



Building a Healthy Boston

BOSTON PUBLIC HEALTH COMMISSION
Body Art Regulations

Section:

1. Purpose and Scope
2. Definitions
3. Licenses, Permits and Registration
4. Exemptions
5. Body Art Practitioners
6. Apprentice License
7. Application and Consent Form by Client for Body Art
8. Application and Permit for a Body Art Establishment
9. Requirements for Single Use Items Including Inks, Dyes and Pigments
10. Sanitation and Sterilization Measures and Procedures
11. Cleaning and Testing of Ultrasonic Cleaning Units and Sterilization Units
12. Waste Hauling
13. Body Art Establishment Record Keeping
14. Standards of Practice
15. Injury Reports
16. Complaints
17. Grounds for Denial of Permit, Revocation of Permit or Refusal to Renew Permit
18. Violation by a Body Art Practitioner
19. Variance Procedures
20. Severability
21. Administration and Enforcement

1. Purpose and Scope

- 1.1 These regulations are created to protect the health of all people seeking body art within the City of Boston by requiring that individuals wishing to practice body art within the City of Boston obtain licenses and show proof that proper facilities and procedures exist to protect the public's health and safety. The requirements of this Body Art Regulation to obtain a Body Art Practitioner license and a Body Art Establishment permit are separate from and in addition to the requirements of Massachusetts General Law ch. 110 §5.
- 1.2 **Effective Date:** Effective May 23, 2001, these Body Art Regulations establish a requirement for registration and a procedure for the registration with the Boston Public Health Commission ("Commission") of all persons performing body art activities, a requirement for minimal training standards for such practitioners including knowledge of the prevention of disease transmission and knowledge of anatomy and physiology. These regulations also contain provisions for the inspection of establishments licensed by the

Commission to conduct body art activities and for the revocation of the license/permit of any person or establishment deemed to be in violation of the rules promulgated under these Body Art Regulations, or for other means of enforcement of the provisions of these Body Art Regulations.

2. Definitions

- 2.1 Aftercare means written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area, including information about when to seek medical treatment, if necessary.
- 2.2 Antiseptic shall mean an agent that destroys disease-causing microorganisms on human skin or mucous.
- 2.3 Apprentice shall mean an individual who has completed the minimum education requirements of this regulation but has not met the training requirement and is practicing a kind of body art at a body art establishment under supervision of a fully licensed body art practitioner as defined in this regulation.
- 2.4 Applicant means any person who applies to the Boston Public Health Commission Health for a Body Art Establishment permit, Body Art Practitioner license, Guest Practitioner license or Body Art Practitioner Apprentice license.
- 2.5 Autoclave means an apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time.
- 2.6 Autoclaving means a process that result in the destruction of all forms of microbial life, including highly resistant spores, by the use of an autoclave for a minimum of thirty minutes at 20 pounds of pressure (PSI) at a temperature of 270 degrees Fahrenheit.
- 2.7 Blood Borne Pathogens Standard means OSHA Guidelines contained in 29 CFR 1910.1030, entitled "Occupational Exposure to Blood Borne Pathogens."
- 2.8 Board of Health or Board means the Boston Public Health Commission.
- 2.9 Body Art means the practice of physical body adornment using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine, such as implants under the skin, which procedures are prohibited unless such medical procedures are performed by a person licensed by the Board of Registration in Medicine.
- 2.10 Body Art Establishment or Establishment means a location, place, facility, or business, whether public or private, whereby an operator has been granted a permit by the Commission, where the practices of body art are performed, whether or not for profit.
- 2.11 Body Art Practitioner License shall mean a license issued by the Commission to a person qualified to engage in the practice of body art in accordance with this Body Art Regulation.
- 2.12 Body Art Practitioner or Practitioner means a specifically identified individual who has been granted by the Commission, a license to perform body art in an body art establishment that has been granted a permit by the Commission.
- 2.13 Body Art Regulation shall mean the rules, regulations and guidelines promulgated by the Board of Health pursuant to M.G.L. c. 111, §§ 31,122-127, and App. §§ 2-6(B), 2-7(a)(1), and 2-7(a)(15) as amended from time to time.

- 2.14 Body Piercing means puncturing or penetrating the skin of a client with single-use needles and the insertion of jewelry or other adornment into the opening. This definition excludes piercing of the ear.
- 2.15 Branding means inducing a pattern of scar tissue by use of a heated material to the skin, making a serious burn, which eventually becomes a scar.
- 2.16 Cleaning Area shall mean the area in a body art establishment used in the sterilization, sanitation or other cleaning of instruments or other equipment used for the practice of body art.
- 2.17 Commission shall mean the Office of Environmental Health of the Boston Public Health Commission or any other designee/agent authorized act on behalf of the Board of Health.
- 2.18 Contaminated Waste shall mean any liquid or semi-liquid blood or other potentially infectious material; contaminated items that would release blood or other potentially infectious material in a liquid or semi-liquid state if compressed; items on which there is dried blood or other potentially infectious material and which are capable of releasing these materials during handling; sharps and any wastes containing blood or other potentially infectious materials, as defined in 29 Code of Federal Regulation part 1910.1030, as defined in 105 Code of Massachusetts Regulation 480.00 et seq., or in this Body Art Regulation Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII.
- 2.19 Customer or Client shall mean an individual upon whom one or more body art activities is/are to be performed.
- 2.20 Disinfectant means a product registered as a disinfectant by the U.S. Environmental Protection Agency (EPA).
- 2.21 Disinfection means the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.
- 2.22 Ear piercing means the puncturing of the ear.
- 2.23 Equipment means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art establishment.
- 2.24 Guest Practitioner shall mean a visiting body art practitioner possessing a temporary license issued by the Commission to perform body art in the City of Boston.
- 2.25 Hand Sink means a lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms, or other portions of the body.
- 2.26 Hot water means water that attains and maintains a temperature 110°-130°F.
- 2.27 Instruments Used for Body Art means hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during any body art procedure.
- 2.28 Invasive means entry into the client's body either by incision or insertion of any instruments into or through the skin or mucosa, or by any other means intended to puncture, break, or otherwise compromise the skin or mucosa.
- 2.29 Jewelry means any ornament inserted into a newly pierced area, which must be made of surgical implant-grade stainless steel; solid 14k or 18k white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.

2.30 License shall mean a document issued by the Commission pursuant to this Body Art Regulation authorizing an individual to conduct allowed body art procedures in the City of Boston.

2.31 Minor means any individual under age of eighteen (18) years.

2.32 Operator means any person whom individually, or jointly, severally with others, owns, or controls a body art establishment.

2.33 Permit means Commission approval in writing authorizing a person to operate a body art establishment. Commission approval shall be granted solely for the practice of body art pursuant to these regulations. Said permit is exclusive of the establishment's compliance with other licensing or permitting requirements that may exist within the City of Boston or political subdivision comprising the Commission's jurisdiction.

2.34 Person means an individual, any form of business or social organization or any other Non-governmental legal entity, including but not limited to corporations, partnerships, limited-liability companies, associations, trusts or unincorporated organizations.

2.35 Physician means an individual licensed as a qualified physician by the Board of Registration in Medicine pursuant to M.G.L. c. 112 § 2.

2.36 Procedure Surface means any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the Body Art procedure, or any associated work area that may require sanitizing.

2.37 Sanitary means clean and free of agents of infection or disease.

2.38 Sanitize means the application of an U.S. EPA registered sanitizer on a cleaned surface in accordance with the label instructions.

2.39 Scarification means altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds, which result in permanently raised wheals or bumps known as keloids.

2.40 Sharps means any object, sterile or contaminated, that may intentionally or accidentally cut or penetrate the skin or mucosa, including, but not limited to, needle devices, lancets, scalpel blades, razor blades, and broken glass.

2.41 Sharps Container means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is labeled with the International Biohazard Symbol.

2.42 Single Use Items means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups, and protective gloves.

2.43 Sterilize means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

2.44 Tattoo means the indelible mark figure or decorative design introduced by insertion of dyes or pigments into or under the subcutaneous portion of the skin.

2.45 Tattooing means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of Cosmetic Tattooing.

2.46 Temporary Body Art Establishment shall mean any location, place, facility or business, whereby an operator has been granted a permit to practice body art by the Commission for no more than a period of seven consecutive days. The term Temporary Body Art Establishment does not include a Mobile Body Art Establishment.

2.47 Ultrasonic Cleaning Unit means a unit approved by the Commission, physically large enough to fully submerge instruments in liquid, which removes all foreign matter from the instruments by means of high frequency oscillations transmitted through the contained liquid.

2.48 Universal Precautions means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immune-deficiency Virus (HIV) and Hepatitis B Virus (HBV) to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report) (MMWR), June 23, 1989, Vol.38 No. S-6, and as "Recommendations for Preventing Transmission of Human Immune Deficiency Virus and Hepatitis B Virus to Patients during Exposure-Prone Invasive Procedures" in MMWR, July 12,1991, Vol.40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

3. Licenses, Permits, and Registrations

3.1 The requirements of this Body Art Regulation to obtain a Body Art Practitioner license and a Body Art Facility permit are separate from and in addition to the requirements of Massachusetts General Law chapter 110 § 5.

3.2 Body Art Practitioner License Required. No individual shall conduct any form of body art activity within the City of Boston unless such individual holds a valid Body Art Practitioner license issued by the Commission.

3.3 Body Art Practitioner License

If an applicant for a Body Art Practitioner license demonstrates compliance with section five (5) and all other provisions of this Body Art Regulation, excepting only section six (6), then the Commission is hereby authorized to issue a Body Art Practitioner license pursuant to the provisions of this Body Art Regulation which authorizes the applicant to conduct body art activities consisting only of body piercing, tattooing, branding and scarification.

3.4 Body Art Establishment Permit Required.

No person shall establish a facility for the conduct of a business consisting of or including the performance of one or more body art activities upon the person of another unless the requirements of section eight (8) and all other provisions of the Body Art Regulation have been met and the Commission has issued a valid Permit to operate such facility as a venue within which to conduct body art activities.

3.5 Consent to Comply with Body Art Regulation

An applicant for a Body Art Practitioner license shall sign a statement provided by the Commission consenting to and agreeing to abide by all of the provisions of this Body Art Regulation, including all rules and guidelines promulgated by the Commission.

4. Exemptions

4.1 Physicians licensed in accordance with M.G.L. c. 112 § 2 who perform body art procedures as part of patient treatment are exempt from these regulations.

4.2 Individuals who pierce only the ear are exempt from these regulations.

5. Body Art Practitioner License

5.1 Application. An individual seeking registration under this Body Art Regulation so as to obtain a Body Art Practitioner license shall obtain an original copy of the application provided by the Commission.

5.2 Registration. An individual seeking registration under this Body Art Regulation so as to obtain a Body Art Practitioner license shall provide a completed original copy of the application provided by the Commission and the requested documentation as set by this regulation and guidelines established by the Commission.

5.3 Body Art Practitioner License. An individual seeking registration under this Body Art Regulation so as to obtain a Body Art Practitioner license shall submit a completed application provided by the Commission and shall pay to the Commission a fee determined by the Commission. A Body Art Practitioner license shall be valid for no more than two years. The Commission may renew a Body Art Practitioner license under this Body Art Regulation and each applicant for such renewal shall pay to the Commission a renewal fee as determined by the Commission. The Commission may issue a thirty (30) day temporary license to an individual holding a license or similar certificate or registration to engage in the practice of tattooing and/or body piercing issued under the jurisdiction of another city, county, or state of the United States. Such temporary license will allow a person to practice tattooing and/or body piercing in the City of Boston under the direct supervision of a body art practitioner holding a valid Body Art Practitioner license issued by the Commission. The issuance of Guest Body Art Practitioner license is conditioned upon the applicant demonstrating the following:

- (a) The applicant has received training equivalent to the minimum training requirement set by this Body Art Regulation;
- (b) The applicant shall provide a letter of consent signed by a Commission licensed body art practitioner, a notarized copy of the Body Art Practitioner license, a notarized copy of the Body Art Facility permit where the applicant will practice any body art practices;
- (c) An application fee paid to the Commission at the amount set by the Commission.

No visiting body art practitioner shall practice body art in the City of Boston without a Guest Practitioner license issued by the Commission.

Any body art practitioner licensed by the Commission requesting to have a visiting body art practitioner perform under his/her supervision shall:

- (a) Notify the Commission in writing ten (10) days in advance of the proposed effective date of the requested Guest Practitioner license;
- (b) Require that the visiting practitioner obtain a Guest Practitioner license from the Commission.

5.4 License Requirements

An applicant for a Body Art Practitioner license must be a minimum of 18 years of age and shall demonstrate to the Commission his/her successful compliance with all training, disclosure, consent and educational requirements of this Body Art Regulation relative to the form of body art activities for which such applicant seeks a Body Art Practitioner license prior to the issuance or renewal of a Body Art Practitioner license by the Commission.

5.5 Minimal Training Requirement

Every applicant for a Body Art Practitioner license or a renewal of a Body Art Practitioner license, in order to be qualified for such license, shall provide to the Commission evidence of satisfaction of the following minimal training requirements:

5.5.1 For a Body Art Practitioner license that enables one to perform branding, scarification, and body piercing but not tattooing, the successful completion of a course in Anatomy and Physiology from an accredited, post-secondary institution, or other training deemed acceptable to the Commission shall be required. Acceptable courses shall include principles of Anatomy and Physiology considered by the Commission to be relevant to the practice of such Body Art.

5.5.2 For all Body Art Practitioner licenses, a Blood borne Pathogen training program which includes infectious disease control; waste disposal; hand washing techniques; sterilization equipment operation and methods; and sanitation, disinfection and sterilization methods and techniques.

5.5.3 For all body art practitioners, the successful completion of a course on Prevention of Disease Transmission and Blood Borne Pathogens taught by an instructor trained and sufficiently knowledgeable to teach this OSHA course.

5.5.4 Current certification in American Red Cross Basic First Aid or its equivalent and Cardio-Pulmonary Resuscitation.

5.5.5 Evidence satisfactory to the Commission of actual experience in the practice of performing body art activities of the kind for which the applicant seeks a Body Art Practitioner license to perform, whether such experience was obtained within or outside of the Commonwealth, or evidence of a completed apprenticeship program as approved by the Commonwealth of Massachusetts or the Commission, with instruction in the kind of body art for which the applicant seeks a Body Art Practitioner license to perform. All body art practitioner licenses are conditional upon continued compliance set by the Commission.

5.5.6 No visiting body art practitioner shall practice in Boston without a valid and current Guest Practitioner license issued by the Commission.

5.5.7 Acting within Scope of License. A body art practitioner shall only perform those form(s) of body art that is/are indicated in the Body Art Practitioner license application submitted to the Commission to receive the license.

5.6 Posting Requirement

The following shall be posted in an area of the body art establishment accessible to the Commission and to the client:

5.6.1 The original of the current Body Art Practitioner license of the body art practitioner;

5.6.2 A Disclosure Statement, approved by the Commission shall be posted in the body art establishment in an area that is accessible to the Commission and to the client. A disclosure statement should also be given to each client, advising him/her of the risks and possible consequences of body art procedures.

- 5.6.3 The disclosure statement should include the name, address and telephone number of the Boston Public Health Commission and the procedure for filing a complaint.
- 5.6.4 An emergency plan shall be posted in an area of the body art establishment that is accessible to the Commission and the client, and shall include:
- (a) a plan for the purpose of contacting police, fire or emergency medical services in the event of an emergency;
 - (b) a telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation; and
 - (c) a sign at or adjacent to the telephone indicating the correct emergency telephone numbers.
 - (d) an occupancy and use permit as issued by the local building official.
 - (e) a current establishment permit.
 - (f) each practitioner's permit.

5.7 Impairment by Drugs or Alcohol

No individual or body art practitioner shall conduct any form of body art activity while under the influence of alcohol or drugs.

5.8 Restriction of Certain Body Art Activities.

5.8.1 No tattooing, piercing of genitalia, branding or scarification shall be performed on an individual under the age of eighteen (18).

5.8.2 Body piercing shall not be performed on a minor under the age of fourteen (14). Body piercing, other than piercing of the genitalia, may be performed on a minor who has obtained the age of fourteen (14) but is under the age of eighteen (18) provided that a properly identified parent, legal custodial parent or legal guardian who accompanies the Minor signs a form consenting to such procedure. A copy of the document indicating the legality of custodial and/or guardian right shall be kept in the client's file within the records of the establishment.

5.9 Sterile Conditions

A body art practitioner shall only conduct body art activities under sterile conditions.

5.10 Rash, Lesion or Visible Sign of Infection

The skin of a body art practitioner shall be free of rash, any lesion or visible sign of infection. A body art practitioner shall not conduct any form of body art activity upon any area of a client that evidences the presence of any rash, lesion or visible sign of infection.

5.11 Hygiene

Every body art practitioner shall maintain a high degree of personal cleanliness, conform to hygienic practices and wear clean clothes when conducting body art activity. If the clothes of a body art practitioner are or become contaminated, clean clothing shall be used prior to commencement of any further body art activity.

5.12 Body art activities are only allowed in a permitted body art establishment.

5.13 A body art practitioner shall only conduct body art activities within a facility with a current valid Body Art Establishment permit, and only if such establishment is in compliance with all provisions of the Body Art Regulation.

6. Body Art Apprenticeship License

6.1 Apprenticeship License

The Commission may authorize a Body Art Practitioner Apprenticeship license.

6.2 Compliance with this Body Art Regulation Any Body Art Practitioner Apprenticeship license established by the Commission under the authority of section 6.1 of this Body Art Regulation shall require that all practitioner apprentices adhere to and abide by all relevant provisions of this Body Art Regulation excepting only sections describing the minimum requirements 5.5 and 5.6 of this Regulation.

7. Consent Form for Body Art Activity- Requirement

7.1 Every client shall complete an application and a consent form approved by the Commission prior to having any body art activity performed upon or to his/her body.

7.2 Application and Consent Form for Body Art Activity – Content

Every application and consent form under this section shall contain a minimum of the following:

7.2.1 Client information, including:

- (a) Name;
- (b) age and valid proof of identification;
- (c) in the case of a minor client, the parent's or legal guardian's name, proof of parentage or legal guardianship through a copy of a birth certificate or court order of guardianship respectively, or a notarized document signed by the parent or legal guardian attesting to the parent's or legal guardian's photo I.D. and his/her relationship to the minor client, and the consent to the conduct of the contemplated body art activity upon the minor client;
- (d) the type of the body art activity to be performed.
- (e) the name of the body art practitioner who is to conduct the body art upon the client or minor client and that practitioner's commission registration number;
- (f) the identity of the manufacturer and type of any dye/ink or pigment to be used in the body art activity;
- (g) signature of client and his/her parent or legal guardian;
- (h) the signature of body art practitioner;
- (i) the date(s) of all signature(s); and,
- (j) the date(s) of the body art procedure, including a daily estimate of progress for the conduct of body art requiring multiple days to complete; and

7.2.2 educational material developed and/or approved by the Commission detailing the potential medical and psychosocial consequences of obtaining body art;

7.2.3 the address and phone number of the Commission and instructions for the client, or in the case of a minor client - the minor client and his/her parent or legal guardian, to contact the Commission with any questions or concerns regarding safety, Sanitation or Sterilization procedures;

7.3 Disclosure of Medical – record Information

The obtained information is confidential. A client shall inform the body art practitioner of any known chronic medical or communicable conditions, including, but not limited to the following:

- (a) diabetes;
- (b) history of any bleeding disorders;
- (c) history of skin disease, skins lesions or skin sensitivities to soap, disinfectants, etc.;
- (d) history of allergies or adverse reactions to pigments, dyes or other skin sensitivities;
- (e) history of epilepsy, seizures, fainting or narcolepsy;
- (f) the taking of medications such as aspirin or other anticoagulants, which interfere with blood clotting;
- (g) history of or suspicion of adverse reaction to latex or products containing latex;
- (h) a client shall inform the body art practitioner of a known pregnancy or possibility of pregnancy; and,
- (i) history of keloid scarring.

7.4 The body art practitioner shall require the client to sign a release form confirming that the above information in section 7.3 was obtained or attempted to be obtained and the client refused to disclose the same. The operator of the body art establishment shall treat medical information obtained from clients as confidential.

7.5 Impairment by Drugs or Alcohol

No individual under the influence of drugs or alcohol shall receive any form of body art activity.

7.6 Aftercare Instructions

All clients shall be provided Commission approved aftercare instructions appropriate for the form of body art conducted upon such individual.

7.6.1 Minimum Content

Aftercare instructions shall be approved by the Commission and shall include, at a minimum the following:

- (a) Restrictions, if any, upon the Client;
- (b) signs and symptoms of infection;
- (c) instructions to contact a physician if possible signs of infection occurs. Examples are unexpected redness, tenderness or swelling at the site of the body art procedure, any rash, fever within 24 hours of the procedure, any unexpected drainage at or from the site of the body art procedure;
- (d) age requirements for certain body art activities;
- (e) the name, address and telephone number of the Commission; and
- (f) the name, the address, and telephone number of the establishment.

A copy of the aftercare instructions shall be provided to the client.

8. Application - Registration - Body Art Establishment Permit

- 8.1 Any person seeking registration under this Body Art Regulation so as to obtain a body art establishment permit shall submit a completed application provided by the Commission and shall pay a fee as determined by the Commission. The Body Art Establishment permit shall be valid for no more than one year. The Commission may renew a Body Art Establishment permit under this Body Art Regulation and each applicant for such renewal shall pay to the Commission a renewal fee as determined by the Commission.
- 8.2 Operation of Body Art Establishments
Unless otherwise ordered or approved by the Commission, each body art establishment shall be constructed, operated and maintained to meet minimum requirements as established by the Commission.
- 8.3 Zoning
No body art establishment shall be located in any area except as allowed in the Boston Zoning Code.
- 8.4 Plans
Every operator or applicant for a Body Art Establishment permit shall submit to the Commission scaled floor plans and specifications of the approved facility plan by the City of Boston's Inspectional Services Department at the location allowed by the Zoning Commission wherein any Body Art activity is intended to be conducted demonstrating the compliance of the facility with this Body Art Regulation. The Commission may require an on-site inspection of the proposed facility to determine and/or ensure compliance with the requirements of this Body Art Regulation prior to the issuance of the Body Art Establishment permit pursuant to this Body Art Regulation.
- 8.5 Prior to the issuance of a Body Art Establishment permit to operate, the applicant must provide a copy of a current Certificate of Occupancy (CO) from the City of Boston Inspectional Services Department in order to show that the facility and fixtures are in compliance with the City Ordinance and State Building Code and related Codes (State Plumbing and Gas Code, State Electrical Code, and State Access Regulations).
- 8.6 Body Art Establishment - Other Activities – Restrictions
No operator shall permit the use of a body art establishment for any other use, which, in the opinion of the Commission, may cause the contamination of instruments, equipment, a procedure surface or workstation.
- 8.7 Changing establishment name, address or ownership: When a name of the establishment changes, but ownership does not change, the owner shall submit a written request for a new permit.
- 8.8 The Commission may issue a new permit reflecting the new name and or the new address of the establishment. The permit number and its expiration date shall remain the same.
- (a) A new permit shall be obtained under this regulation prior to an establishment operating after a change of the ownership.
 - (b) A new permit shall be issued for the sole use and benefit of the licensed operator to whom it was issued and shall not be transferable to another person.
 - (c) The new location of the establishment shall meet all requirements of this Body Art Regulations.

8.9 Should an operator of a body art establishment die, the body art establishment permit shall remain in effect for 120 days following the operator's death to allow for orderly determination of the sale or closure of the establishment.

8.10 A Temporary Body Art Establishment permit may only be obtained by the operator of a licensed body art establishment after submitting an application for establishment of a temporary facility. Such application must contain the location, the operating days, hours of operation of the temporary facility, and the plans/description of the temporary facility. No permit for a temporary body art establishment may be issued for more than seven (7) consecutive days. **An applicant for a Temporary Body Art Establishment permit shall not receive more than two consecutive seven (7) day permits during a 30-day period.**

9. Requirements for Single Use Items Including Inks, Dyes and Pigments

9.1 Single-use items shall not be used on more than one client for any reason. After use, all single-use sharps shall be immediately disposed of in approved sharp containers pursuant to 105 CMR 480.000.

9.2 All products applied to the skin, such as but not limited to Body Art stencils, applicators, gauze and razors, shall be single use and disposable.

9.3 All inks, dyes, pigments, solid core needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.

9.4 All inks, dyes or pigments may be mixed and may only be diluted with water from an approved potable source. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic cups. Upon completion of the tattoo, these single-use cups or caps and their contents shall be discarded.

9.5 Rotary Pens, if used in body art activity, also known as cosmetic machines, shall have detachable, disposable, sterile combo couplers and shall have detachable, disposable casings or casings designed and manufactured to be easily cleaned and Sterilized.

10. Sanitation and Sterilization Measures and Procedures

10.1 Only single use, disposable needles, pins and styli shall be used in performing body art.

10.2 After being cleaned by an ultrasonic unit, all non-disposable instruments used for body art shall be packed individually in sterilized packs and subsequently sterilized in a steam autoclave. All sterilized packs shall contain either a sterilized indicator or internal temperature indicator.

11. Cleaning and testing of Ultrasonic Cleaning Units and Sterilization Units

11.1 The Ultrasonic Cleaning Unit and Autoclave or Sterilization Unit shall be used and maintained according to manufacturer's specifications. Each Ultrasonic Cleaning Unit and Autoclave shall be emptied and thoroughly cleaned and disinfected at least once each day that the unit is used.

11.2 An independent commercial testing laboratory contracted by the operator or body art practitioner or both shall perform monthly biological spore testing of the Autoclave. A

provision shall be included in the contract between the operator or body art practitioner or both with the commercial testing laboratory requiring the commercial testing facility to notify the Commission of any failure of the Autoclave to eradicate all living organisms, including spores.

12. Waste Hauling

- 12.1 All Solid Waste and Contaminated Waste shall be removed from the body art establishment on a daily basis and placed in an approved secured receptacle for pickup and removal.
- 12.2 All stored Contaminated Waste in solid form and sharps shall be disposed of through use of an approved waste hauler in accordance with the provision of 105 CMR 480.000 and all applicable state and federal and local laws and regulation. The frequency of disposal shall be no less than every thirty (30) days.
- 12.3 The body art establishment shall keep updated and original copy of all related Records to the produced, stored, disposed Contaminated Waste.

13. Body Art Establishment Record keeping

- 13.1 The establishment shall maintain the following records in a secure place for a minimum of three (3) years, and such records shall be made available to the Commission upon request:
- 13.2 Establishment information, which shall include:
 - (a) Establishment name;
 - (b) hours of operation;
 - (c) owner/operators name and address;
 - (d) a complete description of all body art procedures performed;
 - (e) an inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if available. Invoices or packing slips shall satisfy this requirement;
 - (f) Permits and licenses required by this Body Art Regulation; and
 - (g) a Material Safety Data Sheet, when available, for each ink and dye used by the establishment.
 - (h) Testing results from monthly biological spore testing and autoclave pursuant to § 11.2.
- 13.3 Employee, including employees and general contractors, information, which shall include:
 - (a) full names and exact duties;
 - (b) date of birth;
 - (c) home address; and,
 - (d) home/work telephone numbers.
- 13.4 Client information, which shall include:
 - (a) name;
 - (b) date of birth;
 - (c) address of the client;

- (d) date of the procedure;
- (e) name of the body art practitioner who performed the procedure(s) and his/her license number;
- (f) description of procedure(s) performed and the location on the body;
- (g) a signed consent form as specified above; and,
- (h) if the client is a person under the age of 18, proof of parental or guardian identification, presence and consent including a copy of the photographic identification of the parent or guardian.

13.5 Client information shall be kept confidential at all times.

14. Standards of Practice

Practitioners are required to comply with the following minimum health standards:

- 14.1 A practitioner shall perform all body art procedures in accordance with Universal Precautions set forth by the U.S. Centers for Disease Control and Prevention.
- 14.2 A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.
- 14.3 No practitioner shall use an ear piercing system on any part of the client's body other than the ear.
- 14.4. Prior to performing a body art procedure on a client, the practitioner shall inform the client, verbally and in writing that the following health conditions may increase health risks associated with receiving a body art procedure and if the client states that he/she has one or more of the following conditions, the practitioner should advise the he/she may wish to consult with a health care provider prior to obtaining a body art procedure.
 - (a) history of diabetes;
 - (b) history of bleeding disorder;
 - (c) history of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants, etc.;
 - (d) history of allergies or adverse reactions to pigments, dyes, latex or other sensitives;
 - (e) history of epilepsy, seizures, fainting, or narcolepsy;
 - (f) use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting;
 - (g) any other conditions such as hepatitis or HIV; and
 - (h) a history of Keloid scaring
 - (i) require that the client sign a form confirming that the above information was provided and that the client has been given the aftercare instructions as required.
- 14.6 A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.

- 14.7 In performing body art procedures, a practitioner shall wear disposable single use gloves. Gloves shall be changed if they become pierced, torn, or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual, and hands shall be washed before the next set of gloves is put on.
- 14.8 Under no circumstances shall a single pair of gloves be used on more than one individual.
- 14.9 The use of disposable single-use gloves does not preclude or substitute for hand washing procedures as part of a good personal hygiene program.
- 14.10 The skin of the practitioner shall be free of rash or infection. No practitioner affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that individual could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
- 14.11 Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- 14.12 Preparation and care of a client's skin area must comply with the following:
- (a) Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
 - (b) Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation.
 - (c) If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used.
 - (d) Blades shall be discarded after each use, and reusable holders shall be cleaned and autoclaved after use.
 - (e) Following shaving, the skin and surrounding area shall be washed with soap and water.
 - (f) The washing pad shall be discarded after a single use.
- 14.13 In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use, and discarded immediately after use in appropriate covered containers, and disposed of in accordance with 105 CMR 480.000.
- 14.14 Animals
No body art practitioner shall conduct any form of body art upon an animal. No animal, except one actually serving as any guide animal, signal animal or service animal accompanied by a totally or partially blind individual or deaf individual or an individual whose hearing is impaired or handicapped individual, shall be allowed in a body art establishment.

15. Injury Reports

15.1 A written report of any injury, infection complication or disease as a result of a body art procedure, or complaint of injury, infection complication or disease, shall be forwarded by the operator to the Commission with a copy to the injured client within five (5) business days of its occurrence or knowledge thereof. The report shall include:

- (a) the name of the affected client;

- (b) the name and location of the body art establishment involved;
- (c) the nature of the injury, infection complication or disease;
- (d) the name and address of the affected client's health care provider, if any; and,
- (e) any other information considered relevant to the situation.

16. Complaints

- 16.1 The Commission shall investigate complaints received about an establishment or practitioner's practices or acts, which may violate any provision of the Commission's regulations.
- 16.2 If the Commission finds that an investigation is not required because the alleged act or practice is not in violation of the Commission's regulations, then the Commission shall notify the complainant of this finding and the reasons on which it is based.
- 16.3 If the Commission finds that an investigation is required, because the alleged act or practice may be in violation of the Commission's regulations, the Commission shall investigate and if a finding is made that the act or practice is in violation of the Commission's regulations, then the Commission shall apply whatever enforcement action is appropriate to remedy the situation and shall notify the complainant of its action in this manner.

17. Grounds for Denial, Revocation, or Refusal to Renew License/Permit

- 17.1 The Commission may deny, suspend, revoke or refuse to renew a license/permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for denial, suspension, revocation or refusal to renew:
 - (a) any actions that would indicate that the health or safety of the public would be at risk;
 - (b) refusal to permit an agent of the Commission or other government official to reasonably inspect the facility and any records pertaining to the operation of the facility;
 - (c) interference with an agent of the Commission or other government official in the performance of his or her duty, directly or indirectly related to these regulations; fraud, deceit or misrepresentation in obtaining a permit, or its renewal;
 - (d) criminal conduct which the Commission determines to be of such a nature as to render the establishment, practitioner or applicant unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
 - (e) any present or past violation of the Commission's regulations governing the practice of body art;
 - (f) practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
 - (g) being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;

- (h) knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a license/permit;
 - (i) continuing to practice while his/her license is lapsed, suspended, or revoked; and having been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in the Commission's regulations;
 - (j) other just and sufficient cause which the Commission may determine would render the establishment, practitioner or applicant unfit to practice body art;
 - (k) failure of the Licensee or holder of a permit to submit any required documents within the time specified;
 - (l) failure to pay the required license/permit fees or assessed fines or penalties; and,
 - (m) default of an adjudicatory hearing pursuant to these regulations.
- 17.2 The Commission shall notify an applicant, establishment or practitioner in writing of any violation of the Commission's regulations, for which the Commission intends to deny, revoke, or refuse to renew a license/permit. The applicant, establishment or practitioner shall have seven (7) days after receipt of such written notice in which to comply with the Board's regulations. The Commission may deny, revoke or refuse to renew a license/permit, if the applicant, establishment or practitioner fails to comply after said seven (7) days.
- 17.3 Applicants denied a license/permit may reapply at any time after denial, unless otherwise determined in writing by the Commission.

18. Violation by a Body Art Practitioner

- 18.1 Pursuant to section 16.1, a Body Art Practitioner license shall be summarily suspended by the Commission immediately upon written notice of such suspension to the subject body art practitioner when, in the sole discretion of the Director of the Office of Environmental Health of the Commission has reason to believe that, due to a condition or practice of the subject body art practitioner, an imminent threat to the public health and/or welfare exists. When the condition or practice believed to cause such threat to the public health and/or welfare is abated or corrected to the satisfaction of the Director of the Office of Environmental Health of the Commission, the Director of the Office of Environmental Health of the Commission may terminate the suspension of the Body Art Practitioner license of the subject body art practitioner and reinstate the same upon written notice to the subject body art practitioner and the body art Practitioner License of such body art practitioner shall remain in full force an effect until the expiration of the same or until the subsequent suspension, termination, revocation or modification thereof by the Commission.
- 18.1.1 The person or establishment named in the summary suspension or order may appeal the issuance of such order to the Executive Director of the Commission or his/her designee. If such appeal is to a designee, then the designee shall make a recommended decision to the Executive Director within ten (10) days of the receipt of all evidence. The Executive Director

shall make a final determination in such appeal within ten (10) days of receipt of the recommended decision.

- 18.1.2 Upon the Executive Director's affirmation of all or part of a summary suspension or order, the person or establishment named therein may appeal further to any court of competent jurisdiction.
- 18.1.3 Pendency of any appeal shall not stay the summary suspension or order unless otherwise determined by a court of competent jurisdiction.
- 18.2 In all other instances of a violation of this Body Art Regulation by a body art practitioner where imminent threat to the health of the public does not exist, the Commission shall serve upon the subject body art practitioner written order of notice detailing the condition, event or practice determined by the Commission to be in violation of this Body Art Regulation and such written order of notice shall instruct the body art practitioner that he or she shall have five (5) business days to abate or correct such condition, event or practice to the satisfaction of the Commission.
- 18.3 Should a body art practitioner, subject to an order of notice, fail to abate or correct the condition, event or practice which is the subject of an order of notice, or to otherwise comply with an order of notice, the Director of the Office of Environmental Health of the Commission may suspend, terminate, revoke or modify the license held by such body art practitioner.
- 18.4 Violation by an Operator or in a Body Art Establishment
A Body Art Establishment permit shall be summarily suspended by the Commission immediately upon written notice of such suspension to the subject operator when, in the sole discretion of the Director of the Office of Environmental Health of the Commission, due to a condition of or practice in the body art establishment, the Director of the Office of Environmental Health of the Commission has reason to believe that an imminent threat to the public health and/or welfare exists.
- 18.5 When the condition or practice believed to cause such threat to the public health and/or welfare is abated or corrected to the satisfaction of the Director of the Office of Environmental Health of the Commission, the Commission may terminate the suspension of the Body Art Establishment permit of the subject operator and reinstate the same upon written notice to the subject operator and the Body Art Establishment permit of such body art establishment shall remain in full force an effect until the expiration of the same or until the subsequent suspension, termination, revocation or modification thereof by the Commission.
- 18.6 Should an operator, subject to an order of notice, fail to abate or correct the condition, event or practice which is the subject of an order of notice, or to otherwise comply with an order of notice, the Commission may suspend, terminate, revoke or modify the Body Art Establishment permit held by such operator.
- 18.7 Failure to Comply with Orders of the Public Health Commission Whenever a body art practitioner or operator has failed, to the satisfaction of the Director of the Office of Environmental Health of the Commission, to comply with an order of notice issued by the Commission pursuant to the provisions of this Body Art Regulation, the Director of the Office of Environmental Health of the Commission may suspend the Body Art Practitioner license of the subject body art practitioner or the Body Art Establishment permit of the subject operator until such time as the subject body art practitioner or operation has complied with the order of notice to the satisfaction of the Commission.

18.8 Civil and Criminal Prosecution

The Commission may make criminal complaint in any court of competent jurisdiction or may refer enforcement to the District Attorney, the Attorney General, or other appropriate law enforcement agency any incidents of unauthorized practice of body art that come to its attention. The Commission may also seek injunctive relief and civil penalties in any court of competent jurisdiction for violation of any regulation. The fines or civil penalty for a violation of each provision of this Body Art Regulation shall be no less than one hundred (\$100) dollars nor more than one thousand (\$1000) dollars per offense. Each day that any violation continues shall be deemed a separate offense.

19. Variance Procedures

19.1 The Commission may grant a variance either upon its own motion or upon request of the applicant from the provisions of any rule or regulation in a specific case if it finds that a literal enforcement of such provision will result in unnecessary hardship to the applicant and that such a variance will not be contrary to the public interest, public health and/or health and safety of clients.

19.2 A request for a variance shall be filed by an applicant in writing, setting forth in detail the basis upon which the request is made.

19.2.1. Within thirty (30) days of filing for a request for a variance, the Commission shall notify the applicant by certified mail of its approval or in the case of a denial, a hearing date, time and place may be scheduled if the facility appeals the denial and in accordance with its Standard Hearing Procedures.

20. Severability

If any provision or subpart thereof contained in this Body Art Regulation is found to be invalid or unconstitutional by a court of competent jurisdiction, the validity of all remaining provisions or subpart thereof shall not be so affected but shall remain in full force and effect.

21. Administration and Enforcement

This Body Art Regulation shall be administered and enforced by the Office of Environmental Health of the Commission. The Office of Environmental Health shall promulgate guidelines in accordance with the Body Art Regulation. This Body Art Regulation shall be administered and enforced by the Commission as of May 23, 2001.