

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, or permanent cosmetics 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, or permanent cosmetics.

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. “Completed procedure” means, for the purposes of determining qualification for licensure, a tattoo, body piercing, scarification or permanent cosmetics that has been finished, including any touchups or additional work following initial healing, with the client released from service.

[M]N. “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.

O. “Disqualifying Criminal Conviction” has the same meaning as defined in Subsection E of Section 61-1-36 NMSA 1978.

~~[N]P.~~ **“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]Q.~~ **“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]R.~~ **“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]S.~~ **“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.

T. “License” has the same meaning as defined in Subsection F(1) of Section 61-1-34 NMSA 1978.

U. “Licensing fee” has the same meaning as defined in Subsection F(2) of Section 61-1-34 NMSA 1978.

~~[R]V.~~ **“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.]~~ has the same meaning as defined in Subsection F(3) of Section 61-1-34 NMSA 1978.

~~[S]W.~~ **“Operator”** means the owner of a body art establishment.

~~[T]X.~~ **“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]Y.~~ **“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]Z.~~ **“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]AA.~~ **“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]BB.~~ **“Special Event”** means an event where procedures will be performed and will not be conducted at a licensed establishment.

~~[Y]CC.~~ **“Sterilization”** means destruction of all forms of macrobiotic life, including spores.

DD. “Substantially Equivalent” means the determination by the board that the education, examination, and experience requirements contained in the statutes and rules of another jurisdiction are comparable to, or exceed the education, examination, and experience requirements of the Body Art Safe Practice Act.

~~[Z]EE.~~ **“Supervising Licensee”** means licensed practitioner who manages the licensed body art establishment. This may or may not be the operator.

~~[AA]FF.~~ **“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.]~~ has the same meaning as defined in Subsection F(4) of Section 61-1-34 NMSA 1978.

[16.36.1.7 NMAC - Rp, 16.36.1.7 NMAC, 2/4/2016; A, 6/21/2018, A, x/xx/2021]

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, 6/21/2018]

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, 6/21/2018]

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, 6/21/2018]

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]

16.36.1.12 ELECTRONIC SIGNATURES: Electronic signatures will be acceptable for body artist practitioner and establishment applications, renewal applications and forms pursuant to the Uniform Electronic Transactions Act, Sections 14-16-1 et seq. NMSA 1978.

[16.36.1.12 NMAC - N, x/xx/21]

HISTORY OF 16.36.1 NMAC:

History of Repealed Material:

16.36.1 NMAC, General Provisions, filed 4/16/2008 - Repealed and Replaced by 16.36.1 NMAC, General Provisions, effective, 2/4/2016.