

2013

**FIRST DISTRICT
HEALTH UNIT**

ENVIRONMENTAL HEALTH
DIVISION

RULES AND REGULATIONS FOR BODY ART ESTABLISHMENTS

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

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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 21st day of February, 2013, and effective July 1, 2013 as authorized by Section 23-35-08 of the North Dakota Century Code, shall be posted in all Body Art Establishments in a prominent location so that they may be read by clients and by operators of a Body Art Establishment. Any and all Body Art Establishments located within the FDHU are required to operate in full accordance with the following regulations.

Section 1. Definitions. The following terms used in these regulations shall be defined as follows:

- 1-1. "AFTERCARE" means written instructions given to the client, specific to the body art procedure(s) performed, 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 germicide that is applied to living tissue and skin.
- 1-3. "APPRENTICE" means an individual that is working 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 properly perform body art procedures.
- 1-4. "APPROVED" means acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.
- 1-5. "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 establishment.
- 1-6. "BODY ART ESTABLISHMENT" 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.
- 1-7. "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 outer perimeter or lobe of the ear with a pre-sterilized single-use stud-and- clasp-ear-piercing system shall not be included in this definition (see "Ear Piercing").
- 1-8. "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.
- 1-9. "CLEANING" means the removal of visible soil and debris (specifically organic or inorganic materials) from objects or surfaces either manually or mechanically.
- 1-10. "CLIENT" means any person on whom a body art procedure or ear piercing will be performed.

- 1-11. "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."
- 1-12. "COSMETIC TATTOOING" means the implantation of colored pigment into the upper reticular layer of the dermis, and includes any procedures referred to as "permanent makeup", "micropigmentation", "micropigment implantation", "microblading" or "dermagraphics". Cosmetic tattooing shall be limited to the following areas: eyebrows, eyelids, lips and to other areas of the body for scar camouflage, beauty marks, hair imitation, lash enhancement or areola repigmentation.
- 1-13. "COSMETIC TATTOOIST" means someone who is licensed to perform cosmetic tattooing only.
- 1-14. "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.
- 1-15. "DEPARTMENT" means the FDHU, or its authorized representatives.
- 1-16. "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.
- 1-17. "DISINFECTION" means a process that eliminates many or all pathogenic microorganisms, except for bacterial spores, on inanimate objects.
- 1-18. "EAR PIERCER" means any person who uses a stud and clasp system to pierce the non-cartilaginous perimeter or lobe of the ear.
- 1-19. "EAR PIERCING" means the puncturing of the non-cartilaginous perimeter or lobe of the ear with a stud and clasp ear-piercing system.
- 1-20. "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.
- 1-21. "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.
- 1-22. "ENTITY" means something that has a real existence or is a thing.

- 1-23. "EQUIPMENT" means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art establishment.
- 1-24. "FACILITY" means any room, space or establishment including those that are temporary.
- 1-25. "GENERAL OPERATOR" means any individual licensed to perform tattooing and body piercing procedures, but not cosmetic tattooing procedures.
- 1-26. "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. Gentian violet used in a body art facility needs to be in a sterile, aqueous medical grade formulation.
- 1-27. "GERMICIDE" means an agent that can kill microorganisms, particularly pathogenic organisms. "GERMICIDE" includes antiseptics and disinfectants.
- 1-28. "HANDSINK" means a hand sink, a 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 facility or hand sink.
- 1-29. "HAZARD" means a biological, chemical, or physical property that may cause an unacceptable health risk.
- 1-30. "HOT WATER" means water that attains and maintains a temperature of at least 100° Fahrenheit.
- 1-31. "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.
- 1-32. "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.
- 1-33. "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.
- 1-34. "JEWELRY" means any ornament inserted into a pierced area.
- 1-35. "LAW" includes applicable federal, state, and local statutes, ordinances, and regulations.
- 1-36. "LICENSE" means the document issued by the Department that authorizes a person to operate a body art establishment or to perform body art procedures as a body art operator or as a body art apprentice.
- 1-37. "LICENSE HOLDER" means any person or entity that has obtained any type of license from the department.

- 1-38. "MICROBLADING", also known as eyebrow embroidery, microstroking, feather touch, or hair-like strokes means a cosmetic tattooing procedure in which a hand-held device is used to deposit pigment in the outer layers of the skin resulting in a semi-permanent mark.
- 1-39. "MINOR" means any person under the age of 18 (eighteen).
- 1-40. "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.
- 1-41. "OWNER" means any person or entity that owns, runs or operates any body art establishment.
- 1-42. "PERMANENT BODY ART ESTABLISHMENT" means any body art establishment operating at one location for more than fourteen (14) days.
- 1-43. "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.
- 1-44. "PHYSICIAN" means a person currently licensed by the state of North Dakota to practice medicine pursuant to the provisions of chapter 43-17 of the North Dakota Century Code.
- 1-45. "PIERCER" means any individual licensed to perform body piercing procedures only.
- 1-46. "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 establishment personnel, facilities, or operations, if a body art establishment is only one component of a larger organization such as a shopping complex or beauty parlor.
- 1-47. "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.
- 1-48. "PROCEDURE AREA" means the actual space in which the body art procedure or ear piercing procedure is performed.
- 1-49. "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.

- 1-50. "PROOF OF AGE" means a form of identification that:
- A. Includes at least the following:
 - 1. A photograph of the person, and
 - 2. That person's date of birth, and
 - 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, or
 - 2. A valid military identification card issued by the United States Department of Defense, or
 - 3. A valid passport, or
 - 4. A valid resident alien card, or
 - 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.
- 1-51. "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.
- 1-52. "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 establishment or as part of a body art procedure.
- 1-53. "RULES AND REGULATIONS FOR BODY ART ESTABLISHMENTS" 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".
- 1-54. "SCARIFICATION" means deliberately inducing scar tissue formation on a person for the purpose of creating a permanent mark or design on the skin.
- 1-55. "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.
- 1-56. "SHARPS CONTAINER" means a container that is sealable, leak-proof, rigid (puncture proof), strong enough to protect any handler from accidental cuts or puncture wounds, that is red in color, that is clearly labeled with the International Biohazard Symbol and that is made for the purpose of disposal of hazardous sharp items.
- 1-57. "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.
- 1-58. "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.

- 1-59. "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.
- 1-60. "SUSPENSION" means the piercing of human tissue with any apparatus to raise or lower an individual with pulleys or other apparatus.
- 1-61. "TATTOOING" means any method of placing ink or other pigment (including those visible only under ultraviolet light) into or under the skin or mucous membranes (of a live human being) by the aid of needles or any other instrument used to puncture the skin, resulting in coloration of the skin or mucous membranes. This term includes all forms of cosmetic tattooing.
- 1-62. "TATTOOIST" means any operator who is licensed to perform tattooing procedures only, but does not include cosmetic tattooing procedures.
- 1-63. "TEMPORARY BODY ART ESTABLISHMENT" means any body art establishment operating in one location or at one event for fourteen (14) days or less in conjunction with a single event or celebration.
- 1-64. "ULTRASONIC CLEANER" means a cleaning device, approved by the Department, that uses ultrasound and an appropriate solvent to clean items.
- 1-65. "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.
- 1-66. "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.

Section 2. Licensure. Licensure for body art establishments and for those who engage in performing body art procedures will be issued and classified as one of the following: body art establishment license, body art operator license, apprentice permit, or ear piercing establishment license.

- 2-1. Any classification of license must be obtained from the Department. Licenses are non-transferable and license fees are non-refundable. License fees shall be paid in accordance with the fee structure of the FDHU. Failure to renew the license prior to the close of business on January 31 shall result in the license fee being doubled. Failure to renew the license prior to the close of business on February 28 shall result in revocation of the license. No body art establishment or ear piercing establishment may operate and no body art operator or

apprentice shall perform any body art procedure until after a license has been obtained and approval given in writing by the Department.

2-2. Operating a body art establishment or ear piercing establishment or as a body art operator or apprentice without a license is a violation of this regulation and as such is a violation of the ND Century Code. Facilities found to be operating without a license will be immediately closed until a license is obtained. Body art operators or apprentices found to be performing body art procedures without a license shall be ordered to and shall immediately cease all activities until such time as a license is obtained and approval given by the Department for that person to begin performing body art procedures.

2-3. Body art establishment licenses.

- A. These licenses are valid for one calendar year.
- B. As part of the licensing process, all body art establishments shall submit to the Department a written plan that demonstrates how the facility will meet all provisions of this code including: water source, waste disposal, sterilization procedures, record keeping, hand sinks and toilet facilities, blueprints of the facility, and a description of all procedures that will be performed, as well as a list of proposed operators and apprentices.
- C. Each license holder shall report to the Department the names and license numbers of all body art operators and apprentices that work in the body art establishment. No body art operator or apprentice will be allowed to perform body art procedures in a facility until approval is granted by the Department.
- D. If a body art establishment does not have a licensed body art operator on record with the Department as being affiliated with that establishment for a period of six months or by the end of the calendar year, whichever comes first, then that body art establishment license shall be suspended.
- E. A temporary body art establishment license may be issued at the discretion of the Department. All of the required criteria for a permanent body art establishment apply to a temporary body art establishment. If due to location deficiencies, a potential temporary body art establishment location will not be able to meet all the required criteria, then the potential license holder may apply for variances from certain criteria. The variance request shall be in writing and approval is at the discretion of the Department.
- F. An applicant for a temporary body art establishment license shall submit to the Department a written plan that demonstrates how the temporary body art establishment will meet all provisions of this code including: water source, waste disposal, sterilization procedures, record keeping, hand sinks and toilet facilities. The plan shall be submitted no later than two weeks prior to the dates of operation of the temporary body art establishment. If the plan is approved by the Department, the temporary body art establishment shall be allowed to open and operate for the timeframe specified on the license.

2-4. Body art operator licenses.

- A. This license is valid for one calendar year.
- B. The license shall be one of the following classes:
 - 1. General operator license. This license allows the license holder to perform all legal tattooing or piercing procedures except for cosmetic tattooing.
 - 2. Tattooist operator license. This license allows the license holder to perform any legal tattooing procedure except for cosmetic tattooing.

3. Piercing operator license. This license allows the license holder to perform any legal piercing or other non-tattooing body art procedure that is not otherwise prohibited.
 4. Cosmetic operator license. This license allows the license holder to perform any legal cosmetic tattooing procedure only. The license holder is not allowed to perform conventional, non-cosmetic tattooing procedures.
 5. Provisional license. This license may be issued to a potential license holder of categories 1 through 4 above that does not have all the shots from a series of hepatitis B shots. The provisional license holder shall complete the series of shots within 12 months of the first shot in the series and shall provide documentation of receiving all shots to the Department within 14 days of receiving the final shot. Failure to do so will result in revocation of the provisional license. A body art operator may not have a provisional license for longer than 12 months. No person may obtain a provisional license more than one time or for longer than 12 months.
- C. To obtain any class of body art operator license, a potential license holder must:
1. Be vaccinated against hepatitis B. An operator must have the complete sequence of shots if their vaccine type requires multiple shots; and
 2. Furnish proof of completing an OSHA approved, body art industry specific bloodborne pathogens and infection control training course. All body art operator license holders shall recertify in bloodborne pathogen and infection control at least annually; and
 3. Furnish proof of completing an approved CPR certification. All body art operator license holders shall maintain a current CPR certification at all times; and
 4. Meet one of the following criteria:
 - a. Have held a current body art operator's license issued by the Department prior to July 1, 2013; or
 - b. Have completed an apprenticeship under and had an apprentice permit in their name issued to a body art operator licensed by the Department in accordance with Section 2-5 below; or
 - c. Provide acceptable documentation showing that:
 - i. They hold a current license for the practice of body art in good standing issued by the regulatory authority in another health jurisdiction; and
 - ii. They have not been found to have been implicated in any transmission of illness or been implicated in causing sickness or infection in any client and have not been implicated of committing any acts that would result in a suspension or revocation of license under this code; and either iii or iv below
 - iii. They have been engaged in the practice of body art as a full time occupation for at least three years and have completed at least 400 body art procedures; or
 - iv. They served a body art apprenticeship with criteria fundamentally equivalent to those found in part E below in a body art establishment that was licensed by and in good standing with the regulatory authority in another health jurisdiction; and
 5. Pass the FDHU Body Art Operators Licensure Exam. This exam shall be administered by the Department. The potential license holder must achieve a score of greater than 70 percent to pass. Potential license holders who have not received a passing score may not perform any body art procedures until a passing score is obtained. If a potential license holder does not achieve a

passing score, they may not take the exam again for a minimum of 30 days. If a potential license holder fails the exam four times, they may not take the exam again and are not eligible for licensure.

- D. The Department may mandate further education or training for body art operators and body art apprentices 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:
 - 1. They notify the Department in writing that they will not be able to attend the original education or training, and
 - 2. The alternate education or training is approved by the Department.
- E. The license holder shall have on record with the Department the name and license number for the body art establishment at which they will be performing body art procedures prior to performing any procedures at that establishment.
 - 1. An operator may perform body art procedures at more than one licensed body art establishment, so long as they have provided the Department with notification of all establishments at which they will perform procedures.
 - 2. If a body art operator license holder is not on record as being affiliated with at least one licensed establishment for a period of 90 days or longer, or has not performed any procedures at any body art establishment for a period of 90 days or longer, then that operator's license shall be suspended.
 - 3. If a body art operator license holder is not on record as being affiliated with at least one licensed establishment for a period of six months or by the end of the calendar year, whichever comes first, then that operator's license shall be revoked.
 - 4. If a body art operator no longer performs procedures at a body art establishment they have on record with the Department, they shall provide notice to the Department within 90 days.
- F. No person may perform any body art procedure unless they have a body art operator's license, or unless they are working as an apprentice. All body art operators working in a permanent body art establishment shall have a body art operator's license, unless they are working as an apprentice.
- G. A body art operator that will be performing procedures at a temporary body art establishment shall apply for a temporary body art operator license. A temporary body art license will be issued at the discretion of the department, and the license holder is subject to the same requirements found in Section 2-4 for non-temporary body art licenses. Those body art operators who are currently license holders and who will be working at any temporary body art establishment shall also apply for a temporary body art operator license.

2-5. Body art apprentice permit.

- A. This license is valid for three years from the date of issue, and is only available to potential body art apprentices who will be working at permanent body art establishments. If a body art apprentice is not able to complete the requirements for apprenticeship as detailed in Part F below in three years, then a second apprentice permit may be issued for a second three year term.
- B. The apprentice permit is issued to a licensed body art operator. During the period of the apprenticeship, the operator is responsible for any and all actions of the apprentice that occur in the body art establishment.

- C. Any activities of the apprentice that may result in suspension or revocation of an apprentice permit may also result in suspension or revocation of the license of the body art operator that the apprentice permit is issued to.
 - D. Each body art operator may have up to two permitted apprentices. The apprentice permit covers only the same types of procedures that are allowed under the license category of the operator to whom they are apprenticed (ex. if the operator has a tattoo operator category license, the apprentice may only do standard tattooing procedures, but no piercing or cosmetic procedures).
 - E. The body art apprentice shall meet the following criteria:
 - 1. Be vaccinated against hepatitis B. An apprentice must have the complete sequence of shots if their vaccine type requires multiple shots. A provisional license may be issued to a potential apprentice who does not have all the shots from a series of shots. The potential apprentice shall complete the series of shots within 12 months of the first shot in the series. Failure to do so will result in revocation of the provisional license.
 - 2. Furnish proof of completing an OSHA approved, body art industry specific bloodborne pathogens and infection control training course. All apprentices shall recertify in bloodborne pathogen and infection control at least annually.
 - 3. Furnish proof of completing an approved CPR certification. All body art apprentice license holders shall maintain a current CPR certification at all times.
 - F. The purpose of a body art apprenticeship is for the apprentice to gain the knowledge and skills necessary to safely perform body art procedures. As a means to gain suitable knowledge and skills, a term of apprenticeship shall include, at a minimum:
 - 1. At least 100 hours of training. Training hours must occur prior to obtaining practical experience. Training must include instruction in and observation of concepts involving:
 - a. Safety, infection control and sterilization; and
 - b. Business operations, including exposure control plans and federal regulations; and
 - c. First District Health Unit regulations; and
 - d. Client service, including paperwork and aftercare; and
 - e. Client anatomy, physiology and histology; and
 - f. Tattoo specific topics:
 - i. Needles and bars; and
 - ii. Tattoo machines; and
 - iii. Equipment/supplies; and
 - iv. Color theory and pigments; and
 - v. Design, art, and placement; and
 - g. Piercing specific topics:
 - i. Needles; and
 - ii. Jewelry; and
 - iii. Equipment/supplies; and
 - iv. Site suitability/pierceability; and
 - 2. At least 1000 hours of practical experience with at least 400 completed procedures.
- 2-6. The Department may, after providing written notice, refuse to issue a license to a proposed establishment or proposed body art operator or apprentice; or may revoke a license already issued to a body art establishment or body art operator or apprentice for violations of this code.

- A. The department shall provide the opportunity for a public hearing for any proposed license holder to which a license is refused or to any license holder that has a license revoked.
- B. A request for a hearing shall be in written form and shall be signed by the proposed license holder or by the current license holder.
- C. The hearing request shall be submitted to the Department within ten days of the date of the Department's notice of its intention to refuse to issue or to revoke any license.
- D. The Department shall respond to the hearing request within ten days of receipt of the request with a date and time for the hearing to be held.
- E. Until such time as a decision or determination is made regarding the refusal to issue a license or regarding the license revocation, the refusal or revocation shall remain in effect.

Section 3. Inspection. Any body art establishment or ear piercing establishment shall be subject to inspection by the Department at any time while it is open for operation. 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. The Department shall conduct at a minimum one inspection per year but may also perform as many inspections of an establishment as it deems necessary to ensure that the establishment is operating in compliance with these regulations and is not a potential threat to the public health.
- 3-2. It shall be the responsibility of any body art establishment or ear piercing establishment license holder and of any body art operator license holders working in any body art establishment to ensure that a body art facility receives the minimum number of inspections required per year. If a body art establishment has not been inspected by July 1, then the license holder shall contact the Department and schedule a date and time for an inspection. The license holder shall contact the Department as necessary to follow up on obtaining the required number of inspections. The license holder shall document each contact made while attempting to obtain an inspection including date and time of contact, person with whom the contact was made and result of the contact.
- 3-3. If any license holder or any employee of a body art establishment or ear piercing establishment refuses inspection by the Department, then that body art establishment shall be closed until it has been inspected by the Department and until the Department is able to determine that the body art establishment is being operated in a manner consistent with all aspects of this code.
- 3-4. If any of the following conditions are documented during the course of any inspection of a body art establishment/ear piercing establishment, that establishment shall immediately close and the license shall be suspended until the Department is able to determine that the condition has been remediated:
 - A. The facility does not have a body art establishment/ear piercing establishment license.
 - B. Any body art operator or body art apprentice performing body art procedures in the body art establishment does not have an operator's license or apprentice permit.
 - C. Evidence of a malfunction of the sewer system serving the body art establishment/ear piercing establishment.
 - D. Lack of an adequate supply of potable, hot and cold water under pressure to the body art establishment/ear piercing establishment or to any fixture therein.

- E. Lack of electrical or gas service to the extent that hand washing, lighting or toilet facilities are not operational.
- F. Significant damage to the body art establishment/ear piercing establishment due to tornado, fire, flood or other disaster.
- G. Evidence of rodent or vermin infestation.
- H. Failure of a spore test of the autoclave.
- I. Any documented use of non-sterile items including, but not limited to: instruments, single use items or jewelry.
- J. Documented failure to use gloves.
- K. Failure to maintain adequate and complete records.
- L. Failure to properly dispose of sharps, blood or body fluids or contaminated waste.
- M. Failure to properly report complaints of blood borne pathogen transmission or other suspect illness of clients to the Department.
- N. Evidence of violation of Section 6.
- O. Evidence of contamination, filthy conditions, untrained staff, or poor personal hygiene of the staff.
- P. Documentation of an apprentice performing body art procedures without the body art operator being present.
- Q. Any time a public health nuisance exists.

Section 4. Required Posting of Documents. The following documents shall be posted in an easily visible location at the entrance to any body art establishment/ear piercing establishment:

- 4-1. A copy of the code.
- 4-2. The body art establishment license.
- 4-3. The body art operator license and the body art apprentice permit for all body art operators and body art apprentices that perform procedures in the body art establishment.
- 4-4. The Body Art Facility Public Notice (found at www.fdhuh.org).

Section 5. Premises Requirements. The following are the requirements for construction, materials and condition of a body art establishment/ear piercing establishment, whether permanent or temporary:

- 5-1. Utilities:
 - A. All plumbing, electrical and structural elements of the establishment shall be constructed and installed in accordance with all relevant state and local codes.
 - B. Any establishment shall have an approved water supply and sewage treatment system meeting all applicable state and local statutes and rules.
 - C. If the water source for any establishment is not an approved public water supply, the facility shall submit a sample for microbiological analysis to a certified laboratory at least monthly (12 times per year). If the certified laboratory used is one other than the FDHU lab in Minot, a copy of the results shall be submitted to the Department for each month's sample. The water sample must meet the standards set forth in the Safe Drinking Water Act. Copies of the analysis results shall be kept on premises for all samples for at least the previous 3 years.
 - D. If any microbiological test of the water supply from an establishment fails, then that establishment shall take and submit follow up tests according to a schedule that shall be determined by the Department.

- E. All permanent establishments shall be connected to an approved municipal sewer system; onsite systems are not approved for use with the exception that an onsite system with total containment shall be accepted. All wastewater generated at a body art establishment shall be disposed of in the approved sewer system of that establishment.
- F. 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. The humidity shall be maintained at a level that is between 30 to 50 percent. 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.
- G. Establishments shall be provided with an artificial light source equivalent to at least 100 foot-candles at a height of 3 (three) feet off the floor, except that at least 1000 foot-candles shall be provided in each procedure area, in any area where instruments are cleaned and/or autoclaved and the area where instruments and sharps are assembled. All lights and light sources shall be maintained in a clean, functional state.
- H. Temporary establishments shall either be connected to an approved municipal sewer system or shall have approved holding tanks. The holding tank shall have a capacity that is at least 15% greater than the capacity of the water supply tank. Liquid waste shall not be discharged from the holding tank when the facility is in motion. All connections for the waste disposal system shall be of a different size or type from the potable water connections. 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.
- I. All establishments shall be equipped with a separate utility sink with hot and cold water. This requirement shall not apply to temporary facilities, so long as the facility has an acceptable means of disposal of wastewater.
- J. Hand Sinks:
 - 1. All hand sinks located on the premises of a body art establishment shall be supplied with both hot (at least 100 degrees F) and cold water under pressure.
 - 2. All hand 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 sink in toilet room may be located by the door.
 - 3. All hand sinks and associated fixtures shall be maintained in a functional and clean manner.
- K. Toilet Facilities:
 - 1. There shall be at least one toilet room in any body art establishment. For purposes of this section a toilet room shall include at least one toilet fixture, one hand sink, one covered trash can located at the toilet fixture and one standard trash can located near the door into the toilet room.
 - 2. 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.
 - 3. The toilet room shall be accessible to clients and body art establishment employees at all times that the body art establishment it open for business.
 - 4. The toilet room shall be mechanically vented to the outside of the building.
 - 5. All toilet rooms shall be maintained in a clean manner and all toilet fixtures and other parts of the toilet room shall be maintained in whole and functional condition in a state of good repair.
 - 6. All toilet fixtures shall be supplied with toilet tissue.

7. No equipment, uniforms, aprons, clothing or single use items may be stored, cleaned, rinsed, prepared or disposed of in the toilet room.
- L. Non-contaminated waste and trash:
1. Waste receptacles shall be emptied daily.
 2. All waste receptacles shall be lined with a disposable, non-absorbent liner, lidded (except that the waste receptacle located at the hand sink in a toilet room does not have to be lidded), cleanable, and kept clean.
 3. Waste that does not meet the definition of contaminated waste may be disposed of through normal, approved disposal methods.
 4. Storage of waste that is not contaminated waste on site shall be for no longer than seven days.
- M. 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.
- N. Sharps ready for disposal shall be disposed of in approved sharps containers. Sharps containers shall not be filled more than $\frac{3}{4}$ full or higher than any markings on the container itself indicate, whichever is less.
- O. 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 in an unobstructed manner.

5-2. General Facility:

- A. All walls, non-carpeted floors, ceilings, surfaces that may be touched/contacted by clients or members of the public and procedure surfaces of an establishment shall be nonabsorbent, smooth, free of open holes or cracks, light-colored, easily cleanable, able to be sanitized, durable, and in good repair. Coved baseboards of approved material shall be provided at all wall and floor junctures.
- B. Walls, floors, and ceilings shall be maintained in a clean condition free of garbage, litter, unnecessary items, dust, dirt and sources of airborne dust and dirt.
- C. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client.
- D. Carpet is not an acceptable floor covering in any procedure area, restroom, biohazard room, any area where an ultrasonic cleaner or autoclave is located, 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.
- E. All establishments shall be completely separated by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales area, any toilet facility, or any other area where activity occurs that may cause potential contamination of work surfaces.
- F. All doors connecting any establishment with any other type of establishment or any area used for human habitation shall be solid and equipped with a self closing mechanism.
- G. Any utility rooms, garbage storage areas or any other non-procedure rooms shall be maintained in a clean condition free of garbage, litter, unnecessary items or dirt.

- H. Animals/insects/vermin:
1. No animals of any kind shall be allowed in any part of any body art establishment except for the following:
 - a. Service animals used by persons with disabilities (e.g., Seeing Eye dogs), except that such animals shall be excluded from procedure areas.
 - b. Fish or other animals confined in aquariums or cages may be allowed in waiting rooms or reception areas so long as no contamination of procedure areas or equipment may occur.
 2. All body art establishments shall have an insect, rodent and vermin control plan and shall take all necessary measures to exclude insects, rodents or vermin from the premises.
 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.
 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.
- I. Laundry facilities:
1. If a washing machine is present at and used at a body art facility, then there shall also be present a mechanical clothes dryer.
 2. All mechanical clothes dryers shall be vented to the outside of the body art facility.
 3. All washing machines and mechanical clothes dryers shall be maintained in a clean and sanitary condition and in a functional state in good repair.

5-3. Biohazard Room:

- A. All body art facilities shall have a room designated by approved signage as a biohazard room. Signage shall, at a minimum, contain the following language: "Danger", "Biohazard Room", and "Authorized Personnel Only". This requirement may be waived for temporary body art establishments.
- B. The biohazard room (or in temporary facilities the cleaner and sterilizer) shall be located as far from client areas as possible and shall be kept off limits to clients.
- C. 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.
- D. 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.
- E. The biohazard room shall be divided into at least three areas: the decontamination area, the packaging area and the sterilization area.
- F. The ultrasonic cleaner shall be located in the decontamination area.
- G. All breakdown and cleaning procedures that involve equipment shall occur in the decontamination area of the biohazard room.
- H. Only equipment that has been cleaned and decontaminated may be brought into the packaging area.
- I. The autoclave shall be located in the sterilization area.
- J. Only cleaned and packaged equipment that is ready for sterilization shall be brought into the sterilization area.

- K. All surfaces and work areas in the biohazard room shall be smooth, non-absorbent and easily cleanable. The biohazard room shall not be carpeted.
- L. The biohazard room shall be equipped with lighting capable of providing at least 1000 foot candles of light as measured at any working area or work surface. 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).
- M. The biohazard room shall be equipped with at least two sinks supplied with hot and cold water under pressure. One sink shall be designated as a hand washing sink and may be used for no other purpose. One sink shall be designated as an equipment washing sink, shall be located in the decontamination area, and may be used for no other purpose other than the cleaning, rinsing, and decontamination of soiled equipment.

5-4. 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 space shall be at least 60 square feet. If more than one operator or ear piercer is working, there shall be at least 60 square feet of space for the first operator and at least 40 square feet of space for each additional operator or ear piercer.
- C. Each procedure area shall have some means for being screened from public view.
- D. Procedure areas shall not be located in any area that serves as a corridor for access to any other area of the establishment, including other procedure areas.
- E. Each procedure area shall have immediate access to a hand wash sink that is not in a toilet room. One hand wash sink shall serve no more than three operators or ear piercers. These hand wash sinks shall be equipped with wrist operated, foot operated or "hands free" controls.

Section 6. Body Art Operator and Body Art Apprentice Requirements.

- 6-1. Body art operators and body art apprentices shall be at least 18 years of age.
- 6-2. Each body art operator and body art apprentice shall have a copy of these regulations on hand and immediately accessible at all times while body art procedures are performed. All operators shall demonstrate adequate knowledge of this code and of safe and proper piercing and/or tattooing practices.
- 6-3. No body art operator or body art apprentice may perform any body art procedure at any place other than a licensed and inspected body art establishment.
- 6-4. No body art operator or body art apprentice shall perform any body art procedure while under the influence of alcohol or any mind altering drug.
- 6-5. No body art operator or body art apprentice shall perform any of the following procedures: branding, cutting, suspension, implanting or scarification on any client under any circumstances.
- 6-6. No body art operator or body art apprentice shall perform any body art procedure on the genitalia or nipples of any minor under any circumstances.

- 6-7. Any body art operator, body art apprentice, or other employee of any body art establishment who learns of any infections, complications, or diseases resulting from any body art procedure shall report them to the Department within twenty-four hours by:
- A. Calling the Department at 701-852-1376 and reporting them to a representative of the Department directly; or
 - B. Calling the representative of the Department that normally performs the inspections of that establishment and reporting to them directly; or
 - C. Completing a written report including names, addresses, and phone numbers of all affected clients including the dates of their procedures and then faxing the written report to the Department at 701-852-5043. The person making the report shall then follow up by completing either Part A or B above on the first business day following the day the fax was transmitted; or
 - D. Completing a written report including names, addresses, and phone numbers of all affected clients including the dates of their procedures and then submitting that written report by email to the representative of the Department that normally performs the inspections of that establishment. The person making the report shall then follow up by completing either Part A or B above on the first business day following the day the email was sent.
- 6-8. Nothing in this Code shall be construed as to require any body art operator or any body art apprentice to perform any body art procedure upon any client.
- 6-9. A body art apprentice 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 body art apprentice shall perform the procedure under the supervision of the body art operator.
- 6-10. The exposed skin of the body art operator or body art apprentice shall be free of observable rash or symptom of infection.
- 6-11. The body art operator and body art apprentice shall maintain a high degree of personal cleanliness and shall conform to approved hygienic practices.
- 6-12. No body art operator or body art apprentice with an infectious disease that would easily be or that would likely be transmitted through routine activities with a reasonable likelihood of occurring in a body art establishment shall perform any body art procedures until such time as they are deemed to be free of that infectious disease by a licensed medical doctor.

Section 7. Client Requirements. The following requirements apply to any client or potential client of any body art establishment.

- 7-1. No body art operator or body art apprentice shall perform 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.
- 7-2. No body art operator or body art apprentice shall perform any body art procedure upon a minor 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. Nothing in this section is intended to require a body

art operator or body art apprentice to perform any body art procedure on a minor with parental or guardian consent.

- 7-3. No body art operator or body art apprentice shall perform any body art procedure upon any person under the age of fifteen except as specified in Section 7-4 below.
- 7-4. A body art operator or body art apprentice licensed to perform piercing procedures may pierce the non-cartilaginous lobes of the ear on any person under the age of fifteen.
- 7-5. The skin or mucous membrane surface of the procedure area shall be normal in appearance, and shall be free of visible breaks, blemishes, sores or wounds.

Section 8. 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. The written information forms shall be signed and dated by the client and by the body art operator that is performing the procedure. If the client is a minor, then the client's custodial or non-custodial parent or legal guardian shall be present during the verbal portion of the education and information process, and shall also sign and date the written portion of the information. The following items shall be the components of the education and information aspect of the body art procedure: the pre-procedural information, the client consent form, and the aftercare instructions.

- 8-1. Pre-Procedural Information
 - A. The operator shall give all potential body art clients educational information about body art procedures both verbally and in writing prior to the commencement of any procedure. The written portion will henceforth be called the pre-procedural information.
 - B. Any pre-procedural information shall be submitted to the Department for approval prior to use. Any substantial changes to the pre-procedural information may be done only after notifying the Department and obtaining approval.
 - C. The pre-procedural information shall include the name, address, phone number and date of birth of the client.
 - D. The pre-procedural information shall include at a minimum the following statements (depending on the types of procedures done at a body art establishment):
 - 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 an infection at the site of the body art procedure or illness resulting from 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.

8-2. Consent Form

- A. The proposed consent form shall be submitted to the Department and must receive the approval of the Department prior to being used. Any substantial changes to the consent form may be done only after notifying the Department and obtaining approval.
- B. The consent form shall include the name, address, date of birth and phone number of the client.
- C. The consent form shall specify the name of the body art operator or body art apprentice that performs the procedure as well as the names of any employees that assisted in performing the procedure.
- D. The consent form shall detail the date and time of the procedure, the specific location on the body of the procedure, a complete description of the procedure performed including a listing of the jewelry/inks/materials used during the procedure. If any pictures are taken of the client before, during or after the body art procedure, they shall be included with the consent form if in print form. Any pictures taken in a digital form shall be referenced on the consent form, and available for review by the Department.
- E. The consent form shall include a clear and legible copy of the proof of age of the client.
- F. 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.
- G. 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.
- H. The consent form shall include a statement that informs the client that if they have certain medical conditions, they should speak to a physician about and receive clearance from that physician to receive a body art procedure. These conditions are those that may cause an increased level of risk to the client's health and safety up to and possibly including death, if they undergo a body art procedure. The body art operator or body art apprentice should encourage a client to voluntarily disclose if the client has any of the conditions, since they may affect the way in which the procedure is done. If a client has obtained clearance from a physician, the body art operator shall include a copy of any written part of that compliance with the client's records. The list of conditions shall include:
 1. Diabetes,
 2. Hemophilia,

3. A history of any skin diseases, skin lesions, or skin sensitivities to soaps, disinfectant, etc,
 4. A history of allergies or adverse reactions to pigments, dyes, metals, or latex; or any other skin sensitivities,
 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 contagious diseases,
 12. Any immune system disorders,
 13. Any serious physical or mental health problems, or
 14. MRSA.
- I. The consent form shall include a statement indicating that the client gives permission for the body art operator or apprentice to do the specified body art procedure.

8-3. Aftercare Instructions

- A. The proposed aftercare instruction form shall be submitted to the Department and must receive the approval of the Department prior to being used. Any substantial changes to the aftercare instruction form may be done only after notifying the Department and obtaining approval.
- B. The aftercare instructions must include a statement instructing the client to see a physician at the first sign of infection or illness.
- C. The aftercare instructions must include a statement stressing the importance of washing the hands before doing any aftercare or any touching of the body art procedure area.
- D. The aftercare instructions for a piercing procedure shall give information regarding nickel sensitivities/allergies in susceptible individuals.

Section 9. Recordkeeping. Each body art establishment shall retain on premises certain written records as follows:

9-1. The following information about the body art establishment:

- A. Name and address of each person who has an ownership interest in the body art establishment.
- B. A complete list of all operators and apprentices who have worked in the establishment for the previous three years including clear, legible copies of all criteria identified in Section 1-50.
- C. A complete and comprehensive inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers, lot numbers and dates of manufacture unless such information is not available on the packaging of such product, in that case such information as will otherwise identify the product shall be inventoried, such as copies of invoices or orders.
- D. The following information about each employee of a body art establishment shall be available for review by the Department and shall be kept on file on premises for three years after an employees last date of employment:
 1. Employee's full name, job title and exact duties; and
 2. Date of birth; and
 3. Gender; and
 4. Home address; and
 5. Home and mobile telephone numbers; and

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
- 9-2. The following information about all clients:
- A. A copy of the pre-procedural information form; and
 - B. A copy of the consent form; and
 - C. A copy of the aftercare instructions; and
 - D. Copies (either physical or electronic) of any and all photographs of any part of the procedure or of the finished procedure area.
- 9-3. A complete description of all body art procedures performed for the previous three years including all body art operators and body art apprentices involved in the procedure and the location of and a thorough description of the nature of the procedure.
- 9-4. Any client information given to a body art operator or body art apprentice shall not be disclosed for any reason to anyone other than current employees of the body art establishment at which the information was given. All client records shall be retained for a minimum of three years. Client information shall be made available to the Department upon request by the Department.

Section 10. Procedure Requirements. Body art operators or body art apprentices, ear piercers and any employee assisting in the body art or ear piercing procedure shall comply with the following practices:

- 10-1. Smoking, eating and drinking is prohibited in the procedure area.
- 10-2. For each client, single use disposable barriers shall be used on all equipment that will be used during the procedure that cannot be packaged and sterilized. Examples include spray bottles, tattoo machines, and procedure light fixture handles.
- 10-3. The body art operator or body art apprentice and any employee assisting in the 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.
- 10-4. No person with an acute respiratory infection or anyone with boils, infected wounds, open sores, abrasions, or weeping dermatological lesions shall be allowed to work in any area of an establishment in any capacity if there is a possibility that that person could contaminate body art equipment, ear piercing equipment, supplies, or working surfaces.
- 10-5. The body art operator or body art apprentice or ear piercer and any employee assisting in any part of the body art procedure, including set up, shall wash their hands before handling any equipment or single use items or before working in the procedure area.
- 10-6. The body art operator or body art apprentice or ear piercer and any employee that is assisting in any part of the body art procedure shall wash their hands before beginning the procedure and as often as necessary during the procedure to prevent contamination of the hands, equipment, procedure area or any part of the client. The operator, ear piercer and any assistants involved in any part of the body art procedure shall wash their hands after completing the procedure and after breaking down, cleaning, removing or any other way handling any equipment or any part of the procedure area or any part of the client.

- 10-7. The following hand washing procedure shall be done by any body art operator, body art apprentice, and any employee that is assisting in any part of the body art procedure prior to beginning the procedure; and by any person prior to handling clean equipment that will be used during a body art procedure:
- 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.
- 10-8. Other than as specified in Section 10-7 above, the following is the approved hand washing procedure to be used by any employee when washing 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.
- 10-9. During all parts of the body art procedure, including set up procedures, the body art operator, body art apprentice or any employee shall wear disposable gloves that are labeled as medical or are labeled for body art procedures and use medically recognized techniques to ensure that equipment, single use items and any other item or surface used or contacted during the procedure and gloves are not contaminated.
- 10-10. Bare hand contact with tattoo needles or bars, tubes, ink or ink cups is prohibited. Bare hand contact with piercing needles, receiving tubes, any other piece of equipment or single use item that touches a client in the area of the body where a piercing is performed is prohibited. Bare hand contact with any jewelry used during any initial piercing is prohibited.
- 10-11. Before a body art or ear piercing procedure is performed, the entire area on the client where the body art procedure will be done and all surrounding areas of skin shall be prepared with a surgical skin preparation product. Next the same area shall be rinsed with a 70% isopropyl alcohol solution, or an equivalent (provided that it is an agent commercially labeled for direct use on the skin and that it contains alcohol or other solvents to remove all cleaning compounds and chemical residue and to disinfect the area). All products used shall be used in strict accordance with the manufacturer's labeling and directions.
- 10-12. If the area on the client where the body art procedure will be done will need to be shaved, single-use disposable razors shall be used. The entire area that will be shaved shall be washed with soap and water or a germicidal cleanser before shaving.

- 10-13. Body art operators or body art apprentices or ear piercers and any employee assisting in the body art procedure shall wear disposable medical gloves at all times while there is any contact with any part of the client or with any unpackaged equipment or single use items.
- 10-14. Gloves shall be removed and discarded if they become contaminated by contact with any non-sterilized surfaces or objects or with any part of the client other than the properly cleaned and disinfected area where the procedure is being done. 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).
- 10-15. After preparing the client's skin by washing and shaving, but before application of any stencil or markings, the operator shall remove and discard their gloves and put on a new pair before beginning the body art procedure.
- 10-16. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable medical gloves does not preclude or substitute for hand washing procedures as part of a good personnel hygiene program.
- 10-17. If at any point during a body art procedure, a glove is pierced, torn, or otherwise contaminated, the person wearing the glove shall remove and discard the glove and wash their hands with soap and water as per Part H, and then put on a new glove before continuing.
- 10-18. Any 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, sterile piece of equipment or new single use item.
- 10-19. 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.
- 10-20. Immediately before a tattoo is applied, the quantity of the ink or dye to be used shall be transferred from the original container and placed into a single-use sterile container. Upon completion of the tattoo, these single-use containers and their contents shall be treated as infectious waste and discarded appropriately.
- 10-21. After the completion of a tattoo, the tattooed area shall be washed with a germicidal cleanser or tincture surgical soap and allowed to air dry. Once the tattooed area is dry, it shall be covered with a non-stick, sterile gauze pad or bandage or equivalent means of protection from airborne or contact contamination.
- 10-22. Tables, trays, and any other equipment/single use items shall not be shared between body art operators or body art apprentices or any employees working on multiple clients.
- 10-23. All procedural surfaces shall be cleaned and then sanitized with an approved disinfectant after completion of any body art or ear piercing procedure and before any procedure is performed on the next client.
- 10-24. There shall be no dusting, vacuuming or other cleaning in the procedure area during any body art or ear piercing procedure.

10-25. A durable tray or container shall be maintained in the procedure area for placement of used equipment that requires cleaning, decontamination and autoclaving.

10-26. 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 or ear piercing establishment. This includes, but is not limited to, the following activities: the smoking or burning of any tobacco or drug; the burning of incense; the burning of candles; open fires, as in a fireplace; soldering; or large scale use of air fresheners.

Section 11. Sanitation And Sterilization Procedures. All body art establishments and body art operators or body art apprentices 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:

11-1. Critical items are those items that pierce or enter tissue. Critical items shall be sterile at the time of use.

11-2. Semicritical items contact mucous membranes or non-intact skin. Semicritical items shall be sterile at the time of use.

11-3. Noncritical items contact intact skin, but not mucous membranes. Noncritical 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.

11-4. If critical or semicritical items are purchased or 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. Alternately, they shall be marked to indicate that they have been sterilized in compliance with 21 CFR part 820 and International Standardization Organization standard 13485, or they shall come with documentation from the manufacturer that they have been sterilized in compliance with 21 CFR part 820 and International Standardization Organization standard 13485. Any critical or semicritical 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. Documentation obtained for compliance with this section shall be retained available for review for a period of at least three years after the items have been used.

11-5. All germicide products shall be used in complete compliance with and only in a manner consistent with their EPA approved label.

11-6. 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, whichever is shorter. If a label specifies a time longer than 24 hours, the body art operator or body art apprentice may apply for a variance as per Section XIV to keep and use that product for longer than 24 hours.

11-7. All body art establishments shall be equipped with a steam autoclave, except as specified in Part E below.

- A. Gravity displacement machines shall be capable of producing at least fifteen psi of pressure for a minimum of thirty minutes at a temperature of at least 250 degrees F.
- B. Prevacuum sterilizers shall be capable of producing at least 15 psi of pressure for a minimum of four minutes at 270 degrees F.

- C. Time/temperature/pressure parameters for any other type of steam autoclave will be evaluated on a case by case basis.
- D. For each autoclave/sterilizer used in an establishment, 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.
- E. If the body art establishment uses only single-use, disposable instruments and products, and uses pre-packaged sterile supplies, an autoclave shall not be required. Each license holder shall have documentation on hand and easily available for review documentation showing that all pre-packaged sterile supplies that are critical or semicritical items meet the required criteria for sterility.
- F. The license holder shall have on hand and available all manufacturer's information and the manual for all autoclaves/sterilizers. All autoclaves/sterilizers shall be maintained in accordance with manufacturer's instructions. A record of the required schedule for all maintenance along with the performance of that maintenance shall be kept on hand and available for review. The record shall detail the maintenance activity done, the date and time of completion and the name of the person doing the maintenance. The record shall include all testing done with biological indicators.
- G. Each autoclave shall be tested to determine if it is capable of attaining sterilization by conducting biological monitoring using an approved standard spore suspension units (hereafter referred to as a spore test) available for this purpose.
 - 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.
 - 3. The results of each month's spore test shall be provided to the Department within five days of the date the results are available to the tester.
 - 4. The results of all spore tests shall be retained by the body art establishment license holder on premises for a period of three years and made available to the Department upon request.
 - 5. If any spore test returns an unsatisfactory result, all items run through the autoclave/sterilizer subsequent to the last spore test that returned a satisfactory result shall be pulled from service and considered to be not sterile.
 - 6. 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 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. The autoclave/sterilizer shall be completely cooled to room temperature between cycles. Once three passing spore tests have been achieved, the autoclave/sterilizer may be put back into service.
- H. The autoclave shall be used according to manufacturer's instructions.
- I. All exterior surfaces of the autoclave shall be cleaned with a disinfectant before and after each use.
- J. 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 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. The autoclave/sterilizer shall be completely cooled to room temperature between cycles. Once three passing spore tests have been achieved, the autoclave/sterilizer may be put back into service.

- 11-8. All body art establishments 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 an autoclavable basket or tray that holds instruments or jewelry for cleaning.
 - 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.
- 11-9. All equipment or instruments used for body art or ear piercing procedures, or during any procedure, (that are not single use) shall be cleaned thoroughly after each use by washing with soap and water until any and all fluid, tissue or any other contaminant has been removed. The equipment or instruments shall then be run through an ultrasonic cleaning unit operated in accordance with manufacturer's instructions.
- 11-10. After being cleaned, all equipment, jewelry and single use items that will be used during the body art procedure shall be packed individually in approved rigid containers, peel-open pouches (self sealed or heat sealed plastic and paper pouches), roll stock or reels (paper-plastic combinations of tubing designed to allow the user to cut and seal the ends to form a pouch), or sterilization wraps (woven or non-woven).
- A. The packaging used shall allow penetration of the sterilant used in the body art establishment, provide protection against contact contamination during handling, provide an effective barrier to microbial penetration, and maintain sterility of the processed items after sterilization.
 - B. The packaging material or method used shall be approved for use for body art equipment, jewelry or single use items by the manufacturer and by the Department.
 - C. Each package shall contain an approved sterilization process indicator.
- 11-11. Equipment packaged as per Section 11-10 and sterilized shall be marked on the packaging with a clearly legible date of sterilization unless they are sterilized on and used on the same date.
- 11-12. Body art establishments shall employ event-related shelf-life practices. This type of practice recognizes that items packaged and sterilized correctly should remain sterile until some event causes the item to become contaminated. If any event occurs that would be likely to compromise the sterility of any items, then those items shall be cleaned, repackaged and

resterilized. 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. 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.
- 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.
- 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.

Section 12. Equipment, Single Use Items and Supplies. Equipment, single use items and supplies shall conform to the following requirements:

12-1. Equipment:

- A. Reusable cloth items shall be mechanically washed with detergent, hot water, and chlorine bleach (used according to label instructions) and dried after each use. The cloth items shall be stored in a dry, clean environment until used.
- B. All equipment shall be only used for the purpose for which it is designed and in a manner consistent with the manufacturer's instructions.
- C. Any pencil, drawing instrument, transfer sheet or associated material used as a stencil or used for preparing a stencil shall be stored in a closed, dust proof container.

12-2. 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.
- C. All single use items shall be only used for the purpose they are designed for and in a manner consistent with the manufacturer's instructions.

12-3. Products applied to the skin or mucous membranes:

- A. All products applied to the skin, including body art stencils, shall be single use.
- B. Petroleum jellies, soaps, and other products used during a body art procedure shall be dispensed and applied in a manner that prevents contamination of the original container and its contents.
- C. Left over products and used stencils shall be discarded after use.
- D. Any materials used to make markings on the skin shall be made for and approved for such use. If markers are used to make any markings, only medical grade markers (single use) may be used. Medical grade ink may be used along with a single use marking system. Gentian violet may be used for marking oral piercings.
- E. Only products made for and approved for such use may be used to apply stencils.
- F. 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.
- G. The use of styptic pencils, alum blocks or other solid styptics to stop blood flow is prohibited.

12-4. Tattoo needles/inks/considerations:

- A. All tattoo needles and bars shall be single use and discarded immediately after use on a single client.
- B. Defective or faulty needles or bars may not be used.
- C. Tattoo needles and tubes shall be kept sealed in sterile packaging until they are opened in the presence of the client at the start of the tattoo procedure. If the client is a minor, the parent or guardian must also be present during the opening of any tattoo needles and tubes.
- D. All inks, dyes, pigments, and needles equipment shall be obtained from reputable suppliers and shall be specifically manufactured for tattooing.
- E. All inks, dyes or pigments shall be non-toxic and sterile and shall be stored in appropriate containers to ensure their integrity and sterility.
- 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. Inks, dyes or pigments disapproved by or under recall by the US FDA or by the Department shall not be used.

12-5. Piercing needles/jewelry/considerations

- A. All needles used for piercing procedures shall be single use. The needles can be individually packaged and pre-sterilized, or can be sterilized on premises.
- B. Defective or faulty piercing needles may not be used.
- C. Piercing any body part other than the non-cartilaginous lobes of the ears with a stud and clasp system is prohibited.
- D. All needles and jewelry shall be obtained from reputable suppliers and shall be specifically manufactured for body piercing.
- E. 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 2/5/09 revision and are the current approved materials as of the date of adoption of this code:

1. Steel that is ASTM F 138 compliant or ISO 5832-1 compliant.
2. Steel that is ISO 10993-6, 10993-10, and/or 10993-11 compliant (EEC Nickel Directive compliant) (Note: EEC compliance alone is not acceptable) (Note: this directive appears to have been subsumed into the REACH regulation, but appears to still be identified as the Nickel Directive).
3. Titanium (Ti6Al4V ELI) that is ASTM F 136 compliant or ISO 5832-3 compliant.
4. Titanium that is ASTM F67 compliant.
5. Solid 14 karat or higher nickel-free white or yellow gold.
6. Solid, nickel-free platinum alloy.
7. Niobium (Nb).
8. Fused quartz glass, lead-free borosilicate or lead-free soda-lime glass.
9. Polymers (plastics) as follows:
 - a. Tygon ® Medical Surgical Tubing S-50HL or S-54HL.
 - b. Polytetrafluoroethylene (PTFE) that is ASTM F754-00 compliant.
 - c. Any plastic material that is ISO 10993-6, 10993-10 and/or 10993-11 compliant and/or meets USP Class IV material classification.
- F. Certification (which shall include mill certificates for materials found in subparts a and b of part 5 above) of the quality of the jewelry shall be obtained from the manufacturer/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. Mill certificates shall be obtained for each gauge of bar stock or spool stock for all jewelry used for initial piercing.
- G. All body art jewelry shall be free of nicks, scratches, or irregular surfaces.
- H. Threaded jewelry with external threads shall not be used for an initial piercing.

12-6. All equipment, single use items and supplies shall be stored in clean, dry and covered containers at least 12 inches off of the floor and at least 18 inches from any sprinkler heads.

12-7. All chemicals used in a body art or ear piercing establishment shall be registered with the Environmental Protection Agency and shall be kept in their original containers. If removed from the original container, the new container shall be clearly and permanently labeled with the common name for the contents. All disinfectant solutions shall be mixed fresh daily.

12-8. A body art establishment needs to have the following supplies on hand at the beginning of each day's operations:

- A. One gallon of germicidal cleanser or tincture surgical soap.
- B. One gallon of 70% isopropyl alcohol.
- C. One gallon of distilled water.
- D. 25 (twenty-five) sets of single use needles and tubes (if tattooing is done at the establishment) per tattooist 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. These can either be individually packaged and sterile, or ready to use after sterilization prior to use as in a rapid cycle type autoclave/sterilizer.
- E. 25 (twenty-five) 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 piercer or general operator.
- F. 300 disposable medical examination gloves.
- G. 500 single use ink containers.

Section 13. Ear Piercing Establishments. All ear piercing establishments shall comply with all applicable requirements contained in this code. Ear piercing establishments shall also comply with the following additional requirements:

- 13-1. 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.
- 13-2. Ear piercers shall:
 - A. Be at least 18 years of age.
 - 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.
- 13-3. Clients under the age of 18 may not have an ear piercing procedure performed without the written consent of their parent or legal guardian.
- 13-4. Each client shall complete an information packet prior to the ear piercing procedure. The documents in the information packet shall be completed in the presence of the ear piercer. The documents shall be signed by both the ear piercer and the person getting the ear piercing (and by the parent/legal guardian of the person getting the ear piercing if that person is a minor) and a copy shall be given to the person getting the ear piercing and a copy shall be retained at the ear piercing establishment. This copy shall be available for review by the Department for a period of no less than three years after the date of the procedure. All parts of the information packet shall be submitted to the Department for approval prior to use. The information packet shall include:
 - A. A written consent form. The consent form shall include:
 1. The name, address, date of birth and phone number of the client. It shall also specify the name of the ear piercer that performed the ear piercing procedure and also the names of any employees that assisted in performing the procedure, the date and time of the procedure, and a description of the stud and clasp used.
 2. Documentation regarding the parent/legal guardian for minor clients including the name, address, date of birth and phone number.
 - a. The last name of the minor shall match the last name of the parent/guardian.
 - b. 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.
 - c. 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.
 3. The consent form shall include a statement that informs the client that if they have certain medical conditions, they should speak to a physician about and receive clearance from that physician to receive an ear piercing. These conditions are those that may cause an increased level or risk to the client's health and safety up to and possibly including death, if they undergo an ear piercing. The ear piercer should encourage a client to voluntarily disclose if the client has any of the conditions. If a client has obtained clearance from a

physician, the ear piercer shall include a copy of any written part of that clearance with the client's records. The list of conditions shall include:

- 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 contagious diseases.
 - l. Any immune system disorders.
 - m. Any serious physical or mental health problems.
 - n. MRSA .
4. A statement indicating that the client gives permission for the ear piercing establishment to perform the ear piercing procedure.
- B. An information/consent form. This form shall contain the following:
1. The name, address, phone number and date of birth of the client.
 2. The statement that "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."
 3. The statement that "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."
 4. The name and contact information for the health department is:
First District Health Unit
801 11th Ave SW
Minot ND 58701
701-852-1376
 5. The statement that "If the client has any difficulties/problems with the piercing they should contact ear piercer for advice or to resolve the situation."
 6. The statement that "If the client has any signs that could indicate an infection of the ear piercing or signs of illness possibly resulting from the ear piercing, they should contact a physician immediately."
 7. The name, address and phone number of the body art establishment.
 8. The client must attest that they have been given the opportunity to ask questions and that they understand the items listed above.
- C. Aftercare instructions. The aftercare instructions shall:
1. Include a statement instructing the client to see a physician if there are any signs or symptoms of infection at the ear piercing site or illness possibly resulting from the ear piercing.
 2. Include a statement stressing the importance of washing the hands before doing any aftercare of or any touching of the ear piercing.

3. Include information on potential reactions in susceptible individuals stemming from the presence of nickel in jewelry.
- 13-5. For a multi use ear piercing instrument, at least one of the following conditions shall be met:
 - A. All parts of the ear piercing instrument that contact the customer or that are likely to or possibly may be contaminated by contact with the clients tissue or body fluids shall be single use and shall be disposed of immediately after use on a single client; or
 - B. The ear piercing instrument shall be cleaned and sterilized after each use on a client and prior to use on another client.
 - 13-6. The stud and clasp system shall be prepackaged and presterilized. Documentation from the manufacturer shall be obtained and available on site for review detailing the specifics of the sterilization process used including all validations. Alternately, the packaging shall be 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, or documentation shall be provided by the manufacturer of the stud and clasp system of compliance with 21 CFR part 820 and International Standardization Organization standard 13485 and such documentation shall be kept on hand for at least three years after date of use.
 - 13-7. The stud and clasp system may only be made of the materials specified in section XII, part E, subpart 5.
 - 13-8. The ear piercing instrument shall be designed and operated in such a way so that the operator does not touch any part of the stud and clasp or of the parts of the ear piercing instrument that contact the client during any part of the ear piercing procedure, including during the process of loading the ear piercing instrument.
 - 13-9. The ear piercer may not touch any part of the client during the procedure with their bare hands.
 - 13-10. Latex is prohibited as a material in any object that will come into contact with the client.
 - 13-11. 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. This area shall not be located in any location that serves as a path of travel. Those persons not involved in the ear piercing procedure shall be excluded from the area during the ear piercing procedure.
 - 13-12. Ear piercing establishments in operation prior to the date of adoption of this code shall have a hand sink located in the establishment in a location accessible by all ear piercers. All other ear piercing establishments shall have a hand sink located in the immediate vicinity of the procedure area.

Section 14. 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.

- 14-1. 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.

14-2. 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.

14-3. The Department shall notify the license holder requesting the variance in writing with the results of the Department's review of the variance request.

14-4. If the variance request has been denied by the Department, the written notification shall include the reasons for the denial of the request.

14-5. 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.

14-6. 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.

14-7. The Department is not obligated under any circumstances to approve a request for a variance, and may deny such request for any reason.

Section 15. Separation. If any part of this code is found to be or held invalid; that invalidity shall not affect the other parts of this code.

Section 16. Fire Safety Requirements. All body art establishments in the First District Health Unit shall be constructed in compliance with and operated in compliance with the legally adopted fire code for the state of North Dakota as well as with the legally adopted building code for the state of North Dakota. If a body art establishment is located in a political subdivision that has adopted any fire, building or mechanical regulations, then that body art establishment shall also be constructed in accordance with and operated in compliance with those regulations. In any case where there is not a state or local level fire, building or mechanical regulation governing any aspect of a body art establishment or any operations that occur therein, then the Department shall have final say in regards to any item that could affect the health or safety of the patrons of or employees of that establishment or of the general public. In the event that any item contained in this code is different from either the fire code or building code, then the stricter standard shall be enforced.

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

17-1. Violate these regulations.

17-2. Permit a violation to exist on the premises under their control.

17-3. 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.