

2021

**FIRST
DISTRICT
HEALTH UNIT**

ENVIRONMENTAL HEALTH
DIVISION

RULES AND REGULATIONS FOR BODY ART

PERTAINING TO ALL TATTOOING, PIERCING, PERMANENT MAKEUP AND EAR PIERCING

REVISED APRIL 2021

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The following regulations, promulgated by the First District Health Unit (FDHU) and approved by resolution of the First District Board of Health on the 20th day of May, 2021, and effective July 1, 2021 as authorized by Section 23-35-08 of the North Dakota Century Code, shall be posted in all Body Art Facilities in a prominent location so that they may be read by clients and by operators of a Body Art Facility. Any and all Body Art Facilities and Operators located within the FDHU are required to operate in full accordance with the following regulations.

Section 1. Definitions. Unless content or context specifies otherwise, the following terms used in these regulations shall be defined as follows (words not defined in this section or in any other location in this document shall have the definitions found in the most current version of the Merriam-Webster Dictionary):

- 1-1. "AFTERCARE" means instructions given to the client, specific to the body art procedure(s) performed upon that client, 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 a product that is labeled as useful in preventing diseases caused by microorganisms present on the skin and/or on mucosal surfaces of humans. This includes products meant to kill germs and/or labeled as "antiseptic," "antimicrobial," "antibacterial," "microbicide," or "germicide," or other similar terms.
- 1-3. "APPLICANT" means any person that applies to the Department for a license.
- 1-4. "APPRENTICE OPERATOR" means a person that is working as a body art operator under the direct supervision of a licensed body art operator in a licensed body art establishment performing body art procedures for purposes of learning how to perform body art procedures.
- 1-5. "APPROVED" means acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.
- 1-6. "ASEPTIC TECHNIQUE" means a set of specific practices and procedures performed under controlled conditions with the goal of minimizing contamination by pathogens.
- 1-7. "AUTOCLAVE" means a device that is intended for use for sterilizing products by means of pressurized steam. This device must comply with one of three types of steam programs defined as B, N, and S by standard EN13060, ISO 17665.
- 1-8. "BODY ART" means the practice of physical body adornment involving, but not limited to, the following techniques: body piercing, ear piercing, tattooing, cosmetic tattooing, branding, suspension, cutting and scarification. This definition does not include practices that are considered medical procedures by the state board of medical examiners, such as implants under the skin, which shall not be performed in a body art facility.
- 1-9. "BODY ART ESTABLISHMENT" or "BODY ART FACILITY" means any place or premise where the practices of body art, whether or not for profit, and whether permanent or temporary, are performed. This definition does not include any establishment where such practices are performed by a dentist, physician or surgeon who has a 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.

- 1-10. "BODY PIERCING" means the puncturing or penetration of the skin or mucous membranes of a person with needles or other devices for the purposes of insertion of jewelry or other adornment thereto in the opening. The process of puncturing the lobe of the ear with a pre-sterilized single-use stud-and-clasp-ear-piercing system or "piercing gun" shall not be included in this definition (see "Ear Piercing").
- 1-11. "BRANDING" means deliberately inducing a pattern on the skin of a person by using any method including heat, cold, or any chemical compound applied to the skin to burn or freeze the skin.
- 1-12. "CLEANING" means the removal of visible soil and debris (specifically organic or inorganic materials) from objects or surfaces either manually or mechanically.
- 1-13. "CLIENT" means any person on whom a body art procedure or ear piercing will be performed.
- 1-14. "COMMUNICABLE DISEASE" means any disease that can be directly or indirectly transmitted from person to person.
- 1-15. "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 dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations Part 1910.1030 (latest edition), known as "Occupational Exposure to Bloodborne Pathogens."
- 1-16. "COSMETIC TATTOOING" means a tattoo, whether permanent, semi permanent, or temporary done at procedure sites including, but not limited to, eyebrows, eyelids, lips or other body parts for beauty marks, hair imitation, lash enhancement, scar camouflage, or areola repigmentation. This term includes any procedures referred to, but not limited to, "permanent makeup", micropigmentation", "micropigment implantation", "microblading", "micro-needling with the use of pigment", "dermagraphics", or any other similar procedures.
- 1-17. "COSMETIC TATTOOIST" or "COSMETIC OPERATOR" means someone who performs cosmetic tattooing procedures.
- 1-18. "CRITICAL ITEM" means an item that pierces or enters tissue.
- 1-19. "CUTTING" means the practice of cutting the skin, mucous membranes or any part of the body to create a permanent scar or division of tissue for the purpose of body art. Cutting does not include any procedures performed by a dentist, physician or surgeon who has a 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.
- 1-20. "DECONTAMINATION" means the use of physical and/or chemical means to remove, inactivate, or destroy pathogens on a surface. A surface is considered decontaminated when there are no infectious particles present, and the surface is rendered safe for handling, use, or disposal.
- 1-21. "DEPARTMENT" means the FDHU, or its authorized representatives.

- 1-22. "DISINFECT" means to destroy pathogenic and other kinds of microorganisms by physical and/or chemical means. Disinfection is less lethal than sterilization because it destroys most recognized pathogenic microorganisms; it does not, however, necessarily destroy all microbial forms, such as bacterial spores. Disinfection does not ensure the margin of safety associated with sterilization processes (CDC Division of Oral Health).
- 1-23. "DISINFECTANT" means a substance or solution, registered with the United States Environmental Protection Agency (EPA), that kills or inactivates viruses and pathogenic microorganisms on cleaned environmental surfaces and that is formulated for decontamination procedures.
- 1-24. "DRYER" means a mechanical clothes dryer.
- 1-25. "EAR PIERCER" means any person who does ear piercing.
- 1-26. "EAR PIERCING" means the puncturing of the non-cartilaginous lobe of the ear with a stud and clasp ear-piercing system or "piercing gun".
- 1-27. "EASILY CLEANABLE" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be removed effectively by normal cleaning methods.
- 1-28. "EMPLOYEE" means the license holder, their designate, a person in charge, a person having supervisory or management duties, a person on the payroll, a family member, a volunteer, a person performing work under contractual agreement, or any other person working in a body art establishment.
- 1-29. "ENTITY" means something that has a real existence or is a thing.
- 1-30. "EQUIPMENT" means all machinery, 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 facility.
- 1-31. "FACILITY" means any room, space or establishment including those that are temporary.
- 1-32. "GENERAL OPERATOR" means an individual that performs both tattooing and body piercing procedures.
- 1-33. "GENTIAN VIOLET" means the compound $C_{25}H_{30}ClN_3$ having the synonyms: ((4-bis(p-(dimethylamino)phenyl)methylene)-2,5-cyclohexadien-1-ylidene)dimethylammonium chloride used for making markings on the skin. Gentian violet used in a body art facility needs to be in a sterile, aqueous medical grade formulation.
- 1-34. "GERMICIDE" means an agent that can kill microorganisms, particularly pathogenic organisms. "GERMICIDE" includes antiseptics and disinfectants.
- 1-35. "GLOVES" means medical grade or exam grade, sterile or non-sterile, disposable, single-use, full hand coverings worn for protection against disease transmission.

- 1-36. "GUARDIAN" means a person lawfully invested with the power and charged with the obligation of taking care of managing the property and rights of a person who, because of age, understanding, or self-control, is considered incapable of administering his or her own affairs.
- 1-37. "GUEST OPERATOR" means an operator that does not normally perform body art procedures within the boundaries of the FDHU, but that has met the criteria to perform body art procedures for a set, limited timeframe under the supervision of the license holder for a permanent body art establishment located in the FDHU.
- 1-38. "HAND WASHING SINK" or "HAND SINK" means a sink, basin or vessel for washing, a washbasin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of the hands. Hand washing sink includes any automatic hand washing device or hand washing sink.
- 1-39. "HAZARD" means a biological, chemical, or physical property that may cause an unacceptable health risk.
- 1-40. "HOT WATER" means water that attains and maintains a temperature of at least 100° Fahrenheit.
- 1-41. "IMPLANTING" or "SUBDERMAL IMPLANTING" means to fix or set securely an object in or under tissue and includes, but is not limited to, 3-dimensional body art applications. Implanting does not include any procedures performed by a dentist, physician or surgeon who has a 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.
- 1-42. "INSPECTION" means an examination, exploration, and/or evaluation of a body art establishment or body artist for compliance with approved practices and procedures contained herein. Inspection can include the creation of a written record or document, the taking of photographs and the collection of samples.
- 1-43. "INSTRUMENTS USED FOR BODY ART" means hand pieces, needles, needle bars, and any other instruments that may come in contact with a client's body or bodily fluids or that may be exposed to bodily fluids during body art procedures.
- 1-44. "INVASIVE" means entry into the body either by incision or insertion of an instrument into or through the skin or mucous membranes, or by any other means intended to puncture, break, or compromise the skin or mucous membranes.
- 1-45. "JEWELRY" means any ornament inserted into a pierced area.
- 1-46. "LAW" includes applicable federal, state, and local statutes, ordinances, and regulations.
- 1-47. "LICENSE" means the document issued by the Department that authorizes a person to operate a body art facility or to perform body art procedures as a body art operator in the boundaries of the FDHU.
- 1-48. "LICENSE HOLDER" means any person or entity that has obtained any type of license from the department.

- 1-49. "MATERIAL CERTIFICATE" means all documents intended to state the specifics of a material used for body jewelry. Names for these documents include, but are not limited to, 'mill certificates', 'material certificates', 'metal composition sheets', 'MSD', and 'material certification sheets'.
- 1-50. "MICROBLADING", means a type of tattooing procedure in which a hand-held device is used to deposit pigment in the outer layers of the skin, whether the results are permanent or semi-permanent. "Microblading" is regulated as a cosmetic tattooing procedure.
- 1-51. "MINOR" means any person under the legal age of consent.
- 1-52. "MUCOSAL SURFACE" means the moisture-secreting membrane lining all body cavities or passages that communicate with the exterior, including but not limited to the nose, mouth, vulva and urethra.
- 1-53. "NON-CRITICAL ITEM" means an item that contacts the intact skin of a client.
- 1-54. "OPERATOR" means any person who controls, operates, manages, conducts, or practices any body art activities at a body art establishment. The term does not include any apprentice, assistant, employee or technician who may be involved in performing body art practices but who does not perform the actual body art procedure. This term does not include any dentist, physician or surgeon who has a 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 who is functioning in a medical capacity.
- 1-55. "OTHER POTENTIALLY INFECTIOUS MATERIALS (OPIM)" means:
1. The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;
 2. Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and
 3. HIV-containing cell or tissue cultures, organ cultures, HIV- or HBV-containing culture medium or other solutions, blood, organs, or other tissues from experimental animals infected with HIV or HBV.
- 1-56. "OWNER" means any person or entity that owns, runs or operates any body art establishment.
- 1-57. "PERMANENT BODY ART FACILITY" means any body art facility operating at one location for more than fourteen (14) days.
- 1-58. "PERSON" means any individual, any form of business or social organization, any other non-governmental legal entity, or any other identifiable entity including but not limited to corporations, partnerships, limited-liability companies, associations, trusts or unincorporated organizations.
- 1-59. "PHYSICAL FACILITIES" means the components of a body art facility including the structure, interior surfaces including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air-conditioning system vents, and any pertinent exterior surfaces and accessory structures pertinent to operation of a body art facility.

- 1-60. "PHYSICIAN" means a person currently licensed by the state of North Dakota to practice medicine pursuant to the relevant provisions of the North Dakota Century Code.
- 1-61. "PIERCER" or "PIERCING OPERATOR" means an individual that performs body piercing procedures.
- 1-62. "PREMISES" means the physical facility, its contents, and the contiguous land or property under the control of the license holder; or the physical facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the license holder that may impact body art facility personnel, facilities, or operations, if a body art establishment is only one component of a larger organization.
- 1-63. "PRIVATE HOME" means a place of residence of an individual or family.
- 1-64. "PROCEDURE" means the actual course of mode of action during which a tattoo, piercing or other body art activity is performed. The procedure includes all aspects of the process including, but not limited to: scheduling, the education and information process, setup, the actual piercing/tattooing, takedown and cleanup of the procedure area and aftercare.
- 1-65. "PROCEDURE AREA" means the actual space in which the body art procedure or ear piercing procedure is performed.
- 1-66. "PROCEDURE SITE" means the area or location on the client's body selected for the placement of body art.
- 1-67. "PROCEDURE SURFACE" means any surface of any inanimate object that contacts client's clothed or unclothed body during a body art or ear piercing procedure or any surface in the associated work area that may contact or be contaminated by any bodily fluids during a procedure.
- 1-68. "PROCESS CHALLENGE DEVICE (PCD)" means a test device intended to provide a challenge to the sterilization process that is equal to or greater than the challenge posed by the most difficult item routinely processed.
- 1-69. "PROPOSED BODY ART FACILITY" means any facility that is operating as or that is intended to operate as a body art facility but that has not received a body art facility license from the Department.
- 1-70. "PROOF OF AGE" means a form of identification that:
- A. Includes at least all of the following:
 - 1. A photograph of the person,
 - 2. That person's date of birth,
 - 3. That person's signature, and
 - 4. An identifying number or code unique to that individual; and
 - B. Is one of the following:
 - 1. A valid driver's license or identification card issued by any state or province,
 - 2. A valid military identification card issued by the United States Department of Defense,
 - 3. A valid passport,
 - 4. A valid resident alien card,
 - 5. A valid tribal identification card, or

6. Some other form of identification that has been submitted to, and that has been given approval by, the Department.
- 1-71. "PROVISIONAL LICENSE" means a license that has been issued to a license holder who has not completely met all criteria necessary for permanent licensure. The provisional license is temporary, is valid only for the duration of time specified by the Department, and may be revoked at any time for failure to completely meet the required criteria for licensure.
- 1-72. "REGULATORY AUTHORITY" means the federal, state and local enforcement authority or authorities having jurisdiction over any facility or over any component of a facility or any equipment or supply used in a body art facility or as part of a body art procedure.
- 1-73. "RULES AND REGULATIONS FOR BODY ART" means this document and all things contained within it. For purposes of identification inside the document, it shall hereafter be referred to as the "Code".
- 1-74. "SAFETY DATA SHEET" means a document for any potentially harmful chemical that includes information such as the properties of each chemical; the physical hazards, health hazards, and environmental health hazards; protective measures; and safety precautions for handling, storing, and transporting the chemical.
- 1-75. "SCARIFICATION" means deliberately inducing scar tissue formation on a person for the purpose of creating a permanent mark or design on the skin.
- 1-76. "SEMI-CRITICAL ITEM" means items that contact mucous membranes, non-intact skin, or critical items.
- 1-77. "SHARPS" means any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucous membrane, including, but not limited to, needles, razors and scalpel blades.
- 1-78. "SHARPS CONTAINER" means a closable, puncture-resistant, leak-proof (on sides and bottom) container made specifically to be a sharps container that meets NIOSH standards and that can be closed for handling, storage, transportation, and disposal. A sharps container must be whole or partially red in color and must be clearly labeled with the International Biohazard Symbol.
- 1-79. "SINGLE USE" means products or items that are intended for one-time, one-person use and are disposed of after one use on any client and includes, but is not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary covering, razors, piercing needles, tattooing needles and shaders and associated bars, tubes, scalpel blades, stencils, ink cups, and protective gloves.
- 1-80. "STERILIZE" means to treat an object or surface with a procedure that kills or irreversibly inactivates all microorganisms, including, but not limited to, bacteria, viruses, pathogenic fungi, and any spores. For purposes of this document, sterile shall be, at a minimum, a sterility assurance level of 10^{-6} reduction.
- 1-81. "STUD AND CLASP" means a system of equipment used for piercing the lobes of the ears that consists of an ear piercing instrument (commonly referred to as a piercing gun or ear piercing gun) and a sharpened earring and back that are usually pre-packaged.

- 1-82. "STUDENT OPERATOR" means a person who is learning about the practice of body art under the supervision of a licensed body art operator and who is not an apprentice.
- 1-83. "SUSPENSION" means the piercing of human tissue with any apparatus to raise or lower an individual with pulleys or other apparatus.
- 1-84. "TATTOOING" means any method of placing ink, pigment (including those visible only under ultraviolet light), or any other material into or under the skin or mucous membranes (of a live human being) by the aid of needles or any other instrument, resulting in the coloration or marking of the skin or mucous membranes whether or not such markings are visible to the unaided eye. This term includes all forms of body and cosmetic tattooing.
- 1-85. "TATTOOIST" or "TATTOO OPERATOR" means any operator who is licensed to perform tattooing procedures only, but does not include cosmetic tattooing procedures.
- 1-86. "TEMPORARY BODY ART FACILITY" means any body art facility operating in one location or at one event for fourteen (14) days or less in conjunction with a single event or celebration.
- 1-87. "ULTRASONIC CLEANER" means a cleaning device that removes debris by a process called cavitation, in which waves of acoustic energy are propagated in aqueous solutions to disrupt the bonds that hold particulate matter to surfaces.
- 1-88. "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 as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures", in NNWR, July 12, 1991, Vol.40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other bloodborne 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.
- 1-89. "VARIANCE" means a written document issued by the Department that authorizes a modification or waiver of one or more requirements of this Code, if, in the opinion of the Department a health hazard or nuisance will not result from the modification or waiver.
- 1-90. "VIOLATION" means the act of violating or going against any section or subsection of this document.
- 1-91. "WASHER" means mechanical clothes washer.

Section 2. Licensure.

- 2-1. Licenses are issued and classified as one of the following:
- A. Body art establishment license,
 - B. Ear piercing establishment license,
 - C. Body art operator license,
 - D. Apprentice operator license,

- E Student operator license, or
- F Guest operator license.

2-2. Any classification of license must be obtained from the Department. Any license that is not issued by the Department, even those issued by another regulatory authority, does not replace or substitute for a license issued by the Department.

2-3. General licensure information.

- A. No body art facility may open for business or operate as a body art facility without first obtaining a license. (41)
- B. No person may perform body art procedures without first obtaining a license. (41)
- C. License fees shall be paid in accordance with the fee structure of the FDHU.
- D. All classifications of license are valid from the date of issuance until midnight on December 31, except as specified in this section or unless otherwise specified on the license.
- E. Failure to renew any license prior to the close of business on January 31 shall result in the license fee being doubled.
- F. Failure to renew any license prior to the close of business on February 28 shall result in revocation of the license.
- G. A license holder may notify the Department when a body art facility is not operating or when a body art operator is not performing body art procedures for a period of time that will be at least 30 days or more. Upon receiving such notice, the Department may classify the license as being inactive.
 - 1. At the discretion of the Department, inactive licenses may be exempted from parts E and F above.
 - 2. While a license is inactive:
 - a. No body art procedures may be done in a body art facility, and
 - b. An operator may not perform any body art procedures.
 - 3. To re-activate a license:
 - a. The license holder must contact the Department, and
 - b. The Department must have given the license holder written notification the the license has been re-activated.
- H. Body art facilities found to be operating without a license, the proprietor or their designate shall be given notice of the requirement for licensure and the facility shall be immediately closed.
- I. Persons found to be performing body art procedures without a license shall be given notice of the requirement for licensure and to immediately cease performing body art procedures.
- J. If any person is given notice as specified in Parts H or I, and does not cease operations or performing body art procedures, then that person shall become ineligible for licensure.
- K. The Department may, after providing written notice, refuse to issue a license to an applicant for a license. An applicant for a license to whom a license has been refused may request a hearing as specified in Section 14.
- L. If any information required to be submitted to the Department to obtain a license is changed or modified, such changes or modifications shall be submitted to the Department within 14 days. (15)

2-4. Facilities where body art or ear piercing procedures are performed shall be licensed as either a body art establishment or as an ear piercing establishment. Hereafter, unless context or

requirement makes it necessary to make a distinction between them, both shall be referred to as a “body art facility”.

2-5. Body art facility licenses.

- A. Prior to building a new, or substantially remodeling an existing body art facility, a potential license holder shall submit a facility plan review packet. The packet shall include:
 - 1. A completed and signed plan review request form (this form shall be provided by the Department),
 - 2. The plan review fee,
 - 3. Proposed layout, plumbing and mechanical schematics, construction materials, and finish schedules,
 - 4. A complete scaled plan of the entire area to be included in the project showing all sinks, restrooms, procedure areas and biohazard rooms,
 - 5. The name and address of the developer, architect, engineer, and/or designer,
 - 6. The location and specifications of the water supply, sewer, and refuse disposal facilities for solid waste and contaminated waste, and
 - 7. Documentation from the regulatory authority that the zoning for the site is approved for location of and operation of a body art facility. (15)
- B. Construction of a proposed body art facility shall not begin until approval has been received from the Department. Such approval shall be in writing and shall be referred to as a “plan review approval letter”. A license to operate a body art facility shall not be issued to any proposed body art facility that has not been issued a plan review approval letter. (41)
- C. As part of the licensing process, the potential license holder for a body art facility shall submit to the Department an application packet. The application packet shall be submitted at least 30 days prior to the projected date of onset of operation for the body art facility, and shall include:
 - 1. A completed and signed application form (this form shall be provided by the Department),
 - 2. The license fee,
 - 3. For newly built or substantially remodeled facilities, a copy of the plan review approval letter, and
 - 4. A copy of the operating plan (as specified in Section 6-3) for the facility. (41)
- D. Any body art establishment shall have on record with the Department the name of at least one body art operator with a license issued by the Department that performs procedures at that establishment. (41)
 - 1. The license holder for a body art establishment shall notify the Department within 48 hours by submitting a completed operator residency notice form if a body art operator on record with the Department as performing procedures at a body art establishment no longer performs procedures there. (15)
 - 2. If a body art establishment does not have at least one licensed body art operator on record as performing procedures at that body art establishment, then the license for that establishment shall be immediately suspended.
 - 3. If no body art procedures have been performed in a body art establishment for a period of time that is 30 days or longer, then the license for that body art establishment shall be inactivated.
 - 4. If a body art establishment license is inactivated as per parts 2 or 3 above, the license holder must obtain approval from the Department prior to the license being reinstated.
- E. Temporary body art facility.

1. This license may be issued at the discretion of the Department.
 2. All of the required criteria for a permanent body art facility apply.
 3. In cases where a potential temporary body art facility location may not be able to meet any required criteria, the license holder may apply for a variance as specified in Section 13. Variances may be granted at the discretion of the Department.
 4. A temporary body art facility license is only valid for the dates specified on the license, and the facility may only operate on those dates (41).
- F. Any proposed changes to, remodeling of, or alteration of any part of any body art facility shall be presented to the Department for approval before any changes, remodeling or alterations are begun. (15)

2-6. Body art operator licenses. Any person that performs body art procedures in a body art establishment, whether licensed or not, will hereafter be referred to as a “body art operator” or “operator”.

- A. Body art operators are classified as:
1. General operators. This operator may perform all legal tattooing or piercing procedures except for cosmetic tattooing.
 2. Tattooist operators. This operator may perform any legal tattooing procedure except for cosmetic tattooing.
 3. Piercing operators. This operator may perform any legal piercing or other non-tattooing body art procedure that is not otherwise prohibited.
 4. Cosmetic operators. This operator may perform any legal cosmetic tattooing procedure.
 5. Temporary operator. This operator may perform body art procedures at temporary body art establishments as specified in Section 2-7.
 6. Teaching operator. This operator may perform body art procedures and may supervise student operators as specified in Section 2-8.
 7. Apprentice operator. This operator may perform body art procedures under the supervision of an operator specified in Parts 1-4 above as specified in Section 2-11 and 2-13.
 8. Student operator. This operator may perform body art procedures under the supervision of a teaching operator as specified in Section 2-14.
 9. Guest operator. This operator may perform body art procedures as specified in Section 2-15.
- B. A person applying for a license specified in Part A (1-4) or a person covered by an apprentice operator license as specified in Part A (7) that has not completed a full series of Hepatitis B shots may be issued a provisional license.
1. The provisional operator shall have received the first shot in the series and shall complete the series of shots within 12 months of the first shot in the series.
 2. The provisional operator shall provide documentation of receiving all required shots to the Department within 14 days of receiving the final shot (15).
 3. Failure to complete parts 1 and 2 above will result in revocation of the provisional license (41).
 4. A provisional license is valid from the date of issuance until a date that is no greater than 6 months from the date of issuance.
 5. A provisional license may only be obtained one time, and may not be renewed

2-7. A person applying for an operator license that will be performing body art procedures in a temporary body art establishment may apply for a temporary operator license.

- A. The temporary operator license shall be sub-classified one of the types specified in Section 2-6(1-4), and the operator may only perform the types of procedures specified for that type.
 - B. A temporary operator license is valid from the date of issuance until midnight on a date that is not more than 14 days from the date of issuance.
 - C. A temporary operator license holder must be on record with the Department as operating in a facility with a valid temporary body art establishment license. The duration for which this temporary operator license is valid shall only be concurrent with the duration of the validity of the license for the temporary body art establishment (41).
- 2-8. An operator as specified Section 2-6(A)(1-4) may apply for a teaching operator license.
- A. A body art operator must have performed at least 400 completed procedures in a body art establishment licensed by the Department after obtaining a body art operator license prior to applying for a teaching operator license.
 - B. A teaching operator must submit a curriculum to the Department for approval prior to being issued a teaching operator license. The curriculum:
 - 1. Shall specify the details of any course of education offered to students including length in days and number of hours of education provided.
 - 2. Shall specify the numbers and types of procedures that will be performed by students during the course of education.
 - C. A teaching art operator may not supervise more than 5 student operators (41).
 - D. While supervising student operators, a teaching operator must:
 - 1. Be in the immediate vicinity of each student operator and be able to see the procedure site for the client (15).
 - 2. Not be performing any body art procedures with the exception that the teaching operator may perform part of a procedure to display a technique prior to students also performing the same technique. The student operators may not perform the technique at the same time as the instructor, and the instructor must stop performing the technique and begin supervising the student operators once they are performing the technique (15).
 - E. A teaching operator shall have the following additional information in their operating plan (as specified in Section 6-3):
 - 1. A copy of their curriculum.
 - 2. The length of time for any and all courses for which they will be supervising student operators as they perform procedures.
 - 3. The types and number of procedures that a student operator will be performing in each type of course offered. (20)
 - F. Students operating under a teaching operator may not perform procedures that are not specified in the curriculum. (41)
- 2-9. All body art operator license holders must be on record as performing procedures in at least one licensed body art establishment. This record shall be in writing and shall be submitted to the Department and maintained in the body art establishment on a form provided by the Department, hereafter referenced as the operator residency notice. (41)
- A. The operator residency notice must be completed by the license holder for the body art establishment, or their designate.
 - B. There must be at least one operator residency notice on file with the Department prior to final issuance of a body art operator license.
 - C. The operator residency notice shall include:
 - 1. The name and operator license number for the body art operator.

2. The date on which the body art operator will begin performing body art procedures in the body art establishment.
 3. The name, address, and phone number of the person submitting the notification.
 4. The name and license number for the body art establishment.
- D. If a body art operator is no longer performing procedures at a body art establishment, the license holder for the body art establishment shall submit an operator residency notice to the Department within:
1. 7 days of the date on which the license holder becomes aware that the body art operator is no longer performing procedures at a non-temporary body art establishment (15), or
 2. 24 hours of the time when the license holder becomes aware that the body art operator is no longer performing procedures at a temporary body art establishment (15).
- E. The operator residency notice specified in Part D above shall include:
1. The name and operator license number for the body art operator.
 2. The date after which the body art operator will no longer be performing body art procedures in the body art establishment.
 3. The name, address, and phone number of the person submitting the notification.
 4. The name and license number for the body art establishment.
- F. If a body art operator is not on record as performing body art procedures in at least one licensed body art establishment, the license for that operator shall be suspended effective immediately upon receipt by the Department of the notice specified in Part D above.
- G. A body art operator may submit an operator residency notice to the Department if they are no longer performing procedures at a body art establishment. The operator residency notice shall include:
1. The name and license number for the body art operator.
 2. The date and time after which the body art operator will no longer be performing body art procedures in the body art establishment.
 3. The name and license number for the body art establishment.

2-10. FDHU Body Art Operators Licensure Exam. To obtain a body art operator license specified in Section 2-6 (1-6), a potential license holder must take and pass the FDHU Body Art Operators Licensure Exam.

- A. To register for the Exam, a person must submit an application packet. The application packet must include:
1. A completed and signed application form (this form shall be provided by the Department), and
 2. The license fee, and
 3. Proof of immunity to hepatitis B (shot record or titer), and
 4. Proof of completion for an OSHA approved, body art industry specific bloodborne pathogens and infection control training course, and
 5. Proof of completion for an approved CPR and first aid certification, and
 6. A clearly legible, color copy of a current proof of age, and
 7. Proof of eligibility, as specified in Section H.
- B. This exam shall be administered by the Department.
- C. The potential license holder must achieve a score that is at least 75 percent to pass.
- D. If a potential license holder does not achieve a passing score, they may not retake the exam until a period of time of not less than 30 days has passed.
- E. If a potential license holder fails to pass the exam four times, they are ineligible for licensure, and may not take the exam again.

- F. The potential license holder is prohibited from having the following items on their person or in their possession for the duration of the exam: electronic equipment, computers, communication devices, or any other items deemed to be inappropriate.
- G. Candidate conduct that interferes with the examination process (directly or indirectly giving, receiving, soliciting, and attempting to give, receive or solicit aid during the exam; violating part F; exhibiting behavior that impedes the normal progress of the examination) will be deemed to have failed the exam and will forfeit the submitted license fee.
- H. Eligibility. Prior to applying to take the FDHU Body Art Operators Licensure Exam, a person must:
 - 1. Complete an apprenticeship in accordance with Section 2-11 below; or
 - 2. Provide acceptable documentation showing that:
 - a. They hold a license for the practice of body art issued by the regulatory authority in another health jurisdiction.
 - i. The license must be current and valid at the time application is made to the Department, and
 - ii. The license must be in good standing with no attributed outbreaks of illness attributed to the persons operating under the license, and with no history of committing any acts that would result in a suspension or revocation of license under this Code.
 - iii. A clearly legible copy of the license and contact information for the regulatory authority and for the representative for the regulatory authority that is the point of contact for or inspector for the facility named on the license shall be considered to be acceptable documentation for Part 2(a); and
 - b. They have been engaged in the practice of body art as a full time occupation for at least three of the previous five years and have completed at least:
 - i. 400 tattooing procedures if applying for a tattoo operator license, or
 - ii. 400 cosmetic tattoo procedures if applying for a cosmetic operator license, or
 - iii. 400 piercing procedures if applying for a piercing operator license, or
 - iv. 250 tattooing and 250 piercing procedures if applying for a general operator license.
 - c. Acceptable proof for Part b above shall include copies of client information packets that are substantially equivalent to those required in Section 6-4(C) and that, at a minimum, include a client consent form signed by the client and operator and that has a legible copy of a proof of age.

2-11. Body Art Apprenticeship. An apprenticeship must meet the following criteria:

- A. The apprenticeship must be done in a body art establishment that is licensed by the Department, or other regulatory authority for those establishments that are not located in the FDHU; and
- B. The body art operator under whom the apprenticeship is completed must be licensed by the Department, or be licensed by or covered by a license (ex. a body art facility license) issued by the regulatory authority for those establishments that are not located in the FDHU; and
- C. The person completing the apprenticeship must have an apprentice operator license issued by the Department; or have either an apprentice operator license (or its

equivalent) or be covered by a license (ex. a body art facility license) issued by the regulatory authority for those establishments that are not located in the FDHU; and

- D. The apprenticeship must include, at a minimum:
1. At least 100 hours of training. Training hours may occur concurrently with obtaining practical experience, but all training must be completed prior to performing any body art procedures on clients. Training must include instruction in and observation of concepts involving:
 - a. Safety, infection control, bloodborne pathogens; and
 - b. Sterilization and disinfection practices; and
 - c. Business operations, including exposure control plans and federal regulations; and
 - d. First District Health Unit regulations; and
 - e. Client service, including paperwork and aftercare; and
 - f. Client anatomy, physiology and histology; and
 - g. Tattoo specific topics including, but not limited to, needles and bars, tattoo machines and their operation, equipment/supplies, color theory and pigments, skin, and design, art, and placement; and
 - h. Piercing specific topics including, but not limited to, needles, jewelry materials and selection, equipment/supplies, and procedure site suitability/pierceability; and
 2. At least 1000 hours of practical experience. These hours must include completing procedures, workstation set up and tear down, and equipment cleaning, disinfection and/or sterilization; and
 3. The completion of:
 - a. At least 400 completed tattooing procedures to qualify for a tattooist operator license or cosmetic operator license, or
 - b. At least 400 completed piercing procedures to qualify for a piercing operator license, including
 - i. Cartilage piercings, with a minimum of five each of the following: helix, tragus, rook, conch, daith, and nostril;
 - ii. Body piercings, with a minimum of five each of the following locations: septum, eyebrow, bridge, nipple, navel, and earlobe;
 - iii. Oral piercings, with a minimum of five each of the following: mouth, tongue and lip, or
 - c. At least 250 completed tattooing procedures and 250 completed piercing procedures (with the same qualifications as specified in part ii (a), (b), and (c) above) for a general operator license.
 4. Documentation for parts a, b, and c shall be recorded on forms provided by the Department. Final verification of part c may involve an audit of client information packets.
 5. The documentation specified in part d shall be signed and dated by the apprentice and the operator holding the apprentice license for that apprentice.
- 2-12. The Department may mandate further education or training for body art operators as such training becomes available. If a license holder is not able to attend a mandated education or training opportunity as specified by the Department, they shall have 3 months to attend an alternate education or training opportunity provided that:
- A. They notify the Department in writing that they will not be able to attend the original education or training, and
 - B. The alternate education or training is approved by the Department. (15)

2-13. Apprentice operator licenses.

- A. The license shall be one of the following classes:
 - 1. General apprentice license. This license allows the apprentice to perform all legal tattooing or piercing procedures except for cosmetic tattooing.
 - 2. Tattooist apprentice license. This license allows the apprentice to perform any legal tattooing procedure except for cosmetic tattooing.
 - 3. Piercing apprentice license. This license allows the apprentice to perform any legal piercing or other non-tattooing body art procedure that is not otherwise prohibited.
 - 4. Cosmetic apprentice license. This license allows the apprentice to perform any legal cosmetic tattooing procedure only. The apprentice is not allowed to perform conventional, non-cosmetic tattooing procedures.
 - 5. The class of apprentice license must match the class of the body art operator license of the operator to whom the apprentice license is issued, with the exception that a general body art operator may be issued a general, tattooist, or piercing apprentice license.
- B. This license may only be issued to a licensed body art operator.
 - 1. The body art operator license must be current and in good standing.
 - 2. The person named on the apprentice operator license will hereafter be referred to as the apprentice operator.
 - 3. During the period of the apprenticeship, the operator is responsible for any and all actions of the apprentice operator that occur in the body art establishment.
 - 4. Any activities of the apprentice operator that may result in suspension or revocation of an apprentice license may also result in suspension or revocation of the license of the body art operator that the apprentice license is issued to.
 - 5. Each body art operator may have up to two licensed apprentice operators at one time, and may not obtain more than two apprentice operator licenses per calendar year.
 - 6. All body art procedures performed by an apprentice shall be done under the direct supervision of the operator holding the apprentice license for that apprentice. If the apprentice license holder performs procedures in a body art establishment that has more than one body art operator performing procedures in that establishment, the apprentice may perform body art procedures under the direct supervision of any body art operator holding a license that allows them to perform the same types of body art procedures as those allowed by the apprentice license for the apprentice (41).
- C. To apply for a body art apprentice license, the body art operator shall submit an application packet. The application packet shall contain:
 - 1. A completed and signed application form (this form shall be provided by the Department), and
 - 2. The license fee, and
 - 3. Proof of immunity to hepatitis B (shot record or titer) for the proposed apprentice, and
 - 4. Proof of completion for an OSHA approved, body art industry specific bloodborne pathogens and infection control training course for the proposed apprentice, and
 - 5. Proof of completion for an approved CPR certification for the proposed apprentice, and
 - 6. A clearly legible, color copy of a current proof of age for the proposed apprentice.

2-14. Student operator license.

- A. This license may only be issued to a licensed body art operator holding a teaching body art operator license.
 - 1. The teaching body art operator license must be current and in good standing.
 - 2. The person for whom the license is obtained shall hereafter be referred to as the student operator.
 - 3. The body art operator to whom the student operator license is issued is responsible for any and all actions of the student operator that occur in the body art establishment.
 - 4. Any activities of the student operator that may result in suspension or revocation of the student operator license may also result in suspension or revocation of the license of the body art operator that the student license is issued to.
 - 5. Each body art operator may have up to five licensed student operators.
 - 6. All body art procedures performed by a student operator shall only be done under the direct supervision of the operator holding the student license for that student (41).
- B. To apply for a student operator license, the body art operator shall submit an application packet. The application packet shall contain:
 - 1. A completed and signed application form (this form shall be provided by the Department), and
 - 2. The license fee, and
 - 3. The following information about the proposed student operator:
 - a. Proof of immunity to hepatitis B (shot record or titer), and
 - b. Proof of completion for an OSHA approved, body art industry specific bloodborne pathogens and infection control training course, and
 - c. Proof of completion for an approved CPR and first aid certification, and
 - d. A clearly legible, color copy of a current proof of age.
- C. This license:
 - 1. Shall be valid from the date it is issued until the date marking the end of the training as specified by the teaching operator in their operating plan.
 - 2. Is only valid in the body art establishment and for the procedures specified by the teaching operator in their operating plan.
 - 3. Is intended only for those persons acting in good faith as students participating in a course of study under an approved curriculum, and is not intended for persons not otherwise able to obtain a body art operator's license. (41)

2-15. Guest operator license.

- A. The license holder for a body art establishment may apply for a guest operator license.
 - 1. No license holder may have more than 2 guest operator licenses at one time, and no more than 4 guest operator licenses will be issued to a single license holder per calendar year.
 - 2. The guest operator license will allow the individual named on the license to perform body art procedures in the FDHU. This person will hereafter be referred to as a guest operator.
 - 3. The guest operator license will be restricted to only the types of procedures for which the guest operator is licensed to perform by the regulatory authority or regulatory authorities responsible for issuing those licenses for facilities and operators located outside the FDHU.
 - 4. The license holder must be present at all times in the body art establishment while the guest operator is performing body art procedures, and is responsible for

- ensuring that the guest operator operates in compliance with the criteria contained in this Code (41).
- B. The guest operator must provide acceptable proof of meeting all the following criteria:
1. They hold all necessary licenses for the practice of body art issued by the regulatory authority or regulatory authorities that is not the FDHU.
 - a. The license(s) must be current and valid at the time application is made to the Department, and
 - b. The license(s) must be in good standing with no attributed outbreaks of illness attributed to the persons operating under the license(s), and with no history of committing any acts that would result in a suspension or revocation of license under this Code.
 - c. Acceptable proof for this part shall include a clearly legible copy of the license(s) and the contact information for the regulatory authority or regulatory authorities that issued the license(s) and for the representative for the regulatory authority that is the point of contact for or inspector for the facility named on the license.
 2. They have been engaged in the practice of body art as a full time occupation for at least three of the previous five years and have completed at least:
 - a. 400 tattooing procedures if applying for a tattoo operator license,
 - b. 400 cosmetic tattoo procedures if applying for a cosmetic operator license,
 - c. 400 piercing procedures if applying for a piercing operator license, or
 - d. 250 tattooing and 250 piercing procedures if applying for a general operator license.
 - e. Acceptable proof for this part shall include copies of client information packets that are substantially equivalent to those required in Section 8 and that at a minimum include a client consent form signed by the client and operator and that has a legible copy of a proof of age.
- C. To apply for a guest operator license, the license holder for a body art establishment shall submit an application packet. The application packet shall contain all the following:
1. A completed and signed application form (this form shall be provided by the Department),
 2. The license fee,
 3. Proof of immunity to hepatitis B (shot record or titer) for the proposed guest operator,
 4. Proof of completion for an OSHA approved, body art industry specific bloodborne pathogens and infection control training course for the proposed guest operator,
 5. Proof of completion for an approved CPR and first aid certification for the proposed guest operator, and
 6. A clearly legible, color copy of a current proof of age for the proposed guest operator.
- D. A guest operator license will be valid for a specified period of time not to exceed seven days.
- E. A guest operator may not perform procedures under more than 4 guest operator licenses per calendar year.

Section 3. Inspection. Any body art facility shall be subject to inspection by the Department at any time while it is open for operation or during any time during which body art activities or activities that may impact the performing of body art practices or procedures are occurring. Any body art operator shall be subject to inspection at any time that they are in a body art establishment or are performing body art procedures. Inspection by the Department may include such activities as entering, evaluating, photographing, and securing any samples, photographs or other evidence from any establishment for purposes of enforcing this Code.

- 3-1. After the Department presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the Department to determine if the body art facility or operator is in compliance with this Code by allowing access to the facility or operator, allowing inspection, and providing information and records specified in this Code and to which the Department is entitled according to law, during the body art facility's hours of operation and at other reasonable times. The Department may suspend the body art facility or operator license upon denial of inspection. (41)
- 3-2. If a person denies access to the Department, the Department shall:
 - A. Inform the person that:
 1. The license holder is required to allow access to the Department as specified in Section 3-1 of this Code,
 2. Access is a condition of the acceptance and retention of a body art facility or operator license; and
 - B. Make a final request for access; and
 - C. If the person continues to deny access, the Department shall notify the person in charge that the license for the body art facility or operator is immediately suspended.
 - D. Provide details of the denial of access on an inspection form.
- 3-3. The Department shall document on an inspection report form:
 - A. Administrative information about the body art facility's identity, address, inspection date, and type of inspection for body art facilities; and operator's name, address and identity of the body art establishment in which the inspection is taking place, inspection date and type of inspection for an operator inspection.
 - B. Specific factual observations, violative conditions, or other deviations from this Code that require correction by the license holder.
 - C. Any required correct-by dates or time frames for correction of items determined to be out of compliance with the requirements of this Code.
- 3-4. Each inspection shall start with the license holder having a score of 100. For those requirements of this Code that have a point value assigned to them (the point value will be the numerical value found in parenthesis at the end of the requirement), a violation of that requirement shall result in the point value for that violation being subtracted from the score.
 - A. Each documented violation of any requirement will result in the subtraction of that point value. Multiple violations of any single requirement shall be subtracted individually.
 - B. A final score that is below 70 shall result in a mandatory reinspection.
 1. A reinspection fee may be charged as per the Department's fee schedule.
 2. To pass a reinspection, all violations documented on the initial inspection must be corrected.
 - C. A final score that is below 60 shall result in immediate suspension of the license.
 1. The license shall be suspended until written notice is given by the Department that the license has been reinstated.

2. All violations documented on the initial inspection shall be corrected. Once corrected, the license holder may contact the Department to request a reinspection. A reinspection fee may be charged as per the Department's fee schedule.
 3. Upon verification that all violations documented on the initial inspection are corrected, the Department may issue written notice that the license has been reinstated. Such notice may not be issued until all reinspection fees are paid.
- 3-5. The inspection form shall be signed by the Department and by the license holder or their designate. The Department shall provide a copy of the inspection report form to the license holder or their designate.
- 3-6. If the license holder or their designate refuses to sign the inspection form, the Department shall:
 - A. Inform a person who declines to sign the inspection form that:
 1. Refusal to sign the inspection form does not affect the license holder's obligation to correct the violations noted in the inspection report form within the time frames specified, and
 2. A refusal to sign an inspection form is noted in the inspection form and is recorded in the Department's historical record for that body art facility or operator.
 - B. Make a final request that the license holder or their designate sign the inspection form.
- 3-7. The Department shall conduct one or more preoperational inspections to verify that the body art establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, has an operating plan as specified under Section 6-3, and is in compliance with law and this Code. No procedures may be performed in a body art establishment until the establishment has received a final pre-operational inspection and written approval is given for operations to commence. (41)
- 3-8. Any facility that fails to meet a certain minimum standard as defined by the Department shall have a mandatory reinspection. Reinspections shall be performed by the Department and a reinspection fee shall be charged to the license holder as per the FDHU fee schedule.
- 3-9. Timely correction.
 - A. Except as specified in Part B of this section, a license holder shall at the time of inspection correct a violation of this Code and implement corrective actions for a written plan provision that is not in compliance.
 - B. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Department may agree to or specify a longer time frame than specified in Part A of this section.
- 3-10. Verification and documentation of correction.
 - A. After observing at the time of inspection a correction of a violation or an operating plan deviation, the Department shall enter the violation and information about the corrective action on the inspection report form.
 - B. After receiving notification that the license holder has corrected a violation or operating plan deviation, or at the end of the specified period of time, the Department shall verify correction of the violation, document the information on an inspection report form, and enter the report in the Department's records.

3-11. The Department shall conduct inspections as necessary to ensure that the establishment is operating in compliance with these regulations and is not a potential threat to the public health.

Section 4. Management and Personnel. The following requirements shall pertain to all license holders and other persons working in a body art facility.

- 4-1. A. At all times that a body art facility is open for business or during which any body art practices or procedures are being performed, the license holder or their designate shall be present (41).
- B. The license holder or their designate shall be knowledgeable regarding safe body art practices and the requirements of this Code (15).
- C. The license holder or their designate shall be responsible for ensuring that all parts of this Code pertaining to the physical facilities and to those practices generally applying to the entire facility are in compliance with the requirements contained herein (15).
- 4-2. All persons applying for an operator license shall be a minimum of 18 years of age, and no person under the age of 18 may perform body art procedures.
- 4-3. Each operator shall have access to a copy of these regulations at all times while body art procedures or practices are performed. (5)
- 4-4. All operators shall be able to demonstrate adequate knowledge of this Code and of safe and proper body art. This knowledge shall be demonstrated by:
 - A. Being in compliance with the provisions of this Code, and
 - B. Being able to respond correctly to the Department's questions regarding body art practices and procedures. (15)
- 4-5. Body art procedures and practices may not be performed at any place other than a body art facility that is in compliance with this Code. (41)
- 4-6. No operator may perform any body art procedure while under the influence of alcohol, any illegal drug, or any mind altering drug. (41)
- 4-7. No operator may perform any body art procedure on the genitalia or nipples of a minor. (41)
- 4-8. Any operator, license holder, or other employee of any body art facility who learns of any infections, complications, or diseases resulting from any body art procedure shall report them to the Department within 24 hours by:
 - A. Calling the Department and reporting to a representative of the Department directly; or
 - B. Completing a written report including names, addresses, and phone numbers of all affected clients including the dates of their procedures and then submitting the written report to the Department using means of (relatively) immediate delivery (including, but not limited to email and fax). The person making the report shall then follow up by completing reporting to a representative of the Department directly on the first business day following the day the written report was submitted. (41)
- 4-9. An apprentice operator may not perform any body art procedures unless a body art operator licensed to perform that same type of body art procedure at that same facility is present in the body art establishment during the duration of the body art procedure. The

apprentice operator shall perform the procedure under the supervision of the body art operator. (41)

- 4-10. Operators shall maintain a high degree of personal cleanliness and shall conform to approved hygienic practices. (10)
- 4-11. No operator or other employee with boils, infected wounds, open sores, abrasions, keloids, weeping dermatological lesions, acute respiratory infections, or any communicable disease transmissible through contact shall perform any work in any area of a body art establishment in which there is a likelihood that the person could contaminate body art equipment, supplies or procedure surfaces with body substances or pathogenic microorganisms. (41)
- 4-12. Persons performing body art procedures or any other task or function in a body art facility must use aseptic techniques. (41)
- 4-13. Operators shall maintain a current, approved bloodborne pathogens certification. (5)
- 4-14. Operators shall maintain a current CPR certification. (5)

Section 5. Client Requirements. The following requirements pertain to all clients or potential clients of a body art facility:

- 5-1. Nothing in this Code shall be construed as to require any operator to perform any body art procedure upon any client.
- 5-2. No operator may perform any body art procedure on a client who the operator knows to be or that appears to be under the influence of alcohol or drugs, or who the operator has any reason to believe may be otherwise legally incapacitated, incompetent, or otherwise obviously unsuited to undergo a body art procedure. (41)
- 5-3. No operator may perform any body art procedure upon a minor client without the presence of, written consent of, and proper identification of a parent, legal custodial parent, or legal guardian. The parent, legal custodial parent or legal guardian shall be present during all parts of the body art procedure. (41)
- 5-4. No operator may perform any body art procedure upon any person under the age of fifteen except:
 - A. An operator licensed to perform piercing procedures may pierce the non-cartilaginous lobes of the ear on a person under the age of fifteen.
 - B. An ear piercer may pierce the non-cartilaginous lobes of the ear on a person under the age of fifteen. (41)
- 5-5. The skin or mucous membrane surface of the procedure site shall be normal in appearance, and shall be free of sunburn or skin disease or disorders including, but not limited to open lesions, rashes, wounds, or puncture marks. (10)

Section 6. Policies and Procedures.

- 6-1. The following body art procedures are prohibited:
 - A. Cutting
 - B. Branding

- C. Implanting
- D. Suspension
- E. Scarification
- F. Piercing the testes, deep shaft (corpus cavernosa) of the penis, uvula, eyelids, horizontal tongue piercings, and sub-clavicle piercings. (41)

6-2. The following documents shall be posted in an easily visible location in a body art facility:

- A. The body art facility license shall be posted at the entrance (5),
- B. The operator license for each operator that performs procedures in the body art establishment shall be posted in the procedure area for that operator (5), and
- C. The Body Art Facility Public Notice (found at www.fdhhu.org) (5).

6-3. All body art facilities shall have an operating plan. The operating plan shall be maintained current and shall be updated at least one time per calendar year. The operating plan shall include:

- A. A copy of the exposure control plan.
 - 1. The exposure control plan shall be in writing, and
 - 2. Shall meet the requirements found in 29 CFR 1910.1030;
- B. Manufacturer's manuals, maintenances schedules and maintenance logs for all autoclaves
- C. Documentation for items obtained presterilized, as required in Section 9-3,
- D. Materials certificates and all other certifications for materials used as jewelry for initial piercings as required in Section 10-10,
- E. The information required in Section 6-4,
- F. The information required in Section 9-3,
- G. Proof of immunity to hepatitis B (shot record or titer) for all employees that are not licensed by the Department as operators and whose duties may involve contact with contaminated waste,
- H. The vermin control plan as specified in Section 11-15.
- I. The operator residency notice for each operator that will be performing procedures in the body art establishment. (10)

6-4. Each body art facility shall retain certain records as follows:

- A. The following information about the body art facility:
 - 1. Name and address of each person who has an ownership interest in the body art establishment.
 - 2. A complete list of all operators who have worked in the establishment for the previous three years including clear, legible copies of proof of age and of the operator license.
 - 3. A current inventory of all instruments used for body art, body jewelry, 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 product, in that case such information as will otherwise identify the product shall be inventoried, such as copies of invoices or orders. (5)
- B. The following information about each employee (for three years after an employee's last date of employment):
 - 1. Employee's full name, job title and exact duties;
 - 2. Date of birth;
 - 3. Gender;
 - 4. Home address;
 - 5. Home and mobile telephone numbers;

6. Clear identification photo (if it is of sufficient clarity and size to clearly identify the individual, the photo required in Part 7 may be used to fill this requirement); and
 7. Photo copy of proof of age. (5)
 - C. A client packet for each client. The packet shall contain:
 1. A completed pre-procedural information form;
 2. A completed consent form;
 3. A completed aftercare instruction form; and
 4. Copies (either physical or electronic) of any photographs of any part of the procedure or of the finished procedure site. (10)
 - D. A complete description of all body art procedures performed for the previous three years including all operators involved in the procedure. A complete client packet for each procedure performed on each client shall meet this requirement. (5)
- 6-5. All required records must be kept in either print or digital form. Print records shall be legible and in a form that is reasonably available to review by the Department. Digital records shall be in a format so as to be conveniently and immediately accessible for review by the Department. (15)
 - 6-6. All records shall be stored in a manner that prohibits access from unauthorized personnel (ex. locked cabinets, locked rooms, password protected files). (15)
 - 6-7. All required records shall be retained for a minimum of three years with at least those from the previous 12 months retained on site at the body art facility. (15)
 - 6-8. Any activity or practice that is likely to result in the release of large amounts of particulate or vapor contamination of the air is prohibited in any body art facility. This includes, but is not limited to, the following activities: the smoking or burning of any tobacco or drug; vaping, or the use of e-cigarettes; the burning of incense; the burning of candles; open fires, as in a fireplace; soldering; or use of air fresheners. (20)
 - 6-9. All germicide products shall be used only in a manner consistent with the manufacturer's EPA approved label. (10)
 - 6-10. Germicide products removed from their original containers into any other container and germicide products mixed with any other product to dilute or prepare them for use shall be transferred and/or mixed or diluted fresh and used within 24 hours, or used within the time frame specified on the EPA approved label. (10)
 - 6-11. Any products removed from their original container and put into a working container shall be labeled with the common name for that product. (3)
 - 6-12. For any facility using a water system specified in Section 11-4(C):
 - A. All water test reports shall be maintained as per Section 6-7 and as specified by state water quality regulations, and
 - B. If a lab other than the FDHU lab is used to perform water analysis, a copy of the results shall be submitted to the Department within seven days of receipt of the results by the facility. (1)
 - 6-13. If any water test for a water system fails, the establishment shall immediately cease operations and may not resume operations until obtaining a passing sample and being granted permission to reopen by the Department. (41)

Section 7. Education and Information Requirements. All body art establishments and any operators shall provide education and information to prospective clients and shall gather information from them as follows.

- 7-1. The information required in this section as a whole shall hereafter be referred to as the client packet. All required information in a client packet shall be recorded in such a way so as to be clearly legible. (5)
- 7-2. The client packet form(s) shall be submitted to and must have been approved by the Department prior to the issuance of a body art operator or body art facility license. If the client packet form(s) are significantly modified by a license holder, such modifications must have received approval from the Department prior to replacing an existing client packet form(s). (5)
- 7-3. The operator shall provide each client with a copy of the materials contained in the client packet. If the client chooses not to receive a copy of the materials, the operator shall indicate such in the client packet. (5)
- 7-4. The client packet shall be completely filled out and signed by all required parties prior to the operator beginning the body art procedure. (10)
- 7-5. For purposes of this section, the client packet is divided into three parts as detailed below. For each of the three parts:
 - A. The client shall affix their signature attesting to their agreement with and understanding of the information contained therein.
 - B. For any minor client, the legal guardian or parent shall affix their signature attesting to their agreement with and understanding of the information contained therein in their role as the legal guardian or parent of that minor.
 - C. The operator shall affix their signature attesting to their having reviewed the information contained therein with the client and that they gave the client the opportunity to ask questions and that they answered any questions posed by the client.
 - D. Each person affixing their signature shall also include the date. (5)
- 7-6. Pre-Procedural Information
 - A. The pre-procedural information shall include the following information about the client:
 1. Name,
 2. Address,
 3. Phone number, and
 4. Date of birth.
 - B. The pre-procedural information shall include at a minimum the following statements (as applicable to the specific body art procedure):
 1. A tattoo is permanent and may only be removed by a surgical procedure that may leave scarring.
 2. A tattoo/piercing is an invasive procedure that may result in complications that may include: scarring, infection, allergic reaction/metal sensitivity, inflammation, embedding or possible other medical problems or complications.
 3. A successful result of a tattoo/piercing partially depends on actions taken by the client. Certain actions or a failure to perform certain actions by the client may result in an unsuccessful tattoo/piercing so it is important that the client follow the aftercare instructions completely.

4. The client has been made aware that tattoos may change in appearance over time due to many factors some of which are a result of actions taken by the client.
5. The name and contact information for the health department is:

First District Health Unit
801 11th Ave SW
Minot ND 58701
701-852-1376
6. If the client has any difficulties/problems with the tattoo/piercing they should contact the body art operator for advice or to resolve the situation.
7. If the client has any signs, symptoms or concerns about a potential infection at the site of the body art procedure or has signs, symptoms or concerns regarding an illness that is related to the body art procedure, they should contact a physician immediately.
8. The name, address and phone number of the body art establishment.
9. The client must attest that they have been given the opportunity to ask questions and that they understand the items listed above.
10. If the body art operator uses latex gloves, the client must attest that they are aware that the operator will use latex gloves and that to the best of their knowledge they do not have an allergy to latex. (5)

7-7. Consent Form

- A. The consent form shall include the following information about the client:
 1. Name,
 2. Address,
 3. Phone number, and
 4. Date of birth.
- B. The consent form shall specify the name(s) of any operator(s) or employee(s) that perform or participate in performing the procedure.
- C. The consent form shall detail the following information about the procedure:
 1. Date and time of the procedure,
 2. The procedure site,
 3. A complete description of the procedure performed, including a listing of the jewelry/inks/materials used during the procedure, and
 4. Pictures of the procedure, if applicable.
- D. The consent form shall include a clear and legible copy of the proof of age of the client.
- E. If the client is a minor, the consent form shall also include a clear and legible copy of the proof of age of the client's parent/guardian.
 1. The last name of the minor shall match the last name of the parent/guardian.
 2. If the last name of the minor is different from the last name of the parent/guardian, the parent/guardian shall also provide legal documentation detailing the reason for the difference in last names and proving that the person is legally the parent and/or guardian.
 3. If the potential client is a minor married to someone over the age of 18, the consent form shall contain a photocopy of the proof of age of the client, a photocopy of the proof of age of the spouse and a copy of the marriage certificate.
- F. The consent form shall include this statement:

If you have certain medical conditions, you should speak to a physician about the risks and possible complications associated with getting a body art procedure. These conditions are those that may cause an increased level of risk to your health and safety up to, and possibly including death, if you undergo a body art procedure:

1. Diabetes,
 2. Hemophilia,
 3. A history of any skin diseases, skin lesions, or skin sensitivities to soaps or disinfectants, or any other skin sensitivities,
 4. A history of allergies or adverse reactions to pigments, dyes, metals, or latex,
 5. A history of epilepsy, seizures, narcolepsy, or fainting,
 6. The use of any medications that may affect bleeding or blood clotting,
 7. Hepatitis infection (A, B or C),
 8. HIV or AIDS,
 9. High blood pressure or heart disease,
 10. Pregnancy,
 11. Any communicable diseases,
 12. Any immune system disorders,
 13. Any serious physical or mental health problems, or
 14. MRSA.
- G. The consent form shall include a statement indicating that the client gives permission for the operator to do the specified body art procedure. (5)

7-8. Aftercare Instructions

- A. The aftercare instructions shall include the following information about the client:
1. Name,
 2. Address,
 3. Phone number, and
 4. Date of birth.
- B. The aftercare instructions shall include the following statements:
1. Seek medical attention immediately if you see any signs of possible infection at the procedure site, or if you experience any symptom of illness that may be associated with this tattoo/piercing.
 2. Before any person performs any aftercare or touches the procedure site, they must thoroughly wash their hands with soap and water.
- C. For piercing procedures, the aftercare instructions shall give information regarding nickel sensitivities/allergies. (5)

Section 8. Procedure Requirements. The following requirements apply to the procedure area and to the performing of body art procedures.

- 8-1. Eating and drinking are prohibited in the procedure area. (5)
- 8-2. Tables, trays, and any other equipment/single use items shall not be shared between operators or employees working on multiple clients. (5)
- 8-3. There shall be no dusting, vacuuming or other cleaning in the procedure area during any body art or ear piercing procedure. (5)
- 8-4. All procedural surfaces shall be cleaned and then disinfected with an approved disinfectant after completion of any body art or ear piercing procedure and prior to the performing of any other procedures on that procedural surface. (25)

- 8-5. For each client, all equipment used shall be:
- A. Single use and disposable, or
 - B. Designed for multiple uses and capable of undergoing cycles of cleaning and disinfection or sterilization without degradation or deterioration. (15)
- 8-6. Multi-use equipment (including, but not limited to spray or squeeze bottles, tattoo machines and related appurtenances, and lighting) that is used during the procedure and that cannot be sterilized shall be covered with a single use disposable barrier that is removed and discarded after each client. (5)
- 8-7. A durable tray or container shall be maintained in the procedure area for placement of used equipment that requires cleaning, decontamination and autoclaving. (5)
- 8-8. Any non-critical equipment or single use item used during the body art or ear piercing procedure that becomes contaminated or that touches any surface that may result in contamination shall be discarded and replaced immediately with a new, uncontaminated piece of equipment or new single use item. (15)
- 8-9. Any critical or semi-critical piece of equipment that becomes contaminated or that touches any surface that may result in contamination shall be discarded and replaced immediately with a new, sterile piece of equipment. (41)
- 8-10. Any operator or employee assisting in performing a body art procedure shall wear a new set of clean clothing for each procedure or shall have a new lap cloth or other single use barrier in place during each procedure. (5)
- 8-11. Prior to performing a body art procedure, the operator and any employee assisting in performing a body art procedure shall wash their hands as follows:
- A. Wet hands under warm (at least 100-degree F) running water.
 - B. Using an approved cleanser, scrub the hands and all exposed portions of the arms (or surrogate prosthetic devices for hands or arms) using vigorous friction on the surfaces of the lathered fingers, the fingertips, the areas between the fingers, the hands, and the arms for at least sixty seconds.
 - C. Scrub the fingernails and areas under the fingernails with a single use, surgical nailbrush.
 - D. Thoroughly rinse the hands and exposed portions of the arms (or surrogate prosthetic devices for hands or arms) under clean, running warm water.
 - E. Immediately follow the cleaning procedure with the thorough drying of cleaned hands and arms or surrogate prosthetic devices using a single use towel. (15)
- 8-12. Other than as specified in Section 8-11 above, the following procedure shall be used by any operator or employee assisting in performing a body art procedure when washing the hands:
- A. Wet hands under warm (at least 100-degree F) running water.
 - B. Using an approved cleanser, scrub the hands and all exposed portions of the arms (or surrogate prosthetic devices for hands or arms) using vigorous friction on the surfaces of the lathered fingers, the fingertips, the areas between the fingers, the hands, and the arms for at least twenty to thirty seconds.
 - C. Thoroughly rinse the hands and all exposed portions of the arms (or surrogate prosthetic devices for hands or arms) under clean, running warm water.
 - D. Immediately follow the cleaning procedure with the thorough drying of cleaned hands and arms or surrogate prosthetic devices using a single use towel. (15)

8-13. Any person shall wash their hands before:

- A. Putting on gloves,
- B. Handling any equipment, single use items or before performing any tasks involving procedure surfaces or working in the procedure area,
- C. Beginning any body art procedure, and as often as necessary during the procedure to prevent contamination of the hands, equipment, procedure site or any part of the client,
- D. Leaving the procedure area after completing or assisting in any body art procedure, or after cleaning or disinfecting any procedure area, or after handling or disposing of any equipment, single use items, needles, inks or any other materials used in or for the performing of a body art procedure, or
- E. At any other time when there is a likelihood that the hands may have become contaminated. (31)

8-14. The following items may not be touched with bare hands:

- A. Any critical item (Ex. tattoo needles or bars, tubes, needles, jewelry, or ink),
- B. Any semi-critical item (Ex. receiving tubes, tattoo machine tubes, or tattoo machine cartridge type assemblies),
- C. Items such as ink cups, stencil materials, razors, or any other single use items or multi use items that will come into contact with critical or semi-critical items or with any part of a client, or
- D. Clients. (31)

8-15. Gloves.

- A. During all parts of the body art procedure, including set up procedures, the operator and any employee(s) that assist in performing the procedure shall wear disposable gloves that are labeled as medical or that are labeled for body art procedures (31).
- B. The gloves shall be discarded, at a minimum, after the completion of each procedure (or after multiple procedures an individual client as long as the gloves are not contaminated during or between procedures) (31).
- C. Single use gloves that contact one client may not come into contact with any other client (31).
- D. If a glove worn by an operator during a procedure is pierced, torn, or otherwise damaged so that there a chance that the hand of the operator could be contaminated, the operator shall:
 - 1. Remove and discard their gloves,
 - 2. Wash their hands as per Section 8-11 above, and
 - 3. Put on a new pair of gloves prior to continuing the procedure (41).
- E. No operator or employee may wear jewelry on the hands or arms while:
 - 1. Performing or assisting in performing a body art procedure,
 - 2. While wearing gloves, or
 - 3. When performing any tasks involving washing, disinfecting or sterilizing equipment (10).
- F. An operator or employee assisting in performing a body art procedure shall change gloves:
 - 1. After set up and preparing the client's skin by washing and shaving, but before application of any stencil or markings (5),
 - 2. After application of stencils or markings, but before performing a body art procedure (5),

3. During a procedure, if the gloves become contaminated by contact with any non-sterilized surfaces or objects (including any site on the client other than the procedure site) (31),
 4. After completion of the procedure, prior to beginning any part of a procedure on another client or to performing post-procedure teardown (31),
 5. After cleaning and disinfecting the procedure area (5), and
 6. At any point during the procedure if the gloves become contaminated (31).
- 8-16. Prior to applying a stencil or markings or to performing the body art procedure, the procedure site shall be cleaned using a surgical skin preparation product or equivalent and then prepped using an approved antiseptic in accordance with the manufacturer's instructions. (15)
- 8-17. Shaving.
- A. Any razors used on clients shall be single use and disposable and only used on one client. (15)
 - B. The entire area to be shaved shall be washed with soap and water or an approved cleanser before being shaved. (5)
- 8-18. A. Any products dispensed from bulk containers (ex. ink, petroleum jelly) shall only be dispensed immediately before performing a body art procedure or as needed during the procedure (5).
- B. Containers or surfaces used to hold working quantities of products specified in part A shall be single use, and shall be unused and clean (10).
 - C. Upon completion of the body art procedure, these single-use containers or surfaces and their contents shall be disposed of appropriately, and such products may not be salvaged or used on another client (15).
- 8-19. 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 as contaminated waste. (15)
- 8-20. After the completion of a body art procedure, the procedure site shall be washed with an approved cleanser and allowed to air dry. For tattoo procedures, the procedure site shall be covered with an approved single use covering (ex. Sterile gauze, bandages or saniderm) to protect it from airborne or contact contamination. (15)

Section 9. Sanitation and Sterilization Procedures. All body art facilities and operators or any employee that is assisting in any part of a body art or ear piercing procedure shall comply with the following sanitation and sterilization procedures:

- 9-1. Sterility requirements.
- A. Critical items shall be sterile at the time of use (41).
 - B. Semi-critical items shall be sterile at the time of use (41).
 - C. Non-critical items shall at a minimum undergo disinfection with a product or combination of products approved for, labeled for and suitable for use on that item before contacting any client (31).
- 9-2. Items required to be sterile must either be:
- A. Obtained sterile, or
 - B. Sterilized on premises. (41)

- 9-3. For those items obtained sterile, documentation shall be obtained and maintained on site detailing the sterilization process used on those items and all documentation showing validation of the sterilization process.
- A. Items marked to indicate that they have been sterilized in compliance with 21 CFR part 820 or International Standardization Organization standard 13485 shall be deemed to meet this requirement.
 - B. Documentation from the manufacturer stating that the items have been sterilized in compliance with 21 CFR part 820 and International Standardization Organization standard 13485 shall meet this requirement.
 - C. Other documentation will be accepted if approved by the Department.
 - D. Items for which appropriate and approved documentation cannot be obtained or that do not come with the required markings shall be considered to be not sterile and shall be sterilized prior to use. (10)
- 9-4. All body art facilities shall be equipped with an approved autoclave or sterilizer, except as specified in Part B below.
- A. For each autoclave/sterilizer used in a facility, the license holder shall have documentation of all manufacturer's validation processes and FDA approvals for that device. Autoclaves/sterilizers used for sterilizing hollow items (tattoo tubes, jewelry, etc.) shall be validated for that use (5).
 - B. If the body art facility uses only single-use, pre-sterilized instruments used for body art and uses pre-packaged, pre-sterilized supplies and jewelry, an autoclave shall not be required.
 - C. The license holder shall have on hand and available all manufacturer's information and the manual for each autoclave (5).
 - D. All autoclaves shall be kept in good repair and in such condition so as to perform in a manner consistent with the manufacturer's original tolerances and specifications.
 - 1. Any maintenance and upkeep recommended or required by the manufacturer shall be performed within in the timeframes specified by the manufacturer.
 - 2. A record of all such maintenance and upkeep shall be kept and shall be onsite and available for review.
 - 3. The record shall detail the maintenance activity done, the date and time of completion and the name of the person doing the maintenance.
 - 4. This record shall also detail the results of all testing done to comply with parts E and F below. (5)
 - E. Each autoclave shall be tested to determine if it is capable of attaining sterilization by conducting biological monitoring using an approved standard spore suspension unit (hereafter referred to as a spore test) available for this purpose (31).
 - 1. These tests shall be verified through an approved, independent laboratory.
 - 2. The spore test shall be performed at least once per calendar month, but shall not be spaced more than 30 days apart (5).
 - 3. The results of all spore tests shall be retained by the body art facility license holder on premises for a period of three years and made available to the Department upon request (5).
 - 4. If any spore test returns an unsatisfactory result, all items run through the autoclave subsequent to the last spore test that returned a satisfactory result shall be pulled from service and considered to be not sterile (5).
 - 5. If a spore test returns an unsatisfactory result, the license holder shall determine the cause of failure and then correct it. Once corrected, the license holder shall:

- a. Run three consecutive empty cycles each containing a spore test process challenge device (PCD) placed in the part of the tray or cartridge where steam is least likely to penetrate,
 - b. The autoclave shall be completely cooled to room temperature between each cycle specified in part a,
 - c. Once three passing PCD tests have been achieved, the autoclave may be put back into service. (15)
 - F. Each load shall be tested with a Class 5 integrating indicator or Class 6 emulating indicator in an appropriate challenge pack or PCD.
 - 1. The indicator shall be located in the part of the autoclave tray or cartridge where steam is least likely to penetrate.
 - 2. If the indicator does not reach an acceptable endpoint, the load may not be used and shall be reprocessed.
 - 3. Upon failure of an indicator, the license holder shall determine the cause of failure and then correct it. Once corrected, the license holder shall:
 - a. Run three consecutive empty cycles each containing a spore test PCD and an indicator PCD placed in the part of the tray or cartridge where steam is least likely to penetrate.
 - b. The autoclave shall be completely cooled to room temperature between the cycles specified in part a.
 - c. Once three passing spore tests have been achieved, the autoclave may be put back into service. (5)
 - G. The autoclave shall be used according to the original manufacturer's instructions. (31)
 - H. All exterior surfaces of the autoclave shall be cleaned with a disinfectant before and after each use. (5)
 - I. No autoclave may be located in any part of a body art facility other than the biohazard room. (31)
- 9-5. All body art facilities that have equipment that is cleaned on site or jewelry or implements used for body art that are not obtained sterile shall be equipped with at least one ultrasonic cleaning unit. Ultrasonic cleaning units shall meet the following requirements:
- A. They shall either be equipped to hold disposable containers of cleaning solution and clean rinse water; or to have a basket or tray that is capable of being sterilized.
 - B. If a tattooing and piercing operations are both performed at a body art facility, there shall be separate ultrasonic cleaners provided for tattooing and piercing equipment, and tattooing and piercing equipment shall be cleaned separately from each other in their respective, designated ultrasonic cleaners.
 - C. In any facility where jewelry is cleaned prior to sale or use, there shall be a separate ultrasonic cleaning unit used for that jewelry that is not used for any contaminated equipment.
 - D. No ultrasonic cleaner may be located or operated in any part of the establishment other than the biohazard room.
 - E. An ultrasonic cleaner shall be labeled for, designed for and FDA approved for use for cleaning body art, medical or dental instruments.
 - F. The FDA approved manufacturers validated instructions for use shall be located on site and shall be available for review at all times. (10)
- 9-6. All instruments used for body art or any equipment that are not single use shall be cleaned thoroughly after each use by washing with soap and water until all fluid, tissue or any other contaminants or soil has been removed. After washing, the items shall be run through an ultrasonic cleaning unit operated in accordance with manufacturer's instructions. (15)

- 9-7. All critical items, semi-critical items, and any other equipment that needs to be sterile and that is not obtained sterile in compliance with Section 9-3 shall be sterilized on site. After being cleaned as per Section 9-6, all such items shall be packed individually in approved packaging. Approved packaging shall:
- A. Allow penetration of the sterilant used in the body art facility,
 - B. Provide protection against contact contamination during handling,
 - C. Provide an effective barrier to microbial penetration or recontamination,
 - D. Maintain sterility of the processed items after sterilization,
 - E. Be such packaging that it is approved for use for body art equipment, jewelry or single use items by the manufacturer and by the Department, and
 - F. Shall contain an approved sterilization process indicator. (15)
- 9-8. After being packaged as per Section 9-7, all critical items, semi-critical items and any other equipment that needs to be sterile and that is not obtained sterile in compliance with Section 9-3 shall be rendered sterile using an approved autoclave or sterilizer. (15)
- 9-9. Items packaged as per Section 9-7 and sterilized on site as per Section 9-8 shall be marked on the packaging with a clearly legible date of sterilization unless they are sterilized on and used on the same date. (5)
- 9-10. Gloves.
- A. All persons must wear gloves while washing instruments used for body art or equipment as per Section 9-6.
 - B. A new, clean pair of gloves shall be put on by any person prior to packaging items as per Section 9-7. (5)
- 9-11. All sterilized critical items, semi-critical items, and any other equipment that needs to be sterile shall be stored in such a way so as to maintain sterility and to protect them from potential contamination. If any event occurs that would be likely to compromise the sterility of any items, those items shall be cleaned, repackaged and resterilized as per the requirements of this section. Events and conditions that may contribute to the likelihood of and timing of contamination of items include, but are not limited to:
- A. Bioburden (the amount of contamination in the air): Items packaged and sterilized shall be stored in a location that prevents contamination and is conducive to maintaining the sterility of the equipment (ex. clean, covered containers). Items that have any visible dust, debris or other contaminants on them shall be considered no longer sterile.
 - B. Air movement through the facility and in the storage area: Items packaged and sterilized shall be stored in a location out of moving air currents and drafts.
 - C. Traffic in the storage area: Items packaged and sterilized may not be stored in any location used as a path of travel from one area to another, or in any area accessible to the general public.
 - D. Location of the storage area: Items packaged and sterilized may not be stored in any location where there is a likelihood of contamination (ex. restrooms, garbage rooms).
 - E. Humidity: Items packaged and sterilized shall not be stored in any location with a relative humidity higher than 70 percent.
 - F. The presence of insects or rodents: Items packaged and sterilized shall be stored in such a way as to be inaccessible to insects, rodents or any other animal. If signs of rodent, insect or other animal contact or contamination are found in a storage area, all items in that area are considered no longer sterile.

- G. Flooding or other water contamination: Items packaged and sterilized shall be stored in a dry location. They may not be stored under any exposed sewer or water lines. If the item or its packaging is exposed to water, it shall be considered no longer sterile.
- H. The amount of storage area space: Items packaged and sterilized shall be stored at least two inches from exterior walls and 12 inches above the floor.
- I. Whether shelving/storage areas are open/closed: Closed and covered storage is required.
- J. Air temperature in the storage area: Items packaged and sterilized shall be stored at a temperature that is less than 75 degrees F.
- K. Time lapsed from date of sterilization: Items packaged and sterilized shall be considered to be sterile for a period of time not to exceed six months from the date of sterilization.
- L. The properties of the package material: If the package material has any specified time limit for the maintenance of sterility, and if that time limit is shorter than six months, then that shorter time limit shall be observed. If the packaging is ripped, torn or otherwise damaged, the item shall be considered no longer sterile. (10)

Section 10. Equipment, Single Use Items and Supplies. Equipment, single use items, instruments used for body art and supplies shall conform to the following requirements:

- 10-1. All Equipment, single use items, instruments used for body art, and supplies shall be:
 - A. Used only in accordance with any manufacturer's labeling, or for the use that they are manufactured for and intended to be used for by the manufacturer,
 - B. Durable under normal use conditions,
 - C. Clean to sight and touch, and
 - D. Maintained in good repair and so as to maintain their intended characteristics. (5)
- 10-2. All equipment, single use items, instruments used for body art, and supplies shall be stored clean and dry in covered containers or protected locations that are at least 12 inches off of the floor and at least 18 inches from any sprinkler heads. (5)
- 10-3. The use of any equipment, single use item, instrument used for body art, supply, chemical or ink after the expiration date as indicated by any manufacturer's date markings is prohibited. Any such items must be removed from the body art facility after the expiration date is reached, expired items may not be used or present. (5)
- 10-4. Cloth items:
 - A. Multi-use cloth items or uniforms shall be washed with detergent, hot water, and chlorine bleach (used according to label instructions) in a washer and then dried in a dryer after each use.
 - B. Cleaned cloth items or uniforms shall be stored in a protected location and kept dry and clean until used.
 - C. Cloth items may not be used as semi-critical or non-critical items. (5)
- 10-5. Stencils:
 - A. Items or materials used for stencils shall be safe, non-toxic, and approved for such use.
 - B. Stencils and all stencil making materials shall be stored in a closed, dust proof container.
 - C. Multi-use stencils are prohibited.
 - D. Only products made for and approved for such use may be used to apply stencils.
 - E. Used stencils shall be disposed immediately after use. (5)

10-6. Single-Use Items:

- A. Single-use items shall not be used more than one time or on more than one client.
- B. After use, all single-use needles, razors and other sharps shall be immediately disposed of in approved sharps containers. (5)

10-7. Inks and pigments:

- A. Any inks, dyes, paints or pigments applied to the surface of the skin shall be non-toxic and approved for and safe for use on the skin (31).
- B. All inks, dyes, pigments, and instruments used for body art shall be obtained from reputable suppliers and shall be marked with expiration dates by the manufacturer (5).
- C. Ink or pigment used for tattooing must be manufactured and labeled for such use (31).
- D. All inks, dyes or pigments shall be stored in clean, covered containers until use (5).
- E. Immediately prior to use, the quantity of ink required for use shall be dispensed into a single use container in such a way so as to prevent contamination of the bulk container or its contents (15).
- F. No inks, dyes, or pigments used for tattooing may be adulterated with or mixed with any materials or substances other than with other inks, dyes or pigments or with sterile, potable water (15).
- G. Inks, dyes or pigments disapproved by or under recall by the FDA or any other federal agency having jurisdiction, the manufacturer, or by the Department shall not be used (31).
- H. Any materials used to make markings on the skin shall be made for and approved for such use.
 - 1. Single use, medical grade markers are the only approved markers.
 - 2. Medical grade ink only may be used, and must be applied with a single use marking system.
 - 3. Gentian violet may be used as long as it is applied with a single use marking system. (5)

10-8. Tattoo needles:

- A. All tattoo needles and bars shall be single use and discarded immediately after use on a single client into an approved sharps container (31).
- B. Each needle shall be visually inspected prior to performing a tattoo. Defective or faulty needles or bars may not be used (5).
- C. Tattoo needles and tubes shall be kept sealed in sterile packaging until they are opened (5).
- D. Tattoo needles and tubes shall be opened in the presence of the client (and parent or guardian for minor clients) on whom they will be used (5).

10-9. Piercing needles:

- A. All needles used for piercing procedures shall be single use (31).
- B. Each needle shall be visually inspected prior to performing a piercing. Defective or faulty needles may not be used (5).
- C. Piercing any body part other than the non-cartilaginous lobes of the ears with a "piercing gun" or "stud and clasp" system is prohibited (31).
- D. Piercing needles shall be obtained from reputable suppliers and shall be specifically manufactured for body piercing (5).

10-10. Jewelry:

- A. Any jewelry used or sold in a body art facility shall be obtained from a reputable manufacturer and shall be manufactured for and intended for use in a piercing (5).

- B. Jewelry used in an initial piercing may be made of only materials found in the Association of Professional Piercers membership standards under the heading “Minimum Standards for Jewelry for Initial Piercings”. The following materials are approved as per their 5/28/19 revision:
1. Any and all materials that meet ASTM and/or ISO standards for implantation. Examples of these include, but are not limited to:
 - a. Steel that is ASTM F138 compliant or ISO 5832-1 compliant.
[Note: The EEC Nickel Directive is a regulation that requires a low rate of nickel release for all materials used for costume or fine jewelry, belt buckles, watches, or other metallic accessories with direct skin contact. It does not specify nor prove that a material is safe to wear in the body; therefore, compliance with this directive alone is not sufficient for meeting the APP initial jewelry standards.]
 - b. Steel that is ISO 10993-6, 10993-10 and/or 10993-11 compliant.
 - c. Unalloyed titanium that is ASTM F67 or ISO 5832-2 compliant.
 - d. Alloyed Titanium (Ti6Al4V ELI) that is ASTM F136 compliant or ISO 5832-3 compliant.
 - e. Alloyed Titanium (Ti6Al7Nb ELI) that is ASTM F1295 compliant or ISO 5832-11 compliant.
 - f. Polytetrafluoroethylene (PTFE) that is ASTM F754 compliant.
 - g. Any polymer or plastic material that is ISO 10993-6, 10993-10 and/or 10993-11 compliant and/or meets the United States Pharmacopeia (USP) Class VI material classification.
 2. Solid 14 karat or higher yellow, white, or rose gold that is nickel and cadmium free. Gold jewelry used for initial piercing may not be:
 - a. Plated, unless using materials approved by this standard over solid 14 karat or higher yellow, white, or rose gold that is 14k or higher, or white rhodium;
 - b. Gold-filled; or
 - c. Gold overlay/vermeil.
 3. Solid unalloyed or alloyed platinum that is cadmium, nickel, and lead free.
 4. Unalloyed Niobium (Nb) that is ASTM B392 compliant. This includes but is not limited to:
 - a. Commercial grade 2 Niobium; and
 - b. Commercial grade 4 Niobium that contains 1% Zirconium.
 5. Glass that is lead free. This includes, but is not limited to:
 - a. Fused quartz;
 - b. Borosilicate; and
 - c. Soda-lime.
 6. All threaded or press-fit jewelry must have internal tapping (no threads on exterior of posts and barbells).
 7. For body jewelry purposes, surfaces and ends must be smooth and free of nicks, scratches, burrs, stamps, hallmarks, polishing compounds, and other potentially harmful residues.
 8. Metals must have a consistent mirror finish on surfaces that frequently come in contact with tissue.
 9. All jewelry used for initial piercing on people above the age of 12 must be ASTM F2999 compliant.
 10. All jewelry used for initial piercing on people ages 12 and under must be ASTM F2923 compliant. (15)

- C. Certification (which shall include material certificates for materials found in subparts 1 of part E above) of the quality of the jewelry shall be obtained from the manufacturer or supplier and kept on hand for a period of time at least equal to the time the jewelry is kept on hand or for as long as the records for any client for which the jewelry was used in an initial piercing are kept on file; whichever requirement is longer. Material certificates shall be obtained for each gauge of bar stock or spool stock for all jewelry used for initial piercing (5).
- D. Each piece of jewelry shall be visually inspected prior to use. All jewelry used in an initial piercing shall be free of nicks, scratches, or irregular surfaces (5).
- E. Threaded jewelry with external threads shall not be used for an initial piercing (5).
- F. Any jewelry supplied by a client for use in an initial piercing may only be used if it meets all criteria of this section. Any such jewelry shall be cleaned as per Section 9-6 and sterilized as per Section 9-8 prior to use (31).

10-11. Chemicals:

- A. Shall be registered with the Environmental Protection Agency.
- B. Shall be kept in closed, original containers or transferred to a closed, working container prior to use.
- C. All containers or chemicals shall bear an original manufacturer's label, or if transferred to a working container shall be clearly labeled with the common name for the chemical.
- D. Shall be used in compliance with the manufacturer's label.
- E. Disinfectant solutions shall be mixed fresh on a schedule as per the manufacturer's label, or daily for products without a specified schedule. (5)

10-12. A body art facility shall have at least the following supplies on hand at the beginning of each day's operations (unless otherwise mandated or specified, an adequate supply is considered to be that amount necessary for performing twice the number of expected or scheduled clients for that day):

- A. An adequate supply of skin cleanser or germicidal soap.
- B. An adequate supply of antiseptic.
- C. An adequate supply of distilled water.
- D. An adequate supply of disinfectant.
- E. An adequate supply of all single use items, including but not limited to covering materials for tattoo machines, clip cords, squeeze bottle, tongue depressors, and bandages or other covering material for completed tattoos.
- F. 25 sets of sterile, single use needles and tubes per tattoo operator or general operator. For purposes of this requirement, one set of needles and tubes consists of one liner needle on a bar and one shader on a bar along with the appropriate tubes.
- G. 25 individually packaged sterile piercing needles or needles that are ready to be used after sterilization prior to use in a rapid cycle type autoclave/sterilizer per piercing operator or general operator.
- H. 300 disposable medical examination gloves.
- I. 500 single use ink containers. (5)

Section 11. Physical Facilities. Body art facilities shall be constructed and maintained in compliance with the following:

11-1. Code.

- A. All plumbing, electrical, mechanical and structural elements of the establishment shall be constructed and installed in accordance with all relevant state and local codes,

whichever is stricter. In cases where no state or local code is in effect, the Department may mandate an appropriate standard be followed.

- B. Construction and operation of a body art facility shall be in compliance with the legally adopted fire code for the state of North Dakota, or of any subdivision thereof having jurisdiction, whichever is stricter.
- C. In the event that any item contained in this Code is different from any requirement specified elsewhere as detailed in Part A or B, then the stricter standard shall be enforced.

11-2. All parts of the physical facility shall be clean to sight and touch. (1)

11-3. All parts of the physical facility shall be maintained in good repair and shall retain characteristics as intended by the original manufacturer. (1)

11-4. All water shall be obtained from an approved source, and shall meet the following requirements:

- A. Be from a water system that is constructed, maintained, and operated according to law.
- B. Water from a water system shall meet the criteria for drinking water found in 40 CFR 141 – National Primary Drinking Water Regulations and North Dakota Department of Health (NDDOH) Drinking Water Quality Standards.
- C. Be sampled and tested at least monthly if from any source that is not regulated by the NDDOH Division of Municipal Facilities.
- D. The water source and system shall be of sufficient capacity to meet the peak water demands of the facility.
- E. Have hot water generation and distribution systems sufficient to meet the peak hot water demands throughout the facility. (5)

11-5. Water shall be received from the source through the use of:

- A. An approved public water main; or
- B. A nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances that shall be constructed, maintained, and operated according to law. (5)

11-6. A water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after any occurrence or emergency situation, such as a flood, that may introduce contaminants to the system. The water from the system shall be tested by a certified lab to ensure compliance with 40 CFR 141 – National Primary Drinking Water Regulations and NDDOH Drinking Water Quality Standards before the system is put into use. (41)

11-7. General sewage.

- A. Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including the use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.
- B. Non-water-carried sewage disposal facilities are prohibited.
- C. No mop water, rinse water or any other substance that may become foul or offensive or that is putrescible shall be thrown upon the ground or poured into the storm sewer.
- D. Facilities shall be kept free from the effluvia arising from any sewerage, drain, or other source within the control of the proprietor.

- E. Temporary establishments shall either be connected to an approved municipal sewer system or shall have approved holding tanks.
 - 1. The holding tank shall have a capacity that is at least 15% greater than the capacity of the water supply tank.
 - 2. Liquid waste shall not be discharged from the holding tank when the facility is in motion.
 - 3. All connections for the waste disposal system shall be of a different size or type from the potable water connections.
 - 4. The waste connection shall be located lower than or in a separate location from the water inlet connection to preclude contamination of the potable water system. (5)

11-8. Sinks.

- A. All sinks shall be equipped with hot and cold water under pressure and connected to an approved sewer system or approved waste water collection tank (5).
- B. Utility sinks.
 - 1. All facility buildings or service buildings equipped with running water shall be equipped with, or have reasonable access to, at least one utility sink or curbed cleaning facility with a floor drain for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes.
 - 2. The use of toilets, urinals, hand washing or equipment washing sinks for disposal of mop water or similar liquid wastes is prohibited. (5)
- C. Hand washing sinks:
 - 1. Hand washing sinks shall be plumbed with hot and cold water under pressure, with the hot water tap being on the left and the cold water tap being on the right.
 - 2. Hot water shall be at least 100 degrees F
 - 3. Hand washing sinks shall be equipped with liquid soap, disposable paper towels and a covered wastebasket immediately adjacent to the sink, except that the wastebasket for a hand washing sink in toilet room may be located by the door.
 - 4. Each procedure area shall have unrestricted access to a hand wash sink that is not in a toilet room. No procedure area may be more than 15 feet from its designated hand sink.
 - 5. One hand wash sink shall serve no more than three operators or ear piercers.
 - 6. Hand sinks in procedure areas shall be equipped with wrist operated, foot operated or "hands free" controls.
 - 7. Hand washing sinks may be used for the washing of hands and for no other purpose. (15)
- D. The use of bar soap at hand sinks is prohibited. (5)

11-9. Toilet Facilities:

- A. A body art facility shall have at least one toilet room. For purposes of this section a toilet room shall include at least one toilet fixture, one hand washing sink, one covered trash can located at the toilet fixture and one standard trash can located near the door into the toilet room.
- B. The toilet room shall be completely enclosed by solid, floor to ceiling walls and shall have a solid, self-closing door equipped with a lock that can be secured from the inside of the room.
- C. The toilet room shall be accessible to clients and body art facility employees at all times that the body art facility is open for business.
- D. The toilet room shall be mechanically vented to the outside of the building.
- E. All toilet fixtures shall be supplied with toilet tissue.

- F. No equipment, implements used for body art, uniforms, aprons, clothing or single use items may be stored, cleaned, rinsed, prepared or disposed of in the toilet room. (5)

11-10. HVAC.

- A. The establishment shall be well-ventilated and shall be equipped with adequate heating and cooling facilities so as to maintain a temperature of 65 to 80 degrees F.
- B. The humidity shall be maintained at a level that is between 30 to 50 percent.
- C. All ducts, vents or air conditioning units that vent into any procedure areas shall be installed and maintained so as to minimize any dust and to prevent entry by insects. (3)

11-11. Lighting.

- A. Establishments shall be provided with artificial lights able to provide the equivalent of at least 100 foot-candles at a height of three feet off the floor in all parts of the establishment, except as specified in Part B.
- B. There shall be at least 1000 foot-candles of light available at the procedure site in each procedure area, at any work surface in the biohazard room, in any area where equipment is cleaned and/or autoclaved, and in any areas where instruments used for body art or other equipment are handled or assembled.
- C. All lights shall be fitted with approved covers. An approved cover is one that is purpose made for being a light cover for that light fixture and that completely encloses the bulb(s). (3)

11-12. Waste and trash.

- A. Trash receptacles shall be:
 - 1. Emptied at least daily, and more often as necessary to prevent accumulation of trash or waste or development of odors,
 - 2. Lined with a disposable, non-absorbent liner,
 - 3. Covered with foot operated controls, except that the waste receptacle located at the hand washing sink in a toilet room does not have to be covered, and
 - 4. Made of such materials as to be durable, non-absorbent and easily cleanable.
- B. Waste that does not meet the definition of contaminated waste shall be removed from the premises at least once per seven-day period and at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects or rodents. This shall include all recyclables or returnable materials.
- C. Refuse, recyclables, and returnables shall be removed from the premises by way of:
 - 1. Portable receptacles that are constructed and maintained according to law; or
 - 2. A transport vehicle that is constructed, maintained, and operated according to law.
- D. Contaminated waste:
 - 1. As defined in this Code, shall be placed in an approved "red" bag marked with the International Biohazard Symbol and handled using universal precautions.
 - 2. It shall 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 Bloodborne Pathogens".
 - 3. Storage of contaminated waste on site shall not exceed the period specified by the department or more than a maximum of thirty days, as specified in 29 CFR Part 1910.1030, whichever is less. Waste shall be stored in a way that it is protected from, and is not attractive to, any humans or animals.
- E. Sharps shall be disposed of in an approved sharps container immediately after use.

- F. Sharps containers:
 - 1. Sharps containers shall not be filled more than $\frac{3}{4}$ full or higher than any markings indicating maximum capacity on the container itself indicate, whichever is less.
 - 2. Each procedure area shall be equipped with a dedicated sharps container.
 - 3. Sharps containers shall be wall mounted at a height and in a manner such that any person putting items into the sharps container are able to clearly see the opening to the container.
- G. All wastes generated during a body art procedure or any waste that may be contaminated with ink or body fluids must be disposed of in the procedure area and may not be disposed of in any non-procedure area or restroom. (5)

11-13. Biohazard Room:

- A. All body art facilities that clean and/or sterilize equipment or implements used for body art on premises shall have a room designated as a "Biohazard Room".
- B. The biohazard room shall be equipped with signage that, at a minimum, states:
 - 1. "Biohazard Room",
 - 2. "Danger", and
 - 3. "Authorized Personnel Only".
- C. The biohazard room shall be separated from the rest of the establishment by solid, floor to ceiling walls, and shall have a solid, self-closing door.
- D. All wall, floor, ceiling, and work surfaces, and the surfaces of any other equipment located in the biohazard room shall be smooth, non-absorbent, easily cleanable, and constructed with materials capable of withstanding repeated cleaning and disinfection.
- E. The biohazard room (or in temporary facilities the cleaner and sterilizer) shall be located as far from any procedure areas or other areas where clients would have access to. Clients may not be allowed into the biohazard room.
- F. The biohazard room shall not be used for storage of any equipment or single service items other than those that need cleaning and sterilization and those that are in the process of being cleaned and sterilized.
- G. The biohazard room shall be equipped with at least two sinks.
 - 1. One sink shall be designated as a hand washing sink.
 - 2. One sink shall be designated as an equipment washing sink, and may be used for no other purpose other than the cleaning, rinsing, and decontamination of soiled equipment. This sink shall be located in the decontamination area.
- H. The biohazard room shall be separated into at least the following three areas:
 - 1. The decontamination area.
 - a. This is the place where any breakdown and cleaning of equipment or implements used for body art shall occur.
 - b. The ultrasonic cleaner shall be located in this area.
 - 2. The packaging area.
 - a. Only equipment and implements used for body art that have been cleaned and decontaminated may be brought into the packaging area.
 - b. Equipment and implements used for body art shall be packaged in packaging materials as specified in Section 9-7 only in this area.
 - 3. The sterilization area.
 - a. Only cleaned and packaged equipment that is ready for sterilization shall be brought into the sterilization area.
 - b. The autoclave or sterilizer shall be located in this area. (5)

11-14. Procedure Areas:

- A. Body art and ear piercing procedures shall only be performed in procedure areas that are designated as being procedure areas and that meet all requirements of this Code.
- B. Any procedure area shall be at least 60 square feet, and there shall be at least five feet of space between clients in adjacent procedure areas.
- C. Each body art facility shall have at least one procedure area that is equipped with a means of screening it from view to protect the privacy of those clients that request it.
- D. Procedure areas shall not serve as a path of travel for any other area of the body art facility, including other procedure areas or to the designated hand washing sink for any procedure area.
- E. All procedure surfaces, including client chairs/benches, shall be of such construction and made of such materials so as to be easily cleaned and disinfected after each client and to maintain those characteristics under conditions of use. (5)

11-15. General Facility:

- A. Cleaning.
 - 1. Except for cleaning necessary due to spills or other accident, cleaning shall only be done during times when body art procedures are not being performed.
 - 2. Indoor spaces be maintained free of any items not necessary for the operation of the body art facility and sources of airborne dust and dirt. (3)
- B. Walls, non-carpeted floors, ceilings, surfaces that may be touched/contacted by clients or members of the public shall be nonabsorbent, smooth, free of open holes or cracks, light-colored, easily cleanable, able to be disinfected, and made of materials that are durable under normal use conditions (3).
- C. Coved baseboards of approved material shall be provided at all wall and floor junctures (1).
- D. Carpet is not an acceptable floor covering in any procedure area, restroom, biohazard room, any area where a client could potentially cross or be in during a procedure, or any room where any cleaning or preparation of any equipment or jewelry takes place. (3)
- E. The perimeter walls and roofs of a body art facility shall effectively protect the interior areas from the weather and the entry of insects, rodents, and other animals. (3)
- F. Body art facilities that are located inside a larger structure or that share space with other types of businesses or occupancies (ex. food establishments or room where food is prepared, any hair salon, any retail sales area, any living quarters or private home, or any other area where activity occurs that may cause potential contamination of work surfaces) shall be separated from all other businesses or occupancies by solid, floor to ceiling walls. (5)
- G. All doors connecting a body art facility with any other type of establishment, occupancy, or private home shall be solid and equipped with a self-closing mechanism. Such doors shall be kept closed when not in use. (3)
- H. All body art activities and storage of all equipment, implements used for body art, or chemicals used in a body art facility shall only occur in or be found in areas designated as being part of the body art facility. Such activities and storage may not be conducted in a private home, living quarters or other business or occupancy (41).
- I. Animals:
 - 1. No animals shall be allowed in any part of any body art facility except as follows:
 - a. Service animals used by customers with disabilities are allowed, except that they shall be excluded from areas not open to the general public, such as biohazard rooms.

- b. Service animals used by employees are allowed in any area where the duties of the employee occur.
 - c. Fish in decorative aquariums may be allowed in waiting rooms or reception areas so long as no contamination of procedure areas or equipment may occur. (41)
- 2. All body art facilities shall have an insect, rodent and vermin control plan and shall take all necessary measures to exclude insects, rodents or vermin from the premises (5).
- 3. All openings shall be protected by tight fitting, self-closing doors, closed windows, screening, controlled air currents or other means approved by the Department. All screens on any outside openings shall be tight fitting and free of breaks and shall not be less than 16 mesh to the inch (3).
- 4. No body art or ear piercing procedures may be performed in a body art facility that has insects, vermin or rodents present. Procedures may not be performed until approved pest control procedures have been implemented and approval to resume the performing of procedures has been granted by the Department (41).
- J. Laundry facilities:
 - 1. If a washer is used for washing cloth items or uniforms at a body art facility, then those items shall be dried in a dryer.
 - 2. All mechanical clothes dryers shall be vented to the outside of the structure. (1)

Section 12. Ear Piercing Establishments. The following are special considerations for ear piercing:

- 12-1. The only procedure that may be performed at an ear piercing establishment is to pierce the non-cartilaginous lobe of the ear using a stud and clasp system. (41)
- 12-2. Ear piercers shall:
 - A. Be at least 18 years of age (10).
 - B. Receive at least one hour of approved training per each of the following topics:
 - 1. Proper use of the stud and clasp system used at the ear piercing establishment.
 - 2. Industry specific, OSHA approved bloodborne pathogens course.
 - 3. Proper hand hygiene and the safe, sanitary use of all equipment including but not limited to gloves, towels and disinfectants. (5)
- 12-3. Clients under the age of 18 may not have an ear piercing procedure performed without the written consent of their parent or legal guardian. (41)
- 12-4. Each client shall complete an ear piercing client form prior to the ear piercing procedure.
 - A. The form shall be completed in the presence of the ear piercing facility license holder, or their designate, or the ear piercer (5).
 - B. The form shall be signed by both the ear piercer and the person getting the ear piercing, and by the parent or legal guardian of the person getting the ear piercing if that person is a minor. If the person getting the ear piercing is unable to sign the form due to age, then that signature may be omitted (10).
 - C. A copy shall be given to the person getting the ear piercing or their parent or legal guardian, and a copy shall be retained at the ear piercing establishment (5).
 - D. This form can be physical media or a digital form.
 - E. The form for each client shall available for review by the Department for a period of no less than three years after the date of the procedure (10).

F. The form shall be submitted to the Department for approval prior to use (5).

12-5. The ear piercing client form shall include the following:

- A. The name, address, date of birth and phone number of the client. If the client is a minor, then it shall also include the name, address, date of birth and phone number for the parent or legal guardian giving consent for the ear piercing procedure.
 - 1. The last name of the minor shall match the last name of the parent or legal guardian;
 - 2. If the last name of the minor is different from the last name of the parent or legal guardian, the parent or legal guardian shall also provide legal documentation detailing the reason for the difference in last names and proving that the person is legally the parent or guardian;
 - 3. If the potential client is a minor married to someone over the age of 18, the consent form shall contain a photocopy of the marriage certificate or other proof of marriage,
- B. The name of the ear piercer that performed the ear piercing procedure, as well as the names of any other employees that assisted in performing the procedure,
- C. The date and time of the procedure,
- D. A description of the stud and clasp used,
- E. The following statements:
 - 1. If you have certain medical conditions, you should speak to a physician about the risks of ear piercing. These conditions are those that may cause an increased level of risk to your health and safety up to and possibly including death, if you undergo an ear piercing. These conditions include, but are not limited to:
 - a. Diabetes.
 - b. Hemophilia.
 - c. A history of any skin diseases, skin lesions, or skin sensitivities to soaps, disinfectant, etc.
 - d. A history of allergies or adverse reactions to pigments, dyes, metals, or any other skin sensitivities.
 - e. A history of epilepsy, seizures, narcolepsy, or fainting.
 - f. The use of any medications that may affect bleeding or blood clotting.
 - g. Hepatitis infection (A, B or C).
 - h. HIV or AIDS.
 - i. High blood pressure or heart disease.
 - j. Pregnancy.
 - k. Any communicable diseases.
 - l. Any immune system disorders.
 - m. Any serious physical or mental health problems.
 - n. MRSA,
 - 2. The client or their parent or legal guardian gives permission for the ear piercing establishment to perform the ear piercing procedure.
 - 3. A piercing is an invasive procedure that may result in complications that may include: scarring, infection, allergic reaction/metal sensitivity, inflammation, embedding or possible other medical problems or complications.
 - 4. A successful piercing partially depends on actions taken by the client. Certain actions or a failure to perform certain actions by the client may result in an unsuccessful piercing so it is important that the client follow the aftercare instructions completely.
 - 5. The name and contact information for the health department is:

First District Health Unit
801 11th Ave SW
Minot ND 58701
701-852-1376

6. If you have any difficulties/problems with the piercing you should contact the ear piercing establishment for advice or to resolve the situation.
 7. If you have any signs that could indicate an infection of the ear piercing or signs of illness possibly resulting from the ear piercing, you should contact a physician immediately.
 8. You or anyone else must wash their hands before performing any aftercare or touching your ear piercing,
- F. The name, address and phone number of the ear piercing establishment,
 - G. The client must attest that they have been given the opportunity to ask questions and that they understand the items listed above, and
 - H. Include information on potential reactions in susceptible individuals stemming from the presence of nickel in jewelry. (5)

12-6. Stud and clasp systems:

- A. Critical or semi-critical parts shall be single use (41).
- B. Non-critical parts shall be cleaned and disinfected after each use. Non-critical parts and parts that are not intended to be semi-critical or non-critical but that contact blood or OPIM shall be discarded or cleaned as per Section 9-6 and sterilized as per Section 9-7 and 9-8 (15).
- C. The ear piercing instrument shall be designed and operated in such a way so that the operator does not contact any critical or semi-critical item, including during the process of loading the ear piercing instrument (15).

12-7. The critical and semi-critical parts of the ear piercing system shall be prepackaged and presterilized.

- A. Documentation from the manufacturer shall be obtained and available on site for review detailing the specifics of the sterilization process used including all validations, except for packaging marked as per B.
- B. Packaging marked to indicate that the stud and clasp system has been sterilized in compliance with 21 CFR part 820 and International Standardization Organization standard 13485 shall be acceptable documentation of sterility.
- C. The documentation specified in A shall be kept on hand for at least three years after the date of use. (15)

12-8. Jewelry used shall meet the requirements of Section 10-10h. (15)

12-9. Latex is prohibited as a material in any object that will come into contact with the client. (5)

- 12-10. A. The area within any ear piercing establishment where the ear piercing procedure is performed shall be safe and sanitary and shall not constitute a threat to public health and safety as determined by the Department.
- B. This area shall not be located in any location that serves as a path of travel.
 - C. Those persons not involved in the ear piercing procedure shall be excluded from the area during the ear piercing procedure. (5)

12-11. Those ear piercing establishments in operation prior to July 1, 2021 that are not in compliance with Section 11-8(C) shall install all necessary hand sinks so as to be in compliance by July 1, 2022.

Section 13. Variances. The Department may grant a variance by modifying or waiving the requirements of this Code if in the opinion of the Department there is a scientific or documented reason that modifying or waiving the requirements of this Code will not result in a health hazard or risk to public safety.

- 13-1. A variance request shall be made in writing, and shall be signed and dated by the license holder requesting the variance. The variance request shall be addressed to the Director of Environmental Health and shall be submitted to the Department. The variance request shall include the following information:
- A. A statement of the proposed variance detailing specifically what aspect of the Code a variance is being requested for, including all relevant Code section numbers;
 - B. A statement detailing the reason for which the variance is being requested; and
 - C. An analysis of the rationale for how the potential public health hazards addressed by the relevant Code sections will be alternatively addressed by the person requesting the variance.
- 13-2. The Department shall review this information, and shall make a determination within 10 days of receiving the variance request. If there is any reason that the determination cannot be made within 10 days, the Department shall notify the license holder making the request within 10 days of receiving the request of the reasons for the delay in processing the variance request and of the expected timetable for completing the review of the variance request.
- 13-3. The Department shall notify the license holder requesting the variance in writing with the results of the Department's review of the variance request.
- 13-4. If the variance request has been denied by the Department, the written notification shall include the reasons for the denial of the request.
- 13-5. In the event of denial of a variance request, the license holder requesting the variance may appeal the denial by requesting an appeal. A request for an appeal shall be in writing and shall be signed and dated by the license holder requesting the appeal. The written request shall be addressed to the Executive Officer and shall be submitted to the FDHU office located in Minot. Within 10 days of receiving the request, the FDHU shall notify the license holder requesting the appeal of the date and time of the hearing for the appeal.
- 13-6. If the variance is approved, the Department shall provide a written variance request approval to the license holder. The license holder shall keep the variance request approval on hand during the duration of time that the variance is in effect, and then for three years after the date that the variance request approval expires. The variance request approval shall detail the length of time for which the variance shall be in effect and shall detail the criteria for renewal of the variance, if applicable. (5)
- 13-7. The Department is not obligated under any circumstances to approve a request for a variance, and may deny such request for any reason.

Section 14. Compliance and Enforcement.

- 14-1. If any part of this Code is found to be or held invalid; that invalidity shall not affect the other parts of this Code.
- 14-2. Falsification of information.
- A. If any person attempts to obtain a license with falsified information or provides any falsified information to the Department while applying for a license, that person may not be issued a license and shall be thereafter ineligible for licensure.
 - B. If any license holder provides falsified information to the Department or is found to have falsified any records, or documentation required herein, the license held by that person shall be immediately suspended. The suspension shall remain in effect until such time as it is lifted as a result of a determination made during a hearing conducted as specified in this section. Nothing in this section shall mandate that a license suspension has to be lifted, and such suspension may be changed to revocation if such revocation is determined to be justified during a hearing conducted as specified in this section. (41)
- 14-3. If any license is suspended by the Department, no activities requiring licensure may occur in a body art facility and no operator may engage in any activities requiring licensure until such time as written notification is issued in writing by the Department notifying the license holder that the suspension has been lifted.
- 14-4. Violation of Section 14-3 shall result in immediate revocation of any license. The revocation shall remain in effect until such time as the license revocation is reversed as a result of a determination made during a hearing conducted as specified in this section. Nothing in this section shall mandate that a license revocation has to be reversed and such revocation may be deemed permanent if so determined by the results of a hearing conducted as specified in this section.
- 14-5. Closure.
- A. Certain conditions may result in immediate suspension of the license for a body art establishment and closure. Such conditions include:
 - 1. The facility does not have a body art facility license.
 - 2. Any body art operator performing body art procedures without a valid operator's license.
 - 3. Evidence of malfunction of the sewer system.
 - 4. Lack of an adequate supply of approved, hot and cold water under pressure to the facility or to the fixtures therein.
 - 5. Lack of electrical or gas service to the extent that hand washing, lighting, heating, or toilet facilities are not operational.
 - 6. Significant damage to the body art facility due to tornado, fire, flood or other disaster.
 - 7. Evidence of rodent or vermin infestation.
 - 8. Documented use of non-sterile critical or semi-critical items.
 - 9. Documented failure to use gloves.
 - 10. Failure to maintain adequate and complete records including:
 - a. All items required under Section 6-4,
 - b. An operating plan,
 - c. Water test results, or
 - d. Autoclave test results.

11. Failure to properly dispose of sharps, blood or body fluids or contaminated waste.
12. Failure to properly report complaints of bloodborne pathogen transmission or other suspect illness of clients to the Department.
13. Evidence of contamination, filthy conditions, untrained staff, or poor personal hygiene of the staff.
14. Documentation of an apprentice operator performing body art procedures without supervision by a body art operator being present.
15. Any time a public health nuisance exists. (41)

B. Emergency occurrences.

1. Include the following:
 - a. Loss of water service,
 - b. Interruption or loss of electrical service,
 - c. Malfunctioning sewer system,
 - d. Fire, flood, tornado, or natural disaster, or
 - e. Outbreak of bloodborne or other disease linked to the body art establishment or any body art operator on record as performing procedures at the establishment. (41)
2. If any conditions specified in Part 1 occur, the license holder shall:
 - a. Immediately stop all body art operations and close the body art establishment,
 - b. Report the occurrence to the Department, and
 - c. Not resume operations until given clearance to do so by the Department.

14-6. Certain conditions may result in immediate suspension of the license for a body art operator. Such conditions include:

- A. An operator license that is not current,
- B. Documented use of non-sterile critical or semi-critical items.
- C. Documented failure to use gloves.
- D. Failure to maintain adequate and complete records.
- E. Failure to properly dispose of sharps, blood or body fluids or contaminated waste.
- F. Failure to properly report complaints of bloodborne pathogen transmission or other suspect illness of clients to the Department.
- G. Documentation of an apprentice operator performing body art procedures without a body art operator being present.
- H. Performing body art procedures in any location other than a licensed body art establishment.
- I. Violation of Section 6-1.
- J. Documented history of repeated non-compliance with provisions contained herein.
- K. Any other action or condition that is or can create a public health nuisance exists. (41)

14-7. The Department may summarily suspend a license to operate a body art facility, or an operator license, if it determines through inspection, or examination of employees, or other means as specified in this Code that an imminent health hazard not specified in 14-5 or 14-6 exists. (41)

14-8. The Department may summarily suspend a license as specified in Section 14-2, 14-5, 14-6 or 14-7 by providing written notice as specified in Section 14-9 of the summary suspension to the license holder or their designate without prior warning, notice of hearing, or a hearing.

- 14-9. A summary suspension notice shall state:
- A. That the body art facility or operator license is immediately suspended and that all body art operations shall immediately cease;
 - B. The reasons for summary suspension with reference to the provisions of this Code that are in violation;
 - C. The name and address of the Department representative to whom a written request for reinspection may be made and who may certify that reasons for the suspension are eliminated; and
 - D. That the license holder may request an appeal hearing by submitting a timely request.
- 14-10. After receiving a written request from the license holder stating that the conditions cited in the summary suspension order no longer exist, the Department shall conduct a reinspection of the body art facility or of the operator for which the license was summarily suspended within 5 business days, which means 5 days during which the Department's office is open to the public.
- 14-11. A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the Department through reinspection and other means as appropriate. The suspended license shall be reinstated immediately if the Department determines that the public health hazard or nuisance no longer exists. A notice of reinstatement shall be provided to the license holder or their designate.
- 14-12. A person who receives a notice of hearing for an administrative remedy and elects to respond to the notice shall file a response to notice as specified in Section 14-16 within 7 calendar days after receiving the notice.
- 14-13. A license applicant may request a hearing regarding the disposition of an application for a new or revised license if the Department does not issue or deny the license within the time frame specified in law.
- 14-14. A license holder may request a hearing to address concerns about the Department's denial of application for a license or request for a variance, or compliance actions, except that a hearing request does not stay the Department's imposition of a summary suspension as specified in Section 14-2(B), 14-5, 14-6, or 14-7.
- 14-15. A person desiring a hearing in response to a denial of an application for a license or an adverse administrative determination shall submit a hearing request to the Department within 10 calendar days of the date of the denial, inspection, or compliance action, unless the Department specifies in certain situations that the request shall be submitted within a shorter period of time.
- 14-16. A hearing notice, response to a hearing notice or a request for hearing shall be in written form and shall contain the following:
- A. The name and license number for the license involved in the potential hearing,
 - B. The name, address, phone number and signature of the person requesting a hearing or to whom a hearing notice was addressed,
 - C. If a response to notice of hearing,
 1. An admission or denial of each allegation of fact;
 2. A statement as to whether the respondent waives the right to a hearing; and may also contain

3. A statement of defense, mitigation, or explanation concerning any allegation of fact; and
 4. A request to the Department for a settlement of the proceeding by consent agreement, if the Department will provide this opportunity.
- D. If a request for a hearing,
1. A statement of the issue of fact for which the hearing is requested; and
 2. A statement of defense, mitigation, denial, or explanation concerning each allegation of fact.
- E. If either a response to notice of hearing or a request for a hearing,
1. A statement indicating whether the presence of witnesses for the Department is required; and
 2. The name and address of the respondent's or requester's legal counsel, if any.

14-17. A person may be charged with a misdemeanor under Section 23-35-13 of the North Dakota Century Code if they:

- A. Violate these regulations.
- B. Permit a violation to exist on the premises under their control.
- C. Fail to take action to abate the existence of the violation(s) of this Code within a specified time period when notified to do so by the Department.

14-18. Inspection Scoring.

- A. Each body art inspection shall start an inspection with 100 points. Each code requirement has been assigned a point value. During an inspection, each documented occurrence of any one violation of a code requirement shall result in that point value being deducted from the starting point value. Once the point values for all violations have been subtracted from 100, the resulting number shall be the inspection score.
- B. If an inspection results in a score of 59 or lower, the license shall be suspended until such time as the Department determines that the violations have been corrected and that the body art establishment or operator is no longer a threat to public health and safety.
- C. Any body art inspection that results in a score of 69 or below shall have a mandatory re-inspection. The license holder shall correct all specified violations before the date specified by the Department. Failure to correct all specified violations may result in suspension of the body art license.