

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 2 of the Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-0193; D.C. Official Code §§ 7-731(a)(10) and 47-2809.01 *et seq.*) (2013 Supp.)); and Mayor's Order 2007-63(#2), dated March 8, 2007, hereby gives notice of the intent to adopt new body art regulations in Title 25, Subtitle G of the District of Columbia Municipal Regulations (DCMR), that will allow the District of Columbia to protect public health and safety in body art procedures.

The Director also gives notice of the intent to take final rulemaking action to adopt the proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The proposed rules shall not become effective until a Notice of Final Rulemaking is published in the *D.C. Register*.

Subtitle G of Title 25 of the DCMR is added to read as follows:

SUBTITLE G Body Art Establishment Regulations

100 Title — Body Art Establishment Regulations

101 Intent — Safety

102 Compliance with Federal and District Laws

200 Licensees Responsibilities — Qualifications, and Training*

201 Licensees Responsibilities — District-Issued Identification Card Requirements

202 Pre-Operating Procedures — Age Restrictions, Signs and Postings*

203 Pre-Operating Procedures — Consent Forms, Health Risk Statements, Content, and Postings*

204 Pre-Operating Procedures — Waiting Period, Tattoos & Body-Piercings*

205 Pre-Operating Procedures — Customer's Questionnaire, Confidential Medical Information *

206 Pre-Operating Procedures — Informed Consent, Jewelry Selection, and Equipment Setup*

207 Post-Operating Procedures — Aftercare Instructions for Tattoos and Body-Piercings, Content*

300 Preventing Contamination — Sterile Water, Inks, Dyes & Pigments, and Pre-Sterilized, Single-Use Disposable Items

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302 Preventing Contamination from Body Artists— Work Areas, Construction and Design, and Restrictions

303 Preventing Contamination from Customers

304 Preventing Contamination — Reusable Instruments and Equipment, Design, Location, and Maintenance Log

305 Preventing Contamination — Marking Instruments and Stencils

306 Preventing Contamination — Pre-Sterilized, Single-Use Jewelry

307 Preventing Contamination — Bio-Hazardous and Infectious Waste, Handling & Disposal*

308 Preventing Contamination — Infection Prevention and Exposure Control Plan

309 Preventing Contamination — Reusable Instrument & Sterilization Procedures*

310 Maintenance Records — Sterilizers and Commercial Biological Indicator Monitoring System*

- 311 Maintenance Records – Autoclaves*
- 312 Records of Acquisitions – Disposables, Single-Use, Pre-Sterilized Instruments, and Record Retention*
- 313 Recordkeeping Requirements – Confidential, Personnel Files*
- 314 Recordkeeping Requirements – Confidential Customer Files, and Required Disclosures*
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- 406 Operating Systems and Design – Electrical, Lighting*
- 407 Operating Systems and Design – Electrical, Smoke Alarms
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- 509 Facility Maintenance – Prohibiting Animals*

- 600 License and Registration Requirements*
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- 602 Application Procedure – Contents of the Application Packet
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CHAPTER 1 TITLE, INTENT, SCOPE

100 TITLE – Body Art Establishment Regulations

100.1 These provisions shall be known as the Body Art Establishment Regulations hereinafter referred to as “these regulations.”

101 INTENT – SAFETY

101.1 The purpose of these regulations is to protect the public’s health by keeping the District’s body art industry safe and sanitary.

101.2 These regulations:

- (a) Establish minimum standards for the design, construction, operation, and maintenance of body art establishments;
- (b) Establish minimum operational standards for sterilization, sanitation, cleaning and safety of the establishment, equipment, supplies, and work surface areas;
- (c) Set standards for maintenance and replacement of equipment and supplies;
- (d) Set standards for hygienic operations for personnel including vaccinations;
- (e) Establish recordkeeping and reporting requirements;
- (f) Establish prohibited conduct within body art establishments;
- (g) Establish licensing and registration requirement, and associated fee schedules;
- (h) Provide for enforcement through inspections, suspension and revocation of licenses and registrations, including the examination, embargo, or condemnation of unsanitary or unsafe jewelry, biohazard sharps containers, disposable and non-disposable equipment, single-use products, wipes, gloves, towels, ointments, inks, dyes, needles, and disinfectants;
- (i) Establish fines and penalties; and
- (j) Establish definitions for this subtitle.

101.3 In accordance with the Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-193; D.C. Official Code § 47-2853.76a. (2013 Supp.)), these regulations do not apply to:

- (a) A licensed physician or surgeon performing body art services for medical reasons;
- (b) A licensed funeral director performing body-piercing or tattooing services as required by that profession;
- (c) Laser tattoo removal procedures licensed by the District of Columbia Board of Medicine; or
- (d) Skin treatment procedures such as chemical peels or microdermabrasion licensed by the District of Columbia Board of Medicine.

101.4 Certain provisions of these regulations are identified as critical. Critical provisions are those provisions where noncompliance may result in injuries, spread of communicable diseases, or environmental health hazards. A critical item is denoted with an asterisk (*).

101.5 Certain provisions of these regulations are identified as noncritical. Noncritical provisions are those provisions where noncompliance is less likely to spread communicable diseases or create environmental health hazards. A section that is denoted in these regulations without an asterisk (*) after the head note is a noncritical item. However, a critical item may have a provision within it that is designated as a noncritical item with a superscripted letter “N” following the provision.

102 COMPLIANCE WITH FEDERAL AND DISTRICT LAWS

102.1 Body art establishments shall meet the following requirements:

- (a) 29 C.F.R.– Part 1910 (Occupational Safety and Health Standard, Subpart Z – Toxic and Hazardous Substances);
- (b) 29 CFR § 1910.1030(d) – Bloodborne Pathogen Standard;
- (c) The Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-0193; D.C. Official Code § 47-2809.01 (2013 Supp.));
- (d) The Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-0193; D.C. Official Code § 47-2853.76c, 47-2853.76d, and 47-2853.76e (2013 Supp.));
- (e) The Board of Barber and Cosmetology as specified in Chapter 37 of Title 17 of the District of Columbia Municipal Regulations, as amended; and

- (f) The District of Columbia's Construction Codes Title 12 Supplements of 2008, adopted December 26, 2008 (55 DCR 13094), which consist of the following International Code Council (ICC):
 - (1) International Building Code (2006 edition);
 - (2) International Mechanical Code (2006 edition);
 - (3) International Plumbing Code (2006 edition);
 - (4) International Fire Code (2006 edition);
 - (5) International Existing Building Code (2006 edition); and
 - (6) The National Fire Protection Association (NFPA 70) National Electrical Code (2005 edition).

102.2

In enforcing the provisions of these regulations, the Department shall regulate certain aspects of a body art establishment's physical structure; operating systems, equipment, devices, fixtures, supplies, or furnishings in use before the effective date of these regulations based on the following considerations:

- (a) Whether the establishment's physical structure; operating systems, equipment, devices, fixtures, supplies, or furnishings used in a body art establishment, are in good repair or capable of being maintained in a hygienic condition in compliance with these regulations;
- (b) The existence of a documented agreement with the licensee that the physical structure; operating systems, equipment, devices, fixtures, supplies, or furnishings used in a body art establishment will be replaced by an agreed upon date; or
- (c) Where adequate standards do not exist in these regulations to address industry changes and these regulations do not provide sufficient guidance for consideration of innovations in design, construction and operation of new body art establishments, the Department will impose new standards necessary to protect the health and safety of body art customers.

CHAPTER 2 SUPERVISION AND TRAINING, & PRE- AND POST-OPERATING PROCEDURES

200 LICENSEES RESPONSIBILITIES – QUALIFICATIONS, AND TRAINING*

- 200.1 Licensees shall ensure that prior to working in their establishments, body artists are licensed in accordance with:
- (a) The Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-0193; D.C. Official Code §§ 47-2853.76b, 76c, 47-2853.7, 47-2853.6d, and 47-2853.76e (2013 Supp.)); and
 - (b) The Board of Barber and Cosmetology as specified in Chapter 37 of Title 17 of the District of Columbia Municipal Regulations, as amended.
- 200.2 Licensees shall ensure operators are on duty and on the premises during all hours of operations at each body art establishment.
- 200.3 Licensees shall ensure body artists are on the premises during all hours of operations at each body art establishments.
- 200.4 Licensees shall ensure body artists prior to working in a body art establishment provide proof of the following:
- (a) Proof that the body artist is eighteen (18) years of age or older. Proof of age shall be satisfied with a valid driver's license, school issued identification, or other government issued identification containing the date of birth and a photograph of the individual;
 - (b) Evidence of current hepatitis B vaccination, including applicable boosters, unless the body artist can demonstrate hepatitis B immunity or compliance with current federal OSHA hepatitis B vaccination declination requirements; and
 - (c) Training in Biohazard issues and handling in accordance with Occupational Safety and Health Administration standards in accordance with 29 CFR – Part 1910 – Occupational Safety and Health Standard, Subpart Z – Toxic and Hazardous Substances, including universal precautions in accordance with 29 CFR § 1910.1030(d) – Bloodborne pathogens.
- 200.5 Licensees shall ensure that only single-use disposable sharps, pigments, gloves, and cleansing products shall be used in connection with body art procedures in body art establishments in accordance with these regulations.

201 LICENSEES RESPONSIBILITIES – DISTRICT-ISSUED IDENTIFICATION CARD REQUIREMENTS

201.1 All licensees or operators of tattoo, body art, and body-piercing establishments shall obtain a District-Issued Body Art Establishment Operator Identification Card, issued by the Department, which shall be renewed every two (2) years.

202 PRE-OPERATING PROCEDURES – AGE RESTRICTIONS, SIGNS & POSTINGS*

202.1 The licensee shall ensure its customers are eighteen (18) years of age in order to be offered or to receive a tattoo, body art, or body-piercing procedure in accordance with the Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-193; D.C. Official Code § 47-2853.76e(b) (2013 Supp.)).

202.2 The licensee shall ensure that before piercing a minor’s ears with an ear piercing gun, the minor shall be accompanied by a parent or legal guardian, as specified in section 202.3(b) and the parent or legal guardian shall have submitted a signed “Parental/Legal Guardian Authorization Form” to the establishment, as specified in Section 206.1(b)(3)(v).

202.3 A licensee shall conspicuously post an “Age Restriction Sign” at or near the reception area with the following text:

(a) INDIVIDUALS LESS THAN 18 YEARS OF AGE ARE PROHIBITED FROM OBTAINING ANY BODY ART PROCEDURE, EXCEPT EAR PIERCING PROCEDURES USING A MECHANIZED, PRE-STERILIZED SINGLE-USE STUD AND CLASP EAR PIERCING GUN;

(b) EAR PIERCING IDENTIFIED IN SECTION “(a)” IS AUTHORIZED ONLY WITH THE WRITTEN CONSENT OF A PARENT OR LEGAL GUARDIAN SUBMITTED TO THE ESTABLISHMENT AND IF THE MINOR IS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN AT THE TIME OF THE EAR PIERCING;

(c) INDIVIDUALS LESS THAN 18 YEARS OF AGE ARE PROHIBITED ON THE PREMISES.

203 PRE-OPERATING PROCEDURES – CONSENT FORMS, HEALTH RISK STATEMENTS, CONTENT, AND POSTINGS*

203.1 Operators shall remind each customer to consult their physician regarding any medical condition which could be exacerbated by body art procedures.

203.2 The licensee shall conspicuously post a disclosure sign in the reception area that is legible, clearly visible, not obstructed by any item for viewing by customers. The disclosure sign shall read as follows:

| |
|--|
| <p style="text-align: center;">DISCLOSURES</p> <p style="text-align: center;">HEALTH RISKS ASSOCIATED WITH RECEIVING A BODY ART PROCEDURE – No. 1</p> |
| <p>The United States Food and Drug Administration have not approved any pigment color additive for injectable use as tattoo ink.</p> <p>There may be a risk of carcinogenic decomposition associated with certain pigments when the pigments are subsequently exposed to concentrated ultra-violet light or laser irradiation.</p> <p>If you believe that you have been injured at this establishment, contact:</p> <p style="text-align: center;">The District of Columbia Department of Health Health Regulation and Licensing Administration Radiation Protection Division 899 North Capitol Street, N.E., 2nd Floor, Washington, D.C. 20002-4210 Telephone: (202) 724-8800</p> |

203.3 In addition to Section 203.2, the licensee shall conspicuously post “Health Risks Associated with Receiving a Body Art Procedure Nos. 2, and 3” as specified in Section 203.4, in the reception area as specified in Section 607.4. The sign shall be legible, clearly visible, and not obstructed by any item for viewing by customers.

203.4 The lettering on the warning signs in this section and Section 203.2 shall be at least five millimeters (5 mm) high for the phrase “Health Risks Associated with Receiving a Body Art Procedure Nos. 1, 2, and 3.” All capital letters shall be at least five millimeters (5 mm) high and all lower case letters shall be at least three millimeters (3 mm) high. The sign shall read as follows:

HEALTH RISKS ASSOCIATED WITH RECEIVING A BODY ART PROCEDURE – No. 2

The following medical history may increase health risks associated with receiving a body art procedure:

- Diabetes
- Hemophilia (bleeding)
- Skin disease, skin lesions, or skin sensitivities to soaps or disinfectants
- Allergies or adverse reactions to pigments, dyes, or other sensitivities
- Epilepsy, seizures, fainting or narcolepsy
- Use of medications such as anticoagulants, which thin the blood or interfere with blood clotting
- Any other conditions such as hepatitis or HIV

HEALTH RISKS ASSOCIATED WITH RECEIVING A BODY ART PROCEDURE – No. 3

Tattoos breach the skin, which means that skin infections and other complications are possible. Specific risks include:

Allergic reactions. Tattoo dyes – especially red dye – can cause allergic skin reactions, resulting in an itchy rash at the tattoo site. This may occur even years after you get the tattoo.

Skin infections. Tattoos can lead to local bacterial infections, characterized by redness, swelling, pain, lesions consisting of red papules or diffuse macular rash developing at the tattoo site. Possible skin infections can include:

- nontuberculous Mycobacteria (NTM) – linked to contaminated tattoo inks
- *M. chelonae* – one of several disease-causing NTM species, can cause lung disease, joint infection, eye problems and other organ infections

(These infections can be difficult to diagnose and can require treatment lasting 6 months or more.)

Other skin problems. Sometimes bumps called granulomas form around tattoo ink – especially red ink. Tattooing can also lead to raised areas caused by an overgrowth of scar tissue (keloids).

Bloodborne diseases. If the equipment used to create your tattoo is contaminated with infected blood, you can contract various bloodborne diseases, including hepatitis B, hepatitis C, tetanus and HIV – the virus that causes AIDS.

MRI complications. Rarely, tattoos or permanent makeup may cause swelling or burning in the affected areas during magnetic resonance imaging (MRI) exams. In some cases – such as when a person with permanent eyeliner has an MRI of the eye – tattoo pigments may interfere with the quality of the image.

If you believe that you have been injured at this establishment, contact:

The District of Columbia Department of Health
Health Regulation and Licensing Administration
Radiation Protection Division

899 North Capitol Street, N.E., 2nd Floor,
Washington, D.C. 20002-4210
Telephone: (202) 724-8800

204 PRE-OPERATING PROCEDURES — WAITING PERIOD, TATTOOS & BODY-PIERCINGS*

204.1 The licensee or operator of a body art establishment shall ensure that no tattoo artist applies any tattoo to a customer until after twenty-four (24) hours have passed since the customer first requested the tattoo.

204.2 The licensee or operator of a body art establishment shall ensure that no body-piercer shall body-pierce a customer until after twenty-four (24) hours have passed since the customer first requested the body-piercing.

204.3 The licensee or operator shall ensure that no body artist or body art establishment shall bind or attempt to bind a customer to committing to obtaining a tattoo or body-piercing, or bind or attempt to bind a customer into paying for a tattoo or body-piercing upon signing the Twenty-four (24) Hour Waiting Period Acknowledgment Form.

205 PRE-OPERATING PROCEDURES — CUSTOMER’S QUESTIONNAIRE, CONFIDENTIAL MEDICAL INFORMATION*

205.1 During each visit, customers shall receive, complete, and sign a questionnaire that disclose conditions which could impact the customer’s suitability for receiving a body art procedure or proper healing of a body art procedure, including but not limited to whether the customer:

- (a) Is pregnant;
- (b) Is diabetic;
- (c) Is taking anticoagulants or other medications that thin the blood and/or interfere with blood clotting;
- (d) Has a history of herpes infection at the proposed procedure site;

- (e) Has a history of Hemophilia or other bleeding disorder, or cardiac valve disease;
- (f) Has a skin diseases or skin lesions;
- (g) Has allergies or adverse reactions to latex, pigments, dyes, disinfectants, soaps or metals;
- (h) Has allergies or adverse reactions to antibiotics;
- (i) Has a history of medication use or is currently using medication, including being prescribed antibiotics prior to dental or surgical procedures; or
- (j) Has any other risk factors for bloodborne pathogen exposure.

205.2 All customers' responses to the "Questionnaire" are confidential and body art establishments shall:

- (a) Protect customers' privacy, including medical and personally identifiable information; and
- (b) Not sell, share, or transfer customer information in accordance with federal and District laws and regulations.

206 PRE-OPERATING PROCEDURES – INFORMED CONSENT, JEWELRY SELECTION, AND EQUIPMENT SETUP*

206.1 Before beginning a body art procedure, a body artist shall comply with the following:

- (a) Complete all business transactions;
- (b) Obtain signed copies of the following documents, which are provided to the customer:
 - (1) "Informed Consent" Form indicating that he or she received both written and verbal information regarding the risks, outcome and aftercare instructions from the tattoo artist, body artist, or body-piercer; or
 - (2) "Informed Consent" Form indicating it was read to the customer who may be illiterate or visually impaired and the customer understands the risks, outcome and aftercare instructions read to him or her by the tattoo artist, body artist, or body-piercer; and
 - (3) The "Informed Consent" Form shall include but is not limited to:

- (i) The customer's name, address, current telephone number, and signature;
- (ii) Date and description of the body art procedure;
- (iii) A description of what the customer should expect following the procedure, including suggested care and any medical complications that may occur as a result of the procedure;
- (iv) A statement regarding the permanent nature of body art;
- (v) Parental/Legal Guardian Authorization Form, required only for piercing of minors ears in the presence of the parent/guardian, as specified in Section 202.3;
- (vi) Receipt of the documents titled "Health Risks Associated with Receiving a Body Art Procedure Nos. 1, 2, and 3" as specified in Sections 203.2 and 203.4;
- (vii) A statement that he or she does not have a condition that could prevent him or her from receiving body art procedure as specified in Section 205; and
- (viii) Receipt of a document titled "Aftercare Instructions", as specified in Section 207.

206.2 Before beginning a body art procedure, the customer and body artist shall select the appropriate size and quality of jewelry for body-piercing together. Appropriate jewelry shall be made of:

- (a) ASTM F138, ISO 5832-1, and AISI 316L or AISI 316LM implant grade, stainless steel;
- (b) Solid 14k through 18k yellow or white gold;
- (c) Niobium;
- (d) ASTM F 136 6A4V titanium;
- (e) Platinum; or
- (f) Other materials found to be equally biocompatible.

206.3 All jewelry shall be free of nicks, scratches, or irregular surfaces and is properly sterilized prior to use.

206.4 In addition to the requirements identified in Sections 202, 203, 204, 205, and 206, a body artist shall set up all equipment and supplies, including but not limited to sterile water, inks, dyes, and pigments, and shall open all packages containing sterile instruments, pre-sterilized, single-use jewelry, and pre-sterilized, single-use disposable items in front of the customer.

207 POST-OPERATING PROCEDURES — AFTERCARE INSTRUCTIONS FOR TATTOOS AND BODY-PIERCINGS, CONTENT *

207.1 The licensee shall ensure after each body art procedure, the body artist provides the customer with Aftercare Instructions, which include the following information:

- (a) The name of the body artist who performed the procedure; and
- (b) The name, address, and telephone of the establishment where the procedure was performed.

207.2 Written “Aftercare Instructions” for tattoo procedures shall provide:

- (a) Information on the care of the procedure site;
- (b) Restrictions on physical activities such as bathing, recreational water activities, gardening, or contact with animals; and duration of the restrictions;
- (c) The need to properly cleanse the tattooed area;
- (d) Application of antibiotic ointment or cream;
- (e) The use of sterile bandages(s) or other sterile dressings(s) when necessary; and
- (f) The instructions for the customer to consult a health care practitioner at the first sign of infection or an allergic reaction, and to report any diagnosed infection, allergic reaction, or adverse reaction resulting from the application of the tattoo to the body artist and to the Department at (202) 724-8800.

207.3 Written “Aftercare Instructions” for body-piercing procedures shall state:

- (a) The need to properly cleanse the pierced area by using antibacterial or antimicrobial soap for the external skin or an antiseptic or salt water mouthwash for the oral cavity;
- (b) The need to minimize exposure to filth for at least six (6) weeks;

- (c) Use of sterile bandages(s) or other sterile dressings(s) when necessary;
- (d) The name of the body artist, and the name, address, and telephone of the establishment where the procedure was performed; and
- (e) The instructions for the customer to consult a health care practitioner at the first sign of infection or an allergic reaction, and to report any diagnosed infection, allergic reaction, or adverse reaction resulting from the body-piercing to the body artist and to the Department at (202) 724-8800.

**CHAPTER 3 OPERATING PROCEDURES TO PREVENT CROSS-CONTAMINATION,
AND RECORDKEEPING REQUIREMENTS**

300 PREVENTING CONTAMINATION – STERILE WATER, INKS, DYES & PIGMENTS, AND PRE-STERILIZED, SINGLE-USE DISPOSABLE ITEMS

- 300.1 All body artists shall use only sterile water to mix and dilute inks, dyes, or pigments and shall not use tap water or distilled water.
- 300.2 All tattoo artists shall use inks, dyes, and pigments that are specifically manufactured for performing body art procedures in accordance with manufacturer’s instructions.
- 300.3 All tattoo artists shall transfer the quantity of dye to be used in the body art procedure from the dye bottle and place it into a single-use paper or plastic cup or cap immediately before a tattoo is applied.
- 300.4 Single-use cups or caps and their contents shall be discarded immediately upon completion of a tattoo.
- 300.5 Single-use, disposable items, including but not limited to cups, cotton swabs, corks, rubber bands, and toothpicks shall be maintained in clean condition and dispensed in a manner to prevent contamination to unused pre-sterilized, single-use disposable items.
- 300.6 Single-use plastic covers shall be used to cover spray bottles or other reusable accessories for multiple customers that are handled by the tattoo artist or body-piercer.
- 300.7 Only single-use inks, pigment or dye shall be placed into a clean, single-use receptacle, which is discarded immediately upon completion of the tattoo procedure.

300.8 Inks, pigments, soaps, and other products in multiple-use containers shall be dispensed in a manner that prevents contamination of the storage container and the remaining unused portion through the use of a single-use receptacle.

300.9 If a tray is used for inks or pigments, it shall be decontaminated after use on each customer.

301 PREVENTING CONTAMINATION — PRE-STERILIZED, SINGLE- USE DISPOSABLE SHARPS

301.1 All body artists shall use only pre-sterilized, single-use disposables sharps, including but not limited to needles, razors or razor heads on an individual during a single piercing or tattooing, and immediately dispose of the pre-sterilized, single-use disposables sharps into a medical-grade sharps container.

301.2 All body artists shall use solid core needles, and equipment that is specifically manufactured for performing body art procedures in accordance with manufacturer’s instructions.

302 PREVENTING CROSS-CONTAMINATION FROM BODY ARTISTS — WORK AREAS, CONSTRUCTION AND DESIGN, AND RESTRICTIONS

302.1 A body artist encountering a biohazard or other health hazards shall report it immediately to the operator.

302.2 All body artists shall use only single-use jewelry on an individual and the single-use jewelry shall not be reused on another customer.

302.3 All body artists shall wear single-use aprons and single-use gloves which shall be disposed of after completing a procedure on a customer.

302.4 All body artists shall use pre-sterilized, single-use disposable equipment. For equipment that is not disposable, such as surgical steel forceps, and sterilizers are required, as specified in Section 304.14 and 304.15.

302.5 All body artists shall:

- (a) Wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty;
- (b) Wash their hands, wrists and arms to the elbow thoroughly using hot or tempered water with a liquid germicidal soap before and after tattooing or body-piercing and as often as necessary to remove contaminants;
- (c) Dry hands thoroughly with single use disposable towel;

- (d) Don new medical-grade latex, vinyl or hypoallergenic single-use disposable gloves on both hands when touching, decontaminating, or handling a surface, object, instrument, or jewelry that is soiled or that is potentially soiled with human blood; and
- (e) Don new medical-grade latex, vinyl or hypoallergenic single-use disposable gloves while assembling tattooing and body-piercing instruments and during tattooing and body-piercing procedures, as specified in Chapter 3.

302.6 When a body art session is interrupted, or immediately after gloves are torn or perforated, a tattoo artist and body-piercer shall:

- (a) Remove and discard the gloves;
- (b) Wash and dry their hands as specified in Sections 302.5(b) and (c); and
- (c) Don a new pair of gloves, as specified in Section 302.5(d).

302.7 In addition to the procedures identified in Sections 302.1 through 302.6 all body artists shall use the following universal precautions for all body art procedures:

- (a) Don new gloves for routine disinfecting procedures;
- (b) Move in such a manner as to avoid re-contamination of work surfaces;
- (c) Discard and remove disposable items from work areas after completing a body art procedure on each customer;
- (d) Disinfect work surface areas and all equipment that may have been contaminated during the piercing procedure;
- (e) Dispose of single-use lap cloths after use on each customer;
- (f) Remove and discard gloves and wash hands;
- (g) Discard materials in appropriate red biohazard waste bags after use on each customer;
- (h) Disinfect all reusable equipment made of non-porous material after each use. Non-spray wipes for surfaces and liquids for soaking jewelry are preferred over spray disinfectants which may disperse pathogens into the air;
- (i) Apply iodine, bacitracin and other antiseptics with single-use applicators. Applicators that have touched a customer shall not be used to retrieve antiseptics, iodine, etc. from any containers;

- (j) Clean contaminated instruments (such as forceps or pliers) of bacitracin or other antibiotic solutions, blood and other particles with an appropriate soap or disinfectant cleaner and hot water, followed by an ultrasonic cleaner and steam autoclave; and
- (k) Use sterilization equipment, as specified in Sections 304.14 through 304.16, and 311.

- 302.8 Work areas in a body art establishment shall be constructed and maintained to ensure customer privacy and shall not be used as a walk-thru to gain access to other rooms or exists.
- 302.9 All work areas shall be constructed and equipped with floors, chairs, and table tops that are non-porous, smooth and easily cleanable and maintained in a clean and sanitary manner.
- 302.10 Carpet is not permitted as a floor covering in a work area where tattooing or body piercing is conducted.
- 302.11 All work areas shall contain a medical-grade sharps container that is conveniently located near the workstations.
- 302.12 Each body art establishment shall have separate work areas with workstations that are in individual rooms that are used for tattoo or body-piercing procedures only and for no other purpose.
- 302.13 The licensee shall ensure each work area for tattoo or body-piercing procedure provides a body artist with a minimum of forty-five square feet (45 sq. ft.) of floor space.
- 302.14 Each body art establishment shall have a separate cleaning area for decontamination and sterilization procedures, in which the placement of a sterilizer is at least thirty-six (36) inches away from the placement of the required ultrasonic cleaning unit and any sink.
- 302.15 All solid surfaces and objects in the procedure area and the decontamination and sterilization area that have come in contact with the customer or the materials used in performing the tattoo or body-piercing, including but not limited to chairs, armrests, tables, countertops, and trays, shall be immediately decontaminated after each use and then disinfected by application of a disinfectant, used according to manufacturer's instructions.
- 302.16 The surfaces and objects in the procedure area shall be disinfected again if an activity occurred in the area after the area was disinfected.

303**PREVENTING CROSS-CONTAMINATION FROM CUSTOMERS****303.1**

In addition to the procedures identified in Chapter 2, body artists shall ensure that any skin or mucosa surface to receive a body art procedure is free of a rash or any visible infection and shall comply with the following procedures in preparing the customer's skin:

- (a) Clean the area of the customer's skin subject to the body art with an approved germicidal soap according to the label directions. In the case of:
 - (1) Oral piercings, the body artist shall provide the individual with antiseptic mouthwash in a single-use cup and shall ensure that the individual utilizes the mouthwash provided; or
 - (2) Lip, labret, or cheek piercing, the body artist shall follow the procedures identified in this section for skin and oral piercings.
- (b) Use single-use disposable razors if shaving is required. The razor or razor's head shall be immediately placed in a medical-grade sharps container after use;
- (c) Wash the skin and surrounding area with soap and water, following shaving, and immediately discard the washing pad after use;
- (d) Use single-use products only to stop the bleeding or to absorb blood, and discard immediately after use in appropriate red biohazard waste bags, and disposed of in accordance with Section 307.2; and
- (e) Use sterile gauze or other sterile applicator to dispense and apply petroleum jelly, soaps, and other products in the application of stencils on the area to receive a body art procedure to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded immediately in the appropriate red biohazard waste bags as specified in Section 307.2.

303.2

If a body artist has reason to suspect that a customer may have a communicable disease, skin diseases or other conditions posing public health concerns, the body artist shall:

- (a) Deny the customer service and recommend the customer be examined by a licensed health care provider; or
- (b) Cease a body art procedure that is in-process and recommend the customer be examined by a licensed health care provider.

304 PREVENTING CONTAMINATION — REUSABLE INSTRUMENTS AND EQUIPMENT, DESIGN, LOCATION, AND MAINTENANCE LOG

- 304.1 Reusable instruments that are used during body art procedures which may contact blood or other bodily fluids, or which come in direct contact with skin which is not intact, shall be sterilized after each use or disposed of after each use.
- 304.2 Reusable instruments that are used during tattooing and body-piercing procedures which do not come in contact with broken skin but which may come in contact with mucous membranes and oral tissue shall be sterilized after each use.
- 304.3 Reusable instruments or reusable items that do not come in contact with non-intact skin or mucosal surfaces shall be washed with a solution of soap and sterile water, using a brush that is small enough to clean the interior surfaces, and decontaminated after each procedure.
- 304.4 If it is not feasible to sterilize the reusable instruments because it will be damaged during the body art procedure, the reusable instruments, including but not limited to calipers and gauge wheels shall be treated with a germicidal solution prior to use.
- 304.5 Reusable instruments that come in contact only with intact skin or mucosal surfaces shall either be single-use or washed in sterile water, disinfected, packaged, and sterilized after each procedure.
- 304.6 Sterilize instrument packs shall be evaluated before use, and if the integrity of the pack is compromised in any way, including but not limited to being torn, punctured, wet, or having evidence of potential moisture contamination, the instrument pack shall be discarded or reprocessed before use.
- 304.7 Contaminated, reusable instruments shall be placed in a labeled covered container which shall contain a disinfectant solution such as 2.0% alkaline glutaraldehyde or similar disinfectant until it can be cleaned and sterilized.
- 304.8 All containers holding contaminated reusable instruments and container lids shall be emptied of contaminated solution and cleaned and sanitized daily or more often if needed.
- 304.9 Any part of a tattooing machine that may be touched by the tattoo artist during the procedure shall be covered with a disposable plastic sheath that is discarded upon completion of the procedure, and the tattoo machine shall be decontaminated upon completion of the procedure.
- 304.10 A machine used to insert pigments shall be designed with removable parts between the tip and motor housing, and shall be designed in a manner that will prevent backflow into enclosed parts of the motor housing.

- 304.11 A hand tool used to insert pigment shall be disposed of in a sharps medical-grade container, with the sharps intact, unless the needle can be mechanically ejected from the hand tool.
- 304.12 A body art establishment shall:
- (a) Sterilize clean instruments and seal in peel-packs that contain either a sterilizer indicator or internal temperature indicator. The outside of the pack shall be labeled with the name of the instrument, the date sterilized, and the initials of the person operating the sterilizing equipment;
 - (b) Sterilize clean instruments and pack and place them in clean, dry, labeled container, or store in a labeled cabinet that is protected from dust and moisture;
 - (c) Sterilize instruments and store them in the intact peel-packs or in the sterilization equipment cartridge until time of use; and
 - (e) Sterilize instrument packs that should be evaluated at the time of storage and before use. If the integrity of the pack is compromised, including but not limited to cases where the pack is torn, punctured, wet, or displaying any evidence of moisture contamination, the pack shall be discarded or reprocessed before use.
- 304.13 For all reusable instruments that may come in contact with a customer or jewelry, a body art establishment shall use sterilization equipment approved for medical sterilization purposes by the U.S. Food and Drug Administration Equipment as specified in Section 311.
- 304.14 All reusable instruments shall be bagged, dated and sealed before sterilizing.
- 304.15 Reusable instruments shall be sterilized at a temperature of two hundred seventy-five degrees Fahrenheit (275° F) (one hundred thirty-five degrees Celsius (135° C)) under a pressure of 20 PSI for thirty (30) minutes.
- 304.16 After sterilizing equipment, the equipment shall be stored in a non-porous, dark, dry, cool place, such as a medical credenza.
- 304.17 Each body art establishment shall be equipped with a working sterilizer and with appropriate cleansing equipment, such as a working ultrasonic cleaner.
- 304.18 At least one covered, foot operated solid waste receptacle, lined with disposable bags shall be provided in each:
- (a) Work area;

- (b) At each handwash sink; and
- (c) In each toilet room.

305 PREVENTING CONTAMINATION — MARKING INSTRUMENTS AND STENCILS*

- 305.1 Marking instruments shall be single-use or sanitized by design, such as alcohol based ink pens, and shall be used only on intact skin that has been treated with a germicidal soap.
- 305.2 Marking instruments that come in contact with mucous membranes or broken skin shall be single-use.
- 305.3 All stencils and applicators shall be single-use.
- 305.4 Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied using an aseptic technique and in a manner that prevents contamination of the original container and its content.
- 305.5 A product applied to the skin prior to tattooing or application of permanent cosmetics, including but not limited to stencils and marking and transfer agents, and pens, shall be single-use and discarded into red biohazard bags at the end of the procedure unless the product can be disinfected for reuse.
- 305.6 If measuring the body-piercing site is necessary, clean calipers shall be used and the skin marked using clean toothpicks and ink.

306 PREVENTING CONTAMINATION — PRE-STERILIZED, SINGLE-USE JEWELRY*

- 306.1 Jewelry contaminated with only airborne pathogens, not previously worn or contaminated, shall be disinfected with a non-hazardous, hard-surface disinfectant approved by EPA;
- 306.2 Jewelry placed in newly pierced skin shall be sterilized prior to piercing as specified in Section 304.13 or shall be purchased pre-sterilized as specified in Sections 309 310, and 312.
- 306.3 Sterile jewelry packs shall be evaluated before use and, if the integrity of a pack is compromised, including but not limited to being torn, wet, or punctured, the pack shall be discarded or reprocessed before use.

307 PREVENTING CONTAMINATION — BIOHAZARD AND INFECTIOUS WASTE, HANDLING & DISPOSAL*

- 307.1 All sharps shall be disposed of in medical-grade sharps containers and disposed of by professional environmental infectious waste disposal companies licensed in the District of Columbia, in accordance with Section 508.3.
- 307.2 All other supplies or materials that are contaminated with blood or other body fluids that are generated during a body art process, including but not limited to cotton balls, cotton tip applicators, corks, toothpicks, tissues, paper towels, gloves, single-use plastic covering, and pigment containers shall be discarded in red biohazard bags and disposed of by a professional environmental infectious waste disposal company licensed in the District of Columbia, in accordance with Section 508.3.
- 307.3 Solid waste that is not contaminated shall be placed in easily cleanable, sealed containers and disposed of in accordance with Section 506.
- 307.4 All solid waste containers shall be kept closed when not in use, and shall comply with Section 506.

308 PREVENTING CONTAMINATION — INFECTION PREVENTION AND EXPOSURE CONTROL PLAN

- 308.1 The licensee shall ensure that each body art establishment develops, maintains and follows a written Infection Prevention and Exposure Control Plan provided by the licensee or the body artists that identifies the following;
- (a) Policies and procedures for staff training on universal precautions for exposure to bloodborne pathogens from blood and other potentially infectious materials;
 - (b) Policies and procedures for decontaminating and disinfecting environmental surfaces;
 - (c) Policies and procedures for decontaminating, packaging, sterilizing, and storing reusable instruments;
 - (d) Policies and procedures for protecting clean instruments and sterile instrument packs from exposure to dust and moisture during storage;
 - (e) Policies and procedures for setting up and tearing down workstations for all body art procedures performed at the body art establishment;
 - (f) Policies and procedures to prevent the contamination of instruments or the procedure site during a body art procedure;

- (g) Policies and procedures for safe handling and disposal of sharps and bio-hazardous waste; and
- (h) Recommendations by the Centers for Disease Control and Prevention to control the spread of infectious disease and treat all human blood and bodily fluids as infectious through universal precautions.

308.2 The licensee shall ensure routine on-site training on the establishment's Infection Prevention and Exposure Control Plan, and shall require additional training when a body artist:

- (a) Is exposed to an occupational hazard;
- (b) Performs a new procedure or there is a change in a procedure; and
- (c) The establishment purchases new equipment.

309 PREVENTING CONTAMINATION — REUSABLE INSTRUMENTS & STERILIZATION PROCEDURES*

309.1 Reusable instruments shall be cleaned by gloved personnel prior to sterilization using the following methods:

- (a) Mechanically, pre-clean the items by using a clean cotton ball or swab moistened with a solution of low-residue detergent and cool water, with care taken to ensure the removal of any pigment or body substances not visible to the eye, thoroughly rinse with warm water and then drain, and clean by soaking in a protein dissolving detergent-enzyme cleaner used according to the manufacturer's instructions; or
- (b) Clean the items in an ultrasonic cleaning unit used according to the manufacturer's instructions. A copy of the manufacturers recommended procedures for operation of the ultrasonic cleaning unit shall be available for inspection by an authorized agent of the Department; and
- (c) Rinse and dry the items prior to packaging for sterilization.

310 MAINTENANCE RECORDS — STERILIZERS AND COMMERCIAL BIOLOGICAL INDICATOR MONITORING SYSTEM, AND RETENTION*

310.1 All body art establishments shall load, operate, decontaminate, and maintain sterilizers according to manufacturer's instructions, and only equipment manufactured for the sterilization of medical instruments shall be used.

310.2 Sterilization equipment shall use a commercial biological indicator monitoring systems that are tested after:

(a) Initial installation; and

(b) Major repair.

310.3 A commercial biological indicator monitoring system shall be used at least weekly, but preferably every day that a sterilizer is in use to ensure a sterilizer's effectiveness.

310.4 The expiration date of a commercial biological indicator monitoring system shall be checked prior to each use.

310.2 A daily written log of each sterilization cycle shall be maintained on the premises for three (3) years for inspection by the Department and shall include the following information:

(a) The date of the load;

(b) A list of the contents of the load;

(c) The exposure time and temperature;

(d) The results of the Class 5 Integrating Biological Indicator; and

(e) For cycles where the results of the biological indicator monitoring test are positive, how the items were cleaned, and proof of a negative test before reuse.

311 MAINTENANCE RECORDS — STERILIZERS*

311.1 The Department shall require calibration of all sterilization equipment by an independent laboratory that will calibrate the equipment biannual or more frequently if recommended by the manufacturer and records of the calibrations shall be maintained on the premises for inspection by the Department.

311.2 Sterilizers shall be spore tested in accordance with manufacturer's recommendations by trained staffers and records of the spore tests shall be maintained on the premises for three (3) years after the date of the results for inspection by the Department.

312 RECORDS OF ACQUISITIONS — DISPOSABLES, SINGLE-USE, PRE-STERILIZED INSTRUMENTS, AND RECORD RETENTION*

312.1 A body art establishment that does not provide access to a decontamination and sterilization area that is in compliance with these regulations, or that does not have sterilization equipment as specified in Section 310 shall:

- (a) Use only disposable, single-use, pre-sterilized instruments and supplies as specified in Section 200.5;
- (b) Purchase disposable, single-use, pre-sterilized medical-grade instruments, including but not limited to sharps and medical-grade items, including but not limited to latex, vinyl or hypoallergenic gloves, and cleansing products, from medical suppliers licensed or registered in the District of Columbia; and
- (c) Maintain for ninety (90) days:
 - (i) A record of the purchase and use of all disposable, single-use, pre-sterilized medical-grade instruments and supplies;
 - (ii) A log of all body art procedures, including the names of the tattoo artist or body-piercer and the customer; and
 - (iii) The date of the body art procedure.

313 RECORDKEEPING REQUIREMENTS – CONFIDENTIAL, PERSONNEL FILES*

- 313.1 The licensee shall maintain a procedural manual at the body art establishment which shall be available at all times to operators and the Department during each inspection.
- 313.2 Each body art establishment’s policy and procedures manual shall maintain the following information regarding body artist, as specified in Section 200.4:
 - (a) Full legal name;
 - (b) Home address and telephone number(s);
 - (c) Professional licenses and training certifications, if applicable; and
 - (d) Proof that he or she is eighteen (18) years of age or older with a driver’s license or other government issued identification containing the date of birth and a photograph of the individual, or school issued identifications; and
 - (e) Proof of compliance with pre-employment requirement of current hepatitis B vaccination, including applicable boosters, unless the body artist:
 - (1) Demonstrates hepatitis B immunity; or

- (2) Compliance with current federal OSHA hepatitis B vaccination declination requirements.

314 RECORDKEEPING REQUIREMENTS — CONFIDENTIAL CUSTOMER FILES, AND REQUIRED DISCLOSURES*

314.1 Each body art establishment shall maintain signed and completed forms in each customer's file:

- (a) Parental/Legal Guardian Authorization Forms, as specified in Section 202.2.
- (b) Twenty-four (24) Hour Waiting Period Acknowledgment Form, as specified in Section 204;
- (c) Customer's Questionnaire, as specified in Section 205;
- (d) Informed Consent Form, as specified in Section 206.1(b)(1);
- (e) Statements signed by the body art establishment staff for customers who are illiterate or visually impaired and unable to sign their names in accordance with Section 206.1(b)(2), if applicable; and

314.2 Each body art establishment offering tattoo procedures shall keep on the premises documentation of the following information, and shall disclose and provide this information to customers upon request:

- (a) The actual pigments used in the body art establishment;
- (b) The names, addresses, and telephone numbers of the suppliers and manufacturers of pigments used in the body art establishment for the past three (3) years; and
- (c) Identification of any recalled pigments used in the establishment for the past three (3) years and the supplier and manufacturer of each pigment.

314.3 A list of emergency contact numbers shall be easily accessible to all personnel and shall include, but is not limited to:

- (1) The nearest hospital;
- (2) The nearest fire department; and
- (3) Emergency 911 service.

314.4 All files identified in this section that are maintained electronically shall be frequently backed up and accessible from multiple locations, if applicable.

314.5 An electronic record shall be retrievable as a printed copy.

315 RECORDKEEPING REQUIREMENTS – RETENTION

315.1 The licensee shall maintain all records at the establishment for at least three (3) years or longer if required by any other applicable District law or regulation. The records shall be readily available for review by the Department upon request.

315.2 Excepted as provided in Section 315.1, all confidential information identified in Section 314.1 shall be shredded three (3) years after a customer has received a body art procedure.

316 RECORDKEEPING REQUIREMENTS – REPORTS OF INFECTION OR ALLERGIC REACTIONS

316.1 The licensee shall maintain a document called a “Report of Infection or Allergic Reactions” that details infections and allergic reactions reported to the body artist or the body art establishment by a customer.

316.2 The licensee shall submit to the Department a written report of any infections or allergic reactions resulting from a body art procedure within five (5) business days of its occurrence or knowledge thereof.

316.3 The report shall include the following information:

- (a) Name, address, and telephone number of the affected customer;
- (b) Name, location, telephone number and license number of the establishment where the body art procedure was performed;
- (c) The complete legal name of the body artist;
- (d) The date the body art procedure was performed;
- (e) The specific color or colors of the tattoo or type of jewelry used for the body-piercing, and when available, the manufacturer’s catalogue or identification number of each color or type of jewelry used;
- (f) The location of the infection and the location on the body where the body art was applied;
- (g) The name and address of the health care practitioner, if any; and
- (h) Any other information considered relevant to the situation.

- 316.4 The Department shall use these reports in their efforts to identify the source of the adverse reactions and to take action to prevent its recurrence.
- 316.5 The licensee shall maintain all reports pertaining to infections and allergic reactions at the establishment for review until the Department authorizes their disposal.

CHAPTER 4 PHYSICAL STRUCTURE, OPERATING SYSTEMS AND DESIGN

400 PHYSICAL STRUCTURE – BUILDING MATERIALS AND WORKMANSHIP

- 400.1 The licensee of a newly constructed, remodeled or renovated body art establishment shall ensure that the design, construction, building materials, and workmanship complies with the District's Construction Codes of 2008, as specified in Section 102.1(f) of this chapter.
- 400.2 The licensee of an existing body art establishment shall maintain in good condition the physical integrity of its establishment by repairing or replacing structural or design defects, operating systems, or fixtures in use before the effective date of these regulations in accordance with the District's Construction Codes of 2008, as specified in Section 102.1(f) of this chapter.
- 400.3 At least thirty (30) days before beginning construction or remodeling of a body art establishment, the licensee shall submit construction plans with all schedules, including but not limited to floor plans, elevations, and electrical schematics, to the Department for review and approval, as specified in Section 605.

401 PHYSICAL STRUCTURE – FLOOR AND WALL JUNCTURES, COVERED, AND ENCLOSED OR SEALED

- 401.1 Floor and wall junctures shall be covered and closed to no larger than one millimeter (1 mm.) or one thirty-second of an inch (1/32 in.).
- 401.2 Covering of floor and wall junctures shall be sealed.

402 PHYSICAL STRUCTURE – FLOORS, WALLS, CEILINGS, AND UTILITY LINES

- 402.1 All procedure areas and instrument cleaning areas shall have floors, walls and ceilings constructed of smooth, nonabsorbent and easily cleanable material. Outer openings shall provide protection against contamination from dust and other contaminants.
- 402.2 All floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable, except that antislip floor coverings or applications may be used for safety reasons.

- 402.3 All facilities shall have a waiting area that is separate from the body art procedure area, and from the instrument cleaning, sterilization, and storage areas.
- 402.4 The floors in the restrooms and locker rooms that are next to showers or toilets, or any other wet areas, shall be constructed of smooth, durable, nonabsorbent, and easily cleanable material.
- 402.5 Every concrete, tile, ceramic, or vinyl floor installed in bathrooms, restrooms, locker rooms, and toilet rooms, which are next to showers or toilets, shall be covered at the junctures between the floor and the walls.
- 402.6 All material used to cover the junctures shall be fitted snugly to the floor and the walls so that they are water tight and there are no openings large enough to permit the entrance of vermin.
- 402.7 The material used in constructing the walls and ceilings must be joined along their edges so as to leave no open spaces or cracks.
- 402.8 Utility service lines and pipes shall not be unnecessarily exposed.
- 402.9 Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.
- 402.10 Exposed horizontal utility service lines and pipes shall not be installed on the floor.

403 OPERATING SYSTEMS AND DESIGN — PLUMBING SYSTEM, DESIGN, WATER CAPACITY, QUANTITY, AND AVAILABILITY*

- 403.1 Each body art establishment's plumbing system shall be designed, constructed, installed, and maintained according to the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations and shall be of sufficient size to:
- (a) Meet the water demands of the body art establishment.
 - (b) Meet the hot water demands throughout the body art establishment.
 - (c) Properly convey sewage and liquid disposable waste from the premises;
 - (d) Avoid creating any unsanitary condition or constituting a source of contamination to potable water, or tattoo or body-piercing equipment, instruments; and
 - (e) Provide sufficient floor drainage to prevent excessive pooling of water or other disposable waste in all areas where floors are subject to flooding-type

cleaning or where normal operations release or discharge water or other liquid waste on the floor.

403.2 Each plumbing fixture such as a handwashing facility, toilet, or urinal shall be easily cleanable.^N

403.3 Each body art establishment shall be equipped with at least one janitorial sink.

403.4 Each body art establishment shall be equipped with effective plumbing and sewage facilities and adequate accommodations.

404 OPERATING SYSTEMS AND DESIGN — HANDWASHING SINKS, WATER TEMPERATURE, AND FLOW

404.1 All handwashing sinks, including those in toilet rooms, shall be equipped to provide water at a temperature of at least one hundred degrees Fahrenheit (100 °F) (thirty-eight degrees Celsius (38 °C)) through a mixing valve, a combination faucet, or tempered water and a single faucet.

404.2 A steam mixing valve shall not be used at a handwashing sink.

404.3 A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet.

404.4 Any automatic handwashing facility shall be installed in accordance with the manufacturer's instructions.

405 OPERATING SYSTEMS AND DESIGN — TOILETS AND URINALS, NUMBER, CAPACITY, CONVENIENCE AND ACCESSIBILITY, ENCLOSURES, AND PROHIBITION*

405.1 Toilet facilities shall be provided in accordance with the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations and maintained as specified in Section 500.

405.2 The licensee shall, at a minimum:

- (a) Maintain the toilet facilities in a sanitary condition that is clean and free of solid waste and litter;
- (b) Keep the facilities in good repair at all times; and
- (c) Provide self-closing doors.

- 405.3 All single-stall toilet rooms shall display gender-neutral signs on the door that read “Restroom,” or have a universally recognized picture/symbol indicating that persons of any gender may use each restroom, in accordance with the D.C. Human Rights Act of 1977, as amended, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2007 Repl.)).
- 405.4 Body art establishments employing:
- (a) Five (5) or fewer employees may provide a single toilet facility with a gender-neutral sign on the door in accordance with the D.C. Human Rights Act of 1977, as amended, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2007 Repl.)); or
 - (b) More than five (5) employees shall have multiple toilet facilities that are either:
 - (1) Single-stall toilet rooms with a gender-neutral sign on each door as specified in section 3101.2 in accordance with the D.C. Human Rights Act of 1977, as amended, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2007 Repl.)); or
 - (2) Multiple-stall toilet rooms with gender-specific signs on the doors that read “Men” and “Women” or contain gender-specific, universally recognized pictorials of “Men” and “Women”.
- 405.5 When locker rooms are provided, there shall be both a male and female locker room available, unless the establishment is specifically designated for one (1) gender or the other.
- 405.6 If a body art establishment serves only one (1) gender, a restroom shall be made available for employees of the opposite gender.
- 405.7 A toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door, except that this requirement does not apply to a toilet room that is located outside a body art establishment.
- 405.8 Toilet room doors shall be kept closed except during cleaning and maintenance operations.
- 405.9 Each body art establishment shall maintain toilet facilities for employees, which shall consist of a toilet room or toilet rooms with proper and sufficient water closets and lavatories. Toilet facilities shall be conveniently located and readily accessible to all personnel and customers.
- 405.10 Toilet facilities shall be deemed conveniently located and accessible to employees during all hours of operation if they are:

- (a) Located within the same building as the business they serve; and
- (b) Accessible during working hours without going outside the building.

405.11 At no time shall consumers or employees of one (1) gender enter the bathroom, restroom, or locker room of the other gender, except for routine clean-up after all of the consumers are gone or there is a maintenance emergency.

406 OPERATING SYSTEMS AND DESIGN – ELECTRICAL, LIGHTING*

406.1 All rooms of a body art establishment shall have at least one (1) electrical source of light. Lighting luminaries and fixtures may be of incandescent, fluorescent, high density discharge, or light emitting diode (LED) types.

406.2 At least fifty (50) foot-candles of artificial light shall be provided in each procedure area that is positioned at the height of the workstation, and shall be provided in all decontamination and sterilization areas.

406.3 At least twenty (20) foot-candles of light shall be provided in each restroom, locker room, toilet room, or other areas when fully illuminated for cleaning.

406.4 An average illumination value of ten (10) foot-candles of light, but never less than seven and a half (7.5) foot-candles of light, shall be provided in other areas within a body art establishment, including offices, lobbies, retail shops, and waiting areas.

406.5 The above illumination levels shall be attainable at all times while the body art establishment is occupied.

407 OPERATING SYSTEMS AND DESIGN – ELECTRICAL, SMOKE ALARMS

407.1 Each distinct area of a body art establishment separated by a doorway, whether or not a door is currently present, shall be equipped with at least one (1) working smoke alarm which is installed, maintained, and tested according to the International Fire Code (2008 edition), (D.C. Fire Code Supplement) of Title 12 of the District of Columbia Municipal Regulations.

407.2 The smoke alarm shall be free of foreign matter such as tape or paint which could impair its proper function.

408 OPERATING SYSTEMS AND DESIGN – HEATING AND VENTILATION SYSTEMS

- 408.1 All restrooms, locker rooms, and toilet rooms shall be adequately ventilated so that excessive moisture is removed from the room. Acceptable ventilation includes mechanical exhaust ventilation, a recirculating vent, or screened windows.
- 408.2 Each system for heating, cooling, or ventilation shall be properly maintained and operational at all times when the rooms are occupied.
- 408.3 All restrooms, locker rooms, and toilet rooms shall be capable of being maintained at a temperature between sixty-eight degrees Fahrenheit (68 °F) (twenty degrees Celsius (20 °C)) and eighty degrees Fahrenheit (80 °F) (twenty-seven degrees Celsius (27 °C)) while being used by customers.

CHAPTER 5 FACILITY MAINTENANCE

500 FACILITY MAINTENANCE – TOILETS AND URINALS, MAINTENANCE*

- 500.1 Each body art establishment’s plumbing system shall be:
- (a) Repaired according to the International Plumbing Code (2006 edition), subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations; and
 - (b) Maintained in good repair.
- 500.2 The licensee shall provide a supply of toilet tissue at each toilet.
- 500.3 The licensee shall provide a waste receptacle in each toilet room.
- 500.4 The licensee shall provide a covered receptacle for hygienic feminine products in any toilet room used by females.

501 FACILITY MAINTENANCE – HANDWASHING SINKS, CLEANSER AVAILABILITY, HAND DRYING PROVISION, AND HANDWASHING SIGNAGE

- 501.1 An automatic handwashing facility may be substituted for a handwashing sink in a body art establishment that has at least one (1) handwashing sink.
- 501.2 An automatic handwashing facility shall be used in accordance with the manufacturer’s instructions.

501.3 Each handwashing sink or group of two (2) adjacent sinks shall be provided with hand cleaning liquid or powder.

501.4 Each handwashing sink or group of adjacent sinks shall be provided with:

- (a) Individual, disposable towels; or
- (b) A heated-air, hand-drying device.

501.5 A sign or poster that notifies employees to wash their hands shall be provided at all handwashing sinks.

502 FACILITY MAINTENANCE — HANDWASHING SINKS, DISPOSABLE TOWELS, AND WASTE RECEPTACLES

502.1 A handwashing sink or group of adjacent sinks that is supplied with disposable towels or suitable drying devices shall be provided with a waste receptacle.

503 FACILITY MAINTENANCE — FLOOR COVERING, RESTRICTIONS, INSTALLATION, CLEANABILITY

503.1 A floor covering such as carpeting or similar material shall not be installed as a floor covering in toilet room areas where handwashing sinks, toilets, or urinals are located; refuse storage rooms; or other areas where the floor is subject to moisture.

503.2 The licensee or manager shall inspect the premises prior to each consumer's use to ensure that the floors are dry.

503.3 Mats and duckboards shall be designed to be removable and easily cleanable.

504 FACILITY MAINTENANCE — FLOORS, PUBLIC AREAS

504.1 The physical facilities shall be maintained in good repair and cleaned as often as necessary to keep them clean.

504.2 Every floor and floor covering, shall be kept clean and in good repair, sanitized, or replaced so that it does not become a hazard to health or safety.

504.3 All public areas of a body art establishment, such as the lobbies and merchandising and retail areas shall be maintained in a clean and sanitary manner, free of litter, rubbish, and nuisances.

505 FACILITY MAINTENANCE — CLEANABILITY, SANITIZATION AND MAINTENANCE OF PLUMBING FIXTURES

- 505.1 Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean and well-maintained.
- 505.2 All body art establishments shall be equipped with toilet facilities, which include a water closet and handwashing sinks, including hot and cold running water, hand cleaning liquid or powder, and a paper towel dispenser or equivalent hand drying equipment.
- 505.3 Each room used for tattoo or body piercing shall contain a sink with hot and cold running water, antibacterial soap and single-use towels in dispensers for the exclusive use of the piercers or tattoo artists for washing their hands and preparing their clients for body piercing or tattooing.
- 505.4 All restrooms shall be kept in sanitary condition and good repair.

506 FACILITY MAINTENANCE — REFUSE, REMOVAL FREQUENCY

- 506.1 An inside storage room or area, outside storage area or enclosure, and receptacles shall be of sufficient capacity to hold the refuse that accumulate.
- 506.2 Refuse, excluding biohazardous waste, shall be placed in a lined waste receptacle and disposed of at a frequency that does not create a health or sanitation hazard.
- 506.3 Receptacles and waste handling units shall be designed and constructed with tight-fitting lids, doors, or covers.
- 506.4 Receptacles and waste handling units shall be durable, cleanable, insect- and rodent-resistant, leakproof, nonabsorbent, and maintained in good repair.
- 506.5 If used, an outdoor enclosure for refuse shall be constructed of durable and cleanable materials and shall be located so that a public health hazard or nuisance is not created.
- 506.6 An outdoor storage surface for refuse shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.
- 506.7 Storage areas, enclosures, and receptacles for refuse shall be maintained in good repair.
- 506.8 Storage areas and enclosures for refuse shall be kept clean and maintained free of unnecessary items, as specified in Section 507.

507 FACILITY MAINTENANCE – UNNECESSARY ITEMS, LITTER, AND CONTROLLING AND REMOVING PESTS

507.1 The grounds surrounding a body art establishment under the control of the licensee shall be kept in a clean and litter-free condition.

507.2 The methods for adequate maintenance of grounds include, but are not limited to, the following:

- (a) Properly storing or removing unnecessary equipment that is nonfunctional or no longer used, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the physical facility that may constitute an attractant, breeding place, or harborage for pests;
- (b) Maintaining roads and parking lots so that they do not constitute an attractant, breeding place, or harborage for pests; and
- (c) Adequately draining areas that may provide an attractant, breeding place, or harborage for pests.

507.3 If a body art establishment's grounds are bordered by grounds not under the operator's control and not maintained in the manner described in Sections 507.1 and 507.2, care shall be exercised by the licensee through inspection, extermination, or other means to exclude pests, dirt, and filth that may become an attractant, breeding place, or harborage for pests.

507.4 Methods for maintaining a sanitary operation include providing sufficient space for placement and proper storage of equipment, instruments, and supplies.

507.5 The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by:

- (a) Routinely inspecting the premises for evidence of pests;^N
- (b) Using methods, if pests are found, such as trapping devices or other means of pest control; and
- (c) Eliminating harborage conditions.^N

507.6 Dead or trapped birds, insects, rodents, and other pests shall be removed from a trap or the traps shall be discarded from the premises at a frequency that prevents accumulation, decomposition, or the attraction of other pests.

508 FACILITY MAINTENANCE – PROFESSIONAL SERVICE CONTRACTS

508.1 The licensee shall maintain a copy of the body art establishment’s professional service contract and service schedule, which documents the following information:

- (a) Name and address of its D.C. licensed pest exterminator/contractor;
- (b) Frequency of extermination services provided under the contract; and
- (c) The date on which extermination services were last provided to the establishment.

508.2 The licensee shall maintain a copy of the body art establishment’s professional service contract and service schedule, which documents the following information:

- (a) Name and address of its District-licensed solid waste contractor;
- (b) Frequency of solid waste collection provided under the contract; and
- (c) The date on which collection services were last provided to the establishment.

508.3 The licensee shall maintain a copy of the body art establishment’s contract and service schedule, which documents the following information:

- (a) Name and address of its D.C. licensed environmental Biohazard Waste Disposal Company;
- (b) Frequency of pickup services provided under the contract of biohazard waste, including but not limited to sharps, medical-grade gloves, and disposable, single use cleaning products; and
- (c) The date on which pickup services were last provided to the establishment.

509 FACILITY MAINTENANCE – PROHIBITING ANIMALS*

509.1 Animals shall not be allowed in the body art procedure areas, decontamination or sterilization areas, or storage areas.

509.2 Fish aquariums or service animals may be allowed in waiting rooms and non-procedural areas.

CHAPTER 6 APPLICATION AND LICENSING REQUIREMENTS

600 LICENSE AND REGISTRATION REQUIREMENTS

- 600.1 No person shall operate a body art establishment or perform body art procedures in a body art establishment in the District without a valid body art establishment license issued by the Mayor.
- 600.2 No licensee shall employ or permit a body artist to perform body art procedures in their body art establishment without a valid body artist license issued by the Mayor.
- 600.3 No person shall operate a body art establishment or perform body art procedures in a body art establishment in the District with an expired or suspended body art establishment license.
- 600.4 No licensee shall employ or permit a body artist to perform body art procedures in their establishment with an expired or suspended body artist license.
- 600.5 No person shall open or operate a body art establishment in the District without a valid Certificate of Occupancy;
- 600.6 No person shall furnish or offer to furnish body art equipment, devices, inks, dyes or pigments, or supplies, in the District without a valid body art service provider registration issued by the Mayor.
- 600.7 No licensee shall use a body art supplier or manufacturer unless such supplier or manufacturer possesses a valid body art supplier or manufacturer registration issued by the Mayor as specified in Section 600.6.
- 600.8 No licensee shall purchase disposable, single-use, pre-sterilized instruments and supplies in the District without a valid medical supplier's license or registration issued by the Mayor as specified in Section 312.1(b).
- 600.9 No person shall manage a body art establishment in the District without obtaining a District-Issued Body Art Establishment Operator Identification Card issued by the Department as specified in Section 201.

601 APPLICATION PROCEDURE — PERIOD AND FORM OF SUBMISSION, PROCESSING

- 601.1 An applicant shall submit an application for a license at least thirty (30) calendar days before the date planned for opening a body art establishment or at least thirty (30) calendar days before the expiration date of the current license for an existing body art establishment.
- 601.2 Licenses shall be valid for a two (2) year period and renewed every two (2) years.

- 601.3 License fees issued in the middle of a licensing period shall be prorated.
- 601.4 An applicant shall submit a written application for a body art establishment license on a form provided by the Department.
- 601.5 A new application shall be filed with the Department within thirty (30) days of any change in ownership or location. A licensee shall also notify the Department at least thirty (30) calendar days before permanently or temporarily discontinuing operations.
- 601.6 The Department shall not process applications for a change in ownership or location where administrative actions are pending against an existing establishment that has not been resolved.

602 APPLICATION PROCEDURE — CONTENTS OF THE APPLICATION PACKET

- 602.1 An application for a license to operate a body art establishment shall include the full name(s) or any other name(s), including alias used by the applicant, and the following information:
- (a) The present address and telephone number of each applicant:
 - (1) If the applicant is an individual, the individual's residential address;
 - (2) If the applicant is a corporation, the names, including aliases and residential addresses of each of the officers and directors of said corporation and each stock holder owning more than ten percent (10%) of the stock of the corporation, and the address of the corporation itself if it is different from the address of the body art establishment; or the address of the partnership itself if different from the address of the body art establishment;
 - (3) If the applicant is a partnership, the names, including aliases and residential addresses of each partner, including limited partners, and the body art establishment.
 - (b) Name and address of registered agent, if applicable;
 - (c) The address and all telephone numbers of the body art establishment;
 - (d) A complete set of construction plans including all schedules (for example, floor plans, elevations, and electrical schematics), if applicable.

- (e) Proof that the owner applicants and operators are at least the age of majority by a Driver’s license, non-Driver’s license, or other Government issued identification that displays the applicant or operator’s date of birth;
- (f) Whether the owner applicants have owned or operated a body art establishment or other business in the District, another city, county or state, and if this business license:
 - (1) Has ever been suspended or revoked; and
 - (2) The reason for the suspension or revocation;
- (g) The results of a Criminal Background Check of each owner applicant and each operator;
- (h) A description of any other business to be operated on the same premises or on adjoining premises owned or operated by the owner applicant(s) or manager(s); and
- (i) The name and home address (non-business address) of each body artist who is employed or will be employed in the body art establishment.

603 DENIAL OF APPLICATION FOR LICENSE — NOTICE

603.1 If an application for a license or a renewal of a license is denied, the Department shall provide the applicant with written notice that includes:

- (a) The specific reasons and legal authority for denial of the license;
- (b) The actions, if any, that the applicant must take to qualify for a new license or to renew a license; and
- (c) Notice of the applicant’s right to a hearing and the process and timeframes for appeal as prescribed in Chapter 9 of these regulations.

604 ISSUANCE OF LICENSE — NEW, CONVERTED OR REMODELED, EXISTING OPERATIONS, AND CHANGE OF OWNERSHIP OR LOCATION

604.1 Each applicant shall submit:

- (a) A properly completed application packet provided by the Department;
- (b) Copies of policies and procedures as specified in Sections 300 through 309;

- (c) Copies of required recordkeeping as specified in Sections 310 through 316 for license renewals;
- (d) Proof of payment of the application and license fees; and
- (e) Proof of the Department's review and approval of required plans and specifications as specified in Section 605, if applicable.

604.2 If the applicant complies with Sections 600, 601, 602, 604, and 605 and the Department determines through its inspection as specified in Section 606 that the operation is in compliance with these regulations, the Department shall approve:

- (a) A new body art establishment;
- (b) An existing body art establishment that has changed ownership or location; or
- (c) An existing body art establishment's license renewal.

605 ISSUANCE OF LICENSE – REQUIRED PLAN REVIEWS AND APPROVALS

605.1 An applicant or licensee shall submit to the Department for review and approval properly prepared plans and specifications before:

- (a) The construction of a body art establishment;
- (b) The conversion of an existing structure for use as a body art establishment; or
- (c) Major renovation, remodeling, or alteration of an existing body art establishment.

605.2 Plans required by this section shall include specifications showing layout, arrangement, and construction materials, and the location, size, and type of fixed equipment and facilities.

605.3 Plans, specifications, an application form, and the applicable fee shall be submitted at least thirty (30) calendar days before beginning construction, remodeling, or conversion of a body art establishment.

605.4 The Department shall approve the completed plans and specifications if they meet the requirements of these regulations, and the Department shall report its findings to the license applicant or licensee within thirty (30) days of the date the completed plans are received.

605.5 Plans and specifications that are not approved as submitted shall be changed to comply or be deleted from the project.

606 ISSUANCE OF LICENSE – INSPECTIONS - PREOPERATIONAL, CONVERSIONS, AND RENOVATIONS*

606.1 The Department shall conduct one (1) or more preoperational inspections to verify and approve that the body art establishment is constructed and equipped in accordance with plans and modifications approved by the Department as specified in Section 605; has established standard operating procedures as specified in Chapter 3; and is in compliance with these regulations.

607 ISSUANCE OF LICENSE – NOTICE OF OPENING, DISCONTINUANCE OF OPERATION, AND POSTINGS

607.1 A body art establishment shall provide notice to the Department of its intent to operate the establishment at least thirty (30) calendar days before beginning operations.

607.2 A body art establishment shall provide notice to the Department of its intent to shut down permanently or temporarily at least thirty (30) calendar days before discontinuing operations.

607.3 If a body art establishment is closed for more than a thirty (30) day period, the body art establishment’s license and certificate of occupancy shall be returned to the Department and the owner shall be required to submit a new application for the issuance of a new license prior to reopening.

607.4 A current inspection report, all valid licenses, a Certificate of Occupancy, including the “Age Restriction Signs” required in Section 202.3, the “Health Risks Associated with Receiving a Body Art Procedure Nos. 1, 2 and 3” required in Sections 203.2 and 203.3, and the “Prohibited Conduct” required in Section 708 shall be conspicuously posted in the reception area next to the body art establishment’s license.

608 ISSUANCE OF LICENSE – NOT TRANSFERABLE

608.1 A body art establishment license shall not be transferred from one person to another person or from one location to another.

609 ISSUANCE OF LICENSE – DUPLICATES

609.1 A licensee shall submit a request for a duplicate body art establishment license that has been lost, destroyed or mutilated on a form provided by the Department and payment of the required fee.

609.2 Each duplicate license shall have a secured watermark of the word “DUPLICATE” across the face of the license, and shall bear the same number as the license it is replacing.

610 CONDITIONS OF LICENSE RETENTION – RESPONSIBILITIES OF THE LICENSEE

610.1 Upon receipt of a license issued by the Department, the licensee, in order to retain the license, shall comply with Sections 610.2 through 610.9.

610.2 The licensee shall post a current inspection report, and all valid licenses, Certificate of Occupancy, including the “Age Restriction Signs” required in Section 202.3, the “Health Risks Associated with Receiving a Body Art Procedure Nos. 1, 2 and 3” required in Sections 203.2 and 203.4, and the “Prohibited Conduct required in Section 708 in a conspicuous location in the reception area next to the body art establishment’s license.

610.3 The licensee shall comply with the provisions of these regulations and approved plans as specified in Section 605.

610.4 The licensee shall allow representatives of the Department access to its body art establishment as specified in Section 700.

610.5 The licensee shall immediately discontinue operations and notify the Department if an imminent health hazard exists as specified in Section 706.

610.6 The Department may direct the replacement of existing operating systems, or equipment, devices, fixtures, supplies, or furnishings where existing equipment, devices, fixtures, supplies, or furnishings are not safe to operate, are not in good repair or are not capable of being maintained in a hygienic condition in compliance with these regulations as specified in Section 102.2(a).

610.7 The licensee shall replace existing operating systems, or equipment, devices, fixtures, supplies, or furnishings that do not comply with these regulations pursuant to a documented agreement with the Department by an agreed upon date with an operating system, equipment, devices, fixtures, supplies, or furnishings that comply with these regulations as specified in Section 102.2(b).

610.8 The licensee shall maintain all records in accordance with these regulations.

**CHAPTER 7 INSPECTIONS, REPORTS, VIOLATIONS, CORRECTIONS,
AND PROHIBITED CONDUCT AND ACTIVITIES**

700 ACCESS & INSPECTION FREQUENCY — DEPARTMENT RIGHT OF ENTRY, DENIAL - MISDEMEANOR*

700.1 The Department shall determine a body art establishment's compliance with these regulations by conducting on-site:

- (a) Preoperational inspections;
- (b) Unannounced, routine and follow-up inspections; and
- (c) Unannounced, complaint generated inspections;

700.2 After representatives of the Department present official credentials and provide notice of the purpose and intent to conduct an inspection in accordance with these regulations, the applicant or licensee shall allow the Department access to any part, portion, or area of a body art establishment.

700.3 The Department may enter and inspect all aspects of a body art establishment, including but not limited to work areas, locker rooms, bathrooms, employee lounge areas, or other areas of a body art establishment for the following purposes:

- (a) To determine if the body art establishment is in compliance with these regulations;
- (b) To investigate an emergency affecting the public health if the body art establishment is or may be involved in the matter causing the emergency;
- (c) To investigate, examine, and sample or swab equipment, devices, fixtures, supplies, or furnishings; and
- (d) To obtain information and examine and copy all records on the premises including but not limited to instruments, equipment, manufacturers, records and maintenance logs, supplies and suppliers, service contracts, or furnishings used in a body art establishment.

700.4 If a person denies the Department access to any part, portion, or area of a body art establishment, the Department shall inform the individual that:

- (a) The applicant or licensee is required to allow access to the Department, as specified in Section 700;

- (b) Access is a condition of the receipt and retention of a license as specified in Section 610;
- (c) If access is denied, an inspection order allowing access may be obtained as specified in Section 700.6(c); and
- (d) The Department is making a final request for access.

700.5 If the Department presents credentials and provides notice as specified in Section 700.2, explains the authority upon which access is requested, and makes a final request for access as specified in Section 700.4(d), and the applicant or licensee continues to refuse access, the Department shall provide details of the denial of access on the inspection report.

700.6 If the Department is denied access to a body art establishment for an authorized purpose, after complying with Sections 700.2 through 700.5, the Department may:

- (a) Summarily suspend a license to operate a body art establishment in accordance with Section 808;
- (b) Revoke or suspend a license to operate a body art establishment in accordance with Section 813; or
- (c) Request that the Office of the Attorney General for the District of Columbia commence an appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief from the court including but not limited to administrative search warrants, to enforce these regulations in accordance with the Department of Health Functions Clarification Act of 2001, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl. & 2012 Supp.)).

701 REPORT OF FINDINGS — DOCUMENTING INFORMATION AND OBSERVATIONS

701.1 The Department shall document on an inspection report form:

- (a) Administrative information about the body art establishment’s legal identity, street and mailing addresses, inspection date, and other information such as status of the license and personnel certificates that may be required or other inspectional findings; and
- (b) Specific factual observations of violations of these regulations that require correction by the licensee including:
 - (1) Nonconformance with critical items of these regulations;

- (2) Failure of a licensee to correct cited violations, as specified in Section 709 or 711; or
- (3) Failure of the licensee to ensure that operators are properly trained and have knowledge of their responsibility as specified in Chapters 2 and 3.

702 REPORT OF FINDINGS — SPECIFYING TIME FRAME FOR CORRECTIONS

702.1 The Department shall specify on the inspection report the time frame for correction of violations as specified in Sections 709 and 711.

703 REPORT OF FINDINGS — ISSUING REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT

703.1 At the conclusion of the inspection, the Department shall provide a copy of the completed inspection report and the notice to correct violations to the licensee and request a signed acknowledgment of receipt. The inspection report shall contain a listing of violations by area in the operation and inspection item with corresponding citations to applicable provisions in these regulations and shall be conspicuously posted in the reception area next to the body art establishment's license.

704 REPORT OF FINDINGS — REFUSAL TO SIGN ACKNOWLEDGMENT

704.1 The Department shall inform a person who declines to sign an acknowledgment of receipt of inspection findings that:

- (a) An acknowledgment of receipt is not an agreement with the finding;
- (b) Refusal to sign an acknowledgment of receipt will not affect the licensee's obligation to correct the violations noted in the inspection report within the time frames specified; and
- (c) A refusal to sign an acknowledgment of receipt will be noted in the inspection report for the body art establishment.

705 REPORT OF FINDINGS — PUBLIC INFORMATION, RECORDS RETENTION

705.1 The Department shall keep and maintain in-office as an active record a copy of each inspection report, complaint, inspector's sample reports, license suspension, and other correspondence regarding a body art establishment within the District for a period of one (1) year, and then as an inactive record for a period of two (2)

additional years. Inactive records shall be destroyed in-house at the end of the two (2)-year inactive period.

705.2 In the case of an audit or investigation, the Department shall keep all records until the audit or investigation has been completed.

705.3 The Department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided in the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code §§ 2-501, *et seq.* (2011 Repl. & 2012 Supp.)).

706 IMMEDIATE HEALTH HAZARD — CEASING OPERATIONS AND EMERGENCY REPORTING TO THE DEPARTMENT OF HEALTH*

706.1 The Department shall summarily suspend operations, or a licensee shall immediately discontinue operations and notify the Department, whenever a body art establishment is operating with any of the following conditions:

- (a) Extensive fire damage that affects the body art establishment's ability to comply with these regulations;
- (b) Serious flood damage that affects the body art establishment's ability to comply with these regulations;
- (c) Loss of electrical power to critical systems, including but not limited to lighting, heating, cooling, or ventilation controls for a period of two (2) or more hours;
- (d) Without sterile water in violation of Section 300;
- (e) No water, or insufficient water capacity, or inadequate water pressure to any part of the body art establishment in violation of Section 403.1(a);
- (f) No hot water, or an unplanned water outage, or the water supply is cut off in its entirety for a period of one (1) or more hours in violation of Sections 403.1(b);
- (g) Incorrect hot water temperatures that cannot be corrected during the course of the inspection in violation of Section 404.1;
- (h) A plumbing system supplying potable water that may result in contamination of the potable water;
- (j) A sewage backup or sewage that is not disposed of in an approved and sanitary manner;

- (j) A cross-connection between the potable water and non-potable water distribution systems, including but not limited to landscape irrigation, air conditioning, heating, or fire suppression system;
- (k) A back siphonage event;
- (l) Toilet or handwashing facilities that are not properly installed in violation of Sections 403.1 and 405.1;
- (m) Work surfaces, including but not limited to work stations, solid surfaces and objects in the procedure and decontamination areas within a body art establishment that are stained with blood or bodily fluids, or soiled; or infested with vermin; or are in an otherwise unsanitary condition;
- (n) Gross insanitary occurrence or condition that may endanger public health including but not limited to an infestation of vermin; or
- (o) Without eliminate the presence of insects, rodents, or other pests on the premises in violation of Section 507.

706.2

In addition to the imminent health hazards identified in Section 706.1, the Department shall summarily suspend operations if it determines through an inspection, or examination of records or other means as specified in Section 700.1, the existence of any other condition which endangers the public health, safety, or welfare, including but not limited to:

- (a) Operating a body art establishment or performing a body art procedure without a license in violation of Section 600.1;
- (b) Employing a body artist without a valid body artist license issued by the Mayor in violation of Section 600.2;
- (c) Operating a body art establishment with an expired or suspended license in violation of Section 600.3;
- (d) Employing a body artist who is performing body art procedures with an expired or suspended body artist license in violation of Section 600.4;
- (e) Operating a body art establishment without a valid Certificate of Occupancy in violation of Section 600.5;
- (f) Operating a body art establishment without posting required signage in violation of Section 607.4;
- (g) Operating a body art establishment without a valid District-Issued body art establishment Operator's Identification Card in violation of Section 201;

- (h) Operating a body art establishment without an operator who is on duty and on the premises during all hours of operation in violation of Section 200.2;
- (i) Operating a body art establishment without a body artist who is on duty and on the premises during all hours of operation in violation of Section 200.3;
- (j) Using suppliers and manufacturers of pigments that are not registered in the District in violation of Section 314.3;
- (k) Failing to allow access to DOH representatives during the facility’s hours of operation and other reasonable times as determined by the Department; or hindering, obstructing, or in any way interfering with any inspector or authorized Department personnel in the performance of his or her duty in violation of Section 700.6(a); or
- (l) Operating in violation of any provision specified in Section 708.

707 IMMEDIATE HEALTH HAZARD – RESUMPTION OF OPERATIONS

- 707.1 If operations are discontinued as specified in Section 706 or otherwise according to applicable D.C. laws and regulations, the licensee shall obtain approval from the Department before resuming operations.
- 707.2 The Department shall determine whether a licensee needs to discontinue operations that are unaffected by the imminent health hazard in a body art establishment as determined by the Department or other District agency.

708 PROHIBITED CONDUCT – ADVERTISEMENTS AND ACTIVITIES

- 708.1 No person shall perform or offer to perform body art procedures, hold him or herself out as a practitioner of, or entitled to, or authorized to, practice body art procedures, assume any title of “body artist”, “tattooist”, “tattoo artist”, “body-piercer”, “body-piercing artist”, or “body modification artist” and the like, use any words or letters, figures, titles, signs, cards, advertisement, or any other symbols or devices indicating or tending to indicate that the person is authorized to perform such services, or use other letters or titles in connection with that person’s name which in any way represents himself or herself as being engaged in the practice of body art, or authorized to do so, unless the person is licensed by and registered with the Mayor to perform body art procedures in the District of Columbia.
- 708.2 No person shall perform any body art procedure on anyone under the age of eighteen (18) years of age, except ear piercing using a mechanized, pre-sterilized, single-use stud and clasp ear piercing gun. Such ear piercing shall not occur unless a parent or legal guardian has provided his or her written consent.

- 708.3 No body artist shall use an ear piercing system on any part of a customer's body other than the lobe of the ear.
- 708.4 No person shall perform body art procedures if the person is unable to exercise reasonable care and safety or is otherwise impaired by reason of illness, while under the influence of alcohol, or while using any controlled substance or narcotic drug as defined in 21 U.S.C. § 802(6) or (17), respectively, or other drug in excess of therapeutic amounts or without valid medical indication, or any combination thereof.
- 708.5 No body artist shall administer anesthetic injections or other medications and prescription drugs to customers receiving body art procedures.
- 708.6 No body artist shall use styptic pens or alum solids to control the flow of blood flow.
- 708.7 No one shall be tattooed or pierced at any location in the establishment other than in a designated work area.
- 708.8 No customer shall be allowed to perform their own tattoo, piercing or insertions anywhere on the premises.
- 708.9 No food, drink, tobacco product, or personal effects shall be allowed in the procedure area.
- 708.10 Body artists shall not eat, drink, or smoke while performing a procedure. If a customer requests to eat, drink, or smoke, the procedure shall be stopped and the procedure site shall be protected from possible contamination while the customer leaves the procedure area to eat, drink, or smoke.
- 708.11 Branding shall not be done with another customer in the procedure area. During the procedure, the body artist and the customer shall wear appropriate protective face filter masks.
- 708.12 No body art procedure shall be performed on animals in a body art establishment.
- 708.13 No body artist shall perform a body art procedure on a customer who admits to, or is obviously under the influence of any substance, legal or illegal, which might impair the customer's judgment.

709 CRITICAL VIOLATIONS — TIME FRAME FOR CORRECTION*

- 709.1 A licensee shall, at the time of inspection, correct a critical violation no later than five (5) business days after the inspection.

709.2 The Department may consider the nature of the potential hazard involved and the complexity of the corrective action needed and agree to specify a longer timeframe, not to exceed five (5) business days after the inspection, for the licensee to correct a critical violation of these regulations.

709.3 Failure to correct violations in accordance with this section may subject a licensee to a condemnation order pursuant to Section 802, summary suspension of a license pursuant to Section 808, revocation or suspension of a license pursuant to Section 813, or administrative remedies pursuant to Sections 1000 and 1001.

710 CRITICAL VIOLATION – VERIFICATION AND DOCUMENTATION OF CORRECTION

710.1 After receiving notification that the licensee has corrected a critical violation, the Department shall verify correction of the violation, document the information on an inspection report, and enter the report in the Department's records.

711 NONCRITICAL VIOLATIONS – TIME FRAME FOR CORRECTION

711.1 The licensee shall correct noncritical violations no later than fourteen (14) business days after the inspection.

711.2 Failure to correct violations in accordance with this section may result in the revocation or suspension of a license pursuant to Section 813, or administrative remedies pursuant to Sections 1000 and 1001.

712 REQUEST FOR REINSPECTION

712.1 If a license is summarily suspended pursuant to Section 808 or suspended or revoked pursuant to Section 813 because of violations of these regulations, the licensee shall submit a written request for reinspection and pay the required reinspection fee.

712.2 Upon receipt of a request for reinspection, the Department shall conduct the reinspection of a body art establishment within three (3) business days of receipt of the request.

712.3 A body art establishment shall not resume operations or remove from public view any signage, license, Certificate of Occupancy, or current inspection result as specified in Section 607.4, or any enforcement order as specified in Section 707.1 until the Department has reinspected the body art establishment and certified that it is in compliance with these regulations.

CHAPTER 8 ADMINISTRATIVE ENFORCEMENT ACTIONS AND ORDERS

800 ADMINISTRATIVE – CONDITIONS WARRANTING REMEDIES

- 800.1 The Department may seek an administrative or judicial remedy to achieve compliance with the provisions of these regulations if a licensee, person operating a body art establishment, or employee:
- (a) Fails to have a valid licenses and registrations as specified in Section 600;
 - (b) Fails to pay the required fee as specified in Section 604.1(e);
 - (c) Violates any term or condition of a license as specified in Section 610;
 - (d) Fails to allow the Department access to a body art establishment as specified in Section 700.6;
 - (e) Fails to comply with directives of the Department including time frames for corrective actions specified in inspection reports as specified in Sections 709.1 and 711.1;
 - (f) Fails to comply with a condemnation order as specified in this chapter;
 - (g) Fails to comply with a summary suspension order by the Department as specified in this chapter;
 - (h) Fails to comply with an order issued as a result of an administrative hearing;
 - (i) Makes any material false statement in the application for licensure;
 - (j) Falsifies or alters records required to be kept by these regulations; or
 - (k) Seeks to operate with conditions revealed by the application or any report, records, inspection, or other means which would warrant the Department refusal to grant a new license.
- 800.2 The Department may simultaneously use one or more of the remedies listed in this chapter to address a violation of these regulations.

801 ADMINISTRATIVE – EXAMINING, SAMPLING, AND TESTING OF EQUIPMENT, WATER, INKS, DYES, PIGMENTS, REUSABLE INSTRUMENTS, DISPOSABLE ITEMS, JEWELRY, SHARPS, MARKING INSTRUMENTS AND STENCILS, AND FURNISHINGS

- 801.1 The Department may examine, collect samples, and test equipment, water, inks, dyes, pigments, reusable instruments, disposable items, jewelry, sharps, marking

instruments and stencils, and furnishings without cost and test as necessary to determine compliance with these regulations.

802 ADMINISTRATIVE — CONDEMNATION ORDER, JUSTIFYING CONDITIONS AND REMOVAL OF EQUIPMENT, WATER, INKS, DYES, PIGMENTS, REUSABLE INSTRUMENTS, DISPOSABLE ITEMS, JEWELRY, SHARPS, MARKING INSTRUMENTS AND STENCILS, AND FURNISHINGS

802.1 A duly authorized agent of the Department may condemn and forbid the sale of, or cause to be removed and destroyed, any equipment, water, inks, dyes, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings found in a body art establishment the use of which does not comply with these regulations, or that is being used in violation of these regulations, or that because of dirt, filth, extraneous matter, corrosion, open seams, or chipped or cracked surfaces is unfit for use.

803 ADMINISTRATIVE — CONDEMNATION ORDER, CONTENTS

803.1 The condemnation order shall:

- (a) State that the equipment, water, inks, dyes, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings subject to the order may not be used, sold, moved from the body art establishment, or destroyed without a written release of the order from the Department;
- (b) State the specific reasons for placing the equipment, water, inks, dyes, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings under the condemnation order with reference to the applicable provisions of these regulations and the hazard or adverse effect created by the observed condition;
- (c) Completely identify the equipment, water, inks, dyes, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings subject to the condemnation order by the common name, the label or manufacturer's information, description of the item, the quantity, the Department's tag or identification information, and location;
- (d) State that the licensee has the right to a hearing and may request a hearing by submitting a timely request as specified in Section 904, but that the request does not stay the Department's imposition of the condemnation order;
- (e) State that the Department may order the destruction, replacement or removal of equipment, water, inks, dyes, pigments, reusable instruments, disposable

items, jewelry, sharps, marking instruments and stencils, and furnishings if a timely request for a hearing is not received; and

- (f) Provide the name and address of the Department representative to whom a request for a hearing may be made.

804 ADMINISTRATIVE — CONDEMNATION ORDER, OFFICIAL TAGGING OR MARKING OF EQUIPMENT, WATER, INKS, DYES, PIGMENTS, REUSABLE INSTRUMENTS, DISPOSABLE ITEMS, JEWELRY, SHARPS, MARKING INSTRUMENTS AND STENCILS, AND FURNISHINGS

804.1 The Department shall place a tag, label, or other appropriate marking to indicate the condemnation of equipment, water, inks, dyes, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings that do not meet the requirements of these regulations.

804.2 The tag or other method used to identify the equipment, water, inks, dyes, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings that are the subject of a condemnation order shall include a summary of the provisions specified in Section 803 and shall be signed and dated by the Department.

805 ADMINISTRATIVE — CONDEMNATION ORDER, EQUIPMENT, WATER, INKS, DYES, PIGMENTS, REUSABLE INSTRUMENTS, DISPOSABLE ITEMS, JEWELRY, SHARPS, MARKING INSTRUMENTS AND STENCIL, AND FURNISHINGS RESTRICTIONS

805.1 Equipment, water, inks, dyes, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings that are subject to a condemnation order may not be used, sold, moved, or otherwise destroyed by any person, except as specified in Section 806.2.

806 ADMINISTRATIVE — CONDEMNATION ORDER, REMOVING THE OFFICIAL TAG OR MARKING

806.1 No person shall remove the tag, label, or other appropriate marking except under the direction of the Department as specified in Section 806.2.

806.2 The Department shall issue a notice of release from a condemnation order and shall remove condemnation tags, labels, or other appropriate markings from body art equipment, water, inks, dyes, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings if:

- (a) The condemnation order is vacated; or

- (b) The licensee obtains authorization from the Department to discard equipment, water, inks, dyes, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings in a body art establishment identified in the condemnation order.

807 ADMINISTRATIVE — CONDEMNATION ORDER, WARNING OR HEARING NOT REQUIRED

807.1 The Department may issue a condemnation order to a licensee, or to a person who owns or controls the equipment, water, inks, dyes, pigments, reusable instruments, disposable items, jewelry, sharps, marking instruments and stencils, and furnishings as specified in Section 802, without prior warning, notice of a hearing, or a prior hearing on the condemnation order.

807.2 The licensee shall have the right to request a hearing within fifteen (15) business days of receiving a Department condemnation order. The Department shall hold a hearing within seventy-two (72) hours of receipt of a timely request, and shall issue a decision within seventy-two (72) hours after the hearing. The request for a hearing shall not act as a stay of the condemnation action.

808 ADMINISTRATIVE — SUMMARY SUSPENSION OF LICENSE, CONDITIONS WARRANTING ACTION

808.1 The Department may summarily suspend a license to operate a body art establishment if it is denied access to the body art establishment to conduct an inspection, or determines through an inspection, or examination of operators, employees, records, or other means as specified in the regulations, that an imminent health hazard exists.

809 ADMINISTRATIVE — CONTENTS OF SUMMARY SUSPENSION NOTICE

809.1 A summary suspension notice shall state:

- (a) That the license of a body art establishment is immediately suspended and that all operations shall immediately cease;
- (b) The reasons for summary suspension with reference to the provisions of these regulations that are in violation;
- (c) The name and address of the Department representative to whom a written request for reinspection may be made and who may certify that reasons for the suspension are eliminated; and
- (d) That the licensee may request a hearing by submitting a timely request in accordance with Section 810.2, which request does not stay the Department's imposition of the summary suspension.

810 ADMINISTRATIVE — SUMMARY SUSPENSION, WARNING OR HEARING NOT REQUIRED

810.1 The Department may summarily suspend a license as specified in Section 808 by providing written notice as specified in Section 809 of the summary suspension to the licensee, without prior warning, notice of a hearing, or prior hearing.

810.2 The licensee shall have the right to request a hearing within fifteen (15) business days after receiving the Department’s summary suspension notice. The Department shall hold a hearing within seventy-two (72) hours of receipt of a timely request, and shall issue a decision within seventy-two (72) hours after the hearing. The request for a hearing shall not act as a stay of the summary suspension.

811 ADMINISTRATIVE — SUMMARY SUSPENSION, TIME FRAME FOR REINSPECTION

811.1 After receiving a written request from the licensee stating that the conditions cited in the summary suspension order no longer exist, the Department shall conduct a reinspection of the body art establishment for which the license was summarily suspended within three (3) business days of receiving the request.

812 ADMINISTRATIVE — SUMMARY SUSPENSION, TERM OF SUSPENSION, REINSTATEMENT

812.1 A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and the Department has confirmed, through reinspection or other appropriate means that the conditions cited in the notice of suspension have been eliminated.

813 ADMINISTRATIVE — REVOCATION OR SUSPENSION OF LICENSE

813.1 Failure to comply with any of the provisions of these regulations shall be grounds for the revocation or suspension of any license issued to a body art establishment pursuant to the Department of Health Functions Clarification Act of 2001, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl. & 2012 Supp.)). The Department may revoke a license of a body art establishment upon a showing of a subsequent violation when there is a history of repeated violations or where a license has been previously suspended.

813.2 Before a license is revoked or suspended, a licensee shall be given an opportunity to answer and to be heard on the violations, as specified in Sections 904.1 and 904.2.

CHAPTER 9 SERVICE OF PROCESS AND HEARING ADMINISTRATION

900 SERVICE OF PROCESS – NOTICE, PROPER METHODS

900.1 A notice issued in accordance with these regulations shall be deemed properly served if it is served by one (1) of the following methods:

- (a) A Department representative, a law enforcement officer, or a person authorized to serve a civil process, personally services the notice to the licensee, the operator, or the person operating the body art establishment without a license;
- (b) The Department sends the notice to the last known address of the licensee or person operating a body art establishment without a license, in accordance with Section 205 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1802.05 (2012 Supp.)), or by other public means so that a written acknowledgment of receipt may be acquired; or
- (c) For civil infraction penalties, the notice is provided by the Department in accordance 16 DCMR § 3102.

901 SERVICE OF PROCESS – RESTRICTION OR EXCLUSION, CONDEMNATION, OR SUMMARY SUSPENSION ORDERS

901.1 An employee restriction order, exclusion order, condemnation order, or summary suspension order shall be:

- (a) Served as specified in Section 900.1(a); or
- (b) Clearly posted by the Department at a public entrance to the body art establishment and a copy of the notice sent by first class mail to the licensee or manager of a body art establishment, as appropriate.

902 SERVICE OF PROCESS – NOTICE, EFFECTIVENESS

902.1 Service is effective at the time of the notice's receipt as specified in Section 901.1(a), or if service is made as specified in Section 901.1(b) at the time of the notice's posting.

903 SERVICE OF PROCESS – PROOF OF PROPER SERVICE

903.1 Proof of proper service may be made by certificate of service signed by the person making service or by admission of a return receipt, certificate of mailing, or a

written acknowledgment signed by the licensee or person operating a body art establishment without a license or an authorized agent.

904 ADMINISTRATIVE HEARINGS – NOTICE, REQUEST, AND TIME FRAME

904.1 A person who receives a notice of hearing for an administrative remedy as specified in this chapter and elects to respond to the notice shall file a response to the notice within seven (7) calendar days after service.

904.2 In response to an adverse administrative action, a licensee may submit a written request for a hearing to the Department within fifteen (15) calendar days of the receipt of notice of adverse action.

904.3 A hearing request shall not stay a condemnation order as specified in Section 803.1(d), or the imposition of a summary suspension as specified in Section 809.1(d).

905 ADMINISTRATIVE HEARINGS – CONTENTS OF RESPONSE TO HEARING NOTICE, OR HEARING REQUEST

905.1 A response to a hearing notice shall be in writing and contain the following:

- (a) An admission or denial of each allegation of fact;
- (b) A statement as to whether the respondent waives the right to a hearing;
- (c) A statement of defense, mitigation, or explanation concerning any allegation of fact, if any; and
- (d) The name and address of the respondent’s legal counsel, if any.

905.2 A request for a hearing shall be in writing and contain the following:

- (a) An admission or denial of each allegation of fact;
- (b) A statement of defense, mitigation, denial, or explanation concerning each allegation of fact; and
- (c) The name and address of the requester’s legal counsel, if any.

906 ADMINISTRATIVE HEARINGS – TIMELINESS

906.1 The Department shall afford a hearing within seventy-two (72) hours after receiving a written request for a hearing from:

- (a) A licensee or person who is subject to a condemnation order as specified in Section 802; or
- (b) A person whose license is summarily suspended as specified in Section 808.

906.2 A licensee or person who submits a request for a hearing as specified in Section 906.1 may waive the expedited hearing in a written request to the Department.

CHAPTER 10 ADMINISTRATIVE AND CRIMINAL SANCTIONS, AND JUDICIAL REVIEW

1000 ADMINISTRATIVE SANCTIONS – NOTICE OF INFRACTIONS

1000.1 The Department may impose civil infraction fines penalties for violations of any provision of these regulations pursuant to the Department of Consumer & Regulatory Affairs Civil Infractions Act of 1985, (Civil Infraction Act), effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801, *et seq.* (2007 Repl. & 2012 Supp.)).

1001 CRIMINAL SANCTIONS – CRIMINAL FINES, IMPRISONMENT

1001.1 A body art establishment that is in violation of Sections 200.5, 203.2, 311.1, and 314.3 of these regulations shall be subject to license suspension or revocation as specified in Section 813 and a maximum fine of two thousand, five hundred dollars (\$2,500) in accordance with the Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-0193; D.C. Official Code § 47-2809.01(c)(5) (2013 Supp.)).

1001.2 Any person who violates Sections 600.1 and 600.2 of these regulations shall, upon conviction, be deemed guilty of a misdemeanor and may be punished by a fine not to exceed two thousand five hundred dollars (\$2,500), imprisonment for not more than three (3) months, or both in accordance with the Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-0193; D.C. Official Code § 47-2809.01(d)(3) (2013 Supp.)).

1002 JUDICIAL REVIEW – APPEALS

1002.1 Any person aggrieved by a final order or decision of the Department may seek judicial review in accordance with the Department of Health Functions Clarification Act of 2001, effective October 3, 2001, as amended (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl. & 2012 Supp.)).

CHAPTER 99 DEFINITIONS

9900 GENERAL PROVISIONS

9900.1 The terms and phrases used in this title shall have the meanings set forth in this chapter, unless the text or context of the particular chapter, section, subsection, or paragraph provide otherwise.

9901 DEFINITIONS

9901.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

Aftercare Instructions – written instructions given to a customer, specific to the body art procedure received and caring for the body art and surrounding area, including information about when to seek medical treatment, if necessary.

Antiseptic solution – a liquid or semi-liquid substance that is approved by the U.S. Food and Drug Administration to reduce the number of microorganisms present on the skin and on mucosal surfaces.

Bloodborne pathogens – a microorganism present in human blood and other bodily fluids that can cause disease. Bloodborne pathogens include the hepatitis B virus, hepatitis C virus, and human immunodeficiency syndrome.

Board – the Department of Consumer and Regulatory Affairs (DCRA) Board of Barber and Cosmetology.

Body art establishment – any structure or venue, whether temporary or permanent, where body art procedures are performed, including training facilities.

Body art or body art procedure – the process of physically modifying the body for cosmetic or other non-medical purposes, including tattooing, body-piercing, and fixing indelible marks or figures on the skin through scarification, branding, tongue bifurcation, and tissue removal.

Body artist – an individual licensed to perform body art procedures in accordance with the Regulation of Body Artists and Body Art Establishments Act of 2012, effective October 23, 2012 (D.C. Law 19-193; D.C. Official Code § 47-2809.01) (2013 Supp.).

Body piercing – the perforation of any human body part followed by the insertion of an object, such as jewelry, for cosmetic or other nonmedical purposes by using any of the following instruments, methods, or processes: stud and clasp, captive ball, soft tissue, cartilage, surface, surface-to-surface,

microdermal implantation or dermal anchoring, subdermal implantation, and transdermal implantation. The term “body-piercing” does not include nail piercing.

Branding – the process of applying extreme heat with a pen-like instrument or other instrument to create an image or pattern.

Cleaning area – the area in a body art establishment used in the decontamination, sterilization, sanitization or other cleaning of instruments or other equipment used body art procedures.

Cleaning products – any material used to apply cleansing agents to the skin, such as cotton balls, tissue and paper products, paper or plastic cups, towels, gauze, or sanitary coverings.

Communicable disease – a disease that can be transmitted from person to person directly or indirectly, including diseases transmitted via blood or body fluids.

Condemnation order – a written administrative notice: (1) to remove any body art equipment or supplies, or (2) to cease conducting any particular procedures because the equipment or supplies are not being used or the procedures are not being conducted in accordance with the requirements of these regulations.

Contaminated – the presence or reasonably anticipated presence of blood, infectious materials or other types of impure materials that have corrupted a surface or item through contact.

Contaminated waste – 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; contaminated sharps and pathological and microbiological wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations, Part 1910.1030, known as “Occupational Exposure to Bloodborne Pathogens”.

Customer – an individual upon whom a body art procedure is performed.

Decontamination – the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where the pathogens are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

Decontamination and sterilization area – a room, or specific section of a room, that is set apart and used only to maintain supplies, and to clean, decontaminate and sterilize jewelry and instruments.

Department – the Department of Health.

Disinfectant – an EPA registered hospital grade disinfectant which is effective against *Salmonella choleraesuis*, *Staphylococcus aureus* and *Pseudomonas aeruginosa*; or to reduce or eliminate the presence of disease-causing microorganisms, including human immunodeficiency virus (HIV) and hepatitis B virus (HBV) for use in decontaminating inanimate objects and work surfaces.

Ear piercing – the creation of an opening in an individual’s ear lobe with an ear piercing gun to insert jewelry or other decoration.

Ear piercing gun – a mechanical device that pierces an individual’s ear using a single-use stud and clasp ear piercing system.

Exposure – an event whereby the eye, mouth or other mucous membrane, non-intact skin or parenteral contact with the blood or bodily fluids of another person, or contact of an eye, mouth or other mucous membrane, non-intact skin or parenteral contact with other potentially infectious matter

Exposure control plan – a written action plan that specifies precautionary measures taken to manage and minimize potential exposure to bloodborne pathogens in the workplace.

Germicidal soap – an agent designed for use on the skin that kills disease-causing microorganisms, including but not limited to, products containing povidone-iodine, chloroxylenol, triclosan, and chlorhexidine gluconate.

Germicidal solution – an agent that kills disease-causing microorganisms on hard surfaces; a disinfectant or sanitizer registered with the Environmental Protection Agency and/or a 1:100 dilution of 5.25% sodium hypochlorite (household chlorine bleach) and water, made fresh daily, dispensed from a spray bottle, and used to decontaminate inanimate objects and surfaces.

Gloves – protective hand covers that reduce the risk of injury and exposure to bloodborne pathogens; those which are medical-grade latex, vinyl or hypoallergenic single-use disposable gloves and are labeled for surgical or examination purposes, for instrument cleaning shall be heavy-duty, multi-use and waterproof.

Ink cup – a small container for an individual portion of pigment that may be installed in a holder or palette and in which a small amount of pigment of a given color is placed.

Instruments – devices, including but not limited to sharps, including but not limited to needles, needle bars, needle tubes, hemostats, forceps, pliers, and other items that may come in contact with a customer’s body or possible exposure to bodily fluids during the body art procedures.

Medical-grade sharps container – a puncture-resistant, leak-proof, rigid container that can be closed for handling, storage, transportation and disposal and is labeled with the International Biohazard Symbol:



Minor – any person under the age of eighteen (18).

Mucosal surface – the moisture-secreting membrane lining of all body cavities or passages that communicates with the exterior, including but not limited to the nose, mouth, vagina, and urethra.

Multi-type establishment – an operation encompassing both body-piercing and tattooing in the same establishment and under the same management.

Operator or manager – any person who owns, controls, or operates a body art establishment, whether or not the person actually performs body art procedures.

Permanent cosmetics – the application of pigments in human skin tissue for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eyebrow, or lip color.

Pre-sterilized instruments – instruments that are commercially sterilized and packaged by the manufacturer and bear a legible sterilization lot number and expiration date.

Procedure area – a room or designated portion of a room that is set apart and only used to perform body art.

Procedure site – an area or location on the human body selected for the placement of body art.

Sanitary – clean and free of agents of infection or disease.

Sanitization – reduction of the population of microorganisms to safe levels, as determined by the Department of Health, by a product registered with the

Environmental Protection Agency (“EPA”) or by chemical germicides that are registered with the EPA as hospital disinfectants.

Sanitized – effective bactericidal treatment by a process that provides sufficient concentration of chemicals for enough time to reduce the bacteria count including pathogens to a safe level on instruments, equipment, and animate objects.

Scarification – placing of an indelible mark on the skin by the process of cutting or abrading the skin to bring about permanent scarring.

Sharps – any object, sterile or contaminated, that may penetrate the skin or mucosa, including but not limited to pre-sterilized single needles, scalpel blades and razor blades; but not including disposable safety razors which have not broken the skin.

Single-use – products or items intended for one-time use that are disposed of after use on a customer.

Sterilization – process of destruction of all forms of microbial life, including spores by physical or chemical means.

Sterilizer – an autoclave that is designed and labeled by the manufacturer as a medical instrument sterilizer and is used for the destruction of microorganisms and their spores.

Tattoo – placing of pigment into the skin dermis for cosmetic or other nonmedical purposes, including the process of micropigmentation or cosmetic tattooing.

Tissue removal – placing an indelible mark or figure on the skin through removal of a portion of the dermis.

Tongue bifurcation – cutting of the human tongue from tip to part of the way toward the base, forking at the end into two or more parts.

Valid license or registration – a current license or registration issued by the Mayor that is not suspended, revoked, or expired.

Workstation – the area within a procedure area where body-artists perform body art procedures. The workstation includes but is not limited to the customer’s chair or table, counter, mayo stand, instrument tray, storage drawer, and body artist’s chair.

All persons wishing to comment on these proposed rules should submit written comments no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to the Office of the General Counsel, Department of Health, 899 North Capitol Street, N.E., Room 547,

Washington, D.C. 20002. Copies of the proposed rules may be obtained from the above address, excluding weekends and holidays. You may also submit your comments to Angli Black at (202) 442-5977 or email Angli.Black@dc.gov.