CHAPTER 314-A

BODY ART

Section 314-A:1

314-A:1 Definitions. - In this chapter:

I. "Body piercing" means the creation of an opening in human tissue, except piercing of the ear lobe, through which jewelry or other items are inserted.

II. "Branding" means a permanent mark made on human tissue by burning with a hot iron or other instrument, excluding laser burning.

III. "Commissioner" means the commissioner of the department of health and human services.

IV. "Practitioner" means a person who practices tattooing, body piercing, or branding.

V. "Tattoo" means 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.


314-A:2 License Required; Fees.

I. It shall be unlawful for any person to practice body piercing, branding, or tattooing without a license, unless such person is exempt under RSA 314-A:4.

II. Licenses issued by the commissioner shall be valid for one year from the date of issue.

III. Licenses shall be issued to any person who:

(a) Makes application on a form prescribed by the commissioner;

(b) Makes payment of fees required under RSA 314-A:6, III;

(c) Has been practicing body piercing, branding, or tattooing in an establishment, under the supervision of a person practicing body piercing, branding, or tattooing in compliance with the applicable statutes and rules of the state for not less than 3 years.
Out-of-state applicants shall provide proof of at least 3 years experience as a licensed practitioner in another state; and

(d) Has completed a course approved by the department in methods and techniques for the proper sterilization of instruments and materials used in body piercing, branding, or tattooing.


314-A:3 Apprenticeship. - 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.


314-A:4 Exemptions. - This chapter does not apply to:

I. Any person licensed by the New Hampshire board of medicine.

II. A person or facility which performs only ear lobe piercing.


314-A:5 Renewal of License; Continuing Education Requirement. - Renewal of licenses shall be contingent upon the licensee's completion of 3 hours of continuing education related to the practice of body piercing, branding, or tattooing during the preceding year.


314-A:6 Rulemaking. - The commissioner shall adopt rules, under RSA 541-A, relative to the practice of body piercing, branding, and tattooing and the operations of tattoo and body piercing establishments. Such rules shall include:

I. Standards of hygiene to be met and maintained by establishments and practitioners in order to receive and maintain a license to carry out the practice of tattooing or body piercing, and the manner in which records of period spore tests are to be maintained and reported. All records shall be maintained for a minimum of 7 years.

II. Procedures for granting, revoking, and reinstating a license.

III. Fines and fees.
IV. Inspection of body piercing, branding, and tattooing establishments.

V. The maintenance of records pertaining to parental consent for minors, including names, dates of birth, type of identification used, and any other evidence of parentage or guardianship.


314-A:7 Prohibited Acts. - No practitioner shall:

I. Use any piercing needle more than once, or use a tattooing needle on more than one person.

II. Fail to comply with any rule adopted pursuant to this chapter, order of the commissioner, or any other provision of this chapter.

III. Hire as an employee to practice body piercing, branding, or tattooing, any person not licensed under this chapter.


314-A:8 Body Art on Minors Prohibited.

I. Branding and tattooing a person under the age of 18 is prohibited.

II. Body piercing a person under the age of 18 is prohibited without consent of that person's parent or legal guardian.

III. The consent required by paragraph II of this section shall be satisfied only by the parent or legal guardian being physically present at the time the body piercing is performed and, upon presenting evidence of the person's status as parent or legal guardian, by signing a document declaring that the person is the parent or legal guardian of the minor on whom the piercing is to be performed. The consent shall indicate the location of the piercing on the minor's body. Records shall be maintained for a minimum of 7 years.


314-A:9 License Revocation or Suspension. - After notice and hearing the commissioner may revoke or suspend any license issued under this chapter if the licensee:

I. Violates any provision of this chapter or rule or order adopted or issued under it;
II. Knowingly makes any false statement on any application or any report required by the commissioner; or

III. Fails to respond to any lawful inquiry of the commissioner.


314-A:10 Administrative Fines. - The commissioner, after notice and hearing pursuant to rules adopted under RSA 541-A, may impose fines upon any person who violates any provision of this chapter or rules adopted pursuant to this chapter, in an amount not to exceed $2,000. Rehearings and appeals from a decision of the commissioner shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties or administrative fines under this chapter.


314-A:11 Actions by Department. - The department may, in accordance with applicable law, maintain an action in the name of the state against any person, partnership, association, or corporation for practicing body piercing, marking, branding, or tattooing or operating an establishment in which these activities are conducted within the meaning of this chapter without first obtaining a license. In charging any defendant in a complaint in such action, it shall be sufficient to charge that such defendant did, upon a certain day and in a certain county, practice or operate an establishment without having a license to do so, without averring any further or more particular facts concerning the same.


314-A:12 Violations; Penalty. - Any person who violates a provision of this chapter, or rules adopted pursuant to this chapter, shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person, for a first offense. A person shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person, for any subsequent offense. Each day of violation after the first day of violation shall be considered a subsequent violation.


314-A:13 Minimum Standards. - The provisions of this chapter represent minimum standards and shall not preclude any licensee from voluntarily exceeding these standards with more stringent provisions.