for the annual issuance of licenses as body piercers or as body-piercing establishments to applicants under this section. The department may not promulgate a rule under which the department may charge an individual who is eligible for the veterans fee waiver program under s. 45.44 a fee to obtain a license under sub. (3).

(b) Standards for the performance of body piercing by a licensed body piercer and for the maintenance of a licensed body-piercing establishment, which will promote safe and adequate care and treatment for individuals who receive body piercing and eliminate or greatly reduce the danger of exposure by these individuals to communicable disease or infection.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

240 hours.

6. List with description of all entities that may be affected by the proposed rule :

The proposed rule revision will benefit tattoo and body piercing establishment owners and operators by ensuring the rule reflects appropriate licensing and administrative procedures. It will benefit consumers by ensuring the rule reflects current practices protecting public health in tattoo and body piercing establishments.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

There are no federal regulations governing tattooing or body piercing practices.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

This rule is not anticipated to result in revisions that will have a negative economic impact on business. It will not have a significant economic impact on small businesses.

Contacts:

Jim Kaplanek, Chief, Food Safety and Recreational Licensing, Department of Health Services
(608) 261-8361