

Rule and Regulation No. 5
Of the
Southwestern District Health Unit

This regulation regulates the operation and inspection of body art establishments; the issuing, suspension, and revocation of permits, and the fixing of penalties.

Section 1. The inspection and operation of body art establishments within the boundaries of the Southwestern District Health Unit (SWDHU) of North Dakota, the issuing of permits for the operation of such establishments, the enforcement of this regulation, and the fixing of penalties, shall conform with the regulations which the Health Officer of the SWDHU may adopt under authority hereby conferred.

Section 2. A minimum of one unannounced annual inspection will be done of each establishment to assure compliance with regulations, which the Health Officer of the SWDHU may adopt under authority hereby conferred.

Section 3. *Age limitations for performing body art procedures shall follow to rules set forth by North Dakota Century Code 23-01-35 and North Dakota Administrative Code 33-41-01-03.

Section 4. Any violation or non-compliance to the provisions of this regulation shall result in the suspension or revocation of their permit to operate within the boundaries of the SWDHU. Any person violating any provision of this regulation or obstructs, interferes or hinders the Health Officer or their designate in the performance of their duties may be found guilty of a Class B Misdemeanor punishable by up to a \$1,000 fine, 30 days in jail, or both such fine and imprisonment.

This rule and regulation made by the Southwestern District Health Unit Board of Health is necessary and proper for the preservation of public health and safety.

This rule and regulation was adopted by the Southwestern District Board of Health on December 13, 2001 and published on December 19, 2001 in accordance with State Law 23-05-03. The Regulations for Owners and Operators of Body Art Establishments operations standards was amended and adopted by the Southwestern District Board of Health on December 13, 2007.

*Age limitation standards were amended by the Southwestern District Health Unit Board of Health on December 14, 2017.

Southwestern District Health Unit

Regulations for Owners and Operators of Body Art Establishments

The following regulations, promulgated by the Southwestern District Health Unit and approved by resolution of the Southwestern District Health Unit Board of Health on the 13th Day of December, 2001 and revised on the 13th Day of December, 2007 must be posted in all Body Art Establishments in a prominent location so that they may be read by clients and operators of a Body Art Establishment.

Section I. Definitions

The following terms used in these regulations shall be as follows:

- 1.1 **“AFTERCARE”** means written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.
- 1.2 **“ANTISEPTIC”** means an agent that reduces disease-causing microorganisms on human skin or mucosa.
- 1.3 **“BODY ART”** means the practice of physical body adornment by permitted establishments and operators using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by a state medical board, such as implants under the skin, which shall not be performed in a body art establishment. Nor does this definition include, for the purpose of this Model Code, piercing of the non-cartilaginous outer perimeter or lobe of the ear with presterilized single-use stud-and-clasp ear-piercing system.
- 1.4 **“BODY ART ESTABLISHMENT”** means any place or premise where the practice of body art, whether or not for profit, are performed, except where such practices are performed by a physician or surgeon who has current license for the practice of medicine issued by the State of North Dakota pursuant to Chapter 43-17 of the North Dakota Century Code.
- 1.5 **“BODY PIERCING”** means puncturing or penetration of the skin of a person with presterilized single-use needles and the insertion of presterilized jewelry or other adornments thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a presterilized single-use stud-clasp ear-piercing system shall not be included in this definition.
- 1.6 **“CONTAMINATED WASTE”** means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dry blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal regulation Part 1910.1030 (latest edition), known as “Occupational exposure to Blood born Pathogens.”
- 1.7 **“COSMETIC TATTOOING”** see “TATTOOING”
- 1.8 **“DEPARTMENT”** means Southwestern District Health Unit, or its authorized representatives.
- 1.9 **“DISINFECTION”** means the reduction of disease-causing micro-organisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.
- 1.10 **“EAR PIERCING”** means puncturing of the non-cartilaginous perimeter or lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system following manufacturer’s instructions.

- 1.11 **“EQUIPMENT”** means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art establishment.
- 1.12 **“HAND-SINK”** means a lavatory equipped with potable hot and cold running water under pressure, used solely for washing hands, arms, or other portions of the body.
- 1.13 **“HOT WATER”** means water that attains and maintains a temperature of at least 100°Fahrenheit.
- 1.14 **“INSTRUMENTS USED FOR BODY ART”** means hand pieces, needles, needle bars, and other instruments that may come in contact with a clients body or may be exposed to bodily fluids during body art procedures.
- 1.15 **“INVASIVE”** means entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break, or compromise the skin or mucosa.
- 1.16 **“JEWELRY”** means any personal ornament inserted into a newly pierced area, which must be made of surgical implant-grade stainless steel; solid 14k or 18k white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.
- 1.17 **“LIQUID CHEMICAL GERMICIDE”** means a disinfectant or sanitizer registered with the U.S. Environmental Protection Agency or an approximately 1:100 dilution (500ppm) of household chlorine bleach made fresh daily and dispensed from a spray bottle (500 ppm, ¼ cup bleach per gallon of water or 2 tablespoons bleach per quart of water).
- 1.18 **“MOBILE BODY ART ESTABLISHMENT/UNIT”** means a mobile establishment or unit which is self-propelled or otherwise movable from place to place and is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal which operates at a fixed location where a permitted or licensed operator performs body art procedures.
- 1.19 **“OPERATOR”** means any person who controls, operates, manages, conducts, or practices body art activities at a body art establishment. The term includes an assistant or technician who performs body art activities and who works under the supervision, control or authority of somebody else who is an operator.
- 1.20 **“PERMIT”** means written permission issued by Southwestern District Health Unit to operate a body art establishment.
- 1.21 **“PERSON”** means an individual, any form of business or social organization or any other non-government legal entity, including but not limited to corporations, partnerships, limited-liability companies, trusts or unincorporated organizations.
- 1.22 **“PHYSICIAN”** means a person currently licensed by the state of North Dakota to practice medicine pursuant to the provisions of chapter 43-17 of the North Dakota Century Code.
- 1.23 **“PROCEDURE SURFACE”** means any surface of an inanimate object that contact clients unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area which may require sanitizing.
- 1.24 **“SANITIZING PROCEDURE”** means a process of reducing the number of micro-organisms on surfaces and equipment to a safe level as judged by public health standards and which has been approved by the Department.
- 1.25 **“SHARPS”** means any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa, including, but not limited to pre-sterilized, single use needles; and scalpel blades.
- 1.26 **“SHARPS CONTAINER”** means puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is red in color and labeled with the International Biohazard Symbol.

- 1.27 “SINGLE USE”** means product or items that are intended for one-time, one person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary covering, razors, piercing needles, scalpel blades, stencil cups, and protective gloves.
- 1.28 “STERILIZATION”** means a very powerful process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.
- 1.29 “TATTOOING”** means any method of placing ink or other pigments into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in the permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.
- 1.30 “TEMPORARY BODY ART ESTABLISHMENT”** means any place or premise operating at a fixed location where an operator performs body art procedures for no more than 14 days consecutively in conjunction with a single event or celebration.
- 1.31 “UNIVERSAL PRECAUTIONS”** means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as “Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers” in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6, and “Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures”, in MMWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and the employees to assume that all human blood and specified human body fluids are infectious for HIOV, HBV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood and body fluid contaminated products.

Section II. Permitting, Inspections, Unlawful Practices, Penalty

- 2.1 It shall be unlawful to operate a body art establishment unless a permit is first obtained from the Southwestern District Board of Health. These provisions do not apply to physicians nor to individuals who pierce only the non-cartilaginous perimeter and lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system. These individuals are exempt from these regulations; provided, however, that such individuals shall not be exempt from the applicable U.S. Food and Drug Administration requirements.
- 2.2 A permit to operate a body art establishment shall be issued annually by the Southwestern District Board of Health after an inspection and approval of the establishment by the Health Officer of the Southwestern District Health Unit or his designee. The fee shall be as established by resolution of the Board of Health and applicants shall fill in and sign an application form furnished by the Southwestern District Health Unit. The license fee must be paid by the owners of the body art establishment. The permit shall be non-transferable. The permit holder may not perform any body art outside of the permitted establishment unless a Temporary or Mobile permit is obtained in accordance with sections XII and XIII of this code. The permit shall be displayed prominently in the body art establishment where it may be readily observed by clients.
- The health officer is authorized to promulgate regulations creating minimum standards for the body art establishments pertaining to the facilities, preparation and care of body art area, education and information for prospective clients, professional standards for the body art operators/technicians, sanitation and sterilization procedures, requirements for single use

items, maintenance and retention of records of body art procedures, and requirements for posting notices and information regarding body art, which regulations may be enforced by the health officer after they are approved by the Southwestern District Health Unit Board of Health.

- 2.3 The Southwestern District Health Unit Health Officer or his designee, or any officer of health or law enforcement, may at any time, enter upon any permitted premises for the purpose of inspection or to determine whether the permitted premises are in compliance with any and all rules and regulations promulgated by the Board of Health. A copy of the report must be furnished to the permit holder or operator of the body art establishment.
- 2.4 All permits issued under the provisions of this article, unless otherwise specifically provided, shall terminate on December 31st following the date of issuance; provided, however, that any license issued under the provisions of this article may, under certain circumstances, be terminated, suspended or revoked by the Board of Health.
- A. The Board of Health may, in its discretion, suspend or revoke for cause any permit issued under the provisions of this article. The grounds for suspension or revocation shall, among others, include the following:
1. The permittee has filed a petition in bankruptcy.
 2. An individual permittee, or one of the partners in a partnership permittee, or one of the officers in a corporation permittee, or any individual in active management of the permitted business is convicted of violating any provisions of this article.
 3. The permittee has been convicted of a felony under the laws of the United States or under the laws of one of the several states.
 4. The permittee has made any false statement in his application for a permit.
 5. The permittee has violated one or more of the regulations created pursuant to Section 2.
- B. The grounds enumerated in subsection (A) of this section shall not be deemed to be exclusive and any permit issued under the provisions of this article may be suspended or revoked by the Board of Health for any other reason deemed by the board to be sufficient in order to promote and protect the health, safety, and welfare of the public. When any permit is suspended or revoked by the Board of Health pursuant to the provisions of this section, or when the permittee voluntarily ceases business, no portion of the permit fee previously paid shall be returned to the permittee or to anyone claiming under or through him.
- C. No permit issued under the provisions of this article shall be suspended or revoked for cause by the Board of Health without a public hearing. In the event that the Board of Health intends to consider the suspension or revocation of any permit for cause, it shall direct the county auditor to notify the permittee of its intention to consider the same. The notice shall specify the time and place of the suspension or revocation hearing and shall be served upon the permittee or his managing agent in the same manner as provided by law for the service of a summons in a civil action. No suspension or revocation hearing shall be held before the expiration of 15 days after the date of the service of the notice upon the permittee.
- If, upon such hearing, it appears to the Board of Health that sufficient cause exists for the suspension or revocation of a permit issued pursuant to the provisions of this article, the Board of Health shall make its order suspending or revoking the said permit.

2.5 In addition to such other prohibitions as are contained in this article:

- A. No person shall perform body art on any body part of a person under the age of 18 without written consent of the parent or legal guardian of such minor and without said parent or legal guardian being present during such procedure.
- B. No person shall obtain or attempt to obtain any body art establishment permit by means of fraud, misrepresentation or concealment.
- C. No person shall perform body art procedures unless such procedures are performed in a body art establishment with a current permit.
- D. No person shall perform body art procedures unless they are at least 18 years of age.
- E. No person shall perform body art procedures while under the influence of alcohol, illegal drugs, or prescription drugs that alter mental or physical capacity.
- F. No person shall interfere with a health department officer in the performance of an inspection or in the performance of any other of his duties.
- G. Willful failure by the permittee to post regulations which are required to be posted pursuant to Section 2 of this article shall be unlawful.

2.6 Reciprocity

Southwestern District Health Unit will accept a Body Art license issued by another Health District or State as long as it meets or exceeds the regulations of the Southwestern District Health Unit.

- A. The establishment must meet all of the Body Art Regulations set forth by the Southwestern District Health Unit.
- B. The establishment must provide a copy of their current license and make their records available for viewing.
- C. The Establishment will be subject to inspection by the Southwestern District Health Unit and an inspection fee will be charged. Mileage fees will be charged for inspections out of the local office area.

Section III Premises Requirements. The following are the requirements for construction, materials and condition of a body art establishment.

3.1 All new or extensively remodeled body art establishments shall submit a scale drawing and floor plan of the proposed establishment for a plan review by the department, as part of the license application process.

3.2 All walls, floors, ceilings, and procedure surfaces of a body art establishment shall be smooth, free of open holes or cracks, light colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained and be in a clean condition. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client. All body art establishments shall be completely separated by solid partitions or by walls extending from the floor to ceiling, from any room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales, or any other such activities that may cause potential contamination of work surfaces.

3.3 Effective measures shall be taken by the body art operator to protect against entrance into the establishment and against the breeding or presence on the premises of insects, vermin, and rodents. Insects, vermin and rodents shall not be present in any part of the establishment; its appurtenances, or appertaining premises.

- 3.4 There shall be adequate floor space for each operator in the establishment. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by dividers or partitions, at a minimum.
- 3.5 The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 foot candles at a height of 3 feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are being assembled.
- 3.6 No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g. seeing eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.
- 3.7 A separate, readily accessible hand sink with hot and cold running water, under pressure, equipped with wrist or foot operated controls and supplied with liquid soap, and disposable paper towels shall be readily accessible within the body art establishment. One hand sink shall serve no more than three operators. In addition, there shall be a minimum of one lavatory, excluding any service sinks, and one toilet in a body art establishment. All plumbing shall meet with the standards set forth by the North Dakota State Plumbing Code.
- 3.8 At least one covered waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily, and soiled waste shall be removed from the premises at least weekly. All refuse containers shall be lidded, cleanable, and kept clean.
- 3.9 All instruments and supplies shall be stored in clean, dry, and covered containers.
- 3.10 Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

Section IV, Body Art Operator Requirements and Professional Standards. The following information shall be kept on file on the premises of a body art establishment and available for inspection by the Department.

- 4.1 Information about each employee of a body art establishment
 - 4.1.1 Employee's full name and exact duties;
 - 4.1.2 Date of birth;
 - 4.1.3 Gender;
 - 4.1.4 Home address;
 - 4.1.5 Home and work telephone numbers;
 - 4.1.6 Identification photos of all body art operators.
- 4.2 Information about the body art establishment;
 - 4.2.1 Establishment name;
 - 4.2.2 Name and address of each person who has an ownership interest in the body art establishment;
 - 4.2.3 A complete description of all body art procedures performed;

4.2.4 An inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers, lot numbers, and dates of manufacture unless such information is not available on the packaging of such a product, in which case such information as will otherwise identify the product must be inventoried, such copies of invoices or orders.

4.3 A copy of these regulations.

Section V, Preparation and Care of the Body Art Area. A Body Art Establishment shall maintain the body art area in conformance with the following practices:

- 5.1 Before a body art procedure is performed, the immediate skin area and the areas of the skin surrounding where the body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation, depending on the type of body art to be performed. If shaving is necessary, single use disposable razors or safety razors with single service blades shall be used. Blades shall be discarded after each use and reusable holders autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
- 5.2 In the event of blood flow, all products used to check the flow of blood or to absorb blood shall be single use and disposed of immediately after use in appropriate covered containers, unless the disposal products meet the definition of biomedical waste. The use of styptic pencils or alum solids shall not be used to check the flow of blood.

Section VI, Education and Information Requirements. Body Art Establishments and all operators shall provide information and education to prospective clients and to gather information from them as follows:

- 6.1 All clients requesting body art shall be given educational information about body art procedures by the body art establishment both verbally and in writing prior to the commencement of any such procedure. Written educational information shall be approved by the Department. Verbal and written instructions, approved by the Department, for aftercare of the body art procedure site shall be provided to each client by the operator upon completion of the procedure. The written instructions shall advise the client to consult a physician at the first sign of infection and shall contain the name, address, and phone number of the establishment. These documents shall be signed and dated by both parties, with a copy given to the client and the operator retaining the original with all other required records. In addition all establishments shall prominently display a Disclosure Statement, provided by the Department, which advises the public of the risks and possible consequences of body art services. The facility permit holder shall also post in public view the name, address and phone number of the Local/State Department that has jurisdiction over this program and the procedure for filing a complaint. The Disclosure Statement and the Notice for Filing a Complaint shall be included in the permit application packet.
- 6.2 So that the operator can properly evaluate the client's personal history before receiving a body art procedure and not violate the client's rights or confidential medical information, the operator shall ask for the information as follows:

In order for proper healing of your body art procedure, we ask that you disclose if you have had any of the following conditions of which would require written approval from a licensed physician before any body art will be performed.

- i. Diabetes;
- ii. History of hemophilia (bleeding)

- iii. History of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectant, etc.
 - iv. History of allergies or adverse reaction to pigments, dyes or other skin sensitivities;
 - v. History of epilepsy, seizures, fainting or narcolepsy;
 - vi. Use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting.
 - vii. Hepatitis
 - viii. HIV positive
 - ix. High blood pressure, heart disease
 - x. Pregnancy
 - xi. Contagious diseases
 - xii. Immune system disorders
 - xiii. Serious physical or mental health problems
- 6.3 The operator should ask the client to sign a Release Form confirming that the above information was obtained or that the operator attempted to be obtained. The client should be asked to disclose any other information that would aid the operator in evaluating the client's body art healing process.
- 6.4 Nothing in these regulations shall be construed to require the operator to perform a body art procedure upon a client.
- 6.5 All infections, complications, or diseases resulting from any body art procedure that become known to the operator shall be reported to the department by the operator within 24 hours.

Section VII, Body Art Operator Professional Standards. Body art operators shall comply with the following practices.

- 7.1 No person shall perform body art on a person who the operator knows is under the influence of alcohol or drugs, or has reason to believe may be otherwise legally incapacitated or incompetent.
- 7.2 Body art operators must be at least 18 years of age.
- 7.3 Smoking, eating and drinking are prohibited in the body art procedure area.
- 7.4 No person shall perform body art procedures while under the influence of alcohol, illegal drugs, or prescription drugs that alter mental or physical capacity.
- 7.5 No alcohol, illegal drugs, or prescription drugs that alter mental or physical capacity may be consumed on premises.
- 7.6 An operator shall refuse service to any person who, in the opinion of the operator, is under the influence of alcohol or drugs or whom the operator has reasonable grounds to believe is legally incapacitated.
- 7.7 The operator shall maintain a high degree of personal cleanliness, conform to hygienic practices, and wear clean clothes while performing body art procedures. Before performing a body art procedure, the operator must thoroughly wash their hands in hot running water with liquid soap, rinse hands and dry them with disposable paper towels. This shall be done as often as necessary to remove contaminants.
- 7.8 The operator shall be vaccinated against Hepatitis B virus. The operator is responsible for ensuring that all individuals working at their establishment initiate the Hepatitis B vaccination series within 30 days of starting work unless the individuals have previously received the complete Hepatitis B vaccination series and can provide documentation to the Department, antibody testing has revealed that the individual is immune, or the vaccine is contraindicated for medical reasons.
- 7.9 The operator shall be certified in CPR.

- 7.10 In performing body art procedures, the operator shall wear disposable medical gloves. Gloves must be changed if they become contaminated by contact with any non-clean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and the hands washed before the next set of gloves donned. Under no circumstance shall a single pair of gloves be used on more than one person. The use of disposable medical gloves does not preclude or substitute for hand-washing procedures as part of a good personal hygiene program.
- 7.11 If, while performing a body art procedure, the operator's glove is pierced, torn, or otherwise contaminated, the procedure delineated in subparagraph 7.8 shall be repeated immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly before a fresh pair of gloves is applied. Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- 7.12 Contaminated waste, as defined by this code, that may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved "red" bag marked with the International Biohazard Symbol. It must then be disposed of by a waste hauler approved by the Department or, at a minimum, in compliance with 29 CFR Part 1910.1030, "Occupational Exposure To Blood borne Pathogens". Sharps ready for disposal shall be disposed of in an approved sharps container. Contaminated waste that does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered waste receptacle and disposed of through normal, approved disposal methods. Storage of contaminated waste on site shall not exceed the period specified by the Department or more than a maximum of 30 days, as specified in 29 CFR 1910.1030, whichever is less.
- 7.13 No person shall perform any body art procedure upon a person under the age of 18 years without the presence, written consent, and proper identification of a parent, legal custodial parent, or legal guardian. Nothing in this section is intended to require an operator to perform any body art procedure on a person under the age of 18 years of age with parental or guardian consent.
- 7.14 Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
- 7.15 The skin of the operator shall be free of any rash or infection. Unless an impermeable cover such as bandage, finger cot, or medical glove protects the lesion, no person or operator affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
- 7.16 All infections, complications, or diseases resulting from any body art procedure that become known to the operator shall be reported to the Department by the operator within 24 hours.
- 7.17 Under no circumstances shall ear piercing studs and clasps be used anywhere on the body other than the non-cartilaginous perimeter and lobe of the ear.

Section VIII, Sanitation and Sterilization Procedures. All body art establishments and operators shall comply with the following sanitation and sterilization procedures:

- 8.1 All non-single-use, non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water or by following the manufacturer's instructions, to remove blood and tissue

residue, and shall be placed in an ultrasonic unit also operated in accordance with manufacturer's instructions.

- 8.2 After being cleaned, all non-disposable instruments used for body art shall be packed individually in peel-packs and subsequently sterilized (see 8.3). All peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Peel-packs must be dated with an expiration date not to exceed 6 months.
- 8.3 All cleaned, non-disposable instruments used for body art shall be sterilized in a steam autoclave or dry-heat sterilizer (if approved by the Department). The sterilizer shall be used, cleaned, and maintained according to manufacturer's instructions. A copy of the manufacturer's recommended procedures for the operation and sterilization unit must be available for inspection by the Department. Sterile equipment may not be used if the packaging has been breached or after expiration date without first re-packaging and re-sterilizing. Sterilizers shall be located away from work stations or areas frequented by the public. If the body art establishment uses only single-use, disposable instruments and product, and uses sterile supplies, an autoclave shall not be required.
- 8.4 Each holder of a permit to operate a body art establishment shall demonstrate that the sterilizer used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the sterilizer's ability to destroy spores is received by the Department. These test records shall be retained by the operator for a period of three (3) years and made available to the Department upon request.
- 8.5 All needles used for tattooing or body piercing shall be single use only. No re-use or re-sharpening is allowed.
- 8.6 All instruments used in tattooing, body piercing, and cosmetic tattooing shall be cleaned and sterilized prior to use and stored in peel-packs. After sterilization, the instrument used for tattooing/body piercing shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
- 8.7 All instruments used for tattooing/body piercing shall remain stored in sterile packages until just prior to the body art procedure. When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.
- 8.8 All inks, dyes, pigments, needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. The mixing of inks, dyes, or pigments or their dilution with sterile water is acceptable. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use sterile paper or plastic cups. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.

Section IX, Requirements For single Use Items. Single-use items shall not be used on more than one client for any reason. After use, single-use needles, razors, and other sharps shall be immediately disposed of in an approved sharps container. All products applied to the skin, including body art stencils, shall be single use and disposable. If the Department approves, acetate stencils shall be allowed for re-use if sanitization procedures (see definition in subpart 1.23 of Section 1 above) are performed between uses. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area with sterile gauze or in a manner to prevent contamination of the original container and its content. The gauze shall be used only once and then discarded.

Section X. Maintenance and Retention of Client Records. Each body art establishment shall maintain and retain records of all body art procedures administered, which records must include the following:

- 10.1 Name, date of birth, and address of the client
- 10.2 Date of procedure
- 10.3 Time of day of procedure
- 10.4 Identification of the materials used (jewelry, inks, etc.)
- 10.5 Location on the clients body of the art procedure(s) performed
- 10.6 Full name of the operator who performed the body art
- 10.7 Signature of the client; and,
- 10.8 If the client is a minor, signature of the client's parent or legal guardian

The body art establishment shall keep such records confidential except that they be shall be made available to the Department upon request of the Department. All records shall be maintained for a minimum of three (3) years.

Section XI. Notice Required to be Posted. In addition to these Regulations, the public notices entitled "Tattooing Disclosure Statement" and "Body Piercing Disclosure Statement", both of which have been approved by the Department, shall be posted in a prominent location in the body art establishment where they may be read by clients. A copy of each such Public Notice is attached hereto and incorporated herein by reference.

XII. TEMPORARY and or DEMONSTRATION PERMIT REQUIREMENTS

- 12.1 A temporary permit may be issued by the Department for educational, trade show, special event, or demonstration purposes only. The permit will be valid for a period of not more than 14 calendar days.
- 12.2 A person who wishes to obtain a temporary / demonstration permit must submit the request in writing for review by the Department, at least 30 days prior to the event. The request should specify:
 - a. the purpose for which the permit is requested
 - b. the period of time during which the permit is needed (not to exceed 14 calendar days) without reapplication
 - c. the fulfillment of operator requirements as specified in Section IV, Body Art Operator Requirements and Professional Standards.
 - d. The location where the temporary / demonstration permit will be used.
- 12.3 The applicant's demonstration project must be contained in a completely enclosed, non-mobile facility (e.g., inside a permanent building)
- 12.4 The applicant must be currently licensed and affiliated with a fixed location or permanent facility which, where applicable, is licensed by the appropriate state or local jurisdiction.
- 12.5 Compliance with all of the requirements of this code includes but is not limited to the following:
 - a. Conveniently located hand washing facilities with liquid soap, paper towels and hot and cold water under adequate pressure shall be provided. Drainage is in accordance with local plumbing codes and shall be provided. Tuberculocidal single use hand wipes, approved by the

- Department, to augment hand washing requirements of this section must be available in each booth / cubicle.
 - b. A minimum of 80 square feet of floor space shall be provided.
 - c. There shall be at least 100 foot candles of light at the level where the body art procedure is being performed.
 - d. Facilities to properly sterilize instruments – and evidence of a spore test performed on sterilization equipment 30 days or less prior to the date of the event, must be provided: or only single use, prepackaged sterilized equipment obtained from reputable suppliers or manufacturers will be allowed.
 - e. Ability to properly clean and sanitize the area used for body art procedures is required.
- 12.6 The facility where the temporary / demonstration permit is needed must be inspected by the Department and a permit issued prior to the performance of any body art procedures.
- 12.7 Temporary / demonstration permits issued under the provisions of this code may be suspended by the Department for failure of the holder to comply with the requirements of this code.
- 12.8 All establishments and operator permits and the disclosure notice must be readily seen by clients.

XIII. MOBILE BODY ART ESTABLISHMENTS

In addition to complying with all of the requirements of this code, mobile body art vehicles and operators / technicians working from a mobile body art establishment shall also comply with all of the following requirements.

- 13.1 Mobile body art establishments are permitted for use only at special events, lasting 14 calendar days or less. Permits must be obtained at least 14 days prior to the event, and no body art procedures are to be performed before a permit is issued. Permit holders are responsible for ensuring that all other local agency regulations are complied with, such as, but not limited to, zoning and business license requirements.
- 13.2 Body art performed pursuant to this section shall be done only from an enclosed vehicle such as a trailer or mobile home. No body art procedures shall be performed outside of the enclosed vehicle.
- 13.3 The mobile body art establishment shall be maintained in a clean and sanitary condition at all times. Doors shall be self-closing and tight fitting. Operable windows shall have tight fitting screens.
- 13.4 Mobile body art establishments must have approved sterilization equipment available, in accordance with all requirements of Section VIII, Sanitation and Sterilization Procedures.
- 13.5 The mobile body art establishment shall be used only for the purpose of performing body art procedures. No habitation or food preparation is permitted inside the vehicle unless the body art work station is separated by walls, floor to ceiling, from culinary or domestic areas.
- 13.6 The mobile body art establishment shall be equipped with an equipment washing sink and a separate hand washing sink for the exclusive use of the operator / technician for hand washing and preparing the client for body art procedures. The hand-sink shall be supplied with hot and cold running water under pressure to a mixing type faucet, and liquid soap and paper towels in dispensers. An adequate supply of potable water shall be maintained for the mobile body art establishment

at all times during operation. The source of the water and storage (in gallons) of the tank(s) shall also be identified. Tuberculocidal single use hand wipes, approved by the Department, to augment the hand washing requirements of this section, must be available.

- 13.7 All liquid wastes shall be stored in an adequate storage tank with a capacity of at least 50 percent greater than the capacity of the on-board potable water supply. Liquid wastes shall be disposed of at a site approved by the Department.
- 13.8 Restroom facilities must be available within the mobile body art establishment. A hand sink must be available inside the restroom cubicle. The hand sink shall be supplied with hot and cold running water under pressure to a mixing type faucet, as well as soap and paper towels in dispensers. Restroom doors must be self-closing, and adequate ventilation must be available.
- 13.9 All body art operators / technicians working in a mobile body art establishment must have an operator permit and comply with the operator requirements of this code.
- 13.10 No animals, except service animals of clients shall be allowed in the mobile body art establishment at any time.
- 13.11 Mobile body art establishments must receive an initial inspection at a location specified by the Department prior to use to ensure compliance with structural requirements. Additional inspections will be performed at every event where the mobile body art establishment is scheduled to operate.
- 13.12 All mobile body art establishment and operator permits, as well as disclosure notice, must be posted and readily seen by clients.

XIV. ENFORCEMENT

- 14.1 It is a class B misdemeanor for establishments that continue to operate without proper permits from the department or operate in violation of these regulations.
- 14.2 A representative of the department shall properly identify themselves upon entering a body art establishment to make an inspection. Such an inspection must be conducted as often as necessary throughout the year to ensure compliance with this code.
- 14.3. It is unlawful for any person to interfere with the department in the performance of its duties.
- 14.4. A copy of the inspection report must be furnished to the license holder or operator of the body art establishment, with the department retaining possession of the original.
- 14.5. If, after investigation, the department should find that a licensee is in violation of this code, the Department may advise the licensee, in writing, of its findings and instruct the licensee to take specific steps to correct such violations within a reasonable period of time.
- 14.6. If the department has reasonable cause to suspect that a communicable disease is or may be transmitted by an operator, by use of unapproved or malfunctioning equipment, or by unsanitary or unsafe conditions that may adversely affect the health of the public, upon written notice to the owner or operator, the department may do any or all of the following:
 - a. Issue an order excluding any or all operators from the licensed body art establishment who are responsible, or reasonably appear responsible, for the transmission of a communicable disease until the department determines there is no further risk to public health.

- b. Issue an order to immediately suspend the license of the establishment until the department determines there is no further risk to the public health. Such an order shall state the cause for the action.
- 14.7 Licenses issued under the provisions of the code may be suspended temporarily by the department for failure of the holder to comply with the requirements of this code.
- 14.8. Whenever a license holder or operator has failed to comply with any notice issued under the provisions of this code, the operator must be notified in writing that the license is, upon service of this notice, immediately suspended. The notice must also contain a statement informing the license holder or operator that an opportunity for a hearing will be provided if a written request for a hearing is filed with the department.
- 14.9 Any person whose license has been suspended may, at any time, make application for reinstatement of the license. Within 10 days of receipt of a written request, including a statement signed by the applicant that in his or her opinion the conditions causing the suspension have been corrected, the department shall re-inspect the body art establishment or evaluate documentation provided by an operator. If the applicant is in compliance with the provisions of this code, the license will be reinstated.
- 14.10 For repeated or serious (any code infraction that threatens the health of the client or operator) violations of any of the requirements of this code or for interference with department personnel in the performance of their duties, a license may be permanently revoked after a hearing. Before taking such action, the department shall notify the license holder or operator in writing, stating the reasons for which the license is subject to revocation and advising the license holder or operator of the requirements for filing a request for a hearing. A license may be suspended for cause, pending its revocation or hearing relative thereto.
- 14.11 The department may permanently revoke a permit after five days following service of the notice unless a request for hearing is filed within the five day period with the department by the license holder.
- 14.12 The hearings provided for in this section must be conducted by the department at a time and place designated by the department. On the basis of the record of the hearing, the department shall make a finding and may sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision must be furnished to the license holder or operator by the department.

PUBLIC NOTICE

TATTOOING DISCLOSURE STATEMENT

SOUTHWESTERN DISTRICT HEALTH UNIT DOES NOT ENDORSE OR RECOMMEND TATTOOING IN ANY FORM.

SOUTHWESTERN DISTRICT HEALTH UNIT PERMITS SIGNIFY SANITATION OF EQUIPMENT AND PROCEDURES ONLY.

As with any invasive procedure, Tattooing may involve possible health risks.

Tattooing could result in:

- Pain, bleeding, swelling, infection, allergic reaction, scarring of the tattooing area and nerve damage.

The Tattooing Operator must:

- Properly cleanse the tattooing site before tattooing
- Use Sterilized Equipment
- Use sterile tattoo techniques, and
- Inform the Client of proper aftercare of the tattooing area.

Comments and/or complaints – contact:

Southwestern District Health Unit
227 16th St. West
Dickinson, ND 58601
701-483-0171

PUBLIC NOTICE

BODY PIERCING DISCLOSURE STATEMENT

SOUTHWESTERN DISTRICT HEALTH UNIT DOES NOT ENDORSE OR RECOMMEND BODY PIERCING IN ANY FORM.

SOUTHWESTERN DISTRICT HEALTH UNIT PERMITS SIGNIFY SANITATION OF EQUIPMENT AND PROCEDURES ONLY.

As with any invasive procedure, Body Piercing may involve possible health risks.

Body Piercing could result in:

- Pain, bleeding, swelling, infection, allergic reaction, scarring of the tattooing area, and nerve damage.

The Body Piercing Operator must:

- Properly cleanse the piercing site before piercing
- Use Sterilized Equipment
- Use sterile piercing techniques, and
- Inform the Client of proper aftercare of the pierced area.

Comments and/or complaints – contact:

Southwestern District Health Unit
227 16th St. West
Dickinson, ND 58601
701-483-0171

PERSONAL HISTORY

Please answer the following questions to the best of your ability.

*Have you ever had Hepatitis? Yes___ No___

*Have you ever tested positive for HIV? Yes___ No___

*Do you have any allergies? Yes___ No___

*Are you diabetic? Yes___ No___

*Do you have high blood pressure / heart disease? Yes___ No___

*Do you have epilepsy, seizures, fainting, or dizziness? Yes___ No___

*Do you have a history of skin diseases, easy scaring, easy bruising, open sores, skin sensitivities? Yes___ No___

*Are you taking any prescription medication other than routine antibiotics, allergy medication, or birth control pills? Yes___ No___

*(Females) are you pregnant? Yes___ No___

*Do you currently have a contagious disease i.e., Tuberculosis, Mononucleosis, Pneumonia, or Sexually Transmitted Disease? Yes___ No___

*Do you now have, or have you ever had problems with your immune system? Yes___ No___

*Do you have any serious physical or mental health problems? Yes___ No___

*Have you been hospitalized in the past 12 months?
Explain: _____

*Are you under the influence of drugs or alcohol? Yes___ No___

By my signature below, I certify that I understand and have answered the above questions truthfully and to the best of my knowledge.

Signature_____Date_____

Print Name_____Date of Birth_____

Address_____Phone Number_____

City_____State_____Zip_____SS#_____

Artist_____Design/Procedure_____

Location of Procedure (area of body)_____

A yes answer or refusal to complete this form would require written approval from a licensed physician as per subparagraphs 6.1 and 6.2 of the Regulations for Body Art Establishments and Operators.