ARKANSAS STATE BOARD OF HEALTH

RULES AND REGULATIONS PERTAINING TO BODY ART ESTABLISHMENTS

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Environmental Health Protection
Arkansas Department of Health
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BODY ART ESTABLISHMENTS

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SECTION 1. AUTHORITY

The following Rules and Regulations Pertaining to Body Art Establishments are duly adopted and promulgated by the Arkansas Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas including, without limitation, Act 96 of 1913 as amended, the same being Ark. Code Ann. § 20-7-109.

SECTION 2. PURPOSE

To protect the health of the citizens of Arkansas by establishing criteria for the application of body art, to require licensing of artists and establishments, and require inspections of such establishments.

SECTION 3. DEFINITIONS

For the purposes of these Regulations, the following words and phrases when used herein shall be construed as follows:

3.1. **APP.** The Alliance of Professional Piercers.

3.2. **APT.** The Alliance of Professional Tattooists.

3.3. **Artist.** Any person, other than a licensed physician, who performs body art on a human.

3.4. **Artist in Training.** A person who:

- 3.4.1. Is in training under the supervision of an artist trainer or a physician; and
- 3.4.2. Shall not perform body art independently.

3.5. **Artist Trainer.** An artist who:

- 3.5.1. Has been licensed by the Department of Health as an artist for at least five (5) years in the specified field of body art in which he or she will offer training;
- 3.5.2. Has worked in a body art establishment licensed by the Department for at least five (5) years and been in compliance with Department rules governing body artists;
- 3.5.3. Has completed the course required under § 20-27-1506; and
- 3.5.4. Is a registered instructor for the specified field of body art with the State Board of Private Career Education.

3.6. **Aseptic Technique.** The practice which prevents or hinders the transmission of disease-producing microorganisms from one person or place to another person or place.

3.7. **ASTM.** The American Society for Testing and Materials.

3.8. **Body Art.** Procedures that include:

- 3.8.1. Body Piercing;
- 3.8.2. Branding;
- 3.8.3. Permanent Cosmetics;

3.8.4. Tattooing; and

3.8.5. Scarification.

3.9. **Body Piercing and Body Piercing Procedure.** The puncturing of a part of a live human being to create a hole for ornamentation or decoration or a single-point perforation of a body part to insert an anchor with a single stud protruding or flush with the skin.

3.9.1. Body piercing or body piercing procedure shall not include piercing an earlobe with a pre-sterilized disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the earlobe.

3.10. **BPCE.** The Arkansas Board of Private Career Education.

3.11. **Branding.** A permanent mark made on human tissue by burning with a hot iron or other instrument.

3.12. **Critical Item.** An aspect of operation or condition of a facility or equipment that constitutes the greatest hazard to health and safety, including imminent health hazards.

3.13. **Decontamination Area.** An area designated for the decontamination and processing of dirty instruments.

3.14. **Department.** The Arkansas Department of Health or its authorized agent.

3.15. **Disinfectant.** A product that is registered by the Federal Environmental Protection Agency and/or the Department of Pesticide Regulation, as indicated on the label, to reduce or eliminate the presence of disease-causing microorganisms, including human immunodeficiency virus (HIV) and hepatitis B virus (HBV) for use in decontaminating work surfaces.

3.16. **Enzymatic Cleaner or Enzymatic Detergent.** Low-foaming detergents which add enzymes capable of digesting organic material such as blood and mucous, and which are labeled as such by the manufacturer.

3.17. **Establishment.** Any place or facility where body art is performed and that has a body artist licensed in Arkansas on staff.

3.18. **Germicidal Solution.** A substance for use in the destruction of pathogenic microorganisms as indicated on the label.

3.19. **Guest Artist.** An artist from a state other than Arkansas or a country other than the United States who:

3.19.1. Holds a license from the body art regulatory board or agency, if in existence, in that state or country; or

3.19.2. If an artist license is not available in the guest artist's state or country, can submit to the Department of evidence of professional experience, employment and education including:

3.19.2.1. Proof of blood-borne pathogen certification; and

3.19.2.2. Proof of employment in a licensed body art facility for at least two (2) years.

3.20. **Instrument.** Equipment used during body art procedures, including without limitation:

3.20.1. Forceps;

3.20.2. Hemostats;

3.20.3. Needles;

3.20.4. Permanent cosmetic needles and tips;

3.20.5. Receiving tubes; and

3.20.6. Tattoo barrels and tubes.

3.21. **ISO.** The International Organization for Standardization.

3.22. **Operator.** Any person who owns, controls, operates, conducts or manages any permanent cosmetic or tattoo establishment, whether actually performing the work of tattooing or not.

3.23. **Permanent Cosmetics and Permanent Cosmetic Procedure.** The application of permanent or semi-permanent pigmentation by the penetration of the skin with a needle or other instrument to:

3.23.1. The face for cosmetic purposes; or

3.23.2. Any part of the body for scar coverage or other corrective purposes.

3.24. **Procedure(s).** The act of applying body art.

3.25. **Repigmentation.** Recoloration of the skin, including through the use of dermabrasion or chemical peels, sought due to:

3.25.1. Birthmarks, vitiligo, or other skin conditions, which result in the loss of melanin to the skin;

3.25.2. Scarring caused by surgical procedures, including without limitation face lifts, mole or wart removal, cauterization, and other similar procedures;

3.25.3. Mastectomy, including recreation of an areola or nipple; or

3.25.4. Blotchy pigmentation.

3.26. **Scarification.** Injury of the skin involving scratching, etching, or cutting of designs to produce a scar on a human being for ornamentation or decoration.

3.27. **Scarification Implement.** Any instrument which intentionally alters human skin for the purpose of scarification.

3.28. **Sharps.** Includes, but is not limited to, any contaminated object that can penetrate the skin; any waste produced in the course of physically altering a human being including tattooing, ear piercing; or any other process where a foreign object is used to cut or pierce the skin. All waste generated in this manner meeting the definition of sharps must be handled accordingly.

3.29. **Single Service.** Articles intended for one-time, one-person use and then discarded.

3.30. **Sponsor.** An individual or business entity, including an event coordinator or manager, responsible for the organization of a convention, trade show, or other temporary event that includes a body art demonstration booth.

3.31. **Subdermal Implanting.** The insertion of an object under the skin of a live human being for ornamentation or decoration.

3.32. **Tattooing and Tattoo Procedure.** Any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin by introducing pigments, or by the production of scars to form indelible marks with the aid of needles or other instruments.

3.32.1. Tattooing and Tattoo Procedure do not include permanent cosmetics.

3.33. **Tempered Water.** Water having a temperature range between 85°F (29°C) and 110°F (43°C).

3.34. **Vendor.** A person who supplies body art materials, including body art instruments, at a temporary demonstration where body art is performed.

SECTION 4. ARTIST LICENSURE

4.1. No person except a duly licensed physician shall engage in the practice of body art or act as a body artist unless he or she holds a body art license issued by the Department.

4.2. These Rules and Regulations are not applicable to any establishment under the control or direction of a duly licensed physician nor do they apply to licensed medical hospitals and similarly licensed medical institutions.

4.3. The following requirements must be completed before any individual shall receive a body art license:

4.3.1. Prior to applying for a body art license, the applicant must complete blood-borne pathogens training which meets the requirements of the Occupational Safety and Health Administration (OSHA) and is approved by the Department.

4.3.2. Artists in training pursuing licensure for scarification shall also complete basic first aid and CPR training, which is approved by the Department.

4.3.3. Artists in training pursuing licensure for scarification shall possess a current license in another field of body art. They shall also submit training and experience documentation related to scarification for review by the Department to determine eligibility for licensure.

4.3.4. An application for a body art license shall be filed with the Department at the time of the written exam.

4.3.5. The applicant must successfully complete a written examination given by the Department. This examination shall be based on these Rules and Regulations. It shall insure the applicant has knowledge of pertinent microbiology and proper technique, to assure that infection and contagious disease shall not be spread.

4.3.6. The applicant shall meet all the current applicable requirements of the Rules and Regulations Pertaining to the Control of Communicable Diseases.

4.3.7. The applicant must complete an approved training program as set forth by the Board of Private Career Education. Artist in training shall train in a licensed body art training facility under a currently licensed artist trainer who has been licensed

and operating in compliance with the Regulations in the State of Arkansas for a period of not less than five (5) years.

4.3.8. At the end of the required training period, the applicant must successfully complete a practical exam in the field(s) of study. Practical exams conducted by the Department will observe a procedure for aseptic technique, sterilization procedures, recordkeeping and aftercare instruction to the client.

4.3.9. A practical body art training facility shall be licensed by the Department as a body art establishment and by the BPCE as an approved body art training facility.

4.3.10. The Department shall levy and collect a nonrefundable fee of fifty dollars ($50.00) from each artist in training who applies to take the written and practical examinations. This fee is waived for an Artist in the qualification review process.

4.4. An artist with an expired Arkansas license, or an artist from another state or a country outside of the United States, who holds a license from the body art regulatory board or agency in that state or country, may submit to the Department an application for qualifications review and a $500.00 nonrefundable application fee, to determine eligibility for a body art license issued by this Department.

The Department will review qualifications based on the following criteria:

4.4.1. Proof of annual blood-borne pathogen certification.

4.4.2. Proof of licensure as a body art artist by the appropriate regulatory agency within the last two (2) calendar years.

4.4.3. Copy of the body art laws and/or regulations from the regulatory agency which licenses the artist.

4.4.4. Documentation from the regulatory agency concerning the establishment where the artist is currently employed or has most recently been employed, including, but not limited to:

4.4.4.1. Name of establishment.

4.4.4.2. Length of time employed.

4.4.4.3. A copy of licensure and inspection reports of establishment.

4.4.5. Documentation that the artist completed, at a minimum, a six (6) month artist in training program. In lieu of training documentation, the artist may submit a letter of reference from the regulatory agency, which provides compliance history, evaluation of knowledge of health and safety standards and any record of training completed.

4.4.6. Proof of passage of the Department's body art written exam.

4.4.7. Completion of a practical exam at a currently licensed body art establishment in Arkansas or other Department approved facility.

4.5. Upon receipt and approval of all qualification requirements, the artist shall be invoiced and submit the annual artist license fee.

4.6. An artist from another state or a country outside of the United States where artist licensure is not required by a regulatory body shall complete the artist in training program as required by Section 4.3 of these Rules and Regulations.

SECTION 5. ARTIST LICENSE FEE AND RENEWAL REQUIREMENTS

5.1. Any artist in training who has completed the written exam by the Department and is currently enrolled in a training facility approved by the BPCE, at the time of the effective date of this regulation, will be exempt from any additional requirements for the current course of study.

5.1.1. This exemption shall not apply to any course of study begun after the effective date of this regulation.

5.2. Artist's licenses shall expire on December 3lst of each year and are renewable when the applicant meets all the current applicable requirements of these Rules and Regulations and Ark. Code Ann. § 20-27-1501 et seq. including, but not limited to:

5.2.1. Submission of a renewal application for a body art license.

5.2.2. Proof of completion of the annual blood-borne pathogen certification.

5.2.3. For Scarification Artists, proof of current CPR and first aid certification.

5.3. The Department shall levy and collect an annual fee of one hundred dollars ($100) per artist for issuance of a license to an artist who performs body art.

5.3.1. If the annual fee for a licensed artist has not been paid by March 1 of the calendar year, the artist license shall be suspended for ninety (90) days.

5.3.2. Before a license may be reissued within ninety (90) days after suspension the artist shall:

5.3.2.1. Pay a reinstatement fee of one hundred dollars ($100) and all overdue licensing fees;

5.3.2.2. Complete a written exam with the Department and a practical exam at the studio in which the artist is licensed, a currently licensed body art establishment in Arkansas or other Department approved facility; and

5.3.2.3. Meet all current requirements established by the Department for artists.

5.3.3. If an artist whose license is suspended has not met the requirements under 5.3.2. within ninety (90) days after the suspension, the artist may apply for qualification review.

SECTION 6. ESTABLISHMENT LICENSE FEE AND SANITATION CERTIFICATION

6.1. Establishment license’s shall expire on December 3lst of each year and are renewable when the applicant meets all the current applicable requirements of these Rules and Regulations and Ark. Code Ann. § 20-27-1501 et seq.

6.2. The Department shall levy and collect an annual fee of one hundred fifty dollars ($150) per facility for issuance of a license to an establishment that performs body art.

6.2.1. If the annual fee for a licensed establishment has not been paid by March 1 of the calendar year, the establishment shall be closed until a new license has been issued by the Department and the annual fee has been paid.

6.2.2. Any studio or business owner operating without a current license commits a Class D felony.

6.3. No person shall operate a body art establishment unless the establishment has received a Certificate of Sanitation from the Department. No certificate shall be issued or renewed unless the establishment has been inspected and found to be in compliance with the provisions of these Rules and Regulations at the time of the most current inspection.

6.4. The certificate shall expire on December 31 of each year. Renewal inspections shall be conducted by the Department.

6.5. No holder of any certificate of sanitation shall allow a body art artist to perform in his/her establishment unless the artist is the holder of a valid body art license issued under Section 4 of these Rules and Regulations or holds a current guest artist temporary demonstration license.

6.6. It shall be the duty of the operator or owner of the establishment to post the current certification in a conspicuous place where it may be readily observed by the public.

SECTION 7. GENERAL PHYSICAL ENVIRONMENT

7.1. Each establishment shall have a workroom, which is separate and apart from a waiting room or area. This room shall not be used as a corridor for access to other rooms, including the public restroom facilities for clients. Body art procedures shall only be performed in the workroom.

7.2. Floors shall be swept and wet-mopped daily. All surfaces, including, but not limited to floors, walls, counters, chairs and tables, shall be maintained in good repair and shall be of such materials to be easily cleanable, non-absorbent and non-porous. Floors, walls, or ceilings in the workroom shall not be swept or cleaned while body art procedures are being performed.

7.3. The workroom shall be equipped with a light source that provides adequate light for the procedure area.

7.4. Light fixtures, decorative materials and other equipment attached to the walls or ceilings shall be kept clean.

7.5. The workroom shall provide easy access to a sink separate from a restroom that is visible to the client and that is designated for artist hand washing only. The workroom sink shall be for the exclusive use of the artists for washing their hands and preparing the customer. It shall be equipped with hands free or wrist controls and supplied with tempered running water, liquid soap and single-use paper towels that are dispensed from a wall-mounted dispenser.

7.6. The workroom shall have lined, hands free, covered waste containers.

7.7. The workroom shall be equipped with an approved sharps container.

7.8. The workroom shall be free of and physically separated from any ultrasonic cleaner.

7.9. The workroom shall have adequate cabinets for the storage of instruments, dyes, pigments, and other materials used in the body art procedures.

7.10. The workroom shall have an adequate number of worktables for each working artist. The surface of all worktables shall be constructed of material that is easily cleanable, smooth, non-absorbent, corrosive-resistant and easily sanitized.

7.11. Adequate disposable surface barriers shall be used to prevent contamination on all work surfaces and shall be replaced after each procedure.

7.12. A body art establishment shall comply with the following:

7.12.1. The establishment shall have adequate lighting and ventilation.

7.12.2. The building and all equipment shall be maintained in good repair at all times. All parts of the establishment and its premises shall be kept clean, neat and free of litter and rubbish.

7.12.3. A toilet and lavatory (and service sink if occupancy is greater than 15) shall be located in the establishment and be accessible to clients. All plumbing shall meet the requirements of the Arkansas Plumbing Code. The plumbing fixtures and toilet room shall be maintained in a sanitary manner and in good repair.

7.12.4. Adequate hand washing soap and single service paper towels or mechanical means for hand drying shall be provided in the lavatory.

7.12.5. Living or sleeping quarters located on the premises of a body art facility shall be separated from rooms and areas used for body art facility operations by complete partitioning and solid, self-closing doors.

7.12.6. The establishment shall have a decontamination area for the processing and sterilizing of dirty instruments, in which the placement of the sterilizer is at least thirty-six (36) inches from any sink or processing equipment.

7.12.6.1. Body art establishments which use all prepackaged, pre-sterilized, single use instruments are not required to provide a decontamination area.

7.13. Decontamination areas within a body art facility shall:

7.13.1. Be physically separated from the waiting area, restroom and the workroom;

7.13.2. Be equipped with a sink that has tempered running water, liquid soap, and single-use paper towels dispensed from a wall-mounted dispenser that is readily accessible to the practitioner;

7.13.3. Be equipped with a lined, hands free, covered waste container;

7.13.4. Be labeled in a conspicuous manner as Employees Only and set up to avoid clients or the public from entering;

7.13.5. Provide physical separation of areas within the room to designate the difference between dirty and clean instruments.

7.14. The establishment shall have a period of twenty-four (24) months from the adoption of these Rules and Regulations by the Department to comply with all regulations, which requires construction and/or remodeling of the establishment.

SECTION 8. CRITICAL ITEMS FOR CLOSURE

8.1. Any body art establishment which is found to be in violation of any critical item(s) shall be subject to immediate closure by the Department, pending a hearing before the State Board of Health in accordance with Ark. Code Ann. § 25-15-211.

8.2. The establishment shall remain closed until all issued fines and/or penalties have been paid and it is found no longer in violation of any critical item(s) upon inspection by the Department.

8.3. Critical items shall include:

8.3.1. Performing a body art procedure on a person who is obviously inebriated or appears to be incapacitated by the use of alcohol or drugs;

8.3.2. Performing a body art procedure on a person who shows signs of recent intravenous drug use;

8.3.3. Performing a body art procedure on an area of a person's body with sunburn, open lesions, rashes, or wounds;

8.3.4. Performing a body art procedure with the use of a product or ink that is banned or restricted by the United States Food and Drug Administration;

8.3.5. Performing a body art procedure in an area that is not physically and permanently separated from beauty facilities, such as hair and nail services;

8.3.6. Performing a body art procedure on an animal in a facility licensed for the application of body art on human beings;

8.3.7. Using a piercing gun to pierce any parts of a person's body other than an earlobe;

8.3.8. Performing a piercing with a manually loaded spring-operated piercing device;

8.3.9. Piercing an earlobe with a piercing gun that does not use a pre-sterilized encapsulated stud and clasp system;

8.3.10. Using jewelry for an initial piercing that is not certified by ASTM International or the International Organization for Standardization, or both, as an implant-grade material, except for specified types of glass, gold and niobium as approved by the Department;

8.3.11. Failure to maintain on file for inspection a Mill Test Certificate confirming certification by ASTM International or the International Organization for Standardization, or both, for steel and titanium jewelry for initial piercing;

8.3.12. Selling a body piercing needle, tattoo needle, or body art instrument, or a combination of these, including without limitation tattoo ink, barrel, grip and a

tattoo machine to a person within this state who is not licensed as an artist by the Department; and

8.4. Any action that constitutes a danger to the public's health, safety or welfare may result in emergency suspension of the artist or establishment license, upon factual finding by the Department in accordance with Ark. Code Ann. § 25-15-211.

SECTION 9. SANITARY FACILITIES

9.1. Water supply. The water supply shall be adequate, of a safe, sanitary quality and meet the current requirements of the Department's Rules and Regulations Pertaining to Public Water Systems.

9.2. Sewage. All water carried sewage shall be disposed of by means of:

9.2.l. A public sewerage system; or

9.2.2. An approved onsite wastewater system, which is constructed and operated in conformance with the standards established by the Arkansas State Board of Health.

SECTION 10. OPERATION STANDARDS

10.1. Record Keeping. The operator shall maintain proper records on each client. These records shall be entered in ink in a bound book kept solely for this purpose. This book shall be available for examination by the Department upon request. A digital record keeping system may be used if it provides all required information and has an adequate method of backing up the data. The records shall be preserved for at least two (2) years from the date of the last entry. The records shall contain the following information:

10.1.l. The date the procedure was performed.

10.1.2. The name, address, and date of birth of the client.

10.1.3. The branch of service, rate, or rank of the client if in the armed services.

10.1.4. The design and location of body art procedure applied.

10.1.5. The name and license number of the artist.

10.1.6. The signature and printed legal name of the client.

10.1.7. A Photocopy of a valid government-issued photo identification for each client. For minors or incapacitated adults under legal guardianship, a photocopy of a valid photo identification of legal guardian and proof of guardianship, as required in Section 10.3.

10.1.8. Each form of body art provided by the establishment shall have its own bound book, separate from records for all other forms of body art.

10.1.9. In the event of a change of ownership or closing of the establishment, all records shall be made available to the Department upon request.

10.1.10. Due diligence shall be demonstrated in the effort to keep all records private from the public and other clients.

10.2. The operator shall maintain on site a record of Materials Safety Data Sheets (MSDS) for all disinfectants, surface cleaners, skin cleansers, skin preparations, and/or chemicals used within the establishment for cleaning, disinfecting, or serving clients.

10.3. Documentation and Consent Required for Minors and Incapacitated Adults Under Legal Guardianship. The consent shall be on forms approved by the Department and shall be presented to the operator by the parent or legal guardian.

10.3.1. An artist shall not perform body art on a person under eighteen (18) years of age, unless:

10.3.1.1. Given a consent form with the signature and printed legal name of the parent or legal guardian;

10.3.1.2. The parent or legal guardian is present during the procedure;

10.3.1.3. The person to undergo body art and the parent or legal guardian each provide a valid government-issued form of photo identification that includes a name, date of birth, and photo; and

10.3.1.4. The parent or legal guardian presents proof of guardianship that matches the identification given, including without limitation a birth certificate or a court or state record for adoption, legal guardianship, emancipation, or a marriage license.

10.3.2. An artist shall not perform body art on a person under sixteen (16) years of age, regardless of parental consent, except:

10.3.2.1. When authorized or prescribed by a physician's statement exclusively for repigmentation; or

10.3.2.2. When piercing the earlobe.

10.3.3. Except when authorized or prescribed by a physician's statement exclusively for repigmentation, an artist shall not perform on a person under eighteen (18) years of age regardless of parental consent:

10.3.3.1. Body art on the nipple or genital;

10.3.3.2. Branding.

10.3.4. Any person who performs body art on a person under eighteen (18) years of age, except as provided in Sections 10.3.1-10.3.3., shall be guilty of a Class A misdemeanor.

10.3.5. Any person who falsely claims to be the minor's parent or legal guardian for the purpose of obtaining body art for a person under eighteen (18) years of age shall be guilty of a Class D felony.

10.4. Client Information. Before performing a body art procedure, an artist must:

10.4.1. Have a discussion of the risks involved and possible complications with the client. The client must be advised that certain procedures should be considered permanent and can be removed only by a surgical procedure and any effective removal may leave permanent scarring.

10.4.2. A written cautionary notice to that effect shall be furnished to and signed by the client and retained on file at the establishment.

10.5. After the procedure is complete, oral and written (printed or photocopied) instructions, approved by the Department, on the care of the skin where body art was applied in order to prevent infection, shall be given to each client. A copy of these instructions shall also be posted in a conspicuous place in the establishment.

10.6. Patch Test for Sensitivity. A patch test shall be administered upon request of the client or prior to any permanent cosmetic procedure.

10.7. Suspected Infections to be Reported. All infections suspected from performing a body art procedure, which become known to the artist/operator, shall be reported to the Department within one (1) business day and the infected client shall be referred to a physician.

SECTION 11. RESTRICTIONS CONCERNING BODY ART PROCEDURES

Body art procedures shall be prohibited under the following circumstances:

11.1. No body art procedure shall be done on the person of anyone having a history of jaundice or similar disease and each client shall be questioned.

11.2. No body art procedure shall be done on the person of any individual who is obviously under the influence of drugs or intoxicating liquor.

11.3. No body art procedure shall be done on a person suffering from any visible rash, skin lesion or any skin disease or possible communicable disease. The skin surface shall be free from rash, pimples, infection or recent scar tissue before body art is applied.

11.4. No person inflicted with an infectious or communicable disease, which may be transmitted during the performance of any body art procedure, or afflicted with an infestation of animal parasites shall be permitted to work or train in a body art establishment. The Department may require a certificate signed by a duly licensed physician stating the person is free from communicable diseases before permission to resume operation is granted.

11.5. No existing tattoo or permanent cosmetic shall be abraded or treated with chemicals for the purpose of removing except by a licensed physician. This section does not intend to prohibit the cover up of existing tattoos with additional body art design pattern or application of permanent cosmetics.

11.6. No smoking in an establishment at any time in accordance with the Arkansas Clean Indoor Air Act

11.7. No pigment disapproved by the Food and Drug Administration shall be used for permanent cosmetics or tattooing. Ingredients contained in the pigments and Material Safety Data Sheets must be provided by the manufacturer to the Department upon request.

11.8. The use of a straight razor is prohibited. Only single service disposable razors shall be used for shaving purposes.

11.9. No person shall allow or perform the tattooing of animals in an establishment licensed and used for performing body art procedures on human beings.

11.10. An artist licensed by the Department shall not perform or attempt to perform the insertion of a subdermal implant.

11.11. An artist may us only nonprescription strength topical anesthetics, ointments, or other medications prior to, during, or after any phase of body art procedures.

11.12. An artist shall not use chemical or other means to intensify the results of a scarification procedure.

SECTION 12. ASEPTIC PROCEDURES

12.1. The artist shall wear a clean outer garment.

12.2. Before each procedure, the artist shall clean his/her fingernails with his/her individual nail file and shall thoroughly wash and scrub his/her hands with tempered running water, an approved soap and his/her individual hand brush. He/she shall not allow his/her hands to dry without the use of a single service use paper towel or approved mechanical means.

12.3. A new pair of medical disposable gloves shall be used by the artist for each client and shall be disposed of immediately upon removal.

12.4. The area of the client's skin to which body art is to be applied shall be prepared by washing with distilled water and approved germicidal soap. When it is necessary to shave the area, single service disposable razors shall be used. Following shaving, the skin must be gently scrubbed with 70% isopropyl alcohol or other approved germicidal solution, using a sterile gauze pad or paper towel, which shall be used only on one client and then discarded.

12.5. Following the cleaning and the shaving of the client's skin, the artist shall again wash and scrub his/her hands as required in Section 12.2 and put on a new pair of medical disposable gloves.

12.6. During any phase of the procedure, should the artist be interrupted for other duties, i.e., answering the phone, etc., the artist shall wash his/her hands as required in Section 12.2. before resuming the procedure. A new pair of medical disposable gloves shall be used.

12.7. When acetate stencils are used for transferring the design to the skin, stencils shall be thoroughly cleaned and rinsed in an approved germicidal solution according to manufacturer’s instuctions and then they shall be dried with a sterile gauze pad or air-dried before each use.

12.8. When the design is transferred during hectograph and tracing paper or duplicating carbon methods, the paper or duplicating master shall not be reused on another client.

12.9. In preparing nontoxic dyes or pigments, only nontoxic or sterile material shall be used. Single service or individual portions of pigments in clean sterilized containers or single service containers shall be used for each client. Upon completion, the remaining unused pigments shall be discarded. Any pigment in which the needles were dipped shall not be reused during new or follow-up procedures. Where pigment mixing is necessary to achieve the correct color and follow-up touch-ups may be required (permanent cosmetics), the original container of mixed pigment may be kept.

12.10 Excess pigment shall be removed from the skin with a sterile gauze pad or paper towel, which shall be used only on one client and then discarded.

12.11. After a completed body art procedure, with the exception of piercings, the area of skin worked on, shall be cleaned with a piece of single use sterile material saturated with an approved germicidal solution. It shall be allowed to dry. After drying, ointment may be applied to body art from a collapsible metal or plastic tube or single use packet or portion and where feasible the entire area covered with a piece of an approved, nonstick bandage. The ointment may be spread by the use of sterile gauze, sterile tongue depressors, or gloved fingers.

12.12. The area of permanent cosmetic application shall be washed and where feasible, ointment or petroleum jelly shall be applied.

12.13. All surfaces, work tables and client chairs must be disinfected with EPA approved surface disinfectant as defined in Section 3 of these Rules and Regulations before each new client is seated.

SECTION 13. EQUIPMENT

13.1. A set of individual wrapped sterilized needles shall be used by the artist for each new client. An adequate number of sterilized needles and tubes or tips per tattoo or permanent cosmetic artist must be on hand for the entire day or night operation.

13.2. All instruments that come in direct contact with a client's skin or are exposed to blood or bodily fluid shall be sterilized prior to reuse. Body piercing establishments are required to sterilize initial piercing jewelry.

13.3. All needles shall be single use and disposable.

13.4. New medical disposable gloves shall be worn during any sterilization procedure.

13.5 Approved modes of sterilization include:

13.5.1. Use of a steam, pulse pressure, or vacuum autoclave sterilizer, which is used, cleaned and maintained according to the manufacturer's directions; or

13.5.2. Single-use prepackaged sterilized instruments obtained from suppliers or manufacturers.

13.6. Sterilization shall be conducted as follows:

13.6.1. Prior to sterilizing, instruments shall be submerged and brushed or swabbed to remove foreign material and rinsed. Instruments shall then be immersed in enzymatic cleanser and water using an ultrasonic unit that operates at 40 to 60 kilohertz, followed by a thorough rinsing and drying;

13.6.1.1. Non-disposable tubes for tattooing shall be disassembled prior to beginning the cleaning process and remain this way throughout the sterilization process.

13.6.1.2. Enzymatic cleanser used in the ultrasonic unit shall be designed for such use and used in accordance with the manufacturer's instructions.

13.6.1.3. The exception to this cleaning process may be the use of an instrument washer, which is specifically designed to replace the manual cleaning and ultrasonic processing of contaminated instruments.

13.6.2. A chemical indicator shall be used to assure sufficient temperature and steam penetration and proper functioning of equipment each time the sterilizer is run.

13.7. A monthly sterilization cycle shall be completed with use of a biological monitoring system (commercial preparation of spores) to assure all microorganisms have been destroyed and sterilization achieved.

13.8. Approved closed cabinets for the storage of instruments, dyes, pigments and other paraphernalia used in the establishment shall be provided. All needles and instruments shall be handled in such a manner as to prevent recontamination.

13.9. Packaged, sterilized supplies which have been processed in-house shall be stored and used for no more than one (1) year from the date of processing. Supplies purchased packaged and pre-sterilized from manufacturers shall be stored and used until the expiration date provided by the manufacturer. The integrity of each package shall be inspected prior to use.

13.10. Tattoo and permanent cosmetic machines shall be cleaned and sanitized with an approved germicidal before each use.

13.11. Body art establishments that utilize all prepackaged sterilized needles and tubes and other equipment that contacts a client during any body art procedure shall not be required to provide an autoclave at the establishment.

SECTION 14. STANDARDS FOR SERVING CLIENTS

14.1. Body Piercing Standards

14.1.1. Initial jewelry for body piercing shall meet ASTM or ISO standards.

14.1.2. The jewelry must be able to withstand the heat and pressure of autoclave sterilization.

14.1.3. All surfaces and ends must be smooth, free of nicks, scratches, burrs, polishing compounds and metals must have a consistent mirror finish.

14.1.4. An artist shall maintain on file for inspection a “Mill Test Certificate” confirming certification by ASTM International or the International Organization for Standardization, both for steel and titanium jewelry for initial piercing. The documentation shall accompany each initial piercing jewelry order.

14.1.5. Use of personal client jewelry or any apparatus or device presented by the client to be worn within an initial piercing is prohibited.

14.1.6. Any jewelry used for the procedure must be properly sterilized prior to use and handled in a manner to maintain sterility until use.

14.1.7. No product shall be used in or on a fresh body piercing that warns against such use. Nor shall these products be used against manufacturer warnings in the aftercare or healing of the piercing.

14.1.8. Any marking instrument shall be single use and disposable.

14.2. Tattoo and Permanent Cosmetic Standards

14.2.1. All inks, dyes and pigments must be produced by a commercial manufacturer and accepted for use by the Department by providing Material Safety Data Sheets and/or ingredient information.

14.2.2. Any needle shall be single use only and sterilized prior to use.

14.2.3. All products used for the procedure such as skin cleansers, etc. shall be used in accordance with the manufacturer's instructions.

14.2.4. Any non-tattooing marking instrument shall be single use only and disposed of after use.

14.2.5. After the procedure is complete, the tattoo or permanent cosmetic shall be cleaned and, where feasible, an ointment and a nonstick bandage applied.

14.2.6. All tubes, barrels, tips, or hand tools used for permanent cosmetics shall be single use and disposable or stainless steel tubes, which may be sterilized onsite in accordance with these Rules and Regulations.

14.3. Branding Standards

14.3.1. Any metal or other instrument used in a branding procedure which comes in direct contact with the client's skin shall be single use or capable of being properly sterilized.

14.3.2. All products used for the procedure such as skin cleansers, preps, or ointments shall be used in accordance with the manufacturer's instructions.

14.3.3. Any marking instrument or stencil shall be single use only and disposed of after use.

14.3.4. The artist, the client and any assistants or other individuals in the procedure room shall wear adequate personal protection equipment throughout the procedure.

14.3.5. The procedure area for branding shall be an enclosed room with adequate ventilation.

14.3.6. Metal used in strike branding procedures shall be made of non-galvanized steel.

14.4. Scarification Standards

14.4.1. Scarification procedures shall be performed in a dedicated enclosed workroom that is used for no other purpose at that time.

14.4.2. Adequate surface barriers shall be used to prevent contamination on all work surfaces and shall be replaced after each procedure.

14.4.3. Both oral and written aftercare shall be given to the client prior to beginning any scarification procedure.

14.4.4. All marking instruments and stencils shall be single use and disposable.

14.4.5. A scarification artist shall wear disposable eye and respiratory protection as well as an adequate hair restraint at all times while performing the scarification procedure.

14.4.6. All scarification instruments shall be individually prepackaged and pre-sterilized by the manufacturer and handled in a manner to avoid compromising sterility.

14.4.7. A scarification artist shall wear sterile individually prepackaged gloves during the scarification procedure. A new pair of sterile gloves shall be worn for each scarification procedure. If the scarification artists must stop the procedure to conduct other tasks, the artist must wash his or her hands according to Section 12.2 and put on a new pair of sterile gloves.

14.4.8. A client's skin must be thoroughly cleaned with soap and water, rinsed and swabbed with an antiseptic solution prior to a scarification procedure.

14.4.9. If the area in which the procedure is to be performed requires shaving, it shall be done with a single use, disposable razor.

14.4.10. After the procedure is complete, the area shall be washed and a nonstick bandage applied.

14.4.11. All scarification implements used to break or cut the skin shall be regarded as sharps and must be single use and disposed of in compliance with the Rules and Regulations Pertaining to The Management of Medical Waste from Generators and Health Care Related Facilities.

14.4.12. Surface barriers used during scarification procedures shall be considered medical waste and disposed of accordingly after each procedure.

SECTION 15. TEMPORARY OR MOBILE ESTABLISHMENTS

15.1. No person shall be licensed to perform body art in any temporary place of business, such as carnivals, mass gatherings, or similar public gatherings of a temporary nature without an approved mobile facility or without meeting the requirements for a temporary demonstration license.

15.2. Mobile units shall meet all the requirements of these Rules and Regulations with the following additional requirements:

15.2.1. Liquid waste shall be stored in a permanently installed retention tank that is at least 15 percent larger capacity than the water tank. Liquid waste shall not be discharged from the tank when the mobile unit is in motion. All liquid waste shall be discharged to an approved sanitary sewage disposal system and the Department shall be provided a letter of approval for all discharges upon request.

15.2.2. A potable water system under pressure shall be provided. Enough potable water shall be available in the unit for cleaning and for hand washing. A heating facility capable of producing enough tempered water for these purposes shall be provided on the unit. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for other service. The water inlet shall be coated so that it will not be contaminated by waste discharge, road dust, oil, or grease and it shall be kept capped unless being filled.

15.3. The Department may impose additional requirements to protect against health hazards related to a mobile permanent cosmetic or tattoo unit.

SECTION 16. TEMPORARY DEMONSTRATION LICENSE

16.1. The Department may issue a temporary demonstration license to an artist, establishment, or a supplier of materials for body art for:

16.1.1. Educational purposes where body art is performed;

16.1.2. Trade shows where body art is performed;

16.1.3. Demonstrations of body art products or procedures; and

16.1.4. An appearance as a guest artist.

16.2. A temporary demonstration license shall be valid for no more than fourteen (14) consecutive calendar days.

16.3. The sponsor of a body art event for educational purposes, trade shows and/or demonstrations of body art procedures where body art is performed shall obtain all necessary permits to conduct business in the jurisdiction where the event will be held, including, but not limited to, valid permits issued by the Department.

16.4 The Department shall collect a non-refundable sponsor fee of fifty dollars ($50) per artist that shall perform body art at the event, not to exceed two thousand dollars ($2000) per event. In addition to the penalties available pursuant to Ark. Code Ann. § 20-27-1502, a sponsor who violates this subdivision shall be subject to closure of the temporary body art event and a penalty not to exceed three times the cost of the permit.

16.5. The Department shall levy and collect a non-refundable fee of fifty dollars ($50) from a guest artist for a temporary demonstration license.

16.5.1. An application for a temporary demonstration license shall be submitted to the Department not less than forty-five (45) days prior to the event for educational purposes, trade show, or demonstration of body art products and procedures where body art is performed.

16.5.2. An application for a temporary demonstration license shall be submitted to the Department not less than seven (7) days prior to the appearance of a guest artist.

16.6. An artist shall provide evidence of completion of a blood borne pathogens training which meets the requirements of the Occupational Safety and Health Administration with the application.

16.6.1. A person applying for a temporary demonstration license to appear as a guest artist shall provide documentation of licensure as an artist in another state or country or employment history with proof of employment in a body art facility licensed by the regulatory board or agency in that state or country before the temporary demonstration license may be granted.

16.6.2. The establishment where the guest artist is appearing shall have a licensed body artist on its staff.

16.6.3. A guest artist may be issued a temporary demonstration license to appear as a guest artist in the state of Arkansas no more than one (1) time every three (3) months.

SECTION 17. TREATMENT AND DISPOSAL OF INFECTIOUS WASTE

Treatment and disposal of infectious waste including sharps shall conform to Act 96 of 1913 as amended and Act 41 of 1992 and the Rules and Regulations Pertaining to Management of Medical Waste from Generators and Health Care Related Facilities.

SECTION 18. SUBMISSION OF PLANS

Before any body art establishment is constructed or an existing structure is converted to use as a body art establishment, plans shall be submitted to the Department for review and approval. The plans and specifications shall include the workroom layout, plumbing plans, construction materials and the type and model of proposed equipment. No body art establishment shall be constructed, remodeled, or converted except in accordance with approved plans.

SECTION 19. INSPECTIONS

The business premises, equipment, procedures, techniques and conditions of body art establishments shall be subject to at least one (1) inspection by the Department per year.

SECTION 20. ACCESS TO ESTABLISHMENT; CLOSURE FOR VIOLATION; SUSPENSION OR REVOCATION OF ARTIST OR ESTABLISHMENT LICENSE

20.1. The Department at all reasonable times shall have access to and is hereby empowered to enter any and all parts of the premises of any body art establishment for the purpose of making inspections to determine compliance with these regulations. The Department shall also be permitted access to all required records.

20.2. If it is determined upon inspection that any body art establishment is being maintained contrary to the provisions of these regulations and such violation poses an imminent threat to public health, safety or welfare, such establishment shall be closed until provision is made to comply with the regulations and permission is given by the Department to reopen or it is determined, in a fair hearing under the Arkansas Administrative Procedures Act, that the facility should be reopened.

20.3. After written notice, the Department may suspend or revoke any artist or establishment license issued in accordance with these Rules and Regulations for violation of the provisions of these Rules and Regulations. The artist or operator may appeal such suspension or revocation as provided for by the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-201 et seq.

SECTION 21. RELATED REGULATIONS

All body art establishments shall comply with all appropriate state laws, rules and regulations, including but not limited to the following:

21.1. Arkansas Department of Health Rules and Regulations Pertaining to General Sanitation.

21.2. Act 402 of 1977, as amended, and the Rules and Regulations Pertaining to Onsite Wastewater Systems.

21.3. Arkansas Department of Health Rules and Regulations Pertaining to Public Water Systems.

21.4. Arkansas Plumbing Code.

21.5. The Rules and Regulations Pertaining to Management of Medical Waste from Generators and Health Care Related Facilities.

21.6. The Rules and Regulations Pertaining to the Control of Communicable Diseases.

21.7. The Arkansas Gas Codes.

21.8. The Arkansas Mechanical Code.

SECTION 22. PENALTY

22.1. Every firm, person, or corporation violating any of the provisions of these Rules and Regulations shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one thousand dollars ($1000) nor more than five thousand dollars ($5000) or by imprisonment not exceeding one month, or both. Each day of violation shall constitute a separate offense (Ark. Code Ann. § 20-27-1512.).

22.2. Additional civil penalties and fines shall be enforced in accordance with Ark. Code Ann. § 20-58-12, Ark. Code Ann. § 20-7-101 and Ark. Code Ann. § 20-27-1501 et. seq.

22.3. Any penalty will be in addition to other remedies available to the Department, including suspension or revocation of license and civil penalties.

SECTION 23. SEVERABILITY

If any provision of these Rules and Regulations or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these Rules and Regulations which can give effect without the invalid provisions or applications, and to this end, the provisions hereto are declared severable.

SECTION 24. REPEAL

All regulations and parts of regulations in conflict herewith are hereby repealed.

SECTION 25. CERTIFICATION

This will certify that the foregoing Rules and Regulations for Body Art Establishments were adopted by the Arkansas Board of Health at a regular session of the Board held in Little Rock, Arkansas on the 28th day of January, 2016.

Nathanial Smith, MD, MPH
Director and State Health Officer
Arkansas Department of Health