

**REGULATION TO REQUIRE LICENSE
TO OPERATE A BODY ART ESTABLISHMENT
AND TO ESTABLISH MINIMUM STANDARDS FOR
BODY ART ESTABLISHMENTS**

SECTION 1.0 GENERAL PROVISIONS OF THE REGULATION

1.1 TITLE

This regulation shall be known as the Regulation to Require License to Operate a Body Art Establishment and to Establish Minimum Standards for Body Art Establishments.

1.2 AUTHORITY

This regulation is adopted pursuant to authority conferred upon local health departments by Section 2435(d) and Section 2441 (1) of the Michigan Public Health Code, Act 368, P.A. of 1978 as amended, MCL 333.2435(d) and MCL 333.2441(1).

1.3 JURISDICTION AND ADMINISTRATION

1.3.1 This regulation shall have effect throughout Genesee County in all areas incorporated and unincorporated, which includes cities, villages and townships.

1.3.2 The Health Officer shall have responsibility for administering and enforcing this regulation, including all amendments hereafter adopted, unless otherwise specifically stated.

1.3.3 Nothing in this regulation shall be construed to restrict or abrogate the authority of any municipality in Genesee County to adopt more restrictive regulations or ordinances.

1.4 PURPOSE AND FINDINGS

Genesee County does hereby find that:

1.4.1 Injuries, infections and disease transmissions may occur as a result of improper body art or aftercare procedures¹.

1.4.2 Body Art, by its nature, places individuals at risk for communicable disease transmission. Tattooing involves multiple intradermal injections of the skin by a small machine having one or more needles connected to tubes containing the dyes.² Since tattooing involves injections under the skin, without proper sterilization and infection control practices, there is a

¹ LEXIS-NEXIS. "Academic Universe." [Online]20 December 2000. < <http://web.lexis-nexis.com/universe/doc> >

² CDC. "Questions and Answers – Tattoo." [Online] 20 December 2000.
< <http://www.niehs.nih.gov/external/faq/tattoo.htm> >

risk for viral and bacterial infection. Body piercing presents the same risks.^{3, 4, 5} Although there are not multiple needle sticks, there is risk of cross-contamination if equipment is not properly sterilized between clients. Additionally, blood is present in each procedure, subsequently increasing risk of infection by bloodborne pathogens to the technician.

- 1.4.3 Hepatitis B (HBV) and Hepatitis C (HCV) are virus strains spread through contact with blood or body fluids. Both of these cause severe illness, “life-long disease, scarring (cirrhosis) of the liver, liver failure, liver cancer or even death”.⁶ A person is at risk of getting Hepatitis from a person who has it by sharing body piercing or tattooing equipment without proper sterilization or decontamination.
- 1.4.4 A risk of HIV transmission does exist if tattoo and body piercing instruments contaminated with blood are either not sterilized or disinfected or are used inappropriately between clients. The Centers for Disease Control and Prevention recommends that body art technicians be educated about how HIV is transmitted and take precautions to prevent this and other bloodborne infection transmission in their establishment.⁷
- 1.4.5 A myriad of other infections can result from body art without proper pre- and post- procedure technician and client education.⁸ Proper cleaning of the site of art, before it is performed, during the procedures, and once the client is home, is essential in reducing the likelihood of infection.

Therefore, this regulation is adopted to safeguard the public health by Requiring a License to Operate a Body Art Establishment and Establishing Minimum Standards for Body Art Establishments.

SECTION 2.0 DEFINITIONS

The following terms used in this regulation are defined as follows:

³ Body piercing does NOT include ear piercing with pre-sterilized, single use equipment. There is a low prevalence of major complications associated with ear piercing. The American Academy of Dermatology has taken a position against all forms of body piercing EXCEPT ear piercing.

⁴ MDCH. “HEPATITIS – What you need to know.” [Online] 20 December 2000
< <http://www.mdch.state.mi.us/bh/hepatitis/> >

⁵ CDC. “Can I get HIV from getting a tattoo or body piercing?” [Online] 20 December 2000
< <http://www.cdc.gov/hiv/pubs/faq/faq27.htm> >

⁶ MDCH HEPATITIS. “What you need to know.” [Online] 20 December 2000
< <http://www.mdch.state.mi.us/bh/hepatitis/> >

⁷ CDC. “Can I get HIV from getting a tattoo or body piercing?” [Online] 20 December 2000
< <http://www.cdc.gov/hiv/pubs/faq/faq27.htm> >

⁸ LEXIS-NEXIS. “Academic Universe.” [Online] 20 December 2000
< [hppt://web.lexis-nexis.com/universe/doc](http://web.lexis-nexis.com/universe/doc) >

- 2.1 Aftercare means written instructions given to the client, specific to the body art procedure(s) rendered, on caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.
- 2.2 Antiseptic means an agent that destroys disease-causing microorganisms on human skin or mucosa.
- 2.3 Body Art means the practice of physical body adornment utilizing, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding and scarification. This definition does not include practices that are considered medical procedures by a state medical board, such as implants under the skin, and shall not be performed in a body art establishment. Body Art does not mean piercing the outer perimeter or lobe of the ear using pre-sterilized single use stud and clasp ear piercing systems.
- 2.4 Body Art Establishment means any place or premise, whether public or private, temporary or permanent in nature or location, where the practices of body art, whether or not for profit, are performed.
- 2.5 Body Piercing means puncturing or penetration of the skin of a person using pre-sterilized needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening. Body Piercing does not mean puncturing the outer perimeter or lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system.
- 2.6 Cosmetic Tattooing see Tattooing
- 2.7 Critical Violation means any violation of the regulation that the Department determines is more likely than other violations to contribute to infection or lack of informed consent. (Modeled after the Michigan Food Law of 2000, Public Act No. 92 of 2000.)
- 2.8 Department means the Genesee County Health Department or its authorized representatives.
- 2.9 Disinfection means the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.
- 2.10 Ear Piercing means the puncturing of the outer perimeter or lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system following manufacturers' instructions.
- 2.11 Equipment means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with the operation of a body art establishment.
- 2.12 Handsink means a lavatory equipped with hot and cold running water under pressure used solely for washing hands, arms or other portions of the body.
- 2.13 Health Officer means the Genesee County Health Officer or his or her designee.

- 2.14 Instruments Used for Body Art means hand pieces, needles, needle bars and other instruments that may come in contact with a client's body or possible exposure to bodily fluids during body art procedures.
- 2.15 Invasive means entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.
- 2.16 Jewelry means any personal ornament inserted into a newly pierced area, which must be made of surgical implant grade stainless steel, solid 14k or 18k white or yellow gold, niobium, titanium, platinum, or a dense, low-porosity plastic and which is free of nicks, scratches or irregular surfaces, or any other such material approved by the Department, and which has been properly sterilized prior to use.
- 2.17 License means written approval by the Department to operate a body art establishment. Approval is given in accordance with these regulations and standards defined by the Department, and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the Jurisdiction.
- 2.18 Licensed Medical Professional means a person licensed by the State of Michigan to practice medicine in all its branches, or dentistry.
- 2.19 Liquid Chemical Germicide means a disinfectant or sanitizer registered with the Environmental Protection Agency or an approximate 1:100 dilution of household chlorine bleach made fresh daily and dispensed from a spray bottle (500 ppm, ¼ cup/gal. or 2 tablespoons/quart of tap water)
- 2.20 Medical waste means any of the following that are not generated from a household, a farm operation or other agricultural business, a home for the aged, or a home health care agency:
- (a) Cultures and stocks of infectious agents and associated biologicals, including laboratory waste, biological production wastes, discarded live and attenuated vaccines, culture dishes, and related devices.
 - (b) Liquid human and animal waste, including blood and blood products and body fluids, but not including urine or materials stained with blood or body fluids.
 - (c) Pathological waste.
 - (d) Sharps.
 - (e) Contaminated wastes from animals that have been exposed to agents infectious to humans, these being primarily research animals.
- 2.21 Operator means any person who controls, operates, manages, or conducts a body art establishment and who is responsible for compliance with these regulations, whether actually performing body art activities or not.
- 2.22 Person means an individual, any form of business or social organization or any other non-governmental legal entity including but not limited to a corporation, partnership, limited liability company, association, trust or unincorporated organization.
- 2.23 Regulated Waste means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other

- potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations Part 1910 [latest revision], §1910.1030 captioned Bloodborne pathogens [commonly referenced as “Occupational Exposure to Bloodborne Pathogens”].
- 2.24 Sharps mean any object (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, pre-sterilized, single use needles, scalpel blades and razor blades.
- 2.25 Sharps Container means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and is labeled with the International Biohazard Symbol.
- 2.26 Single Use means products or items that are intended for one-time, one-person use and are disposed of after use on each client including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary covering, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.
- 2.27 Sterilization means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.
- 2.28 Tattooing means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing.
- 2.29 Technician means any person who performs body art activities in a licensed body art establishment.
- 2.30 Temporary Body Art Establishment means any place or premise operating at a fixed location where an operator/technician performs body art procedures for no more than 14 consecutive days.
- 2.31 Universal Precautions means an approach to infection control which treats all human blood and certain human body fluids as if known to be infectious for HIV, HBV, and other bloodborne pathogens.

SECTION 3.0 LICENSE REQUIREMENTS

3.1 ESTABLISHMENT LICENSE

- 3.1.1 No person may operate a body art establishment unless it has received a body art establishment license, renewable annually, from the Department.
- 3.1.2 The body art establishment license shall be valid from the date of issuance and shall automatically expire on January 15, the year after issuance, unless revoked sooner by the Department in accordance with Section 6.7 of this regulation.

- 3.1.3 The following information shall be kept on file on the premises of a body art establishment and available for inspection by the Department:
- a.1 Full names and exact duties of all technicians, including:
 - a.2 Date of birth;
 - a.3 Gender;
 - a.4 Home address;
 - a.5 Home/work phone numbers;
 - a.6 Place(s) of employment as a technician
 - a.7 Training and or experience
 - a.8 Identification photos of all body art operators/technicians;
 - a.9 Documentation of compliance with educational requirements of the Department; and
 - a.10 Documentation of HBV vaccination status, or such other vaccination status as may be required by the Department, of all body art technicians.
- b.1 Establishment name;
 - b.2 Hours of operation
 - b.3 Owner's name and address
- c. A complete description of all body art procedures performed.
 - d. An inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or orders shall satisfy this requirement.
 - e. A copy of these regulations.
 - f. License
- 3.1.4 A license for a body art establishment shall not be transferable from one place or person to another.
- 3.1.5 A current body art establishment license shall be posted in a prominent and conspicuous area where it may be readily observed by clients.
- 3.1.6 No license shall be issued unless, following investigation by the Department, the applicant has demonstrated compliance with the provisions of this section, all other provisions of this regulation and the *Standards for Body Art Establishments* of the Department.
- 3.1.7 No license shall be issued unless the operator provides documentation that all technicians practicing body art demonstrate knowledge of such subjects the Health Officer deems relevant. Knowledge of such subjects

may be demonstrated through submission of documentation of attendance/completion of courses or successful completion of an examination given by the Department with a passing grade of 70 percent or such other method or grading as the Health Officer requires. Curricular materials and credentials for trainers associated with training/courses provided by professional body art organizations/association or by equipment manufacturers which are proposed to substitute for the Department's examination must be submitted to, and approved by, the Department.

3.1.8 All body art establishments shall have a Bloodborne Pathogen Exposure Control plan, approved by the Department, on file for the establishment.

3.1.9 All body art establishments shall be in compliance with the requirements of R 325.70001 et seq of the Michigan Administrative Code regarding Occupational Health Standards - Bloodborne Infectious Diseases. These rules apply to all employers that have employees with occupational exposure to blood and other potentially infectious materials as defined by the provisions.

3.2 EXEMPTIONS

3.2.1 Licensed Medical Professionals, licensed by the State of Michigan, are exempt from these regulations.

3.2.2 Individuals who pierce only the outer perimeter and lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system are exempt from these regulations.

3.3 TEMPORARY ESTABLISHMENT LICENSE

3.3.1 Temporary establishment licenses may be issued for body art services provided outside of the physical site of a licensed facility for the purposes of product demonstration, industry trade shows or for educational reasons.

(a) Temporary establishment licenses will not be issued unless:

1. the applicant furnishes proof of compliance with Section 3.1 above, as applicable, and/or
2. the applicant is currently affiliated with a fixed location or permanent establishment which is licensed by the Department; and
3. the temporary site complies with Section 3.3, Temporary Establishment License, of this regulation.

(b) In lieu of attendance at a bloodborne pathogens training program given by the Department within the last three (3) years, as specified in Section 3.1 above, the applicant may furnish proof of attendance at equivalent training which is acceptable to the Department.

(c) Temporary licenses expire after fourteen (14) days or the conclusion of the special event, whichever is less.

- (d) Temporary establishment license will not be issued unless the applicant has paid a fee as set by the Department.
- (e) The temporary establishment license shall not be transferable from one place or person to another.
- (f) The temporary establishment license shall be posted in a prominent and conspicuous area where it may be readily seen by clients.
- (g) No more than four (4) temporary licenses are allowed in a twelve (12) month period.

3.3.2 A person who wishes to obtain a temporary establishment license must submit the request in writing for review by the Department at least fourteen (14) days prior to the event. The request shall specify:

- (a) The purpose for which the license is requested;
- (b) The period of time during which the license is needed (not to exceed fourteen (14) calendar days per event), without re-application;
- (c) The fulfillment of technician requirements as specified in Section 3.1;
- (d) The location where the temporary establishment license will be used.

3.3.3 Compliance must be demonstrated with all of the requirements of this regulation according to the *Standards for Body Art Establishments* of the Department.

3.4 MOBILE ESTABLISHMENT

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

3.4.1 Mobile body art establishments shall be licensed for 14 calendar days or less only for use at special events. Licenses must be obtained at least 14 days prior to the event, and no body art procedures are to be performed prior to a license being issued. License holders are responsible for ensuring that all other local agency regulations are complied with, such as, but not limited to, zoning and business license requirements.

3.4.2 Body art performed pursuant to this section shall be done only from an enclosed vehicle such as a trailer or mobile home. No body art procedures shall be performed outside of the enclosed vehicle.

3.4.3 The mobile body art establishment shall be maintained in a clean and sanitary condition at all times. Doors shall be self-closing and tight fitting. Openable windows shall have tight-fitting screens.

3.4.4 Mobile body art establishments must have approved sterilization equipment available, in accordance with all requirements of Section 4.3, Sanitation and Sterilization Procedures.

- 3.4.5 The mobile body art establishment shall be used only for the purpose of performing body art procedures. No habitation or food preparation is permitted inside the vehicle unless the body art workstation is separated by walls, floor to ceiling, from the culinary or domicile areas.
- 3.4.6 The mobile body art establishment shall be equipped with equipment compliant with the *Standards for Body Art Establishments* of the Department.
- 3.4.7 All liquid wastes shall be stored and disposed of in accordance with the *Standards for Body Art Establishments* of the Department.
- 3.4.8 Restroom facilities must be compliant with the *Standards for Body Art Establishments* of the Department for construction standards.
- 3.4.9 All body art technicians working in a mobile body art establishment must be affiliated with a licensed body art establishment and comply with the operator requirements of this regulation.
- 3.4.10 No animals, except service animals of clients, shall be allowed in the mobile body art establishment at any time.
- 3.4.11 Mobile body art establishments shall receive an initial inspection. The operator shall request an inspection prior to performing body art procedures. Additional inspections will be performed at every event where the mobile body art establishment is scheduled to operate.
- 3.4.12 A current mobile body art establishment license shall be posted in a prominent and conspicuous area where it may be readily observed by clients.
- 3.5 LICENSE APPLICATION AND ISSUANCE
- 3.5.1 The license application form shall contain at least the following information:
- (a) The name, home address, home telephone number, date and place of birth, and social security number of the applicant if the applicant is an individual.
 - (b) The names, addresses, telephone numbers and social security numbers of any partners or corporate officers.
 - (c) The business name, address, and telephone number of the establishment where the body art is performed.
- 3.5.2 Application for a body art establishment license shall be submitted in the name of the person proposing to conduct the business or body art practice and shall be signed by such person or his/her agent.

3.5.3 All applications shall be submitted on a form supplied by the Department and accompanied by the required license fee.

3.6 LICENSE FEES

The fees for Body Art Establishment licenses, and such other activities described in these regulations, shall be established by the Genesee County Board of Commissioners in accordance with Section 2444 of the Public Health Code, MCL 333.2444. Fees may be adjusted from time to time by the Genesee County Board of Commissioners.

SECTION 4.0 MINIMUM STANDARDS FOR BODY ART ESTABLISHMENTS

4.1 PLAN REVIEW REQUIREMENT

4.1.1 After the effective date of this regulation, no person, firm, association, corporation, or governmental entity shall construct, install, operate, equip, or extensively alter a body art establishment until plans have been submitted to and approved in writing by the Health Officer.

4.1.2 The plans and specifications shall be submitted for approval by the Health Officer, and shall be accompanied by a non-refundable fee, as set by the Department, on forms provided by the Department. The plan and specifications shall comply with the *Standards for Body Art Establishments* of the Department for the plan review before a license is issued.

4.2 REQUIREMENTS FOR PREMISES

4.2.1 The body art establishment operator shall comply with the *Standards for Body Art Establishments* of the Department.

4.2.2 No animals, except service animals of clients, shall be allowed in body art establishments at any time.

4.2.3 Smoking, eating, or drinking by anyone is prohibited in the area where body art is performed.

4.2.4 Facility shall be maintained in a clean and sanitary manner and equipment shall be maintained or serviced in accordance with manufacturer's recommendation.

4.3 SANITIZATION AND STERILIZATION PROCEDURES

Body art establishment operators shall ensure that technicians comply with and follow the *Standards for Body Art Establishments* of the Department regarding sanitation and sterilization.

4.4 REQUIREMENTS FOR SINGLE USE EQUIPMENT

Body art establishment operators shall ensure that technicians comply with the *Standards for Body Art Establishments* of the Department regarding single use equipment.

4.5 INSPECTION OF BODY ART ESTABLISHMENTS

4.5.1 The Health Officer shall have the authority to inspect every premise and location where body art is being carried out within the jurisdiction of the Department as often as deemed necessary for the enforcement of this regulation. The Health Officer may at any reasonable time make inspections of the body art establishment to ensure compliance with this regulation.

4.5.2 No person shall refuse to permit the Health Officer, after proper identification, to inspect any body art establishment at reasonable hours, nor shall any person impede or impair a Department representative from carrying out his or her duties as authorized under this regulation.

4.6 NOTIFICATION REQUIREMENTS

4.6.1 The body art establishment operator shall ensure that verbal and written public education information, approved by the Department, is given to all clients wanting to receive body art procedures(s). Verbal and written instructions, approved by the Department, for the aftercare of the body art procedure site shall be provided to each client by the technician upon completion of the procedure. These documents shall be signed and dated by both parties, with a copy given to the client and the licensed establishment retaining the original with all other required records. In addition, all establishments shall prominently display a Disclosure Statement, provided by the Department, which advises the public of the effects, risks, permanence and possible consequences of body art services. The facility license holder shall also post in public view the name, address and phone number of the Health Department and the procedure for filing a complaint. The Disclosure Statement and the Notice for Filing a Complaint shall be included in the establishment Application for License Packet.

4.6.2 The operator shall report to the Department within 24 hours all infections, complications or diseases resulting from a body art procedure which become known to the operator and/or technician.

4.6.3 Proof shall be provided upon request of the Department or clients that all technicians have either completed or were offered and declined, in writing, the hepatitis B vaccination series, and such other vaccination or educational requirements as may be required by the Department. The offering of Hepatitis B vaccination series shall be included as a pre-employment requirement.

4.7 CLIENT RECORDS

- 4.7.1 The operator shall obtain the client's informed consent to the body art procedure. The technician shall provide the client with a consent form, approved by the Department, describing the risks associated with body art procedures and any additional risks related to specific medical conditions the client may be experiencing.
- 4.7.2 The technician and client shall sign an Informed Consent Form confirming that the client was instructed on the risks of the body art procedures and additional complications associated with specific medical conditions to be defined by the Department. The client shall be asked to disclose any other information that would aid the technician in evaluating the likelihood of any complications in the client's healing process following body art procedures.
- 4.7.3 The body art establishment shall keep a record of all persons who have had body art procedures performed. The record shall include all information deemed appropriate by the Department, to include, but not be limited to: the name, date of birth, and address of the client, the date of the procedure, name of technician who performed the procedure(s), type and location of procedure performed, informed consent form signed by the technician and client, a receipt signed and dated by the client acknowledging they have received a copy of the aftercare instructions and pigment identification and, if the client is a minor, proof of parental or guardian presence and consent (i.e. signature). This parental or guardian consent is to be given in person to the body art technician or operator at the facility by the parent or legal guardian at the time the tattooing or piercing is to commence. Photographic identification of the parent or legal guardian is required. Such records shall be retained for a minimum of three (3) years and available to the Department upon request. The body art establishment shall keep such records confidential in accordance with Departmental policy.
- 4.7.4 Nothing in this section shall be construed to require a technician to perform a body art procedure upon a client.

SECTION 5.0 BODY ART TECHNICIAN REQUIREMENTS AND PROFESSIONAL STANDARDS

- 5.1 It shall be unlawful for any technician to perform body art procedures unless such procedures are performed in a body art establishment with a current license.
- 5.2 Technicians shall be a minimum of eighteen years of age.

- 5.3 Technicians shall refuse service to any person who is under the influence of alcohol or drugs.
- 5.4 Technicians shall comply with the *Standards for Body Art Establishments* for personal cleanliness and hygienic practices prior to, when performing, and following body art procedures.
- 5.5 Technicians shall follow Universal Precautions while performing body art procedures and shall wear disposable medical gloves.
- 5.6 Any item or instrument used for body art which is contaminated with something other than the client's blood or body fluids during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- 5.7 Regulated waste, as defined in this regulation, must be disposed of according to the Medical Waste Regulatory Act, Part 138, 1978 PA 368, as amended, MCL 333.13801 et seq.
- 5.8 A technician shall not perform any body art procedure upon a person under the age of eighteen (18) years without the presence, consent and proper identification of a parent, legal custodial parent or legal guardian. Nothing in this section is intended to require a technician to perform any body art procedure on a person under 18 years of age with parental or guardian consent.
- 5.9 The skin of the technician shall be free of rash or infections. No person or operator affected with boils, infected wounds, open sores, abrasions, keloids, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that they could contaminate body art equipment, clients, supplies or working surfaces with body substances or pathogenic organisms.
- 5.10 Technicians shall demonstrate satisfactory compliance with educational requirements as stated in Section 3.1.7 of this regulation.
- 5.11 Technicians shall comply with the *Standards for Body Art Establishments* of the Department regarding preparation and care of the body art area.

SECTION 6.0 ENFORCEMENT OF THE REGULATION

6.1 PROHIBITIONS

The following acts are prohibited:

- 6.1.1 Performing body art on any body part of a person under the age of 18 without the written consent and presence of the parent or legal guardian of such minor. This consent is to be given in person to the body art technician or operator at the facility by the parent or legal guardian at the time the tattooing or piercing is to commence. Photographic identification of the parent or legal guardian is required.
- 6.1.2 False or fraudulent representation by a person for purposes of consenting to the performance of body art on a minor.
- 6.1.3 Performing body art on a person who, in the opinion of the technician, is inebriated or appears to be under the influence of alcohol or drugs.
- 6.1.4 Owning, operating or soliciting business as a body art establishment without first obtaining all the necessary license and approvals from the Department, unless specifically exempted by this regulation.
- 6.1.5 Obtaining or attempting to obtain any body art establishment license by means of fraud, misrepresentation or concealment.

6.2 SCHEDULE OF MONETARY CIVIL PENALTIES

- 6.2.1 Under authority of Section 2461 of the Public Health Code, MCL 333.2461, the following schedule of monetary civil penalties for violations of this regulation is adopted:
 - Operation without a current license
\$500
 - Construction of a body art establishment without approved plans
\$500
 - Failure to practice universal precautions
\$500
 - Failure to comply with sterilization procedures
\$500
 - Failure to properly report infections to the Department
\$500
 - Failure to maintain client records as required by this regulation
\$500
 - Failure to maintain technician records as required by this regulation
\$500
 - Performing body art without proper informed consent
\$1000

- Performing body art on a minor without consent by parent or guardian \$1000

6.2.2 Each day that a violation exists shall be deemed as a separate offense. Monetary civil penalties shall not be assessed for more than one day a violation exists unless and until notice of the violation has been provided to the violator.

6.2.3 A civil penalty may be appealed to the Department within 20 days of receipt of the citation, in accordance with Section 2462 of the Public Health Code, MCL 333.2462. A civil penalty is payable to the Genesee County Health Department and shall be deposited with the Genesee County Treasurer.

6.3 VIOLATION MISDEMEANOR

6.3.1 Any person who violates this regulation is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than two hundred dollars (\$200), or both, as provided in Section 2441(2) of the Public Health Code, MCL 333.2441(2).

6.3.2 Each day that a violation exists shall be deemed as a separate offense.

6.4 APPEARANCE TICKET

The Health Officer and his/her designees are hereby designated as public servants authorized to issue and serve appearance tickets, in accordance with Section 2463 of the Public Health Code, MCL 333.2463, for violations of this regulation.

6.5 ORDER OF IMMEDIATE DISCONTINUANCE

The Health Department has the authority to order the operator to immediately close the body art establishment or cease body art activity if it is determined that a serious health hazard exists.

6.6 CRITICAL VIOLATIONS

The following violations of the regulation are considered critical violations:

- (a) Failure to adequately sterilize and sanitize equipment
- (b) Failure to appropriately use single use equipment
- (c) Failure to practice Universal Precautions
- (d) Failure to report infections
- (e) Failure to maintain client or technician records
- (f) Failure to obtain informed consent prior to performing body art procedure
- (g) Performing body art on a minor without consent by parent or legal guardian
- (h) Failure to maintain records pertaining to performance of body art on a minor.

6.7 LICENSE SUSPENSION AND REVOCATION

6.7.1 Licenses issued under the provisions of the regulation may be suspended temporarily or revoked by the Department for failure of the holder to comply with the requirements of this regulation. These sanctions are in addition to any monetary civil penalties. A license may be suspended or revoked as follows:

- (a) In the event of one or more critical violations, as defined in section 6.6, the licensee will be given notification, in writing, of provisions for license suspension or revocation in the event of additional or further violations; and
- (b) In the event of two or more uncorrected critical violations within a twenty-four (24) month period, the license may be suspended for thirty (30) days; and
- (c) In the event of three (3) or more uncorrected violations within a twenty-four (24) month period, the license may be suspended for ninety (90) days; and
- (d) In the event of four (4) or more uncorrected violations within a twenty-four (24) month period, the license may be revoked. An establishment whose license has been revoked will not be considered for re-licensing until one year after the revocation is final.
- (e) Decisions of the Health Officer may be appealed to the Genesee County Health Department Board of Review. An appeal shall stay all proceedings until a final decision by the Board of Review.
- (f) Suspensions shall begin and operations cease immediately upon receipt of notice from the Department.

6.7.2 If a license is suspended, the holder may apply at any time for immediate reinstatement of the license.

6.7.3 After a reinspection fee is paid, the Genesee County Health Department shall respond promptly and in no more than (10) working days to a request for reinstatement. If reinspection determines that the holder has come into compliance with this regulation, the license shall be promptly reinstated.

6.7.4 For serious or repeated violations of the requirements of this regulation, the Genesee County Health Department may permanently revoke a license. Before issuing a permanent revocation, the Department shall give notice to the holder in writing of its intent and the reasons for revocation. A person who has been denied or had a license revoked as required by this regulation shall have the right of appeal by petition in writing to the Genesee County Health Department and such appeals shall be heard before the Board of Review. The petition must be accompanied with a fee and must be submitted within 30 days from the receipt of written notice of the rejection by the Genesee County Health Department.

6.8 HEALTH DEPARTMENT BOARD OF REVIEW

6.8.1 Applicability - The procedures which follow apply to persons who seek administrative review of a decision by the Health Department to deny, limit, suspend or revoke a license after having exhausted administrative review procedures within the Department.

The hearing panel may, at its discretion, review requests for appeals of actions other than license or permit decisions taken by the Health Department.

6.8.2 Hearing Panel - The Board of Health and the Health Officer shall comprise the Genesee County Health Department Board of Review (sometimes hereinafter referred to as the "hearing panel").

6.8.3 Quorum - A quorum of the hearing panel shall consist of at least two Board of Health members, one of whom is also a member of the Board of Commissioners, and the Health Officer.

6.8.4 Compensation - The compensation of each member of the hearing panel shall be that sum established for regular Committee meetings by the Board of Commissioners within the limitations of Section 2444 of the Michigan Public Health Code, MCL 333.2444, the cost of which may be charged back to the appellant or a reasonable appeal fee set for this purpose under Section 3.6 of this Regulation.

6.8.5 Decision Vote – A decision of the hearing panel requires an affirmative vote of, at least, a majority of a quorum.

6.8.6 Notice of Decision - Except as otherwise herein provided, notice of a decision to deny, limit, suspend or revoke a license must be personally served on, or sent by first class mail to the last known address of, the licensee or applicant for a license.

6.8.6.1 Statement of Reasons for Decision - The notice must state the reasons for the decision to deny, limit, suspend or revoke a license. The statement of reasons shall include a citation to a specific statute or rule violated or not complied with.

6.8.6.2 Right to Seek Review - The notice must also advise the licensee or applicant for license of the right to seek review of the decision by the Genesee County Health Department Board of Review and of the procedures for obtaining such review.

6.8.7 Petition for Review - Following service of the notice as provided in Section 6.8.6 above, except as otherwise herein provided, an aggrieved licensee or applicant for license shall have five (5) business days in which to file a Petition

for Review of the Decision. A filing fee will be required to accompany the petition in accordance with Sections 3.6 and 6.8.4 of the Regulations.

6.8.7.1 Weekend or Legal Holiday - If the last day on which the petition may be filed is a weekend or legal holiday, the licensee or applicant for license shall have until 5:00 p.m. of the next regular business day following such weekend or legal holiday in which to file petition for review.

6.8.7.2 Failure to File - Failure by the licensee or applicant for license to timely file a petition for review shall cause the decision to become a Final Order of Immediate Effect.

In the event the order takes immediate effect, the Health Officer shall verify the status of the subject matter of the license within the next working day. If the licensee or applicant is not in compliance with the Final Order, the Health Officer through legal counsel, may proceed forthwith to Circuit Court to secure a Declaratory Judgment and Injunctive Relief.

6.8.8 Scheduling of Hearing - Except as otherwise herein provided, hearings shall be scheduled not more than fourteen (14) days following the day on which a petition for review is filed. Notice of the date, time, and place of the hearing shall be personally served on the licensee or applicant for license.

6.8.9 Pre-hearing Conduct - An aggrieved licensee or applicant for license shall not discuss details of the case with any member of the hearing panel prior to the hearing or shall not attempt to influence panel members in any way preparatory to release of a Final Order. If an aggrieved licensee or applicant for license believes they are in compliance prior to the hearing date, they may contact the Health Officer who will schedule a verification re-evaluation upon request, providing contact is made no later than 10:00 a.m. of the day prior to the hearing date. If the aggrieved party is found to be in full compliance, the hearing may be cancelled; if not, the hearing will be held as scheduled.

6.8.10 Conduct - The conduct of hearing before the Genesee County Health Department Board of Review shall conform as nearly as practicable to the Procedures in Contested Cases, Chapter 4, of the "Administrative Procedures Act," being Act 306, P.A. 1969, as amended, MCLA 24.271 et seq.

6.8.11 Presiding Officer - The Health Officer shall be the presiding officer of hearings before the Genesee County Health Department Board of Review.

6.8.11.1 - The presiding officer shall perform the typical duties of a presiding officer in a contested case including, but not limited to administering oaths and affirmations and ruling on objections, motions and the admissibility of evidence, with the assistance of legal counsel.

6.8.12 Rights - The parties (i.e., the Health Department and the aggrieved applicant or licensee) to a contested case before the Genesee County Health Department Board of Review shall, among other things, have the right to direct and cross-examine witnesses, submit documentary evidence, redirect or re-cross examine witnesses and submit rebuttal evidence.

6.8.13 Technical Assistance - The Genesee County Health Department Board of Review may request the technical assistance of governmental agencies and/or other experts in the appeals hearing.

6.8.14 Final Order - A Final Order issued following a hearing shall be supported by and made in accordance with competent, material and substantial evidence in accordance with Act 306, P.A. 1969, as amended, MCLA 24.285 et seq. The order may take the form of a decision to affirm, modify, or rescind the original decision. The Final Order may be issued before the panel adjourns or within fifteen (15) calendar days following the hearing.

If the disposition of a Final Order is to uphold a license denial, suspension or revocation without extenuating circumstance, the Health Officer shall verify the status of the subject matter of the license on the next working day and periodically thereafter. Upon discovery of a failure to comply with the Final Order, the Health Officer may seek appropriate remedy through the courts as may be determined with legal counsel.

SECTION 7.0 SEVERABILITY AND EFFECTIVE DATE

7.1 SEVERABILITY

If any provision, clause, sentence or paragraph of this regulation or the application thereof to any person or circumstance shall be held to be invalid, such invalidity shall not affect the provisions of this article which can be given effect without the invalid provision or application, and to this end the provisions are declared to be severable.

7.2 EFFECTIVE DATE⁹

This regulation shall take effect November 1, 2001.

⁹ Date of adoption by Genesee County Health Department-Genesee County Board of Health: April 17, 2001; Date of approval by Genesee County Board of Commissioners: May 8, 2001; Date of publication of public notice in The Flint Journal newspaper: May 10, 2001.