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D. P. J. 1047-11111

# TOWN OF DENNIS HEALTH REGULATIONS FOR BODY ART ESTABLISHMENTS

## SECTION 1.

**FINDINGS** The Board of Health of the Town of Dennis finds that:

1. Body piercing is an invasive procedure that may cause or involve possible health risks;
2. These health risks may include: Pain, bleeding, swelling, infections, scarring of the area and nerve damage;
3. Unsterile equipment and needles can spread infectious diseases. It is extremely important to be sure that all equipment is clean and sanitary before use;
4. You may not be allowed to donate blood either temporarily or permanently.

## SECTION 2.

**AUTHORITY** The Board of Health of the Town of Dennis adopts the following regulations, pursuant to Mass. General Laws, Chapter 111, Section 31.

## SECTION 3:

### **DEFINITIONS**

- A. The term **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.
- B. The term **Applicant** means any person who applies to the Board of Health for either a body art establishment permit or practitioner permit.

- C. The term **Autoclave** means an apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time.
- D. The term **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.
- E. The term **Bloodborne Pathogens Standard** means OSHA Guidelines contained in 29 CFR 1910.1030, entitled "Occupational Exposure to Bloodborne Pathogens."
- F. The term **Board of Health or Board** means the Town of Dennis 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.
- G. The term **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 and is intended to prohibit practices that are considered medical procedures by the Board of Registration in Medicine, such as implants under the skin.
- H. The term **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.
- I. The term **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.
- J. The term **Body Piercing** means puncturing or penetrating the skin of a client with presterilized single-use needles and the insertion of presterilized jewelry or other adornment into the opening. This definition excludes piercing of the earlobe with a presterilized single-use stud-and-clasp system manufactured exclusively for ear-piercing.
- K. The term **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.

- L. The term **Client** means a member of the public who requests a body art procedure at a body art establishment.
  - M. The term **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.
  - N. The term **Department** means the Mass. Department of Public Health or its authorized representatives.
  - O. The term **Disinfectant** means a product registered as a disinfectant by the U.S. Environmental Protection Agency (EPA).
  - P. The term **Ear Piercing** means the puncturing of the lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system following the manufacturer's instructions.
  - Q. The term **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.
  - R. The term **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.
  - S. The term **Hot water** means water that attains and maintains a temperature 110° - 130°F.
  - T. The term **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.
  - U. The term **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.
  - V. The term **Jewelry** means any ornament inserted into a newly pierced area, which must be made of surgical implant-grade stainless steel; solid
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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.

- W.** The term **Minor** means any person under the age of eighteen (18) years.
- X.** The term **Operator** means any person who individually, or jointly or severally with others, owns, or controls and establishment, but is not a body art practitioner.
- Y.** The term **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 community or political subdivision comprising the Board's jurisdiction.
- Z.** The term **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.
- AA.** The term **Physician** means an individual licensed as a qualified physician by the Board of Registration in Medicine pursuant to M.G.L. c. 112§2.
- BB.** The term **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.
- CC.** The term **Sanitary** means clean and free of agents of infection or disease.
- DD.** The term **Sanitize** means the application of a U.S. EPA registered sanitizer on a cleaned surface in accordance with the label instructions.
- EE.** The term **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.
- FF.** The term **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.

- GG.** The term **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.
- HH.** The term **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.
- II.** The term **Sterilize** means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.
- JJ.** The term **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.
- KK.** The term **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.
- LL.** The term **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.
- MM.** The term **Universal Precautions** means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention 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, GBV, and other blood pathogens. Precautions include hand washing; glov9ing; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

**SECTION 4.*****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 automatically expire in one (1) year from the date of issuance 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;
  - (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 Board shall set a fee of \$500.00 for the permit.
- (F) A permit for a body art establishment shall not be transferable from one place or person to another.

**SECTION 5.**

**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 Board shall set a fee of \$100.00 for such permits.
- (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 automatically expire in two (2) years 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/or experience as set out in (E) below.
- (E) Practitioner Training Experience
  - (1) In reviewing and 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) Bloodborne pathogen training program (or equivalent) which includes infectious disease control, waste disposal; handwashing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques; and
    - (b) 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) The applicant for a body piercing practitioner permit shall provide documentation, acceptable to the Board, that s/he completed a course on anatomy, completed an examination on anatomy, or possesses an equivalent combination of training and experience deemed acceptable to the Board.
- (4) The applicant for a tattoo practitioner permit shall provide documentation, acceptable to the Board, that s/he completed a course on skin diseases, disorders and conditions, including diabetes, or completed an examination on skin diseases, disorders and conditions, including diabetes, or possesses a combination of training and experience deemed acceptable to the Board.
- (F) A practitioner's permit shall be conditioned upon continued compliance with all applicable provisions of these regulations.

## **SECTION 6.**

### ***EXEMPTIONS***

- (A) Physicians licensed in accordance with M.G.L.c.112 § 2 who perform body art procedures as part of patient treatment are exempt from these regulations.
- (B) Individuals who pierce only the lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system are exempt from these regulations.

## **SECTION 7.**

### ***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.
- (C) Branding and/or scarification are prohibited.

**SECTION 8.*****OPERATION OF BODY ART ESTABLISHMENTS***

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

**(A) Physical Plant**

- (1) Walls, floors, ceilings, and procedure surfaces shall be smooth, 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 body art station 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. A divider or partition at a minimum shall separate multiple body art stations.
- (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, and where instruments and sharps are assembled.
- (6) 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 shall have a hand sink.

- (7) 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.
- (8) 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, leakproof, rodent-resistant containers and shall be removed from the premises at least weekly.
- (9) 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.
- (10) 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.
- (11) 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.
- (12) 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.
- (13) 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 nonprocedural areas.
- (14) Smoking, eating, or drinking is prohibited in the area where body art is performed, with the exception of 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 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 a single-use paper cups or plastic caps. 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 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. 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 techniques to ensure that the instruments and gloves are not contaminated.
- (9) Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

**(D) Posting Requirements**

The following shall be prominently displayed:

- (1) A Disclosure Statement, a model of which shall be available from the Department. 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 phone number of the local Board of Health that has jurisdiction and the procedure for filing a complaint.
- (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; and
  - (g) 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/work phone numbers; and

- (3) Client information, which shall include:
- (a) name;
  - (b) date of birth;
  - (c) address of the client;
  - (d) date of the procedure
  - (e) name of the 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 6(D) (2); and,
  - (h) if the client is a person under the age of 18, proof of parental or guardian identification, presence and consent including a copy of the photographic identification of the parent or guardian.
- (4) Client information shall be kept confidential at all times.
- (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.

## **SECTION 9**

### ***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 an/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 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 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 handwashing procedures as part of a good 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 the 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 phone number of the establishment.

A copy shall be provided to the client. A model set of after care instructions shall be made available by the Department.

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

## **SECTION 10**

### ***INJURY 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.

## **SECTION 11**

### ***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.

## **SECTION 12.**

### ***GROUND FOR DENIAL OF PERMIT, REVOCATION OF PERMIT OR REFUSAL TO RENEW PERMIT***

- (A) The Board may 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 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.
- (C) Applicants denied a permit may reapply at any time after denial.

### **SECTION 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.

### **SECTION 14**

- (A) Suspension of a Permit
- (1) After a Board suspension of a permit, a hearing shall be initiated pursuant to 801 CMR 1.00 et seq. (Standard Adjudicatory Rules of Practice and Procedure), no later than seven (7) calendar days after the effective date of the suspension.

- (2) Upon written request to the Board of Health, the establishment or practitioner shall be afforded an opportunity to be heard concerning the suspension of the permit by the Board.
  - (3) In cases of suspension of a permit, the hearing officer shall determine whether the Board has proved by a preponderance of the evidence that there existed immediately prior to or at the time of the suspension an immediate and serious threat to the public health, safety or welfare. The hearing officer shall issue a written decision, which contains a summary of the testimony and evidence considered and the reasons for the decision.
- (B) Denial, Revocation, or Refusal to Renew a Permit
- (1) If the Board determines that a permit shall be denied, revoked, or not renewed pursuant to the Board's regulations, the Board shall initiate a hearing in accordance with 801 CMR 1.00 et seq.
  - (2) Following the hearing, the hearing officer shall issue a written decision that contains a summary of the testimony and evidence considered and the reasons for the decision.

**SECTION 15**

***UNAUTHORIZED PRACTICE OF BODY ART***

The Board shall refer to the appropriate District Attorney, Attorney General, or other law enforcement official any incidents of unauthorized practice of body art.

**SECTION 16**

***SEVERABILITY***

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

**BOARD OF HEALTH**

**Paul J. Covell, Chairman**  
**Thomas J. Perrino, Vice Chairman**  
**Barbara Bird, Clerk**  
**Curt A. Livingston**  
**Mary Rose Griffin**

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