

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER He-P 1100 BODY ART RULES

PART He-P 1101 LICENSING REGULATIONS

He-P 1101.01 Purpose. These rules establish licensing requirements and regulate the practices of body piercing, branding and tattooing pursuant to RSA 314-A.

Source. #6080, eff 8-19-95, EXPIRED: 8-19-03

New. #8394, eff 7-22-05; ss by #10414, eff 9-24-13

He-P 1101.02 Definitions.

- (a) "Applicant" means an individual who is seeking a license to practice body art.
- (b) "Appropriate" means suitable, fit, or proper, or as further defined by federal and state laws and regulatory requirements or professional accreditation.
- (c) "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.
- (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.
- (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.
- (g) "Branding" means "branding" as defined in RSA 314-A:1, II.
- (h) "Clean" means to be free from dirt, stains, impurities, or foreign matter.
- (i) "Client" means any individual accepted for body art services.
- (j) "Commissioner" means the commissioner of the department of health and human services or his or her designee.
- (k) "Cooperate" means to provide the department with any information requested by the commissioner during an investigation and to answer any questions posed by the department in order to enable it to determine compliance with RSA 314-A and He-P 1100.
- (l) "Department" means the New Hampshire department of health and human services.
- (m) "Infectious waste" means any:
 - (1) Liquid or semi-liquid blood;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (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 department pursuant to RSA 314-A:2 and RSA 314-A:3.

(o) "Investigation" means the process used by the department to respond to allegations of non-compliance with RSA 314-A and He-P 1101.

(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) "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 He-P 1100 as found by the department.

(t) "Practitioner" means "practitioner" as defined in RSA 314-A:1, IV. The term includes body artist.

(u) "Supervising licensee" means a body art practitioner, licensed pursuant to RSA 314-A:2 for a minimum of 3 years in the body art classification(s) being supervised, who is responsible for the supervision and performance of an apprentice.

(v) "Tattoo" means "tattoo" as defined in RSA 314-A:1, V.

(w) "Violation" means any action, failure to act or other set of circumstances that causes noncompliance with RSA 314-A or He-P 1101.

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New. #8394, eff 7-22-05; ss by #10414, eff 9-24-13

He-P 1101.03 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 ear lobe piercing.

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New. #8394, eff 7-22-05; ss by #10414, eff 9-24-13

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

He-P 1101.04 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 department:

(1) An application form entitled “Body Art License Application – Initial” furnishing the following information:

- a. The applicant’s name, mailing address, physical address and telephone number;
- b. The applicant’s date of birth;
- c. The name, physical address, city, state, zip code and telephone number of the applicant’s place of employment;
- d. An indication whether the applicant is applying for a practitioner or apprentice license, as applicable; and
- e. The body art classification(s) to be performed:
 1. Piercing;
 2. Branding; or
 3. Tattooing;

(2) A recent 2”x 2” photograph of the applicant’s face;

(3) A fee in accordance with He-P 1101.08(b)(1);

(4) Documentation of hepatitis B virus vaccination status, including either:

- a. Certification of completed vaccination;
- b. Laboratory evidence of immunity;
- c. A statement that the applicant has chosen not to receive the hepatitis B virus vaccination for religious reasons; or
- d. Documentation which states the vaccine is contraindicated for medical reasons and cannot be given, and is signed and dated by one of the following:
 1. A medical doctor;
 2. A physician’s assistant;
 3. An advanced practice registered nurse;
 4. A doctor of osteopathy; or
 5. A doctor of naturopathic medicine;

(5) Documentation of the completion of a course in sterilization pursuant to RSA 314-A:2, III, (d);

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(6) Documents that prove 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 He-P 1101.06 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; and

(7) The applicant's signature and date signed.

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

Department of Health and Human Services
Office of Operations Support
Licensing and Regulation Services
129 Pleasant Street
Concord, NH 03301

(d) If the applicant wishes to practice more than one classification of body art, pursuant to (b)(1)e. above, the applicant shall also submit:

- (1) The documentation described in He-P 1101.07(a)(3); and
- (2) The fee in accordance with He-P 1101.08(b)(3).

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He-P 1101.05 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 He-P 1101.04, shall apply for an apprentice license.

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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) A “Body Art License Application – Initial” as described in He-P 1101.04(b)(1);
- (2) The information required in He-P 1101.04(b)(2), (4), and (5);
- (3) A fee in accordance with He-P 1101.08(b)(2); 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:

Department of Health and Human Services
Office of Operations Support
Licensing and Regulation Services
129 Pleasant Street
Concord, NH 03301

(d) If a supervising licensee becomes unable or unavailable to provide apprentice supervision, the apprentice shall submit to the department a request to change their supervising licensee within 10 days of the change in accordance with He-P 1101.06(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, pursuant to He-P 1101.04(b)(1)e., the applicant shall also submit:

- (1) The documentation required by He-P 1101.07(b)(3); and
- (2) A fee in accordance with He-P 1101.08(b)(3).

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He-P 1101.06 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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- 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.
- (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) At the completion of the apprenticeship, an apprentice shall apply for a practitioner license by submitting a completed “Body Art License Application – Initial” in accordance with He-P 1101.04, and 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 He-P 1101.11;
 - b. The standards of hygiene in accordance with He-P 1101.12;
 - c. Compliance with RSA 314-A and He-P 1101;
 - 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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (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.
- (f) If a supervising licensee terminates an apprenticeship, the supervisor shall notify the department 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.
- (g) 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 He-P 1101.05(b)(4).
- (h) The replacement supervisor shall be licensed in the same license classification(s) as the apprentice.
- (i) 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.

Source. #6080, eff 8-19-95, EXPIRED: 8-19-03

New. #8394, eff 7-22-05; ss by #10414, eff 9-24-13

He-P 1101.07 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 department:
- (1) An "Body Art License Application – Initial" as described in He-P 1101.04(b)(1), including current license number;
 - (2) A fee in accordance with He-P 1101.08(b)(3); and
 - (3) 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 He-P 1101.06(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 one year in another state that does not require licensure:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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 department:

- (1) An "Body Art License Application – Initial" as described in He-P 1101.04(b)(1), including current license number;
- (2) A fee in accordance with He-P 1101.08(b)(3); and
- (3) 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:

Department of Health and Human Services
Licensing and Regulation Services
129 Pleasant Street
Concord, NH 03301

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He-P 1101.08 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, shall be the following amounts:

- (1) \$150.00 for an initial practitioner license in a single body art classification;
- (2) \$150.00 for an initial apprentice license in a single body art classification;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (3) \$75.00 for each additional body art classification as indicated on practitioner and apprentice licenses;
- (4) \$100.00 for renewal of a practitioner license in a single body art classification;
- (5) \$100.00 for renewal of an apprentice license in a single body art classification; and
- (6) \$75.00 for renewal of each additional body art classification on practitioner and apprentice licenses.

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New. #8394, eff 7-22-05; ss by #10414, eff 9-24-13 (from He-P 1101.07)

He-P 1101.09 Processing of Applications and Issuance of Licenses.

- (a) The commissioner shall review the application and notify the applicant in writing within 10 days of receipt if the application does not meet the requirements of He-P 1101.04, He-P 1101.05, or He-P 1101.07, specifying any additional information or documentation the applicant shall submit.
- (b) The commissioner shall grant a license to practice body art to applicants who:
 - (1) Submit a complete application in accordance with He-P 1101.04, He-P 1101.05, or He-P 1101.07; and
 - (2) Have not engaged in an activity that violates any of the provisions of RSA 314-A or He-P 1100.
- (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 commissioner shall be effective for one year from the date of issuance.
- (f) The commissioner shall deny any application if the applicant:
 - (1) Knowingly makes any false statement regarding the application or license or in any report the commissioner requires to be made;
 - (2) Fails to respond to any lawful inquiry of the commissioner;
 - (3) Has failed to pay an administrative fine imposed by the commissioner;
 - (4) Has not met all of the requirements of He-P 1101.04, He-P 1101.05, or He-P 1101.07; or
 - (5) Has engaged in an activity that violates any of the provisions of RSA 314-A or He-P 1100.
- (g) The commissioner 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 He-P 1101.15.
- (i) If the application is denied in accordance with He-P 1101.09(f), the fee that accompanied the application shall not be refunded to the applicant.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(j) The department shall issue an amended license certificate for the addition of body art classifications to initial practitioner and apprentice licenses, as described in He-P 1101.07.

(k) When a license is lost, destroyed or damaged, the licensee shall request a replacement license from the department within 10 days of discovery by sending the department 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.

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New. #8394, eff 7-22-05; ss by #10414, eff 9-24-13 (from He-P 1101.08)

He-P 1101.10 Renewal of Body Art License and Expired License.

(a) A body artist who wishes to maintain his or her license shall submit an application form to the commissioner in accordance with RSA 314-A:5.

(b) At least 60 days prior to the expiration of a license, the commissioner 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 commissioner, at least 30 days prior to the expiration of his or her license, the following:

(1) A renewal application form that contains the following information:

a. The applicant's first, middle and last name;

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;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- 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; and
- (4) The appropriate fee in accordance with He-P 1101.08(b).

(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 He-P 1101.16 or He-P 1101.17.

(e) A renewal license shall be valid for one year from the date of expiration of the prior license.

(f) A licensee who does not submit an application for license renewal prior to their license expiration date shall reapply for an initial license in accordance with He-P 1101.04 or He-P 1101.05.

(g) Failure to receive an application for renewal of the current license sent by the department 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 He-P 1101.10(c).

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New. #8394, eff 7-22-05; ss by #10414, eff 9-24-13 (from He-P 1101.09)

He-P 1101.11 Duties and Responsibilities of All Licensees.

- (a) The licensee shall maintain full compliance with RSA 314-A and He-P 1101.
- (b) The licensee shall only perform body art in a facility approved for use as a body art establishment by the following local officials, or if there is no such official, from the board of selectmen or mayor:
- (1) The health officer, verifying that:
 - a. The facility's wastewater disposal system is operating;
 - b. The facility's water system is operating; and
 - c. The facility complies with all local health ordinances;
 - (2) The building official verifying that the applicant complies with all state and local building ordinances;
 - (3) The zoning officer verifying that the applicant complies with all local zoning ordinances; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(4) The fire chief verifying that the applicant complies with all state and local fire ordinances.

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

(d) The licensee shall perform body piercing of individuals under the age of 18 in accordance with RSA 314-A:8 and He-P 1101 by:

- (1) Obtaining written consent for the piercing from the minor's parental or legal guardian;
- (2) Verifying evidence of the parental or legal guardian's relationship with minor;
- (3) Preparing documentation noting the physical location of the piercing on the minor's body;
- (4) Ensuring the minor's parent or legal guardian is physically present at all times during the procedure; and
- (5) 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.

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

(f) The licensee shall provide written and verbal aftercare instructions to every body art client, to include at a minimum:

- (1) Bandaging instructions;
- (2) Skin care instructions;
- (3) Appropriate wear of clothing;
- (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.

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

(h) The licensee shall not allow any intoxicating beverages or chemical substances to be consumed in an establishment where body art is being performed including by the practitioner, apprentice and client.

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New. #8394, eff 7-22-05; ss by #10414, eff 9-24-13 (from He-P 1101.14)

He-P 1101.12 Standards of Hygiene.

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

- (1) Proper hand washing techniques;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (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 with a sterile gauze or single use sterile tongue depressor;
 - (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 that are easily cleanable and smooth; and
 - (4) A toilet, a sink with hot and cold water, antibacterial soap and single-use disposable towels located in the establishment and accessible to the practitioner, apprentice and client at all times.
- (c) Any ornamental jewelry inserted into a newly pierced area shall be:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) Made of surgical stainless steel, solid 14k or 18k nickel free, white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic;
- (2) Free of nicks, scratches, or irregular surfaces; and
- (3) Properly sterilized prior to use.

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New. #8394, eff 7-22-05; ss by #10414, eff 9-24-13 (from He-P 1101.15)

He-P 1101.13 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) Braiding;
- (2) Implants under the skin; and
- (3) Tongue splitting or forking.

(c) An applicant who has been denied a license, or a licensee whose license has been suspended or revoked, shall not practice body art.

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

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New. #8394, eff 7-22-05; ss by #10414, eff 9-24-13 (from He-P 1101.10)

He-P 1101.14 Complaints.

(a) The department shall investigate written complaints that allege a violation of RSA 314-A or He-P 1101.

(b) The written complaint shall contain the following information:

- (1) The name of the body art practitioner, apprentice, or unlicensed individual practicing body art;
- (2) Location of the establishment where the event regarding the alleged complaint occurred including the street address and municipality;
- (3) The name, address and telephone number of the complainant; and
- (4) A description of the situation that supports the complaint and the alleged violation(s) of RSA 314-A or He-P 1101.

(c) Complaints received by the department that are not in accordance with He-P 1101.14(b) shall not be accepted.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(d) The commissioner shall contact and individually question the complainant and the body artist about the complaint in an effort to determine if the complaint can be substantiated.

(e) The department shall, if necessary for the type of complaint, inspect a body art establishment after receiving a complaint, pursuant to RSA 314-A:11, to verify compliance with RSA 314-A and He-P 1101.

(f) The body artist shall cooperate with the department throughout the investigation.

(g) Upon completion of the investigation, the commissioner shall make a determination based on information received during the investigation as to whether the complaint is substantiated.

(h) If the commissioner determines that the complaint is unfounded or does not violate any statutes or rules, the department shall take no further action.

(i) If the commissioner determines that the complaint is substantiated, copies of the investigative findings shall be sent to the complainant and the body artist

(j) Except in the case of violations which warrant revocation pursuant to He-P 1101.16(g), if it is determined by the commissioner that the body artist has violated any provisions of He-P 1100 or RSA 314-A, the body artist shall submit to the commissioner and implement a written plan of correction within 15 days of the receipt of the findings.

(k) A copy of He-P 1101.14 (a) through (c) shall be conspicuously posted, along with the following address and phone number, in each body art establishment:

Department of Health and Human Services
Office of Program Support
Licensing and Regulation Services
129 Pleasant Street
Concord New Hampshire 03301
603-271-9255

Source. #6080, eff 8-19-95, EXPIRED: 8-19-03

New. #8394, eff 7-22-05; ss by #10414, eff 9-24-13 (from He-P 1101.11)

He-P 1101.15 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 department shall send to the applicant or body artist a written notice which states:

(1) The action to be taken by the department;

(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 department.

(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.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(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 He-C 200, unless the department immediately suspends a license in accordance with RSA 541-A:30, III.

Source. #6080, eff 8-19-95, EXPIRED: 8-19-03

New. #8394, eff 7-22-05; ss by #10414, eff 9-24-13 (from He-P 1101.13)

He-P 1101.16 Suspension, Revocation, and Denial of a License.

(a) The commissioner shall suspend a license in accordance with He-P 1101.15 if the body artist fails to:

- (1) Submit and implement a plan of correction within 15 days pursuant to He-P 1101.14(j);
- (2) Maintain a plan of correction;
- (3) Cooperate with an investigation by the department to the extent required by these rules; or
- (4) Pay a fine in accordance with He-P 1101.17.

(b) If a license is suspended in accordance with (a)(1) above, and the licensee requests a hearing in accordance with He-P 1101.15(c), the hearing shall be held on the violations of He-P 1100 or RSA 314-A that resulted in the requiring of a plan of correction.

(c) If the outcome of a hearing held in accordance with (b) above is that the department did not have valid grounds to order the submission and implementation of a plan of correction, then the suspension shall not be imposed.

(d) If the outcome of a hearing held in accordance with (b) above is that the department's order requiring the submission of plan of correction is upheld, the suspension shall take effect immediately and remain in effect until such time as the plan of correction is submitted and approved in accordance with (e) below.

(e) 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 (g) below.

(f) 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.

(g) The commissioner shall revoke a license in accordance with He-P 1101.15 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 He-P 1101.11(d);

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (3) Has performed any prohibited acts as described under He-P 1101.13;
- (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.

(h) A body artist whose license has been revoked or whose application has been denied for committing an act or acts of He-P 1101.16(g), (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.

(i) License revocations and application denials, for committing an act or acts of He-P 1101.16(g), (1) through (3), shall be permanent for the third offense.

(j) Except for (i) 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 He-P 1101.04 or He-P 1101.05.

(k) Except for (i) 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 He-P 1101.04 or He-P 1101.05.

(l) In addition to (j) and (k) 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.

Source. #6080, eff 8-19-95, EXPIRED: 8-19-03

New. #8394, eff 7-22-05; ss by #10414, eff 9-24-13

He-P 1101.17 Procedures for Imposing and Schedule of Administrative Fines.

(a) When the commissioner has determined that a violation of RSA 314-A or He-P 1100 has occurred, the commissioner 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 department 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 commissioner 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 He-P 1100 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;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (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 submit a plan of correction in accordance with He-P 1101.14(j), the fine shall be \$500.00 per violation;
- (6) For failure to implement and maintain a plan of correction, the fine shall be \$500.00 per violation;
- (7) For failure to cooperate during an investigation, the fine shall be \$1000.00;
- (8) For performing branding or tattooing on a person under the age of 18, the fine shall be \$2000.00;
- (9) 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 He-P 1101.11(d), the fine shall be \$2000.00;
- (10) For performing any prohibited act as described under He-P 1101.13, the fine shall be \$2000.00; and
- (11) For performing body art in a location that has not been approved for use as a body art establishment in accordance with He-P 1101.11(b), the fine shall be \$1000.00.

Source. #10414, eff 9-24-13

He-P 1101.18 Waivers.

- (a) Applicants or licensees seeking waivers of specific rules in this chapter shall submit a written request for waiver to the commissioner 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 commissioner shall approve a request for waiver if:
 - (1) The commissioner 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.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(d) Waivers shall correspond with the effective dates of the license.

Source. #10414, eff 9-24-13

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Appendix

Rule	State Statute
He-P 1101.01	RSA 541-A:3-a
He-P 1101.02	RSA 314-A:1, RSA 314-A:6
He-P 1101.03	RSA 314-A:4
He-P 1101.04	RSA 314-A:2, RSA 314-A:6, II
He-P 1101.05	RSA 314-A:3, RSA 314-A:6, II
He-P 1101.06	RSA 314-A:3
He-P 1101.07	RSA 314-A:6, II
He-P 1101.08	RSA 314-A:6, III
He-P 1101.09	RSA 314-A:6, II
He-P 1101.10	RSA 314-A:5, RSA 314-A:6, II
He-P 1101.11	RSA 314-A:6, I, IV, and V
He-P 1101.12	RSA 314-A:6, I
He-P 1101.13	RSA 314-A:7
He-P 1101.14	RSA 314-A:11
He-P 1101.15	RSA 314-A:6, II, RSA 314-A:9, RSA 314-A:10, RSA 314-A:11
He-P 1101.16	RSA 314-A:9
He-P 1101.17	RSA 314-A:6, III, RSA 314-A:10
He-P 1101.18	RSA 314-A:6, II