

1 SENATE BILL 142

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Mimi Stewart

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10 AN ACT

11 RELATING TO PROFESSIONAL LICENSING; REQUIRING THAT AN APPLICANT
12 FOR A BODY ART TATTOO OR PIERCING-SCARIFICATION LICENSE BE
13 GRANTED CREDIT FOR EQUIVALENT TRAINING OR EXPERIENCE OBTAINED
14 OUTSIDE THE STATE; DECLARING AN EMERGENCY.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 61-17B-5 NMSA 1978 (being Laws 2007,
18 Chapter 181, Section 5, as amended) is amended to read:

19 "61-17B-5. LICENSE--APPLICATION--REVOCATION--
20 SUSPENSION.--

21 A. A body artist shall obtain a body art license,
22 and an operator shall obtain a body art establishment license,
23 the requirements for which shall be defined by the board and
24 shall include the requirement that a body artist applicant
25 demonstrate that the body artist has the training and

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1 experience necessary to perform body piercing, tattooing or
2 scarification and the requirement that a sanitary and sterile
3 body art establishment be maintained; provided that the board
4 shall grant credit for training and experience obtained from
5 any source, whether obtained within or outside the state, if
6 the applicant demonstrates that the training and experience
7 received by the applicant is equivalent to the training and
8 experience required pursuant to the Body Art Safe Practices
9 Act.

10 B. An operator or body artist shall possess and
11 post in a conspicuous place a valid and unsuspended license
12 issued by the board in accordance with the Body Art Safe
13 Practices Act and the rules promulgated pursuant to that act.
14 An operator or a body artist shall not display a license unless
15 it has been issued to that operator or body artist by the board
16 and has not been suspended or revoked.

17 C. An operator or body artist shall apply to the
18 board for the issuance or renewal of a license annually and
19 shall pay license fees established by the board. The board
20 shall set license fees, license renewal fees and late fees in
21 amounts necessary to administer the provisions of the Body Art
22 Safe Practices Act. If an operator or body artist fails to
23 renew a license for the next year, the license is void;
24 provided that the voided license may be restored at any time
25 during the year following the license's expiration upon the

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1 payment of the appropriate license renewal fee and a late
2 charge not to exceed one hundred dollars (\$100) as set forth by
3 board rules. If the operator or body artist fails to restore a
4 license within one year following the license's expiration, the
5 operator or body artist may request restoration of the license
6 pursuant to rules promulgated by the board.

7 D. The board shall promulgate rules for the
8 revocation or suspension of a license for a body art
9 establishment or a body artist who fails to comply with a
10 provision of the Body Art Safe Practices Act or rules
11 promulgated pursuant to that act. A license shall not be
12 suspended or revoked pursuant to the Body Art Safe Practices
13 Act without providing the operator or the body artist with an
14 opportunity for an administrative hearing unless conditions in
15 the body art establishment warrant immediate suspension
16 pursuant to Section 61-17B-9 NMSA 1978. The hearing officer
17 shall not be a person previously involved in the suspension or
18 revocation action. An inspection made more than twenty-four
19 months prior to the most recent inspection shall not be used as
20 a basis for suspension or revocation.

21 E. The board shall charge a fee not to exceed three
22 hundred dollars (\$300) for the application to issue a new or
23 renewed license. The applicant shall provide proof of current
24 immunization as required by the board and proof of the
25 applicant's attendance at a blood-borne pathogen training

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1 program and other training as required by the board before a
2 license is issued or renewed.

3 F. A current body art license or body art
4 establishment license shall not be transferable from one person
5 to another.

6 G. The following information shall be kept on the
7 premises of a body art establishment and shall be available for
8 inspection by the board:

9 (1) the full names of all employees in the
10 establishment and their exact duties;

11 (2) the board-issued license with
12 identification photograph for the operator and any body
13 artists;

14 (3) the body art establishment name and hours
15 of operation;

16 (4) the name and address of the operator;

17 (5) a complete description of all body art
18 performed at the body art establishment;

19 (6) a list of all instruments, body jewelry,
20 sharps and inks used at the body art establishment, including
21 names of manufacturers and serial or lot numbers or invoices or
22 other documentation sufficient to identify and locate the
23 manufacturer of those items; and

24 (7) a current copy of the Body Art Safe
25 Practices Act.

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1 H. An operator shall notify the board in writing
2 not less than thirty days before changing the location of a
3 body art establishment. The notice shall include the street
4 address of the body art establishment's new location."

5 **SECTION 2.** Section 61-17B-15 NMSA 1978 (being Laws 2015,
6 Chapter 129, Section 6) is amended to read:

7 "61-17B-15. BOARD CREATED--MEMBERSHIP.--

8 A. The "board of body art practitioners" is
9 created. The board is administratively attached to the
10 regulation and licensing department and consists of five
11 members appointed by the governor. Members shall serve
12 three-year terms; provided that at the time of initial
13 appointment, the governor shall appoint members to abbreviated
14 terms to allow for the terms of subsequent appointments to be
15 staggered. Vacancies shall be filled in the manner of the
16 original appointment.

17 B. Of the five members of the board, [~~four~~] two
18 shall be licensed pursuant to the Body Art Safe Practices Act
19 and shall have at least five years' practical experience in
20 their occupations. Of those [~~four, two members~~] two, one
21 member shall be [~~operators~~] an operator and [~~two members~~] one
22 member shall be a body [~~artists~~] artist. The remaining [~~one~~
23 ~~member~~] three members shall be [~~a~~] public [~~member~~] members.
24 The public [~~member~~] members shall not have ever been licensed
25 pursuant to the provisions of the Body Art Safe Practices Act

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1 or similar prior legislation or have a financial interest in a
2 body art establishment.

3 C. Members of the board shall be reimbursed
4 pursuant to the Per Diem and Mileage Act and shall receive no
5 other compensation, perquisite or allowance.

6 D. The board shall elect from among its members a
7 chair and such other officers as it deems necessary. The board
8 shall meet at the call of the chair, not less than two times
9 each year. A majority of members currently serving constitutes
10 a quorum for the conduct of business.

11 E. A board member shall not serve more than two
12 full consecutive terms, and a member who fails to attend three
13 meetings shall automatically be recommended for removal unless
14 the member's absence is excused for reasons set forth by board
15 rule."

16 SECTION 3. TEMPORARY PROVISION--BOARD MEMBERS.--On or
17 after the effective date of this act, the governor shall
18 appoint two public members to serve on the board, one of whom
19 shall replace one operator member and one of whom shall replace
20 one body artist member so that the board shall be composed of
21 three public members and two members licensed pursuant to the
22 Body Art Safe Practices Act. The terms of the members shall
23 remain staggered.

24 SECTION 4. EMERGENCY.--It is necessary for the public
25 peace, health and safety that this act take effect immediately.

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