

CHAPTER 64**BODY PIERCING****§4321. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 206, §1 (NEW).]

1. Body piercer. "Body piercer" means a person who performs body piercing on another. [PL 1997, c. 206, §1 (NEW).]

2. Body piercing. "Body piercing" means the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration. This includes, but is not limited to, piercing of an ear, lip, tongue, nose or eyebrow. "Body piercing" does not, for the purpose of this chapter, include piercing an earlobe with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the earlobe. Piercing in an area other than the earlobe, located at the lower end of the ear, is "body piercing" as defined in this subsection and subject to the licensing requirements of this chapter. [PL 2007, c. 184, §1 (AMD).]

3. Body piercing establishment. "Body piercing establishment" means the premises where a body piercer performs body piercing. [PL 1997, c. 206, §1 (NEW).]

4. Department. "Department" means the Department of Health and Human Services. [PL 1997, c. 206, §1 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

5. Minor. "Minor" means an individual under 18 years of age who is not emancipated as defined by Title 15, section 3003, subsection 6. [PL 1997, c. 206, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 206, §1 (NEW). PL 2003, c. 689, §B6 (REV). PL 2007, c. 184, §1 (AMD).

§4322. Safety standards

The department shall establish sterilization, sanitation and safety standards for persons engaged in the business of body piercing. The standards must be directed at establishment and maintenance of sterile conditions and safe disposal of instruments. The standards may be modified as appropriate to protect consumers from transmission of contagious diseases through cross-contamination of instruments and supplies. The standards must be adopted by the department by November 1, 1997. [PL 1997, c. 206, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 206, §1 (NEW).

§4323. Body piercing of minors

A body piercer may not perform body piercing on a minor unless the individual obtains the prior written consent of the minor's parent or legal guardian. The prohibition contained in this section does not apply if: [PL 1997, c. 206, §1 (NEW).]

1. Proper identification. The body piercer has been furnished with proper identification showing that the individual is 18 years of age or older; and [PL 1997, c. 206, §1 (NEW).]

2. Age. The body piercer reasonably believes such a minor to be 18 years of age or older. [PL 1997, c. 206, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 206, §1 (NEW).

§4324. License required

A person may not engage in the art of body piercing without first obtaining a license from the department. [PL 1997, c. 206, §1 (NEW).]

1. License renewal. A license under this chapter may be renewed annually upon payment of the prescribed fee, including late fees, additional inspection fees and fines if assessed and subject to compliance with rules of the department and this chapter. The department shall provide licensees with notice of the need for renewal and necessary forms no less than 30 days prior to the expiration of a license.

[PL 2021, c. 125, §35 (NEW).]

2. Conditional license. When an applicant for initial licensure or license renewal is found, based upon an inspection by the department, not in compliance with this chapter or rules adopted pursuant to section 4326, the department may refuse issuance of the initial or renewal license, but shall issue a conditional license, except when conditions are found that present a serious danger to the health and safety of the public. Failure by the conditional licensee to meet the conditions specified by the department permits the department to void the conditional license. The applicant may reapply for an annual license if the conditional license is voided or expires; however, the department may not reissue another conditional license. All conditions must be met in order for an applicant to reapply for and be issued an annual license.

[PL 2021, c. 125, §36 (NEW).]

3. Additional inspection fees. When an additional inspection is required to determine an applicant's eligibility for licensure, the department is authorized to charge, in addition to the usual fees under section 4325 for one license, one licensure inspection and one follow-up inspection, an additional fee not to exceed \$200 to cover the costs of each additional inspection or visit. The department may impose on the applicant a penalty assessment for the applicant's failure to pay an additional inspection fee within 30 days of the billing date.

[PL 2021, c. 125, §37 (NEW).]

SECTION HISTORY

PL 1997, c. 206, §1 (NEW). PL 2021, c. 125, §§35-37 (AMD).

§4325. Issuance of licenses

The department may license persons to practice the art of body piercing. Licenses are issued annually by the department upon the payment of a fee not to exceed \$250. The license for a person engaged in both the arts of tattooing, as defined by chapter 63, and body piercing may not exceed \$300. The fee required by this section includes the cost of an annual inspection of the body piercing establishment by the department. Licenses expire one year from date of issue. All fees collected by the department pursuant to this section must be deposited into a special revenue account dedicated to a health inspection program. [PL 2009, c. 589, §13 (AMD).]

SECTION HISTORY

PL 1997, c. 206, §1 (NEW). PL 2009, c. 589, §13 (AMD).

§4326. Rules

The department shall adopt rules necessary for regulating the art of body piercing. Rules adopted pursuant to this chapter are routine technical rules as defined by Title 5, chapter 375, subchapter II-A. [PL 1997, c. 206, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 206, §1 (NEW).

§4327. Penalties

1. Administrative penalty. A person who fails to be licensed as provided by section 4324, violates the sterilization, sanitation or safety standards adopted by the department under section 4326 or performs body piercing on a minor without parental consent under section 4323 is subject to an administrative penalty, imposed by the department, of not less than \$500 nor more than \$1,000 for each violation. Each day the violation remains uncorrected may be counted as a separate offense. [PL 2023, c. 113, §9 (AMD).]

2. Enforcement. A person who fails to pay a penalty imposed pursuant to this chapter:

A. May be referred to the Attorney General for appropriate enforcement action; and [PL 2013, c. 264, §17 (NEW).]

B. In addition to all fines and penalties imposed pursuant to this chapter, is liable for any interest, costs and fees incurred by the department, including attorney's fees. [PL 2013, c. 264, §17 (NEW).]

[PL 2013, c. 264, §17 (NEW).]

3. Grounds for refusal, suspension or revocation. The department may revoke, suspend or refuse to issue or renew a license under this chapter or place a licensee on probation if:

A. The applicant or licensee has been convicted of a crime related to the practice of body piercing; [PL 2021, c. 125, §38 (NEW).]

B. The applicant or licensee has engaged in any deception or misrepresentation to the department or the public in applying for a license or license renewal under this chapter or in the advertising or practice of body piercing; [PL 2021, c. 125, §38 (NEW).]

C. The applicant or licensee has demonstrated negligence or incompetence or has endangered the public in the practice of body piercing; or [PL 2021, c. 125, §38 (NEW).]

D. The applicant or licensee has violated a rule adopted by the department under this chapter. [PL 2021, c. 125, §38 (NEW).]

[PL 2021, c. 125, §38 (NEW).]

4. Schedule of penalties. The department shall adopt major substantive rules in accordance with Title 5, chapter 375, subchapter 2-A establishing a schedule of penalties according to the nature and duration of the violation of this section.

[PL 2023, c. 113, §10 (NEW).]

SECTION HISTORY

PL 1997, c. 206, §1 (NEW). PL 2013, c. 264, §17 (RPR). PL 2021, c. 125, §38 (AMD). PL 2023, c. 113, §§9, 10 (AMD).

§4328. Compliance

Beginning January 1, 1998, a person seeking to engage in the business of body piercing shall comply with the provisions of this chapter. [PL 1997, c. 206, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 206, §1 (NEW).

§4329. Restriction

This chapter does not restrict the activities of a physician or surgeon licensed under chapter 48. [PL 1997, c. 206, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 206, §1 (NEW).

§4330. Right of entry, inspection and determination of compliance

The department and any duly designated officer or employee of the department have the right, without an administrative inspection warrant, to enter upon and into the premises of any establishment licensed, or a place where a person licensed under this chapter practices, pursuant to this chapter at any reasonable time in order to determine the state of compliance with this chapter and any rules adopted by the department under this chapter. The right of entry and inspection extends to any premises that the department has reason to believe is being operated or maintained without a license or a place where a person licensed under this chapter practices, but no such entry and inspection of any premises or place may be made without the permission of the owner or person in charge unless a search warrant is obtained authorizing entry and inspection. Determination of compliance with this chapter and any rules adopted under this chapter must be made at least once every 2 years by inspection or other method as determined by the department. [PL 2021, c. 125, §39 (NEW).]

SECTION HISTORY

PL 2021, c. 125, §39 (NEW).

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