

State of New Hampshire

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION

7 Eagle Square, Suite 200
Concord, N.H. 03301-2412
Telephone 603-271-2152

Lindsey B. Courtney
Executive Director



FP 2021-109, Plc 405 Microblading Certificate Summary of Comments on Initial Proposal with OPLC Responses December 8, 2021

Background

Plc 405 was adopted in September as an interim rule to establish criteria and procedures for individuals who are New Hampshire licensed estheticians or cosmetologists to obtain certification to perform microblading and the duties of those who are certified. Plc 405 is scheduled to expire March 1, 2022, so the rules in Plc 405 are proposed to be readopted with amendments as regular rules. Amendments are proposed to add certain provisions and clarify the requirements, as explained in more detail in the Rulemaking Notice published October 21, 2021 in the *NH Rulemaking Register*.

No one from the Advisory Board of Body Art Practitioners or the public attended the public hearing held on November 17, 2021, and no written comments were received from the advisory board or the public. Written comments were received from the Office of Legislative Services, Administrative Rules office (OLS); those comments and the OPLC's responses are summarized below in numerical order.

Note that the OPLC has determined that the standard of proof for revocation of a license should be clear and convincing, not just a preponderance, and so has made that change to Plc 405.08(e).

OLS Comments

Plc 405.04 and Plc 405.05 re: application forms

Comment: *"**Note to agency.** Please provide a copy of both the initial and renewal application forms for OLS review. If the applications only exist on-line screen shots are sufficient." (Bold in original.)*

Response: Draft copies of the new forms are being filed with the FP.

Plc 405.04(b)(2) and Plc 405.0405(c)(2) re: application processing fee

Comment: *"**Unclear.** Plc 1002 does not yet contain such a fee."* (Bold in original.)

Response: The application processing fees will be established in Plc 1002, so no other rule can be cited. The OPLC has initiated a rulemaking, by filing an FIS Request, to adopt an Interim rule

to establish the fee for microblading certificates. The OPLC expects the Proposed Interim Rule will be filed for review by the JLCAR in January.

Plc 405.08 re: initiation of investigations; disciplinary proceedings

Comment 1 [re: paragraph (b)]: “ **Unclear.** It is unclear whether the Board makes the decision that the evidence is credible or whether it is the OPLC investigator.” (**Bold** in original.)

Response 1: The rule has been revised to clarify that the Executive Director makes the finding.

Comment 2 [re: the phrase “If the hearing conducted in accordance with (b), above, proves” in paragraphs (c), (e), and (g)]: “ **Unclear/Edit.** A hearing officer makes this determination. Not the hearing itself. Here, (e), and (g) below.” (**Bold** in original.)

Response 2: The rule has been revised to clarify this language.

Comment 3 [re: subparagraphs (c)(1)-(2), (e)(1)-(2), and (g)(1)-(2)]: “ **Edit.** [change “The” to] “When the”. ” (**Bold** in original.)

Response 3: The lead-in to these subparagraphs is “...the OPLC shall revoke the microblading certificate **if**, for [each/any] such violation.” (emphasis added). Adding “When” to the subparagraphs would cause the subparagraphs to be grammatically incorrect. This change has not been made.

Edits made: Plc 405.05(a)