

Arkansas Occupational Licensing Review Committee Questionnaire for Cosmetology Occupational Licensure

ADH Cosmetology, Massage Therapy and Body Art Section

1. *Would consumers be at risk of substantial harm if Arkansas did not have this occupational authorization? What instances of specific and substantial harm have been documented in the past year?*

Yes, consumers would be at risk of substantial harm if the State of Arkansas did not have this occupational authorization. Cosmetology is one of the few occupations that require direct person to person contact, including, but not limited to, the use of chemicals and preparations to be applied to the skin and scalp, the use of sharps, glues, and other appropriate tools where the public may be harmed from the improper use or failure of protection from the potential fumes and other environmental safety concerns. Notable dangers and concerns include infections, such as fungus, folliculitis, impetigo, ringworm, lice, mycobacterium, MRSA, conjunctivitis, and staph, in addition to risks of chemical burns, improper application of hot wax, use of tools that have not been properly sanitized in between clients, and use of products and chemicals that have not been approved by the State of Arkansas or the U.S. Food and Drug Administration.

To ensure the safety of the licensee and the public, the cosmetology occupation is commonly regulated across the states for health and safety practices. We have received complaints against individuals practicing cosmetology, manicuring and aesthetics and not licensed by the Arkansas Department of Health (“ADH”) or engaging in practice outside the training and certifications the artist has received. The complaints alleged unlicensed and unauthorized individuals performed unsafe procedures to individuals in the public, and alleged licensed artist who are engaging in practices outside the scope of their licensure and without the required proper training for those practices. This can cause serious harm to the public because these individuals did not have the proper training, experience, and requirements to provide sanitary and safe services on the public free from harm.

2. *How many complaints were made to the occupational entity by consumers being harmed by unauthorized practitioners? What specific action was taken by the occupational entity?*

Three complaints were received for unlicensed individuals harming the public within the past year, and 12 of the 14 complaints referenced in Question #3 are complaints for licensed individuals practicing outside the scope of their training and certifications. The Cosmetology Section performed the appropriate complaint investigations were given to the individuals for working without a license, and when applicable referred the investigations to the local prosecuting attorney for criminal violations.

3. *How many complaints were made to the occupational entity by consumers being harmed by authorized practitioners? What specific action was taken by the occupational entity?*

Fourteen complaints were received on licensed practitioners. The Cosmetology Section performed complaint investigations and determined or identified that eight of the complaints

were found to be substantiated, five of the complaints were found to be unsubstantiated, and the final complaint was regarding an issue for which the Section did not have authority to address and the complaint and investigation information was referred to the appropriate licensing board.

4. *Were any applicants who otherwise met authorization requirements denied an authorization in the past year? If so, why?*

The Cosmetology Section is not aware of any applicants whose license were denied and who otherwise met licensing requirements. Applicants are made aware of the requirements for licensure. If an individual meets all requirements and standards within the law and the Rules for Cosmetology, Body Art, Permanent Cosmetics, and Semi-Permanent Cosmetics, then the applicant receives their license.

5. *How much does the occupational entity collect annually in fees, and what are annual expenses? How much money does the occupational entity have in reserves?*

ADH has collected \$1,074,940 dollars during the 2022 fiscal year in Cosmetology fees. Projected annual expenses for FY 2023 is \$1,061,155 dollars. Cosmetology currently has \$5,494,883 dollars in reserves.

The Cosmetology Board was a standalone Board prior to 2009. Because the Cosmetology Board was insolvent, it raised fees in 2008. In 2009, Act 4 and Act 381 abolished the standalone Cosmetology Board and transformed it into the Cosmetology Technical Advisory Committee overseen by ADH. Because of the fee increase in 2008, a reserve began to build in the following years. Once ADH realized it was not an anomaly, ADH started looking at reducing fees. In 2012, ADH reduced fees by 50% in 2012 for all practitioners. In 2020, ADH again reduced licensing fees including those for schools, salons, and mobile salons.

As a result, the reserve has flatlined over the past three years and has been utilized in recent years as described in Question #6. ADH continues to evaluate fees regarding Cosmetology and anticipates potential further fee reductions in the future to reduce the current flatlined reserve. However, pursuant to Legislative Act 900 from the 2021 Regular Session of the General Assembly, the Cosmetology Section of ADH now administers licensure, inspections, and investigations for body art, permanent cosmetics, and semi-permanent cosmetics. Employees/Inspectors will be cross trained in both industries. At this time, Cosmetology cannot readily anticipate its administrative costs for this new workload and requires additional time to assess the potential financial demands due to the additional regulatory responsibilities which is part of future fee reduction analyses.

6. *If the occupational entity has a positive amount in reserves, when was the last time reserve funds were used? For what purpose?*

In 2018 and 2019, the Cosmetology Section utilized reserve funds for educational programming for licensees and establishment owners, including a focus in coordination with minority health missions within ADH. While ADH was unable to continue these specific programs during the COVID pandemic, the Cosmetology Section provided additional educational programs to safely continue engaging in cosmetology practices during the

pandemic and the appropriate safety and sanitary practices for the public to resume receiving services. ADH is also preparing to resume these educational programs and recommended sanitary tools and practices to be presented within each region across the state during the coming years and expand to other needs/missions for the benefit of the industry as a whole in the state.

Additionally, after 2015 when the administration of the Massage Therapy licensure was transferred to ADH, the Cosmetology Inspectors were cross trained to assist with inspections for massage therapy clinics. The inspectors were paid from of the Cosmetology Section fund to cover the deficit from the Massage Therapy funds. In 2021, administration of the licensure, inspections, and investigations for body art, permanent cosmetics, and semi-permanent cosmetics was placed within the Cosmetology Section, the Cosmetology Inspectors have now been cross trained for body art, permanent cosmetics, and semi-permanent cosmetics as well. The Cosmetology Section is increasing efficiency for electronic licensure and inspection management for cosmetologists and establishments and incorporating the administration and management of electronic licensure application and renewal for body art, permanent cosmetics, and semi-permanent cosmetics to allow for ease of use for practitioners to apply, update, and renew each licensure type quickly and efficiently.

7. *Does the occupational entity have any other sources of revenue? Could occupational authorization fees be reduced without causing the occupational entity to be underfunded?*

The Cosmetology Section does not receive revenue from any other sources. Please note expenses and anticipated needs noted under response to Question #5.

8. *How many applicants for the occupational authorization fail each year? Does the occupational entity track how many applicants that do not progress are veterans, women, or minorities?*

The Cosmetology Section does not track this information.

9. *Can applicants complete the training requirements for this occupational authorization with vocational or non-traditional education (e.g., apprenticeships)? What percentage of applicant's complete apprenticeships?*

To be licensed as a cosmetologist in Arkansas, an applicant must attend and complete a program from an Arkansas Licensed School of Cosmetology or Postsecondary School of Cosmetology.

10. *In what ways would removal of the occupational authorization or reduction of occupational authorization requirements be harmful to current authorization holders?*

Licensure ensures that cosmetologist, manicurist and aestheticians in Arkansas meet the standards and education requirements needed to protect the public and licensees in the state properly. Licensure also protects the public by providing a review of complaints and implementation of disciplinary actions. Through licensure verification, citizens and entities can ensure that the individual has met all requirements to practice cosmetology, manicuring and aesthetics and have the training, knowledge, and experience to provide safe services to their clients. The reduction in requirements would put the citizens of Arkansas at harm because

the cosmetologist, manicurist and aestheticians would not have the proper training to perform services in a safe and sanitary way.

Public health and safety concerns for potential harm addressed by this licensure and the training requirements include the proper and improper use of chemicals on the skin and hair, sanitary methods of skin puncturing by aestheticians and cosmetologists, and the sanitary practices of manicurists. Notable dangers and concerns include infections, such as fungus, folliculitis, impetigo, ringworm, lice, mycobacterium, MRSA, conjunctivitis, and staph, in addition to risks of chemical burns, improper application of hot wax, use of tools that have not been properly sanitized in between clients, and use of products and chemicals that have not been approved by the State of Arkansas or the U.S. Food and Drug Administration. The training and licensure required for the cosmetology occupation should not be reduced or eliminated as it helps protect the public from these potential dangers and concerns from unlicensed practitioners and licensed practitioners engaging in procedures outside the scope of the training and certifications.