

“No one will sue me: I had them sign a release form”

by Susan Preston

We hear this all day long in our insurance offices. Tattooist, piercers and permanent cosmetic professionals often think that by having the client sign a release form, they will not be sued. Wrong! The release form can help protect you in court. But, that means you have already been sued and had to hire a lawyer if the shop or individual does not have insurance. Malpractice lawyers now average from \$300 an hour and up in almost every location in the country. So the release form may be a help to the sued professional ultimately; but only after hiring an attorney for thousands of dollars and even then it might not carry much weight with the court.

Use a release form. But, be aware it will never take the place of insurance. You cannot release liability prior to having a procedure done if there is negligence in the work. That is a well-established case law fact in the US.

Release forms should list the known complications. For suggestions on what to include, forms are available on our www.tattoo-ins.com website for professionals to use, whether or not they have insurance with us.

Tattooist and permanent cosmetic people must be sure to advise the client of the possible risk of an allergic reaction to pigments. This has become a standard warning. Additionally, all release forms should warn of the possibility of infection and that compliance with aftercare instructions are crucial for the proper healing of the tattoo, permanent cosmetic work or body piercing.

While it may not necessarily stand up in court, we suggest professionals have a release of liability. If even one client is put off from suing, it will be worth it.

Check your insurance policy. Many policies require a signed release form be on file at the time of the claim, if the claim is to be covered. PPIB's policy requires a signed release for body pierces and for students or apprentices working on models. Other policies require it for all permanent cosmetic work. Check out what the situation is on your policy so you will be properly covered if or when a claim arises.

OKLAHOMA – AND THEN THERE WERE NONE!

Oklahoma is the last state where tattooing was illegal; that all changes November 1, 2006. Tattooing will finally be legal in all 50 states. We hear reports the governor pushed to get this bill through. Hurray for Oklahoma.

Oklahoma is apparently going to require some liability coverage, similar to what New Jersey is doing. Originally the health department wanted a bond for the tattooers, but the insurance market could not make this coverage available, so it appears the liability coverage will be a more realistic requirement.

VIRGINIA DISCLOSURE – IMPORTANT NOTICE

We have been informed that the following law is on the books in the state of Virginia:

“No person shall tattoo or perform body piercing on any client unless he complies with the Centers for Disease Control and Prevention’s Guidelines and provides the client with the following disclosure:

1. Tattooing and body piercing are invasive procedures in which the skin is penetrated by a foreign object.
2. If proper sterilization and antiseptic procedures are not followed by tattoo artists and body piercers, there is a risk of transmission of blood borne pathogens and other infections, including, but not limited to, human immunodeficiency viruses and hepatitis B or C viruses.
3. Tattooing and body piercing may cause allergic reactions in persons sensitive to dyes or the metals used in ornamentation.
4. Tattooing and body piercing may involved discomfort or pain for which appropriate anesthesia cannot be legally made available by the person performing the tattoo or body piercing unless such person holds the appropriate license from a Virginia health regulatory board.

A person who violates this section is guilty of a Class 1 misdemeanor

The definition of tattoo includes permanent make-up.

This law is Article #18.2-371.3 under the heading Crimes and Offenses Generally. It is important all Virginia tattoo, body piercing and permanent cosmetic professionals follow this law as to what their disclosure should be.