

Readopt with amendment and renumber He-P 1100, effective 9-24-13 (Document #10414), as Plc 400 to read as follows:

CHAPTER Plc 400 BODY ART RULES

PART Plc 401 LICENSING

Plc 401.01 Purpose. These rules establish licensing requirements and regulate the practices of body piercing, branding, and tattooing pursuant to RSA 314-A.

Plc 401.02 Definitions.

- (a) “Applicant” means an individual who is seeking a license to practice body art.
- (b) “Apprentice” means a person at least 18 years of age who works under a supervising licensee for the purpose of learning the practice of body art.
- (c) “Appropriate” means suitable, fit, or proper, or as further defined by federal and state laws and regulatory requirements of professional accreditation.
- (d) “Autoclave” means an apparatus for sterilization utilizing steam pressure for a minimum of 30 minutes at 15 pounds of pressure (PSI) at a temperature of 250 degrees Fahrenheit and results in the destruction of all forms of microbial life, including highly resistant spores, maintained according to the manufacturer’s direction.
- (e) “Body art” means the practice of physical body adornment by a body artist in any of the following classifications:
 - (1) Body piercing;
 - (2) Branding; or
 - (3) Tattooing.
- (f) “Body piercing” means “body piercing” as defined in RSA 314-A:1, I, namely, “the creation of an opening in human tissue, except piercing of the ear lobe, through which jewelry or other items are inserted”.
- (g) “Branding” means “branding” as defined in RSA 314-A:1, II, namely, “a permanent mark made on human tissue by burning with a hot iron or other instrument, excluding laser burning”.
- (h) “Clean” means to be free from dirt, stains, impurities, or foreign matter.
- (i) “Client” means any individual accepted for body art services.
- (j) “Cooperate” means to provide the office with any information requested by the executive director during an investigation and to answer any questions posed by the office in order to enable it to determine compliance with RSA 314-A and Plc 400.

(k) “Cosmetic tattoo” means any process using a needle, scalpel, or bladed instrument to cut, inject underneath, or otherwise abrade the surface of the skin for the purposes of replicating makeup or cosmetics, with or without pigment. The term includes “permanent makeup”, “micropigmentation”, and “microblading”.

(l) “Executive director” means “executive director” as defined in RSA 314-A:1, III, namely, “the executive director of the office of professional licensure and certification”.

(m) “Infectious waste” means any:

(1) Liquid or semi-liquid blood;

(2) Items contaminated with blood, which would release these substances in a liquid or semi-liquid state if compressed;

(3) Items that are caked with dried blood and are capable of releasing these materials during handling;

(4) Contaminated sharps; or

(5) Pathological and microbiological wastes containing blood.

(n) “Initial license” means the first body art license an individual receives from the office pursuant to RSA 314-A:2 and RSA 314-A:3.

(o) “Investigation” means the process used by the office to respond to allegations of non-compliance with RSA 314-A and Plc 400.

(p) “Legal guardian” means an individual who, by legal appointment or by the effect of a written law, has been given custody of a minor or adult.

(q) “License classification” means the specific category of services authorized by a license including body piercing, branding, and tattooing.

(r) “Licensee” means the individual to whom a practitioner or apprentice license has been issued pursuant to RSA 314-A.

(s) “Office” means the office of professional licensure and certification.

(t) “Plan of correction” means a written representation of a revised policy or practice that reflects how a body artist will come into compliance with a violation of RSA 314-A or Plc 400 as found by the office.

(u) “Practitioner” means “practitioner” as defined in RSA 314-A:1, IV, namely, “a person who practices tattooing, body piercing, or branding”. The term includes “body artist”.

(v) “Scarification” means the process of making any indelible mark creating scar tissue.

(w) “Spore testing” means the use of bacterial spores to determine the efficacy of a sterilizing device by an independent laboratory or other testing facility.

(x) “Sterilized” means the use of an autoclave for sterilizing all instruments or materials, or the use of pre-packaged, pre-sterilized, and disposable instruments or materials.

(y) “Supervising licensee” means a body art practitioner, licensed pursuant to RSA 314-A:2 for a minimum of 5 years in the body art classification(s) being supervised, who is responsible for the supervision and performance of an apprentice.

(z) “Tattoo” means “tattoo” as defined in RSA 314-A:1, V, namely, “an indelible mark or figure fixed upon the surface of the body by the insertion of pigment under the skin or by the production of scars”.

(aa) “Violation” means any action, failure to act, or other set of circumstances that causes noncompliance with RSA 314-A or Plc 400.

Plc 401.03 Exemptions. Pursuant to RSA 314-A:4, the following individuals shall be exempt from licensing:

- (a) Any person licensed by the New Hampshire board of medicine; and
- (b) Any person or facility which performs only soft-tissue ear lobe piercing.

Plc 401.04 Initial Practitioner License Application Submission.

(a) Any person who wishes to engage in the practice of body art shall file an application for a body artist license.

(b) Each applicant for an initial practitioner license shall submit the following to the office:

- (1) A completed “Body Art License Application - Initial” form, revised September 2018 and available on the board’s website, www.oplc.nh.gov/body-art;
- (2) A recent 2”x 2” photograph of the applicant’s face;
- (3) A fee in accordance with Plc 401.08(b);
- (4) Documentation of the completion of a course in sterilization pursuant to RSA 314-A:2, III, (d); and
- (5) Documentation that proves the applicant meets the requirements for licensure pursuant to RSA 314-A:2, III(c) and RSA 314-A:3, including:
 - a. A signed statement from the supervising licensee confirming that the apprenticeship requirements described in Plc 401.06 have been met;
 - b. Proof of authorization to practice in another state, including copies of all licenses that document at least 3 years of licensure in another state; or

c. For an out-of-state applicant who has practiced for at least 3 years in another state that does not require licensure:

1. A signed statement from a state official affirming that the state does not require licensure for the practice of body art;
2. The name, address, and phone number of the place(s) of employment;
3. The months and years worked;
4. Copies of business records, tax returns, or pay stubs for the months of employment providing proof of at least 1500 hours of employment per year;
5. The owner's or manager's name and phone number; and
6. A signed statement from the owner or manager verifying the employment history.

(c) The applicant shall mail or hand-deliver the documents in (b) above to:

Office of Professional Licensure and Certification
121 South Fruit Street, Suite 303
Concord, NH 03301

(d) If the applicant wishes to practice more than one classification of body art, the applicant shall comply with Plc 401.07(a).

Plc 401.05 Apprentice License Application Submission.

(a) Any person who wishes to engage in the practice of body art, but does not meet the practitioner licensing requirements of Plc 401.04, shall apply for an apprentice license.

(b) Each applicant for initial apprentice license shall submit the following documentation to the office:

- (1) A completed "Body Art License Application – Initial" form as described in Plc 401.04(b)(1);
- (2) The information required in Plc 401.04(b)(2), (4), and (5);
- (3) A fee in accordance with Plc 401.08(b); and
- (4) Proof of supervision that shall include:
 - a. The name, mailing address, including city, state, and zip code, and telephone number of the supervising licensee offering the apprenticeship program;
 - b. A copy of the New Hampshire body art practitioner license of the supervising licensee offering the apprenticeship program; and

c. A statement signed and dated by the supervising licensee, attesting that he or she understands and accepts the responsibility of supervision of the applicant as an apprentice.

(c) The applicant shall mail or hand-deliver the documents in (b) above to:

Office of Professional Licensure and Certification
121 South Fruit Street, Suite 303
Concord, NH 03301

(d) If a supervising licensee becomes unable or unavailable to provide apprentice supervision, the apprentice shall submit to the office a request to change his or her supervising licensee within 10 days of the change in accordance with Plc 401.06(g), (h), and (i), or the apprentice license shall expire.

(e) If the applicant wishes to apprentice in more than one classification of body art, the applicant shall also comply with Plc 401.07(b).

Plc 401.06 Apprenticeship.

(a) An apprenticeship for an initial body art practitioner license in a single body art classification shall include:

- (1) A minimum of 1500 hours of training per year under the supervision of a qualified supervising licensee;
- (2) Completion of the training in a period of time no less than 12 months; and
- (3) The instruction and demonstration of all tasks by the supervising licensee prior to the apprentice performing the task including:
 - a. Setting up, breaking down, and maintaining workstations and equipment;
 - b. All tasks performed on clients; and
 - c. Sterilization of reusable equipment and proper use of the autoclave.

(b) An apprenticeship for additional body art classifications for a licensed practitioner shall:

- (1) Include a minimum of 750 hours training in the license classification;
- (2) Be completed in no less than 6 months and no more than 24 months; and
- (3) Include the instruction and demonstration by the supervising licensee of each task unique to the license classification prior to the apprentice performing the task, until the apprentice is proficient enough to perform such tasks under supervision only.

(c) An apprentice shall only practice on clients under the direct supervision of the supervising licensee.

(d) Direct supervision shall include:

(1) The supervising licensee being in the establishment and available to assist the apprentice at all times when the apprentice is practicing on a client; and

(2) The supervising licensee observing and being in the same room at all times when the apprentice is practicing on a client until:

a. The apprentice has completed the first 750 hours of the apprenticeship; and

b. The supervising licensee judges the apprentice to be competent to practice under such circumstances.

(e) Supervising licensees shall supervise no more than one apprentice at any time, and shall keep a monthly record of the apprentice's attendance that includes the following:

(1) The month and year of the record;

(2) The total number of hours of supervision completed; and

(3) The signatures of the apprentice and supervising licensee.

(f) At the completion of the apprenticeship, an apprentice shall apply for a practitioner license in accordance with Plc 401.04, and submit a statement signed by the supervising licensee certifying that the apprentice:

(1) Has completed the apprenticeship program, including completion of all required hours in accordance with (a) and (b) above;

(2) Practices in a manner that demonstrates competence in each of the following applicable areas:

a. The duties and responsibilities of licensees in accordance with Plc 402.02;

b. The standards of hygiene in accordance with Plc 402.03;

c. Compliance with RSA 314-A and Plc 400;

d. The proper techniques and practices for sterilization;

e. The adverse affects of the body art practices being performed;

f. The contraindications of body art;

g. Anatomy and physiology as related to body art;

h. Skin diseases and disorders as related to body art; and

i. After care instructions; and

(3) For all body piercing apprentices, a statement signed by the supervising licensee certifying that the apprentice demonstrates a competence in the knowledge of the metals and forms of jewelry used.

(g) If a supervising licensee terminates an apprenticeship, the supervisor shall notify the office and the apprentice in writing within 3 business days of the termination and include:

- (1) The name and license number of the supervising licensee and the apprentice;
- (2) The name and address of the establishment where the apprenticeship is taking place; and
- (3) The reason for the termination of the apprenticeship.

(h) An apprentice, whose apprenticeship ends due to the supervising licensee's inability to continue the supervision, shall prevent expiration of the apprentice license by submitting a written request to change supervising licensee, providing:

- (1) The reason for the change in supervising licensee; and
- (2) A written statement by another licensed body art practitioner accepting the responsibility of supervision of the apprentice in accordance with Plc 401.05(b)(4).

(i) The replacement supervisor shall be licensed in the same license classification(s) as the apprentice.

(j) In the case that an apprenticeship terminates, the hours obtained shall be counted toward the completion of a future apprenticeship in the same license classification upon the recommendation of the original supervising licensee.

Plc 401.07 Additional Body Art Classification Application Submissions.

(a) Each licensed body art practitioner wishing to add additional body art classifications to their initial license shall submit the following documentation to the office:

- (1) A completed "Body Art License Application – Initial" form as described in Plc 401.04(b)(1), including current license number; and
- (2) Documents that prove the applicant meets the requirements, including:
 - a. Proof of successful completion of an apprenticeship in the additional body art classifications, as documented by a signed statement from the supervising licensee, confirming that the apprenticeship requirements described in Plc 401.06(b) are met;
 - b. Proof of authorization to practice each additional body art classification in another state, including copies of all licenses that document at least one year of licensure in another state; or

c. For an out-of-state applicant who has practiced for at least 3 years in another state that does not require licensure:

1. A signed statement from a state official affirming that the state does not require licensure for each additional classification of body art;
2. The name, address, and phone number of the place(s) of employment;
3. The months and years worked;
4. Copies of business records, tax returns, or pay stubs for the months of employment providing proof of at least 750 hours of employment completed in no less than 12 months and no more than 24 months;
5. The owner's or manager's name and phone number; and
6. A signed statement from the owner or manager verifying the employment history.

(b) Each licensed body art practitioner or licensed apprentice wishing to apprentice in additional body art classifications shall submit the following documentation to the office:

(1) A completed "Body Art License Application – Initial" form as described in Plc 401.04(b)(1), including current license number; and

(2) Proof of supervision that shall include:

- a. The name, mailing address, including city, state, and zip code, and telephone number of the supervising licensee offering the apprenticeship program;
- b. A copy of the New Hampshire body art practitioner license of the supervising licensee offering the apprenticeship program; and
- c. A statement signed and dated by the supervising licensee, attesting that he or she understands and accepts the responsibility of supervision of the applicant as an apprentice.

(c) The applicant shall mail or hand-deliver the documents in (a) or (b) above to:

Office of Professional Licensure and Certification
121 South Fruit Street, Suite 303
Concord, NH 03301

Plc 401.08 Fees.

(a) The applicant shall submit check, cash, or money order in the appropriate amount in accordance with this section.

(b) Fees, pursuant to RSA 314-A:6, for initial and renewal licensees shall be \$110.

Plc 401.09 Processing of Applications and Issuance of Licenses.

- (a) The executive director shall review the application and notify the applicant in writing within 30 days of receipt if the application does not meet the requirements of Plc 401.04, Plc 401.05, or Plc 401.07, specifying any additional information or documentation the applicant shall submit.
- (b) The executive director shall grant a license to practice body art to applicants who:
 - (1) Submit a complete application in accordance with Plc 401.04, Plc 401.05, or Plc 401.07; and
 - (2) Have not engaged in an activity that violates any of the provisions of RSA 314-A or Plc 400.
- (c) The license shall be sent to the applicant at the address shown on the application.
- (d) Fees shall not be refundable or transferable to any other application(s).
- (e) Licenses issued by the executive director shall be renewed biennially on the last day of the licensee's birth month in odd-numbered year .
- (f) The executive director shall deny any application if the applicant:
 - (1) Knowingly makes any false statement regarding the application or license or in any report the executive director requires to be made;
 - (2) Fails to respond to any lawful inquiry of the executive director;
 - (3) Has failed to pay an administrative fine imposed by the executive director;
 - (4) Has not met all of the requirements of Plc 401.04, Plc 401.05, or Plc 401.07; or
 - (5) Has engaged in an activity that violates any of the provisions of RSA 314-A or Plc 400.
- (g) The executive director shall send the decision to deny the application to the applicant at the address shown on the application.
- (h) Application denials shall be conducted in accordance with Plc 402.06.
- (i) If the application is denied in accordance with Plc 401.09(f), the fee that accompanied the application shall not be refunded to the applicant.
- (j) The office shall issue an amended license certificate for the addition of body art classifications to initial practitioner and apprentice licenses, as described in Plc 401.07.
- (k) When a license is lost, destroyed, or damaged, the licensee shall request a replacement license from the office within 10 days of discovery by sending the office written notification of the lost, destroyed or damaged license.

(l) Notification in (k) above shall include the name, mailing address including street address, city, state, and zip code, phone number, and license number of the licensee.

PART Plc 402 PRACTICE OF BODY ART, RENEWALS, AND DISCIPLINARY ACTIONS

Plc 402.01 Renewal of Body Art License and Expired License.

(a) A body artist who wishes to maintain his or her license shall complete and submit “Body Art Practitioner and Apprentice Renewal Application” form to the executive director in accordance with RSA 314-A:5.

(b) At least 60 days prior to the expiration of a license, the executive director shall:

(1) Notify, in writing, the licensees whose licenses are to expire that their licenses are due to expire; and

(2) Include with the written notice an application for renewal license.

(c) In order to process the applications in a timely manner, the licensee shall submit to the executive director, at least 30 days prior to the expiration of his or her license, the following:

(1) A “Body Art Practitioner and Apprentice Renewal Application” form that contains the following:

a. The applicant’s first and last name and middle initial;

b. The applicant’s home and mailing address;

c. The applicant’s home telephone number;

d. The body art classification(s) in which the applicant is applying for renewal license;

e. Whether or not the applicant is renewing his or her apprenticeship or practitioner license;

f. The name of each body artist business where the applicant is employed;

g. Each body artist business address and telephone number;

h. All information on disciplinary action taken, if any, in any other state regarding applicant’s activities as a body artist; and

i. The applicant’s signature and date signed;

(2) Evidence of 3 hours of continuing education for each body art classification held by a licensee pursuant to RSA 314-A:5, in subject areas including, but not limited to:

a. Basic first aid;

- b. Cardio-Pulmonary Resuscitation (CPR) certification;
- c. The prevention of disease transmission and blood-borne pathogens;
- d. Anatomy and physiology;
- e. Skin diseases, disorders, and conditions; and
- f. Micropigmentation;

(3) Evidence in (2) above shall include:

- a. Course information, including course title, sponsor, and location; and
- b. Course completion certificate;

(4) The appropriate fee in accordance with Plc 401.08(b); and

(5) For apprentice renewals only:

- a. The name of the supervising licensee;
- b. The supervising licensee's license number;
- c. The supervising licensee's telephone number; and
- d. The supervising licensee's mailing address.

(d) Applications for license renewal shall be approved if the application contains all the information required by (c) above and the applicant is not subject to any enforcement action as listed in Plc 402.07 or Plc 402.08.

(e) A licensee who does not submit an application for license renewal prior to his or her license expiration date shall reapply for an initial license in accordance with Plc 401.04 or Plc 401.05.

(f) Failure to receive an application for renewal of the current license sent by the office shall not excuse the body artist from the obligation to submit an application for renewal at least 30 days prior to the expiration of the current license in accordance with (c) above.

Plc 402.02 Duties and Responsibilities of All Licensees.

(a) The licensee shall maintain full compliance with RSA 314-A and Plc 400.

(b) The licensee shall only perform body art in a facility approved for use as a body art establishment in compliance with applicable town or city regulations.

(c) The licensee shall only perform body art on individuals who present valid, government issued identification to verify his or her identity. Licensees shall keep photocopy records of the identification

provided or, if the client refuses to allow such photocopying, shall require a written acknowledgment from the client that his or her identification was checked.

(d) The licensee shall only perform branding and tattooing on individuals 18 years of age or older pursuant RSA 314-A:8.

(e) The licensee shall perform body piercing of individuals under the age of 18 in accordance with RSA 314-A:8 and Plc 400 by:

- (1) Obtaining written consent for the piercing from the minor's parental or legal guardian;
- (2) Requiring the parent or legal guardian to provide photographic identification to verify his or her identity;
- (3) Verifying evidence of the parental or legal guardian's relationship with minor through inspection of a birth certificate or court order;
- (4) Preparing documentation noting the physical location of the piercing on the minor's body;
- (5) Ensuring the minor's parent or legal guardian is physically present at all times during the procedure; and
- (6) Maintaining the documentation required in (1)-(3) above for a minimum of 7 years, to include no less than one year past the individual's 18th birthday.

(f) The licensee shall disclose to every body art client the health risks and potential adverse affects of the procedure prior to beginning every procedure.

(g) The licensee shall provide written and verbal aftercare instructions applicable to the body art performed to every client, including but not limited to:

- (1) Bandaging instructions;
- (2) Skin care instructions;
- (3) Appropriate clothing to wear during healing;
- (4) Acceptable levels of exposure to ultra-violet light;
- (5) Acceptable types of exposure to chlorinated and salt water;
- (6) Appropriate use of skin care products; and
- (7) Written guidelines regarding when to seek medical treatment if necessary.

(i) The licensee shall not accept as a client any individual who appears to be under the influence of intoxicating beverages or chemical substances.

(j) The licensee shall not allow any intoxicating beverages, controlled drug, prescription drug, over-the-counter drug, or any other chemical substance, natural or synthetic, which impairs a person's ability to practice body art or which calls into question a client's decision making ability, to be consumed in a workspace where body art is being performed including by the practitioner, apprentice, and client.

(k) The licensee shall not perform any body art while under the influence of any intoxicating beverages, controlled drugs, prescriptions drugs, over-the-counter drugs, or any other chemical substance, natural or synthetic, which impair to any extent their ability to perform body art in compliance with these rules.

Plc 402.03 Standards of Hygiene.

(a) The licensee shall use the following infection control practices:

- (1) Prior to performing a service, the licensee shall wash his or her hands with soap for a minimum of 15 seconds and shall dry his or her hands with a disposable towel or air dryer;
- (2) Proper coverage of open wounds on the licensee at all times by an impermeable, tight fitting bandage;
- (3) The proper handling of infectious waste as required by Env-Sw 904;
- (4) The use of an autoclave for sterilizing all instruments;
- (5) The storage of all instruments in sterile packets;
- (6) The spore testing of all autoclaves at a minimum of once each month and the maintenance of test records for a minimum of 7 years;
- (7) The use of new, single use needles for the piercing of each individual;
- (8) The use of new, single use needles for the tattooing of each individual;
- (9) The use of piercing guns only for the piercing of ear lobes;
- (10) The storage of all clean and ready-to-use needles and instruments in sterile packets and in a rigid case or storage cabinet while not in use;
- (11) The proper disposal of used needles in a sharps container that is puncture-resistant, leak-proof, can be closed for handling, storage, transportation, and disposal and is labeled with the international biohazard symbol;
- (12) The prohibition of eating, drinking, the use of tobacco of any form, and the application of cosmetics by any individual present in the room while body art is performed;
- (13) The area of skin to be tattooed, pierced, or branded first be thoroughly washed for a period of at least 2 minutes with a new single use sponge, gauze, or paper towel and warm water to which has been added an antiseptic soap;

- (14) The application of all ointments, creams, or jellies on the skin with a sterile gauze, single use sterile tongue depressor, or gloved hand;
 - (15) A prohibition of the use of styptic pencils, alum blocks, or other solid or liquid styptics to check the flow of blood; and
 - (16) The thorough cleaning and sanitizing of service areas and related equipment between each client.
- (b) The licensee shall practice in a clean and sanitary manner including only practicing in an establishment that has:
- (1) An adequate supply of potable water;
 - (2) Adequate lighting;
 - (3) Floors, walls, service tables, and chairs in work stations or sterilization areas that are non-porous; and
 - (4) A toilet, a sink with hot and cold water, soap, and single-use disposable towels located in the establishment and accessible to the practitioner, apprentice, and client at all times.
- (c) The licensee shall ensure that any body piercing jewelry he or she inserts into a newly pierced area is:
- (1) Made of steel, solid 14k or 18k nickel free, white, yellow, or rose gold, niobium, titanium, or platinum;
 - (2) Free of nicks, scratches, or irregular surfaces; and
 - (3) Sterilized prior to use.

Plc 402.04 Prohibited Practices.

- (a) Only individuals licensed by the state of New Hampshire may practice body art in New Hampshire.
- (b) The practice of body art shall not include practices that are considered surgical procedure by RSA 329:1, including, but not limited to:
- (1) Implants under the skin; and
 - (2) Tongue splitting or forking.
- (c) The practice of body art shall not include pigmentation of the eye-ball.
- (d) An applicant who has been denied a license, or a licensee whose license has been suspended or revoked, shall not practice body art.

(e) The tattooing, branding, and piercing of animals by a licensee shall be prohibited.

Plc 402.05 Complaints. The office shall, in accordance with Plc 200, investigate written complaints that allege a violation of RSA 314-A or Plc 400.

Plc 402.06 Enforcement Actions and Administrative Appeals.

(a) Prior to taking enforcement action against an applicant or body artist such as denial, suspension, or revocation of license or imposition of a fine, the office shall send to the applicant or body artist a written notice which states:

- (1) The action to be taken by the office;
- (2) The reasons for the proposed action; and
- (3) The right of the applicant or the body artist to an administrative hearing to contest the enforcement action taken by the office.

(b) Failure of the applicant or body artist to request a hearing within 30 days of receipt of the notice shall result in the proposed action becoming final and immediately imposed.

(c) If the applicant or body artist requests a hearing in writing, no action shall be imposed on the applicant or body artist pending the completion of an administrative hearing conducted in accordance with RSA 541-A:31 through 36 and Plc 200, unless the office immediately suspends a license in accordance with RSA 541-A:30, III.

Plc 402.07 Suspension, Revocation, and Denial of a License.

(a) The executive director shall suspend a license in accordance with Plc 402.06 if the body artist fails to:

- (1) Cooperate with an investigation by the office to the extent required by these rules; or
- (2) Pay a fine in accordance with Plc 402.08.

(b) The length of suspension shall be until such time as the licensee:

- (1) Both:
 - a. Complies with the requirements for which the suspension was issued; and
 - b. Has paid all fines, if any, associated with the suspension; or
- (2) Has his or her license revoked in accordance with (d) below.

(c) Upon reinstatement of a suspended license, the licensee shall not be required to pay an additional fee, and the expiration date of the license shall remain the same.

(d) The executive director shall revoke a license in accordance with Plc 402.06 if the licensee:

- (1) Has performed branding or tattooing on a person under the age of 18;
- (2) Has performed body piercing on a person under the age of 18 without the consent of that person's parent or legal guardian as required under Plc 402.02(e);
- (3) Has performed any prohibited act as described under Plc 402.04;
- (4) Has given false information on his or her renewal application relative to continuing education; or
- (5) Fails to comply with the conditions for the removal of a suspension within 90 days of the suspension taking effect.

(e) A body artist whose license has been revoked or whose application has been denied for committing an act or acts of Plc 402.07(d), (1) through (3) shall not reapply for a body artist license for:

- (1) At least one year from the date the revocation or denial became final, for the first offense; and
- (2) At least 3 years from the date the revocation or denial became final, for the second offense.

(f) License revocations and application denials, for committing an act or acts of Plc 402.07(d), (1) through (3), shall be permanent for the third offense.

(g) Except for (f) above, a body artist whose license has been revoked and who wishes to reapply for a license shall reapply as for an initial body artist license in accordance with Plc 401.04 or Plc 401.05.

(h) Except for (f) above, a body artist whose application has been denied and who wishes to reapply for a license shall reapply as for an initial body artist license in accordance with Plc 401.04 or Plc 401.05.

(i) In addition to (g) and (h) above, a license shall not be granted to any applicant until the applicant has complied with the requirements for which the revocation or denial was issued and has paid all fines, if any, associated with the revocation or denial.

Plc 402.08 Procedures for Imposing, and Schedule of, Administrative Fines.

(a) When the executive director has determined that a violation of RSA 314-A or Plc 400 has occurred, the executive director shall impose a fine in accordance with RSA 314-A:10 and (d) below.

(b) If the applicant or body artist waives the right to a hearing and chooses to pay the imposed fine, the fine shall be paid to and received by the office within 30 days of receipt of the notice of fine by the applicant or body artist.

(c) The payment of a fine shall be:

- (1) Sent to the executive director in the form of cash, check, or money order for the exact amount of the fine; and
- (2) Made payable to “Treasurer – State of New Hampshire” if payment is by check or money order.

(d) Fines for violation of the provisions of RSA 314-A and Plc 400 shall be imposed in accordance with the following schedule:

- (1) For knowingly making any false statement or providing false information on the application, the fine shall be \$1000.00;
- (2) For falsification of a license to practice body art, the fine shall be \$2000.00;
- (3) For practicing or advertising body art without a license, the fine shall be \$2000.00;
- (4) For failure of a supervising licensee to properly supervise an apprentice, the fine shall be \$500.00;
- (5) For failure to cooperate during an investigation, the fine shall be \$1000.00;
- (6) For performing branding or tattooing on a person under the age of 18, the fine shall be \$2000.00;
- (7) For performing body piercing on a person under the age of 18 without the consent of that person’s parent or legal guardian as required under Plc 402.02(e), the fine shall be \$2000.00;
- (8) For performing any prohibited act as described under Plc 402.04, the fine shall be \$2000.00; and
- (9) For performing body art in a location that has not been approved for use as a body art establishment in accordance with Plc 402.02(b), the fine shall be \$1000.00.

PART Plc 403 WAIVERS

Plc 403.01 Waivers.

(a) Applicants or licensees seeking waivers of specific rules in this chapter shall submit a written request for waiver to the executive director which includes the following:

- (1) Specific reference to the rule for which a waiver is being sought;
- (2) Full explanation of why a waiver is necessary; and
- (3) Full explanation of alternatives proposed by the applicant or licensee, which shall be equally as protective of public health as the rule from which a waiver is sought.

(b) The executive director shall approve a request for waiver if:

- (1) The executive director concludes that authorizing deviation from strict compliance with the rule from which waiver is sought does not contradict the intent of the rule;
- (2) The alternative proposed by the applicant or licensee ensures that the objective or intent of the rule from which waiver is sought will be accomplished; and
- (3) The alternative proposed by the applicant or licensee does not violate any statutory provision.

(c) If a waiver is approved, the applicant's or licensee's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which waiver was sought.

(d) Waivers shall correspond with the effective dates of the license. Licensees shall resubmit waiver requests during subsequent license periods if the waiver is still needed.

PART Plc 404 STANDARDS OF PRACTICE

Plc 404.01 Code of Ethics.

(a) Violations of these ethical conduct standards shall constitute unprofessional conduct resulting in disciplinary proceedings pursuant to Plc 402.07.

(b) A licensee shall:

- (1) Obey these ethical conduct standards;
- (2) Comply with RSA 314-A and the board's administrative rules;
- (3) Obey in good faith, and within any time periods specified, any disciplinary orders issued by the board, including orders requiring the payment of fees or fines;
- (4) Deal with colleagues and clients with honesty and integrity;
- (5) Maintain shop premises in a sanitary and hygienic manner;
- (6) Not perform any service that is outside the scope of practice for the license that he or she holds;
- (7) Not misrepresent professional qualifications or credentials;
- (8) Not aid or abet, directly or indirectly, the practice of any person who is not duly licensed;
- (9) Not advertise claims that are misleading, untrue, or insupportable by fact;

- (10) Use professional products designed or manufactured for use in body art according to manufacturer's direction;
- (11) Cooperate with lawful investigation by the executive director;
- (12) Maintain sexual boundaries by:
 - a. Refraining from any behavior that exploits the practitioner-patient relationship in a sexual way; and
 - b. Avoiding any behavior that is sexual or sexually demeaning, or could be reasonably interpreted as such, even when initiated by or consented to by the client;
- (13) Hold confidential any information disclosed by the client regarding medical conditions;
- (14) Not engage in hazing or sexual, verbal, or physical harassment of apprentices, clients, co-workers, or customers;
- (15) Not discriminate based on any protected class of race, sex, sexual orientation, or gender identity; and
- (16) Comply with all local, state, and federal labor laws.

Appendix

Rule	State Statute
Plc 401.01	RSA 541-A:7
Plc 401.02	RSA 314-A:1; RSA 314-A:6, intro.; RSA 541-A:7
Plc 401.03	RSA 314-A:4; RSA 314-A:6, intro.; RSA 541-A:7
Plc 401.04	RSA 314-A:2; RSA 314-A:6, II
Plc 401.05	RSA 314-A:3; RSA 314-A:6, II
Plc 401.06	RSA 314-A:3; RSA 314-A:6, intro. & II
Plc 401.07	RSA 314-A:2, III; RSA 314-A:6, intro. & II
Plc 401.08	RSA 314-A:2, III (b); RSA 314-A:6, III
Plc 401.09	RSA 314-A:6, II; RSA 541-A:16, I(b) intro.
Plc 402.01	RSA 314-A:5; RSA 314-A:6, II
Plc 402.02	RSA 314-A:6, I, IV, and V
Plc 402.03	RSA 314-A:6, I
Plc 402.04	RSA 314-A:2, I; RSA 314-A:7
Plc 402.05	RSA 314-A:11; RSA 541-A:16, I(b) intro.
Plc 402.06	RSA 314-A:6, II; RSA 314-A:9; RSA 314-A:10; RSA 314-A:11
Plc 402.07	RSA 314-A:6, II & III; RSA 314-A:9
Plc 402.08	RSA 314-A:6, III; RSA 314-A:10; RSA 541-A:16, I(b) intro.
Plc 403.01	RSA 541-A:16, I(b) intro.
Plc 404.01	RSA 314-A:6, intro.