

STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No.: Chapter SPS 221

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 (DPS), effective January 1, 2016. The department proposes modifying SPS 221, Tattooing and Body Piercing, to align the rule with DPS'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 and safety in tattoo and body piercing establishments, as well as to ensure the rules set adequate standards of practice for tattooists and body piercers.

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:

SPS 221 establishes licensing and enforcement provisions for tattoo and body piercing establishments, including pre-inspection, 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 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. SPS 221 has remained substantially unchanged since it was first adopted in 1998 as DHS 173.

2015 Wisconsin Act 55 transferred responsibility for administering the tattooing and body piercing program from DHS to DPS effective January 1, 2016. It also authorized DPS to contract with local health agents to inspect tattoo and body-piercing establishments. Approval of this scope statement will allow DPS, working in consultation with industry representatives and public health officials, to begin to review and revise SPS 221.

If the rule is not updated, it will contain references that are inconsistent with DPS administrative processes, potentially causing confusion for Wisconsin's tattooing and body piercing industry and for local health agents who currently contract 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, or adequately set standards of practice for tattooists and body piercers.

4. Detailed explanation of statutory authority for the rule :

Section 440.03 (1), Stats., “The department may promulgate rules defining uniform procedures to be used by the department, the real estate appraisers board, and all examining boards and affiliated credentialing boards attached to the department or an examining board, for receiving, filing and investigating complaints, for commencing disciplinary proceedings and for conducting hearings.”

Section 463.10 (4), Stats., “The department shall promulgate all of the following as rules:

(a) Except as provided in s. 463.14 and subject to sub. (4m), standards and procedures for the annual issuance of licenses as tattooists or as tattoo establishments to applicants under this section.

(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.”

Section 463.12 (4), Stats., “The department shall promulgate all of the following as rules:

(a) Except as provided in s. 463.14 and subject to sub. (4m), standards and procedures for the annual issuance of licenses as body piercers or as body-piercing establishments to applicants under this section.

(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.”

Section 463.16, Stats., “(1) In the administration and enforcement of ss. 463.10 and 463.12, the department may enter into a written agreement with a local health department with a jurisdictional area that has a population greater than 5,000 that designates the local health department as the department's agent in issuing licenses to and making investigations or inspections of tattooists and tattoo establishments and body piercers and body-piercing establishments. In a jurisdictional area of a local health department without agent status, the department of safety and professional services may issue licenses, collect license fees established under s. 440.03 (9), and make investigations or inspections of tattooists and tattoo establishments and body piercers and body-piercing establishments. If the designation is made and the services are furnished, the department of safety and professional services shall reimburse the local health department furnishing the service at the rate of 80 percent of the net license fee per license per year issued in the jurisdictional area.

(2) A local health department designated as the department's agent under this section shall meet standards promulgated under ss. 463.10 (4) (a) and 463.12 (4) (a). The department shall annually evaluate the licensing, investigation and inspection program of each local health department granted agent status. If, at any time, a local health department designated as the department's agent fails to meet the standards, the department of safety and professional services may revoke its agent status.”

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

150 hours.

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

Tattoo and body piercing establishment owners, employees, consumers, and local health departments.

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.

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