

## **PART IV**

### **Article 7**

#### **REGULATION OF BODY ART**

Rules and Regulations promulgated by the Provincetown Board of Health on December 7, 2000, revisions adopted on October 4, 2012, and February 4, 2016 pursuant to General Laws, Chapter 111, §31 for the granting of Licenses to practice Body Art and for the granting of Permits to run Body Art Establishments in the Town of Provincetown. February 4, 2016 effective March 1, 2016.

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#### **Section I. Rationale**

**1.1** The Provincetown Board of Health is promulgating rules and regulations in the form of this Body Art Regulation which provide minimum requirements to be met by any person performing Body Art activities upon another individual and for any establishment wherein Body Art activities are to be performed. These requirements include, but are not limited to, requirements concerning the general sanitation of the establishment wherein Body Art activities are to be performed and the sterilization of instruments to be used in the conduct of Body Art. By enacting this Body Art Regulation, the Provincetown Board of Health has determined that these rules and regulations are necessary to protect the public's health by preventing the transmission of diseases.

**1.2** Effective December 7, 2000, and revised July 19, 2012, this Body Art Regulation establishes a requirement and a procedure for registration with the Provincetown Health Department of all persons performing such Body Art activities, and for each establishment in which such activities are performed. This Regulation also establishes a requirement for minimal training standards for such Technicians including requirements for training in the prevention of disease transmission. It also provides for the regular inspection of establishments wherein Body Art activities are to be performed and contains enforcement provisions including but not limited to penalties and the revocation of the registration of any person or establishment deemed in violation of this Regulation or any rules promulgated hereunder.

**1.3** This Body Art Regulation provides for an annual fee to be paid by a person or establishment registered under this Body Art Regulation. This fee is intended to help defray the cost to the Provincetown Health Department of the administration of the requirements of this Body Art Regulation.

**1.4** This Regulation is adopted by the Board of Health in accordance with the authority conferred upon it pursuant to Massachusetts General Laws, Chapter 111, Section 31.

## **Section II. Definitions**

The following terms used in this Regulation, unless the context otherwise requires, shall have the following meaning:

**2.1 AFTERCARE INSTRUCTIONS** shall mean written instructions given to a person upon whom one or more Body Art activities have been performed, specific to the Body Art procedure(s) rendered or performed, concerning the proper care to be given to the area of the body upon which the Body Art has been performed, and concerning the surrounding area of the body.

**2.2 APPRENTICE** means a person who is engaged in learning and working in the profession of Body Art under these Regulations, and who is in written agreement with the mentor providing his/her training in accordance with Section VI of this Body Art Regulation. Apprentices must be Licensed by the Provincetown Department of Health prior to beginning the Apprenticeship.

**2.3 AUTOCLAVE** shall mean an apparatus for sterilization utilizing steam pressure at specific temperature over a designated period of time.

**2.4 AUTOCLAVING** shall mean the process which results in the destruction of all forms of microbial life - including highly resistant bacterial spores - by the use of an Autoclave for a minimum of thirty (30) minutes at 17 pounds of pressure (PSI) at a temperature of 250 degrees Fahrenheit.

**2.5 BOARD OF HEALTH** shall mean the Board of Health of the Town of Provincetown established in accordance with Massachusetts General Law, Chapter 111, §31. Agents of the Board of Health include, but are not limited to, members of the Board of Health, staff of the Provincetown Health Department, and officers of the Provincetown Police Department.

**2.6 BODY ART** shall mean the practice of physical body adornment, alteration or modification by means including, but not limited to, piercing, tattooing, branding, beading/implantation or scarification, also known as scarring.

**2.7 BODY ART ESTABLISHMENT** shall mean any facility that has been inspected and approved by the Department for use in conducting Body Art activities and for which a current Permit is issued by the Department in accordance with this Body Art Regulation.

**2.8 BODY ART REGULATION** shall mean the Rules and Regulations promulgated by the Provincetown Board of Health on December 7, 2000 and revised on October 4, 2012, pursuant to Massachusetts General Law, Chapter 111, §31.

**2.9 BODY ART TECHNICIAN** shall mean a person whom has received a License to perform Body Art activities from the Department pursuant to this Body Art Regulation.

**2.10 BODY ART TECHNICIAN LICENSE** shall mean a License issued by the Department to a person qualified to engage in the practice of Body Art in a specified field, either Tattoo or Body Piercing, in accordance with this Body Art Regulation.

**2.11 BODY PIERCING** shall refer to the form of Body Art requiring or consisting of the puncturing or penetration of the skin or of a membrane of a person for the purpose of the temporary or permanent placement or insertion of jewelry or other adornment or device therein. Body Piercing includes single point piercing and surface anchors.

**2.12 BRANDING** shall refer to the form of Body Art consisting of or requiring the inducement of a burn and/or the resulting scarring of the skin of a person by means of the use of a heated or chilled instruments or objects.

**2.13 CLEANING AREA** shall mean the area in a Body Art establishment used in the sterilization, sanitation or other cleaning of instruments or other equipment used for the practice of Body Art.

**2.14 CLEAN PROCEDURE CONDITIONS** shall mean that the Body Art Establishment, including but not limited to the Workstation(s), is a clean and sanitary environment. Clean Procedure Conditions include the sanitizing, when applicable and possible, or otherwise decontaminating the Establishment to meet the standards of the Universal Precautions and Bloodborne Pathogens Standard 29 CFR 1910.1030.

**2.15 CONTAMINATED or CONTAMINATION** shall refer to the presence of or a reasonable possibility of the presence of blood, bodily fluids, and infectious or potentially infectious matter on an inanimate object.

**2.16 CONTAMINATED WASTE** shall mean any liquid or semi-liquid blood or other potentially infectious material; contaminated items that would release blood or other potentially infectious material in a liquid or semi-liquid state if compressed; items on which there is dried blood or other potentially infectious material and which are capable of releasing these materials during handling; sharps and any wastes containing blood or other potentially infectious materials, as defined in 29 Code of Federal Regulation part 1910.1030, as defined in 105 Code of Massachusetts Regulation 480.00 *et seq*, or in this Body Art Regulation.

**2.17 COSMETIC TATTOOING**, also known as permanent cosmetics, micropigmentation (micro pigment implantation), or dermapigmentation (dermal pigmentation), shall refer to the form of Body Art requiring the implantation of permanent pigment around the eyes, lips, and cheeks of the face, areolae, or genitalia, and hair imitation. For the purposes of this Body Art regulation, cosmetic tattoo technicians and establishments must meet the requirements of tattoo technicians and establishments.

**2.18 CUSTOMER OR CLIENT** shall mean a person upon whom one or more Body Art activities is/are to be performed, and shall include a Minor Client.

**2.19 CUSTOMER WAITING AREA** shall mean the area in a Body Art establishment for use and occupation by persons and clients prior to and after the conduct of Body Art.

**2.20 DEPARTMENT** shall mean the Provincetown Health Department.

**2.21 DISINFECT** shall mean the destruction of pathogenic microorganisms using a Liquid Chemical Tuberculocide.

**2.22 DISINFECTANT** shall mean the same as Liquid Chemical Tuberculocide.

**2.23 EQUIPMENT** shall mean all machinery, fixtures, containers, vessels, tools, devices, implements, furniture, display cases, storage units, sinks, and all other apparatus and appurtenances used in connection with the operation of a Body Art establishment.

**2.24 EXPOSURE** shall mean an event whereby there is an eye, mouth or other mucous membrane, non-intact skin or parenteral contact with the blood or bodily fluids of another person or contact of an eye, mouth or other mucous membrane, non-intact skin or parenteral contact with other potentially infectious matter.

**2.25 EXPOSURE CONTROL PLAN** shall mean a customized, written plan drafted by a Body Art Establishment Owner/Operator pursuant to the requirements of the U.S. Occupational Safety and Health Administration's (OSHA) Bloodborne Pathogens Standard (29 Code of Federal Regulation 1910.1030) to eliminate or minimize the potential for an Exposure within the establishment for which it was created.

**2.26 EXPOSURE INCIDENT REPORT** shall mean a written report detailing the circumstances of an Exposure.

**2.27 HAND SINK** shall mean a sink supplied with hot and cold potable water under pressure, which is used solely for washing hands, arms, or other portions of the body.

**2.28 HOT WATER** shall mean water, which is heated to attain and maintain a temperature of between 110 and 130 degrees F.

**2.29 INFECTIOUS WASTE** shall mean the same as Contaminated Waste.

**2.30 INSTRUMENT** shall mean those hand pieces, needles, needle bars and other instruments that may come in contact with a client's body or bodily fluids during Body Art procedures.

**2.31 INSTRUMENT STORAGE AREA** shall mean the area in a Body Art establishment used for the storage of linens, equipment and instruments used for Body Art.

**2.32 INVASIVE** shall describe a procedure causing entry into the body either by incision or by the 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.

**2.33 JEWELRY** shall mean any device or adornment inserted into an area or portion of the body.

**2.34 LICENSE** shall mean a document issued by the Department pursuant to this Body Art Regulation authorizing a person to conduct allowed Body Art procedures in the Town of Provincetown.

**2.35 LIQUID CHEMICAL TUBERCULOCIDE** shall mean a substance registered with the United States Environmental Protection Agency for use in the destruction of pathogenic microorganisms including mycobacterium tuberculosis.

**2.36 MENTOR** shall mean a Body Art Technician who is permitted by the Town of Provincetown to sponsor, train, and supervise an Apprentice of Body Art in the Body Art field in which he or she is Licensed.

**2.37 MINOR or MINOR CLIENT** shall mean a person of less than 18 years of age as of that person's last birth date, as defined in Massachusetts General Law, Chapter 7, §48.

**2.38 MOBILE BODY ART ESTABLISHMENT** shall mean any trailer, truck, car, van, camper or other motorized or non-motorized vehicle, a shed, tent, movable structure, bar, home or other facility wherein, or concert, fair, party or other event in which conduct Body Art procedures are intended to be performed, or are performed, excepting only a Licensed Body Art Establishment.

**2.39 OPERATOR** shall mean any person alone or jointly with other persons who owns, controls, operates or manages a Body Art Establishment.

**2.40 PERMIT** shall mean a document issued by the Department pursuant to this Body Art Regulation authorizing the use of an establishment for the conducting of Body Art activities.

**2.41 PHYSICIAN** shall mean a person licensed by the Commonwealth of Massachusetts in accordance with Massachusetts General Law, Chapter 112, §2.

**2.42 PROCEDURE SURFACE** shall mean any surface of an inanimate object that contacts an unclothed part of a person upon whom body art is to be performed.

**2.43 PROHIBITED FORMS OF BODY ART** shall refer to those forms of Body Art prohibited under this Body Art Regulation and set forth in Section XII and Section 5.15 hereof.

**2.44 PROTECTIVE BARRIER MATERIAL** shall mean single-use impermeable plastic material used to prevent surface contamination during body art procedures, and shall include: machine bags, clip cord bags, dental bibs, and plastic wrap.

**2.45 SANITIZE** shall mean the process of reducing the number of microorganisms on a surface to a safe level using a Liquid Chemical Tuberculocide.

**2.46 SANITIZER** shall mean the same as Liquid Chemical Tuberculocide.

**2.47 SCARIFICATION**, also known as scarring, shall refer to that form of Body Art that requires the use of an instrument to cut a design into the skin to produce a scar.

**2.48 SHARPS** shall mean any object (sterile or not) that may purposefully or accidentally cut or penetrate the skin or mucosa of a person including, but not limited to, needles, scalpel blades, razor blades and lancets.

**2.49 SHARPS CONTAINER** shall mean a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation or disposal and is labeled with the International Biohazard Symbol.

**2.50 SINGLE USE** shall mean products or items that are intended for one-time, one-person use and are to be disposed of after such use including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, stencils, ink cups and protective gloves.

**2.51 STANDARD PRECAUTIONS** shall mean the set of guidelines and controls published by the Centers for Disease Control and Prevention. This method of infection control requires the use of basic infection control practices to reduce the risk of transmission of pathogens during the care of all patients in a hospital setting, but is readily adapted for use in a body art establishment. Practices include handwashing hygiene, selection and use of personal protective equipment, respiratory hygiene/cough etiquette, prevention of injury from sharp instruments, and environmental cleaning.

**2.52 STERILIZATION UNIT, or AUTOCLAVE**, shall mean a unit designed to and which is effective at killing all microorganisms, including bacterial spores and which is approved by the Department to Sterilize multi-use body art instruments and equipment in a Body Art Establishment.

**2.53 STERILIZE** shall mean to effectively kill all microorganisms, including bacterial spores.

**2.54 TATTOO** shall refer to the form of Body Art consisting of the injection of ink, dye or other medium to form or create an indelible mark, figure or decorative design in the subcutaneous portion of the skin.

**2.55 TATTOOING** shall mean the act or process of creating a tattoo.

**2.56 TATTOO MACHINE** shall mean an electric or pneumatic vertically vibrating tool used for tattooing.

**2.57 TATTOO INKS/PIGMENTS/DYES or INKS/PIGMENTS/DYES** shall mean the metal or salt-based substance injected into the subcutaneous portion of the skin in the act or process of creating a tattoo.

**2.58 TEMPORARY BODY ART ESTABLISHMENT** shall mean the same as Mobile Body Art Establishment.

**2.59 THREE DIMENSIONAL “3D” BODY ART, BEADING, WEAVING, or IMPLANTATION** shall refer to the form of Body Art consisting of or requiring the placement, injection or insertion of an object, device or other thing made of material such as steel, titanium, rubber, latex, plastic, glass or other inert materials, beneath the surface of the skin of a person. These terms do not include Body Piercing, including single-point piercing and surface anchors.

**2.60 TUBERCULOCIDE or TUBERCULOCIDAL SOLUTION** shall mean the same as Liquid Chemical Tuberculocide

**2.61 ULTRASONIC CLEANING UNIT** shall mean a unit approved by the Department and physically large enough to fully submerge body art instruments in liquid, which unit removes all foreign matter from the Instruments by means of high frequency oscillations transmitted through the contained liquid. Unit must be used with a cover to avoid aerosolization of contaminated or potentially contaminated materials.

**2.62 WORKSTATION** shall mean an area within a Body Art Establishment designated for use in the conducting of Body Art.

### **Section III. Licenses, Permits, and Registrations**

#### **3.1 Body Art Technician License Required**

#### **3.2 Types of Body Art Technician Licenses**

#### **3.3 Body Art Establishment Permit Required**

#### **3.4 Provincetown Licensing Agent – Business License**

#### **3.1 Body Art Technician License Required**

No person shall conduct any form of Body Art activity unless such person holds a valid Body Art Technician License issued by the Department pursuant to this Body Art Regulation. Professional and Apprentice Body Art Technician Licenses are valid for use at only at the Body Art Establishment for which the License was issued, and are not transferrable.

#### **3.2 Types of Body Art Technician Licenses**

There are two types Body Art Technician Licenses: Body Art Technician – Body Piercing; and Body Art Technician – Tattoo. A Body Art Technician shall only perform those forms of Body Art for which he/she holds a Body Art Technician License issued by the Department. A Body Art Technician who wishes to perform more than one type of Body Art must apply for a distinct License for each type of Body Art and pay the fee for both Licenses.

#### **3.3 Body Art Establishment Permit Required**

No person shall operate an establishment for the conduct of a business consisting of or including the performance of one or more Body Art activities upon the person of another without a valid Permit to operate such establishment issued by the Department in accordance with this Body Art Regulation.

#### **3.4 Provincetown Licensing Agent – Business License**

The requirements of this Body Art Regulation to obtain a Body Art Technician License and a Body Art Establishment License are separate from and in addition to the requirements of Massachusetts General Law chapter 110 § 5, the Provincetown Licensing Board Rules and Regulations, the Town of Provincetown Zoning Bylaws and any other Federal, State and local laws concerning the conduct of business in the Town of Provincetown.

### **Section IV. Exemptions**

#### **4.1 Physicians**

Physicians who practice Body Art activities as a part of patient treatment are exempt from the provisions of this Body Art Regulation.

### **Section V. Body Art Technicians**

#### **5.1 Application - Registration - Body Art Technician License**

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**5.15 Restriction of Certain Body Art Activities**

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**5.17 Use of Licensed Facility**

**5.18 Body Art Technician - Use of Mobile or Temporary Body Art Establishment - Prohibited**

**5.1 Application -Registration - Body Art Technician License**

Any person seeking registration under this Body Art Regulation so as to obtain a Body Art Technician License shall submit a completed application provided by the Department and shall pay to the Provincetown Health Department a fee to be determined by the Board of Health. A Body Art Technician License shall be valid for no more than one year. The Department may renew a Body Art Technician License under this Body Art Regulation and each applicant for such renewal shall pay to the Provincetown Health Department a fee to be determined by the Board of Health. All Body Art Technician Licenses shall expire on December 31 of the year of issuance.

**5.2 Application – Body Art Technician License – Compliance with Body Art Regulation Requirements**

An applicant for a Body Art Technician License shall demonstrate to the Department his/her successful compliance with all training, disclosure, consent and educational requirements of this Body Art Regulation relative to the form of Body Art activities for which such applicant seeks a Body Art Technician License prior to the issuance or renewal of a Body Art Technician License by the Department. All new Body Art Technician License applicants must appear before the Board of Health prior to receiving their first Body Art Technician License.

**5.3 Body Art Technician – Guest Artist License**

The Department may issue a fourteen (14) day Guest Artist License to an individual holding a valid License or similar certificate or registration to engage in the practice of tattooing and body piercing issued under the jurisdiction of another city, county, or state. Such a temporary Guest Artist License will allow a person to practice tattooing and/or body piercing in Provincetown under the direct supervision of a Body Art Technician holding a valid Body Art Technician License issued by the Department. The issuance of a Guest Artist Body Art Technician License is conditioned upon the applicant demonstrating the following:

1. An application fee in an amount to be determined by the Board of Health.
2. A copy of the License or similar certificate issued by the city or town where the Technician is Licensed.

**5.4 Body Art Technician – Guest Artist License – Additional Rules**

1. No person may receive a Guest Artist Technician License more than two times per year.
2. Guest Artist Technician License must be submitted prior to the expected practice period.
3. All Guest Artists must be insured for professional liability at the establishment where they will practice. Proof of insurance must be submitted with Body Art Establishment's Permit application.

**5.5 Massachusetts Sex Offender Registry Information Request**

All applicants for a Body Art Technician License shall agree to submit to a Request for Sex Offender Information.

1. The Provincetown Health Department shall request Sex Offender Registry Information directly from the Sex Offender Registry Board or the Town of Provincetown Police Department to obtain information on sex offenders required to register and those finally classified by the Sex Offender Registry Board as a Level 2 or Level 3 Offender.
2. Sex Offender request results will be provided directly to the Health Department.
3. No person who is finally classified by the Sex Offender Registry Board as a Level 2 or Level 3 Sex Offender shall be issued a Body Art Technician License by the Health Department.
4. If an applicant is denied a Body Art Technician License based on Sex Offender information results that he/she is classified as a Level 2 or Level 3 Sex Offender, the Health Department shall notify the applicant in writing.
5. All Sex Offender Registry Board inquiries and results will remain confidential, provided that the records may be disseminated to assist or defend any criminal prosecution, as necessary. Sex Offender Registry Information obtained by the Health Department shall be used solely to process Body Art Technician License applications in the interests of public health and safety and shall not be used to commit a crime or to engage in illegal discrimination or harassment of an offender.
6. The Board of Health shall submit a Sex Offender Registry Board background check each time an applicant renews his/her Body Art Technician License. The Board of Health shall not renew a Body Art Technician License until the applicant has agreed to submit to a Request for Sex Offender Information and the results of such request show that the applicant has not been classified by the Sex Offender Registry Board as a Level 2 or Level 3 Offender.
7. A Body Art Technician License can be suspended or revoked in the event the Board becomes aware that an individual is classified as a Level 2 or Level 3 offender by the Sex Offender Registry Board after the License was issued but prior to renewal of the License.

#### **5.6 Hepatitis B Vaccination Status - Disclosure**

An applicant for a Body Art Technician License or renewal thereof shall provide to the Department valid documentation of Hepatitis B virus (HBV) vaccination status stating:

1. Laboratory evidence of immunity;
2. Documentation stating the vaccine is contraindicated for medical reasons. Contraindication requires a dated and signed licensed health care professional's statement specifying the name of the Body Art Technician License applicant employee and that the vaccine cannot be given; or,
3. Signed certificate of vaccination declination of HBV for medical, religious, or personal reasons.

#### **5.7 Tuberculin Skin Test**

Every Body Art Technician shall submit to the Department yearly the results of a tuberculin skin test (or Mantoux tuberculin skin test) performed by a physician. A Body Art Technician License applicant who receives a positive test result from a tuberculin skin test will be required to undergo additional testing and to present to the Board of Health a written note from a physician advising the Board that the Body Art Technician is not a risk to the public. The Department shall not issue a new License or renew an existing License unless and until such written note is received by the Department.

#### **5.8 Hygiene**

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

## **5.9 Minimal Training Requirements – Body Art Technician – Body Piercing**

1. Every applicant for a Body Art Technician License for Body Piercing, in order to be qualified for such License, shall provide to the Department evidence of satisfaction of the following minimal training requirements:
  - a. Evidence of satisfactory completion (grade of C or better) of a college-level course in anatomy and physiology from an accredited, post-secondary institution. Such other course or program as the Department shall deem appropriate and acceptable may be substituted for the course in anatomy and physiology. The course must include instruction on the integumentary system. Successful completion of this course is required for receipt of a Body Piercing Technician License from the Provincetown Board of Health unless the applicant was Licensed as a Body Piercing Technician by the Provincetown Board of Health prior to August 1, 2012.
  - b. The successful completion of a course on Prevention of Disease Transmission and Blood Borne Pathogens compliant with the OSHA guidelines contained in 29 CFR 1910.1030 *et seq* as amended from time to time. Training provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Department for approval.
  - c. Current certification in Basic First Aid and Advanced Cardio-Pulmonary Resuscitation.
  - d. Evidence satisfactory to the Department of at least two years actual, licensed experience in the practice of performing Body Art activities of the kind for which the applicant seeks a Body Art Technician License to perform, whether such experience was obtained within or outside of the Commonwealth, or evidence of a completed apprenticeship program as approved by the Department. Two years experience is defined as 2400 hours of actual experience.
2. For a renewal of a Body Art Technician License for Body Piercing, applicants must complete 5 clock hours of continuing education every year, either as one unit or a combination of units. Satisfactory continuing education courses must fit into the approved course of study outlined for each field of practice and must be obtained as follows:
  - a. Three (3) hours must involve participation or attendance at an instructional program presented, recognized, or under the auspices of any permanently organized institution, agency, or completion and certification by an approved national home study organization
    - i. Documentation of attendance at a program or course provided by the sponsor must include:
      1. Name of sponsoring institution, association, or organization
      2. Title of presentation and description of content
      3. Name of instructor or presenter
      4. Date of attendance and duration in hours
      5. Course agenda
      6. Official transcript, diploma, certificate, statement or affidavit from the sponsor, attesting to attendance
    - ii. First aid and CPR courses as required in Section 5.9(1) of this regulation may count towards the 5 contact hours.
  - b. Two (2) hours may be self-study which may include the following:
    - i. Visiting other Body Art Establishments for Peer Observation and Discussion
    - ii. Correspondence courses including online courses
    - iii. Review of publications, textbooks, printed material, or audio materials
    - iv. Viewing of films, videos, or slides

- v. Documentation substantiating the completion of continuing education through self-study must show a direct relation to the Body Art Technician's work, and include the following:
  - 1. Name of sponsor or source (including title)
  - 2. Type of material or study
  - 3. Brief description of content
  - 4. Date of completion
  - 5. Duration in clock hours
- c. A Licensee must report compliance with the continuing education requirement through the attestation on the License renewal application.
- d. Misrepresentation on continuing education or failing to meet continuing education requirements or documentation may result in disciplinary action, which may include, but is not limited to assessment of a civil penalty and suspension or revocation of the License.
- e. Hours of continuing education, in excess of the requirement for renewal will not be carried forward.
- f. Continuing education requirements must be met every year.
- g. Licensees failing to obtain 5 clock hours of continuing education annually must reapply and qualify for a new Body Art Technician License.

#### **5.10 Minimal Training Requirements – Body Art Technician – Tattoo**

1. Every applicant for a Body Art Technician License for Tattooing, in order to be qualified for such License, shall provide to the Department evidence of satisfaction of the following minimal training requirements:
  - a. The successful completion of a course on Prevention of Disease Transmission and Blood Borne Pathogens compliant with the OSHA guidelines contained in 29 CFR 1910.1030 *et seq* as amended from time to time. Training provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Department for approval.
  - b. Current certification in Basic First Aid and Advanced Cardio-Pulmonary Resuscitation.
  - c. Evidence satisfactory to the Department of at least two years actual, licensed experience in the practice of performing Body Art activities of the kind for which the applicant seeks a Body Art Technician License to perform, whether such experience was obtained within or outside of the Commonwealth, or evidence of a completed apprenticeship program as approved by the Department. Two years experience is defined as 2400 hours of actual experience.
2. For a renewal of a Body Art Technician License for Tattooing, applicants must complete 5 clock hours of continuing education every year, either as one unit or a combination of units. Satisfactory continuing education courses must fit into the approved course of study outlined for each field of practice and must be obtained as follows:
  - a. Three (3) hours must involve participation or attendance at an instructional program presented, recognized, or under the auspices of any permanently organized institution, agency, or completion and certification by an approved national home study organization
    - i. Documentation of attendance at a program or course provided by the sponsor must include:
      1. Name of sponsoring institution, association, or organization
      2. Title of presentation and description of content
      3. Name of instructor or presenter
      4. Date of attendance and duration in hours
      5. Course agenda

- 6. Official transcript, diploma, certificate, statement or affidavit from the sponsor, attesting to attendance
- ii. First aid and CPR courses as required in Section 5.10(1) of this regulation may count towards the 5 contact hours.
- b. Two (2) hours may be self-study which may include the following:
  - i. Visiting other Body Art Establishments for Peer Observation and Discussion
  - ii. Correspondence courses including online courses
  - iii. Review of publications, textbooks, printed material, or audio materials
  - iv. Viewing of films, videos, or slides
  - v. Documentation substantiating the completion of continuing education through self-study must show a direct relation to the Body Art Technician's work, and include the following:
    - 1. Name of sponsor or source (including title)
    - 2. Type of material or study
    - 3. Brief description of content
    - 4. Date of completion
    - 5. Duration in clock hours
- c. A Licensee must report compliance with the continuing education requirement through the attestation on the License renewal application.
- d. Misrepresentation on continuing education or failing to meet continuing education requirements or documentation may result in disciplinary action, which may include, but is not limited to assessment of a civil penalty and suspension or revocation of the License.
- e. Hours of continuing education, in excess of the requirement for renewal will not be carried forward.
- f. Continuing education requirements must be met every year.
- g. Licensees failing to obtain 5 clock hours of continuing education annually must reapply and qualify for a new Body Art Technician License.

### **5.11 Body Art Technician License - Agreement to Comply With Body Art Regulation**

An applicant for a Body Art Technician License shall sign a statement provided by the Department agreeing to abide by all of the provisions of this Body Art Regulation.

### **5.12 Body Art Technician License - Department Authorized to Issue**

If an applicant for a Body Art Technician License demonstrates to the Department compliance with all relevant provisions of this Body Art Regulation, the Department is hereby authorized to issue a Body Art Technician License pursuant to the provisions of this Body Art Regulation.

### **5.13 Body Art Technician License - Posting Requirement**

A Body Art Technician shall post in an area of the Body Art Establishment accessible to the Department and visible to Clients the original or the current Body Art Technician License of the Body Art Technician.

### **5.14 Body Art Technician - Impairment by Drugs or Alcohol**

No Body Art Technician shall conduct any form of Body Art activity while under the influence of alcohol or drugs.

### **5.15 Restriction of Certain Body Art Activities**

No Body Art Technician shall perform the following activities with or without parental consent:

1. Tattoo a Minor Client.

2. Brand a Minor Client.
3. Scar or perform Scarification upon a Minor Client.
4. Perform cosmetic tattoo/micropigmentation upon a Minor Client.
5. Pierce the genitalia or nipples of a Minor Client.
6. Perform an oral piercing or naval piercing on a Minor Client under the age of 14.
7. Perform any other piercings on a minor client without the written consent of the Minor Client's parent or legal guardian. See Section 7.2(4)(C).
8. Perform or engage in any of the activities prohibited under Section XII of this Body Art Regulation.

#### **5.16 Clean Procedure Conditions**

A Body Art Technician shall only conduct Body Art activities under Clean Procedure Conditions.

#### **5.17 Use of Licensed Facility**

A Body Art Technician shall only conduct Body Art activities within a facility with a current Body Art Establishment Permit, and which Establishment is in compliance with all provisions of the Body Art Regulation.

#### **5.18 Body Art Technician - Use of Mobile or Temporary Body Art Establishment - Prohibited**

No Body Art Technician shall conduct any form of Body Art activity in a Mobile or Temporary Body Art Establishment.

### **Section VI. Apprenticeship Program**

#### **6.1 Apprenticeship Program**

#### **6.2 Compliance with this Body Art Regulation**

#### **6.3 Definitions**

#### **6.4 Body Art Technician Apprentice License**

#### **6.5 Clients - Notice and Consent**

#### **6.6 Body Art Technician Mentor**

#### **6.1 Apprenticeship Program**

Notwithstanding the prohibition set forth in Section 3.1 of these Regulations, a person may practice Body Art in accordance with a Body Art Technician Apprentice License, subject to the terms of conditions of the following sections.

#### **6.2 Compliance with this Body Art Regulation**

The holder of a Body Art Technician Apprentice License shall adhere to and abide by all relevant provisions of this Body Art Regulation excepting only Sections 5.9(1)(d) and 5.9(2) for Body Piercers or Sections 5.10(1)(c) and 5.10(2) for Tattooists.

#### **6.3 Definition**

For the purposes of 6.2 of this Body Art Regulation and, where the context so requires, for purposes of the Body Art Technician License Apprenticeship Program established by the Department pursuant to Section 6.1 of this Body Art Regulation, the term "Body Art Technician" shall mean "Body Art Technician Apprentice," and the term "Body Art Technician License" shall mean "Body Art Technician Apprentice License."

#### **6.4 Body Art Technician Apprentice License**

1. A person seeking registration under this Body Art Regulation so as to obtain a Body Art Technician Apprentice License shall submit a completed application provided by the Department and shall pay to the Provincetown Health Department a fee to be determined by the Board of Health. A Body Art Technician Apprentice License shall be valid for no more than one year. The Department may renew a Body Art Technician Apprentice License under this Body Art Regulation and each applicant for such renewal shall pay to the Provincetown Health Department a fee to be determined by the Board of Health. All Body Art Technician Apprentice Licenses shall expire on December 31 of the year of issuance.
2. The Applicant shall provide the Department with the name and License number of the Mentor under which he/she will be practicing.
3. The Applicant for a Body Art Technician Apprentice License shall be required to meet the requirements set forth in Sections 5.5, 5.6, 5.7 and 5.8 of this Body Art Regulation.
4. Each Body Art Technician License Apprentice, for either field of Tattoo or Body Piercing, shall provide to the Department evidence of satisfactory completion (grade of C or better) of a college-level course that covers the integumentary system from an accredited, post-secondary institution. Such other course or program as the Department shall deem appropriate and acceptable may be substituted for the course. No course taken over 5 years prior to applying for an Apprenticeship shall meet this requirement.
5. If an apprentice chooses to change mentors or relocate to another Provincetown body art establishment during the term of their apprenticeship, they must either restart their apprenticeship or receive written approval from the Department to transfer their Apprentice License.
6. An apprenticeship must consist of a minimum of 2400 hours of actual supervised experience consisting of at least the following:
  - a. Safety/Sterilization: 400 to 600 hours
  - b. Observation: 600 to 800 hours
  - c. Procedure/Practice: 1200 + hours

#### **6.5 Clients of Apprentice - Notice and Consent**

1. Before a person acting under a Body Art Technician Apprentice License conducts any form of Body Art activity upon a Client, that Client shall be advised that the person to conduct such Body Art activity is in fact an apprentice and is acting only under a Body Art Technician Apprentice License.
2. Before a person acting under a Body Art Technician Apprentice License conducts any form of Body Art activity upon a Client, such person must obtain the Client's written consent. This written consent shall be physically affixed to the Application and Consent Form for Body Art Activity required pursuant to Section 7.2 of this Body Art Regulation and such written consent shall be maintained therewith.

#### **6.6 Body Art Technician Mentor License**

1. The holder of a Body Art Technician License who wishes to serve as a Mentor shall submit a completed application provided by the Department and shall pay to the Provincetown Health Department a fee to be determined by the Board of Health. A Body Art Technician Mentor License shall be valid for no more than one year. The Department may renew a Body Art Technician Mentor License under this Body Art Regulation and each applicant for such renewal shall pay to the Provincetown Health Department a fee to be determined by the Board of Health. All Body Art Technician Mentor Licenses shall expire on December 31 of the year of issuance.

2. Only a Technician that has been professionally Licensed for 5 years and can show evidence of full time experience during that time, whether such experience was obtained within or outside the Commonwealth shall Mentor an apprentice.
3. Apprenticeship program approval shall be based on Departmental approval of curriculum proposed by Mentor.
4. Mentors may only have one apprentice at a time.
5. If a Mentor fails for any reason to provide supervision to an Apprentice, the Apprentice may resume his/her Apprenticeship with a new Mentor with approval from the Health Department.
6. All Mentors must maintain an ongoing and up-to-date log of the Apprentice's training, hours logged in each required activity, Mentor comments on Apprentice performance and learning, and signatures of both Mentor and Apprentice.
7. The Mentor must provide a certificate of insurance demonstrating coverage for the Apprentice.

## **Section VII. Customers / Clients**

### **7.1 Application and Consent Form for Body Art Activity -Requirement**

### **7.2 Application and Consent Form for Body Art Activity - Content**

### **7.3 Impairment by Drugs or Alcohol**

### **7.4 Aftercare Instructions - Requirement**

### **7.5 Aftercare Instructions - Minimum Content**

### **7.6 Age Restriction for Certain Body Art Activities**

### **7.7 Rash, Lesion or Visible Sign of Infection**

### **7.1 Application and Consent Form for Body Art Activity - Requirement**

Every Client shall complete an application and consent form approved by the Department prior to having any Body Art activity performed upon or to their body.

### **7.2 Application and Consent Form for Body Art Activity - Content**

Every application and consent form, required by Section 7.1 of this Body Art Regulation, shall contain a minimum of the following:

1. General information regarding Body Art,
2. For Tattoos, the following statements should be provided to the Client:
  - a. Tattoos should be considered permanent.
  - b. The removal of tattoos and scars would require surgery or other medical procedures that may result in scarring or additional scarring of the skin.
  - c. At this time, the safety and use of body art inks, dyes, and pigments has not been determined or approved by the US Food and Drug Administration (FDA).
3. Information as to the side effects of Body Art, including, but not limited to:
  - a. Possible adverse reaction to ink/dye/pigment/jewelry
  - b. Possible change in color of ink/dye/pigment over time
  - c. A decreased ability of physician to locate skin melanoma in regions concealed by Tattoos, Brands, Scars and other forms of Body Art
  - d. Possible tetanus
  - e. Possible systemic infection
  - f. Possible keloid formation
4. Application and Consent Form should contain the question, "Are there any conditions that may be present that would pose a risk to the client or the practitioner?"
5. Client information must be collected, including:
  - a. Name of the Client
  - b. Age of the Client or Date of Birth

- c. In the case of a Minor Client, the Parent's or legal Guardian's name, proof of parentage or legal guardianship through a copy of a birth certificate or court order of guardianship respectively, or a notarized document signed by the parent or legal guardian attesting to the parent's or legal guardian's relationship to the Minor Client, and consent to the conduct of the contemplated Body Art activity upon the Minor Client. The parent/guardian must fill out a release form and must remain with minor client (in the room), even if they are not watching the procedure. No expired identification will be accepted as proof of age or relationship.
6. The Application must include a brief description of the Body Art activity to be performed.
7. Instructions requiring the Client to adhere to the Exposure Control Plan as such Plan relates to the Client's conduct in the Body Art Establishment.
8. The name of the Body Art Technician who is to conduct the Body Art upon the Client or Minor Client.
9. Signature of Client, or in the case of a Minor Client, the signature of Client's parent or legal guardian. The parent or legal guardian shall sign the consent form in the presence of the Body Art Technician.
10. The signature of Body Art Technician.
11. The date(s) of all signature(s).
12. All Application and Consent Forms must be kept under lock and key for at least three years.

### **7.3 Impairment by Drugs or Alcohol**

No person shall receive any form of Body Art activity while under the influence of drugs or alcohol.

### **7.4 Aftercare Instructions - Requirement**

All Clients shall obtain written and verbal aftercare instructions as provided by the Body Artist who performs the procedure. Aftercare instructions shall be appropriate for the form of Body Art conducted upon such a person.

### **7.5 Aftercare Instructions - Minimum Content**

Aftercare Instructions shall be approved by the Department and shall include, at a minimum the following:

1. Responsibilities and proper care following the procedure;
2. Restrictions, if any, upon the client;
3. Signs and symptoms of infection;
4. Instructions to contact a physician if possible signs of infection occur.
  - a. Examples are unexpected redness, tenderness or swelling at the site of the body art procedure, any rash, fever after the procedure, any unexpected drainage at or from the site of the body art procedure.
5. Contact information for the Provincetown Health Department and instructions for the Client—or in the case of a Minor Client, the Minor Client and his/her Parent or Legal Guardian—to contact the Department with any questions or concerns regarding safety, Sanitization or Sterilization procedures.

### **7.6 Age Requirements for Certain Body Art Activities**

According to Massachusetts General Law, Chapter 7, §48, a minor is defined as a person under the age of 18. All persons under the age of 18, whether a resident of Massachusetts or of another locality, are defined as minors for the purpose of this regulation.

1. No Minor Client shall receive a Tattoo.
2. No Minor Client shall be Branded.
3. No Minor Client shall be Scarred.
4. No minor client shall receive a cosmetic tattoo (micropigmentation).
5. No minor client may be pierced without the written consent of his/her parent or legal guardian.  
See Section 7.2(4)(C)
6. No Minor Client shall have his or her genitalia or nipples pierced.
7. No Minor Client under 14 years of age shall have his or her naval or oral areas pierced.

### **7.7 Rash, Lesion or Visible Signs of Infection**

The skin area or mucosa of a Client that is to receive any form of Body Art activity shall be free from rash, any lesion or from any visible sign of infection.

## **Section VIII. Body Art Establishments**

### **8.1 Application - Registration - Body Art Establishment Permit**

### **8.2 Zoning**

### **8.3 Plans**

### **8.4 Workstation**

### **8.5 Separate Areas**

### **8.6 Walls-Floors-Ceilings**

### **8.7 Lighting and Ventilation**

### **8.8 Hand Washing Sinks**

### **8.9 Bathroom Requirement**

### **8.10 Exposure Control Plan - Requirement**

### **8.11 Exposure Control Plan - Submission**

### **8.12 Telephone Access - Emergency Communication**

### **8.13 Body Art Establishment – Liability Insurance**

### **8.14 Body Art Establishment - Other Activities**

### **8.15 Body Art Establishment - Permit - Department Authorized to Issue**

### **8.16 Body Art Establishment - Permit - Posting Requirement**

### **8.17 Mobile or Temporary Body Art Establishment**

### **8.18 Health of Body Art Establishment Employees**

### **8.19 Operator Responsibilities**

### **8.1 Application - Registration - Body Art Establishment Permit**

Any person seeking registration under this Body Art Regulation so as to obtain a Body Art Establishment Permit shall submit a completed application provided by the Department and shall pay to the Provincetown Health Department a fee to be determined by the Board of Health. A Body Art Establishment Permit shall be valid for no more than one year. The Department may renew a Body Art Establishment Permit under this Body Art Regulation and each applicant for such renewal shall pay to the Provincetown Health Department a fee to be determined by the Department. All Body Art Establishment Permits shall expire on December 31 of the year of issuance.

### **8.2 Zoning**

No Body Art facility or Body Art Establishment shall be located in any area except as allowed in the Provincetown Zoning By-Laws.

### **8.3 Plans**

1. Every Operator or applicant for a Body Art Establishment Permit shall submit to the Department scaled plans and specifications of the proposed facility wherein any Body Art activity is intended to be conducted demonstrating the compliance of the facility with this Body Art Regulation. The operator should submit the plans to the Department prior to applying for the Certificate of Occupancy. The Department may require an on-site inspection of the proposed facility to determine and/or ensure compliance with the requirements of this Body Art Regulation prior to the issuance by the Department of a Body Art Establishment Permit pursuant to this Body Art Regulation.
2. Prior to issuance of a Permit to operate, the applicant must provide a copy of a current Certificate of Occupancy (CO) from the Provincetown Health Department Building Department in order to show that the facility and fixtures are in compliance with the Zoning By-Laws and State Building Code and related Codes (State Plumbing and Gas Code, State Electrical Code, and State Access Regulations).

### **8.4 Workstation**

1. Every Workstation shall occupy no less than 45 square feet of floor area.
2. Each Body Art Establishment shall have at least one Workstation.
3. The area within each Workstation shall be capable of being completely screened from view from any person outside such Workstation should a customer make such a request.
4. A Workstation shall be used for no other purpose.
5. Each Workstation shall be separated from the Cleaning Area of the Body Art Establishment, by a wall or other solid barrier extending from the floor to a minimum height of 8 feet or to the ceiling of the establishment.
6. A Workstation shall be maintained in a Clean Procedure Condition.

### **8.5 Separate Areas**

1. Every Body Art Establishment shall have therein a Cleaning Area. Every Cleaning Area shall have an area for the placement and use of an Autoclave located or positioned so as to be a minimum of 36 inches from a required Ultrasonic Cleaning Unit.
2. The Cleaning Area shall be used for no other purpose.
3. Every Body Art Establishment shall have therein an Instrument Storage Area. The Instrument Storage Area shall be equipped with cabinets for the storage of all Instruments and Equipment. The required cabinets shall be located a sufficient distance from the Autoclave and Ultrasonic Cleaning Unit so as to prevent Contamination of the Instruments and Equipment stored therein.
4. Every Body Art Establishment shall have therein a Customer Waiting Area exclusive of and separate from any Workstation, Instrument Storage Area or Cleaning Area.

### **8.6 Walls – Floors – Ceilings**

1. Every Workstation, Instrument Storage Area, toilet room, and Cleaning Area shall be constructed and maintained in an acceptable manner so as to provide a durable, smooth, nonabsorbent and washable surface.
2. All such floors, walls and ceilings shall be light-colored.

### **8.7 Lighting and Ventilation**

1. Every Workstation shall be properly ventilated and have adequate lighting maintained at all times during the conducting of Body Art Activities.
2. Every Workstation, Cleaning Area and every area in a Body Art Establishment where linens, Instruments, Sharps or other Equipment are exposed, Sanitized or Sterilized shall be equipped

exclusively with readily cleanable light fixtures with light bulbs, lenses or globes of shatterproof material.

### **8.8 Hand Washing Sinks**

A Hand Sink shall be provided at each Workstation.

### **8.9 Bathroom Requirement**

There shall be a minimum of one bathroom containing a toilet and sink. The bathroom shall be provided with toilet paper, liquid hand soap and paper towels in a fixed dispenser.

### **8.10 Exposure Control Plan – Requirement**

Each Operator shall create, update as needed, and comply with an Exposure Control Plan.

### **8.11 Exposure Control Plan - Submission.**

1. The Exposure Control Plan for a Body Art Establishment shall be submitted to the Department for review so as to meet all of the requirements of OSHA regulations, to include, but not limited to 29 Code of Federal Regulation 1910.1030 *et seq*, as amended from time to time.
2. A copy of the Body Art Establishment's Exposure Control Plan shall be maintained at the Body Art Establishment at all times and shall be made available to the Department upon request.

### **8.12 Telephone Access - Emergency Communication**

A Body Art Establishment shall be required to have a telephone in good working order and easily accessible to all employees and Clients during all hours of operation for the purpose of contacting police, fire or emergency medical assistance or ambulance services in the event of an emergency or perceived emergency. A legible sign shall be posted at or adjacent to the telephone indicating the correct emergency telephone numbers and the number of the Department.

### **8.13 Body Art Establishment – Liability Insurance**

A Body Art Establishment shall be required to demonstrate Liability Insurance coverage for the Body Art Establishment and each Body Art Technician (including permanent, contract, and guest technicians) from an approved provider for a minimum of \$1,000,000. A copy of proof of insurance must be provided to the Health Department yearly.

### **8.14 Body Art Establishment - Other Activities - Restrictions**

No Operator shall allow the use of a Body Art Establishment for any other use which, in the opinion of the Department, may cause the contamination of Instruments, Equipment, a Procedure Surface or Workstation or in any way contributes to an exposure to bloodborne pathogens.

### **8.15 Body Art Establishment - Permit - Department Authorized to Issue**

If an applicant for a Body Art Establishment Permit demonstrates to the Department compliance with all relevant provisions of this Body Art Regulation, the Department is hereby authorized to issue a Body Art Establishment Permit pursuant to the provisions of this Body Art Regulation.

### **8.16 Body Art Establishment - Permit - Posting Requirement**

The Operator of a Body Art Establishment shall post in an area of the Body Art Establishment accessible to the Department and visible to Clients the original of the current Body Art Establishment Permit issued by the Department.

### **8.17 Mobile or Temporary Body Art Establishment**

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

### **8.18 Health of Body Art Establishment Employees**

No person affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of, or in any capacity in, a Body Art Establishment which would create a likelihood that that person could Contaminate Equipment, Instruments, supplies, Procedure Surfaces, Workstations or otherwise compromise or could reasonably be expected to compromise the Sterility of the Body Art Establishment with body substances or pathogenic organisms.

### **8.19 Operator Responsibilities**

The Operator of a Body Art establishment shall exercise proper management and control of the licensed premises and shall be responsible for ensuring compliance with these Regulations with respect to the practice of Body Art on the Premises and the Operator shall be responsible for any violations of these Regulations whether present or not.

## **Section IX. Instruments and Equipment**

### **9.1 Equipment and Furnishings**

### **9.2 Sanitizing and Sterilization Units**

### **9.3 Waste Receptacles**

### **9.4 Linens**

### **9.5 Rotary Pens**

### **9.6 Ink – Dye - Pigment**

### **9.7 Inserted Objects – Jewelry**

### **9.8 Single Use Equipment and Instruments**

### **9.9 Prohibited Instruments and Materials**

### **9.1 Equipment and Furnishings**

The Procedure Surface and the surface of all furniture and counter tops located in a Workstation, Instrument Storage Area and Cleaning Area shall be made of materials that are, or shall be treated so as to be, smooth, non-absorbent, non-porous, and easily cleaned and Sanitized. Tattoo machines shall be bagged in non-porous plastic bagging and changed between clients. Tattoo machines shall be cleaned with cloths and cotton swabs soaked in tuberculocide. If a Tattoo artist places his/her tattoo machine in his/her lap, the Tattoo artist shall wear a disposable apron to cover his/her lap.

### **9.2 Sanitizing and Sterilization Units**

1. Every Body Art Establishment shall have at a minimum the following:
  - a. One or more Ultrasonic Cleaning Units sold under approval of the U.S. Food and Drug Administration. Every Ultrasonic Cleaning Unit shall be clearly labeled “Biohazardous” and shall be installed or placed in the Cleaning Area at a minimum distance of 36 inches from the required Autoclave.
  - b. One or more Autoclave sold for medical Sterilization purposes under approval of the U.S. Food and Drug Administration;
2. Every Operator and Body Art Technician shall be knowledgeable in the required washing, cleaning and Sterilization procedures including the proper operation of the Ultrasonic Cleaning Unit and Autoclave as per the manufacturer’s instructions.

### **9.3 Waste Receptacles**

1. Every Workstation shall have a functional, foot-operated, covered, cleanable, waste receptacle for disposal of used gloves and paper materials and soiled body art materials.
  - a. For sanitary purposes, when not in use, the receptacle cover must be kept closed.
2. Every Workstation shall have an approved Sharps Container exclusively used for the disposal of Contaminated Waste in accordance with 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medial or Biological Waste, Massachusetts State Sanitary Code, Chapter VIII.

### **9.4 Linens**

Every Body Art Establishment or Body Art Technician shall maintain an adequate supply of reusable, launderable linens or single-use linens, such as dental bibs, larger drapes and lap cloths, to be used in conducting Body Art activities.

### **9.5 Rotary Pens**

If used in a Body Art activity, rotary pens, also known as cosmetic machines, shall have detachable, disposable, sterile combo couplers and shall have detachable, disposable casings or casings designed and manufactured to be easily cleaned and Sterilized.

### **9.6 Inks – Dyes – Pigments**

1. All Inks, Dyes and Pigments used in the conduct of Body Art shall be specifically designed for that purpose, properly labeled with its ingredients and shall not be adulterated or contaminated in any way.
2. The mixing of such Inks, Dyes or Pigments or the dilution of the same with distilled water during the procedure, or industry-standard diluting agents at other times are acceptable, unless prohibited or not recommended by the product manufacturer.
3. The manufacturer and product information, (e.g. product brand, type, name, expiration date, ingredients, etc.) of tattoo inks, dyes, or pigments shall be disclosed to the client, upon their request.
4. No ultraviolet light-reactive inks shall be used.

### **9.7 Inserted Objects - Jewelry**

1. Jewelry shall be Sterilized, free from polishing compounds, free from nicks, scratches, burrs or irregular surface conditions.
  - a. “Pre-sterilized” jewelry is prohibited for use without Sterilization at the Body Art Establishment in which it is used.
2. Jewelry of 16 Gauge girth or thicker shall not have raised external threads or threading.
3. Jewelry shall be in good condition, designed and manufactured for insertion into the intended body part of the Client.
4. Only Jewelry manufactured of surgical implant stainless steel of American Society for Testing and Material Standards grade F138, surgical implant solid 14K or 18K white or yellow gold, niobium, surgical implant titanium of Ti6A4V ELI, American Society for Testing and Material Standards F-136-98, platinum, sterling silver or other materials considered by the Department to be equally bio-compatible and capable of adequate cleaning and Sterilization shall be inserted into a Client.

### **9.8 Single Use Equipment and Instruments**

1. Equipment, Instruments and supplies intended for single-use shall not be used more than one time. 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, solid core needles, or needles with cannula shall not be reused.

### **9.9 Prohibited Instruments and Materials**

No Operator, Body Art Technician or other person shall utilize or have available in a Body Art Establishment any of the following:

1. Instruments or materials, such as styptic pencils or devices, alum, or any similar material, used to check the flow of blood.
2. Liquid sterilants for the attempted sterilization of any re-usable Instrument or component.
3. Rotary pens that are designed and manufactured with a sponge type material at the opening of the chamber for the purpose of prohibiting the backflow of pigment and body fluid into the machine.
4. Multiple-use Instruments or components that are designed in such a manner that restrict or prevent proper washing, cleaning or Sterilization.
5. Drugs, chemicals, or agents that require a licensed medical doctor's authorization for use, application or dispensation.
6. Suturing kits or suturing devices, scalpels, biopsy or dermal punches, cauterizing tools or devices, or other tools, devices or instruments designed for use by a medical professional in a sterile environment.
7. Piercing needles or piercing tapers for the sale or use by one not a Body Art Technician.
8. "Pre-sterilized" piercing needles that have not been Sterilized within the Body Art Establishment.
9. Needles used in the practice of "play piercing," so-called.
10. Top-loading autoclaves, Autoclaves that lack a temperature gauge and/or a pressure gauge, "dry heat" Sterilizers and/or Autoclaves.

## **Section X. General Requirements**

### **10.1 Animals**

### **10.2 Smoking, Eating and Drinking - Prohibited**

### **10.3 Disease Transmission**

### **10.4 Exposure Incident Report**

### **10.5 Injury Report**

### **10.6 Recordkeeping**

### **10.7 Establishment Maintenance**

### **10.8 Bathroom and Plumbing Maintenance**

### **10.9 Equipment and Instrument Maintenance**

### **10.10 Contaminated Instruments**

### **10.11 Instrument Storage**

### **10.12 Use of Chemicals and Cleansers**

### **10.13 MSDS File (OSHA Hazard Communication Standard)**

### **10.14 Labeling**

### **10.15 Linen Storage and Cleaning**

### **10.16 Cleaning and Testing of Ultrasonic Cleaning Units and Sterilization Units**

### **10.17 Hauling**

### **10.1 Animals**

1. No Body Art Technician shall conduct any form of Body Art upon an animal.
2. No animal, except one actually serving as a certified guide animal, signal animal or service animal, shall be allowed in a Body Art Establishment.
3. Fish aquariums shall be allowed in the waiting rooms and nonprocedural areas.

### **10.2 Smoking, Eating and Drinking in Body Art Establishment**

1. No Body Art Technician, or staff of the Body Art Establishment shall smoke or consume food or beverages in the Body Art Workstation, Instrument Storage Area, or Clean Area.
2. Clients may not eat in Body Art Workstation, Instrument Storage Area, or Clean Area.
3. Clients may consume fluids in the Body Art Workstation.

### **10.3 Disease Transmission**

Except as set forth in these regulations, no Body Art Technician or other person shall commit or allow any act that may expose any Client or person to disease or illness or otherwise contaminate any Instrument or area in a Body Art Establishment.

### **10.4 Exposure Incident Report**

1. An Exposure Incident Report shall be completed by the close of the business day during which an Exposure has or might have taken place by the involved or knowledgeable Body Art Technician for every Exposure incident occurring in the conduct of any Body Art activity.
2. Each Exposure Incident Report shall contain:
  - a. A copy of the Application and Consent Form for Body Art activity completed by any Client or Minor Client involved in the Exposure incident;
  - b. A full description of the Exposure incident, including the portion of the body involved therein;
  - c. Instrument(s) or other Equipment implicated;
  - d. A copy of the Body Art Technician License of the involved Body Art Technician.
  - e. Date and time of Exposure;
  - f. A copy of any medical history released to the Body Art Establishment or Body Art Technician; and
  - g. Information regarding any recommendation to refer to a physician or waiver to consult a physician by persons involved.

### **10.5 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 Department within five working days. A copy of the report should also be forwarded to the injured client within five working days of its occurrence knowledge thereof. The report shall include, but not be limited to the following information:

1. The name of the affected client;
2. The name and location of the Body Art Establishment involved;
3. The name of the Body Art Technician(s) involved;
4. The nature of the injury, infection complication or disease;
5. The name and address of the affected client's health care provider, if any;
6. Any other information considered relevant to the situation.

### **10.6 Recordkeeping**

Every Operator shall have and retain at the Body Art Establishment for inspection by the Department the following information for the time period specified. All records must be maintained onsite, unless otherwise indicated:

1. Exposure Control Plan – a current copy of the Exposure Control Plan for the Body Art Establishment submitted to the Department for approval.

2. Employee records [three years] – indicating: full legal name, home address, home phone number, identification photograph, state identification card number, physical description as detailed on state identification card, date of birth, type(s) of Body Art procedures conducted, training records, dates of employment at the Body Art Establishment, Body Art Technician License number, Hepatitis B vaccination status or declination notification.
3. Body Art Technician independent operator (non-employee of the Body Art Establishment) records [three years] – indicating: full legal name, home address, home phone number, identification photograph, state identification card number, physical description as detailed on state identification card, date of birth, type(s) of Body Art procedures conducted, training records, dates of employment at the Body Art Establishment, Body Art Technician License number, Hepatitis B vaccination status or declination notification;
4. Client records [three years] – copies of all Application and Consent forms for Body Art activity (which include the name, age, address of the client, and all signatures and proof of parental consent if applicable), manufacturer name, codes (if any), and lot numbers of any Dye, Ink, or Pigment or Jewelry or insertion materials to be used in the Body Art activity, technician(s) who perform the procedure, the date(s) of the Body Art procedure, including a daily estimate of progress for the conduct of Body Art requiring multiple days to complete. Client information must be stored onsite for the first year following a procedure and may be stored offsite thereafter so long as it is available to the Department or client upon request.
5. Disposal manifests for sharps and other contaminated waste for [three years].
6. Training records [three years] – documentation to verify training of Exposure Control Plan to all employees and Body Art Technician independent operator(s) conducting Body Art activity at such establishment.
7. Commercial biological monitoring system test results [three years].
8. A log of instrument sterilization activity, including procedure (autoclaving, cleaning, filling, repair, etc.), date and time, comments, and person performing procedure must be maintained and kept in the clean room area.
9. Body Art Regulation – one copy of the most current version of this Body Art Regulation and any State regulations concerning the practice of Body Art.
10. Every Operator shall have and retain at the Body Art Establishment for inspection by the Department all Exposure Incident Reports permanently. The disposal or destruction of these reports is prohibited.
11. A file of all inventories and packing slips of materials used and MSDS sheets of chemicals and materials used in the practice of Body Art.

### **10.7 Establishment Maintenance**

Every area of a Body Art Establishment shall be kept in good repair, clean, without mold, and free of all pests and vermin and maintained so as to prevent Contamination of Clients and other persons.

### **10.8 Bathroom and Plumbing Maintenance**

Every bathroom, all plumbing and all plumbing fixtures shall be disinfected, kept clean, fully operative, and in good repair.

### **10.9 Equipment and Instrument Maintenance**

1. All Instruments, Equipment and Procedure Surfaces used for Body Art activity, including, but not limited to, devices, containers, cabinets, storage compartments, chairs, tables, counters, and dispensers shall be maintained clean, fully operative, and in good repair and free from Contamination.

2. All Instruments manufactured for performing any specific Body Art activity shall be so designated, used and approved, and shall not be modified, adulterated, Contaminated or improperly used. Instruments used for Body Piercing shall be constructed of stainless surgical-grade steel, and designed and manufactured for such use.

### **10.10 Contaminated Instruments**

1. Every Contaminated reusable Instrument or component thereof shall be immersed in water or other approved liquid solution in the Cleaning Area until cleaned and Sterilized.
2. Prior to Sterilization, every such Instrument shall be thoroughly washed by scrubbing with or soaking in an appropriate Disinfectant and Hot Water in accordance with manufacturer's instructions so as to remove Contamination and foreign matter.
3. Upon completion of the washing process as set forth in 10.10 subsection (2) above, every such Instrument shall be cleaned using an Ultrasonic Cleaning Unit in accordance with manufacturer's instructions. All Ultrasonic Cleaning Units must be cleaned and disinfected at least weekly. Each establishment must have a system in place that tracks cleaning in the Ultrasonic Cleaning Units.
4. Upon completion of the cleaning process as set forth in 10.10 subsection (3) above, every such Instrument shall be sealed in autoclavable packages into procedure set-up packages with color change indicators designed to indicate complete Sterilization thereof. Packages must be marked with the date (month, day, and year) and time of such Sterilization, the temperature and pressure gauge readings and a brief description of the instrument(s) contained within the package. Instruments may be packaged individually or with other Instruments only to the extent specified in the package manufacturer's instructions.
5. Upon completion of the packaging process as set forth in 10.10 subsection (4) above, every such Instrument shall be properly Sterilized in an FDA-approved according to the Autoclave manufacturer's instructions. Top-loading Autoclaves are not allowed for use in a body art establishment.
6. Sterilized packages must be removed from the Autoclave in "dry" condition.
7. If a package becomes wet, is opened or is otherwise compromised so as to allow the possible Contamination of the contents of the package, any Instrument therein shall be deemed Contaminated and shall again be washed, cleaned, packaged, and Sterilized as indicated in these regulations prior to use.
8. Sterilized Instruments shall be stored in a dry, clean, labeled cabinet or tightly covered labeled container that is used exclusively for the storage of Sterilized Instruments.
9. Every Sterilized package shall be deemed expired one year after the date of Sterilization. Once expired, every package shall be deemed non-sterile and its contents shall be removed and shall again be washed, cleaned, packaged and Sterilized consistent with the provisions of this Section prior to use.
10. Liquid Sterilants shall not be used for the Sterilization of any reusable Instrument.

### **10.11 Instrument Storage**

All sterilized body art Instruments must be stored in the Instrument Storage Area in a manner so as to prevent Contamination. Identical Instruments shall be exclusively stored together, unless intermingled storage with different Instruments does not represent a hazard.

### **10.12 Use of Chemicals and Cleansers**

All Tuberculocides, Disinfectants, chemicals, and cleansers must be used according to the manufacturer's requirements, used only for the purpose approved and intended by the manufacturer, and properly labeled and stored so as to prevent Contamination and hazard.

### **10.13 MSDS File (OSHA Hazard Communication Standard)**

Material Safety Data Sheets must be obtained for all chemical products present in the establishment. MSDS sheets must be kept in a file or binder and be available for viewing by all establishment personnel. MSDS sheets must be kept up-to-date through periodic review.

### **10.14 Labeling**

All storage containers, cabinets, shelves and other storage areas in the Instrument Storage Area shall be properly labeled as to their contents, including, but not limited to, identification of Contaminated or soiled contents as appropriate.

### **10.15 Linen Storage and Cleaning**

1. Clean linen shall be stored in a manner so as to prevent Contamination. Containers used for the storage of such linen shall be clearly labeled as to the contents and used for no other purpose. Linens that have become soiled or Contaminated shall be disposed of, or not be used, until properly laundered. Contaminated linen shall be labeled, handled, stored, transported, and laundered or disposed of so as to prevent hazard in a manner approved by the Department.
2. Any other protective clothing, garment or cloth items worn during or used during in Body Art activity and intended for reuse shall be mechanically washed with detergent and dried after each use. The items shall be stored in a clean, dry manner and protected from Contamination until used. Should such items become Contaminated directly or indirectly with bodily fluids, the items shall be washed in accordance with standards applicable to hospitals and medical care facilities, at a temperature of 160° F or a temperature of 120° F with the use of chlorine Disinfectant.

### **10.16 Cleaning and Testing of Ultrasonic Cleaning Units and Sterilization Units**

1. Every Ultrasonic Cleaning Unit and Autoclave or Sterilization Unit shall be used and maintained according to manufacturer's instructions and specifications. At a minimum, each Ultrasonic Cleaning Unit and Autoclave must be emptied, thoroughly cleaned and Disinfected at least once each week that the unit is used. No visible residue or filth shall be present.
2. Mail Out Spore Testing: Every Autoclave shall be tested with a commercial biological monitoring (spore) system test in a manner and frequency consistent with the manufacturer's instructions. At a minimum, spore testing must be conducted no less than once every week to monitor the efficacy of the eradication of all living organisms, including spores, by the Autoclave.
3. Analysis of the commercial biological monitoring (spore) system test of the Autoclave shall be performed by an independent commercial testing laboratory contracted by the Body Art Establishment Owner. A provision shall be included in the contract between the Operator and/or Body Art Technician with the commercial testing laboratory requiring the commercial testing facility to notify the Department of any failure of the Autoclave to eradicate all living organisms, including spores.
4. The Body Art Establishment Owner shall keep a log book of autoclave activity in the vicinity of the autoclave. Such a log shall be available during inspections and when requested by the Department. The log book shall include the following information: date and time of all use of the autoclave, signature of person performing autoclaving, materials being autoclaved, date and time of periodic spore testing, date and time of cleaning of autoclave.
5. The cleaning and testing requirements are only applicable when permitted reusable materials are in use that require use of an Ultrasonic Cleaning Unit and Autoclave or Sterilization Unit.

### **10.17 Waste Hauling**

1. All Contaminated Waste in solid form shall be removed from the Body Art Establishment daily and shall be placed in a covered, watertight, secured receptacle for pickup and removal.

2. All Sharps shall be disposed of through use of an approved waste hauler in accordance with all applicable state and federal and local laws and regulation, including 105 CMR 480.000. The frequency of disposal shall be determined by the volume of used sharps. No sharps container shall be filled to the extent that any part of the sharps is not contained within the sharps container.

## **Section XI. Conduct of Body Art**

### **11.1 Workstation Sanitizing**

### **11.2 Hand Washing and Use of Gloves**

### **11.3 Instrument and Equipment Preparation**

### **11.4 Use of Workstation**

### **11.5 Use of Instruments, Supplies and Sharps**

### **11.6 Waste Disposal**

#### **11.1 Workstation Sanitizing**

1. All surfaces in a Workstation which come in contact with a Client or which become Contaminated or which may reasonably have become Contaminated shall be cleaned with water and soap or other appropriate cleaning compound immediately following the conduct of Body Art upon a Client.
2. The Workstation, including, but not limited to the Client's chair, table, tray, procedure Surface and similar surfaces shall be thoroughly Sanitized with an approved Disinfectant immediately before and immediately after the conduct of Body Art upon a Client. The use of disinfectant wipes is allowed provided the wipes are used on all potentially Contaminated surfaces.

#### **11.2 Hand Washing and Use of Gloves**

1. A Body Art Technician shall clean his/her hands and forearms thoroughly by washing with antibacterial soap and warm water and promptly dry the same with single-use paper towels or like material prior to conducting any Body Art activity.
2. A Body Art Technician shall wear new, clean, single-use examination gloves while assembling all Instruments and other supplies intended for use in the conduct of Body Art and during the conduct of Body Art upon a Client. New, clean, single-use non-latex examination gloves shall be used during the preparation for and the conduct of any Body Art activity upon a Client with a known or a suspected latex allergy.
3. If an examination glove is pierced, torn or Contaminated through contact with any part of the Client not subject to the conduct of Body Art or such other surface so as to present the possibility of Contamination, any person other than the Client, or otherwise exposed to an unsanitary or non-sterile surface, both gloves must be promptly removed and discarded into an appropriate waste receptacle. The Body Art Technician shall don new gloves before proceeding with the conduct of Body Art.
4. If the gloves of a Body Art Technician are removed at any time during assembly of instruments or supplies, or the conduct of Body Art, the Body Art Technician must clean his/her hands and don new gloves in accordance with this Section.
5. The use of single-use examination gloves does not preclude or substitute for the above handwashing requirement.

#### **11.3 Instrument and Equipment Preparation**

1. Every Body Art Technician shall use new, single-use Protective Barrier Materials as drapes, lap cloths, machine bags or covers, clip cord covers, work surface covers, etc., for each element of Body Art conducted upon a client.
2. Every substance used in the conduct of Body Art shall be dispensed from containers so as to prevent Contamination or the possibility of Contamination of the unused portion. Immediately

before tattooing a Client, a sufficient quantity of the ink, dye or pigment to be used shall be transferred from its original bottle or container into sterile, single-use disposable cups, caps or containers.

3. Upon Sanitization of the Workstation, the Instrument tray shall be covered with an uncontaminated single-use paper towel, tray cover or similar material.
4. Every Instrument required for the conduct of Body Art upon a Client shall be placed and arranged on the Instrument tray in a manner so as to prevent Contamination of Sterilized Instruments. All Sterilized Instruments shall remain in Sterile packages until opened in front of the Client.
5. Sharps Containers shall be easily accessible to the Body Art Technician and located as close as is feasible to the immediate area where the Sharps will be used.
6. Squeeze bottles must be emptied and cleaned at least once per week. The data of cleaning must be written on a label affixed to the bottle.

#### **11.4 Use of Workstation**

1. The conduct of Body Art shall occur only under Clean Procedure Conditions.
2. Only the Client, the parent or legal guardian of a Minor Client, a companion of the client, the Body Art Technician conducting the Body Art and an assistant or apprentice to the Body Art Technician - with the express permission of the Client, shall be allowed in the Workstation during the conduct of Body Art.

#### **11.5 Use of Instruments, Supplies and Sharps**

1. All Instruments used in the conduct of Body Art shall be without Contamination, and shall be properly cleaned, Sanitized and Sterilized in accordance with this Body Art Regulation.
2. All Instruments and other Equipment or supplies used in the conduct of Body Art that are designed or intended for single-use shall only be used once.
3. All Sharps shall be properly disposed of immediately following use in a Sharps Container.
4. All products applied to the skin, including Body Art stencils, shall be single-use and shall be used only once.
5. Products used in the application of Body Art stencils shall be dispensed and applied to the area of the Client upon which the Body Art activity is to be performed with Sterile gauze or other Sterile applicator so as to prevent Contamination of the container and contents of the product in use. The gauze or other applicator shall be used only once.
6. Only single-use disposable razors shall be used in the conduct of Body Art activities and such single-use disposable razors shall not be used more than one time.

#### **11.6 Waste Disposal**

Disposable items such as gloves, wipes, cotton balls, Q-tips, water cups, rinse cups (used alone or in an ultrasonic cleaning unit), drapes, lap cloths, aprons and other single-use items that have come into contact with any person, Client, Workstation, Instrument trays, counters, towels or linens used for the conduct of Body Art, or have otherwise become Contaminated shall be promptly discarded during or upon completion of the conduct of Body Art into an appropriate waste receptacle in accordance with this Body Art Regulation.

### **Section XII. Prohibited Activities**

#### **12.1 Performing Body Art in Locations That are Not Licensed Body Art Establishments**

#### **12.2 Piercing Gun**

#### **12.3 Particular Body Piercing Prohibition/Restriction**

#### **12.4 Tongue Splitting**

#### **12.5 Three Dimensional / Implantation**

**12.6 Tooth Filing****12.7 Cartilage Notching****12.8 Amputation****12.9 Genital Modification****12.10 Introduction of Saline or Other Liquids****12.11 Tattooing of the Eyeball****12.1 Performing Body Art in Locations that are Not Licensed Body Art Establishments**

No person shall perform any type of Body Art in any locations that are not Licensed Body Art Establishments. Residential Body Art establishments are prohibited in the Town of Provincetown.

**12.2 Piercing Gun**

Piercing Guns are prohibited at all times.

**12.3 Particular Body Piercing - Prohibition/Restriction**

The following Body Piercings are hereby prohibited:

1. Piercing of the Uvula.
2. Piercing of the tracheal area.
3. Piercing of the ankle.
4. Piercing between the ribs or vertebrae.
5. Piercing of the web area of the hand or foot.
6. Piercing of the lingual frenum (tongue web).
7. Piercing of the clitoris.
8. Any form of chest or deep muscle piercing - excluding piercing the nipple.
9. Piercing of the anus.
10. Piercing of an eyelid, whether the top or bottom.
11. The form of Body Piercing known as “pocketing.”
12. Piercing of the gums.
13. Piercing or skewering of a testicle.
14. So-called “deep” piercing of the penis - meaning piercing through the shaft of the penis, or “trans-penis” piercing in any area from the corona glandis to the pubic bone.
15. So-called “deep” piercing of the scrotum - meaning piercing through the scrotum, or “trans-scrotal” piercing.

**12.4 Tongue Splitting**

The cutting, splitting or other bifurcation of the tongue is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

**12.5 Three Dimensional / Implantation**

Three Dimensional Body Art, including “beading,” and implantation, which may involve, but is not limited to, incision or separating the skin is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts in a sterile environment.

**12.6 Tooth Filing / Fracturing / Removal**

The filing or shaping or the intentional fracturing or extraction of a tooth is hereby prohibited unless performed by a dentist licensed by the Commonwealth of Massachusetts.

**12.7 Cartilage Modification**

The cutting, notching, sculpting or other modification of cartilage is hereby prohibited unless performed by a doctor licensed by the Commonwealth of Massachusetts.

### **12.8 Amputation**

The intentional amputation of any part of the body is hereby prohibited unless performed by a doctor licensed by the Commonwealth of Massachusetts.

### **12.9 Genital Modification**

Modification of the genitalia by means of sub-incision, bifurcation, castration, male or female nullification or other surgical means is hereby prohibited unless performed by a doctor licensed by the Commonwealth of Massachusetts.

### **12.10 Introduction of Saline or Other Liquids**

The introduction of saline solution or other liquid or semi-liquid substance into the body of another for the purpose of causing a modification of the body is hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts.

### **12.11 Tattooing of the Eyeball**

Tattooing of the eyeball is prohibited.

## **Section XIII. Enforcement of Body Art Regulation**

### **13.1 Variance Provision**

### **13.2 Variance Request - Procedure**

### **13.3 Variance - Qualification, Expiration, Revocation, Modification, Suspension**

### **13.4 Complaints**

### **13.5 Violation by a Body Art Technician**

### **13.6 Violation by an Operator or in a Body Art Establishment**

### **13.7 Failure to Comply with Orders of Department**

### **13.8 Grounds for Denial of Permit, Revocation of Permit, or Refusal to Renew Permit**

### **13.9 Grounds for Suspension of Permit**

### **13.10 Right to a Hearing**

### **13.11 Criminal Prosecution**

### **13.12 Fine for Violation - Each Day a Separate Offense**

### **13.13 Non-Criminal Disposition**

### **13.14 Severability**

### **13.15 Administration and Enforcement**

### **13.1 Variance Provision**

A variance may be granted from a particular Section or provision of this Body Art Regulation by the Department with respect to a particular case only when, in the discretion of the Board of Health:

1. The enforcement of the subject Section or provision would do manifest injustice, or
2. The applicant for a Body Art Technician License or Body Art Establishment Permit, as the case may be, has proved to the satisfaction of the Board of Health that the same or greater degree of protection required under this Body Art Regulation can be achieved without the strict application or enforcement of the subject Section or provision.
3. The Provincetown Board of Health shall allow the Provincetown Health Department, in its discretion and subject to the criteria below, to grant variance requests on behalf of the Provincetown Board of Health to the Provincetown Board of Health Regulations Part IV, Article 7, Section 5.15(1): Restriction of Certain Body Art Activities – Tattoo a Minor Client when the

variance being requested is to cover up an existing tattoo and its circumstances and the applicant can demonstrate, to the satisfaction of the Provincetown Health Department, one of the following criteria:

- a. The minor in question is in custody of a state agency and has received written permission for the tattoo from that state agency;
- b. The minor in question is seeking tattoo(s) to remedy work done by an unprofessional or unlicensed tattoo artist, and has permission from his or her parent or legal guardian;
- c. The minor in question is seeking tattoo(s) to cover up body art resulting from or related to gang affiliation or a traumatic event, and has permission from his or her parent or legal guardian.

### **13.2 Variance Request - Procedure**

1. Every request for a variance pursuant to Section 13.1 of this Body Art Regulation shall be made in writing to the Department of Health and shall state the specific Section or provision from which variance is sought and the need for it.
2. Every variance granted by the Board of Health shall be in writing.
3. The original variance documents issued by the Department shall be held on file in the office of the Provincetown Health Department. A copy of the variance will be provided to the Body Art Technician or Body Art Establishment.
4. A variance document issued by the Department shall contain the following information: the nature of the variance, the need therefore, the specific Section or provision of this Body Art Regulation from which variance was granted and the name of the subject Body Art Technician or Body Art Establishment.
5. Information advising as to whether the subject variance is unlimited in time or duration or has a fixed expiration date shall be detailed in all variance documents issued by the Department.

### **13.3 Variance - Qualification, Expiration, Revocation, Modification, Suspension**

Any variance granted by the Board of Health pursuant to Section 13.1 of this Body Art Regulation may be subject to such condition qualification, expiration, revocation, modification or suspension, as the Board of Health shall deem appropriate.

### **13.4 Complaints**

1. The Board of Health or its agents shall promptly investigate complaints received about a Body Art Establishment or Body Art Practitioner's practices or acts, which may violate any provision of the Board's regulations, or otherwise endanger the safety of the public.
2. If the Board of Health 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 and Permit and/or License holder in writing of this finding and the reasons on which it is based.
3. If the Board finds that 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 an act or practice is in violation of the Board's regulations, the Board shall apply whatever enforcement action is appropriate to remedy the situation and shall notify the complainant and Permit and/or License holder in writing of its action.

### **13.5 Violation by a Body Art Technician**

1. A Body Art Technician License may be suspended by the Department immediately upon written notice of such suspension to the subject Body Art Technician when the Board of Health or its agents, has reason to believe that, due to a condition or practice of the subject Body Art Technician, an imminent threat to the public health and/or welfare exists.

2. When the condition or practice believed to cause such threat to the public health and/or welfare is abated or corrected to the satisfaction of the Board of Health or its agents, the Board of Health may terminate the suspension of the Body Art Technician License of the subject Body Art Technician and reinstate the same upon written notice to the subject Body Art Technician and the Body Art Technician License of such Body Art Technician shall remain in full force and effect until the expiration of the same or until the subsequent suspension, termination, revocation or modification thereof by the Board of Health.
3. In all other instances of a violation of this Body Art Regulation by a Body Art Technician, the Department may serve upon the subject Body Art Technician a written order of notice detailing the condition, event or practice determined by the Health Department to be in violation of this Body Art Regulation and such written order of notice shall instruct the Body Art Technician that he or she shall have five (5) business days to abate or correct such condition, event or practice to the satisfaction of the Board of Health.
4. Should a Body Art Technician, subject to an order of notice pursuant to Section 13.5(3) fail to abate or correct the condition, event or practice which is the subject of an order of notice, or to otherwise comply with an order of notice, the Department of Health may suspend, terminate, revoke or modify the License held by such Body Art Technician, subject to the hearing provisions of Section 13.8.

### **13.6 Violation in a Body Art Establishment**

1. A Body Art Establishment Permit may be suspended by the Department immediately upon written notice of such suspension to the Establishment's owner/operator when, in the discretion of the Board of Health or its agents, due to a condition of or practice in the Body Art Establishment, the Board of Health or its agents has reason to believe that an imminent threat to the public health and/or welfare exists.
2. When the condition or practice believed to cause such threat to the public health and/or welfare is abated or corrected to the satisfaction of the Board of Health, the Board of Health may terminate the suspension of the Body Art Establishment Permit of the Establishment's owner/operator and reinstate the same upon written notice to the Establishment's owner/operator and the Body Art Establishment Permit of such Body Art Establishment shall remain in full force an effect until the expiration of the same or until the subsequent suspension, termination, revocation or modification thereof by the Board of Health.
3. In all other instances of a violation of this Body Art Regulation in a Body Art Establishment, the Department may serve upon the Establishment's owner/operator written order of notice detailing the condition, event or practice determined by the Board of Health to be in violation of this Body Art Regulation and such order of notice shall instruct the Establishment's owner/operator that he or she shall have five (5) business days to abate or correct such condition, event or practice to the satisfaction of the Board of Health.
4. Should an Establishment's owner/operator, subject to an order of notice pursuant to Section 13.6(3) fail to abate or correct the condition, event or practice which is the subject of an order of notice, or to otherwise comply with an order of notice, the Board of Health or its agents may suspend, terminate, revoke or modify the Body Art Establishment Permit held by the Establishment's owner/operator, subject to the hearing provisions of Section 13.8.

### **13.7 Failure to Comply with Orders of the Department**

Whenever a Body Art Technician or Operator has failed, to the satisfaction of the Department, to comply with an order of notice issued by the Department pursuant to the provisions of this Body Art Regulation, the Department of Health may suspend the Body Art Technician License of the subject Body Art Technician or the Body Art Establishment Permit of the Establishment's owner/operator

until such time as the subject Body Art Technician or Establishment has complied with the order of notice to the satisfaction of the Department.

### **13.8 Grounds for Denial of Permit, Revocation of Permit, or Refusal to Renew Permit**

The Board of Health 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.
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.

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

### **13.9 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.

### **13.10 Right to a Hearing**

1. No License or Permit granted under these regulations, whether for individual Technicians or for Establishments may be suspended or revoked without a Show Cause Hearing except in cases of emergency or where a substantial risk to the public health exists as determined by the Department. In such cases, a Show Cause Hearing will be conducted by the Board of Health within a reasonable time after the suspension has taken place.
2. Prior to a hearing on the License suspension or revocation, the Licensee shall be notified in writing of the proposed action and hearing, including the date, time and location of the hearing.
3. At the hearing the petitioner shall be given an opportunity to be heard. After the hearing, the Health Department shall notify the Licensee in writing of the decision of the Board of Health.

### **13.11 Criminal Prosecution**

The Department shall refer to the appropriate District Attorney, the Attorney General, or other appropriate law enforcement agency any incidents of unauthorized practice of body art that come to its attention.

### **13.12 Fine for Violation - Each Day a Separate Offense**

The fine for a violation of any provision of this Body Art Regulation shall not exceed \$500 per offense, in accordance with Massachusetts General Law, Chapter 111, §31. Each day that a violation continues shall be deemed to be a separate offense.

### **13.13 Non-Criminal Disposition**

In accordance with Massachusetts General Laws, Chapter 40, §21D, and the Provincetown General Bylaw 2-3, at the discretion of the Department, whoever violates any provision of this Body Art Regulation, may be penalized by a non-criminal disposition as provided in Massachusetts General Laws, Chapter 40, §21D. The enforcing persons shall be the Board of Health and any member of its staff.

### **13.14 Severability**

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

### **13.15 Administration and Enforcement**

This Body Art Regulation shall be administered and enforced by the Provincetown Board of Health and its agents pursuant to Massachusetts General Law, Chapter 111, §31.