

Adopt Plc 606 to read as follows:

PART Plc 606 LICENSING OF BODY ART FACILITIES

Plc 606.01 Purpose and Applicability.

(a) The purpose of this part is to implement RSA 314-A as it applies to licensing and regulation of body art facilities.

(b) Subject to (c), below, this part shall apply to any facility at which body art services are provided, whether fixed location or mobile.

(c) For any location where an individual operates who is licensed under RSA 313-A and who holds a microblading certificate, this part shall apply only to the area(s) where microblading services are offered.

(d) For any owner of multiple facilities, whether fixed location or mobile or both, a separate license shall be obtained for each facility.

Plc 606.02 Definitions. For purposes of this part, the following definitions shall apply:

(a) “Applicant” means a person who is seeking an initial or renewal license for a facility;

(b) “Body art services” means body piercing, branding, or tattooing including microblading, or any combination thereof, for which a license to practice, or certification for microblading, is required by RSA 314-A;

(c) “Clean” means free of visible dirt, dust, mold, mildew, spilled fluids, or other material(s) that are, or that could harbor, contaminants or infectious agents;

(d) “Designated email address” means the email address provided by an applicant or licensee as the address for the OPLC to use when sending notifications and licenses;

(e) “Disinfect” means the application of a U.S. EPA-registered disinfectant on a clean surface in accordance with the label instructions;

(f) “Establishment” as used in RSA 314-A:6 means “facility” as defined below;

(g) “Executive director” means the executive director of the office of professional licensure and certification (OPLC) or designee;

(h) “Existing facility” means a facility that was in operation as of the 2023 effective date of this part;

(i) “Facility” means any new or existing fixed location facility or mobile facility;

(j) “Facility licensee” means the person to whom a facility license is issued;

(k) “Fixed location facility” means any place of business that provides body art services in a non-mobile, fixed location;

(l) “Initial facility license” means the first license a person receives from the OPLC for a specific facility pursuant to Plc 606;

(m) “Inspector” means an individual authorized by the executive director to inspect facilities to determine compliance with RSA 314-A and Plc 600;

(n) “Licensing bureau” means the organizational unit within the OPLC’s division of licensing and board administration that is responsible for accepting and processing applications;

(o) “Mobile facility” means any business that provides body art services from a moveable set-up, regardless of the frequency with which the services are provided;

(p) “Moveable set-up” means the vehicle, trailer, booth, or other structure that can be moved from place to place and that is outfitted with the work surfaces, sterilization equipment, instruments, and supplies necessary to provide the body art services that are offered;

(q) “New facility” means a facility that is not an existing facility;

(r) “Plan of correction” means a written representation of a revised policy or practice that reflects how a facility will be brought into compliance with RSA 314-A and Plc 600;

(s) “Procedure surface” means any chair, bench, or table on which a client or any part of a client’s body sits, rests, reclines, or lies during a body art procedure;

(t) “Routine inspection” means an inspection that is not undertaken to investigate a complaint or other information received by the OPLC suggesting that conditions at a facility do not meet requirements;

(u) “Spore testing” means “spore testing” as defined in Plc 601.02;

(v) “Violation” means any action, failure to act, or other set of circumstances that causes noncompliance with RSA 314-A or Plc 600;

(w) “Washable” means capable of being maintained in a sanitary condition, by first using water-based cleaning fluids or cleaning products that can be applied or removed, or both, with water and then being disinfected;

(x) “Work surface” means procedure surfaces and all surfaces on which sterilization equipment, instruments, or supplies, or any combination thereof, used to provide body art services are stored or placed during a procedure; and

(y) “Working day” means any Monday through Friday, excluding days on which state offices are closed in observance of holidays.

Plc 606.03 Facility Licensee Legally Responsible for Compliance.

(a) The facility licensee may delegate routine daily tasks to a manager or other responsible individual.

(b) Regardless of any delegation, the facility licensee shall remain legally responsible for complying with all physical plant standards and all operational standards.

Plc 606.04 Standards for All Facilities: Physical Plant.

(a) The facility shall be designed and constructed to prevent and eliminate microbial contamination from the ambient area, such as needles, and also from personnel, clients, and visitors.

(b) Each facility shall meet:

(1) All applicable federal, state, and local requirements for the siting and operation of a business; and

(2) All applicable building, electrical, plumbing, and fire codes.

(c) All walls, floors, and ceilings of the space(s) in which body art services are provided or instruments, equipment, and supplies are kept, or both, shall be:

(1) Smooth, washable, and of a solid color that is light enough to not reduce the visibility of contaminants such as dirt, dust, mold, mildew, and spilled fluids;

- (2) Free of holes and cracks; and
 - (3) Not carpeted or otherwise covered in fabric.
- (d) All work surfaces shall be:
- (1) Made of material(s) that are smooth, non-permeable, and easily cleaned and disinfected after each client;
 - (2) A solid color that is light enough to not reduce the visibility of contaminants such as dirt, dust, mold, mildew, and spilled fluids;
 - (3) Free of holes, cracks, and tears; and
 - (4) Not carpeted or otherwise covered in fabric.
- (e) The space in which body art services are provided shall have solid partitions or walls extending from floor to ceiling that separate the space from any other room used for human habitation or any other activity that could cause potential contamination of work surfaces, including but not limited to any food establishment, area where food is prepared or consumed, barber shop, retail sales area, or salon as defined in RSA 313-A:1, XII, reprinted in Appendix B.
- (f) Each facility shall have a separate room or an area that can be screened from public view for clients requesting privacy.
- (g) Each facility shall have a lavatory that meets applicable building codes, provided that a mobile facility shall ensure that practitioners, clients, and apprentices have access to a lavatory that meets applicable building codes.
- (h) Each body art station shall:
- (1) Have a minimum of 45 square feet of floor space for each practitioner;
 - (2) Be separated from other body art stations by a divider or partition at a minimum; and
 - (3) Have electrical lighting that is sufficient for a practitioner to demonstrate a technique to an apprentice or for a practitioner or apprentice to perform body art on clients.
- (i) Each body art station and each lavatory shall have at least one covered, foot-operated waste receptacle.
- (j) Each fixed-location facility shall have at least one janitorial sink with hot and cold running water under pressure for use in cleaning the facility and proper disposal of non-contaminated liquid wastes in accordance with all applicable federal, state, and local laws.
- (k) Each mobile facility shall have access to a janitorial sink that meets the requirements specified in (j), above.
- (l) Each facility shall have sterilization equipment that enables practitioners and apprentices at the facility to meet the standards of hygiene in Plc 602.03.
- (m) Each facility shall have a secure area specifically dedicated to the storage of sterilization equipment, instruments, and supplies.
- (n) If the facility provides a customer waiting area, the area shall be separate from any workstation, instrument storage area, cleaning area, or any other area in the facility that is used for body art services.

Plc 606.05 Standards for All Facilities: Operations.

- (a) The facility licensee shall take all measures necessary to:
- (1) Maintain all work surfaces and all walls, floors, and ceilings of the space(s) in which body art services are provided or sterilization equipment, instruments, and supplies are kept, or any combination thereof, in a clean condition; and
 - (2) Protect against the presence or breeding of insects, vermin, and rodents within the facility.
- (b) No animals shall be allowed in a facility except service animals as defined in RSA 167-D:1, reprinted in Appendix B.
- (c) Smoking, eating, and drinking shall be prohibited in the area where body art services are provided, with the exception of fluids being offered to a client during or after a body art procedure.
- (d) Waste receptacles in body art stations shall be emptied daily.
- (e) Solid waste collected from waste receptacles shall be:
- (1) Stored in covered, leakproof, rodent-resistant containers; and
 - (2) Removed from the facility at least weekly.
- (f) All instruments and supplies shall be stored in clean, dry, and covered containers that are kept in the area required by Plc 606.04(m).
- (g) All equipment used for body art at a facility shall be maintained in safe working order as directed by the manufacturer.
- (h) The facility licensee shall not allow any individual who is not a New Hampshire-licensed practitioner or apprentice to provide body art services at the facility.

Plc 606.06 Timing of Applying for Initial Facility License.

- (a) The owner of an existing facility that wishes to continue in operation shall:
- (1) Notify the licensing bureau within 10 working days of the 2023 effective date of these rules of the intent to continue in operation by sending an email to customersupport@opl.nh.gov that clearly states the intent to continue to operate and provides:
 - a. The owner's full legal name; and
 - b. The name and address of the business at which body art services are being offered; and
 - (2) File an application for an initial facility license in accordance with Plc 606.07 within 180 days of the 2023 effective date of these rules.
- (b) Any facility that is not an existing facility shall file an application for initial facility license in accordance with Plc 606.07 at least 60 days prior to the expected opening date, provided that the facility shall not open unless and until a facility license is obtained.

Plc 606.07 Applying for Initial Facility License. The applicant for an initial facility license shall submit the following to the licensing bureau:

- (a) A completed "Application for Initial Body Art Facility License" dated December 2022, that provides the information identified in Plc 606.08 and is signed and dated as specified in Plc 606.10;

- (b) The documentation identified in Plc 606.09; and
- (c) An application processing fee of \$110 and an application-related inspection fee of \$100.

Plc 606.08 Information Required for Initial Facility License Application. The applicant for an initial facility license shall provide the following information:

- (a) For all applications filed within the window for existing facilities established in Plc 606.06(a), whether the application is for an existing facility or a new facility;
- (b) For all applications for a new facility, the anticipated opening date of the facility;
- (c) Whether the facility owner is an individual or a business entity;
- (d) If the facility owner is an individual, the owner's full legal name including any suffix such as "Jr." or "III", and any other name(s) in which the owner holds or has held a professional license;
- (e) If the facility owner is a business entity, the following:
 - (1) The full legal name of the owner and any name(s) used by the owner when doing business in New Hampshire;
 - (2) The legal form of the owner, such as a corporation, partnership, or professional association;
 - (3) The jurisdiction in which the entity was created and date of creation; and
 - (4) The name, telephone number, and email address of the individual who has been duly authorized by the owner to sign the application and otherwise interact with the OPLC regarding the application;
- (f) The facility owner's designated email address;
- (g) The URL of the facility's website or social media page(s), if any;
- (h) Whether the application is for a fixed location facility or a mobile facility;
- (i) If the application is for a fixed location facility, the following:
 - (1) The location of the facility by street number, street name, city or town, and county;
 - (2) Whether the facility is a stand-alone building or is within a larger structure, and if within a larger structure, the information that identifies the facility within the structure such as a suite number or floor; and
 - (3) The mailing address of the facility, by post office box or street number and name, city or town, state, and zip code;
- (j) If the application is for a mobile facility, the following:
 - (1) The type of structure used for the moveable set-up, such as a vehicle, trailer, booth, or other structure and, if "other", a description of the structure;
 - (2) If the structure used for the moveable set-up has a motor vehicle registration, the following:
 - a. The state in which the vehicle is registered;
 - b. The motor vehicle registration number;
 - c. The type of number plate, such as "commercial", "passenger", or "veteran"; and

d. The vehicle identification number (VIN);

(k) The specific type(s) of body art services provided or to be provided at the facility;

(l) For a fixed location facility, if the premises in which the facility operates or will operate is owned by someone other than the applicant, the name of the owner of the premises and the name, telephone number, and email address of an individual who is authorized to represent the owner of the premises regarding the application, if it becomes necessary;

(m) For an existing facility, the name and license number of each practitioner and apprentice who practices at the facility, whether on a full-time, part-time, or intermittent basis; and

(n) For a facility that is not yet operating, the name and license number of each practitioner and apprentice expected to practice at the facility, if known, or the total number of practitioners and apprentices the facility is designed to support.

Plc 606.09 Documentation Required for Initial Facility License Application. The applicant for an initial facility license shall provide the following documentation:

(a) Information sufficient to demonstrate that the premises meet or will meet the requirements of Plc 606.04 relative to physical plant, including a floor plan to scale or with dimensions shown of all areas of the facility and such supplemental information as is needed;

(b) If the owner is a business entity:

(1) Confirmation from the New Hampshire secretary of state that the owner is in good standing and authorized to do business in New Hampshire; and

(2) Proof of authorization of the individual who has been authorized to sign the application and otherwise interact with the OPLC.

Plc 606.10 Signature and Attestation Required for Initial Facility Application.

(a) The applicant if an individual, or the applicant's authorized representative if an entity, shall sign and date the application, provided that if the application is filed electronically, the act of submitting the application shall constitute a signature and the date shall be the date the application is filed.

(b) The signature shall constitute the applicant's attestation that:

(1) The facility is authorized under applicable state and local requirements to conduct business in its present location;

(2) The information and documentation submitted are true, complete, and not misleading to the best of the applicant's knowledge and belief;

(3) The applicant understands that providing false or misleading information constitutes grounds for denial, suspension, or revocation of a license; and

(4) The applicant understands that knowingly providing false information constitutes a misdemeanor under RSA 641:3, I relative to falsification in official matters.

Plc 606.11 Initial Review of Applications for Initial Facility License. The licensing bureau shall process the application as provided in Plc 304.06 through Plc 304.08, including referring the application for an inspection.

Plc 606.12 Inspection Required for Initial Facility License Application. The inspector shall:

- (a) Inspect all areas of the facility that are or will be accessible by practitioners, apprentices, or clients, or any combination thereof, to determine compliance with Plc 606.04 for a new facility and with Plc 606.04 and Plc 606.05 for an existing facility; and
- (b) Prepare a written report for the executive director that:
 - (1) Identifies the date, time, and length of the inspection; and
 - (2) Describes the conditions observed in sufficient detail for the executive director to determine whether the requirements of Plc 606.04 are met at a new facility or the requirements of Plc 606.04 and Plc 606.05 are met at an existing facility.

Plc 606.13 Review of Complete Applications for Initial Facility License; Decisions.

- (a) After receiving the inspection report, the licensing bureau shall review the application and report to determine whether the facility meets the criteria for approval specified in (b), below.
- (b) The licensing bureau shall issue an initial facility license to the applicant if:
 - (1) All information and documents and the fee required by Plc 606.07 have been submitted;
 - (2) If the applicant is a business entity, the entity is in good standing and authorized to do business in New Hampshire;
 - (3) The report submitted by the inspector allows the executive director to determine that the facility meets or will meet the requirements of Plc 606.04 for a new facility or the requirements of Plc 606.04 and Plc 606.05 for an existing facility; and
 - (4) The applicant has paid all penalties, including administrative fines, and costs imposed under RSA 314-A and Plc 600, if any.
- (c) The licensing bureau shall inform the applicant of the decision in writing sent to the applicant's designated email address.
- (d) If the licensing bureau is unable to determine that the criteria in (a), above, are met, the licensing bureau shall conditionally deny the application and:
 - (1) Inform the applicant of the reason(s) why an initial facility license cannot be granted; and
 - (2) Notify the applicant that the decision will be final in 30 days unless the applicant requests a hearing within 30 days of the date of the decision.
- (e) If a hearing is requested under (d), above, the hearing shall be conducted pursuant to the provisions of Plc 200 and RSA 541-A that apply to adjudicative proceedings.

Plc 606.14 Initial Facility Licenses: Issuance and Duration.

- (a) An initial facility license shall be valid only for the facility licensee named on the license.
- (b) An initial facility license for a fixed location facility shall be valid only for the specific location identified on the application.
- (c) An initial facility license for a mobile facility shall be valid only for the specific moveable set-up identified in the application.

(d) An initial facility license shall be valid for 2 years unless sooner suspended or revoked pursuant to Plc 606.28 or other applicable law, and may be renewed.

Plc 606.15 Routine Inspections. Each licensed facility, whether fixed or mobile, shall be subject to a routine inspection not more frequently than once each calendar year.

Plc 606.16 Obligations of All Facility Licensees.

(a) Any facility licensee who wishes to relocate a licensed fixed-location facility shall apply for a new facility license for the proposed location.

(b) Any facility licensee who wishes to change the structural component of a moveable set-up of a licensed mobile facility shall apply for a new facility license for the proposed moveable set-up.

(c) Each facility licensee shall notify the licensing bureau within 10 working days if a change of name occurs.

(d) Each facility licensee shall update the OPLC's records within 10 working days of any change in the facility's telephone number, designated email address, or business website URL or social media page(s).

(e) Each facility licensee shall notify the licensing bureau within 10 working days of:

(1) Any disciplinary action, including the imposition of fines or penalties, taken or in process of being taken against the licensee by another jurisdiction in which the licensee is licensed to practice body art; and

(2) The commencement of any civil action or insurance claim filed against the licensee that alleges malpractice and any decision(s) made in such civil actions or insurance claims.

(f) Each facility licensee shall know, and have available in the facility, information regarding how complaints can be filed with the OPLC.

(g) Each facility licensee shall:

(1) Know when the facility license is scheduled to expire; and

(2) File an application to renew the facility license in accordance with Plc 606.18 if the licensee wishes to continue in business at the existing location or using the existing moveable set-up, as applicable.

Plc 606.17 Notification of Pending Facility License Expiration.

(a) At least 60 days prior to the expiration of a license issued pursuant to this chapter, the licensing bureau shall:

(1) Notify, in writing sent to the licensee's designated email address, each facility licensee whose license is expiring that:

a. The license is due to expire; and

b. Failure to file a complete and timely application for renewal shall result in the license expiring; and

(2) Include with the written notice an "Application to Renew Facility License" dated December 2022 or, when the application is available on-line, a registration code for the practitioner to use to renew on-line.

(b) A licensee who wishes to renew a facility license who does not receive an application or registration code shall contact OPLC customer support at CustomerSupport@opl.nh.gov to obtain an application or registration code, as applicable.

(c) As provided in RSA 541-A:30, I, if a timely and complete renewal application has been filed then the license shall continue as valid until final action is exercised by the OPLC on the application for renewal.

Plc 606.18 Applying to Renew a Facility License. A facility licensee who wishes to continue in business shall submit the following to the licensing bureau not more than 60 days prior to the expiration of the current facility license, but more than one working day prior to expiration:

(a) A completed “Application to Renew Body Art Facility License” dated December 2022, that provides the information identified in Plc 606.19 and is signed and dated as specified in Plc 606.21;

(b) The documentation required by Plc 606.20, as applicable; and

(c) An application processing fee of \$110.

Plc 606.19 Information Required for Facility License Renewal Application. The applicant for renewal of a facility license shall provide the following information:

(a) The name and license number of the facility;

(b) Whether the facility owner is an individual or a business entity;

(c) If the facility owner is an individual, the owner’s full legal name including any suffix such as “Jr.” or “III”, and any other name(s) in which the owner holds or has held a professional license;

(d) If the facility owner is a business entity, the following:

(1) The full legal name of the owner and any name(s) used by the owner when doing business in New Hampshire;

(2) The legal form of the owner, such as a corporation, partnership, or professional association;

(3) The jurisdiction in which the entity was created and date of creation; and

(4) The name, telephone number, and email address of the individual who has been duly authorized by the owner to sign the application and otherwise interact with the OPLC regarding the application;

(f) The facility owner’s designated email address;

(g) The URL of the facility’s website or social media page(s), if any;

(h) Whether the facility is a fixed location facility or a mobile facility;

(i) The specific type of body art services provided at the facility;

(j) For a fixed location facility:

(1) The facility mailing address; and

(2) If the premises in which the facility operates is owned by someone other than the applicant, the name of the owner of the premises and the name, telephone number, and email address of an individual who is authorized to represent the owner of the premises regarding the application, if it becomes necessary;

(k) If the facility is a mobile facility for which registration information and the VIN was provided on the initial application, whether the registration information has changed and if so, an update of the information; and

(l) The name and license number of each practitioner and apprentice who practices at the facility, whether on a full-time, part-time, or intermittent basis, and the total number of practitioners and apprentices the facility is designed to support.

Plc 606.20 Documentation Required for Facility License Renewal Application. The applicant to renew a facility license shall provide the following documentation, as applicable:

(a) If the facility has been reconfigured since the prior license was issued, an updated floor plan to scale or with dimensions shown that demonstrates the requirements of Plc 606.04 continue to be met; and

(b) If the facility owner is a business entity:

(1) Documentation from the New Hampshire secretary of state's office that the owner is in good standing and authorized to do business in New Hampshire; and

(2) Proof of authorization of the individual who has been authorized to sign the application and otherwise interact with the OPLC.

Plc 606.21 Signature and Attestation Required for Facility License Renewal Application.

(a) The applicant, if an individual, or the applicant's authorized representative, if an entity, shall sign and date the application, provided that if the application is filed electronically, the act of submitting the application shall constitute a signature and the date shall be the date the application is filed.

(b) The signature shall constitute the applicant's attestation that:

(1) The licensed facility continues to meet the requirements of Plc 606.04 relative to physical plant and Plc 606.05 relative to operations;

(2) The information and documentation submitted are true, complete, and not misleading to the best of the applicant's knowledge and belief;

(3) The applicant understands that providing false or misleading information constitutes grounds for denial, suspension, or revocation of a license; and

(4) The applicant understands that knowingly providing false information constitutes a misdemeanor under RSA 641:3, I relative to falsification in official matters.

Plc 606.22 Initial Review of Facility License Renewal Applications. The licensing bureau shall process the application as provided in Plc 308.09 and Plc 308.10.

Plc 606.23 Review of Complete Facility License Renewal Applications; Decisions.

(a) After determining that an application is complete, the licensing bureau shall review the application to determine whether the facility meets the criteria for approval specified in (b), below.

(b) The licensing bureau shall renew a facility license if:

(1) All information and documents and the fee required by Plc 606.18 have been submitted;

(2) The information submitted demonstrates that the facility meets the requirements of Plc 606.04 and Plc 606.05;

- (3) If the applicant is a business entity, the entity is in good standing and authorized to do business in New Hampshire; and
 - (4) The applicant has paid all penalties, including administrative fines, and costs imposed under RSA 314-A and Plc 600, if any.
- (c) If the licensing bureau is unable to determine that the criteria in (b), above, are met, the licensing bureau shall conditionally deny the application and notify the applicant in writing sent to the applicant's designated email address that:
- (1) Explains the reason(s) why the facility license cannot be renewed; and
 - (2) Informs the applicant that the denial will be final in 30 days unless the applicant requests a hearing within 30 days of the date of the notice.
- (d) A denial shall become final if the applicant does not request a hearing within 30 days of the date of the notice sent pursuant to (c), above.
- (e) If and when a denial becomes final, the facility owner shall cease all operations immediately and not resume such services unless and until a license is obtained under this part.

Plc 606.24 Facility Renewal Licenses: Issuance and Duration. Renewed facility licenses shall be valid for 2 years unless sooner suspended or revoked pursuant to Plc 606.28, and may be renewed.

Plc 606.25 Reinstatement of a License After Expiration. The owner of a facility whose license has expired who wishes to obtain a license in New Hampshire shall apply for a renewal license in accordance with Plc 606.18.

Plc 606.26 Reinstatement of a License Previously Suspended or Revoked.

- (a) The owner of a facility whose license was suspended pursuant to Plc 606.28 or other applicable law who wishes to obtain a license shall:
- (1) Submit a written request to the executive director that demonstrates that all conditions imposed in the suspension order have been met; and
 - (2) If the license expired during the suspension, submit an application for renewal licensure in accordance with Plc 606.18.
- (b) The owner of a facility whose license was revoked pursuant to Plc 606.28 or other applicable law who wishes to obtain a license shall:
- (1) Submit an application for renewal licensure in accordance with Plc 606.18; and
 - (2) Demonstrate that all conditions imposed in the revocation order have been met.
- (c) If the executive director makes a preliminary determination that the applicant does not qualify for a license or does not qualify for an unrestricted license, the executive director shall initiate an adjudicative proceeding pursuant to Plc 200 to determine whether to deny the application or to reinstate the license with conditions.
- (d) A license shall not be granted for a previously-licensed facility whose license was suspended or revoked unless and until the owner of the facility has:
- (1) Complied with all requirements that are part of the suspension or revocation order;

- (2) Paid the costs associated with the suspension or revocation, if imposed pursuant to RSA 310-A:1-m, VI or other applicable law;
- (3) Paid all penalties assessed, including administrative fines; and
- (4) Demonstrated that he or she meets all other requirements for a renewal license.

Plc 606.27 Initiation of Investigations; Procedures.

(a) The executive director shall initiate an investigation of a facility in accordance with Plc 204 whenever he or she receives credible information that:

- (1) The facility licensee violated any requirement applicable to obtaining or renewing a facility license; or
- (2) The facility is not being operated in accordance with Plc 606.05 and the standards of hygiene in Plc 602.03.

(b) If the investigation conducted pursuant to (a), above, produces credible evidence that a violation of any applicable requirement has occurred, the executive director shall initiate a disciplinary proceeding in accordance with the applicable provisions of Plc 200 and RSA 541-A to suspend, revoke, or impose conditions on the facility license in accordance with Plc 606.28 or other applicable law.

Plc 606.28 Proceedings to Impose Sanctions on a Facility License.

(a) If, as a result of the proceeding conducted in accordance with Plc 606.27(b), the prosecutor proves by a preponderance of the evidence or the respondent admits that violation(s) of RSA 314-A or Plc 606, or both, did in fact occur, the executive director shall impose conditions on the facility license to minimize the opportunities for the facility licensee to commit additional or repeat violations if, for each violation:

- (1) The violation was committed negligently or unknowingly;
- (2) No threat to the health and safety of clients, practitioners, or apprentices was posed; and
- (3) The facility has not been the subject of an investigation or disciplinary proceeding for the same or a similar violation within the preceding 2 years.

(b) If conditions are imposed pursuant to (a), above, the facility licensee may request the conditions to be removed upon presenting proof to the executive director that:

- (1) The facility has complied with all conditions for not less than 2 years; and
- (2) No repeat or additional violations have occurred in that time.

(c) If, as a result of the proceeding conducted in accordance with Plc 606.27(b), the prosecutor proves by a preponderance of the evidence, or the respondent admits, that violation(s) of RSA 314-A or Plc 606, or both, did in fact occur, the executive director shall suspend the facility license conditional on correcting the violation(s) if, for each such violation:

- (1) The violation was committed negligently or unknowingly;
- (2) No harm was caused to the health and safety of clients, practitioners, or apprentices; and
- (3) The facility has been the subject of one or more investigations that did not lead to discipline being imposed for the same or a similar violation within the preceding 2 years.

(d) If a facility license is suspended pursuant to (c), above, the owner may request the approval to be reinstated after correcting all violations and paying any fines or costs imposed under RSA 314-A or Plc 600.

(e) If, as a result of the proceeding conducted in accordance with Plc 606.27(b), the prosecutor proves by a preponderance of the evidence, or the respondent admits, that violation(s) of RSA 314-A or Plc 606, or both, did in fact occur, the executive director shall revoke the approval if, for any such violation:

- (1) More than one violation of requirements designed to protect the health and safety of clients, practitioners, and apprentices were committed recklessly or knowingly;
- (2) Substantial harm was caused to any client, practitioner, or apprentice; or
- (3) The facility has been the subject of 2 or more disciplinary proceedings that resulted in sanctions being imposed for the same or any similar violation within the preceding 2 years.

(f) If the precise criteria for action described in (a), (c), or (e), above, are not met, but the violation(s) proved at the hearing or not contested by the respondent were committed negligently, recklessly, or knowingly and posed a threat of harm to clients, practitioners, or apprentices, or any combination thereof, the executive director shall suspend the approval and require the facility to prepare and submit a plan of correction that addresses each violation.

Plc 606.29 Conditions of License Suspension or Revocation.

(a) If a license is suspended, the licensee shall prepare and submit a plan of correction to address each violation that provided a basis for the disciplinary proceeding.

(b) The executive director shall review the submitted plan of correction and:

- (1) Approve the plan, if it:
 - a. Addresses each violation that provided a basis for the disciplinary proceeding; and
 - b. Identifies one or more specific actions that the licensee will take to correct each violation and specifies a reasonable deadline for taking the action(s); or
- (2) Return the plan to the licensee for revision and resubmission if the plan does not meet the requirements for approval specified in (1), above.

(c) A licensee whose license was suspended who wishes to have the license reinstated shall proceed as provided in Plc 606.26.

(d) If a license is revoked, any subsequent application for reinstatement of licensure shall include a plan of correction that addresses each violation that provided a basis for the disciplinary proceeding that resulted in the revocation.

(e) An individual whose license has been revoked and who wishes to reapply for a license shall apply as for reinstatement of the license in accordance with Plc 606.26.

Plc 606.30 Administrative Fines.

(a) The executive director shall issue a written notice to any person proposed to be subjected to an administrative fine for violations of RSA 314-A relative to facilities or Plc 606 that notifies the person:

- (1) Of the violation(s) for which the administrative fine is proposed;
- (2) Of the amount of the proposed administrative fine;
- (3) That the person may request a hearing prior to the imposition of the fine; and

- (4) Of the deadline for requesting a hearing, which shall be no sooner than 20 days from the date of the notice.
- (b) If the recipient of the notice requests a hearing, the hearing shall be conducted in accordance with the provisions in Plc 200 and RSA 541-A that govern adjudicative proceedings.
- (c) The person may choose to waive the right to a hearing and pay the proposed fine, in which case the fine shall be paid to and received by the executive director within 30 days of receipt of the notice.
- (d) Fines for violations of RSA 314-A and Plc 606 shall be imposed in accordance with the following schedule, to a maximum of \$2,000 per violation:
- (1) For submitting false or fraudulent information on or with an application, the fine shall be \$2,000;
 - (2) For falsification of a facility license, the fine shall be \$2,000;
 - (3) For operating an existing facility without obtaining a facility license after the deadline for applying for the facility license or after an application has been abandoned, the fine shall be \$1,000 per violation, provided that each month or portion thereof the facility is operated without a license shall constitute a separate violation;
 - (4) For operating a new facility without obtaining a facility license, the fine shall be \$1,000 per violation, provided that each month or portion thereof the facility is operated without a license shall constitute a separate violation;
 - (5) For allowing individuals who are not New Hampshire-licensed practitioners or apprentices to provide body art services, the fine shall be \$1,000 per violation, provided that each month or portion thereof the unauthorized practice occurs shall constitute a separate violation;
 - (6) For failing to notify the licensing bureau within 10 working days of a change in name as required by Plc 606.16(c) or failing to update the OPLC's records within 10 working days of a change in telephone number, designated email address, or business website URL or social media page(s) as required by Plc 606.16(d), the fine shall be \$25 per violation, provided that each month or portion thereof the information is not provided shall constitute a separate violation;
 - (7) For failing to notify the licensing bureau within 10 working days of any disciplinary action or the commencement of any civil action or insurance claim that alleges malpractice as required by Plc 606.16(e), the fine shall be \$250 per violation, provided that each month or portion thereof the information is not provided shall constitute a separate violation;
 - (8) For refusing to allow an inspection of a facility, the fine shall be \$750 for each inspection not allowed;
 - (9) For failing to maintain the results of spore testing in accordance with Plc 602.03(a)(6), the fine shall be \$250 for each test for which the results are not maintained; and
 - (10) For failure to disclose information requested by the executive director to enable the executive director to determine compliance with RSA 314-A and Plc 606 during an investigation, the fine shall be \$750 for each failure to disclose.
- (f) If the executive director believes a fine is appropriate for a violation that is not included in (d), above, the amount of the fine to be sought shall be scaled to reflect the scope and severity of the violation based on:
- (1) How much the violation deviated from the requirement;

- (2) Whether the violation was committed negligently, recklessly, or intentionally; and
- (3) The extent of harm or potential for harm that occurred.

(g) As provided in RSA 314-A:10, the imposition of an administrative fine shall not preclude the imposition of further penalties or administrative actions under RSA 314-A.

APPENDIX A: STATE STATUTES IMPLEMENTED

Rule	State Statute(s) Implemented
Plc 606	RSA 314-A:6 intro and I - IV

APPENDIX B: STATUTORY PROVISIONS

RSA 167-D:1

IV. "Service animal" means any dog individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for purposes of this definition.

RSA 313-A:1

XII. "Salon" means a beauty salon or other place kept open for the business of cosmetology, manicuring, or esthetics.