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

16.36.5.1 ISSUING AGENCY: Board of Body Art Practitioners.
[16.36.5.1 NMAC - Rp, 16.36.5.1 NMAC, 2/4/2016; A, 2/3/2022]

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, 2/4/2016]

16.36.5.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-8.
[16.36.5.3 NMAC - Rp, 16.36.5.3 NMAC, 2/4/2016]

16.36.5.4 DURATION: Permanent
[16.36.5.4 NMAC - Rp, 16.36.5.4 NMAC, 2/4/2016]

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, 2/4/2016]

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, 2/4/2016]

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.~~] the appropriate length and diameter for the unique anatomy and placement of the piercing. Materials appropriate to wear in a fresh body piercing must be able to withstand the heat and pressure of an autoclave sterilization and compatible with the body to prevent irritation, allergy, or infection. Materials must be to the specific grade of metal designated by code through the American Society for Testing and Materials Standards (ASTM), the International Organization for Standardization (ISO) or to the standards listed below:

(1) surgical steel should meet on or more of the following criteria:
- **(a)** ASTM F-138
- **(b)** ISO 5832-1
- **(c)** ISO 10993-6
- **(d)** ISO 10993-10
- **(e)** ISO 10993-11; or
- **(f)** EEC Nickel Directive compliant.

(2) titanium;
- **(a)** ASTM F-136;
- **(b)** ASTM F-1295;
- **(c)** ISO 5832-3; or
- **(d)** commercially pure titanium that is ASTM F-67 compliant.

(3) niobium:

(4) gold that is 14k to 18k, nickel-free, cadmium-free and alloyed for biocompatibility. Gold plated, gold-filled, or fold overlay/vermeil jewelry is not acceptable for fresh piercing.

(5) platinum;

(6) biocompatible polymers;

(7) glass:
- **(a)** fused quarts glass;
- **(b)** lead-free borosilicate; or
- **(c)** lead free soda-lime glass.

[16.36.5.8 NMAC - Rp, 16.36.5.8 NMAC, 2/4/2016; A, x/xx/2022]

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~~] a liquid 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, 2/4/2016; A, x/xx/2022]

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, 2/4/2016]

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, 2/4/2016]

HISTORY OF 16.36.5 NMAC:

History of Repealed Material:

16.36.5 NMAC, Standards of Practice, filed 4/16/2008 – Repealed effective, 2/4/2016