

Rules and Regulations for Body Art Establishments and Practitioners

1. Purpose

Whereas body art is becoming prevalent and popular throughout the Commonwealth; and whereas knowledge and practice of universal precautions, sanitation, personal hygiene, sterilization and aftercare requirements on the part of the practitioner should be demonstrated to prevent the transmission of disease or injury to the client and/or practitioner; now, therefore the Board of Health of the Town of Harwich passes these rules and Regulations for the practice of body art in the Town of Harwich as part of our mission to protect the health, safety and welfare of the public.

2. Authority

These Regulations are promulgated under the authority granted to the Board of Health under Massachusetts General Law Chapter 111, § 31.

3. Definitions

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.

Applicant means any person who applies to the Board of Health for either a body art establishment permit or practitioner permit.

Autoclave means an apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time.

Autoclaving means a process which results 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.

Blood Borne Pathogens Standard means OSHA Guidelines contained in 29 CFR 1910.1030, entitles "Occupational Exposure to Blood Borne Pathogens".

Board of Health or Board means the Board of Health that has jurisdiction in the community in which a body art establishment is located including the Board or officer having like powers and duties in towns where there is no Board of Health.

Body Art means the practice of physical body adornment by permitted establishments and practitioners 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.

Body Art Establishment or Establishment means a location, place or business that has been granted a permit by the Board, whether public or private, where the practices of body art are performed, whether or not for profit.

Body Art Practitioner or Practitioner means a specifically identified individual who has been granted a permit by the Board to perform body art in an establishment that has been granted a permit by the Board.

Body Piercing means puncturing or penetrating the skin of a client with pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment into the opening. This definition excludes piercing of the earlobe with a pre-sterilized single use stud-and-clasp system manufactured exclusively for ear piercing.

Braiding means the cutting of strips of skin of a person, which strips are then to be intertwined with one another and placed onto such person so as to cause or allow the incised and interwoven strips of skin to heal in such intertwined condition.

Branding means inducing a pattern of scar tissue by use of a heated material (usually metal) to the skin, making a serious burn, which eventually becomes a scar.

Cleaning Area means 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.

Client means a member of the public who requests a body art procedure at a body art establishment.

Contaminated Waste means waste as defined in 105 CMR 480.000 – Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII and/or 29 Code of Federal Regulation part 1910.1030. This includes 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.

Cosmetic Tattooing also known as permanent cosmetics, micro pigment implantation or dermal pigmentation, means the implantation of permanent pigment around the eyes, lips and cheeks of the face and hair imitation.

Disinfectant means a product registered as a disinfectant by the U.S. Environmental Protection Agency (EPA).

Disinfection means the destruction of disease-causing micro-organisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

Ear Piercing means the puncturing of the lobe of the ear with a pre-sterilized single use stud-and-clasp ear piercing system following the manufacturer's instructions.

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.

Exposure means an event whereby there is an eye, mouth or other mucus membrane, non-intact skin or parenteral contact with the blood or bodily fluids of another person or contact of an eye, mouth or other mucus membrane, non-intact skin or parenteral contact with other potentially infectious matter.

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.

Hot Water means water that attains and maintains a temperature 110°-130° F.

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.

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.

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.

Light Colored means a light reflectance value of 70 percent or greater.

Minor means any person under the age of eighteen (18) years.

Mobile Body Art Establishment means any trailer, truck, car, van, camper or other motorized or non-motorized vehicle, a shed, tent, movable structure, bar, home or other facility wherein, or concert, fair, party or other event where at one desires to or actually does conduct body art procedures.

Operator means any person who individually, or jointly or severally with others, owns, or controls an establishment, but is not a body art practitioner.

Permit means Board approval in writing to either (1) operate a body art establishment or (2) operate as a body art practitioner within a body art establishment. Board 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 Board's jurisdiction.

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.

Physician means an individual licensed as a qualified physician by the Board of Registration in medicine pursuant to MGL c.112 § 2.

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 which may require sanitizing.

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

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

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.

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.

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.

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.

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

Student/Apprentice Practitioner shall mean any person having accumulated fewer than two (2) years actual experience in the practice of performing body art activities but is in compliance with section (E) (2)(A) and (B) and (E)(3).

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.

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.

Temporary Body Art Establishment means the same as Mobile Body Art Establishment.

Three Dimensional “3D” Body Art or Beading or Implantation means the form of body art consisting of or requiring the placement, injection or insertion of an object, device or other thing made of matters such as steel, titanium, rubber, latex, plastic, glass or other inert materials, beneath the surface of the skin of a person. This term does not include body piercing.

Ultrasonic Cleaning Unit means a unit approved by the Board, 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.

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 Immunodeficiency 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 Immunodeficiency 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.

4. Exemptions

(A) Physicians licensed in accordance with MGL c. 112 § 2 who perform body art procedures as part of patient treatment are exempt from these Regulations.

(B) Individuals who pierce only the lobe of the ear with a pre-sterilized single use stud-and-clasp ear piercing system are exempt from these Regulations.

5. Restrictions

(A) No tattooing, piercing of genitalia, branding or scarification shall be performed on a person under the age of 18.

(B) Body piercing, other than piercing the genitalia, may be performed on a person under the age of 18 provided that the person is accompanied by a properly identified parent, legal custodial parent or legal guardian who has signed a form consenting to such procedure. Properly identified shall mean a valid photo identification of the adult and a birth certificate of the minor.

(C) The following body piercings are hereby prohibited: piercing of the uvula; piercing of the tracheal area; piercing of the neck; piercing of the ankle; piercing between the ribs or vertebrae; piercing of the web area of the hand or foot; piercing of the lingual frenulum (tongue web); piercing of the clitoris; any form of chest or deep muscle piercings, excluding the nipple; piercing of the anus; piercing of an eyelid, whether top or bottom; piercing of the gums; piercing or skewering of a testicle; so called "deep" piercing of the penis – meaning piercing through the shaft of the penis, or "trans-penis" piercing in any area from the corona glandis to the pubic bone; so called "deep" piercing of the scrotum, meaning piercing through the scrotum, or "transcrotal" piercing; so called "deep" piercing of the vagina.

(D) The following practices are hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts: tongue splitting; braiding; three dimensional/beading/implementation/tooth filing/fracturing/removal/tattooing; cartilage modification; amputation; genital modification; introduction of saline or other liquids.

6. Operation of Body Art Establishments

Unless otherwise ordered or approved by the Board, each body art establishment shall be constructed, operated and maintained to meet the following minimum requirements:

(A) Physical Plant

1. Walls, floors, ceilings, and procedure surfaces shall be smooth, durable, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client.
2. Solid partitions or walls extending from floor to ceiling shall separate the establishment's space from any other room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales, or any other such activity that may cause potential contamination of work surfaces.
3. The establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin, and rodents within the establishment.
4. Each operator area shall have a minimum of 45 square feet of floor space for each practitioner. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by dividers or a partition at a minimum.
5. The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 foot candles, 3 feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art procedure is being performed where instruments and sharps are assembled and all cleaning areas.
6. All electrical outlets in operator areas and cleaning areas shall be equipped with approved ground fault (GFCI) protect receptacles.
7. A separate, readily accessible hand sink with hot and cold running water under pressure, preferably equipped with wrist or foot operated controls and supplied with liquid soap, and disposable paper towels stored in fixed dispensers shall be readily accessible within the establishment. Each operator area shall have a hand sink.
8. There shall be a sharps container in each operator area and each cleaning area.
9. There shall be a minimum of one toilet room containing a toilet and sink. The toilet room shall be provided with toilet paper, liquid hand soap and paper towels stored in a fixed dispenser. A body art establishment permanently located within a retail shopping center, or similar setting housing multiple operations within one enclosed

structure having shared entrance and exit points, shall not be required to provide a separate toilet room within such body art establishment if Board approved toilet facilities are located in the retail shopping center within 300 feet of the body art establishment so as to be readily accessible to any client or practitioner.

10. The public water supply entering a body art establishment shall be protected by a testable, reduced pressure back flow preventor installed in accordance with 142 Code of Massachusetts Regulation 248, as amended from time to time.
11. At least one covered, foot operated waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily. Solid waste shall be stored in covered, leak-proof, rodent resistant containers and shall be removed from the premises at least weekly.
12. At least one janitorial sink shall be provided in each body art establishment for use in cleaning the establishment and proper disposal of non-contaminated liquid wastes in accordance with all applicable federal, state and local laws. Said sink shall be of adequate size equipped with hot and cold running water under pressure and permit the cleaning of the establishment and any equipment used for cleaning.
13. All instruments and supplies shall be stored in clean, dry and covered containers. Containers shall be kept in a secure area specifically dedicated to the storage of all instruments and supplies.
14. The establishment shall have a cleaning area. Every cleaning area shall have an area for the placement of an autoclave or other sterilization unit located or positioned a minimum of 36 inches from the required ultrasonic cleaning unit.
15. The establishment shall have a customer waiting area, exclusive and separate from any workstation, instrument storage area, cleaning area or any other area in the body art establishment used for body art activity.
16. No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g., Seeing Eye Dogs). Fish aquariums shall be allowed in waiting rooms and non-procedural areas.
17. Smoking, eating, or drinking is prohibited in the area where body art is performed, with the exception of non-alcoholic fluids being offered to a client during or after a body art procedure.

(B) Requirements for Single Use Items Including Inks, Dyes and Pigments

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 sharps containers pursuant to 105 CMR 480.000.
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.
3. Hollow bore needles or needles with cannula shall not be reused.
4. 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.
5. 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.

(C) Sanitation and Sterilization Measures and Procedures

1. All non-disposable instruments used for body art, including all reusable solid core needles, pins and stylets, shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, (to remove blood and tissue residue), and shall be placed in an ultrasonic unit sold for cleaning purposes under approval of the U.S. Food and Drug Administration and operated in accordance with manufacturer's instructions.
2. After being cleaned, all non-disposable instruments used for body art shall be packed individually in sterilizer packs and subsequently sterilized in a steam autoclave sold for medical sterilization purposes under approval of the U.S. Food and Drug Administration. All sterilizer packs shall contain either a sterilizer indicator or internal temperature indicator. Sterilizer packs must be dated with an expiration date not to exceed six (6) months.
3. The autoclave shall be used, cleaned and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the autoclave must be available for inspection by the Board. Autoclaves shall be located away from workstations or areas frequented by the public.

4. Each holder of a permit to operate a body art establishment shall demonstrate that the autoclave used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the autoclave's ability to destroy spores is received by the Board. These test records shall be retained by the operator for a period of three (3) years and made available to the Board upon request.
5. All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. After sterilization, the instruments used in body art procedures shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
6. Sterile instruments may not be used if the package has been breached or after the expiration date without first re-packaging and re-sterilizing.
7. If the body art establishment uses only single use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.
8. When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized sterile techniques to ensure that the instruments and gloves are not contaminated.
9. Reusable cloth items shall be mechanically washed with detergent and mechanically dried after each use. The cloth items shall be stored in a dry, clean environment until used. Should such items become contaminated directly or indirectly with bodily fluids, the items shall be washed in accordance with standards applicable to hospitals and medical care facilities, at a temperature of 160°F or a temperature of 120°F with the use of chlorine disinfectant.

(D) Posting Requirements

The following shall be prominently displayed:

1. A Disclosure Statement, a model of which shall be available from the Board. A Disclosure Statement shall also be given to each client, advising him/her of the risks and possible consequences of body art procedures.
2. The name, address and telephone number of the Harwich Board of Health.
3. An Emergency Plan, including

- a. 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
4. A plan for the purpose of contacting police, fire or emergency medical services in occupancy and “use permit” as issued by the local building official.
 5. A current establishment permit.
 6. Each practitioner’s permit.

E. Establishment Recordkeeping

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 Board upon request:

1. Establishment information, which shall include:
 - a. establishment name
 - b. hours of operation
 - c. owner’s 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 applicable. Invoices or packing slips shall satisfy this requirement.
 - f. a Material Safety Data Sheet, when available, for each ink and dye used by the establishment
 - g. copies of waste hauler manifests
 - h. copies of commercial biological monitoring tests
 - i. a copy of these Regulations.
2. Employee information, which shall include:
 - a. full legal names and exact duties
 - b. date of birth
 - c. home address
 - d. home/work telephone numbers
 - e. identification photograph
 - f. dates of employment
 - g. Hepatitis B vaccination status or declination notification
 - h. training records

3. Client Information, which shall include:
 - a. name;
 - b. valid photo identification and date of birth;
 - c. address of the client;
 - d. date of the procedure;
 - e. name of the practitioner who performed the procedure(s);
 - f. description of procedure(s) performed and the location on the body;
 - g. a signed consent form as specified by 7(D)(2);
 - 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;

Client information shall be kept confidential at all times.

4. Exposure Control Plan

Each establishment shall create, update, and comply with an Exposure Control Plan. The plan shall be submitted to the Board for review so as to meet all of the requirements of OSHA Regulations, to include, but not limited to, 29 Code of Federal Regulation 1910.1030 OSHA Blood Borne Pathogens Standards et seq, as amended from time to time. A copy of the plan shall be maintained at the body art establishment at all times and shall be made available to the Board upon request.

(F) No person shall establish or operate a mobile or temporary body art establishment.

7. Standards of Practice

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

- A. 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.
- B. A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.
- C. Practitioners who use ear piercing systems must conform to the manufacturers directions for use, and to applicable U.S. Food and Drug Administration requirements. No practitioner shall use an ear piercing system on any part of the client's body other than the lobe of the ear.
- D. Health History and Client Informed Consent - Prior to performing a body art procedure on a client, the practitioner shall:

1. Inform the client, verbally and in writing that the following health conditions may increase health risks associated with receiving a body art procedure:

- a. history of diabetes;
- b. history of hemophilia (bleeding);
- c. history of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants etc.;
- d. history of allergies or adverse reactions to pigments, dyes, or other sensitivities;
- 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; and
- g. any other conditions such as hepatitis or HIV

2. Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by section 7(K).

E. 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.

F. 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 client, and hands shall be washed in accordance with section (E) before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single use gloves does not preclude or substitute for hand-washing procedures as part of a good personal hygiene program.

G. 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 the person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.

H. 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.

I. Preparation and care of a client's skin area must comply with the following:

1. Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
2. 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. If shaving is necessary, single use disposable razors or safety razors with single service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be cleaned and autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
3. 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.

J. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded.

K. The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site. The written instructions shall advise the client:

1. on the proper cleansing of the area which received the body art;
2. to consult a health care provider for:
 - a. unexpected redness, tenderness or swelling at the site of the body art procedure;
 - b. any rash;
 - c. unexpected drainage at or from the site of the body art procedure; or
 - d. a fever within 24 hours of the body art procedure; and
3. of the address and telephone number of the establishment.

A copy shall be provided to the client. A model set of aftercare instructions shall be made available by the Board.

L. Contaminated waste shall be stored, treated and disposed of in accordance with 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII.

8. Injury and/or Complication Reports

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 Board which issued the permit, with a copy to the injured client within five working 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;
- E. any other information considered relevant to the situation.

9. Complaints

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

10. Application for Body Art Establishment Permit

- A. No person may operate a body art establishment except with a valid permit from the Board.
- B. Applications for a permit shall be made on forms prescribed by and available from the Board. An applicant shall submit all information required by the form and accompanying instructions. The term "application" as used herein shall include the original and renewal applications.
- C. An establishment permit shall be valid from the date of issuance and shall expire on December 31st of the year in which it was issued.

D. The Board shall require that the applicant provide, at a minimum, the following information in order to be issued an establishment permit:

1. Name, address, and telephone number of:
 - a. the body art establishment
 - b. the operator of the establishment; and
 - c. the body art practitioner(s) working at the establishment;
2. The manufacturer, model number, model year, and serial number, where applicable, of the autoclave used in the establishment.
3. A signed and dated acknowledgement that the applicant has received, read and understood the requirements of the Board's body art Regulations;
4. A drawing of the floor plan of the proposed establishment to scale for a plan review by the Board, as part of the permit application process; and,
5. Such additional information as the Board may reasonably require.

E. The annual fee for the Body Art Establishment Permit shall be \$250.00.

F. A permit for a body art establishment shall not be transferable from one place or person to another.

11. Application for Body Art Practitioner Permit

A. No person shall practice body art or perform any body art procedure without first obtaining a practitioner permit from the Board. The annual fee for a practitioner permit shall be \$100.00. The annual fee for a student/apprentice practitioner permit shall be \$100.00.

B. A practitioner shall be a minimum of 18 years of age.

C. A practitioner permit shall be valid from the date of issuance and shall expire on December 31st of the year in which it was issued.

D. Application for a practitioner permit shall include:

1. name;
2. date of birth;
3. residence address;
4. mailing address
5. telephone number;

6. place(s) of employment as a practitioner; and
7. training and/or experience as set out in (E) below.

E. Practitioner Training and Experience

1. In reviewing an application for a practitioner permit, the Board may consider experience, training and/or certification acquired in other states that regulate body art.
2. Training for all practitioners shall be approved by the Board and, at a minimum, shall include the following:
 - a. blood borne pathogen training program (or equivalent) which includes infectious disease control; waste disposal; hand-washing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques; and
 - b. current certification in First Aid and cardiopulmonary resuscitation (CPR).

Examples of courses approved by the Board include “Preventing Disease Transmission” (American Red Cross) and “Bloodborne Pathogen Training” (U.S. OSHA). Training/courses provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Board for approval.

3. All applicants shall provide documentation, acceptable to the Board, that he/she completed a course on anatomy and physiology with a grade of C or better at a college accredited by the New England Association of Schools and Colleges, or comparable accrediting entity. This course must include instruction on the system of the integumentary system (skin).
4. The applicant for all practitioners shall submit evidence satisfactory to the Board of at least two years actual experience in the practice of performing body art activities of the kind for which the applicant seeks a body art practitioner permit to perform, whether such experience was obtained within or outside of the Commonwealth.

F. A practitioner’s permit shall be conditioned upon continued compliance with all applicable provisions of these rules and Regulations.

G. The Board may consider the application for student/apprentice practitioner provided the applicant must perform under the direct supervision of a permitted practitioner.

12. Grounds for Suspension, Denial, Revocation, or Refusal to Renew Permit

A. The Board may suspend a permit, deny a permit, revoke a permit or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for suspension, denial, revocation or refusal to renew:

1. any actions which would indicate that the health or safety of the public would be at risk;
2. fraud, deceit or misrepresentation in obtaining a permit, or its renewal;
3. criminal conduct which the Board 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;
4. any present or past violation of the Board's Regulations governing the practice of body art;
5. practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
6. being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
7. knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit;
8. continuing to practice while his/her permit is lapsed, suspended, or revoked; and
9. having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's Regulations.
10. other just and sufficient cause which the Board may determine would render the establishment, practitioner or applicant unfit to practice body art;

B. The Board shall notify an applicant, establishment or practitioner in writing of any violation of the Board's Regulations, for which the Board intends to deny, revoke, or refuse to renew a 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 Board may deny, revoke or refuse to renew a permit, if the applicant, establishment or practitioner fails to comply after said seven (7) days subject to the procedure outlined in Section 14.

C. Applicants denied a permit may reapply at any time after denial.

13. Grounds for Suspension of Permit

The Board may summarily suspend a permit pending a final hearing on the merits on the question of revocation if, based on the evidence before it, the Board determines that an establishment and/or a practitioner is an immediate and serious threat to the public health, safety or welfare. The suspension of a permit shall take effect immediately upon written notice of such suspension by the Board.

14. Procedure for Hearings

The owner of the establishment or practitioner shall be given written notice of the Board's intent to hold a hearing for the purpose of suspension, revocation, denial or refusal to renew a permit. This written notice shall be served through a certified letter sent return receipt requested or by constable. The notice shall include the date, time and place of the hearing and the owner of the establishment or practitioner's right to be heard. The Board shall hold the hearing no later than 21 days from the date the written notice is received.

In the case of a suspension of a permit as noted in Section 12, a hearing shall be scheduled not later than 21 days from the date of the suspension.

15. Severability

If any provision contained in the model Regulations is deemed invalid for any reason, it shall be severed and shall not affect the validity of the remaining provisions.

16. Violations, Penalties and Enforcement

Non-Criminal Disposition: Whoever violates any provision of these rules and Regulations may be penalized by a non-criminal method in the District Court pursuant to the provisions of MGL Chapter 40 § 21D. For the purpose of this Regulation the following fine schedule will be imposed:

First offense – written warning
Second offense - \$50.00

Third offense - \$100.00

Fourth and subsequent offenses - \$300.00

Each day on which a violation exists shall be deemed to be a separate offense. The third offense at a single facility shall result in a hearing before the Board of Health to suspend or withdraw a body art license if appropriate or a determination to file a criminal complaint.

Criminal Complaint: As provided in MGL Chapter 111, § 31 – Whoever violates any provision of these rules and Regulations may be penalized by indictment or complaint brought in the District Court. Except as otherwise provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions, shall be \$1,000.00 for each offense.

17. Variances

Variances from this Regulation may be granted by the Board of Health after a hearing at which the applicant establishes the following:

- a. the enforcement thereof would do manifest injustice; and
- b. a variance contemplated from these Regulations will not in the opinion of the Board of Health adversely affect the purpose and intent of this Regulation.

18. Effective Date

These rules and Regulations shall be effective as of September 1, 2001.

Adopted 7/24/2001
Effective 9/1/2001

HARWICH BOARD OF HEALTH

Robert A. Germain, Chairman
Alfred E. Hurst, MD
Ronald E. Hindman
Francis C. Sampson