

Tennessee State Board of Cosmetology and Barber Examiners

Frequently Asked Questions re: AG Opinion No. 17-31, April 20, 2017

This FAQ is based off of Tennessee Attorney General’s Opinion 17-31. Like that opinion, this FAQ “assumes and is limited to the following definitions of the procedures of “microblading” and “microneedling.” “Microblading” is a semi-permanent makeup procedure that enables a person to recreate lost eyebrows. Microblading is performed by manually depositing pigment into the skin by use of a pen-like instrument, which contains several fine needles organized in a line. When the instrument is pressed against the skin, the needles penetrate the skin and leave behind pigment. “Microneedling” is a skin-rejuvenation procedure that involves the use of a device that contains fine needles, which may be between .25 and 3.0 mm in diameter. The needles are organized on a cylinder, which is rolled over a person’s skin to puncture it and create a controlled skin injury to infuse the skin with preparation materials or collagen. The devices used in both procedures are capable of causing bleeding or rupturing blood vessels.” All quotes provided below are pursuant to that Attorney General’s Opinion, which is available in its entirety at <https://www.tn.gov/assets/entities/attorneygeneral/opinions/op17-031.pdf>.

1. Who can perform microblading?

- a. “To the extent microblading deposits ink or color under the epidermis and into the dermis, microblading meets the ordinary and statutory definition of “tattoo” and is subject to the laws and regulation applicable to tattooing. Normally, tattooing may be done only at a licensed tattoo studio by a registered tattoo artist, apprentice artist, or temporary artist. Tenn. Code Ann. § 62-38-204. Tennessee Code Ann. § 62-38-210(b) specifies that the tattoo-regulation scheme in Tenn. Code Ann. §§ 62-38-201 through -212 “does not apply to any physician, surgeon or any person under the supervision of a physician or surgeon who is licensed to practice medicine in this state.” Therefore, “any physician, surgeon or any person under the supervision of a physician or a surgeon who is licensed to practice medicine in this state” may, without registering as a tattoo artist or operating at a licensed tattoo studio, perform microblading that deposits coloration in the dermis (including at, for example, a medical spa or physician’s office).”

2. Where can microblading be performed?

- a. “Normally, tattooing may be done only at a licensed tattoo studio by a registered tattoo artist, apprentice artist, or temporary artist. Tenn. Code Ann. § 62-38-204.” However, “any physician, surgeon or any person under the supervision of a physician or a surgeon who is licensed to practice medicine in this state” may, without registering as a

tattoo artist or operating at a licensed tattoo studio, perform microblading that deposits coloration in the dermis (including at, for example, a medical spa or physician's office).”

3. Who can perform microneedling?

- a. “[T]o perform ... microneedling, an individual must come within one of the exemptions from the cosmetology laws recognized by Tenn. Code Ann. § 62-4-109. As applicable here, section 109 exempts from Tenn. Code Ann. §§ 62-4-101 through -138 certain individuals, specifically “[p]hysicians and surgeons or trained nurses, trained nurses assistants, aides or similar personnel, acting solely in their professional capacities.” Tenn. Code Ann. § 62-4-109(a)(3). See also Tenn. Op. Att’y Gen. No. 12-91 (Sept. 25, 2012) (discussing Tenn. Code Ann. § 62-4-109(a)(3)).”

4. Where can microneedling be performed?

- a. Microneedling devices are ““*capable* of altering or damaging . . . living tissue” (emphasis added) and are properly considered “cosmetic medical device[s]” under Tenn. Code Ann. § 63-1-153(a)(1). Procedures involving “cosmetic medical devices” may be performed only in medical spas or “an individual physician’s office or practice owned by a physician.” See Tenn. Code Ann. § 63-1-153(a)(4) (defining “medical spa” as “any entity, however named or organized, which offers or performs cosmetic medical services”). Medical spas are required to register with the Department of Health. Tenn. Code Ann. § 63-6-105(a) (clarifying that “the registry shall include any physician-owned practice that advertises or holds itself out as a medical spa or a physician-owned practice that primarily engages in the performance of elective cosmetic medical services”).”

5. Can I teach microblading or microneedling?

- a. As microblading and microneedling are not part of the practice of aesthetics, they should not be part of a cosmetology or aesthetics curriculum unless otherwise allowed by law.

6. I would like to file a complaint related to microblading or microneedling. Where can I file it?

- a. Any complaint related to microblading or microneedling must be filed with the Tennessee Department of Health.
 - i. If you would like to file a complaint about a facility, dial this toll-free number: 1-877-287-0010 between Monday through Friday, 8:00 a.m. – 4:30 p.m. or mail your complaint. You may contact the Department of Health, Division of Health Care Facilities at 1-877-287-0010 to request a complaint form or you may download a copy online. Fill out the form as completely as possible and

return it by mail to: Division of Health Care Facilities Centralized Complaint Intake Unit 665 Mainstream Drive, Second Floor Nashville, TN 37243 - See more at: <https://www.tn.gov/health/article/hcf-complaint#sthash.LhKuupj1.dpuf>.

- ii. If you would like to file a complaint against an individual, you may contact the Complaint Divisions of the Department of Health at 1-800-852-2187 to request a complaint form. (PH-3466) The form must be completed in its entirety. Please return the complaint to: Office of Investigations 665 Mainstream Drive, 2nd Floor, Suite 201 Nashville, TN 37243 - See more at: <https://www.tn.gov/health/article/filing-complaints-against-health-care-professionals#sthash.G5WxKsmD.dpuf>.

7. For additional information, you may read AG Opinion No. 17-31, April 20, 2017 online at: <https://www.tn.gov/assets/entities/attorneygeneral/opinions/op17-031.pdf>