

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 Barbers and Cosmetologists
[16.36.2.1 NMAC - N, 05/16/2008]

16.36.2.2 SCOPE: Any person licensed to practice body art tattoo, piercing, scarification and all operators.
[16.36.2.2 NMAC - N, 05/16/2008]

16.36.2.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-5.
[16.36.2.3 NMAC - N, 05/16/2008]

16.36.2.4 DURATION: Permanent
[16.36.2.4 NMAC - N, 05/16/2008]

16.36.2.5 EFFECTIVE DATE: May 16, 2008 unless a later date is cited in the history note at the end of a section.
[16.36.2.5 NMAC - N, 05/16/2008]

16.36.2.6 OBJECTIVE: To outline the application process, training and examination requirements and the renewal procedures
[16.36.2.6 NMAC - N, 05/16/2008]

16.36.2.7 DEFINITIONS: [RESERVED]

16.36.2.8 APPLICATION FOR BODY ART TATTOO OR PIERCING-SCARIFICATION APPRENTICE LICENSE

- 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.
 - (2) Applications for licensure must include:
 - (a) a completed and signed application;
 - (b) applicant name;
 - (c) proof of age indicating applicant is at least 18 years of age (copy of birth certificate, driver's license, state issued identification card, or baptismal certificate);
 - (d) mailing address;
 - (e) business address;
 - (f) phone number;
 - (g) place of employment as a practitioner;
 - (h) proof of completion of tattoo or piercing-scarification training program as set forth below;
 - (i) an apprentice sponsorship form which must be signed by a body art practitioner licensed in the kind of body art the applicant is seeking an apprenticeship license;
 - (j) non-refundable application fee as required by the board in the form of a money order, cashier's check, business check, or credit card, (no personal checks will be accepted).
- 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 75% or higher.
[16.36.2.8 NMAC - N, 05/16/2008]

16.36.2.9 APPLICATION FOR BODY ART TATTOO OR PIERCING-SCARIFICATION PRACTITIONER LICENSE

- 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.

(2) Applications for licensure must include:

- (a) a completed and signed application;
- (b) name;
- (c) proof of age indicating applicant is at least 18 years of age (copy of birth certificate, driver's license, state issued identification card, or baptismal certificate);
- (d) mailing address;
- (e) business address;
- (f) phone number;
- (g) place of employment as a practitioner;
- (h) proof of completion of tattoo, piercing, or scarification training program and examination as set forth below;
- (i) verification of completion of tattoo or piercing-scarification apprenticeship or experience as set forth below;
- (j) non-refundable application fee as required by the board in the form of a money order, cashier's check, business check, or credit card, (no personal checks will be accepted).

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 75% or higher. If the applicant took and passed the jurisprudence exam to obtain an apprentice license within the prior two years the exam results will transfer to the application for a practitioner license.

[16.36.2.9 NMAC - N, 05/16/2008]

16.36.2.10 APPLICATION FOR PERMANENT COSMETIC PROFESSIONAL

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.

(2) Applications for licensure must include:

- (a) a completed and signed application;
- (b) name;
- (c) proof of age indicating applicant is at least eighteen years of age (copy of birth certificate, driver's license, state issued identification card, or baptismal certificate);
- (d) mailing address;
- (e) business address;
- (f) phone number;
- (g) place of employment as a practitioner;
- (h) proof of completion of permanent cosmetic training program and examination as set forth below;
- (i) non-refundable application fee as required by the board in the form of a money order, cashier's check, business check, or credit card, (no personal checks will be accepted).

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 75% or higher.

[16.36.2.10 NMAC - N, 05/16/2008]

16.36.2.11 APPLICATION FOR BODY ART 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.

B. The supervising licensee(s) must be licensed by the board in each aspect of the licensed activity being practiced in the establishment during the time licensee is in charge (e.g. tattoo, piercing, permanent cosmetics or scarification).

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) proof of age indicating applicant is at least eighteen years of age (copy of birth certificate, driver's license, state issued identification card, or baptismal certificate);
- (e) mailing address;
- (f) physical business address;
- (g) business phone number;
- (h) name(s) of the body art supervising practitioner(s) working at the establishment;
- (i) non-refundable application fee as required by the board in the form of a money order, cashier's check, business check, or credit card, (no personal checks will be accepted).

[16.36.2.11 NMAC - N, 05/16/2008]

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 - N, 05/16/2008]

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. blood borne pathogens (disease) training that meets OSHA standards and center for disease control recommendations; an examination is required as a condition of training completion:

(1) the training must be completed within 12 months prior to application and include, at a minimum, the following:

- (a) a copy and explanation of the OSHA bloodborne pathogen standard;
- (b) an explanation of the epidemiology and symptoms of bloodborne diseases;
- (c) an explanation of the modes of transmission of bloodborne pathogens;
- (d) an explanation of an exposure control plan and the means by which the employee can obtain a copy of the written plan;
- (e) an explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials;
- (f) an explanation of the use and limitations of methods that will prevent or reduce exposure including appropriate engineering controls, work practices, and personal protective equipment;
- (g) information on the types, proper use, location, removal, handling, decontamination and disposal of personal protective equipment;
- (h) an explanation of the basis for selection of personal protective equipment;
- (i) information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge;
- (j) information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials;
- (k) an explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that must be made available;
- (l) information on the post-exposure evaluation and follow-up that an employer is required to provide for the employee following an exposure incident;
- (m) an explanation of the signs and labels or color coding required by OSHA standards; and
- (n) an opportunity for interactive questions and answers with the person conducting the training session;

(2) the training may be obtained through any of the following:

- (a) nationally accredited organization;
 - (b) local government sponsored;
 - (c) hospital sponsored;
 - (d) college sponsored;
 - (e) OSHA (occupational safety and health administration) sponsored;
 - (f) red cross; or
 - (g) board approved;
- B. current certification in first aid and cardiopulmonary resuscitation (CPR); 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 (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 - N, 05/16/2008]

16.36.2.14 TATTOO OR BODY PIERCING-SCARIFICATION APPRENTICESHIP TRAINING AND EXAMINATION REQUIREMENTS

- A. An applicant for original tattoo or piercing-scarification practitioner license shall provide proof, acceptable to the board, that applicant has completed a theory curriculum and a 1500 hour 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. Tattoo and body piercing-scarification theory shall be taught over a minimum of 40 hours and shall include the following requirements:
 - (1) Microbiology:
 - (a) microorganisms, viruses, bacteria, fungi;
 - (b) transmission cycle of infectious diseases; and
 - (c) characteristics of antimicrobial agents.
 - (2) Immunization:
 - (a) types of immunizations; and
 - (b) general preventative measures to protect the apprentice and client.
 - (3) Sanitation and disinfection:
 - (a) definition of terms;
 - (b) use of steam sterilization equipment and techniques;
 - (c) use of chemical agents, antiseptics, disinfectants, and fumigants;
 - (d) use of sanitation equipment;
 - (e) preservice sanitation procedure; and
 - (f) post-service sanitation procedure.
 - (4) Safety:
 - (a) proper needle handling and disposal;
 - (b) how to avoid overexposure to chemicals;
 - (c) use of material safety data sheets;
 - (d) blood spill procedures;
 - (e) equipment and instrument storage; and
 - (5) Bloodborne pathogen standards.
 - (a) OSHA bloodborne pathogen standards;
 - (b) control plan for bloodborne pathogens;
 - (c) exposure control plan;
 - (d) overview of compliance requirements; and
 - (e) disorders and when not to service a client.
 - (6) Professional standards:
 - (a) client preparation;

- (b) recordkeeping;
 - (c) client health history;
 - (d) consent and disclosure forms;
 - (e) sanitation and safety precautions;
 - (f) HIPAA (Health Insurance Portability and Accountability Act of 1996 Privacy Rule)
- standards.
- (g) implement selection and use;
 - (h) proper use of equipment;
 - (i) material selection and use;
 - (j) needles.
- (7) Anatomy:
 - (a) understanding of skin; and
 - (b) parts and functions of skin.
 - (8) New Mexico laws and regulations.
 - (9) Tattoo apprentice shall also complete the following:
 - (a) pigments and color mixing;
 - (b) machine: construction, adjustment and power supply;
 - (c) art, drawing; and
 - (d) portfolio.
- C. Proof of completing 1500 hour apprentice program shall include:
- (1) verification of completion of apprenticeship program on form provided by the board;
 - (2) a minimum of 10 original photographs of healed tattoos or piercings-scarifications which the artisan has personally performed and a minimum of three signed testaments from previous clients.
- D. Applicants engaged in the tattoo or body piercing-scarification business before November 12, 2008 may submit notarized letters of employment from past employers or employment records as substitution for an apprenticeship to prove completion of at least 1500 hours of actual experience in the practice of performing body art activities of the kind for which the applicant seeks a body art practitioner license.
- E. An applicant for a body art tattoo, piercing-scarification practitioner license shall take the tattoo or body piercing-scarification exam approved by the board with a passing score approved by the board. 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 - N, 05/16/2008]

16.36.2.15 APPRENTICE SPONSOR

- A. Upon filling an application with the board a licensee may be approved to sponsor a tattoo or body piercing-scarification apprentice if the licensee:
- (1) holds a New Mexico tattoo or body piercing-scarification license;
 - (2) provides documentation of legally practicing tattoo or body piercing-scarification for at least five years without any board sanctioned disciplinary action; and
 - (3) provides a curriculum as required in 16.36.2.14 NMAC to the board for approval.
- B. Theory curriculum may be taught in groups. However, the practical experience shall be one-on-one with no more than one apprentice working under the sponsor's supervision.
- [16.36.2.15 NMAC - N, 05/16/2008]

16.36.2.16 PERMANENT COSMETIC TRAINING AND EXAMINATION REQUIREMENTS

- A. The permanent cosmetic professional applicant shall have completed a 60-hour training program approved by the board, and shall perform under the direct supervision of a board approved practitioner a minimum of five of each of the following procedures:
- (1) eye brow simulation;
 - (2) lip liner;
 - (3) lip color; and
 - (4) eye liner/eyelash enhancer.
- B. Client records shall be maintained by the practitioner applicant to verify that the minimum requirements for the procedures were completed.

C. The practitioner applicant shall submit a minimum of one photograph 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 enhancer.

D. A practitioner performing areola restoration shall have completed a training program approved by the board.

E. An applicant for a permanent cosmetic professional license shall take an exam approved by the board with a passing minimum score approved by the board.

[16.36.2.16 NMAC - N, 05/16/2008]

16.36.2.17 LICENSE RENEWAL

A. The body artist and operator shall renew the license annually.

B. 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.

C. Renewal application shall include the following information:

- (1) proof of completion of blood borne pathogens training within the prior 12 months; and
- (2) current CPR and first aid certification.

D. The board will issue renewal licenses within 15 working days of receipt of the renewal application and applicable fee.

E. An applicant whose license has expired for one year but less than five years shall submit a reinstatement application, payment of reinstatement fee; 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 75% or higher.

F. An applicant whose license has expired for more than five years shall re-enter an approved training program and complete a 40 hour theory curriculum, take the tattoo or body piercing-scarification 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 75%.

[16.36.2.17 NMAC - N, 05/16/2008]

16.36.2.18 SPECIAL EVENT, MOBILE BODY ART AND GUEST LICENSE REQUIREMENTS

A. Any licensee desiring to sponsor a special event that will not be conducted at a licensed establishment 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 ten days prior to the event. Approval for the special events may be made administratively.

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 Part 5 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; and

(4) 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 thirty days in New Mexico. A guest license shall be granted only once within a 12 month period.
[16.36.2.18 NMAC - N, 05/16/2008]

HISTORY OF 16.36.2 NMAC: [RESERVED]