

CHAPTER 63-A

MICROPIGMENTATION

§4311. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 383, §1 (NEW).]

1. Department. "Department" means the Department of Health and Human Services. [PL 1997, c. 383, §1 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

2. Micropigmentation. "Micropigmentation" means placing nontoxic dyes or pigments into or under the skin to form marks for cosmetic or medical purposes. "Micropigmentation" does not include tattooing. [PL 2021, c. 125, §29 (AMD).]

3. Micropigmentation facility. "Micropigmentation facility" means any space where micropigmentation is practiced. [PL 1997, c. 383, §1 (NEW).]

4. Micropigmentation practitioner. "Micropigmentation practitioner" means a person who practices micropigmentation. [PL 1997, c. 383, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 383, §1 (NEW). PL 2003, c. 689, §B6 (REV). PL 2021, c. 125, §29 (AMD).

§4312. License required

1. Requirement. A person may not practice micropigmentation, display a sign or otherwise advertise or purport to be a micropigmentation practitioner unless that person holds a valid license issued by the department. [PL 1997, c. 383, §1 (NEW).]

2. Term of license. A license issued under this chapter expires on September 30th and is renewable biennially. [PL 1997, c. 383, §1 (NEW).]

2-A. License renewal. A license under this chapter may be renewed biennially 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, §30 (NEW).]

2-B. 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 4313, 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 a biennial 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 a biennial license.

[PL 2021, c. 125, §31 (NEW).]

3. Exemption. This chapter does not apply to a physician or a person acting under the control or supervision of a physician.

[PL 1997, c. 383, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 383, §1 (NEW). PL 2021, c. 125, §§30, 31 (AMD).

§4313. Licensing rules

The department shall adopt licensing rules governing the practice of micropigmentation under this chapter. Rules adopted under this chapter are routine technical rules for purposes of Title 5, chapter 375, subchapter II-A. The rules must include the following. [PL 1997, c. 383, §1 (NEW).]

1. Standards of practice. The department shall adopt rules that provide standards for the practice of micropigmentation that include at least the following.

A. Instruments used for micropigmentation must be sterilized in a manner specified by the department. [PL 1997, c. 383, §1 (NEW).]

B. Micropigmentation facilities must be equipped with appropriate sterilization equipment, hot and cold running water and a covered waste receptacle. [PL 1997, c. 383, §1 (NEW).]

C. Case history records must be kept for each client. [PL 1997, c. 383, §1 (NEW).]

D. A micropigmentation practitioner must demonstrate safety, sanitation and sterilization procedures and knowledge of infection control. [PL 1997, c. 383, §1 (NEW).]

[PL 1997, c. 383, §1 (NEW).]

2. Education and training. The department shall adopt rules specifying the education and training standards for the practice of micropigmentation. The rules may require continuing education.

The licensing rules must be adopted by the department by November 1, 1997.

[PL 1997, c. 383, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 383, §1 (NEW).

§4314. Fee

The fee for a license under this chapter may not exceed \$150. The fee required by this section includes the cost of a biennial inspection of the micropigmentation facility by the department. However, the department may inspect the facility at any time. 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, §12 (AMD).]

1. Additional inspection fees. When an additional inspection is required to determine an applicant's eligibility for licensure under this chapter, the department is authorized to charge, in addition to the usual fees under this section for one license, which includes 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 for the applicant's failure to pay an additional inspection fee within 30 days of the billing date.

[PL 2021, c. 125, §32 (NEW).]

SECTION HISTORY

PL 1997, c. 383, §1 (NEW). PL 2009, c. 589, §12 (AMD). PL 2021, c. 125, §32 (AMD).

§4315. Eligibility

To be eligible for a license under this chapter a person must: [PL 1997, c. 383, §1 (NEW).]

1. Age. Be at least 18 years of age;
[PL 1997, c. 383, §1 (NEW).]

2. High school diploma. Have a high school diploma or equivalent education;
[PL 1997, c. 383, §1 (NEW).]

3. Additional training. Submit evidence of completion of education or training required by rules of the department under the direct supervision of a licensed micropigmentation practitioner; and
[PL 1997, c. 383, §1 (NEW).]

4. Compliance. Demonstrate ability to comply with the rules of the department.
[PL 1997, c. 383, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 383, §1 (NEW).

§4316. 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: [PL 2021, c. 125, §33 (AMD).]

1. Conviction. The applicant or licensee has been convicted of a crime related to the practice of micropigmentation;
[PL 2021, c. 125, §33 (AMD).]

2. Deception or misrepresentation. 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 micropigmentation;
[PL 2021, c. 125, §33 (AMD).]

3. Negligence; incompetence; endangering the public. The applicant or licensee has demonstrated negligence, incompetence or danger to the public in the practice of micropigmentation;
or
[PL 2021, c. 125, §33 (AMD).]

4. Violation of rules. The applicant or licensee has violated any of the rules adopted by the department under this chapter.
[PL 2021, c. 125, §33 (AMD).]

SECTION HISTORY

PL 1997, c. 383, §1 (NEW). PL 2021, c. 125, §33 (AMD).

§4317. Compliance

Beginning January 1, 1998, a person seeking to engage in the business of micropigmentation shall comply with the provisions of this chapter. [PL 1997, c. 383, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 383, §1 (NEW).

§4318. Penalties

1. Administrative penalty. A person who fails to be licensed as provided by section 4312 or violates the sterilization, sanitation or safety standards adopted by the department under section 4313 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, §7 (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, §16 (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, §16 (NEW).]

[PL 2013, c. 264, §16 (NEW).]

3. 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, §8 (NEW).]

SECTION HISTORY

PL 2013, c. 264, §16 (NEW). PL 2023, c. 113, §§7, 8 (AMD).

§4319. 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, §34 (NEW).]

SECTION HISTORY

PL 2021, c. 125, §34 (NEW).

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