

**STATE OF NEW HAMPSHIRE  
OFFICE OF PROFESSIONAL  
LICENSURE AND CERTIFICATION**

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**ADVISORY BOARD OF BODY ART PRACTITIONERS**

**In Re: Pedro Jimenez  
Applicant for Body Art Apprentice License**

Docket No.: 23-BODY ART -007

**NOTICE OF DECISION DATED 12/13/2023**

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Enclosed please find a copy of the Board’s Order dated 12/13/2023 relative to:

**DISCIPLINARY HEARING FINAL DECISION AND ORDER**

**MOTIONS/PETITIONS FOR RECONSIDERATION OR REHEARING:**

Pursuant to N.H. Code Admin. R. Plc 206.29(a) (“Rules”) and RSA 310:14, II, motions/petitions for reconsideration or rehearing shall be filed within 30 calendar days after service of a final adjudicative order. Pursuant to Rule 206.29(b), the Motion/Petition shall: 1) clearly identify points of law or fact that the movant asserts the Board and/or Presiding Officer has overlooked or misapprehended; 2) contain such argument in support of the motion as the movant desires to present; and 3) be served by the movant on all other participants in accordance with Rule 206.11. Pursuant to Rule 206.29, no answer to a motion/petition for reconsideration or rehearing shall be required, but any answer or objection filed shall be delivered to the Presiding Officer’s Office within 5 working days following receipt of service of the motion/petition for reconsideration. Pursuant to RSA 541:5, upon the filing of such motion/petition for rehearing or reconsideration, the Board or Presiding Officer shall within ten days either grant or deny the same, or suspend the order or decision complained of pending further consideration, and any order of suspension may be upon such terms and conditions as the Board or Presiding Officer may prescribe.

**RIGHT TO APPEAL:**

Pursuant to RSA 310:14, III, appeals from a decision on a rehearing and/or motion for reconsideration shall be by appeal to the New Hampshire Supreme Court pursuant to RSA 541. Pursuant to RSA 541:6, within 30 days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the decision on such rehearing, the applicant may appeal by petition to the New Hampshire Supreme Court. Pursuant to RSA 310:14, III, no sanction shall be stayed by the Board during an appeal.

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**ADVISORY BOARD OF BODY ART PRACTITIONERS**

**In Re: Pedro Jimenez  
Applicant for Body Art Tattoo License**

**Docket No.: 23-BODY ART -007**

**FINAL ORDER  
AND DECISION FOR FULL LICENSURE -  
11/06/23**

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**I. ATTENDEES:**

Administrative Staff and Counsel:

Thomas Pappas, OPLC Hearings Clerk  
Teresa Boyer, OPLC Board Administrator  
Brenda Golden-Hallisey, OPLC Board Counsel

Presiding Officer:

Nikolas K. Frye, OPLC Hearings Examiner

Parties:

Pedro Jimenez, Applicant

**II. CASE SUMMARY/PROCEDURAL HISTORY:**

The OPLC Executive Director, through OPLC licensing, received an Application for a Body Art License from Pedro Jimenez, (“Applicant”). Advisory Board Counsel reviewed the application on 10/4/23 and recommended holding a hearing to seek clarification on whether the Applicant practiced without a license. The OPLC Hearings Examiner, acting on behalf of the OPLC Executive Director, then initiated an adjudicative proceeding in this matter. The Board held a final adjudicative hearing on 11/06/23 at 9:30

am est. Pursuant to RSA 310:11, III(b) and Standing Orders 2022-1 and 2023-1, Nikolas K. Frye, Esq., OPLC Hearings Examiner was appointed by the Executive Director as presiding officer. After the hearing, and by order dated 11/14/23, the Applicant was granted a body art tattoo apprentice license and given 30 days to submit documentation demonstrating he is otherwise qualified for licensure as a body art tattoo practitioner. This Final Order and Decision for Full Licensure follows.

**III. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:**

After the hearing, and by order dated 11/14/23, the Applicant was granted a body art tattoo apprentice license and given 30 days to submit documentation demonstrating he is otherwise qualified for licensure as a body art tattoo practitioner. Thirty days having passed, the sole issue remaining before the Board is:

- (1) Whether the Applicant can demonstrate, by a preponderance of the evidence, that he is otherwise qualified for licensure pursuant to other law.

NOH at II(c)(3).

Pursuant to Plc Rule 206.24(e), the Applicant had the burden of proving his case by a preponderance of the evidence. At the previous hearing, the Applicant, Joshua Charland, and Roldaniel Jimenez were sworn in and testified on the Applicant's behalf. Additionally, the Board considered his 2023 apprentice application and accompanying documents and took administrative notice of his application and MLO profiles. The evidence presented support the following facts.

The Applicant has apprenticed at East Coast Tattoo in Salem, New Hampshire for the past two years. The owners of that parlor are Joshua Charland and Roldaniel Jimenez. The Applicant submitted to OPLC an application for apprenticeship as a body art practitioner on October 1, 2021. At the time he submitted the application, he thought all the required paperwork had uploaded. OPLC listed his application in MLO as "pending" until March 8, 2023 when it "abandoned" his application because it was still incomplete. The Applicant believed he was licensed during that period because he had heard nothing

further from OPLC. He acknowledged that things were lost in the shuffle because of everyone in the office getting COVID-19 around that period. He took responsibility for not checking up on the status of his license sooner. When he learned he was unlicensed, he applied for another apprentice license because he could not access the previous online portal to fix his license status.

In September of 2023, he received an email from OPLC licensing telling him that he needed to submit a signed written statement from his proposed supervisor that the supervisor understands and accepts the responsibility of supervision of the Applicant as an apprentice. The OPLC licensing clerk also requested the supervisors name, telephone number and address. (The Applicant had submitted a written statement from his proposed supervisor stating that the supervisor had been supervising the Applicant for the past two years). During the hearing today, Roldaniel Jimenez, who is a licensed body art practitioner in the State of New Hampshire, testified that he understood and accepted the responsibility of supervision of the Applicant as an apprentice. He also provided, under oath, the contact information requested by the OPLC licensing clerk.

Roldaniel also confirmed, under oath, that in September of 2021 he had signed a written statement that he understood and accepted the responsibility of supervision of the Applicant as an Apprentice. Roldaniel questioned whether it was possible to get the Applicant full licensure given he had been under his supervision for over one year.

Pursuant to the 11/14/23 Order in this case, the Applicant later submitted the following additional documentation, which are fully admitted as exhibits in this proceeding: 1) 07/13/21 ProBloodborne by ProTrainings Certificate of training for Pedro Jimenez in Bloodborne Pathogens for Body and Tattoo Artists; 2) 09/24/21 letter from Roldaniel Jimenez agreeing to serve as the Applicant's supervisor while he apprentices as a tattoo artist; and 3) 07/09/21 State of New Hampshire Body Art License Application Initial.

**IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

After reviewing all the evidence and accounting for the demeanor and credibility of the witnesses, the Presiding Officer finds the following facts:

1. The testimony of the Applicant, Joshua Charland, and Roldaniel Jimenez was credible;
2. The Applicant applied for an apprentice license in October of 2021 but due to circumstances beyond his control, the paperwork he attempted to upload was never received by OPLC;
3. Unbeknownst to the Applicant, the Applicant's 10/01/21 application for licensure as an apprentice remained pending until 03/08/23 when OPLC abandoned it;
4. Believing he had an apprentice license, the Applicant worked under Roldaniel Jimenez as a body art tattooist beginning in October of 2021;
5. In September of 2023, the Applicant immediately stopped practicing as an apprentice and re-applied for an apprentice license when he learned he was unlicensed;
6. As part of that 2023 apprentice application, Roldaniel Jimenez provided OPLC with an 09/08/23 signed letter stating that the Applicant had completed 1500 hours of tattoo training under his supervision and was well prepared for a career as a New Hampshire tattoo artist;
7. The submissions the Applicant provided pursuant to the 11/14/23 Order contain the following:
  - a. A completed Body Art License Application Initial form signed and dated by Pedro Jimenez;
  - b. A recent 2" x 2" photograph of the Applicant's face;
  - c. 07/13/21 ProBloodborne by ProTrainings Certificate of training for Pedro Jimenez in Bloodborne Pathogens for Body and Tattoo Artists;
  - d. 09/24/21 letter from Roldaniel Jimenez agreeing to serve as the Applicant's supervisor while he apprentices as a tattoo artist
8. OPLC granted the Applicant an apprentice license and changed his status to active on 11/06/23.

Based upon the evidence presented and the findings of facts made herein, the Presiding Officer renders the following legal opinions (in normal font) and conclusions of law (in bold):

1. **The Licensee meets the statutory requirements for licensure as a body art tattooist as contained in RSA 314-A:3, but not all the relevant requirements in RSA 314-A:2.**

“An apprentice license shall be issued if an applicant is unable to comply with any of the provisions of RSA 314-A:2. A person shall remain an apprentice for at least one year and until the supervising licensee attests that the apprentice is qualified to become licensed.” RSA 314-A:3. Here, the Applicant is unable to comply with the provision of RSA 314-A:2, III(c). Based on the specific circumstances of this case, there is no question that the Applicant has apprenticed under a supervising licensee for a period of one year within the meaning of the statute, even if not within the meaning of the Body Art rules. There is also no question that the Applicant currently has an apprentice license issued pursuant to RSA 314-A:3. Nonetheless, RSA 314-A:2 contemplates payment of a fee for an initial license, which has not yet been paid by the Applicant. *See* RSA 314-A:2, II and RSA 314-A:2, III(b). It also requires the Licensee submit an application for full licensure. *See* RSA 314-A:2, III(a). Where the Applicant has not demonstrated an inability to comply with payment of the fee or submitting a completed application form, both remain non-waivable statutory requirements for licensure that the Applicant must follow.

**2. The Applicant meets all rule-based requirements for initial licensure as a body art tattooist practitioner, except a completed application and payment of the applicable fee.**

For the same reasons discussed in the conclusion of law and legal opinion #1 above, the Applicant meets all the rule-based requirements for initial licensure as a body art tattooist as well, except having a completed application and paying the applicable fee. *See* Plc Rule 601.04. Since the Applicant has shown no inability to comply with these requirements, they are non-waivable. *See* RSA 314-A:2, RSA 314-A:3, and Plc Rule 603.01(b)(3).

**3. The Presiding Officer cannot grant a license through this proceeding because it stems from his apprentice license application, not an application for initial licensure.**

RSA 310:11 is the statutory authority for instituting this disciplinary proceeding. The proceeding stemmed from an apprentice application filed by the Applicant. The Applicant has not filed an application for an initial body art tattooist, which means the issue of whether he meets the requirements

for full licensure is not ripe for the Presiding Officer to decide. Therefore, the Presiding Officer has no ability to grant an initial license.

**IV. CONCLUSION AND DECISION AND ORDERS:**

1. The Presiding Officer cannot grant the Applicant licensure as a full body art tattooist because the Applicant has not submitted the appropriate completed application and applicable fee to the Division for Licensing and Board Administration, Bureau of Licensing; and
2. If the Applicant desires to apply for full licensure as a body art tattooist, he may take such action as he deems necessary. The decision to grant or deny any application for initial licensure (or schedule a hearing pursuant to RSA 310:11) shall rest with the OPLC Bureau of Licensing, which, for the sake of efficiency, is requested to consider this order if any such application is made.

DATED: 12/13/2023

\_\_\_\_\_/s/ Nikolas K. Frye, Esq.\_\_\_\_\_  
Nikolas K. Frye, Esq., Presiding Officer  
Authorized Representative of the Mental  
Health Practice Board -  
New Hampshire Office of  
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