

New Mexico Board of Body Art Practitioners



Body Art Safe Practices Act
Article 17B NMSA 1978
and Rules and Regulations
Title 16 Chapter 36 NMAC

Repealed Effective July 1, 2022



New Mexico Regulation and Licensing Department

BOARDS AND COMMISSIONS DIVISION

New Mexico Board of Body Art Practitioners

2550 Cerrillos Road ▪ PO Box 25101 ▪ Santa Fe, New Mexico 87504
(505) 476-4622 ▪ Fax (505) 476-4645 ▪ www.rld.state.nm.us/boards

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TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 36 BODY ARTISTS AND OPERATORS
PART 1 GENERAL PROVISIONS

16.36.1.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Body Art Practitioners.
[16.36.1.1 NMAC - Rp, 16.36.1.1 NMAC, 2/4/2016]

16.36.1.2 SCOPE: Any person licensed to practice body art tattoo, piercing, scarification and all operators.
[16.36.1.2 NMAC - Rp, 16.36.1.2 NMAC, 2/4/2016]

16.36.1.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Sections 61-17B-3, 61-17B-5, 61-17B-7 and 61-17B-13 NMSA 1978.
[16.36.1.3 NMAC - Rp, 16.36.1.3 NMAC, 2/4/2016]

16.36.1.4 DURATION: Permanent
[16.36.1.4 NMAC - Rp, 16.36.1.4 NMAC, 2/4/2016]

16.36.1.5 EFFECTIVE DATE: February 4, 2016, unless a later date is cited at the end of a section.
[16.36.1.5 NMAC - Rp, 16.36.1.5 NMAC, 2/4/2016]

16.36.1.6 OBJECTIVE: To define terms relevant to body art, custody and alteration of licenses, license posted, exemptions and municipalities
[16.36.1.6 NMAC - Rp, 16.36.1.6 NMAC, 2/4/2016]

16.36.1.7 DEFINITIONS: As used in these regulations, the following words and phrases have the following meanings, unless the context or intent clearly indicates a different meaning.

A. "Aftercare" means written instructions given to the client, specific to the body piercing or tattooing procedure(s) rendered, on caring for the body piercing or tattoo and surrounding area.

B. "Antiseptic" means an agent that destroys disease-causing microorganisms on human skin or mucosa.

C. "Apprentice" means a person who works under the direct supervision of a licensed apprentice sponsor to learn a trade from someone who is already skilled at a job.

D. "Apprentice Sponsor" means a person who is an actively licensed, skilled professional in a profession, art, craft or trade for a minimum of five years and is someone who accepts responsibility to teach an apprentice one on one.

E. "Aseptic" means the state of being free from the living disease, fermentation, or putrefaction.

F. "Autoclave" means a piece of medical equipment that employs the steam under pressure method of sterilization.

G. "Board" means the board of body art practitioners.

H. "Body art" means tattooing, body piercing or scarification but does not include practices that are considered medical procedures by the New Mexico medical board.

I. "Body art establishment" means a fixed or mobile place where body art is administered on the premises.

J. "Body artist" means a person who administers body piercing, tattooing or scarification.

K. "Body piercing" means to cut, stab or penetrate the skin to create a permanent hole or opening.

L. "Client" means an individual receiving any body art procedure(s).

M. "Direct Supervision" means the process under which an act is performed by another person with a licensed body artist or permanent makeup cosmetics professional practitioner licensed pursuant to the Body Art Safe Practices Act:

(1) Is physically present in the establishment throughout the performance of the act;
(2) orders, controls and accepts full professional responsibility for the act performed;
(3) evaluates and approves the procedure performed before the client departs the care setting; and

(4) Is capable of responding immediately if any emergency should arise.

N. "Equipment" means machinery used in connection with the operation of a body art establishment, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and other apparatuses and appurtenances.

O. "Guest License" means a person temporary authorized to administer tattooing, body piercing-scarification, or permanent cosmetics for a period of 30 days from date license issued.

P. "Instruments used for body art" means hand pieces, needles, needle bars and other items that may come into contact with a person's body during the administration of body art.

Q. "Jurisprudence Examination" means the examination given regarding the laws, rules and regulations, which relate to the practice of body art in the state of New Mexico.

R. "Military service member" means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard.

S. "Operator" means the owner of a body art establishment.

T. "Permanent Cosmetics Practitioner" means a person who tattoos eyeliner, eyebrows, lip liner, full lip color, and repigmentation or camouflage on the face, using tattooing techniques of placing pigments under the skin.

U. "SDS" means safety data sheet(s) used to communicate the hazards of hazardous chemical products which may be found in a body art establishment.

V. "Sharps" means any sterilized object that is used for the purpose of penetrating the skin or mucosa, including needles, scalpel blades and razor blades.

W. "Single use" means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.

X. "Special Event" means an event where procedures will be performed and will not be conducted at a licensed establishment.

Y. "Sterilization" means destruction of all forms of macrobiotic life, including spores.

Z. "Supervising Licensee" means licensed practitioner who manages the licensed body art establishment. This may or may not be the operator.

AA. "Veteran" means a person who has received an honorable discharge or separation from military service within the two years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.

[16.36.1.7 NMAC - Rp, 16.36.1.7 NMAC, 2/4/2016, A, 6/16/2018]

16.36.1.8 CUSTODY AND ALTERATION OF LICENSES:

A. Licenses issued by the board are at all times the property of the board, and may remain in the custody of the licensee only as long as the licensee complies with the act and board rules.

B. Licenses shall not be altered in any way.

C. Inspectors or board designees may retrieve any license which is suspended, revoked, expired, altered or left by a licensee who is no longer employed at an establishment.

D. A current body art apprenticeship, practitioner or operator license is not transferable from one person to another.

[16.36.1.8 NMAC - Rp, 16.36.1.8 NMAC, 2/4/2016, A, 6/16/2018]

16.36.1.9 LICENSES POSTED:

A. All official board issued licenses, except identification licenses, issued by the board shall be posted where clearly visible to the public upon entry of the establishment.

B. Licensees must attach a recent passport size colored photograph to the board issued license and sign the license where indicated.

C. All licensees, who have been placed on probation, will be issued a license, which states the licensee is on disciplinary probation.

D. Licensees must present a driver's license or other identification when requested by the public, the board or its authorized representative.

E. A special event license shall be posted where clearly visible to the public upon entry of the event.

[16.36.1.9 NMAC - Rp, 16.36.1.9 NMAC, 2/4/2016, A, 6/16/2018]

16.36.1.10 EXEMPTIONS:

A. A person who pierces only the outer perimeter of the ear, not including any cartilage, using a pre-sterilized encapsulated single use stud ear piercing system, implementing appropriate procedures, is exempt from the requirements of the Body Art Safe Practices Act, Section 61-17B-1 NMSA 1978.

B. A member of a federally recognized tribe, band, nation or pueblo who performs scarification rituals for religious purposes is exempt from the requirements of the Body Art Safe Practices Act.
[16.36.1.10 NMAC - Rp, 16.36.1.10 NMAC, 2/4/2016, A, 6/16/2018]

16.36.1.11 MUNICIPALITIES: The Body Art Safe Practices Act, Section 61-17B-1 NMSA 1978 provides minimum standards for safe body art practices. A municipality may by ordinance provide more stringent standards.
[16.36.1.11 NMAC - Rp, 16.36.1.11 NMAC, 2/4/2016]

HISTORY OF 16.36.1 NMAC:

History of Repealed Material:

16.36.1 NMAC, General Provisions, filed 4/16/08 - Repealed and Replaced by 16.36.1 NMAC, General Provisions, effective, 2/4/2016.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 36 BODY ARTISTS AND OPERATORS
PART 2 LICENSURE REQUIREMENTS

16.36.2.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Body Art Practitioners.
[16.36.2.1 NMAC - Rp, 16.36.2.1 NMAC, 6/16/2018]

16.36.2.2 SCOPE: Any person licensed to practice body art tattoo, piercing, scarification and all operators.
[16.36.2.2 NMAC - Rp, 16.36.2.2 NMAC, 6/16/2018]

16.36.2.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-5 NMSA 1978.
[16.36.2.3 NMAC - Rp, 16.36.2.3 NMAC, 6/16/2018]

16.36.2.4 DURATION: Permanent
[16.36.2.4 NMAC - Rp, 16.36.2.4 NMAC, 6/16/2018]

16.36.2.5 EFFECTIVE DATE: June 16, 2018, unless a later date is cited at the end of a section.
[16.36.2.5 NMAC - Rp, 16.36.2.5 NMAC, 6/16/2018]

16.36.2.6 OBJECTIVE: To outline the application process, training and examination requirements and the renewal procedures.
[16.36.2.6 NMAC - Rp, 16.36.2.6 NMAC, 6/16/2018]

16.36.2.7 DEFINITIONS: [RESERVED]

16.36.2.8 APPRENTICE LICENSE APPLICATION FOR BODY ART TATTOO, PIERCING-SCARIFICATION, OR PERMANENT COSMETICS:

- A.** Application forms:
- (1)** Application for any license to be issued or renewed by the board shall be made on the official form provided by the board for that purpose. Incomplete applications will be returned. Designated deadlines will apply to resubmitted applications. All applications are valid for one year from date received.
 - (2)** Applications for apprentice licensure must include:
 - (a)** non-refundable application fee;
 - (b)** a completed and signed application;
 - (c)** applicant name;
 - (d)** social security number;
 - (e)** proof of age indicating applicant is at least 18 years of age (government-issued identification with a photo);
 - (f)** email
 - (g)** phone number;
 - (h)** name, address and phone number of licensed establishment where apprenticeship will be conducted. Establishment license must be current upon receipt of application.
 - (i)** an apprentice sponsorship application which must be completed and signed by a body art practitioner who meets the requirements within 16.36.2.9 NMAC and is licensed in the kind of body art the applicant is seeking an apprenticeship license;
 - (j)** copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2.13 NMAC; and
 - (k)** proof of current immunizations as defined in 16.36.2.12 NMAC.
- B.** Photographs: Applicants for original licensure shall attach a recent passport size, color photograph, front-view of face.
- C.** Prior to licensure the applicant shall take and pass a board approved jurisprudence examination. The applicant must pass the jurisprudence exam with a minimum score of seventy-five percent or higher.

D. An apprentice must remain under the direct supervision of his or her sponsor until all requirements have been met or the apprentice license has been terminated by the board.

E. Renewal of a body art apprentice license:

(1) License will expire one year after date of issue;

(2) Timely renewal of license(s) is the full and complete responsibility of the LICENSEE.

Failure to renew the license by the expiration date will result in a late fee.

(3) Licensees shall renew a body artist apprentice license on or before the expiration date if needed to complete their current apprenticeship.

(4) Renewal of apprentice license shall include the following information:

(a) name of apprentice sponsor;

(b) name of establishment and address where apprenticeship will be conducted, establishment license must be current upon receipt of application.

(c) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2.13 NMAC; and

(d) proof of current immunizations as defined in 16.36.2.12 NMAC

(5) Electronic signatures will be acceptable for renewals submitted pursuant to 16.36.1 through 16.36.6 NMAC.

[16.36.2.8 NMAC - Rp, 16.36.2.8 NMAC, 6/16/2018]

16.36.2.9 SPONSOR LICENSE APPLICATION FOR BODY ART TATTOO, PIERCING-SCARIFICATION, OR PERMANENT COSMETICS:

A. A licensee may be approved to sponsor only one tattoo, body piercing-scarification, or permanent cosmetic apprentice at a time. Incomplete applications will be returned. All applications are valid for one year from date received. A complete application includes:

(1) non-refundable application fee;

(2) a current New Mexico tattoo, body piercing-scarification, or permanent cosmetic license;

(3) documentation of legally practicing tattooing, body piercing-scarification, or permanent cosmetics in New Mexico for at least five years without any disciplinary action;

(4) a curriculum as required in Sections 14, 15 and 16 of 16.36.2 NMAC to the board staff for approval; curriculum shall include references and resources to be used and methods of evaluation for each area covered; and

(5) name, address and phone number of licensed establishment where apprenticeship will be conducted. Establishment license must be active upon receipt of application;

B. Photographs: Applicants for sponsor licensure shall attach a recent passport size, color photograph, front-view of face.

C. Upon approval of application, a board approved log will be available to record progress during the apprenticeship. This log will serve as proof of completion of training program.

D. Upon completion of the apprenticeship program, the sponsor and apprentice shall sign and notarize the apprentice log. The notarized log shall be sent to the board within 30 days and shall include a statement from the sponsor stating the apprenticeship has been completed. The sponsor will give a copy of the notarized log and statement to the apprentice.

E. The apprentice will then receive notification from the board stating the apprentice is eligible to take the national theory exam.

F. Renewal of body art apprentice sponsor license:

(1) License will expire one year after date of issue;

(2) Timely renewal of license(s) is the full and complete responsibility of the licensee.

Failure to renew the license by the expiration date will result in a late fee.

(3) Licensees shall renew a body artist apprentice sponsor license on or before the expiration date if needed to complete their current apprenticeship.

(4) Renewal of apprentice license shall include the following information:

(a) name of apprentice; and

(b) name of establishment and address where apprenticeship will be conducted, establishment license must be active upon receipt of application.

G. Electronic signatures will be acceptable for renewals submitted pursuant to 16.36.1 through 16.36.6 NMAC.

[16.36.2.9 NMAC - Rp, 16.36.2.9 NMAC, 6/16/2018]

16.36.2.10 APPLICATION FOR BODY ART TATTOO, PIERCING-SCARIFICATION, OR PERMANENT COSMETICS PRACTITIONER LICENSE:

A. Application forms:

(1) Applications shall be made on the official form provided by the board. Incomplete applications will be returned. All applications are valid for one year from date received. All fees are non-refundable.

(2) Applications for licensure must include:

- (a) a completed and signed application;
- (b) name;
- (c) social security number;
- (d) date of birth;
- (e) proof of age indicating applicant is at least 18 years of age (government-issued identification with a photo);
- (f) establishment mailing address;
- (g) phone number;
- (h) name, address and phone number of licensed establishment where services will be performed. Establishment license must be current upon receipt of application;
- (i) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2.13 NMAC;
- (j) proof of current immunizations as defined in 16.36.2.12 NMAC;
- (k) proof of completion of tattoo, piercing-scarification, or permanent cosmetics training program and examination as defined in 16.36.2.14 NMAC.
- (l) a recent passport size, color photograph; and
- (m) non-refundable application fee as required by the board.

B. Photographs:

(1) applicant for tattoo artist license must include a minimum of 10 original photographs of healed tattoos, which the applicant has personally performed.

(2) applicant for body piercing must include a minimum of ten photographs of healed piercing the applicant has personally performed.

(3) applicant for permanent cosmetic practitioner must submit a minimum of 10 photographs with at least two from the following areas:

- (a) eyebrow simulation;
- (b) lip liner;
- (c) lip color;
- (d) eyeliner/eyelash enhancer of eyes; and

C. The applicant shall take and pass a written examination approved by the board and the board approved jurisprudence examination. The applicant must pass the exams with a minimum score of seventy-five percent or higher.

D. Renewal of a practitioner license:

(1) License will expire one year after date of issue;

(2) Timely renewal of license(s) is the full and complete responsibility of the licensee. Failure to renew the license by the expiration date will result in a late fee;

(3) Licensees shall renew their license on or before the expiration date;

(4) Renewal of license shall include the following information:

(a) name and address of establishment. Establishment license must be current upon receipt of application;

(b) name of establishment operator or supervisor;

(c) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2.13 NMAC; and

(d) proof of current immunizations as defined in 16.36.2.12 NMAC.

E. Electronic signatures will be acceptable for renewals submitted pursuant to 16.36.1 through 16.36.6 NMAC.

F. A permanent cosmetic professional applicant engaged in a state board approved apprenticeship training program prior to the effective date of July 1, 2018 shall have until August 31, 2018 to comply with apprenticeship requirements

[16.36.2.10 NMAC - Rp, 16.36.2.10 NMAC, 6/16/2018]

16.36.2.11 APPLICATION FOR BODY ART OPERATOR ESTABLISHMENT LICENSE:

A. Any establishment licensed by the board must be under the immediate supervision of a board licensed practitioner while licensed activity is being practiced therein. Incomplete applications will be returned. All applications are valid for one year from date received. All fees are non-refundable.

B. The supervising licensee(s) must be licensed by the board in tattoo, piercing scarification, or permanent cosmetics.

C. Application forms:

(1) Application for any license to be issued or renewed by the board shall be made on the official form provided by the board for that purpose.

(2) Applications for licensure must include:

(a) a completed and signed application;

(b) name of the body art establishment;

(c) name of the operator of the establishment;

(d) government-issued identification with a photo showing proof of age indicating applicant is at least 18 years old;

(e) operator's social security number;

(f) establishment address;

(g) establishment phone number;

(h) name(s) of the body art supervising practitioner(s) working at the establishment, each of whom must be currently licensed with the board at time of application;

(i) a copy of current city or county business license;

(j) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2.13 NMAC;

(k) proof of current immunizations as defined in 16.36.2.12 NMAC; and

(l) non-refundable application fee as required by the board.

D. Renewal of a body art operator establishment license:

(1) License will expire one year after date of issue;

(2) Timely renewal of license(s) is the full and complete responsibility of the licensee; Failure to renew the license by the expiration date will result in a late fee;

(3) Licensees shall renew their license on or before the expiration date;

(4) Renewal of a body art operator establishment license shall include the following information:

(a) name(s) of the body art supervising practitioner(s) working at the establishment, must be currently licensed with the board at time of application;

(b) copy of current city or county business license;

(c) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2.13 NMAC; and

(d) proof of current immunizations as defined in 16.36.2.12 NMAC.

E. Electronic signatures will be acceptable for renewals submitted pursuant to 16.36.1 through 16.36.6 NMAC.

[16.36.2.11 NMAC - Rp, 16.36.2.11 NMAC, 6/16/2018]

16.36.2.12 PROOF OF CURRENT IMMUNIZATIONS: Proof shall be provided upon request of the board or board representative that apprentice, practitioner, and permanent cosmetic practitioner licensee has either completed or declined, on a form provided by the board, the hepatitis B vaccination series. For those who decline the hepatitis B vaccination series, an information brochure developed by the New Mexico department of health will be provided which explains the risks of hepatitis B and C.

[16.36.2.12 NMAC - Rp, 16.36.2.12 NMAC, 6/16/2018]

16.36.2.13 PROOF OF COMPLETION OF TRAINING PROGRAM: Proof shall be provided with the original application that the applicant has, at a minimum, completed the following training prior to making application for a license as a body artist apprentice, body artist practitioner, permanent cosmetic professional or body art operator. Such training must include:

A. a board approved blood borne pathogens training course that meets OSHA (occupational safety and health administration) standards and CDC (center for disease control) recommendations. The training course shall include an examination as a condition of the training completion. The training must be completed within 12 months prior to application and annually thereafter. The training may be obtained through any of the following:

- (1) nationally accredited organization;
- (2) local government sponsored;
- (3) hospital sponsored;
- (4) college sponsored;
- (5) OSHA sponsored;
- (6) red cross; or
- (7) board approved.

B. Current certification in first aid and cardiopulmonary resuscitation (CPR). The training shall be obtained through any of the following:

- (1) nationally accredited organization;
- (2) local government sponsored;
- (3) hospital sponsored;
- (4) college sponsored;
- (5) OSHA (occupational safety and health administration) sponsored;
- (6) red cross; or
- (7) board approved;

C. An applicant for a tattoo or body piercing-scarification apprenticeship shall file an apprentice agreement notarized by all parties that applicant shall complete the board required training requirements. [16.36.2.13 NMAC - Rp, 16.36.2.13 NMAC, 6/16/2018]

16.36.2.14 BODY PIERCING - SCARIFICATION APPRENTICESHIP TRAINING AND EXAMINATION REQUIREMENTS

A. Upon successful completion of apprenticeship program, an applicant for original piercing-scarification practitioner license shall provide proof, acceptable to the board or its designee, that applicant has completed an apprenticeship program under the direct supervision of a licensed practitioner with instruction and experience in the kind of body art for which the applicant seeks a body art practitioner license.

B. Proof of completing an apprentice program shall include:

- (1) verification of completion of apprenticeship program on a log provided by the board;
- (2) a minimum of 10 original photographs of healed piercings-scarifications which the artisan has personally performed and a minimum of three signed testaments from previous clients.

C. Body piercing apprenticeship curriculum: 1200 hours:

- (1) Orientation - 100 hours:
 - (a) state laws and regulations;
 - (b) tax and business license requirements;
 - (c) OSHA blood borne pathogens standard;
 - (d) the establishment's exposure control plan;
 - (e) SDS sheets;
 - (f) paperwork and business documentation;
 - (g) HIPAA (Health Insurance Portability and Accountability Act of 1996 privacy rule);
 - (h) environment/appropriate studio set-up;
 - (i) professional image;
 - (j) appropriate communication with clients;
 - (k) ethics and legalities:
 - (i) minors;
 - (ii) drugs and alcohol;
 - (iii) medical conditions/risk assessment;
 - (iv) personal boundaries;
 - (l) dealing with emergencies:
 - (i) blood spills;
 - (ii) fainting;
 - (iii) bleeding;

- (iv) needlesticks; and
 - (v) other exposures.
- (2) Sterilization, disinfection theory and practical - 100 hours:
- (a) microbiology;
 - (b) definitions;
 - (c) microorganisms of the skin;
 - (d) factors that influence the survival and growth of microorganisms;
 - (e) breaking the chain of infection;
 - (f) infection control;
 - (g) handwashing;
 - (h) types of soaps and hand sanitizers;
 - (i) use of gloves and other personal protective equipment;
 - (j) how to recognize, prevent and remedy cross-contamination;
 - (k) immunizations;
 - (l) cleaning, disinfection and sterilization;
 - (m) sterile chart;
 - (n) cleaning/appropriate procedures;
 - (o) implement pre-cleaning before sterilization/appropriate use of cleaning solutions and ultrasonic cleaners;
 - (p) disinfection/appropriate use and disposal of disinfecting solutions; and
 - (q) sterilization/appropriate use and maintenance of autoclave sterilizers.
- (3) Body piercing theory - 200 hours:
- (a) jewelry;
 - (b) standards and certifications;
 - (c) certified materials for new piercings;
 - (d) other appropriate materials for new piercings;
 - (e) jewelry materials for healed piercings;
 - (f) jewelry to avoid;
 - (g) quality jewelry (things to look for);
 - (h) jewelry styles;
 - (i) cleaning, sterilization and storage of jewelry;
 - (j) anatomy;
 - (k) understanding of skin;
 - (l) parts and functions of skin;
 - (m) oral/facial anatomy as it pertains to piercing;
 - (n) knowledge and ability to avoid damage to underlying blood vessels and nerves;
 - (o) knowledge and recognition of disorders, anomalies and diseases of the skin;
 - (p) body anatomy as it pertains to piercing;
 - (q) determining the appropriateness of a piercing;
 - (r) equipment;
 - (s) disposable supplies;
 - (t) needles;
 - (u) sharps disposal;
 - (v) reusable equipment;
 - (w) storage;
 - (x) aftercare; and
 - (y) piercing guns (theory only).
- (4) Body piercing observation/practical - 800 hours:
- (a) proper use of safety procedures outlined in theory training;
 - (b) aseptic technique;
 - (c) room set-up and break-down;
 - (d) skin preparation;
 - (e) client relations/relaxation techniques;
 - (f) pain management;
 - (g) piercing techniques;
 - (h) dealing with mistakes;

(i) in order to be approved, curriculum for body piercing practitioner training shall include, at a minimum, 50 practical body piercing procedures performed by the apprentice under sponsor supervision. The 50 supervised completed procedures shall consist of at least five completed procedures in each of the following areas:

- (i) ears;
 - (ii) nose;
 - (iii) tongue;
 - (iv) nipple;
 - (v) navel;
 - (vi) eyebrow;
 - (vii) lip/labret; and
 - (viii) septum.
- (j) Curriculum should include the following for each procedure:
- (i) related anatomy;
 - (ii) appropriate placement;
 - (iii) skin preparation;
 - (iv) implement selection and use;
 - (v) techniques; and
 - (vi) healing and aftercare.

An applicant for a body art piercing-scarification practitioner license shall take the tattoo or body piercing-scarification examination approved by the board with a minimum passing score of seventy-five percent or higher. A candidate who does not meet this score can retest up to two times. A candidate who does not pass the written examination must wait at least seven days before retesting. Any candidate who does not meet the minimum passing score after three attempts shall be required to enroll or re-enroll in an apprentice program.

[16.36.2.14 NMAC - Rp, 16.36.2.14 NMAC, 6/16/2018]

16.36.2.15 TATTOO APPRENTICESHIP TRAINING AND EXAMINATION REQUIREMENTS:

A. Upon successful completion of apprenticeship program, an applicant for original tattoo practitioner license shall provide proof, acceptable to the board or its designee, that applicant has completed an apprenticeship program under the direct supervision of a licensed practitioner with instruction and experience in the kind of body art for which the applicant seeks a body art practitioner license.

B. Proof of completing an apprentice program shall include:

- (1) verification of completion of apprenticeship program on a log provided by the board; and
- (2) a minimum of 10 original photographs of healed tattoos which the artisan has personally performed and a minimum of three signed testimonials from previous clients.

C. Tattoo apprenticeship curriculum; 1400 hours

- (1) Orientation - 100 hours:
 - (a) state laws and regulations;
 - (b) tax and business license requirements;
 - (c) OSHA blood borne pathogens standard;
 - (d) the establishment's exposure control plan;
 - (e) SDS sheets;
 - (f) paperwork and business documentation;
 - (g) HIPAA (Health Insurance Portability and Accountability Act of 1996 privacy rule);
 - (h) environment/appropriate studio set-up;
 - (i) professional image;
 - (j) appropriate communication with clients;
 - (k) ethics and legalities;
 - (i) minors;
 - (ii) drugs and alcohol;
 - (iii) medical conditions/risk assessment; and
 - (iv) personal boundaries.
- (1) Dealing with emergencies:
 - (i) blood spills;
 - (ii) fainting;

- (iii) bleeding;
 - (iv) needlesticks; and
 - (v) other exposures.
- (2) Sterilization, disinfection theory and practical - 100 hours:
- (a) microbiology;
 - (b) definitions;
 - (c) microorganisms of the skin;
 - (d) factors that influence the survival and growth of microorganisms;
 - (e) breaking the chain of infection;
 - (f) infection control;
 - (g) handwashing;
 - (h) types of soaps and hand sanitizers;
 - (i) use of gloves and other personal protective equipment;
 - (j) how to recognize, prevent and remedy cross-contamination;
 - (k) immunizations;
 - (l) cleaning, disinfection and sterilization;
 - (m) sterile chart;
 - (n) cleaning/appropriate procedures;
 - (o) implement pre-cleaning before sterilization/appropriate use of cleaning solutions
- and ultrasonic cleaners;
- (p) disinfection/appropriate use and disposal of disinfecting solutions; and
 - (q) sterilization/appropriate use and maintenance of autoclave sterilizers.
- (3) Tattooing observation/theory - 200 hours:
- (a) artistic development;
 - (b) drawing for clients;
 - (c) stencil making and application;
 - (d) color theory/understanding the color wheel;
 - (e) line quality and proportion;
 - (f) shading and coloring technique;
 - (g) pigments and color mixing;
 - (h) portfolio construction and maintenance;
 - (i) anatomy;
 - (j) understanding of skin;
 - (k) parts and functions of skin;
 - (l) determining the appropriateness of a tattoo placement;
 - (m) equipment;
 - (n) disposable supplies;
 - (o) needles;
 - (p) sharps disposal;
 - (q) reusable equipment;
 - (r) storage;
 - (s) tattoo equipment maintenance;
 - (t) understanding the electromagnetic tattoo machine and its history;
 - (u) liner/shader set-up;
 - (v) quality and conductivity of metals used in tattoo machines;
 - (w) spring gauges and maintenance;
 - (x) the difference between long stroke/short stroke technique;
 - (y) tattoo machine schematics, electronics and constructions;
 - (z) tuning and adjustment of machines;
 - (aa) understanding current/voltage and reciprocation response;
 - (bb) needle-making safety and construction; and
 - (cc) aftercare.
- (4) Tattooing observation/practical - 1000 hours:
- (a) proper use of safety procedures outlined in theory training;
 - (b) aseptic technique;
 - (c) room set-up and break-down;

- (d) skin preparation;
- (e) client relations/relaxation techniques;
- (f) pain management;
- (g) tattooing techniques;
- (h) line quality and solid color techniques;
- (i) pigment and implementation selection and use;
- (j) needle depth and machine/hand speed coordination;
- (k) dealing with mistakes;
- (l) bandaging techniques; and
- (m) in order to be approved practical work must include a minimum of 50 completed

procedures, for the purposes of determining qualifications for licensure under this rule. Completed procedure means a tattoo which has been finished on a live human being, including any touchups or additional work following initial healing and the client is released from service.

D. An applicant for a body art tattoo practitioner license shall take the tattoo or body piercing-scarification examination approved by the board with a minimum passing score of seventy-five percent or higher. A candidate who does not meet this score can retest up to two times. A candidate who does not pass the written examination must wait at least seven days before retesting. Any candidate who does not meet the minimum passing score after three attempts shall be required to enroll or re-enroll in an apprentice program.

E. Individuals who have been approved to take the written examination will have 12 months from approval date to take the examination and get licensed through the board.

[16.36.2.15 NMAC - N, 6/16/2018]

16.36.2.16 PERMANENT COSMETIC APPRENTICESHIP TRAINING AND EXAMINATION REQUIREMENTS:

A. Upon successful completion of an apprenticeship program, an applicant for an original permanent cosmetic practitioner license shall provide proof of having completed a 255 hour board approved curriculum, and shall perform under the direct supervision of a board approved sponsor. An approved basic fundamental curriculum shall include the following requirements:

- B.** A minimum of five of each of the following procedures: 60 hours
- (1) eye brow simulation; microblading, hairstrokes, shading;
 - (2) lip liner;
 - (3) lip color; and
 - (4) eye liner/eyelash enhancement.

C. Client records shall be maintained by the practitioner applicant to verify that the minimum requirements for the procedures were completed.

D. The practitioner applicant shall submit 10 before and after photographs whereby the professional has personally performed one complete procedure for each of the following areas:

- (1) eye brow simulation;
- (2) lip liner;
- (3) lip color; and
- (4) eye liner/eyelash enhancement.

E. Introduction to permanent cosmetics: 10 hours

- (1) History of tattooing as it applies to permanent makeup.
- (2) Overview of the different types of machines and devices.

F. Professional standards and client care: 20 hours

- (1) Client expectations.
- (2) Medical history.
- (3) Consent and disclosure form.
- (4) Record keeping.
- (5) HIPPA standards.
- (6) Photography.

G. Office set-up: 10 hours

- (1) Understanding establishment requirements.
- (2) General equipment.
- (3) Table, chair, work surface, lightening.

H. Disinfection and sterilization: 100 hours

- (1) Definition of terms.
 - (2) Discuss acceptable forms of sterilization.
 - (3) Proper use of chemical agents, antiseptics, disinfestations, and fumigants.
 - (4) OSHA and CDC guidelines regarding blood borne pathogens.
 - (5) Hand washing stations.
 - (6) Hepatitis B vaccination.
 - (7) PPE, such as gloves and proper attire to avoid cross contamination.
 - (8) Proper handling of devices, needles, and pigments.
 - (9) Sanitary measures during procedure set-up, and clean-up.
- I.** Client preparation: 10 hours
- (1) Preparing the clients skin.
 - (2) Ways of marking the skin.
 - (3) Anesthetics used before, during, and after procedure.
- J.** Color and pigment theory: 10 hours
- (1) Knowledge of skin type and undertones.
 - (2) Pigment care such as expiration, storage, and mixing.
 - (3) Use of safety sheets.
- K.** Skin anatomy: 20 hours
- (1) Understanding of skin and layers.
 - (2) Healing process of the skin and its care.
 - (3) Diseases, disorders, and conditions such as; infection, herpes simplex, shingles, moles, warts, freckles, psoriasis, eczema, rosacea, and reactions.
- L.** Machine/Needle theory: 10 hours
- (1) Operation, maintenance, and instrument storage.
 - (2) Proper needle handling and disposal.
 - (3) Groups, numbers, and configurations.
 - (4) Pre-sterilized, single use.
- M.** Business set-up: 5 hours
- (1) Basic business and social media guidelines.
 - (2) Legal requirements.
 - (3) Insurance/liability.
 - (4) New Mexico laws and regulations.
- N.** An applicant for permanent cosmetic professional license shall take an exam approved by the board with a minimum passing score of seventy-five percent or higher. A candidate who does not meet this score can retest up to two times. A candidate who does not pass the written examination must wait at least seven days before retesting. Any candidate who does not meet the minimum passing score after three attempts shall be required to enroll or re-enroll in an apprentice program
- O.** A permanent cosmetic professional applicant engaged in a state board approved apprenticeship training program prior to the effective date of July 1, 2018 shall have until August 31, 2018 to comply with apprenticeship requirements.
[16.36.2.16 NMAC - N, 6/16/2018]

16.36.2.17 SPECIAL EVENT, MOBILE BODY ART AND GUEST LICENSE REQUIREMENTS:

A. Any licensee desiring to sponsor a special event must first obtain approval from the board office. The purpose of prior approval is to ensure professional integrity and that sanitation and safety requirements are met. An application on the form provided by the board office must be submitted at least 10 days prior to the event. Approval for the special events may be made administratively.

(1) The sponsor(s) and the establishment where the sponsor(s) is practicing must have a current license.

(2) The sponsor shall apply for the license at least 30 days prior to the event.

B. All provisions of these regulations shall apply with the following exceptions.

(1) Hand wash facilities shall be easily accessible to each procedure area and designated for use by artists only. Hand wash facilities or temporary hand wash facilities shall consist of antibacterial liquid soap, single-use paper towels, and adequate supply of potable water dispensed through a continuous flow spout. Wastewater shall be collected and disposed of in a sanitary manner.

(2) Body artists may bring pre-sterilized instruments or instruments that have been sterilized at another location with documentation showing a negative spore test result within the previous 30 days. On site sterilization units may be used and shall comply with 16.36.5 NMAC of these rules.

(3) After the last procedure is completed, all procedure areas shall be cleaned and disinfected.

C. A guest licensee is a body artist who is licensed in another jurisdiction or meets the requirements of licensure in New Mexico and shall practice 30 days or less in New Mexico. Registration is required before any person may act as a guest licensee. An applicant for registration as a guest licensee must:

(1) hold current licensure as a body artist in another jurisdiction or have the education or experience relating to the applicable type of New Mexico license requested; and

(2) be under the sponsorship of a New Mexico licensed body artist.

D. To be registered as a guest licensee the following must be submitted to the board:

(1) verification of sponsorship by a licensed body artist;

(2) a complete application;

(3) registration fee;

(4) proof of age indicating applicant is at least 18 years old (government-issued identification with a photo);

(5) copy of current CPR, first aid and blood borne pathogen training as defined within 16.36.2.13 NMAC.

(6) verification of licensure in another jurisdiction.

E. Applicants not licensed in another jurisdiction must provide documentation of education and experience relating to the applicable type of New Mexico license requested.

F. Guest body art registration will expire 30 days from the date of issuance. A guest license shall not extend beyond 30 days unless the licensee petitions the board and provides documentation that licensee has not worked 30 days in New Mexico. A guest license shall not be granted more than three times within a 12 month period.

[16.36.2.17 NMAC - Rp, 16.36.2.18 NMAC, 6/16/2018]

16.36.2.18 EXPEDITED LICENSURE - MILITARY SERVICE MEMBERS, SPOUSES & VETERANS:

A. Applications shall be completed on a form provided by the board. All applications are valid for one year from date received. All fees are non-refundable.

B. The information shall include:

(1) Completed application and fee pursuant to 16.36.6.8 NMAC

(2) Satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction and has met the minimal licensing requirements that are substantially equivalent to the licensing requirements for the license the applicant applies for pursuant to Chapter 61, Articles 2 through 34 NMSA 1978.

(3) Proof of honorable discharge (DD214), active duty military ID card, or proof of military spouse status.

C. Renewal for a license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance set forth in 16.36.2 NMAC and for the renewal of a license set forth in 16.36.2 NMAC pursuant to Chapter 61, Articles 2 through 34 NMSA 1978.

D. An applicant whose license has expired for more than five years shall re-enter an approved training program (apprenticeship), take the tattoo, body piercing-scarification or permanent cosmetic exam approved by the board with a passing minimum score approved by the board and take and pass a board approved jurisprudence examination with a minimum passing score of seventy-five percent.

[16.36.2.18 NMAC - N, 6/16/2018]

16.36.2.19 EXPIRED LICENSE:

A. An applicant whose license has been expired for one year but less than two years shall submit an application, payment of all renewal fees to bring the license current, proof of completion of blood borne pathogens training within the prior 12 months, current CPR and first aid certification, and take and pass a board approved jurisprudence examination with a minimum score of seventy-five percent.

B. An applicant whose license has expired for more than two years shall take the tattoo, body piercing-scarification or permanent cosmetic written examination approved by the board with a passing minimum

score approved by the board. Applicant must also take and pass a board approved jurisprudence examination with a minimum passing score of seventy-five percent.

C. An operator whose establishment license has expired shall submit a reinstatement application, payment of reinstatement fee for each year the license has been expired; and name of licensed operator.

D. A practitioner whose license has been expired more than five years shall re-enter an approved training program (apprenticeship), take the tattoo, body piercing-scarification or permanent cosmetic exam approved by the board with a passing minimum score approved by the board and take and pass a board approved jurisprudence examination with a minimum passing score of seventy-five percent.

[16.36.2.19 NMAC - N, 6/16/2018]

16.36.2.20 CROSSOVER HOURS: Individuals who are licensed in one discipline may transfer 100 hours of orientation toward their apprenticeship in another discipline, if they have at least one year of full time, verified work experience in a licensed establishment and complete the remaining required hours for licensure.

[16.36.2.20 - N, 6/16/2018]

16.36.2.21 RECIPROCITY:

A. Submit an affidavit of licensure demonstrating proof of current license, which is active with no current or pending disciplinary action, as a tattoo artist, body piercing-scarification, permanent cosmetics. The licensing requirements in the other state-jurisdiction must be substantially equivalent to New Mexico licensing requirements.

B. If they are not substantially equivalent, the applicant must demonstrate to the satisfaction of the body art practitioners that the licensee has been employed or working as a tattoo artist, body artist, body piercing-scarification, permanent cosmetics full time for three years Documentation includes employment-related documents such as paystubs, W-2 Forms, 1099 and federal tax forms.

[16.36.2.20 NMAC - N, 6/16/2018]

HISTORY OF 16.36.2 NMAC:

16.36.2 NMAC, Licensure Requirements, filed 2/4/2016 was Repealed and Replaced by Licensure Requirements, effective, 6/16/2018.

History of Repealed Material:

16.36.2 NMAC, Licensure Requirements, filed 3/12/2010 – Repealed effective, 2/4/2016.

16.36.2 NMAC, Licensure Requirements, filed 2/4/2016 – Repealed effective, 6/16/2018.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 36 BODY ARTISTS AND OPERATORS
PART 3 REQUIREMENTS FOR ESTABLISHMENTS

16.36.3.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Body Art Practitioners.
[16.36.3.1 NMAC - Rp, 16.36.3.1 NMAC, 2/04/2016]

16.36.3.2 SCOPE: Any person licensed to practice body art tattoo, piercing, scarification and all operators.
[16.36.3.2 NMAC - Rp, 16.36.3.2 NMAC, 2/04/2016]

16.36.3.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-5 NMSA 1978.
[16.36.3.3 NMAC - Rp, 16.36.3.3 NMAC, 2/04/2016]

16.36.3.4 DURATION: Permanent
[16.36.3.4 NMAC - Rp, 16.36.3.4 NMAC, 2/04/2016]

16.36.3.5 EFFECTIVE DATE: February 4, 2016, unless a later date is cited at the end of a section.
[16.36.3.5 NMAC - Rp, 16.36.3.5 NMAC, 2/04/2016]

16.36.3.6 OBJECTIVE: To outline the requirements for all establishments.
[16.36.3.6 NMAC - Rp, 16.36.3.6 NMAC, 2/04/2016]

16.36.3.7 DEFINITIONS: [RESERVED]

16.36.3.8 REQUIREMENTS FOR ESTABLISHMENT:

A. All walls and floors of a body art establishment shall be washable and in good repair. Walls and floors shall be maintained in a clean condition. All surfaces, including client chairs and benches shall be of such construction as to be easily cleaned and sanitized after each client procedure. All body art establishments shall be completely separated from any other business or non-business using floor-to-ceiling walls and doors. Rooms where body art procedures occur shall be free from debris or any safety hazards and shall not be used for storage.

B. Establishments located within or at a private residence must meet zoning requirements. An establishment located in or at a private residence shall meet establishment requirements as stated in 16.36.3.8 NMAC.

C. There shall be a minimum of 40 square feet of floor space for each procedure room. Each body art establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple procedure rooms shall be separated by clean, non-porous and washable dividers, curtains or partitions, which shall be maintained with an EPA registered disinfectant.

D. The body art establishment shall be well-ventilated and provided adequate artificial light.

E. No animals of any kind shall be allowed in an establishment, except service animals used by persons with limitations as defined in the Americans with Disabilities Act. Aquariums are allowed, but not within a procedure room.

F. A separate, readily accessible, hand sink with hot and cold running water, under pressure, preferably equipped with wrist or foot operated controls and supplied with liquid antimicrobial soap and disposable paper towels shall be readily accessible within the body art establishment. One hand sink shall serve no more than three operators. In addition, there shall be a minimum of one lavatory, excluding any service sinks, and one toilet in a body art establishment.

G. At least one covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily and solid waste shall be removed from the premises at least weekly. Receptacles in the operator area shall either have a foot operated lid or a lid that can and shall remain open during body art procedures to prevent hand contact with the receptacle during a procedure. All refuse containers shall be cleanable and kept clean.

H. All instruments and supplies shall be stored in clean dry covered containers.

I. If reusable cloth items, including but not limited to lap-cloths, are used, they shall be mechanically washed after each client procedure. Reusable cloth items shall be mechanically washed with detergent and dried. The cloth items shall be stored in a clean dry environment.

J. The following information shall be kept on file on the premises of a body art establishment and available for inspection by the board:

- (1) the full names of all employees in the establishment and their exact duties;
- (2) the board-issued license with identification photograph;
- (3) the body art establishment name and hours of operation;
- (4) the name and address of the body art establishment owner;
- (5) a complete description of all body art performed;
- (6) maintenance of a material safety data sheet (MSDS) file containing pertinent information regarding products; and
- (7) a copy of the Body Art Safe Practices Act and current rules.

K. An operator shall notify the board in writing not less than 30 days before changing the location of a body art establishment. The notice shall include the street address of the new location.

[16.36.3.8 NMAC - Rp, 16.36.3.8 NMAC, 2/04/2016; A, 6/16/2018]

HISTORY OF 16.36.3 NMAC:

16.36.3 NMAC, Requirements for Establishments, filed 4/16/2008 was Repealed and replaced by 16.36.3 NMAC, Requirements for Establishments, effective 2/04/2016.

History of Repealed Material:

16.36.3 NMAC, Requirements for Establishments, filed 4/16/2008 - Repealed effective, 2/04/2016

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 36 BODY ARTISTS AND OPERATORS
PART 4 ENFORCEMENT, COMPLAINTS AND DISCIPLINARY ACTION

16.36.4.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Body Art Practitioners.
[16.36.4.1 NMAC - Rp, 16.36.4.1 NMAC, 02/04/2016]

16.36.4.2 SCOPE: Any person licensed to practice body art tattoo, piercing, scarification and all operators.
[16.36.4.2 NMAC - Rp, 16.36.4.2 NMAC, 02/04/2016]

16.36.4.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-5, 61-17B-9, 61-17B-10, 61-17B-11 NMSA 1978.
[16.36.4.3 NMAC - Rp, 16.36.4.3 NMAC, 02/04/2016]

16.36.4.4 DURATION: Permanent
[16.36.4.4 NMAC - Rp, 16.36.4.4 NMAC, 02/04/2016]

16.36.4.5 EFFECTIVE DATE: February 4, 2016, unless a later date is cited at the end of a section.
[16.36.4.5 NMAC - Rp, 16.36.4.5 NMAC, 02/04/2016]

16.36.4.6 OBJECTIVE: To inform licensees of the complaint procedures, enforcement and disciplinary actions.
[16.36.4.6 NMAC - Rp, 16.36.4.6 NMAC, 02/04/2016]

16.36.4.7 DEFINITIONS: [RESERVED]

16.36.4.8 ENFORCEMENT, COMPLAINTS AND DISCIPLINARY ACTION:

A. A member of the board, its employees or agents may enter and inspect a school, enterprise or establishment at any time during regular business hours for the purpose of determining compliance with the Body Art Safe Practices Act.

B. It shall be unlawful for any artist to perform body piercing or tattoo procedures outside of a licensed body piercing or tattooing establishment.

C. It shall constitute a violation of the Body Art Safe Practices Act when a licensee:
(1) attempts by means of any threat, force, intimidation or violence to deter, interfere with or prevent any inspector or board designee from performing any official duty of the department or board;
(2) willfully resists, delays or obstructs an inspector or board designee in the performance of his/her official duty;
(3) fails to comply with the lawful command of an inspector or board designee in the discharge of his/her official duty; or
(4) fails to cooperate in investigations, proceedings, and requirements of this code.

D. The board, or its designee, will consider a formal complaint filed against a licensee or an establishment provided the complaint is on the proper form, signed and notarized.

E. When a complaint is received on the proper form, the board, or its designee, will write to the licensee the complaint is against and request a response within 15 days of receipt of such request.

F. The response will be reviewed by a committee designated by the board chairman.

G. If the committee's recommendation is that the complaint be taken before the board, the complaint will be reviewed at the next regularly scheduled board meeting. The board shall:
(1) take no further action; or
(2) issue a notice of contemplated action (NCA) under the Uniform Licensing Act; or
(3) assess an administrative penalty subject to appropriate procedural requirements and safeguards.

H. Any hearing held pursuant to the complaint shall conform with the provisions of the Uniform Licensing Act and the Body Art Safe Practices Act.

I. The board may fine, deny, revoke, suspend, stipulate, or otherwise limit a license if the board determines the licensee is guilty of violating any of the provisions of the act, the Uniform Licensing Act, or these rules.

J. Subject to legally required procedural safeguards, any person who violates any provisions of the act or any rule adopted by the board may incur, in addition to any other penalty provided by law, a civil penalty in an amount of less than one hundred fifty dollars (\$150) for each violation. The board will serve on the licensee official notice of any such fine that the board proposes to assess. Failure to pay a fine, once properly assessed, may result in an additional fine and revocation of license or other disciplinary action. The penalties to be assessed are as follows:

(1) Failure to comply with operator requirements:
(a) first offense: one hundred dollars (\$100);
(b) second offense: one hundred fifty dollars (\$150);
(c) third and subsequent offenses: the board shall take steps to impose a further fine up to the limit of one hundred fifty dollars (\$150) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

(2) Failure to comply with sanitation and safety requirements:
(a) first offense: one hundred dollars (\$100);
(b) second offense: one hundred fifty dollars (\$150);
(c) third and subsequent offenses: the board shall take steps to impose a further fine up to the limit of one hundred fifty dollars (\$150) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

(3) Failure to post required licenses:
(a) first offense: fifty dollars (\$50);
(b) second offense: one hundred fifty dollars (\$150);
(c) third and subsequent offenses: the board shall take steps to impose a further fine up to the limit of one hundred fifty dollars (\$150) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

(4) Working on an expired or invalid license:
(a) first offense: fifty dollars (\$50);
(b) second offense: one hundred fifty dollars (\$150);
(c) third and subsequent offenses: the board shall take steps to impose a further fine up to the limit of one hundred fifty dollars (\$150) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act

(5) Performing services for compensation in an unlicensed establishment:
(a) first offense: one hundred dollars (\$100);
(b) second offense: one hundred fifty dollars (\$150);
(c) third and subsequent offenses: the board shall take steps to impose a further fine up to the limit of one hundred fifty dollars (\$150) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

(6) Any violation of the Body Art Safe Practices Act or rules:
(a) first offense: one hundred dollars (\$100);
(b) second offense: one hundred fifty dollars (\$150);
(c) third and subsequent offenses: the board shall take steps to impose a further fine up to the limit of one hundred fifty dollars (\$150) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

K. The board may suspend a license immediately without prior notice to the holder of the license if it determines, after inspection, that conditions within a body art establishment present a substantial danger of illness, serious physical harm or death to customers who might patronize a body art establishment. A suspension action taken pursuant to this section is effective when communicated to the operator or body artist. Suspension action taken pursuant to this section shall not continue beyond the time that the conditions causing the suspension cease to exist, as determined by a board inspection at the request of the operator or body artist. A license holder may request an administrative hearing, as provided by the Body Art Safe Practices Act, Section 61-17B-5 NMSA 1978 if the board does not lift an immediate suspension within 10 days.

[16.36.4.8 NMAC - Rp, 16.36.4.8 NMAC, 02/04/2016]

HISTORY OF 16.36.4 NMAC:

History of Repealed Material:

16.36.4 NMAC, Enforcement, Complaints and Disciplinary Action, filed 03/10/10 - Repealed effective, 2/04/2016

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 36 BODY ARTISTS AND OPERATORS
PART 5 STANDARDS OF PRACTICE

16.36.5.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Body Art Practitioners.
[16.36.5.1 NMAC - Rp, 16.36.5.1 NMAC, 02/04/2016]

16.36.5.2 SCOPE: Any person licensed to practice body art tattoo, piercing, scarification and all operators.
[16.36.5.2 NMAC - Rp, 16.36.5.2 NMAC, 02/04/2016]

16.36.5.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-8 NMSA 1978.
[16.36.5.3 NMAC - Rp, 16.36.5.3 NMAC, 02/04/2016]

16.36.5.4 DURATION: Permanent
[16.36.5.4 NMAC - Rp, 16.36.5.4 NMAC, 02/04/2016]

16.36.5.5 EFFECTIVE DATE: February 4, 2016, unless a later date is cited at the end of a section.
[16.36.5.5 NMAC - Rp, 16.36.5.5 NMAC, 02/04/2016]

16.36.5.6 OBJECTIVE: To provide minimum licensure with minimum practice of standards.
[16.36.5.6 NMAC - Rp, 16.36.5.6 NMAC, 02/04/2016]

16.36.5.7 DEFINITIONS: [RESERVED]

16.36.5.8 STANDARDS OF PRACTICE AND PROFESSIONAL STANDARDS: Practitioners are required to comply with the following minimum standards.

A. A practitioner shall perform all body art procedures in accordance with universal precautions set forth by occupational health and safety administration (OSHA) and the United States. centers for disease control.

B. Smoking, eating, or drinking by anyone is prohibited in the procedure room while body art preparation, procedure and clean-up is being performed.

C. A practitioner shall refuse service to any person who, in the opinion of a reasonable objective observer, may be under the influence of alcohol or drugs.

D. A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art, the licensee must thoroughly wash their hands in hot running water with liquid antimicrobial soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.

E. The skin of the licensee shall be free of rash or infection. No licensee affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.

F. In performing body art procedures, a practitioner shall wear disposable single-use gloves. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed in accordance with Subsection D before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for hand washing procedures as part of a good personal hygiene program.

G. If, while performing body art, the licensee's glove is pierced, torn, or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person, the procedures in Subsections D and E above shall be repeated immediately. Any item or instrument used for body art which is contaminated during the procedure shall be discarded and replaced immediately with new sanitary items or instrument before the procedure resumes.

H. Contaminated waste, which may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved "red" bag which is marked with the international "biohazard" symbol. It must then be disposed of by an approved medical waste facility pursuant to federal and state regulations including but not limited to 29 CFR 1910.1030 and New Mexico solid waste management regulations promulgated by the New Mexico environment department. Sharps ready for disposal shall

be disposed of in approved sharps containers. Contaminated waste which does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal, approved disposal methods. Storage of contaminated waste on-site shall not exceed 90 days. Establishment shall maintain records of waste removal.

I. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its content. The applicator or gauze shall be used once and then discarded.

J. It is the responsibility of the operator of the body art establishment to be in possession of the most current regulations and aftercare instructions.

K. Jewelry inserted into a newly pierced area must be made surgical implant-grade stainless steel that is ASTM F138 compliant; solid 14k or 18k white or yellow gold, niobium (Nb), titanium (Ti6A4V ELI) that is ASTM F136 compliant, platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.

[16.36.5.8 NMAC - Rp, 16.36.5.8 NMAC, 02/04/2016]

16.36.5.9 STERILE PROCEDURES AND SANITATION:

A. All non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an antimicrobial soap solution and hot water or an appropriate disinfectant to remove blood and tissue residue and placed in an ultrasonic unit which shall remain on the premises of the body art establishment and which will be operated in accordance with the manufacturer's instructions.

B. All facilities that reprocess reusable instruments shall have an equipment cleaning room that is physically separated from the work stations. Facilities that use all disposable equipment shall be exempt from this requirement.

C. After cleaning, all non-disposable instruments used for body art shall be packed individually in paper peel-packs and sterilized. All paper peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Properly packaged, sterilized and stored equipment can be stored no more than one year. Paper peel-packs must be dated with an expiration date not to exceed one year. Sterile equipment may not be used after the expiration date without first repackaging and resterilizing.

D. All non-disposable instruments used for body art shall be sterilized in an autoclave at the body art establishment. Off-site sterilization is prohibited. The sterilizer shall be used, cleaned, and maintained according to manufacturer's instructions. A copy of the manufacturer's recommended procedures for the operation of the sterilization unit must be available for inspection by the board.

E. Each holder of a license to operate a body art establishment shall demonstrate that the sterilizer used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. These test records shall be retained by the operator for a period of three years and provided to the board upon request.

F. After sterilization, the instrument used for body art, tattooing or body piercing shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.

G. All instruments used for body art, tattooing or body piercing shall remain stored in sterile packages until just prior to performing a body art procedure. When assembling instruments used for performing body art, the operator shall wear disposable medical gloves and use techniques to ensure that the instruments and gloves are not contaminated.

H. All inks, dyes, pigments and sharps shall be specifically manufactured for performing body art procedures and shall not be adulterated. Immediately before applying a tattoo, the quantity of the dye to be used for the tattoo shall be transferred from the bottle and placed into sterile, single use paper cups or plastic caps. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.

I. For body piercing and tattooing establishments primarily utilizing a Statim autoclave, reusable items shall be sterilized in an autoclave in a bulk load without sterilization pouches, previous to sterilization in the Statim autoclave, for the body piercing or tattoo procedure. Reusable instruments and single use items sterilized in a Statim autoclave cassette must be used immediately after opening the Statim autoclave cassette. The items contained in the Statim autoclave cassette shall be used for one client only and shall include use of an integrater strip.

[16.36.5.9 NMAC - Rp, 16.36.5.9 NMAC, 02/04/2016]

16.36.5.10 REQUIREMENTS FOR SINGLE USE ITEMS:

- A.** All sharps shall be sterilized prior to use and stored in paper peel-packs.
 - B.** Single use items shall not be used on more than one client for any reason. After use, all single use needles, razors and other sharps shall be immediately disposed of in approved sharps containers. Piercing needles are strictly single use.
 - C.** All body art stencils shall be single use and disposable. Petroleum jellies, soaps and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or in a manner which prevents contamination of the original container and its contents. The gauze shall be used only once and then discarded.
- [16.36.5.10 NMAC - Rp, 16.36.5.10 NMAC, 02/04/2016]

16.36.5.11 CLIENT CARE AND RECORDS REQUIREMENTS:

- A.** Prior to performing a body art procedure on a client, the practitioner shall:
 - (1)** inform the client, verbally and in writing that the following health conditions may increase health risks associated with receiving a body art procedure:
 - (a)** history of diabetes;
 - (b)** history of hemophilia (bleeding);
 - (c)** history of skin disease, skin lesions, or skin sensitivities to soaps, disinfectants etc.;
 - (d)** history of allergies or adverse reactions to pigment, dyes, or other sensitivities;
 - (e)** history of epilepsy, seizures, fainting, or narcolepsy;
 - (f)** use of medications such as anticoagulants, which thin the blood or interfere with blood clotting; and
 - (g)** any other conditions such as hepatitis or HIV.
 - (2)** require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by Subsection J of 16.36.5.8 NMAC.
- B.** Preparation and care of a client's skin area must comply with the following:
 - (1)** Any skin area or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
 - (2)** Before a body art procedure is performed, the immediate skin area and the areas of the skin surrounding where body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors or safety razors with single-use blades shall be used. Blades shall be discarded after each use, and reusable holders shall be cleaned and autoclaved after each use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
 - (3)** In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use, and discarded immediately after use in appropriate covered containers, and disposed of in accordance with the OSHA blood borne pathogens standard.
- C.** The body art establishment shall keep a record of all persons who have had body art procedures performed. The record shall include:
 - (1)** client's name;
 - (2)** date of birth;
 - (3)** address;
 - (4)** the date of the procedure;
 - (5)** the name of licensee who performed the procedure(s);
 - (6)** the type of procedure performed and its location on the client's body;
 - (7)** the signature of the client and, if the client is a minor, written proof of parental or legal guardian presence and consent;
 - (8)** specific ink color(s) applied, and, when available, the manufacturer, catalogue identification number or supplier invoice of each color used.
- D.** For jewelry, a record of the manufacturer, catalogue identification number or supplier invoice shall be maintained.
- E.** All records described in this paragraph shall be retained for a minimum of three years and provided to the board upon request. Records destroyed after three years shall be destroyed by shredding or appropriate destruction methods.

F. The licensee shall provide each client with verbal and written instructions on the aftercare of the body art site. The written instructions shall advise the client:

- (1) on proper cleansing of the area which received the body art;
- (2) to consult a health care provider for:
 - (a) unexpected redness, tenderness or swelling at the site of the body art procedure;
 - (b) any rash;
 - (c) unexpected drainage at or from the site of the body art procedure; or
 - (d) a fever within 24 hours of the body art procedure; and
- (3) the address, and phone number of the establishment; a copy shall be provided to the

client; a model set of aftercare instructions shall be made available by the board.

[16.36.5.11 NMAC - Rp, 16.36.5.11 NMAC, 02/04/2016]

HISTORY OF 16.36.5 NMAC:

History of Repealed Material:

16.36.5 NMAC, Standards of Practice, filed 04/16/08 – Repealed effective, 2/04/2016

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 36 BODY ARTISTS AND OPERATORS
PART 6 FEES

16.36.6.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Body Art Practitioners.
[16.36.6.1 NMAC - Rp, 16.36.6.1 NMAC, 02/04/2016]

16.36.6.2 SCOPE: Any person licensed to practice body art tattoo, piercing, scarification and all operators.
[16.36.6.2 NMAC - Rp, 16.36.6.2 NMAC, 02/04/2016]

16.36.6.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-5 NMSA 1978.
[16.36.6.3 NMAC - Rp, 16.36.6.3 NMAC, 02/04/2016]

16.36.6.4 DURATION: Permanent
[16.36.6.4 NMAC - Rp, 16.36.6.4 NMAC, 02/04/2016]

16.36.6.5 EFFECTIVE DATE: February 4, 2016, unless a later date is cited at the end of a section.
[16.36.6.5 NMAC - Rp, 16.36.6.5 NMAC, 02/04/2016]

16.36.6.6 OBJECTIVE: To outline fees for examinations, applications, renewal, late penalty fee, duplicate license and administrative fees.
[16.36.6.6 NMAC - Rp, 16.36.6.6 NMAC, 02/04/2016]

16.36.6.7 DEFINITIONS: [RESERVED]

16.36.6.8 FEES: All fees are payable to the board and are non-refundable. Fees are as follows:

- | | | |
|-----------|---|--------|
| A. | establishment license (original) | \$300; |
| B. | establishment license (renewal) | \$300; |
| C. | apprentice sponsor application | \$50; |
| D. | apprentice sponsor license (original/renewal) | \$100; |
| E. | apprentice license (original and renewal) | \$50; |
| F. | practitioner license per specialty (original) | \$100; |
| G. | practitioner license per specialty (renewal) | \$100; |
| H. | permanent cosmetic license (original) | \$100; |
| I. | permanent cosmetic license (renewal) | \$100; |
| J. | administrative fee (electronic list) | \$100; |
| K. | duplicate licenses | \$25; |
| L. | late fee | \$35. |

[16.36.6.8 NMAC - Rp, 16.36.6.8 NMAC, 02/04/2016]

HISTORY OF 16.36.6 NMAC:

History of Repealed Material:

16.36.6 NMAC, Fees, filed 04/16/08 – Repealed effective, 2/04/2016



New Mexico Regulation and Licensing Department

BOARDS AND COMMISSIONS DIVISION

New Mexico Board of Body Art Practitioners

2550 Cerrillos Road ▪ PO Box 25101 ▪ Santa Fe, New Mexico 87504
(505) 476-4622 ▪ Fax (505) 476-4645 ▪ www.rld.state.nm.us/boards

ARTICLE 17B Body Art Safe Practices Act

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61-17B-1. Short title. (Repealed effective July 1, 2022.)

Chapter 61, Article 17B NMSA 1978 may be cited as the "Body Art Safe Practices Act".

61-17B-2. Purpose. (Repealed effective July 1, 2022.)

The purpose of the Body Art Safe Practices Act is to provide a safe and healthy environment for the administration of body art.

61-17B-3. Definitions. (Repealed effective July 1, 2022.)

As used in the Body Art Safe Practices Act:

- A. "board" means the board of body art practitioners;
- B. "body art" means tattooing, body piercing or scarification but does not include practices that are considered medical procedures by the New Mexico medical board;
- C. "body art establishment" means a fixed or mobile place where body art is administered on the premises;
- D. "body artist" means a person who administers body piercing, tattooing or scarification;
- E. "body piercing" means to cut, stab or penetrate the skin to create a permanent hole or opening;
- F. "equipment" means machinery used in connection with the operation of a body art establishment, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and other apparatuses and appurtenances;
- G. "instruments used for body art" means hand pieces, needles, needle bars and other items that may come into contact with a person's body during the administration of body art;
- H. "operator" means the owner in charge of a body art establishment;
- I. "scarification" means cutting into the skin with a sharp instrument or branding the skin with a heated instrument to produce a permanent mark or design on the skin;
- J. "sharps" means any sterilized object that is used for the purpose of penetrating the skin or mucosa, including needles, scalpel blades and razor blades;
- K. "single use" means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves;
- L. "sterilization" means destruction of all forms of microbotic life, including spores; and
- M. "tattooing" means the practice of depositing pigment, which is either permanent, semipermanent or temporary, into the epidermis using needles by someone other than a state-licensed physician or a person under the supervision of a state-licensed physician and includes permanent cosmetics, dermography, micropigmentation, permanent color technology and micropigment implantation.

61-17B-4. Issuance of a body art license. (Repealed effective July 1, 2022.)

The board has authority to issue a body art license to a body artist who has demonstrated the ability to perform body art and who conforms with the board's rules with respect to safety, sterilization and sanitation and a body art operator license to an operator who conforms with the board's rules.

61-17B-5. License; application; revocation; suspension. (Repealed effective July 1, 2022.)

A. A body artist shall obtain a body art license, and an operator shall obtain a body art establishment license, the requirements for which shall be defined by the board and shall include the requirement that a body artist applicant demonstrate that the body artist has the training and experience necessary to perform body piercing, tattooing or scarification and the requirement that a sanitary and sterile body art establishment be maintained.

B. An operator or body artist shall possess and post in a conspicuous place a valid and unsuspended license issued by the board in accordance with the Body Art Safe Practices Act and the rules promulgated pursuant to that act. An operator or a body artist shall not display a license unless it has been issued to that operator or body artist by the board and has not been suspended or revoked.

C. An operator or body artist shall apply to the board for the issuance or renewal of a license annually and shall pay license fees established by the board. The board shall set license fees, license renewal fees and late fees in amounts necessary to administer the provisions of the Body Art Safe Practices Act. If an operator or body artist fails to renew a license for the next year, the license is void; provided that the voided license may be restored at any time during the year following the license's expiration upon the payment of the appropriate license renewal fee and a late charge not to exceed one hundred dollars (\$100) as set forth by board rules. If the operator or body artist fails to restore a license within one year following the license's expiration, the operator or body artist may request restoration of the license pursuant to rules promulgated by the board.

D. The board shall promulgate rules for the revocation or suspension of a license for a body art establishment or a body artist who fails to comply with a provision of the Body Art Safe Practices Act or rules promulgated pursuant to that act. A license shall not be suspended or revoked pursuant to the Body Art Safe Practices Act without providing the operator or the body artist with an opportunity for an administrative hearing unless conditions in the body art establishment warrant immediate suspension pursuant to Section 61-17B-9 NMSA 1978. The hearing officer shall not be a person previously involved in the suspension or revocation action. An inspection made more than twenty-four months prior to the most recent inspection shall not be used as a basis for suspension or revocation.

E. The board shall charge a fee not to exceed three hundred dollars (\$300) for the application to issue a new or renewed license. The applicant shall provide proof of current immunization as required by the board and proof of the applicant's attendance at a blood-borne pathogen training program and other training as required by the board before a license is issued or renewed.

F. A current body art license or body art establishment license shall not be transferable from one person to another.

G. The following information shall be kept on the premises of a body art establishment and shall be available for inspection by the board:

- (1) the full names of all employees in the establishment and their exact duties;
- (2) the board-issued license with identification photograph for the operator and any body artists;
- (3) the body art establishment name and hours of operation;
- (4) the name and address of the operator;
- (5) a complete description of all body art performed at the body art establishment;
- (6) a list of all instruments, body jewelry, sharps and inks used at the body art establishment, including names of manufacturers and serial or lot numbers or invoices or other documentation sufficient to identify and locate the manufacturer of those items; and
- (7) a current copy of the Body Art Safe Practices Act.

H. An operator shall notify the board in writing not less than thirty days before changing the location of a body art establishment. The notice shall include the street address of the body art establishment's new location.

61-17B-6. Inspection by board. (Repealed effective July 1, 2022.)

A. The board shall annually inspect body art establishments to determine compliance with the Body Art Safe Practices Act. An operator or body artist shall allow a board official, upon proper identification, to enter the premises, inspect all parts of the premises and inspect and copy records of the body art establishment. The operator or body artist shall be given an opportunity to accompany the board official on the inspection and to receive a report of the inspection within fourteen days after the inspection.

B. Refusal to allow an inspection is grounds for suspension or revocation of the license of the operator or body artist, provided that the board official tendered proper identification prior to the refusal.

61-17B-7. Exemptions. (Repealed effective July 1, 2022.)

A. A person who pierces only the outer perimeter of the ear, not including any cartilage, using a pre-sterilized encapsulated single use stud ear piercing system, implementing appropriate procedures, is exempt from the requirements of the Body Art Safe Practices Act.

B. A member of a federally recognized tribe, band, nation or pueblo who performs scarification rituals for religious purposes is exempt from the requirements of the Body Art Safe Practices Act.

61-17B-8. Sterile procedures and sanitation. (Repealed effective July 1, 2022.)

The board shall establish by rule requirements for:

- A. the use and disposal of equipment and instruments; provided that:
 - (1) all sharps shall be sterilized prior to use;
 - (2) single use items shall not be used on more than one client for any reason; and
 - (3) all body art stencils shall be single use and disposable;
- B. the sterilization or sanitation of non-disposable items;
- C. the prohibition of off-site sterilization; and
- D. procedures to control disease borne by contact with customer or body artist skin mucosa.

61-17B-9. Immediate suspension. (Repealed effective July 1, 2022.)

The board may suspend a license immediately without prior notice to the holder of the license if it determines, after inspection, that conditions within a body art establishment present a substantial danger of illness, serious physical

harm or death to customers who might patronize a body art establishment. A suspension action taken pursuant to this section is effective when communicated to the operator or body artist. Suspension action taken pursuant to this section shall not continue beyond the time that the conditions causing the suspension cease to exist, as determined by a board inspection at the request of the operator or body artist. A license holder may request an administrative hearing, as provided by Section 5 [61-17B-5] NMSA 1978 of the Body Art Safe Practices Act, if the board does not lift an immediate suspension within ten days.

61-17B-10. Judicial review. (Repealed effective July 1, 2022.)

An applicant denied a license or an operator or body artist whose license is suspended or revoked by the board may appeal pursuant to Section 39-3-1.1 NMSA 1978.

61-17B-11. Enforcement. (Repealed effective July 1, 2022.)

A. The board may seek relief in district court to enjoin the operation of a body art establishment or the practice of a body artist not in compliance with the Body Art Safe Practices Act.

B. The district court may impose a civil penalty not exceeding five hundred dollars (\$500) for a violation of the Body Art Safe Practices Act. Each violation of the provisions of the Body Art Safe Practices Act constitutes a separate offense.

C. The board may promulgate rules imposing a schedule of penalties for violations of the Body Art Safe Practices Act. Except as provided in Subsection D of this section, no penalty shall exceed one hundred fifty dollars (\$150).

D. Penalties for the following violations shall not exceed one thousand dollars (\$1,000):

(1) obtaining or attempting to obtain a license by fraudulent misrepresentation;

(2) willfully falsifying by oath or affirmation information required pursuant to the Body Art Safe Practices

Act; or

(3) practicing or attempting to practice under an assumed name or by fraudulent misrepresentation.

61-17B-12. Repealed.

61-17B-13. Municipalities. (Repealed effective July 1, 2022.)

The Body Art Safe Practices Act provides minimum standards for safe body art practices. A municipality may by ordinance provide more stringent standards.

61-17B-14. Repealed.

61-17B-15. Board created; membership. (Repealed effective July 1, 2022.)

A. The "board of body art practitioners" is created. The board is administratively attached to the regulation and licensing department and consists of five members appointed by the governor. Members shall serve three-year terms; provided that at the time of initial appointment, the governor shall appoint members to abbreviated terms to allow for the terms of subsequent appointments to be staggered. Vacancies shall be filled in the manner of the original appointment.

B. Of the five members of the board, four shall be licensed pursuant to the Body Art Safe Practices Act and shall have at least five years' practical experience in their occupations. Of those four, two members shall be operators and two members shall be body artists. The remaining one member shall be a public member. The public member shall not have ever been licensed pursuant to the provisions of the Body Art Safe Practices Act or similar prior legislation or have a financial interest in a body art establishment.

C. Members of the board shall be reimbursed pursuant to the Per Diem and Mileage Act [10-8-1 through 10-8-8] NMSA 1978 and shall receive no other compensation, perquisite or allowance.

D. The board shall elect from among its members a chair and such other officers as it deems necessary. The board shall meet at the call of the chair, not less than two times each year. A majority of members currently serving constitutes a quorum for the conduct of business.

E. A board member shall not serve more than two full consecutive terms, and a member who fails to attend three meetings shall automatically be recommended for removal unless the member's absence is excused for reasons set forth by board rule.

61-17B-16. Board powers and duties. (Repealed effective July 1, 2022.)

A. The board shall:

- (1) in conjunction with the department of health, promulgate rules necessary to implement the provisions of the Body Art Safe Practices Act;
 - (2) establish fees;
 - (3) establish standards and provide for the issuance of new and renewal operator and body artist licenses to applicants;
 - (4) adopt a seal;
 - (5) furnish copies of rules and sanitation and sterilization requirements adopted by the board to each operator of a body art establishment;
 - (6) keep a record of its proceedings, a register of applicants for licensure and a register of licensed operators and body artists; and
 - (7) issue cease and desist orders to persons who violate the provisions of the Body Art Safe Practices Act or rules promulgated pursuant to that act.
- B. The board may establish continuing education or other requirements for licensure.
- C. A member of the board, its employees or agents may enter and inspect a body art establishment at any time during regular business hours for the purpose of determining compliance with the Body Art Safe Practices Act.

61-17B-17. Body art practitioners fund created. (Repealed effective July 1, 2022.)

The "body art practitioners fund" is created in the state treasury. The fund consists of appropriations; license fees, charges and fines that are imposed by the board and that shall be deposited into the fund; and money otherwise accruing to the fund. Money in the fund is appropriated to the board for the purpose of carrying out the provisions of the Body Art Safe Practices Act. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the chair of the board or the chair's authorized representative. Any balance remaining in the fund at the end of a fiscal year shall not revert to the general fund.

61-17B-18. Termination of agency life; delayed repeal. (Repealed effective July 1, 2022.)

The board of body art practitioners is terminated on July 1, 2021 pursuant to the Sunset Act [12-9-11 through 12-9-21 NMSA 1978]. The board shall continue to operate according to the provisions of the Body Art Safe Practices Act until July 1, 2022. Effective July 1, 2022, the Body Art Safe Practices Act is repealed.



2550 Cerrillos Road-2nd Floor

PO Box 25101

Santa Fe, NM 87505

PHONE: (505)476-4622 FAX: (505) 476-4545

E-mail: nmbody.art@state.nm.us

Website: www.RLD.state.nm.us