

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

16.36.3.1 ISSUING AGENCY: Board of Body Art Practitioners.
[16.36.3.1 NMAC - Rp, 16.36.3.1 NMAC, 2/4/2016; A, 2/3/2022]

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, 2/4/2016]

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, 2/4/2016]

16.36.3.4 DURATION: Permanent
[16.36.3.4 NMAC - Rp, 16.36.3.4 NMAC, 2/4/2016]

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, 2/4/2016]

16.36.3.6 OBJECTIVE: To outline the application process for body art operator licensure and requirements for all establishments.
[16.36.3.6 NMAC - Rp, 16.36.3.6 NMAC, 2/4/2016, A, 2/3/2022]

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 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 safety data sheet (SDS) 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, 2/4/2016; A, 6/21/2018; A, 7/12/2022]

16.36.3.9 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) establishment address;
 - (f) establishment phone number;
 - (g) 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;
 - (h) a copy of current city or county business license;
 - (i) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2 or 16.36.9. or 16.36.10 NMAC pursuant to Chapter 61, Article 17B NMSA 1978;
 - (j) proof of current immunizations as defined in 16.36.2 or 16.36.9. or 16.36.10 NMAC pursuant to Chapter 61, Article 17B NMSA 1978;
 - (k) proof of disqualifying criminal conviction as defined in 16.36.4.9 NMAC pursuant to Chapter 61, Article 17B NMSA 1978; 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 16.36.2 or 16.36.9. or 16.36.10 NMAC pursuant to Chapter 61, Article 17B NMSA 1978;

(d) proof of current immunizations as defined in 16.36.2 or 16.36.9. or 16.36.10 NMAC pursuant to Chapter 61, Article 17B NMSA 1978; and
(e) proof of disqualifying criminal conviction as defined in 16.36.4.9 NMAC pursuant to Chapter 61, Article 17B NMSA 1978.
[16.36.3.9 NMAC – N, 2/3/2022]

16.36.3.10 EXPIRED LICENSE: 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.
[16.36.3.10 NMAC – N, 2/3/2022]

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 2/4/2016.

History of Repealed Material:

16.36.3 NMAC, Requirements for Establishments, filed 4/16/2008 - Repealed effective, 2/4/2016