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OFFICE OF BOARD OF HEALTH
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BODY ART ESTABLISHMENT AND PRACTITIONER
Regulation
(Amended Effective 3-31-12)

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1. PURPOSE AND AUTHORITY

Whereas body art has become 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 the practitioner; now, therefore the Board of Health of the Town of Westport (hereinafter "the Board") passes these rules and regulations for the practice of body art in the Town of Westport as part of our duty to protect the health, safety, and welfare of the public. These regulations are promulgated under the authority granted the Board of Health by Massachusetts General Laws chapter 111, section 31.

2. 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.

Bloodborne Pathogens Standard means OSHA Guidelines contained in 29 Code of Federal Regulations ("CFR") 1910.1030, entitled "Occupational Exposure to Bloodborne 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 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 Art Practitioner Apprentice or Apprentice means an individual who has been granted a permit by the Board to undergo a training period under the supervision of a qualified, permitted Body Art Practitioner.

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 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 Code of Massachusetts Regulations ("CMR") 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII, and 29 CFR 1910.1030. This includes: any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious material in a liquid or semi-liquid state if compressed; items on which there are 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 microorganisms 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 or Exposure incident mean an event whereby there is an eye, mouth, or other mucous membrane, non-intact skin, or parenteral contact with the blood or bodily fluids of another person, or the contact of an eye, mouth, or other mucous 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 seventy per cent (70%) 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 whereat, one conducts 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 model 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 Massachusetts General Laws (M.G.L.) Chapter 112, Section 2.

Procedure surface means any surface of an inanimate object that contacts the client's unclothed body during a 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 an 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.

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.

3. EXEMPTIONS

- (A) Physicians licensed in accordance with M.G.L. Chapter 112, Section 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.

4. RESTRICTIONS

- (A) No tattooing, piercing of genitalia, branding or scarification shall be performed on a person under the age of eighteen (18).
- (B) Body piercing, other than piercing the genitalia, may be performed on a person under the age of eighteen (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 identified by a valid photo identification of the adult and a valid birth certificate of the minor.
- (C) No body art shall be performed upon an animal.
- (D) 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 the 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.
- (E) The following practices are hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts: tongue splitting; braiding; three dimensional body art, beading, or implantation; tooth filing, fracturing, removal of tattoo; cartilage modification; amputation; genital modification; introduction of saline or other liquids.
- (F) No person shall establish or operate a Mobile or Temporary Body Art Establishment.

5. 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

and 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 body art station shall have a minimum of 45 square feet of floor space for each practitioner. Each establishment shall have an area that maybe screened from public view for clients requesting privacy. Multiple body art stations shall be separated by a divider or 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. "Foot candle" is defined as the unit of illuminance on a surface one (1) square foot in area on which there is a uniformly distributed flux of one lumen, or the illuminance produced on a surface all points of which are a distance of one foot from a directionally uniform point source of one candle.
- 6.) All electrical outlets in operator areas and cleaning areas shall be equipped with approved ground fault (GFCI) protected 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 practitioner area shall have a hand sink.
- 8.) There shall be a sharps container and a contaminated waste container, in conformance with the requirements of 105 CMR 480.000, et seq., in each practitioner's 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 business operations within one closed 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 backflow preventor installed in accordance with 142 CMR 248, as amended from time to time.
- 11.) At least one covered, foot-operated waste receptacle shall be provided in each practitioner area and each toilet room. Receptacles in the practitioner 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. Contaminated waste shall be stored, treated, and disposed of separately from ordinary solid waste and in conformance with the requirements of 105 CMR 480.000, et seq.
- 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, et seq.
- 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 a 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 caps. Upon completion of the tattoo, these single-use cups or caps and their contents shall be discarded as medical waste and disposed in accordance with 105 CMR 480.000, et. seq.

(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 the 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 repackaging and resterilizing.

- 7) If the body art establishment uses only sterile 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 or her of the risks and possible consequences of body art procedures.
- 2) The name, address, and phone number of the local Board of Health.
- 3) An Emergency Plan, including:
 - (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.
- 4) An occupancy and use permit as issued by the local building official.
- 5) A current establishment permit.
- 6) Each practitioner's permit.

(E) Establishment Record Keeping

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 all waste hauler manifests;
- (h) copies of all commercial biological monitoring tests;
- (i) all Exposure Incident Reports (must be kept permanently); and
- (j) a copy of these regulations.

2) Employee Information, which shall include:

- (a) full names and exact duties;
- (b) date of birth;
- (c) home address;
- (d) home and work phone numbers;
- (e) identification photograph;
- (f) dates of employment;
- (g) Hepatitis B vaccination record or declination notification; and
- (h) training records.

3) Client Information, which shall include:

- (a) name and address;
- (b) age and valid photo identification;
- (c) date of the procedure;
- (d) name of the practitioner who performed the procedures;
- (e) description of procedures performed and the location on the body;
- (f) a signed consent form as specified by 6 (D) (2); and
- (g) 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, including but not limited to 29 CFR 1910.1030, et seq, OSHA Bloodborne Pathogens Standards, 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) The establishment shall require that all body art practitioners have either completed, or were offered and declined in writing, the hepatitis B vaccination series. Records documenting compliance with this requirement shall be provided to the Board upon request.

(G) No person shall establish or operate a Mobile or Temporary Body Art Establishment.

6. **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 manufacturer's 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 him or her 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 6 (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 his or her 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. At a minimum, the gloves shall be discarded 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 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, et seq.
- (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.
 - 3) of the address and phone number of the establishment.
 - 4.) A copy of said written instructions 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 in strict accordance with 105 CMR 480.000, et seq., Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII, as amended from time to time. Such wastes, including but not limited to all blood, sharps, blood-saturated materials, and other medical or biological waste as defined in the state regulations shall be stored in leak-proof, rodent proof, flytight containers to ensure that no discharge or release of such wastes occurs and that no odor or other nuisance is created. Sharps must be segregated from other waste and aggregated in leak-proof, rigid, puncture-resistant, shatterproof containers immediately after use.

7. EXPOSURE INCIDENT REPORTS

An Exposure Incident Report shall be completed by the close of the business day during which an exposure has or might have taken place by the involved or knowledgeable body art practitioner for every exposure incident occurring in the conduct of any body art activity.

(A) Each Exposure Incident Report shall contain:

- 1.) A copy of the application and consent form for body art completed by any client or minor client involved in the exposure incident;
- 2.) A full description of the exposure incident, including the portion of the body involved;
- 3.) A description of the instruments or other equipment involved in the incident;
- 4.) A copy of the body art practitioner license of the involved body art practitioner;
- 5.) The date and time of exposure;
- 6.) A copy of any medical history released to the body art establishment or body art practitioner concerning the persons involved in the incident; and
- 7.) Information regarding any recommendation to refer the persons involved to a physician or a waiver of such referral by the persons involved.

8. INJURY AND/OR COMPLICATION REPORTS

A written report or complaint of any injury, infection, complication, or disease as a result of a body art procedure 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.

(A) The report shall include:

- 1.) the name of the affected client;
- 2.) the names and addresses of the body art establishment and practitioners involved;
- 3.) the nature of the injury, infection, complication or disease;
- 4.) the name and address of the affected client's health care provider, if any;
- 5.) any other information considered relevant to the situation.

9. COMPLAINTS

(A) The Board or its agent 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 or its agent 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 for no longer than one (1) year, unless revoked sooner by the Board.
- (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;
 - (d) written evidence of Professional Liability Insurance for a minimum of one-million dollars
 - 2) The manufacturer, model number, model year, and serial number, where applicable, of the autoclave used in the establishment;
 - 3) A signed and dated acknowledgment 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;
 - 5) An Exposure Report Plan;
 - 6) A copy of the current permit issued hereunder for each practitioner working at the establishment; and,
 - 7) Such additional information as the Board may reasonably require;

- (E) The annual fee for the Body Art Establishment Permit shall set by the Board of Health;
- (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.
- (B) A practitioner shall be a minimum of eighteen (18) years of age.
- (C) A practitioner permit shall be valid from the date of issuance and shall expire not later than one (1) year from the date of issuance, unless revoked sooner by the Board.
- (D) Application for a practitioner permit shall include:
 - 1.) name;
 - 2.) date of birth;
 - 3.) residence address;
 - 4.) mailing address;
 - 5.) phone number;
 - 6.) place(s) of employment as a practitioner; and
 - 7.) training and experience as set out in (E) below
 - 8.) written evidence of Profession Liability Insurance for a minimum of one-million dollars
- (E) Practitioner Training and Experience
 - 1) In reviewing and application for a practitioner permit, the Board may consider experience, training, and 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) A passing grade in a comprehensive certification program, which includes but not limited to: bloodborne pathogen training program (or equivalent); infectious disease control; waste disposal; hand washing techniques; sterilization equipment operation and methods; sanitization, disinfection and sterilization methods and techniques;
Examples of courses approved by the Board include: "Preventing Disease Transmission" (American Red Cross) and "Bloodborne Pathogen Training" (U.S. OSHA). Training and courses provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Board for approval.
 - (b) Current certification in First Aid and cardiopulmonary resuscitation (CPR)
 - 3) The applicant for a body piercing practitioner permit shall provide documentation, acceptable to the Board, that he or 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 integumentary system (skin) and skin diseases, disorders, and

conditions, including diabetes. Such other courses or programs as the Board deems appropriate may be substituted for the anatomy course.

- 4) All applicants for practitioner permits 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, whether such experience was obtained within or outside of the Commonwealth.

(F) The annual fee for the Body Art Practitioner Permit shall be set by the Board of Health.

(G) A practitioner's permit shall be conditional upon continued compliance with all applicable provisions of these model regulations.

12. APPRENTICESHIP PROGRAM

Any Body Art Practitioner Permit Apprenticeship Program shall require that all participants in such program adhere to and abide by all relevant provisions of this Body Art Establishments And Practitioners Regulation.

(A) Application for Body Art Practitioner Apprenticeship Permit

- 1.) No person shall enter into any apprenticeship program or practice as an apprentice any Body Art procedures without first obtaining a Body Art Practitioner Apprenticeship Permit from the Board of Health.
- 2.) A Body Art Practitioner Apprenticeship Permit shall be an annual permit valid from the date of issuance and shall expire on December 31st of each year unless revoked earlier by the Board. The permit shall be renewed annually until completion of the apprenticeship. Fee for this permit shall be set by the Board.
- 3.) Application for a Body Art Practitioner Apprenticeship Permit shall include, at a minimum, the same information as Section 11 (D) of these regulations.
- 4.) An apprentice shall be a minimum of 18 years of age.
- 5.) Application for an apprenticeship permit shall also include evidence that the proposed supervising practitioner has been professionally licensed for a minimum of four (4) years and can show evidence of full time, licensed experience during the four (4) year period immediately preceding the submission of the apprenticeship permit application, whether such experience was obtained within or outside of the Commonwealth of Massachusetts.

(B) Training and Education

- 1.) As a minimum requirement of the Body Art Practitioner Apprenticeship Permit Program, each participant in such programs shall be required to complete the requirements of Section 11 (E) (2) & (3) of these regulations prior to a participant in such program conducting any form of body art activity upon a client or the person of another.

- 2.) Training for all apprenticeships shall, at a minimum, include evidence of successfully completing the following procedures during the apprenticeship period:
 - (a.) Client consultation and completion of all client related forms e.g.: health form, disclosure form, client informed consent.
 - (b.) Client preparation.
 - (c.) Sanitation and safety precautions.
 - (d.) Proper selection and use of equipment.
 - (e.) Proper material selection and use i.e.: needles, pigments, grade of jewelry, metals to use, etc.
- 3.) An apprenticeship shall conclude and the apprentice shall be eligible for a body art practitioner permit when the apprentice has satisfactorily completed two thousand four hundred (2400) hours or two (2) years of the body art apprenticeship program, whichever is greater. In order to be eligible for a body art practitioner permit, the apprentice must complete all of the apprenticeship training and education prerequisites within three (3) years of the approval of the original application for body art practitioner apprenticeship being approved by the Board of Health.
- 4.) Upon conclusion of the apprenticeship, it shall be the responsibility of the supervising practitioner to submit a statement that the apprentice has successfully completed all of the required training and education and that the apprentice is able to perform all allowable procedures for which they trained for. Included in this statement shall be documentation of the types and number of procedures performed by the apprentice during their supervised training period.
- 5.) If an apprentice has not satisfactorily completed two thousand four hundred (2400) hours or two (2) years of the apprenticeship, whichever is greater, program by the third anniversary of the original application approval, the supervising practitioner shall be required to report this information to the Board of Health and the apprentice shall immediately cease active participation in the apprenticeship program on said anniversary. Within three (3) months of said anniversary date, the apprentice and the supervising practitioner may petition the Board of Health to extend the apprenticeship, which shall only be granted upon a showing of reasonable basis for failing to fulfill the prerequisites within the time frame required under Section 12 (B) (3) above.
- 6.) A body art practitioner may supervise only one apprentice at a time and a permitted body art establishment shall have no more than two (2) apprenticeships at any one time.

(C) Body Art Supervising Practitioner Requirements

- 1.) Body Art Supervising Practitioners must apply to the Board prior to accepting an apprentice. Requirements at the time of application shall include:
 - (a.) Supervising Practitioners must demonstrate licensure for a minimum of four (4) consecutive years with no documented violations.

- (b.) Supervising practitioners are responsible for developing and maintaining a log of the hours worked and actions performed by the apprentice. A blank copy of this log shall be provided at the time of application for the Board's review and approval.
- (c.) Supervising practitioners shall develop an informed consent form that includes a statement that the procedure is being performed by an apprentice. A copy of this form shall be provided at the time of application for the Board's review & approval.

2.) The body art establishment shall prominently display each Apprentice Permit.

3.) Recordkeeping – Training records, including but not limited to a written activity log of the apprentice as well as the supervising practitioner's statement, which was submitted to the Board at the conclusion of the training, shall be maintained throughout the apprenticeship program by the supervising practitioner and thereafter for at least two (2) years after the conclusion. Copies shall be made available to the Board of Health and/or the apprentice upon request.

4.) Clients – Notice and Consent

- (a.) Before a person acting under a Body Art Practitioner Apprentice Permit conducts any form of Body Art activity upon a client, that client shall be advised that the person to conduct such Body Art activity is in fact an apprentice and is acting only under a Body Art Practitioner Apprentice Permit. Such person must obtain the client's written consent.
- (b.) This written consent shall be physically attached to the client consent form for Body Art activity required pursuant to Section 6 (D) (2) of this Body Art Establishments and Practitioners regulation.

5.) The Board may suspend, deny, revoke or refuse to grant a body art practitioner apprenticeship permit pursuant to Section 13 of these regulations.

6.) A permit for a Body Art Practitioner Apprenticeship shall not be transferable from one person to another.

13. GROUNDS FOR DENIAL OF PERMIT, REVOCATION OF PERMIT, 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 or drugs;
 - 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 body art activities requiring a permit;
 - 8.) Continuing to practice while his or her permit is lapsed, suspended, or revoked;
 - 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; and,
 - 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, suspend, 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 request a hearing before the Board subject to the procedures set out below.
- (C) Applicants denied a permit may reapply at any time after denial.

14. GROUNDS FOR SUSPENSION OF PERMIT

Notwithstanding any other provision herein, 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 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.

15. 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 by certified letter sent return receipt requested or by constable. Said notice shall include the date, time, and place of hearing and notice of the right of the owner or practitioner to be heard. The Board shall hold said hearing no later than 21 days from the date written notice is received. In the case of a suspension of a permit, a hearing shall be scheduled no later than 21 days from the date of the suspension.

16. VIOLATIONS/FINES/NON-CRIMINAL DISPOSITION

- (A) The fine for a violation of any provision of these Rules and Regulations shall be \$100.00 per offense. Each day that a violation continues shall be deemed to be a separate offense.
- (B) In the event of a violation of any of these Regulations or any incidents of unauthorized practice of body art in the Town of Westport, the Board shall either refer the matter to the appropriate District Attorney, Attorney General or other law enforcement official or may itself take enforcement action through its agents and attorneys as authorized by M.G.L. Chapter 111 and the laws of the Commonwealth of Massachusetts.
- (C) In accordance with M.G.L. Chapter 40, Section 21D and the Town of Westport, Non-Criminal Disposition By-law, violations of these Rules and Regulations may be subject to non-criminal disposition as provided therein.

17. SEVERABILITY

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

18. EFFECTIVE DATE

These rules and regulations shall be effective as of March 31, 2012. These rules and regulations were revised on February 13, 2012 to add the apprentice practitioner conditions and change the violations/fines/non-criminal disposition section.