

N.J.A.C. 8:27-11.1

§ 8:27-11.1 Scope

This subchapter applies to body art and ear-piercing establishments.

History

HISTORY:

Repeal and New Rule, R.2022 d.089, effective July 18, 2022.

See: 54 N.J.R. 229(a), 54 N.J.R. 1392(a).

Section was "Legal authority".

N.J.A.C. 8:27-11.2

§ 8:27-11.2 Inspection, inspection report, and plan of correction

- (a) The local health authority with jurisdiction shall inspect every body art and ear-piercing establishment at least annually.
- (b) The State health authority shall inspect each temporary body art establishment occurring in State-operated facilities.
- (c) Each body art and ear-piercing establishment is subject to applicable provisions of Titles 24 and 26 of the Revised Statutes, including the right of a health authority to have access to and inspect premises, records, and items located therein.
 - 1. A representative of the health authority shall present proper identification to an operator, or other person in charge at an establishment, upon commencing an inspection.
- (d) An operator shall:
 - 1. Permit a health authority to have full access to the establishment; and
 - 2. Make available for inspection and copying, upon request of the health authority, all records that this chapter requires the operator to maintain.
- (e) A person who obstructs or interferes with a health authority in the performance of an inspection or other duty is subject to penalty pursuant to applicable provisions of Titles 24 and 26 of the Revised Statutes.
- (f) Following an inspection, a health authority shall issue a written inspection report in which the health authority:
 - 1. Identifies any deficiencies in the operator's compliance with Titles 24 and 26 of the Revised Statutes, and/or this chapter, citing to the section of the title or chapter, with respect to which the operator is deficient;
 - 2. Identifies deficiencies that the operator immediately must abate to avoid suspension or closure pursuant to N.J.A.C. 8:27-11.3; and
 - 3. Specifies applicable fines and/or penalties for each cited deficiency pursuant to N.J.A.C. 8:27-11.4.
- (g) Within 10 business days of an operator's receipt of a health authority's written inspection report that identifies deficiencies pursuant to (d) above, the operator:
 - 1. Shall submit, to the health authority, a written plan of correction in which the operator specifies the manner and the dates by which the operator will correct, and avoid in the future, each cited deficiency; and
 - 2. May submit to the health authority:
 - i. A request for reconsideration of a deficiency finding that the operator contends to be inconsistent with the facts or an applicable compliance standard; and
 - ii. Supplemental documents or materials in support of the operator's contention.
- (h) Within 10 business days of its receipt of a plan of correction and/or request for reconsideration pursuant to (f) above, a health authority shall review the plan and/or the request and:
 - 1. Notify the operator, in writing, of:
 - i. The health authority's determination to accept and/or reject an operator's plan of correction in whole or in part;
 - ii. The reasons it rejects any parts of the plan of correction by explaining how a rejected proposed corrective measure would be inadequate to meet an applicable compliance standard; and
 - iii. The health authority's determination on an operator's request for reconsideration and any associated requirements to implement the determination;
 - 2. Direct and authorize the operator to complete the accepted parts of the plan of correction and notify the health authority, in writing, as to the status of completion of each corrective measure on or before the date the plan of correction specifies for completion of each measure; and
 - 3. Direct the operator to submit a revised plan of correction as to any rejected parts of the submitted plan within 10 business days of the date of the notice of rejection.
- (i) A health authority may conduct a repeat inspection to confirm the operator's acceptable performance of deficiency corrections.
- (j) An operator is subject to additional or enhanced enforcement action, pursuant to N.J.A.C. 8:27-11.3, if the operator fails to timely:
 - 1. Pay assessed fines and/or penalties;
 - 2. Submit a plan of correction;
 - 3. Resubmit a plan of correction that is acceptable to the health authority, if the health authority rejected the operator's initial plan of correction in whole or in part;
 - 4. Report to the health authority as to the status of the operator's completion of each part of an accepted plan of correction; and
 - 5. Complete corrective measures in accordance with an accepted plan of correction.
- (k) A local health authority shall:
 - 1. Submit a written report using, or containing at least the information listed in the form at N.J.A.C. 8:27 Appendix, which is incorporated herein by reference, of each adverse reaction notification it receives pursuant to N.J.A.C. 8:27-4.6, to the Department in January of each year; and
 - 2. Report to the Department within the reporting periods and in accordance with the reporting procedures specified at N.J.A.C. 8:57, if a notification pursuant to N.J.A.C. 8:27-4.6 or an inspection indicates a suspected or a confirmed case of a reportable communicable disease or a communicable disease outbreak.
- (l) The following are government records subject to public access and disclosure in accordance with N.J.S.A. 47:1A-1 et seq., and other applicable laws:
 - 1. Final reports of annual inspections of body art and ear-piercing establishments;

2. Reports of inspections of temporary establishments;
 3. Plans of correction; and
 4. A final report of an outbreak epidemiological investigation of or related to a body art or an ear-piercing establishment.
- (m) The following are not government records subject to public access and disclosure in accordance with N.J.S.A. 47:1A-1 et seq., and other applicable laws:
1. A report of an adverse reaction notification issued pursuant to N.J.A.C. 8:27-4.6;
 2. Communicable disease reports; and
 3. Subject to (l)4 above, records relating to an outbreak epidemiological investigation of a body art or an ear-piercing establishment.

History

HISTORY:

Amended by R.2022 d.089, effective July 18, 2022.

See: 54 N.J.R. 229(a), 54 N.J.R. 1392(a).

Section was "Inspection". Rewrote the section.

N.J.A.C. 8:27-11.3

§ 8:27-11.3 Criteria for closure and permit or license suspension

- (a) A health authority immediately may close an establishment and/or suspend an operator's license or permit to operate a body art or ear-piercing establishment if the health authority finds that such action is necessary to abate an actual or imminent threat to public health.
- (b) Following is a non-exclusive list of examples of conditions that pose an actual or imminent threat to public health and warrant a health authority's immediate closure of an establishment:
 - 1. Failure or lack of properly functioning equipment;
 - 2. Failure of an operator to report malfunctioning or missing required equipment to the health authority pursuant to N.J.A.C. 8:27-5.4, except as provided at (c) below;
 - 3. Unsanitary or unsafe conditions;
 - 4. The health authority has reasonable cause to suspect that an operator, a practitioner, or an apprentice is, or may be, transmitting a communicable disease;
 - 5. A practitioner demonstrates gross incompetence in performing body art or ear piercing;
 - 6. An operator obtains, or attempts to obtain, a permit or license by means of fraud, misrepresentation, or concealment;
 - 7. Subject to (b)7i below, an operator, a practitioner, or an apprentice is convicted in this State, or any other state, of a crime directly related to the practice of body art or ear piercing.
 - i. This provision applies only to a crime occurring subsequent to the health authority's issuance of a license or permit to operate, provided the operator fully disclosed to the health authority all prior crimes of the operator, practitioners, and/or apprentices of the establishment, the relevance of which, the health authority considered in determining the applicant's fitness to receive the requested license or permit to operate and/or the appropriateness of the operator allowing the convicted practitioner or apprentice to perform services at the establishment;
 - 8. An operator engages in, or condones, and/or a practitioner or an apprentice engages in, illegal activity on the establishment premises;
 - 9. An operator allows, or fails to prevent, the performance of, a genital piercing upon a person under 18 years of age at the establishment;
 - 10. An operator allows, or fails to prevent, the performance of implants, branding, and/or cutting at a body art establishment; and/or
 - 11. A person who does not meet the training, experiential, and credentialing requirements of this chapter performs body art procedures in a body art establishment.
- (c) This subsection contains a non-exclusive list of examples of conditions and circumstances that pose an actual or imminent threat to public health and warrant at least a seven-day suspension of an operator's license or permit:
 - 1. Failure to report to the health authority within 24 hours any infection or injury requiring a medical referral;
 - 2. Performing a body art procedure on any person under the age of 18 years of age, without the presence, written consent, and proper identification of a parent or legal guardian;
 - 3. Failure to notify the health authority within 24 hours of positive biological indicator test result of the autoclave;
 - 4. Using an ear-piercing instrument for any part of the body other than the ear lobes and trailing edge of the ear; or
 - 5. An apprentice performs a body art procedure without direct supervision by the apprentice's supervising trainer or instructor.
- (d) An operator's actual, or purported, lack of knowledge of a condition listed at (a) or (b) above shall not provide a basis of defense or objection to an action of a health authority to close, or suspend, the operating authority of an establishment.
- (e) A local health authority shall submit a written report, using, or containing, at least the information listed in the form at N.J.A.C. 8:27 Appendix, of notifications it receives pursuant to (b)3 above to the Department in January of each year, and within the reporting periods and in accordance with the reporting procedures specified at N.J.A.C. 8:57, if a notification indicates a suspected or a confirmed case of a reportable communicable disease or a communicable disease outbreak.

History

HISTORY:

Amended by R.2022 d.089, effective July 18, 2022.
See: 54 N.J.R. 229(a), 54 N.J.R. 1392(a).
Section was "Criteria for closure". Rewrote the section.

N.J.A.C. 8:27-11.4

§ 8:27-11.4 Penalties

Any person who violates any provision of this chapter or an applicable provision of Subtitle 1 of Title 24, or Title 26, of the Revised Statutes, or who fails or refuses to comply with a lawful order or directive of the health authority, shall be liable for penalties and/or subject to injunctive action and other remedies as provided by applicable law, including, but not limited to, N.J.S.A. 24:2-2.1 et seq., 24:17-1 et seq., and 26:1A-10, 27, and 28.

History

HISTORY:

Amended by R.2022 d.089, effective July 18, 2022.

See: 54 N.J.R. 229(a), 54 N.J.R. 1392(a).

Rewrote the section.

N.J.A.C. 8:27-11.5

§ 8:27-11.5 Adulterated or misbranded device or cosmetic; detention and embargo

If a health authority finds, or has probable cause to believe, that a device or cosmetic, such as pigment, at an establishment is adulterated or misbranded within the meaning of Title 24 of the Revised Statutes (see particularly N.J.S.A. 24:5-1 et seq.), the health authority shall detain and/or embargo the device or cosmetic in accordance with N.J.S.A. 24:4-12.

History

HISTORY:

Repeal and New Rule, R.2022 d.089, effective July 18, 2022.

See: 54 N.J.R. 229(a), 54 N.J.R. 1392(a).

Section was "Separability".