

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 122(3)(w) (16 Del.C. §122(3)(w))
16 DE Admin. Code 4451

PROPOSED

PUBLIC NOTICE

4451 Body Art Establishments

Pursuant to 16 Del.C. §122(3)(w), the Department of Health and Social Services, Division of Public Health, Health Systems Protection Section, is proposing revisions to the regulations governing body art establishments (16 DE Admin. Code 4451).

The proposed amendments will introduce several important changes to better serve and protect Delawareans. Changes include, but are not limited to, updated definitions and operational requirements, and additional technical changes to bring the regulation into compliance with the *Delaware Administrative Code Style Manual*.

Copies of the proposed regulation are available for review in the November 1, 2025 issue of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division of Public Health at 302-744-4951.

Public comments will be accepted until 4:30 PM on December 1, 2025. Comments will be accepted in written form via email to DHSS_DPH_regulations@delaware.gov, or by U.S. mail to the following address:

Vicki Schultes, Hearing Officer
Division of Public Health
417 Federal Street
Dover, DE 19901

4451 Body Art Establishments

1.0 General Provisions

- 1.1 Preamble. The Secretary of the Delaware Department of Health and Social Services adopts ~~these Regulations~~ this regulation pursuant to the authority vested in the Secretary by 16 Del.C. §122. ~~These Regulations establish~~ This regulation establishes standards for the sanitary operation of body art establishments. For the purpose of ~~these Regulations~~ this regulation, the term “body art establishment” includes “tattoo parlor” and “body piercing ~~establishment,~~ establishment”, as defined in 16 Del.C. §122(3)(w). ~~These Regulations provide~~ This regulation provides a system of permitting and inspection of body art establishments and procedures for enforcement. Any person performing a body art procedure in a permitted body art establishment must be in compliance with 11 Del.C. §1114.
- 1.2 Purpose. ~~These Regulations~~ This regulation shall be liberally construed and applied to promote ~~their~~ its purpose of protecting the public health. ~~They set~~ This regulation sets forth minimum standards in the practice of body art art, and those establishments that choose to require more stringent standards are encouraged to do so.
- 1.3 Severability. In the event any particular clause or section of ~~these Regulations~~ this regulation should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect.
- 1.4 Exemptions
 - 1.4.1 Licensed health care practitioners allowed by law to provide medical treatment who perform body art procedures either independent of or in connection with patient treatment are exempt from ~~these regulations~~ this regulation.
 - 1.4.2 Individuals who pierce only the outer perimeter and lobe of the ear using a pre-sterilized single use stud and clasp ~~ear piercing~~ ear-piercing system are exempt from ~~these Regulations~~ this regulation. Individuals who use ~~ear piercing~~ ear-piercing systems must conform to the manufacturer's directions on use and applicable U.S. Food and Drug Administration requirements. The Division of Public Health retains authority to investigate consumer complaints relating to alleged misuse or improper disinfection of ~~ear piercing~~ ear-piercing systems.

1.5 Variance

- 1.5.1 A licensee may seek a variance from ~~these Regulations~~ this regulation by making a request for variance to the Division. The Division may grant a variance by modifying or waiving the requirements of ~~these Regulations~~ if this regulation if, in the opinion of the Division of Public Health, a health hazard or nuisance will not result from the variance.
- 1.5.2 A variance shall not be transferable from person to person, nor from location to location.
- 1.5.3 If a variance is granted, the Division shall retain the information specified below in its records for the ~~Body Art~~ body art establishment. To request a variance from any requirements of this regulation, the body art establishment permit holder shall provide the following in writing to the Division of Public Health:
- 1.5.3.1 A statement of the proposed variance of the requirement of ~~these Regulations~~ this regulation, citing the relevant section of ~~these Regulations~~ this regulation;
- 1.5.3.2 An analysis of the rationale for how the potential public health hazards or nuisances will be alternatively addressed by the proposal; and
- 1.5.3.3 Any other information requested by the Division of Public Health that may be deemed necessary to render judgment.
- 1.5.4 A variance is rendered void upon occurrence of ~~one~~ 1 or more of the following:
- 1.5.4.1 ~~the~~ The physical facility is demolished; or
- 1.5.4.2 ~~a~~ A remodeling project in the facility includes the ~~area(s)~~ area or areas addressed in the variance; or the permit holder granted the variance ceases to operate the body art establishment for a period exceeding thirty (30) consecutive days variance.

1.6 The following procedures are not allowed in body art establishments:

- 1.6.1 Branding;
- 1.6.2 Scarification; and
- 1.6.3 Surface anchor or single-point piercing or dermal anchors or microdermals.
- 18 DE Reg. 645 (02/01/15)**

2.0 Definitions

~~For the purposes of these Regulations the following definitions apply:~~ The following words and terms, when used in this regulation, have the following meaning:

- “Aftercare”** means written instructions given to the client, specific to the body art ~~procedure(s)~~ procedure or procedures rendered, on caring for the body art and surrounding area. These ~~instructions~~ instructions will include information on when to seek medical treatment, if necessary.
- “Antiseptic”** means ~~an agent that destroys disease causing microorganisms on human skin or mucosa.~~
- “Autoclave”** means a device that is intended to sterilize products by means of a pressurized steam. This device must comply with 1 of 3 types of steam programs defined as B, N, or S by European Standard EN13060 and international standard ISO 17665.
- “Body Art~~art~~”** includes ~~the practice of “body piercing” as defined, “branding” as defined and “tattooing” as defined.~~ This definition does not include practices that are considered medical procedures by a state medical board, such as implants under the skin and subdermal piercing/implants, that are not performed in a body art establishment. Nor does this definition include, for the purposes of these Regulations, piercing of the outer perimeter or lobe of the ear using pre-sterilized single use stud and clasp ear piercing systems means body piercing, tattooing, branding, scarification, or permanent cosmetics.
- “Body Art Establishment art establishment”** includes ~~“tattoo parlor” and “body piercing establishment”~~ and means any place or premise, whether public or private, ~~temporary~~ temporary, or permanent in nature or location, where the practices of body art, whether or not for profit, are performed.
- “Body Piercing~~piercing~~”** means the perforation of human tissue excluding the ear for a non-medical purpose. This definition does not include subdermal ~~piercing~~ piercing or subdermal implants.
- “Branding”** means a permanent mark made on human tissue by burning with chemicals such as liquid nitrogen, with a hot iron or with another instrument.
- “Contaminated ~~Wastewaste~~”** means any of the following: any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in "Occupational Exposure to Bloodborne Pathogens", 29 Code of Federal Regulations Part 1910.1030 (latest current edition).
- “Cosmetic ~~Tattooing~~”** see Tattooing.
- “Disinfection”** means the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these inanimate objects safe for use or handling.
- “Division”** means the Delaware Division of Public Health ~~as the agency~~, and its authorized representatives, having jurisdiction to promulgate, monitor, administer and enforce ~~these Regulations~~ this regulation.

“Ear Piercing/piercing” means the puncturing of the outer perimeter or lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system following manufacturer’s instructions. Under no circumstances shall ear piercing studs and clasps be used anywhere on the body other than the outer perimeter and lobe of the ear.

“Equipment” means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, ~~sinks-sinks~~, and all other apparatuses and appurtenances used in connection with the operation of a body art establishment.

“Handsink” means a lavatory equipped with tempered hot and cold running water under pressure, used solely for washing hands, ~~arms-arms~~, or other ~~portions-parts~~ of the body.

“Hot Water” means water at a temperature greater than or equal to 110°F (43°C).

“Imminent Health Hazard/health hazard” means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, ~~severity-severity~~, and duration of the anticipated injury.

“Instruments Used For Body Art used for body art” means hand pieces, needles, needle ~~bars-bars~~, and other instruments that may come in contact with a client’s body or possible exposure to bodily fluids during body art procedures.

“Invasive” means ~~entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.~~

“Jewelry” means any personal ornament inserted into a newly pierced area, which must be made of surgical implant grade stainless steel, solid 14k, 18k or 24k white or yellow gold, niobium, titanium, platinum, or a dense, low-porosity plastic and which is free of nicks, ~~seratches-scratches~~, or irregular surfaces and which has been properly sterilized prior to use.

“Liquid Chemical Germicide” means ~~a disinfectant or sanitizer registered with the Environmental Protection Agency or an approximate 1:100 dilution of household chlorine bleach made fresh daily and dispensed from a spray bottle (500 ppm, ¼ cup per gal. or 2 tablespoons per qt. of tap water).~~

“Mobile body art establishment” or “MBAE” means a licensed mobile establishment or unit that is self-propelled or otherwise moveable from place to place where body art procedures are performed.

“Mucosal surface” means the moisture-secreting membrane lining of all body cavities or passages that communicates with the exterior, including the nose, mouth, vulva, and urethra.

“Operator/technician” means any person who controls, operates, manages, ~~conducts-conducts~~, or practices body art activities at a body art establishment and who is responsible for compliance with ~~these regulations this regulation~~, whether actually performing body art activities or not. The term includes technicians who work under the operator and perform body art activities.

“Permanent cosmetics” means ~~a tattoo, whether permanent, semipermanent, or temporary, by someone other than a licensed physician, which includes eyebrows, eyelids, lips, and other parts of the body for beauty marks, hair imitation, lash enhancement, or areola repigmentation. This term includes any procedures referred to as “permanent makeup”, “microdermal pigmentation”, “micropigment implantation”, “microblading”, “microneedling with the use of pigment”, “dermagraphics”, “cosmetic tattooing”, or any other similar procedures and for the purpose of this regulation has the same meaning as “tattoo”.~~

“Permit” means written approval by the Division to operate a body art establishment. Approval is given in accordance with ~~these Regulations this regulation~~ and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the jurisdiction.

“Person” means an individual, any form of ~~business-or-business~~, social organization ~~organization~~, or any other non-governmental legal entity including ~~but not limited to~~ a corporation, partnership, limited liability company, association, ~~trust-trust~~, or unincorporated organization.

“Physician” means ~~a person licensed by the State of Delaware to practice medicine in all its branches and may include other areas such as dentistry, osteopathy or acupuncture, depending on the rules and regulations of the State of Delaware.~~

“Procedure area” means a room, portion of a room, or any surface of an inanimate object that is designated to be used only to perform body art.

“Procedure site” means the area or location on the client’s body selected for the placement of body art.

“Procedure Surface” means any surface of an inanimate object that contacts one or more of the following: a 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.

“Regulatory authority” means the Secretary, Delaware Department of Health and Social Services, or the Secretary’s authorized representative.

“Sanitize/Sanitization Procedure” means ~~a process of reducing the numbers of microorganisms on cleaned surfaces and equipment to a safe level as judged by public health standards and which has been approved by the Division.~~

“Scarification” means the process in which a mark or marks are cut into human skin tissue with the intention of leaving a permanent body modification.

“Sharps” means any object (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, mucosa, including pre-sterilized, single use needles, scalpel blades, blades, and razor blades.

“Sharps Containercontainer” means a puncture-resistant, leak-proof container that can be closed for handling, storage, ~~transportation~~ transportation, and disposal and is labeled with the International Biohazard Symbol international biohazard symbol.

“Single Useuse” means products or items that are intended for ~~one-time, one-person~~ 1-time, 1-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 ~~cups~~, and protective gloves.

“Sterilization” means a very powerful process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

“Tattooing” means ~~one or more of the following:~~

- ~~An indelible mark made upon the body of another person by the insertion of a pigment under the skin;~~
- ~~An indelible design made upon the body of another person by production of scars other than by branding;~~
- ~~All forms of cosmetic tattooing.~~ means any act of placing ink or other pigment into or under the skin or mucosa using needles or any other method used to puncture the skin, resulting in permanent or temporary colorization of the skin or mucosa. This includes all forms of permanent cosmetics.

“Temporary Body Art Establishmentbody art establishment” means any ~~place or premise operating at a fixed location where an operator performs body art procedures~~ indoor place or premise operating at a fixed location where a body artist performs body art procedures but does not have a permanent body art facility license (educational, trade show, convention, public or private events, performance, product demonstration, or aesthetic shows) for no more than 14 days consecutively in conjunction with a single event or celebration.

“Universal Precautionsprecautions” 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 and hepatitis B virus 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. infection control practices used to prevent transmission of diseases that can be acquired by contact with blood, body fluids, nonintact skin (including rashes), and mucous membranes. Precautions include hand washing, gloving, using personal protective equipment, injury prevention, and proper handling and disposal of ~~needles,~~ needles and other sharp instruments, and blood and body fluid contaminated products.

3.0 Preoperational Requirements

3.1 Permits

3.1.1 No person shall operate a body art establishment who does not have a valid permit issued by the Division. Only a person who complies with the requirements of ~~these Regulations~~ this regulation shall be entitled to receive or retain such a permit.

3.1.2 An establishment's valid permit shall be posted in a location easily observed by the customer.

3.1.3 Permits shall not be transferable from person to person or from location to location.

3.1.4 When a body art establishment changes ownership, management firm, or lessee, both the facility and its operation shall be brought into full compliance with ~~these Regulations~~ this regulation prior to the issuance of a permit. A variance may be issued, as provided by ~~these Regulations~~ this regulation.

3.1.5 Establishments in compliance with ~~these Regulations~~ this regulation shall be issued a permit in accordance with ~~Section~~ subsection 3.2 of ~~these Regulations~~ this regulation. Establishments that continue to operate without proper permits from the Division or operate in violation of ~~these Regulations~~ this regulation will be subject to legal remedial actions and sanctions as provided by law.

3.2 Classification of Body Art Establishment Permits

3.2.1 Permanent permit – a permit issued for businesses that operate at a fixed location. ~~A permanent permit is valid for one year from the date of issuance.~~ Operating permits shall expire annually.

3.2.2 Mobile permit – a permit issued to an enclosed vehicle which meets all the requirements of ~~these Regulations~~ this regulation and which does not operate at a fixed location. ~~A mobile permit is valid for one year from the date of issuance. A mobile permit requires a servicing area agreement with a valid permanent Body Art Establishment in the State of Delaware to operate.~~ Operating permits shall expire annually.

- 3.2.3 Temporary permit – a permit issued for educational, trade ~~show-show~~, or product demonstration purposes only. A temporary body art establishment permit is valid for ~~fourteen (14)-14~~ calendar days from the date of issuance.
- 3.2.4 Restricted permit – a permit issued to an establishment that is not approved to provide full services because of certain limitations. A restricted permit shall ~~not be valid for longer than one year from the date of issuance~~ expire annually.
- 3.3 Issuance of Permits
 - 3.3.1 Any person desiring to operate a body art establishment shall ~~make written application~~ apply for a permit. ~~Such~~ The application shall be ~~made on forms~~ provided by the Division and shall include the name and address of each applicant, the location and type of the proposed ~~establishment~~ establishment, and the signature of each applicant. ~~Payment of a \$100 fee shall accompany the application and be remitted with the initial or annual renewal application.~~ An annual operating permit fee as set by the Division must be paid following preoperational inspection.
 - 3.3.2 Upon ~~issuance of an application and the fee~~, an applicant shall permit the Division to enter the proposed body art establishment to ~~conduct an inspection.~~ An applicant shall permit the Division to enter the proposed body art establishment to conduct a preoperational inspection.
 - 3.3.3 The Division shall issue a permit to the applicant if its inspection reveals that the proposed body art establishment complies with ~~these Regulations~~ this regulation.
 - 3.3.4 ~~A permit is no longer valid upon occurrence of one or more of the following events: the establishment is closed for a period of sixty (60) days or more; a new owner, firm, or lessee takes possession of the establishment; or the permit is revoked by the Division for violation of these Regulations.~~
- 3.4 Submission of Plans
 - 3.4.1 Whenever a body art establishment is constructed, undergoes physical alteration, or an existing structure is converted for this purpose, properly prepared plans and specifications shall be submitted to the Division. After review, ~~a Certificate of Approval with conditions~~ an approval to construct will be issued, and the establishment shall comply with the requirements.
 - 3.4.2 Body art establishments applying for permit after adoption of ~~these Regulations~~ this regulation shall submit an application for permit to operate a body art establishment, information sheet for body art establishments, equipment schedule, a scale drawing-drawing, and floor plan of the proposed establishment for a plan review by the Division as part of the ~~Permit Application~~ permit application process. ~~The Division may charge a reasonable fee for this review.~~
 - 3.4.3 Temporary body art establishments applications must be submitted at least 10 business days prior to the start of an event.

4.0 Inspections

- 4.1 Inspections and Right of Access
 - 4.1.1 The Division shall have the right of access to inspect a body art establishment to determine compliance with ~~these Regulations~~ this regulation upon occurrence of any of the following conditions:
 - 4.1.1.1 Prior to issuance of a permit;
 - 4.1.1.2 After a body art establishment is constructed, undergoes physical alteration, or an existing structure is converted into a body art establishment; or
 - 4.1.1.3 Upon receipt of a complaint or reasonable belief that a body art establishment is in violation of ~~these Regulations~~ this regulation.
 - 4.1.1.4 The Division shall inspect a body art establishment at least once every ~~twelve (12)-12~~ months.
 - 4.1.2 A representative of the Division conducting an inspection shall provide notice of the intent to conduct an inspection. Upon arrival at the establishment the representative of the Division conducting the inspection shall present proper identification to the person in charge of the body art establishment. The person in charge of the body art establishment shall allow the representative to determine if the establishment is ~~in compliance~~ compliant with ~~these Regulations~~ this regulation by allowing access to the establishment, allowing inspection, and providing information and records specified in ~~these Regulations~~ this regulation and to which the Division is entitled.
- 4.2 ~~Division Personnel Competency Requirement~~ Requirement.
 Division personnel performing environmental health/sanitary evaluations or complaint investigations of body art establishments shall meet the same requirements as specified for a permit holder in Section-subsection 5.2 of these Regulations this regulation prior to assuming responsibilities for this program.

18 DE Reg. 645 (02/01/15)

5.0 Operational Requirements

- 5.1 Requirements for the Premises
 - 5.1.1 All walls, floors, and all procedure surfaces in rooms or areas where body art procedures are performed shall be smooth, washable, and in good repair. Walls, ~~floors~~ 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 that is~~ easily cleaned and sanitized after each client. All body art establishments shall be completely separated by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, a food establishment ~~establishment~~, or a room where food is prepared, a hair salon, or other such activity which may cause contamination of work surfaces.

- 5.1.2 Effective measures shall be taken by the body art operator/technician to protect the entrance into the establishment and the breeding or presence on the premises of insects, ~~vermin~~ vermin, and rodents. Insects, ~~vermin~~ vermin, and rodents shall not be present in any part of the establishment, its ~~appurtenances~~ appurtenances, or adjoining premises.
 - 5.1.3 There shall be a minimum of ~~forty five (45)~~ 45 square feet of procedure area floor space for each operator/technician in the establishment. Each establishment shall have an area which may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by dividers, ~~curtains~~ curtains, or partitions, at a minimum.
 - 5.1.4 The establishment shall be well-ventilated and provided with an artificial light source equivalent to at least ~~twenty (20)~~ 20 foot candles ~~three (3)~~ 3 feet off the floor, except that at least ~~one hundred (100)~~ 100 foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.
 - 5.1.5 No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities. Fish aquariums shall be allowed in non-procedural areas.
 - 5.1.6 A separate, readily accessible handsink with hot and cold running water, under pressure, preferably equipped with wrist or foot operated controls, supplied with liquid soap, and disposable paper towels shall be readily accessible within the body art establishment. One handsink shall serve no more than ~~three~~ 3 operators/technicians. In addition, there shall be a minimum of ~~one~~ 1 lavatory, excluding any service sinks, and ~~one~~ 1 toilet in a body art establishment.
 - 5.1.7 At least ~~one~~ 1 waste receptacle shall be provided in each operator/technician area and each toilet room. Receptacles in the operator/technician area shall be emptied ~~daily~~ daily, and solid waste shall be removed from the premises at least weekly. All refuse containers shall be cleanable and kept clean.
 - 5.1.8 All instruments and supplies shall be stored in clean, ~~dry~~ dry, and covered containers.
 - 5.1.9 Reusable cloth items shall be mechanically washed on site with detergent and dried after each use or washed using a commercial laundry service. The cloth items shall be stored in a dry, clean environment until used.
 - 5.1.10 All body art facilities must have access to a mop sink/utility sink or a mop with disposable mop head with an Environmental Protection Agency (EPA) registered tuberculocidal disinfectant.
- 5.2 Requirements for the Permit Holder
- 5.2.1 The permit holder of the body art establishment shall have the ability to demonstrate knowledge of the following subjects:
 - 5.2.1.1 Skin diseases, disorders, and conditions (including diabetes);
 - 5.2.1.2 ~~Universal Precautions,~~ precautions, as published by the Centers for Disease Control and Prevention;
 - 5.2.1.3 Infectious disease control, including waste disposal, hand washing techniques, sterilization, equipment operation and methods, and sanitization, disinfection, and sterilization methods and techniques; and
 - 5.2.1.4 Facility safety and sanitation.
 - 5.2.2 All body art operators must prove successful completion of an Occupational Safety and Health Administration (OSHA) bloodborne pathogen training program (or equivalent) and OSHA first aid training program given or approved by the Division.
 - ~~5.2.2.3~~ 5.2.3 The permit holder shall only hire operators/technicians who have complied with the requirements of ~~these Regulations~~ this regulation and who have the ability to ~~can~~ demonstrate skills and knowledge in body art procedures.
- 5.3 Requirements for Professional Standards
- 5.3.1 The following information shall be kept on file on the premises of a body art establishment and available for inspection by the Division.
 - 5.3.1.1 Information on employees:
 - 5.3.1.1.1 Full name;
 - 5.3.1.1.2 Date of birth;
 - ~~5.3.1.1.3 Gender;~~
 - ~~5.3.1.1.4~~ 5.3.1.1.3 Home address;
 - ~~5.3.1.1.5~~ 5.3.1.1.4 Home/work Applicable phone number;
 - ~~5.3.1.1.6~~ 5.3.1.1.5 Identification photograph A copy of a government-issued photo ID;
 - ~~5.3.1.1.7~~ 5.3.1.1.7 ~~If an operator/technician, written proof that the operator/technician has either completed or was offered and declined, the hepatitis B vaccination series; and~~

- ~~5.3.1.1.4~~ 5.3.1.1.6 Description of ~~duties~~ duties;
- 5.3.1.1.7 Dates of employment; and
- 5.3.1.1.8 Documentation of training records to include annual training in bloodborne pathogens and current training in first aid.
- 5.3.1.2 Information on establishment:
- 5.3.1.2.1 Name;
- 5.3.1.2.2 Hours of operation;
- 5.3.1.2.3 Owner's name and address; and
- 5.3.1.2.4 Complete description of all body art procedures performed.
- 5.3.1.3 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 orders shall satisfy this requirement.
- 5.3.1.4 A copy of ~~these regulations~~ this regulation.
- 5.3.2 It shall be unlawful for any person to perform body art procedures unless such procedures are performed in a body art establishment with a current permit.
- 5.3.3 The body art operator/technician must be a minimum of ~~eighteen (18)~~ 18 years of age.
- 5.3.4 Smoking, eating, or drinking should be restricted in the area where body art is performed.
- 5.3.5 Under the influence.
- 5.3.5.1 No operator/technician shall ~~tattoo, brand, perform tattooing, apply permanent cosmetics,~~ or perform body piercing on a person if the person is under the influence of alcoholic beverages, including beer, wine or spirits, or a controlled substance.
- 5.3.5.2 No operator/technician shall ~~tattoo, brand, perform tattooing, apply permanent cosmetics,~~ or perform body piercing on a person if the operator/technician is under the influence of alcoholic beverages, including beer, wine or spirits, or a controlled substance.
- 5.3.6 The permit holder and all employees shall comply with ~~Universal Precautions~~ universal precautions, as defined in ~~these Regulations~~ this regulation, and shall assume that all human blood and specified human body fluids are infectious for HIV, HBV, Hepatitis B Virus, and other blood pathogens.
- 5.3.7 The operator/technician shall maintain a high degree of personal cleanliness, conform to hygienic ~~practices~~ practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the operator/technician 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.
- 5.3.8 In performing body art procedures, the operator/technician shall wear disposable medical gloves and be free of any jewelry on fingers, hands, and wrists. Gloves must be changed if they become contaminated by contact with any non-clean surfaces or objects or 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 washed prior to donning the next set of gloves. Under no circumstances shall a single pair of gloves be used on more than ~~one~~ 1 person. The use of disposable medical gloves does not preclude or substitute for hand washing procedures as part of a good personnel hygiene program.
- 5.3.9 If, while performing a body art procedure, the operator's/technician's glove is pierced, ~~to~~ to ~~orn~~ orn, or otherwise contaminated, the procedure in ~~Sections~~ subsections 5.3.7 and 5.3.8 of ~~these Regulations~~ this regulation shall be repeated. The contaminated gloves shall be immediately ~~discarded~~ discarded, and the hands washed thoroughly, per ~~Section~~ subsection 5.3.6 of this regulation, before a fresh pair of gloves is ~~applied~~ donned. Any item or instrument used for body art which 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.
- 5.3.10 Contaminated waste, as defined in ~~these Regulations~~ this regulation, which releases liquid blood or body fluids when compressed or releases dried blood or body fluids when handled must be placed in an approved "red" bag which is marked with the ~~International Biohazard Symbol~~ international biohazard symbol. It must then be disposed of by a waste hauler approved by the Delaware Department of Natural Resources and Environmental Control. Sharps ready for disposal shall be disposed of in approved sharps containers. Contaminated waste which does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a receptacle and disposed of through normal, approved disposal methods. Storage of contaminated waste on-site shall not exceed the period specified by the Division or more than a maximum of 30 days, as specified in 29 Code of Federal Regulations Part 1910.1030, whichever is less.
- 5.3.11 Any skin or mucosal surface to receive a body art procedure shall be free of rash or any visible infection.
- 5.3.12 The skin of the operator/technician shall be free of rash or infection. No person or operator/technician affected with boils, infected wounds, open sores, abrasions, keloids, weeping dermatological ~~lesions~~ 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 they could contaminate body art equipment, ~~supplies~~ supplies, or working surfaces with body substances or pathogenic organisms.

~~5.3.13 Proof shall be provided upon request of the Division that all operators/technicians have either completed or were offered and declined, in writing, the hepatitis B vaccination series. This offering should be included as a pre-employment requirement.~~

5.4 Requirements for Preparation and Care of the Body Art Area

5.4.1 Before performing a body art procedure, the immediate and surrounding area of the skin where the body art procedure is to be placed shall be washed with soap and water or an ~~approved surgical skin preparation, antiseptic that can prevent diseases caused by microorganisms present on the skin or on mucosal surfaces in accordance with the manufacturer's instructions,~~ depending on the type of body art to be performed. If shaving is necessary, ~~single-use disposable razors or safety razors with single-service blades shall be used and discarded after each use and the reusable holder shall be autoclaved after use.~~ of the procedure site is necessary, it must be done before skin preparation, and a single use disposable razor must be used. After use, razors must be placed immediately into a sharps container. Following shaving, the skin and surrounding area will be washed with soap and water. The washing pad shall be discarded after a ~~single-use~~ single use.

5.4.2 In the event of blood flow, all products used to check the flow of blood or to absorb blood shall be ~~single-use~~ single use and disposed of immediately after use in appropriate containers, unless the disposal products meet the definition of ~~Contaminated Waste~~ contaminated waste.

5.4.3 All surfaces used in the body art procedure must be smooth; free of nicks, cuts, and tears; easily cleanable; and nonporous. Surfaces must be cleaned and then disinfected with an Environmental Protection Agency (EPA) registered tuberculocidal disinfectant prior to and after the body art procedure. All surfaces of equipment and furnishings that come in contact with the body artist during a body art procedure must be covered with a protective, impermeable barrier. Barriers must be single use and discarded after each client.

5.5 Requirements for Sanitation and Sterilization Procedures

~~5.5.1 All non-single-use, non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water or follow the manufacturer's instructions to remove blood and tissue residue, and placed in an ultrasonic unit which will also be operated in accordance with manufacturer's instructions.~~ All non-single use, non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water at a temperature greater than or equal to 85°F (29.4°C) in the sterilization area, sterilization room, or follow the manufacturer's instructions to remove blood and tissue residue, and placed in an ultrasonic cleaner which will also be operated in accordance with manufacturer's instructions. Any sink used for cleaning equipment shall not be used for handwashing.

5.5.2 After cleaning, all non-disposable instruments used for body art shall be packed individually in ~~peel-packs~~ sterilization packaging and subsequently sterilized. All ~~peel-packs~~ sterilization packaging shall contain either a sterilizer indicator or internal temperature indicator. ~~Peel-packs~~ Sterilization packaging must be dated with an expiration date not to exceed ~~six (6)~~ 6 months.

5.5.3 All cleaned, non-disposable instruments used for body art shall be sterilized in a steam autoclave. The sterilizer shall be used, cleaned, and maintained according to the manufacturer's instruction. A copy of the manufacturer's recommended procedures for ~~the operation of their~~ the sterilization unit must be available for inspection by the Division. Sterile equipment may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing. Sterilizers shall be located ~~away from work stations or areas frequented by the public in a sterilization area or sterilization room.~~ If the body art establishment uses all ~~single-use,~~ single-use disposable instruments and instruments, products, and utilizes sterile supplies, an autoclave shall not be required.

5.5.4 Each holder of a permit to operate a body art establishment shall demonstrate that the sterilizer used is ~~capable of attaining~~ can attain sterilization by spore destruction tests every 30 days. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the sterilizer's ability to destroy spores is received by the Division. These test records shall be retained by the operator for a period of ~~three (3)~~ 3 years and made available to the Division upon request. If the Division determines that the establishment was open when a current sterile spore destruction test was not available, then an administrative penalty of \$100 each day that the establishment was open may be assessed.

5.5.5 All reusable needles used in tattooing and body piercing shall be cleaned and sterilized prior to use and stored in ~~peel-packs~~ sterilization packaging. After sterilization, the instruments used for tattooing and body piercing shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.

5.5.6 All instruments used for tattooing and body piercing shall remain stored in sterile packages until just prior to performing a body art procedure. When assembling instruments used for performing body art

procedures, the operator/technician shall wear disposable medical gloves and use ~~medically recognized techniques~~ universal precautions to ensure that the instruments and gloves are not contaminated.

- 5.5.7 All inks, dyes, pigments, ~~needles~~ needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. The mixing of approved inks, ~~dyes~~ dyes, or pigments or their dilution with potable water is acceptable. Immediately before applying a tattoo, 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 paper cups or plastic ~~cups~~ cups and ~~their~~ the contents shall be discarded.

5.6 Requirements for Single-use Items

- 5.6.1 Single-use items shall not be used on more than ~~one~~ 1 client for any reason. After use, all single-use needles, razors, razor blades, and other sharps shall be immediately disposed of in approved sharps containers.

- 5.6.2 All products applied to the skin, including body art ~~stencils~~ stencils, shall be single-use and disposable. ~~Acetate stencils shall be allowed for re-use if sanitization procedures are performed between uses if approved by the Division.~~ Petroleum jellies, ~~soaps~~ soaps, and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or in a manner to prevent contamination of the original container and its contents. The gauze shall be used only once and then discarded.

5.7 Requirements for Mobile Body Art Establishments (MBAE)

- 5.7.1 The following minimum requirements are necessary to protect the health of the public. MBAE must follow all minimum standards as well as meet all the requirements of this regulation. Environmental Health Field Service (EHFS) offices may impose additional requirements to protect against risks and imminent hazards unique to a particular operation.

- 5.7.2 All MBAE must have a written agreement with a servicing area that meets the following requirements:

5.7.2.1 Is located within the State of Delaware;

5.7.2.2 Is a permitted body art establishment for disposal of water and storage of other necessary pieces of equipment;

5.7.2.3 Has a written agreement with a servicing area to allow access for obtaining clean water, dumping wastewater, and storing equipment; and

5.7.2.4 Disposes of all blackwater waste at a certified waste dumping site only.

- 5.7.3 Only disposable, single use, pre-sterilized equipment and utensils may be used. Autoclaves or any other sterilization equipment are not permitted to be placed or operated in an MBAE.

- 5.7.4 Procedures are limited to only those that can be completed using single use equipment and utensils.

- 5.7.5 Only the artist and customer are permitted to be inside of the mobile unit during the procedure. No waiting area may be provided. Any customers under 18 years of age may have a parent or guardian accompany them on the mobile unit during the procedure.

- 5.7.6 Procedure area shall be used only for body art procedures.

- 5.7.7 All cleaning and disinfection techniques contained in this regulation must be followed.

- 5.7.8 All procedures must be performed within the MBAE. No tents or other temporary structures may be erected outside of the MBAE procedures.

- 5.7.9 All doors, windows, and openings must remain closed during operation. Doors and windows may only be open during procedures if tight-fitting screens are provided with a minimum of 16 mesh per square inch to prevent pest issues.

- 5.7.10 Toilet facilities with a hand sink shall be located within an MBAE or within 500 feet of a public toilet facility while operating.

- 5.7.11 A dedicated, fixed handwashing sink must be available in the procedure area. Liquid hand soap and paper towels must be available at the hand sink. The handwashing sink must provide hot and cold water through a mixing or combination valve. The handwashing sink, under pressure, must supply at least 5 gallons of potable water, as well as a wastewater tank a minimum of 1.5 times larger than the potable water tank.

6.0 Notification and Records Requirements

6.1 Public Notification Requirements

- 6.1.1 Verbal and written public educational information, approved by the Division, shall be required to be given by the body art establishment operator or technician to all clients wanting to receive/undergo a body art procedure(s)procedure. Verbal and written instructions, approved by the Division, for the aftercare of the body art procedure site shall be provided to each client by the operator/technician upon completion of the procedure. The written aftercare instructions shall advise the client to consult the operator/technician at the first sign of infection or swelling and contain the name, ~~address~~ address, and phone number of the establishment. These documents shall be signed and dated by the applicant. The establishment shall retain the original signed and dated documents along with all other required records.

- 6.1.2 The establishment shall prominently display a Disclosure Statement, provided by the Division, which advises the public of the risks and possible consequences of body art services.
- 6.1.3 The establishment's permit holder shall post in public view the name, ~~address~~address, and phone number of the Division, and the procedure for filing a complaint.

6.2 Client Records

- 6.2.1 In order for the operator/technician to properly evaluate the client's medical condition for receiving a body art procedure and not violate the client's rights or confidential medical information, the operator/technician shall obtain the following information from the client:

"In order for proper healing of your body art procedure, we ask that you disclose if you have or have had any of the following conditions:

- (a) ~~Diabetes; Diabetes, high blood pressure, heart condition, heart disease, or any other condition that could interfere with the body art procedure;~~
- (b) - History of hemophilia (bleeding);
- (c) - History of skin diseases, skin ~~lesions~~lesions, or skin sensitivities to soaps, ~~disinfectants~~soaps or disinfectants;
- (d) History of allergies or adverse reactions to pigments, ~~dyes~~dyes, latex, or other skin sensitivities;
- (e) History of epilepsy, seizures, ~~fainting or narcolepsy~~fainting, narcolepsy, or other conditions that could interfere with the body art procedure;
- (f) ~~Taking medications such as anticoagulants which thin the blood and/or interferes with blood clotting."~~ Antiplatelet drugs or NSAIDS (aspirin, ibuprofen, etc.) or any other drugs which thin the blood or interferes with blood clotting in the last 24 hours;
- (g) Taking any medication that can inhibit the ability to heal a skin wound;
- (h) Have any communicable disease (i.e., hepatitis A, hepatitis B, HIV, or any other disease that could be transferred to another person during the procedure);
- (i) Pregnant or have been pregnant within the last 3 months; or
- (j) Under the influence of drugs or alcohol;"

- 6.2.2 The operator/technician shall require the client to sign a Release Form confirming that the above information was obtained or attempted to be obtained. The client should be asked to disclose any other information that would aid the operator/technician in the client's body art healing process evaluation.
- 6.2.3 Each body art establishment shall keep records of all body art procedures administered including date, ~~identification~~identification, and location of the body art ~~procedure(s)~~procedure performed, and operator's/technician's name. All client records shall be confidential and be retained for a minimum of ~~three (3)~~3 years from the date of service and made available to the Division upon request.
- 6.2.4 Nothing in this section shall be construed to require the operator/technician of a body art establishment to perform a body art procedure upon a client.

6.3 Records ~~Retention~~Retention.

- 6.3.1 The body art establishment shall keep a record of all persons who have had body art procedures performed. The record shall include the name, date of birth, and address of the client, a copy of the client's state or federally issued photo ID with birthdate (i.e., driver's license, state ID, passport, immigration card, etc.), the date of the procedure, name of operator/technician who performed the ~~procedure(s)~~procedure, type and location of procedure performed, signature of ~~client~~the client, and if the client is a minor, proof of parental or guardian presence and consent, i.e. signature. ~~Such~~These records shall be retained for a minimum of ~~three (3)~~3 years from the date of service and available to the Division upon request. The Division and the body art establishment shall keep such records confidential.

7.0 Compliance Procedures

7.1 General

- 7.1.1 The establishment's valid permit shall be conspicuously displayed on the premises of the establishment for public view. Failure to display a valid permit shall be considered a violation of ~~these Regulations~~this regulation.
- 7.1.2 A representative of the Division, upon presentation of proper identification and notice of intent to conduct an inspection, shall be permitted the right of access to an establishment to determine if the establishment is ~~in compliance~~compliant with ~~these Regulations~~this regulation. The person in charge of the body art establishment shall allow the representative to inspect the establishment and shall provide to the representative information and records specified in ~~these Regulations~~this regulation and to which the Division is entitled.
- 7.1.3 When an inspection reveals that the body art establishment is not in compliance with ~~these Regulations~~this regulation, the permit holder shall take corrective action within the time specified by the Division. ~~The permit holder may additionally be required to provide to the Division a written plan to correct violations of these Regulations, including the method of correction and the anticipated date of completion.~~

Division must advise the operator in writing of its findings and instruct the operator to take specific steps to correct such violations. Violations that pose an imminent public health threat need to be corrected before operation may resume.

7.2 Grounds for Administrative Action

7.2.1 Operating without a permit

7.2.1.1 If a body art establishment is found operating without a valid permit, the Division shall order immediate closure. The closure shall be effective upon receipt of a written notice by the person in charge of the establishment. The establishment shall remain closed until ~~proper application, submission and review of plans or inspection reveal compliance with these Regulations and approval for permit is made.~~ an application is submitted, a review of plans and inspection reveal compliance with this regulation, and approval for permit is granted.

7.2.1.2 A conspicuous, colored placard obtained from the Division shall be prominently displayed at all entrances of a body art establishment which has failed to obtain a valid permit. This placard shall only be removed by order of the regulatory authority.

7.2.2 Imminent Health Hazard

7.2.2.1 Suspension of Permit. If conditions exist in a body art establishment that represent an imminent health hazard, the Division may suspend the operating permit without a hearing upon written notice for a period not to exceed ~~ten (10)~~ 10 days. The suspension shall be effective upon receipt of written notice by the person in charge of the establishment. A suspension statement recorded on the inspection report constitutes a written notice. The person in charge shall yield the permit to the Division.

7.2.2.2 Hearing. If the immediate health hazard is not eliminated, the Division shall schedule an administrative hearing within the ~~ten (10) day~~ 10-day period of suspension. The purpose of the hearing is to determine if the suspension should be extended, if the permit revoked should be revoked, or other action taken as necessary.

7.2.2.3 Reinstatement of Permit. The permit holder of the body art establishment may request, in writing, to the Division at any time during the suspension, an inspection for the purpose of showing that the imminent health hazard no longer exists. When the imminent health hazard no longer exists, the suspension shall be ~~terminated~~ terminated, and the permit returned. If the Division determines that the imminent health hazard has not been corrected and that the hazard still exists, the suspension remains in force pending a hearing, and the Division may recommend that the permit be revoked.

7.2.2.4 A conspicuous, colored placard obtained from the Division shall be prominently displayed at all entrances of a body art establishment whose permit stands suspended or revoked. This placard shall only be removed by order of the regulatory authority.

7.2.2.5 If operations are discontinued longer than ~~sixty (60)~~ 60 days, or per order of the Division, the permit holder shall obtain approval from the Division before resuming operations.

7.2.3 Serious Violations, Repeat Violations, and General Unsanitary Conditions

7.2.3.1 If serious or repeat violations of ~~these Regulations occur,~~ this regulation occurs, or if general unsanitary conditions exist, the Division may issue and properly serve due notice, by certified mail or by hand delivery, of the intention of the Division to suspend the permit of a body art establishment. The Division shall not suspend a permit of a body art establishment for serious or repeated violations which do not present an imminent health hazard, without having first issued and properly served such notice of intent to suspend. Within ~~thirty (30)~~ 30 days of the date of such notice of intent to suspend, the permit holder may submit to the Division a written request for an administrative hearing. The suspension shall commence upon expiration of the notice of intent, unless within thirty ~~(30)~~ 30 days of the date of such notice, the Division receives from the permit holder a written request for an administrative hearing. ~~If the permit holder makes a timely request for an administrative hearing, the suspension shall be stayed pending the results of the hearing.~~

7.2.3.2 A conspicuous, colored placard obtained from the Division shall be prominently displayed at all entrances of a body art establishment whose permit stands suspended or revoked. This placard shall only be removed by order of the regulatory authority.

7.3 Administrative Hearing Procedures

7.3.1 Upon due notice that the Division intends to suspend the permit of a body art establishment, the permit holder may submit to the Division, within ~~thirty (30)~~ 30 days of the date of such notice of intent, a written request for an administrative hearing.

7.3.2 After receipt of the request for administrative hearing, the Division shall schedule the hearing before an ~~impartial~~ administrative hearing officer.

- 7.3.3 When an administrative hearing is scheduled, the permit holder of the establishment shall be informed at least ~~(5)~~ 5 days prior to the hearing of the place, time, and date of the hearing and the specific charges against the establishment. Notification of the hearing shall be by certified mail or by hand delivery.
- 7.3.4 After the hearing, the hearing officer shall issue a decision and provide the decision to the Division. Failure of the permit holder to be present for an administrative hearing shall result in automatic suspension of permit and recommendation for revocation.
- 7.3.5 A written report of the hearing decision shall be furnished by the Division to the permit holder of the body art establishment.
- 7.4 Penalty
 - 7.4.1 Any person who neglects or fails to comply with the requirements of ~~these Regulations~~ this regulation may be subject to the provisions of [16 Del.C. §107](#), and may be subject to loss of ~~their~~ the permit, be fined not less than \$100 and not more than \$1000, together with costs, or both, unless otherwise provided by law.
 - 7.4.2 The Division may seek to ~~enjoin~~ prohibit the practice of body art at a body art establishment due to violations of ~~these Regulations~~ this regulation.

[15 DE Reg. 677 \(11/01/11\)](#)

[18 DE Reg. 645 \(02/01/15\)](#)

[15 DE Reg. 677 \(11/01/11\)](#)

[18 DE Reg. 645 \(02/01/15\)](#)