

Readopt with amendment Plc 405, eff. 09-02-21 (doc. #13258, Interim), to read as follows:

PART Plc 405 MICROBLADING CERTIFICATE

Plc 405.01 Purpose, Applicability, and Definitions.

(a) The purpose of this part is to implement RSA 314-A:2, IV as enacted by Laws of 2021, 60:1, effective July 1, 2021.

(b) This part shall apply to any individual who is not a licensed body art tattoo practitioner who wishes to engage in microblading.

(c) The following definitions shall apply in this part:

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

(2) “Microblading” means a cosmetic tattoo of the eyebrow as defined in Plc 401.02(k).

Plc 405.02 Eligibility Requirements. To be eligible for a microblading certificate, an individual shall be a New Hampshire licensed esthetician or cosmetologist who has completed the following:

(a) Training that meets the requirements of Plc 405.03; and

(b) A course in the prevention of disease transmission and blood-borne pathogens.

Plc 405.03 Training Requirements. The training required by Plc 405.02(a) shall:

(a) Be at least 100 hours in length;

(b) Be provided by an instructor who is accredited by one or both of the following organizations:

(1) The American Academy of Micropigmentation (“AAM”); or

(2) The Society of Permanent Cosmetic Professionals (“SPCP”); and

(c) Include at a minimum:

(1) Instruction in the following areas:

a. Microblading fundamentals;

b. Color theory and design;

c. Pigment and ink;

d. Equipment including set-up and break-down procedures;

e. Contraindications of microblading;

f. Stretching the skin;

g. Depth;

h. Infection control;

i. Disinfection procedures; and

j. Aftercare; and

(2) Completion of a minimum of 2 sets of eyebrows on a live model under the direct supervision of the course instructor.

Plc 405.04 Initial Microblading Certification.

(a) Any individual who wishes to engage in the practice of microblading who does not have a New Hampshire microblading certificate or a body art tattoo practitioner license shall file an application for initial microblading certificate in accordance with this section.

(b) Each applicant for an initial microblading certificate shall submit the following to the OPLC:

- (1) A completed "Initial Microblading Certificate Application" dated December 2021 that has been signed as specified in Plc 405.06;
- (2) The application processing fee specified in Plc 1002;
- (3) The number of the applicant's active New Hampshire esthetics or cosmetology license;
- (4) A microblading training completion certificate that states the name and address of the training provider, the organization that accredited the training instructor, the date the training was completed, and the number of hours of training received; and
- (5) Documentation of the completion of a course in the prevention of disease transmission and blood borne pathogens.

Plc 405.05 Microblading Certification Expiration and Renewal.

(a) An initial or renewal microblading certificate shall expire 2 years from the date of issuance or the expiration of the certificate holder's esthetics or cosmetology license, whichever is earlier.

(b) To be eligible to renew a microblading certificate, the holder of the certificate shall:

- (1) Be a New Hampshire licensed esthetician or cosmetologist; and
- (2) Complete not less than 3 hours of continuing education in microblading or prevention of disease transmission and blood-borne pathogens.

(c) The holder of a microblading certificate who wishes to renew the certificate shall submit the following to the OPLC:

- (1) A completed "Microblading Certificate Renewal Application" dated December 2021 that has been signed as specified in Plc 405.06;
- (2) The application processing fee specified in Plc 1002;
- (3) The number of the applicant's active New Hampshire esthetics or cosmetology license; and
- (4) Documentation of completion of at least 3 hours of continuing education in microblading or the prevention of disease transmission and blood-borne pathogens.

Plc 405.06 Signature and Certification.

(a) Each applicant for an initial or renewal microblading certificate shall sign and date the application.

(b) An application submitted using the on-line form shall be deemed to be signed and dated by the act of submitting the application.

(c) The applicant's signature shall constitute certification that:

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

(2) The applicant understands that the submittal of false, incomplete, or misleading information:

a. Constitutes grounds to deny the application or to suspend or revoke any certificate that is issued based on the information; and

b. Potentially subjects the applicant to prosecution under RSA 641 relative to falsification in official matters.

Plc 405.07 Duties of Those Holding a Microblading Certificate.

(a) Each microblading certificate holder shall comply with RSA 314-A and Plc 400, including but not limited to the duties and responsibilities of all licensees under Plc 402.02 and standards of hygiene under Plc 402.03 with the following exceptions:

(1) Notwithstanding (a) above and Plc 402.02(b), microblading certificate holders may perform microblading in facilities approved for use as body art establishments or facilities licensed by the board of barbering, cosmetology, and esthetics;

(2) Notwithstanding (a) above and Plc 402.03(a)(8), microblading certificate holders shall use a new, single use microblading tool for the microblading of each individual;

(3) Notwithstanding (a) above and Plc 402.03(a)(12), microblading certificate holders may perform microblading in the same room as where cosmetics are being applied and where eating and drinking are allowed, but shall have a separate workspace that complies with Plc 402.03(a)(12); and

(4) Notwithstanding (a) above and Plc 402.03(a)(2), microblading certificate holders shall bandage according to standards of the microblading industry.

(b) A microblading certificate holder shall:

(1) Use a handheld microblading tool to perform services; and

(2) Not use a tattoo machine unless also licensed as a body art tattoo practitioner.

Plc 405.08 Initiation of Investigations; Disciplinary Proceedings.

(a) The executive director shall initiate an investigation of the holder of a microblading certificate whenever the executive director receives credible information that the holder:

(1) Has had a disciplinary proceeding initiated relative to his or her esthetics or cosmetologist license;

(2) Otherwise has violated any requirement applicable to obtaining or renewing a microblading certificate; or

(3) Has not maintained required health and safety standards relative to microblading.

(b) If the executive director determines that the investigation conducted pursuant to (a), above, has produced evidence that could be used to prove by a preponderance of the 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 or revoke the microblading certificate or to impose limitations on the scope of practice of the microblading certificate holder, in accordance with (c) through (h), below.

(c) After the hearing conducted in accordance with (b), above, if the executive director determines that it has been proven by a preponderance of the evidence that the violation(s) on which the proceeding was based did in fact occur, the executive director shall suspend the microblading certificate conditional on obtaining additional training if, for each such violation:

- (1) The violation was committed negligently or unknowingly, such that additional instruction should help to ensure that it will not be repeated; and
- (2) The holder has not been the subject of a disciplinary proceeding for the same or a similar violation within the preceding 2 years.

(d) If a microblading certificate is suspended pursuant to (c), above, the holder may request the microblading certificate to be reinstated after obtaining the specified additional training.

(e) After the hearing conducted in accordance with (b), above, if the executive director determines that it has been proven by clear and convincing evidence that the violation(s) on which the proceeding was based did in fact occur, the executive director shall revoke the microblading certificate if, for any such violation:

- (1) The violation was committed recklessly or knowingly; or
- (2) The microblading certificate holder has been the subject of one or more disciplinary proceedings for the same or any similar violation within the preceding 2 years.

(f) If a microblading certificate is revoked pursuant to (e), above, the holder shall not apply again for a microblading certificate for at least 2 years from the date of the revocation.

(g) After the hearing conducted in accordance with (b), above, if the executive director determines that it has been proven by a preponderance of the evidence that the violation(s) on which the proceeding was based did in fact occur, the executive director shall impose limitations on the scope of practice of the microblading certificate holder to minimize the opportunities for the holder to commit additional or repeat violations or impose requirements for additional training if, for each such violation:

- (1) The violation was committed negligently or unknowingly; and
- (2) The holder 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.

(h) If limitations on the scope of practice are imposed pursuant to (g), above, the holder may request the limitations to be removed upon presenting proof to the OPLC that:

- (1) The holder has complied with all terms of the limitations for not less than 2 years; and
- (2) The holder has obtained not less than 6 hours of training in the subject area(s) of the violation(s), in addition to the continuing education required by Plc 405.05(b)(2).

Appendix

| Rules | State Statute Implemented |
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| Plc 405 | RSA 314-A:2, IV [2021, 60:1, effective 7-1-21] |